

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:	BEC Electrical Infrastructure in New Odanah and from Miller Road to Birch Hill
Applicant Organization:	Bayfield Electric Cooperative (BEC)
Date RoW Application Was Received:	December 2023 received an incomplete application
Project Review PIN # (if applicable):	2023-87
Duration of RoW Proposed by Applicant: ¹	25 years
RoW Description (Summary of RoW Purpose & Scope)	This RoW application is for BEC electrical infrastructure within New Odanah and from Miller Road to Birch Hill community. This RoW application is associated with tribal needs, including upgrading to three phase power from Miller Road to Birch Hill Community and constructing a minigrid.

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 visual resources, scenic views, and wilderness values?		X
(m) Will the RoW have a negative impact on generation of excessive noise, vibrations, light, or glare?		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): <ul style="list-style-type: none"> <input checked="" type="checkbox"/> (a) past experience with similar actions. <input checked="" type="checkbox"/> (b) information gathered as part of a previous environmental review conducted at the proposed action site. <input checked="" type="checkbox"/> (c) information gathered as part of this environment review and/or project review. <input type="checkbox"/> (d) other as described below: 	X	

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	3/17/2026

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:
BEC Electrical Infrastructure in New Odanah and from Miller Road to Birch Hill
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.
<ul style="list-style-type: none">• The Mashkiizibii Natural Resources Department completed a Preliminary Project Review (PIN 2023-87) for the project and requested the applicant submit a Secondary Project Review application to submit more information about the project including but not limited to:<ul style="list-style-type: none">○ A wetland delineation of the proposed RoW, including a wetland delineation report and supporting shapefiles.○ Information about BMPs that will be implemented during the work including, but not limited to, BMPs for erosion/sedimentation.○ Permit applications for the Antidegradation Policy, CWA 401 Certification, and the Wetlands and Watercourses Protection Ordinance (WWPO).○ 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.○ BEC submitted a Secondary Project Review application to MNRD on February 11, 2026 with more information, and MNRD is in the process of reviewing the application. Some, but not all, of the information listed above has been received by MNRD to date. MNRD will expect the remaining outstanding information prior to the BEC infrastructure upgrade project's permits/approvals being issued by MNRD so the permits/approvals can be appropriately conditioned.• The majority of the proposed project route is within existing road RoWs or utility corridors.• BEC is utilizing a contractor in February-March 2026 to brush the existing BEC corridors.• The proposed project is aligned with the long-term goals and action steps identified in the Band's Strategic Plan (July 2018) and Pre-Disaster Mitigation Plan (Sept. 2018). For example, under Band's Strategic Plan Goal 7: Invest in Community Infrastructure, initiatives for renewable energy and expanding housing are specifically mentioned, and upgrading the BEC infrastructure associated with the proposed ROW is needed to support these initiatives. Another example is that the Band's Pre-Disaster Mitigation Plan identifies relevant mitigation actions, such

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as prioritizing projects to improve infrastructure, such as burying electric power lines.

- Ambient air quality is protected by both Federal and state regulations. Under the Clean Air Act (CAA) and its amendments, the EPA established National Ambient Air Quality Standards (NAAQS) for six criteria pollutants to protect human health (primary NAAQS) and public welfare (secondary NAAQS). Implementation of BMPs would keep air emissions to a minimum during the construction state of the proposed action. Therefore, the integrity of the decision area's air quality will be maintained at current levels due to the short-term nature of this proposed action, in addition to adherence of BMPs referenced in this decision.

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Attachment 2

RoW Name:
BEC Electrical Infrastructure in New Odanah and from Miller Road to Birch Hill
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.
<ul style="list-style-type: none">• The duration of the RoW is recommended to be 25 years.• 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 to minimize the spread of non-local beings include avoiding disturbing non-local beings to the extent practicable and removing and disposing of the seeds and fruits of non-local beings when it is not possible to avoid disturbance and as appropriate to each species. If reseeding is necessary, a MNRD-approved native seed mix must be used.• With response to installation, maintenance (e.g., repairs), and operations, adherence to Tribal and Federal laws including, but not limited to:<ul style="list-style-type: none">○ 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 and Access Permits obtained: https://www.badriver-nsn.gov/natural-resources/projectreviews/. Waters designated as high quality by the Tribe, such as Exceptional Resource Waters, can be viewed in Bad River’s Water Quality Designation Mapper that is available at: https://www.arcgis.com/apps/View/index.html?appid=6f44c371217e4ee8b5f1c2c705c7c7c5.○ 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).

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- Band's Right-of-Way Maintenance Method Ordinance (Ch. 4.06):
<https://law.badriver-nsn.gov/us/nsn/badriver/council/code/4.06>.
- 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 the installation phase along with future phases of the RoW including maintenance and operation. The applicant is responsible for compensating THPO for the associated costs in accordance with the most current version of the THPO Fee Scheduled of Services. For example: 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, BEC must stop work and immediately contact THPO and other appropriate authorities. BEC 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.
- In order to minimize impacts to the environment and concerns related to human health and safety, the company and their contractor must carry with them personal protective equipment (PPE), fire extinguishers, spill response materials, and other equipment necessary to mitigate and address safety concerns. The company must also provide prompt notice to MNRD when a safety incident occurs or is identified and address all safety issues promptly following appropriate procedures.
 - Information about access during an emergency can be found at:
<https://www.badriver-nsn.gov/wp-content/uploads/2023/07/Access-Permits-in-Emergency-Situations.pdf>.
- 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.
- All work must be completed using Best Management Practices (BMPs) to avoid and minimize impacts to the natural resources.
- MNRD is evaluating recommendations to help improve hydrology and wetland functions along Highway 2 to support the Tribe's goals to mitigate future flooding impacts. One recommendation is to not permanently install rock in wetlands for access purposes, but instead to use construction matting or similar short-term measure that can more easily be removed after the construction phase and then re-installed if needed for future activities. The other recommendations will be incorporated into either the water-related permits and approvals for the construction of the line and/or the cumulative impact assessment study recommendation for the RoW agreement.
- Cumulative effects are evaluated as part of a comprehensive evaluation of impacts associated with other RoW decision-making relevant to BEC.

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- While impacts to wildlife from the right of way would be minimal, it would be recommended to maintain either a feathered edge, or short shrubby vegetation where the right of way crosses a wetland in order to help maintain wildlife movement corridors and to reduce the cumulative impacts on the wildlife within the area.
- The RoW will impact visual resources and scenic view, in comparison to allowing for natural forested landscape to exist in the proposed corridor instead of the power pole structure and maintained vegetation. Additionally, the three phase poles will also be larger than the existing single-phase poles that exist along the corridor, which means they will stand out more visually. However, impacts to scenic views and visual resources could be mitigated by encouraging natural herbaceous vegetation communities free of invasive species to colonize the corridor instead and using BMPs when brushing is needed. Also, the impact to these resources is less when co-located as the project is in the highway corridor with other utilities in comparison to cutting through areas otherwise not impacted. Wilderness Value, however, would be minimally impacted due to the proximity of other right of ways/utility corridors.