

PUBLIC NOTICE

Environmental Review; Right of Way Agreement:

NSP Gas Main Proposal at GLIFWC Garage Lease Site in Odanah

The Bad River Tribe is currently evaluating the proposed Right of Way (ROW) Agreement and Environmental Review requirements and criteria. Under *Bad River Tribal Court Code Chapter 4.07.050(C)*, a Public Comment period is required. A 15-day public comment period begins October 27th, 2025, and ends on November 10th, 2025. All comments received are considered during the review.

A public hearing will be held at the Bad River Community Center on Monday, November 3th, 2025, at 5pm.

ROW Summary

Northern States Power (NSP) has a proposed ROW supplying natural gas to a Bad River Reservation Tribal Land location (Xcel Energy is a subsidiary of NSP). A garage was built over an existing 2" gas main. NSP-Wisconsin will need to relocate 150 feet of the main for safety purposes. Thus, NSP has submitted a ROW Application under the Tribe's Chapter 4.07 *Energy Product Facility Rights of Way and Service Lines* Code to replace, maintain, and operate a section of the two-inch natural gas line on Birch Street in New Odanah where a garage is located.

The Bad River Tribe's Mashkiiziibii Natural Resources Department's (MNRD's) preliminary determination is that the proposed ROW meets the following categorical exclusion to the environmental review requirement in Chapter 4.07:

F. Replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same size, purpose and capacity as the structure replaced.

K. Activity that does not involve changes in the use of land and that is aligned with tribal interest.

MNRD's preliminary determination may be reviewed online at: <https://www.badriver-nsn.gov/news/>. A hardcopy is available at the Bad River Library during business hours, at MNRD during business hours, and/or by contacting the Land Records In-Take Specialist.

Written comments must be emailed or sent by US Mail to:

Aurora L. Conley, Land Records In-Take Specialist
Mashkiiziibii Natural Resources Department
P.O. Box 39
Odanah, WI 54861
(715) 682-7123 x1587
landrecords@badriver-nsn.gov

Verbal and written comments will be accepted at the public hearing.

The deadline for comments is November 10th, 2025



Energy Product Facility or Electrical Facility Rights of Way– Categorical Exclusion Review Form

The Director of Mashkiiziibii Natural Resource Department (MNRD) shall assess the environmental impact of proposed Right-of-Ways (RoW) in accordance with the standards of Bad River Band of Lake Superior Chippewa Indians Tribal Code (Tribal Code), Chapter 4.07 or 4.11. Some RoWs may qualify for a categorical exclusion (CATEX). CATEXs are categories of actions that do not individually or cumulatively have an adverse effect on the quality of public health or safety and the environment.

As part of the CATEX determination process, MNRD determines whether there are any extraordinary circumstances that would prevent the RoW from being eligible for a CATEX. If the proposed project is eligible for a CATEX and no extraordinary circumstances are involved, no further environmental review under the codes specified is required, and MNRD will provide recommendations, if any, of the proposed RoW to avoid, minimize, and/or mitigation impacts.

MNRD will independently review the information provided on the RoW application form along with relevant data and information and will determine whether a project is eligible for a CATEX. If MNRD finds that a project meets the qualifications for a CATEX, MNRD will complete this checklist, including documenting the reasons for MNRD's determination and prepare a report with recommendations in accordance with Tribal Code, Section 4.07.050(d)(3) or 4.11.050(d)(3).

I. Right of Way (RoW) Information

General Information
RoW Name:
2-inch natural gas main - GLIFWC Garage site on Birch Street
Applicant Organization:
Northern States Power (NSP) Company (Xcel Energy is a subsidiary of company)
Date RoW Application Was Received:
October 17, 2025
Project Review PIN # (if applicable):
None yet (AC 10/24/25)
Duration of RoW Proposed by Applicant: ¹
20 years
RoW Description (Summary of RoW Purpose & Scope)
A garage was built over an existing 2" natural gas main; both were installed in 1995. The overlap between the garage and natural gas main was recently detected by NSP. This ROW is associated with NSP-Wisconsin's need to relocate 150 feet of the main for safety purposes, abandon in place the existing section of the main, and then operate and maintain this section of the main.

¹ Refer to Attachment 2 for MNRD's recommendation about the duration of the RoW agreement (if approved).

