

## **Cardinal-Hickory Creek Transmission Line Project Joint Media Statement 3/7/24 FINAL**

### **Co-owner utilities dismayed by latest Cardinal-Hickory Creek Project litigation *Latest litigation may delay significant environmental benefits for the Upper Mississippi River National Wildlife and Fish Refuge (Refuge)***

Two co-owner utilities of the Cardinal-Hickory Creek Transmission Line Project – ITC Midwest and Dairyland Power Cooperative – are dismayed by the latest lawsuit filed by the Environmental Law and Policy Center (ELPC) and affiliated organizations to halt this essential project – especially given that a recently approved land exchange will expand and provide significant net benefits to the Upper Mississippi River National Wildlife and Fish Refuge (Refuge) when the project is completed.

The U.S. Fish & Wildlife Service (USFWS) has approved a land exchange involving two of the co-owner utilities for the Cardinal-Hickory Creek Transmission Line Project – ITC Midwest and Dairyland Power Cooperative – which is a major step to facilitate completion of the project. The benefits provided by the land exchange – which is now threatened by the litigation – are identified by the USFWS as outlined in the [Land Exchange Net Benefits Analysis](#), which found that, “the proposed land exchange fulfills the Refuge’s purposes by exchanging lower quality habitat for higher quality habitat, increasing the total protected acreage in the Refuge, reducing habitat fragmentation in the long term, and allowing the Refuge to acquire a high-priority tract that would not otherwise be available. Each of these factors will further the purposes of conserving and maintaining refuge and breeding places for birds, animals, fish, and plants. Acquisition of the Wagner tract will also provide value for wildlife-dependent recreation on the Refuge, such as hunting, fishing and wildlife observation, which is directly related to the purposes of this Refuge and of the National Wildlife Refuge System as a whole.”

The two co-owners proposed to USFWS that it consider a land exchange to enable the project to be constructed at the Nelson Dewey Mississippi River crossing along a 1.1-mile segment currently within the Refuge. The strip of refuge land is adjacent to a road and farmland and in an area with low habitat value. ITC Midwest and Dairyland Power Cooperative will dedicate and transfer land into the Upper Mississippi River National Wildlife and Fish Refuge (Refuge) in exchange for ownership of the strip of land the transmission line will traverse. The approved Cardinal-Hickory Creek land exchange will add high value acreage to the Refuge, furthering the overall mission of the Refuge.

As part of the regulatory applications for the project, the co-owner utilities completed a comprehensive environmental analysis to identify Mississippi River crossing locations that would minimize impacts to and provide a net conservation benefit for the Refuge. The federal agencies involved in the permitting process for the river crossing reviewed these routes and in the process, have fully complied with the National Environmental Policy Act (NEPA). As part of the process, USFWS recently issued a [Finding of No Significant Impact \(FONSI\)](#) and a [Land Exchange Net Benefits Analysis](#).

After years of analysis by both the co-owner utilities and the federal agencies, the selected route will provide a net benefit and reduce environmental impacts in the Refuge because the existing transmission infrastructure will be relocated and removed. Specifically, ITC Midwest and Dairyland Power Cooperative will co-locate (or “double-circuit”) the existing 161,000-volt (161-kV) line that currently crosses the Refuge with the new 345-kV Cardinal-Hickory Creek line. Upon completion of construction, the existing 69-kV line that currently crosses the Refuge will

be de-energized and removed.

As noted in the [Land Exchange Net Benefits Analysis](#), “This exchange will be a net benefit to the Refuge since it will increase the acres protected in perpetuity by the Refuge by nearly double what is divested and the divested tract will be managed similarly to how it is managed now, creating a significant net gain of benefits. Abandonment and restoration of the utilities’ two existing perpetual transmission easements will provide additional benefits to the Refuge, improving habitat and eliminating fragmentation in that area.”

The net impact of these shifts in infrastructure will reduce the electric transmission footprint in the Refuge and will replace existing structures with shorter, low-profile structures using an avian-friendly design. In addition, the number of structures in the Refuge, currently totaling 28, will be reduced by approximately half. For detailed information on the Refuge and River Crossing, view the project [website](#).

### **Further background regarding the approved land exchange**

The National Wildlife Refuge System Administration Act, as amended by the 1997 National Wildlife Refuge System Improvement Act, authorizes the Secretary of the U.S. Department of the Interior to enter into land exchanges that provide a net conservation benefit and further an individual refuge’s purposes. Through the land exchange, the USFWS will transfer by deed 19.84 acres of land within the Refuge to ITC Midwest and Dairyland Power Cooperative. In exchange, these utilities will transfer by deed, 35.69 acres – nearly double the acreage transferred by USFWS – of private land called the “Wagner” parcel for incorporation into the Refuge. USFWS identified the Wagner parcel as a high priority tract for acquisition by the USFWS in its planning documents due to its environmental characteristics.

