

Darla Pollman Rogers

Attorney At Law



SD Co-op Stats

28 DISTRIBUTION COOPERATIVES &
3 GENERATION & TRANSMISSION CO-OPS

Employing **970**
SOUTH DAKOTANS
around the state

WHO PROVIDE



ELECTRICITY
TO MORE
THAN

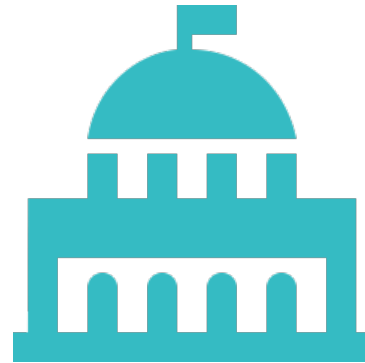
325,000 SOUTH DAKOTANS
in **ALL** of South Dakota's **SIXTY-SIX** Counties

South Dakota Utility Providers

South Dakota has three distinct models for delivering electricity to consumers.



Investor Owned Utilities
Owned by Shareholders



Municipal Electric Utilities
Owned by Government



Rural Electric Cooperatives
Owned by Members

Territorial Act of 1975

Assigned Utilities a Territory to Serve

- *Avoid duplication of services*
- *Avoid unnecessary encumbrance of landscape*
- *Planned generation, transmission & distribution*
- *Obligation to serve everyone requesting service*

Exceptions to the Rule

- **Utilities mutually agree with PUC oversight & approval**
- **Municipal Utilities have the statutory right to take from electric cooperatives & investor-owned utilities**

Stop SB66

By Frederick Weekes, Aurora major - Updated: 4 months ago
Posted Feb 1, 2019

The city of Aurora is urging the South Dakota Legislature to oppose Senate Bill 66, which, if passed, would prohibit cities with municipal electric utilities, like Aurora, from annexing additional electric service territory.

Annexation is the act of bringing new territory into our service area. It is not the government taking of private property. The city annexes when asked by the landowner, so they can take advantage of all city services including water, sewer, roads, and electric service.

Development outside city limits wouldn't happen without city planning, resources and foresight. When a city grows, we should be able to provide all city services to the growing area, including electricity. Who better to serve our community than the local utility?

Electric revenue is invested right back into the community to help support everything from infrastructure to city parks, roads and infrastructure. We provide a valuable asset to the city of Aurora, and all businesses and residents.

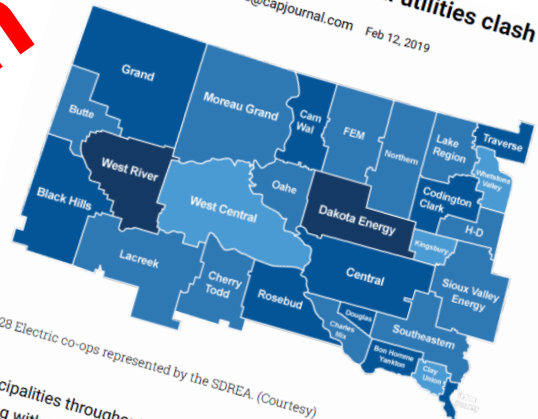
If SB66 is passed, any new meter put into service throughout most of the state would belong to the electric cooperatives, denying the city's right to grow and expand, which will only lead to higher rates for current customers. If SB66 is passed, it would be harmful to the city of Aurora and our residents.

Put your smile in the BEST hands!
692.9463
2110 12th Street S.
Brookings, SD 57006
www.kipitzen.com

Inaccurate Information

Electric co-ops and Municipal utilities clash over territory

By Dave Byrnes david.byrnes@capjournal.com Feb 12, 2019



All 28 Electric co-ops represented by the SDREA. (Courtesy)

Municipalities throughout South Dakota, including Fort Pierre, are fighting with South Dakota Rural Electric Co-ops for service rights. The main point of contention is Senate Bill 66. If passed, it would prohibit municipalities from annexing service areas already covered by the 28 separate rural co-ops and the investor owned utilities (IOUs).