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II. CATEX Checklist

Instructions		
(Check YES or No) Complete the following questions in their entirety to determine if the project is eligible for a Categorical Exclusion (CATEX) pursuant to Tribal Code, Sections 4.07.050 or 4.11.050. Add statement and supporting documentation to Attachment 1 and add recommendations (if any) to Attachment 2.		
Questions	YES	NO
(a) Does the RoW pose a threat to public health or safety?		X
(b) Will the RoW have a negative impact on sites that are sacred or of cultural significance to the Tribe?		X
(c) Will the RoW have a negative impact on sites used by Tribal members for Hunting, Fishing, gathering, cultural practices, religious activities or recreation?		X
(d) Will the RoW adversely impact an area of unique characteristics such as proximity to historic or cultural resources, park lands, prime farmlands, wild rice waters, wild and scenic rivers, ecological critical areas, Outstanding Tribal Resource Waters, Wetlands of International Importance, Sites of International Importance (Ramsar Site), and North America Wetland Conservation Act (NAWCA)?		X
(e) Is the RoW related to other actions with individually insignificant but cumulatively significant impacts?		X
(f) Will the RoW have a negative impact on sites, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, archeological, cultural, or historical resources?		X
(g) Will the RoW have a negative impact on endangered or threatened species or their habitat that has been determined to be critical under Tribe law or under the federal Endangered Species Act?		X
(h) Will the RoW violate federal or Tribal Environmental Laws?		X
(i) Will the RoW have a negative impact on Air Quality?		X
(j) Will the RoW adversely impact the water resources, including surface and ground water, water quality, water quantity, water uses and rights, fisheries, floodplains and/or wetlands?		X

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(k) Will the RoW have a negative impact on biological resources, including wildlife, vegetation, ecosystems and biological communities?		X
(l) Will the RoW have a negative impact on sites that are sacred or of cultural significance to the Tribe?		X
(m) Will the RoW have a negative impact on visual resources, scenic views, and wilderness values?		X
(n) Will the RoW have a negative impact on transportation networks?		X
(o) Does the RoW potentially meet any of the CATEXS described in 4.07.050(b) or 4.11.050(b)?	X	
If yes is selected for (o), list the letter(s) of the CATEXS that potentially apply (refer to Section IV for the list): (F), (K)		

III. Extraordinary Circumstances Statement

Instructions		
(Check TRUE or FALSE and if TRUE, select boxes that apply) Tribal Code, Sections 4.07.050(b)(3) or 4.11.050(b)(3) requires the preparation of an environmental review statement (notwithstanding the categorical exclusions) if there is reason to believe that the approval of a proposed RoW would adversely impact the interests described in Section II.a. through n. Thus, an evaluation of Extraordinary Circumstances is necessary.		
Statement	TRUE	FALSE
1. No extraordinary circumstances apply to the proposed action pursuant to Title 4, Property Code, Sections 4.07.050 or 4.11.050 that justify that the proposed action will adversely impact the interests addressed in Section III. This conclusion is based on (check all that apply): ☐ (a) past experience with similar actions. ☐ (b) information gathered as part of a previous environmental review conducted at the proposed action site. ☐ (c) information gathered as part of this environment review and/or project review. ☐ (d) other as described below:	X	

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IV. MNRD Review Determination and Responsible Official Signature

MNRD Review Determination and Responsible Official Signature (MNRD Use Only)

Sections I through IV must be completed to satisfy MNRD's documentation requirements for CATEX eligibility. If completion of this form indicates that a CATEX does apply, the Responsible Official must sign below.

Categorical Exclusion Determination. MNRD finds that the proposed RoW is eligible for exclusion from detailed environmental review under Tribal Code, Sections 4.07.050 or 4.11.050 and will not involve any of the extraordinary circumstances. MNRD determined that the proposed RoW is eligible for the following CATEX(s) (check all that apply):

- ☐ (A) There is an earlier environmental review statement and finding of no significant impact prepared not more than twenty-four months earlier for a substantially identical right – of — way related activity on the same site.
- ☐ (B) single family home sites, including up to four dwelling units in a single or separate buildings, and associated Improvements, including, but not limited to, construction of homes, outbuildings, access roads, and utility lines, provided (i) the activity encompasses five acres or less of contiguous lands and (ii) such sites and associated Improvements do not adversely affect any Tribal cultural resources or historic properties and are in compliance with applicable Federal and Tribal laws.
- ☐ (C) rooftop solar energy facilities.
- ☐ (D) Up to two acres for ground-mounted solar facilities that do not involve removal of a substantial number of healthy trees that are mature or scenic and provided such facilities do not adversely affect Tribal cultural resources or historic properties.
- ☐ (E) operation, repair, maintenance or minor alteration of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of entering into the propose agreement, e.g., (i) alterations of interior partitions, plumbing, electrical conveyances, or gutters; (ii) restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment; (iii) demolition and removal of small structures; and (iv) minor repairs.
- ☒ (F) Replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same size, purpose and capacity as the structure replaced.
- ☐ (G) Construction of a limited number of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the construction or placement of minor accessory (appurtenant) structures such as small above-ground utility facilities shelters, on-premises signs, small parking lots, and fences, provided such facilities do not adversely affect Tribal cultural resources or historic properties.
- ☐ (H) Minor alterations in the condition of land and/or vegetation which do not involve removal of a substantial number of healthy trees that are mature or scenic, such as (i) grading on land with a slope of less than 10 percent, (ii) landscaping installation and maintenance, (iii) filling of earth into previously excavated land with material

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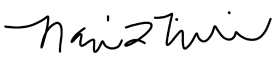
compatible with the natural features of the site, and (iv) minor trenching and backfilling where the surface is restored.