ITC Midwest and Dairyland Power Cooperative are committed to constructing the project in the Refuge in a manner that minimizes environmental impacts through mitigation measures and best management practices. All work within the Refuge for construction of the project will be completed using wooden construction mats for environmental protection. No grading will take place within the Refuge. These efforts will help to significantly avoid and reduce impacts to reed canary grass and scrub/shrub wetlands, endangered species and other valuable resources and limit habitat fragmentation. These commitments include a robust set of mitigation and restoration methods resulting from years of agency consultation through the permitting process.

### **Additional background on the latest Cardinal-Hickory Creek litigation**

The Cardinal-Hickory Creek Transmission Line Project is vital to the future of our region’s renewable energy and clean energy economy. Yet the litigation being pursued by the Environmental Law & Policy Center and affiliated organizations in the federal court could push that future farther down the road. These actions may delay a vital improvement to the Refuge, increase costs to ratepayers, risk system reliability, and may further delay the delivery of low-cost, renewable energy to electric consumers. As of October 2023, there are 161 renewable generation projects in Wisconsin, Iowa and other Upper Midwestern states representing more than 24.7 gigawatts dependent upon its completion – enough to power millions of homes and businesses with clean energy.

The costs associated with defending the project from litigation initiated by opposition groups go well beyond attorney’s fees. Litigation by project opponents disrupted the efficient and cost-effective construction schedule, driving up project costs. The effect of these project cost

increases compounds over time, especially with the delayed in-service date for the entire project, which was already pushed back six months to June 2024 due to the litigation.

Over the past few years, several of these same opponents have filed multiple lawsuits in federal and state court trying to stop construction of the project. The co-owner utilities have successfully navigated four separate injunctions and won appeals before the Wisconsin Supreme Court, as well as three different favorable opinions from the U.S. 7<sup>th</sup> Circuit Court of Appeals.

The claims asserted by the opposition have ranged from traditional challenges over the Public Service Commission of Wisconsin's (PSCW's) approval of the project, to alleged claims of personal bias by individual PSCW Commissioners, and complex environmental claims asserted under the National Environmental Policy Act (NEPA) and the authority of the USFWS to manage the Refuge under the National Wildlife Refuge System Administration Act. Cardinal-Hickory Creek is an example of how organized and well-funded opposition can seek to delay and potentially derail complex linear infrastructure projects, particularly by weaponizing NEPA.

Ironically, ELPC continues to publicly support the development of renewable energy generation across the Upper Midwest by promoting itself as being "on the forefront of the clean energy economy." Accomplishing a clean energy economy requires construction of the Cardinal-Hickory Creek Transmission Line Project to provide an essential link for achieving a sustainable energy future.

The pace of change in the electric utility industry and the transition to renewable energy continues to accelerate as traditional coal-fired plants are retired and more carbon-neutral projects are proposed. Requests to interconnect new renewable generation sources with the transmission system are at an all-time high while new projects are backlogged due to a lack of transmission capacity. The Cardinal-Hickory Creek Transmission Line Project is needed to allow low-cost, renewable resources to connect to electric consumers.

### **Cardinal-Hickory Creek Transmission Line Project progress**

Construction on the 345,000-volt (345-kV) Cardinal-Hickory Creek line is more than 95% complete. Following more than two years of construction by the co-owners – ATC, ITC Midwest and Dairyland Power Cooperative – the eastern half of the 102-mile Cardinal-Hickory Creek Transmission Line Project was placed in service on Dec. 7, 2023. This segment of the line in Wisconsin was built and is operated by ATC from the new Hill Valley Substation near Montfort to the Cardinal Substation in the town of Middleton. Throughout the project, the co-owner utilities strived to avoid, minimize and mitigate environmental impact through best management practices, including restoration of any areas affected by construction activities.

While litigation delayed some of the work of the federal agencies involved in the project, the favorable July 19, 2023, decision from the U.S. Court of Appeals for the Seventh Circuit to reverse and vacate the judgment of the Federal District Court cleared the way for the agencies to work on remaining authorizations. Since then, the co-owners of the Cardinal-Hickory Creek Transmission Line Project have continued to work with the federal agencies to support their final authorizations to allow for project completion.

Construction on the western half of the project being built and operated by ITC Midwest – from the Hickory Creek Substation in Dubuque County, Iowa, to the Hill Valley Substation – is scheduled to be completed and placed in service by June 2024. In fact, this entire segment is finished except for approximately 2.2 miles of the line, which extends from a location near the

Nelson Dewey Substation in the village of Cassville, Wisconsin, westward across the Mississippi River to near the Turkey River Substation in Clayton County, Iowa.

Even with higher costs than initially forecast, the Cardinal-Hickory Creek project will provide significant value for electric consumers. When the entire line is placed in service, the Cardinal-Hickory Creek Transmission Line Project will increase electric grid capacity to deliver lower-cost, renewable energy to consumers, facilitate the interconnection of new renewable generation, and improve system reliability.

For detailed information, see the Cardinal-Hickory Creek Transmission Line Project [website](#).