In the Fort Pierre area, the contested service region includes residences on Verendrye Drive and Frontier Road, essentially dividing the town between municipality-powered and co-op-powered electric grids. The bill has been tabled and is still awaiting its next Senate hearing, but both Fort Pierre and the co-ops are preparing for a new round of arguments. Here's what both sides had to say.

Fort Pierre

Annexation of Territory Accomplished

- **By Petition**
- **By Agreement**
- **By Resolution**



Why SDREA Introduced SB 66

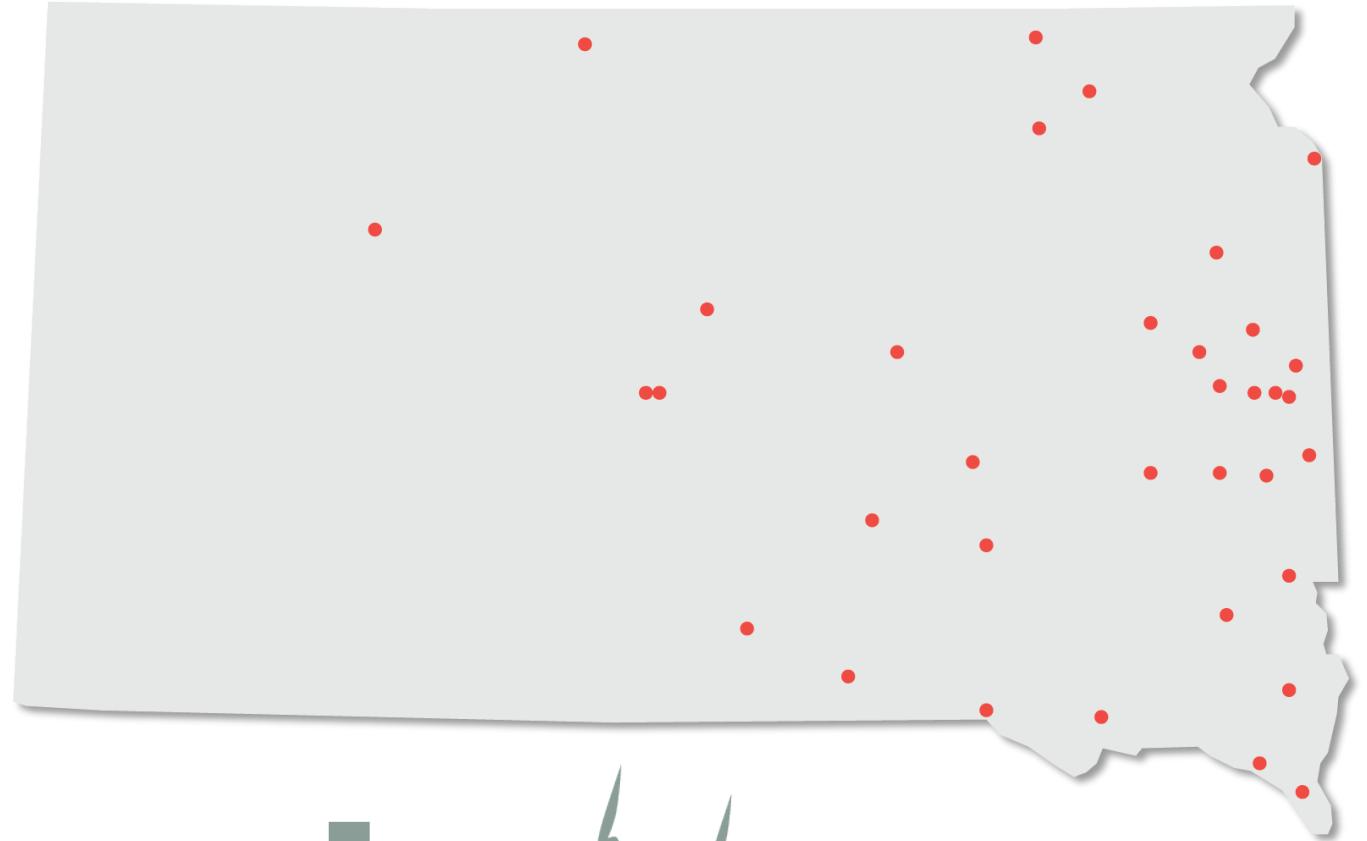
- **After Annexation, municipal has 1 year to give notice of intent to provide power to annexed area**
- **Incumbent Utility is Powerless to Stop Taking**
- **No Hearing/No PUC Approval Required**
- **Compensation Formula – not Adequate**