- ☐ (I) Minor additions to existing buildings or other structures where the addition does not increase the original size by more than 25% and provided such actions do not adversely affect Tribal cultural resources or historic properties.
- ☐ (J) Cleanup actions taken under the supervision of the Tribe to avoid, minimize, stabilize, mitigate, or eliminate the release or threat of release of an existing hazardous waste or substance.
- ☒ (K) Activity that does not involve changes in the use of land and that is aligned with tribal interest.
- ☐ (L) Rights-of-Way inside another right-of-way, or amendments to rights-of-way where no deviations from or additions to the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area.
- ☐ (M) Service line agreements to an individual residence, building or well from an existing facility where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles, signs (including highway signs), or buried power/cable lines.
- ☐ (N) Renewals, assignments and conversions of existing rights-of-way or service lines where there would be essentially no change in use and continuation would not lead to environmental degradation.

Consequently, MNRD will not prepare an environmental impact statement or an environmental assessment for the proposed project. MNRD may revoke this categorical exclusion if changes in the proposed action render it ineligible for exclusion or if new evidence emerges which indicates that serious local or environmental issues exist or federal, state, or local laws would be violated.

As the Responsible Official, I have determined that this action is eligible for a Categorical Exclusion per the substantive environmental review requirements under Tribal Code, Sections 4.07.050 or 4.11.050. Section III of this form has been completed providing the required Extraordinary Circumstances Statement. MNRD's recommendations (if any) to avoid, minimize, and/or mitigate impacts are provided in Attachment 2. This determination is (check one box):

- ☒ Preliminary and will be posted for public comment.
- ☐ Final and public comments were considered.

Signature:	Title:	Date:
	Natural Resources Director	10/27/2025

As the Realty Officer, I concur with the Responsible Official's final determination that this action is eligible for a Categorical Exclusion per the substantive environmental review requirements under Tribal Code, Sections 4.07.050 or 4.11.050.

Signature:	Title:	Date:

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Attachment 1

RoW Name:
2-inch natural gas main - GLIFWC Garage site on Birch Street - NSP
Attachment 1. CATEX Eligibility and/or Extraordinary Circumstances Statement(s)
The space below may be used for a statement and supporting documentation explaining CATEX eligibility and why no extraordinary circumstances exist or apply to the proposed action pursuant to Tribal Code, Sections 4.07.050 or 4.11.050. Attach additional pages as needed. Material incorporated by reference should briefly describe its content. Provide hyperlinks to the incorporated material, or attached incorporated material to this CATEX, or otherwise indicate how the public can access the material for inspection.
• The Mashkiiziibii Natural Resources Department requested the applicant submit a Preliminary Project Review for the project along with a Wetland and Watercourse Protection Ordinance (WWPO) permit application that contains information including but not limited to: ○ Information about BMPs that will be implemented during the work including, but not limited to, BMPs for erosion/sedimentation. ○ Information about how the potential for inadvertent releases (IRs) associated with directional boring will be monitored and the plan to respond to and remediate an IR if it occurs. This information includes, but is not limited to, the composition of the drilling fluid (e.g., source of water to be used, list of other substances included in the drilling fluid) and how the loss of drilling fluid will be monitored. • The proposed project footprint is within the same tribal parcel as the existing natural gas main. • The proposal does not involve the removal of a substantial number of healthy trees that are mature or scenic.

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Attachment 2

RoW Name:

2-inch natural gas main - GLIFWC Garage site on Birch Street - NSP

Attachment 2. Recommendations to Avoid, Minimize, and/or Mitigate Impacts of the RoW

The space below may be used for MNRD's recommendations to avoid, minimize, and/or mitigate impacts of the proposed RoW pursuant to Title 4, Property Code, Sections 4.07.050 or 4.11.050. Attach additional pages as needed. Material incorporated by reference should briefly describe its content. Provide hyperlinks to the incorporated material, or attached incorporated material to this CATEX, or otherwise indicate how the public can access the material for inspection.

- The duration of the RoW is recommended to be 20 years.
- With response to installation, maintenance (e.g., repairs), and operations, adherence to Tribal and Federal laws including, but not limited to:
 - Obtaining the necessary environmental permits and approvals identified prior to the work and adhering to the permit/approval conditions during installation. This includes, but is not limited to, conditions to avoid, minimize, and/or mitigate impacts to nearby Exceptional Resources Waters. Future maintenance and operational activities will be subject to review and permitting through the Tribe's Project Review Process: <https://www.badriver-nsn.gov/natural-resources/projectreviews/>.
 - Bad River Band's Environmental Response and Remediation Code (Ch. 3.25) regulating the identification, threat, and/or discharge of hazardous substances or materials: [Chapter 3.25 | Bad River Band of the Lake Superior Chippewa Indians Law Library](#)
 - Water-related laws, including the Band's Water Quality Standards (<https://www.badriver-nsn.gov/natural-resources/water-resources/>) and Band's Ch. 3.11 and 3.12 (<https://law.badriver-nsn.gov/us/nsn/badriver/council/code/3>).
 - Band's Right-of-Way Maintenance Method Ordinance (Ch. 4.06): <https://law.badriver-nsn.gov/us/nsn/badriver/council/code/4.06>.
- MNRD is evaluating recommendations given it took around 30 years for NSP to detect that a garage was built over pipeline at this location. These recommendations may include, but are not limited to, mandatory data submittals, meetings, and/or fee. At a minimum, NSP must submit an as-built drawing and corresponding GIS data to the Band.
- Tribal Monitor(s) hired by the Bad River Band through the Tribal Historic Preservation Office (THPO) must be present during soil disturbance activities as deemed necessary by the THPO. This includes during work to abandon a section of the main and replace it with 150 feet of main located adjacently along with future phases of the RoW including maintenance and operation. NSP is responsible for compensating THPO for the associated costs in accordance with the most current version of the THPO Fee Schedule of Services: https://www.badriver-nsn.gov/wp-content/uploads/2023/08/Fee-Schedule-for-THPO-Consultant-Services_2023.08.02.pdf
- If an inadvertent discovery of human remains, funerary items, or artifacts occurs, NSP must stop work and immediately contact THPO and other appropriate authorities. NSP

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must adhere to the Tribe's no removal policy for inadvertent discoveries and must comply with other requirements communicated by THPO. For example, THPO may require the hiring of a registered professional archeologist (RPA), who is qualified in bone identification and that their qualifications are reviewed by THPO.

- As this project is taking place within the community near homes, generation of excessive noise during installation phase and future maintenance and operational phases must occur during daytime hours only, unless in emergencies. Work must occur between the hours of 8AM and 5PM and utilize strategies and/or equipment to mitigate noise output or spillage as much as practicable.
- Any vibrations to the ground or air that occur during installation must be performed to prevent injury and unreasonable annoyance to public or private properties outside the immediate work site.
- In order to avoid and minimize the introduction and spread of non-local beings (invasive species) during construction and decommissioning work and in the maintenance and operational phases, Bad River requirements regarding equipment cleaning and inspections must be followed. Furthermore, Bad River requirements include avoiding disturbance of any non-local beings within the proposed workspace to the extent practicable and using MNRD-approved native seed mixes if reseeding is necessary.
- In order to minimize impacts to the environment, all construction materials and waste must be appropriately stored and handled, including disposal either through appropriate recycling or solid/hazardous waste pathways at the end of life for the items. This includes all marking materials (like flagging/staking) and all BMPs (like silt fence, etc.) once they have fulfilled their purpose during construction and under permit conditions.
- To reduce the risk of wildfire, the following conditions must be implemented:
 - A fire extinguisher and shovel must be included in each field vehicle's safety equipment supply and available on each work site. A field vehicle is defined here as a four-wheeled or tracked-vehicle that leaves a road or left on the road if field work is performed on foot.
 - Vehicles must not be parked or idled above dry grass, vegetation, or brush. All trailer chains must be secured and not in contact with the ground. Any generated slash or trimmings shall be dispersed following the lop-and-scatter method so that fuel loading in any single location is not significantly increased.
 - Work area must be clear of flammable materials before field metal welding/cutting/grinding operations, a sprayer must be used to wet down the work area prior to starting, water must be kept on hand and a spotting person must be designated to immediately catch any sparks that could ignite dry fuels.
 - Fueling of vehicles must take place off-site, if practicable, but if it is necessary to fuel in the field, fueling must be done in an upland location using secondary containment and over gravel, rock, or bare dirt.
 - During elevated fire danger (High, Very High, or Extreme), grubbing and mowing activities must be delayed until safer conditions exist. Spark arrestors are required on all portable gasoline-powered equipment. Field staff must refrain from smoking. Local fire danger conditions must be checked daily.
 - These conditions exist to address the growing concerns of wildfire in the region and are subject to change as further information is received and evaluated. Updated conditions will be communicated through the Tribe's Project Review Process and/or Access Permits issued by MNRD.