Problems With Current Law

- **The Scales of Fairness are Tipped**
- **The Process is Flawed**
- **Fosters Cherry-Picking of Customers**
- **Inability for Cooperatives to Plan**
- **Inadequate Compensation**

35 Municipal Electric Systems

- **310 Municipal Communities in South Dakota**
- **35 Served by Municipal Electric**
- **275 of the 310 have frozen service territory**
(89% of municipalities)



Solution

- ☑ **Protect Assigned Service Territories**
- ☑ **Allow Privately Negotiated Agreements with PUC Approval**
- ☑ **No Restrictions on Annexation**

Darla Pollman Rogers

Attorney At Law



Tim McCarthy

Sioux Valley Energy CEO/General Manager



Lost Revenue vs. Compensation

- Sioux Valley Energy has **lost approximately \$21.5 million in revenue** because of territorial takings during the last **20 years.**
- Compensation from municipal electrics to Sioux Valley Energy over past 20 years has been **\$2.1 million.**



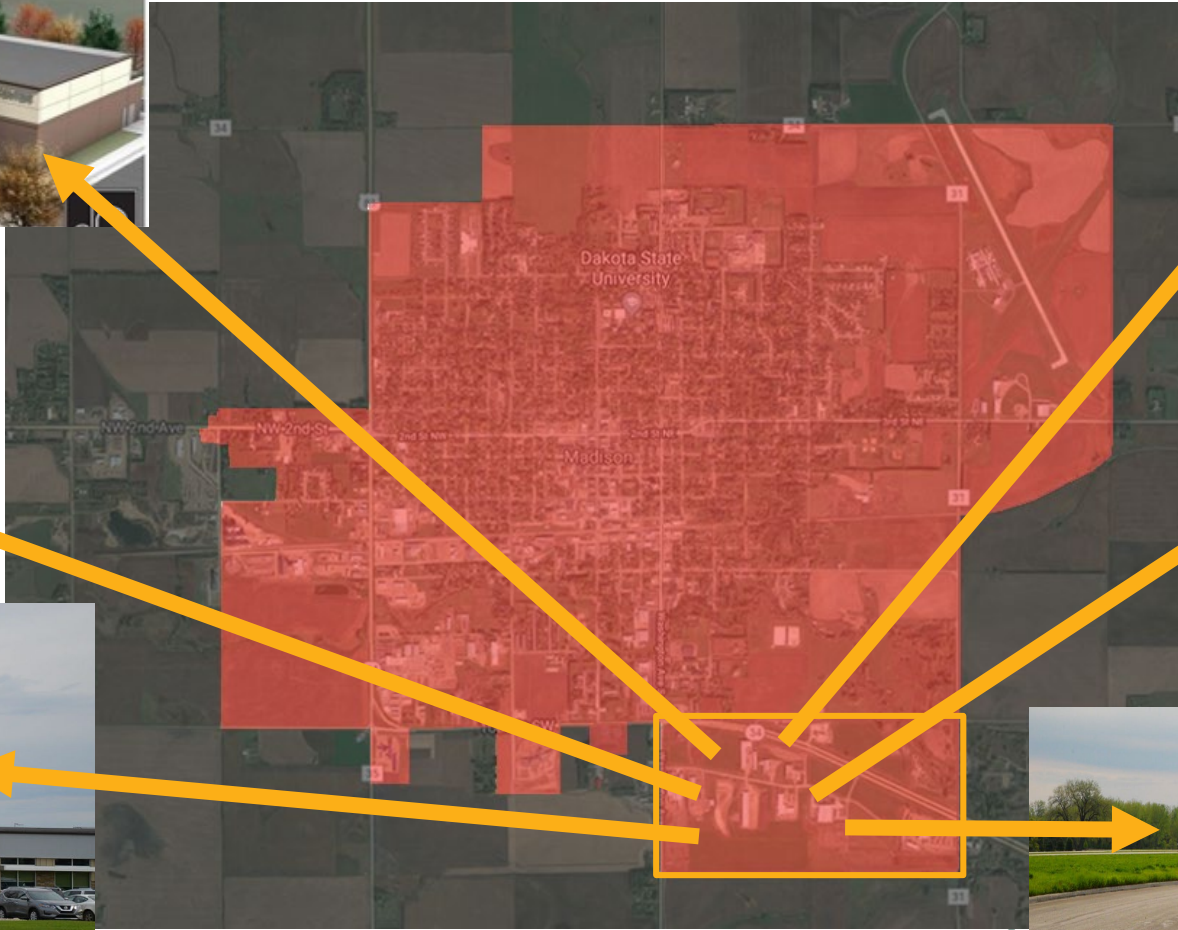
Best Western Plus



Southridge Office Complex



Global Polymer Industries



Custom Touch Homes

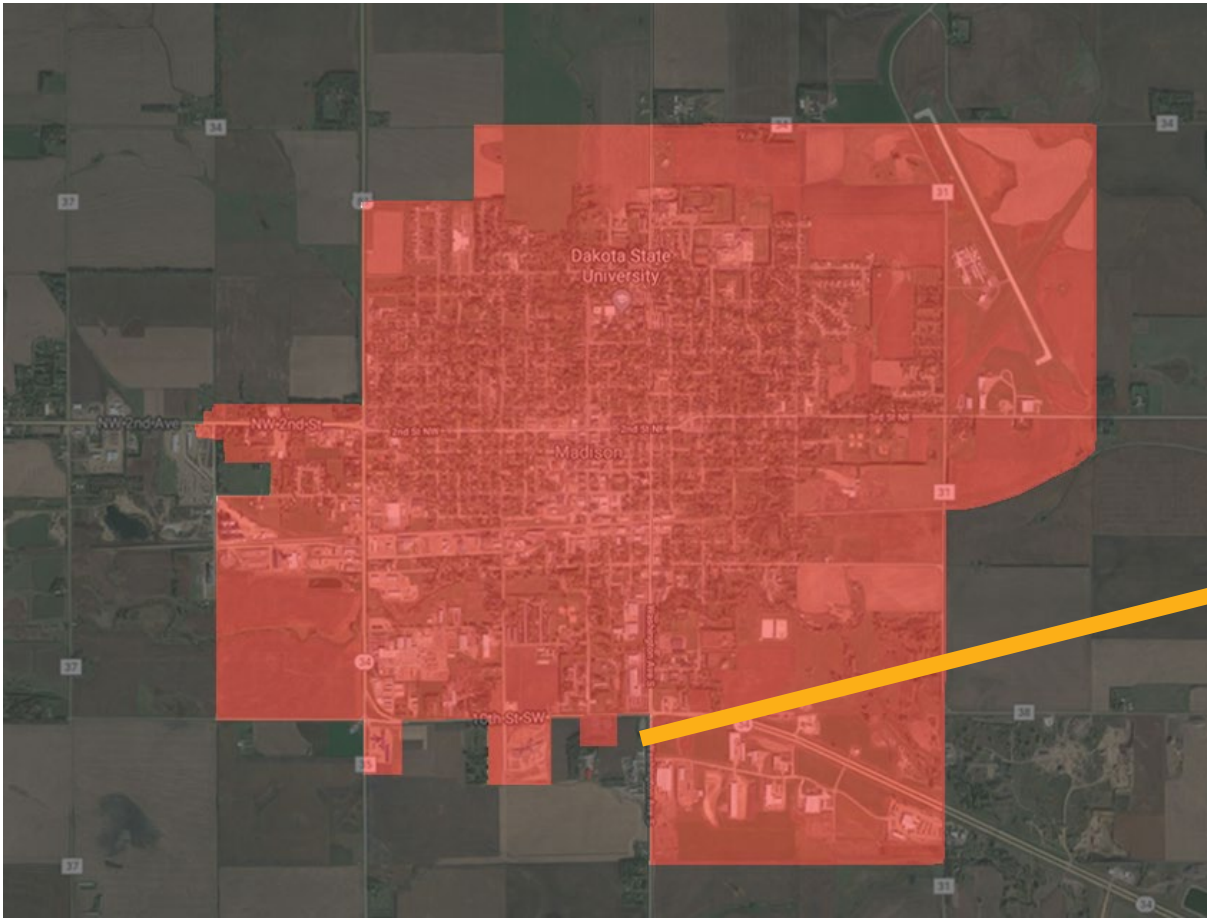


First Line Funding Group

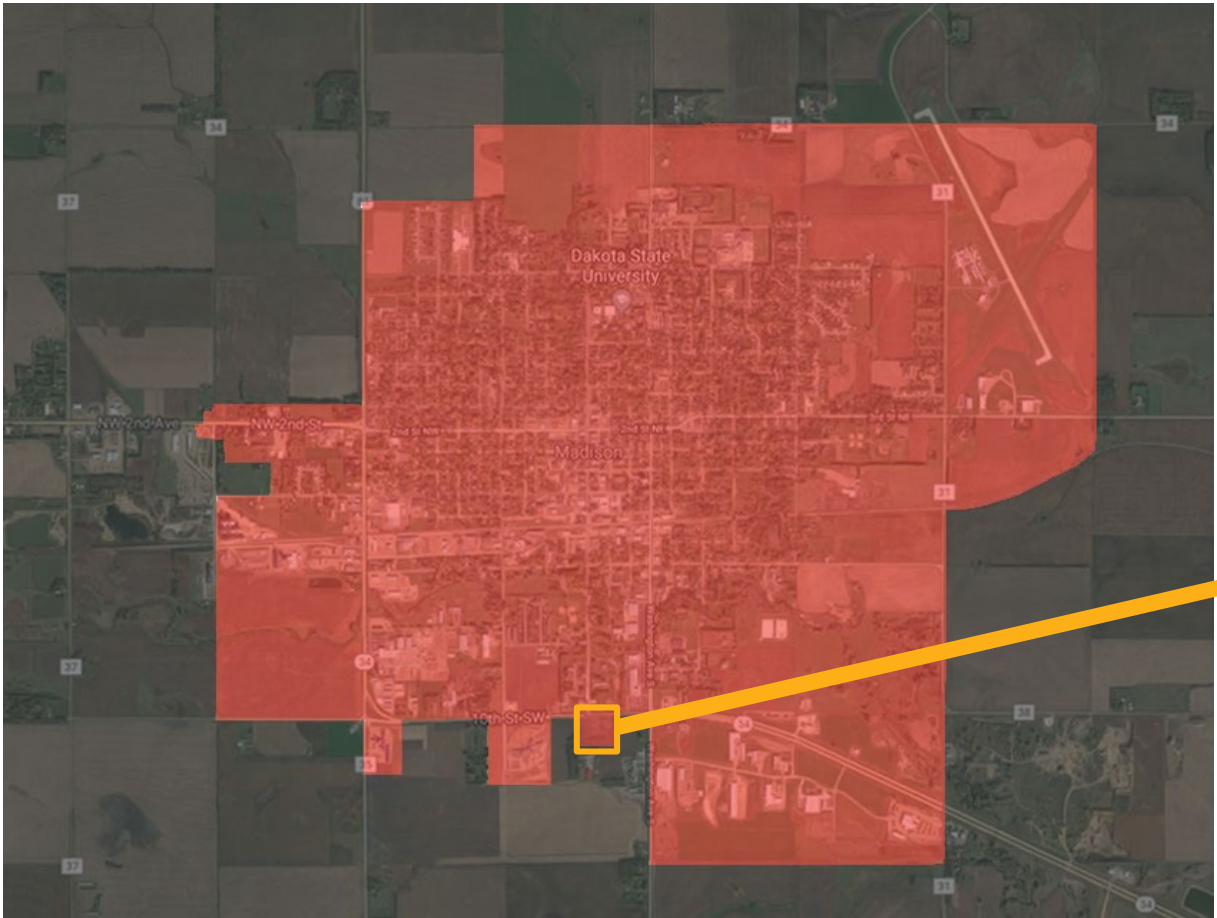


Kibble Equipment



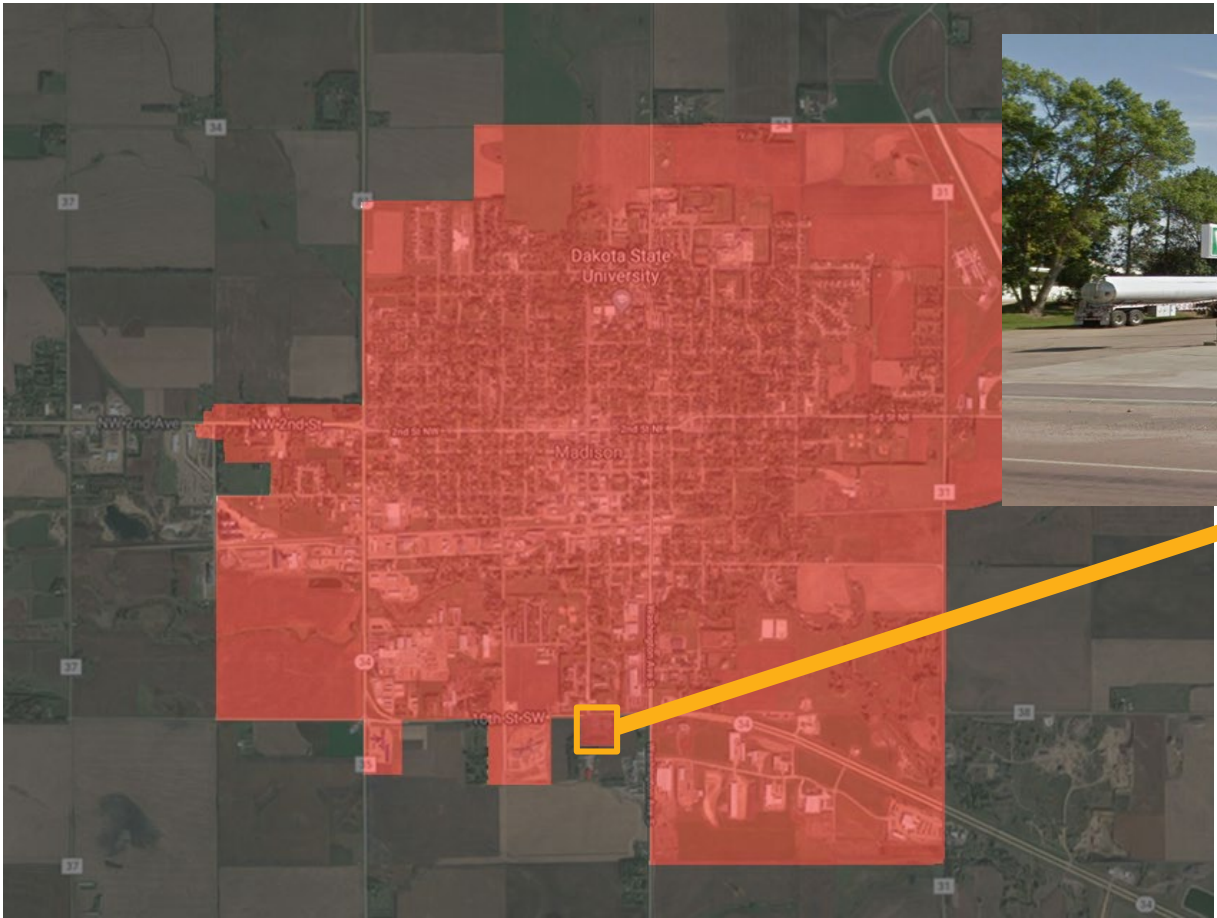


Fireworks Outlet and Park-it Market



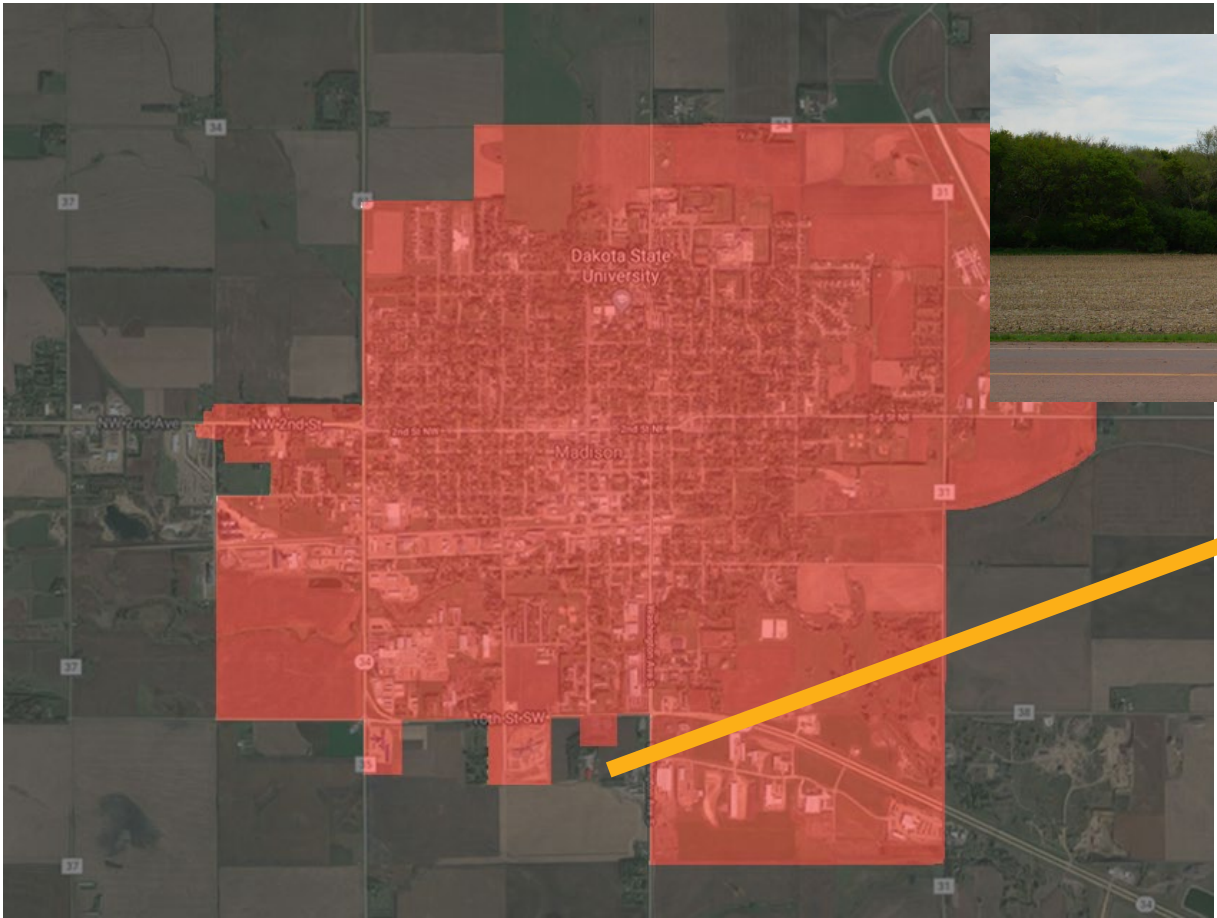
The Floral Shop Greenhouse

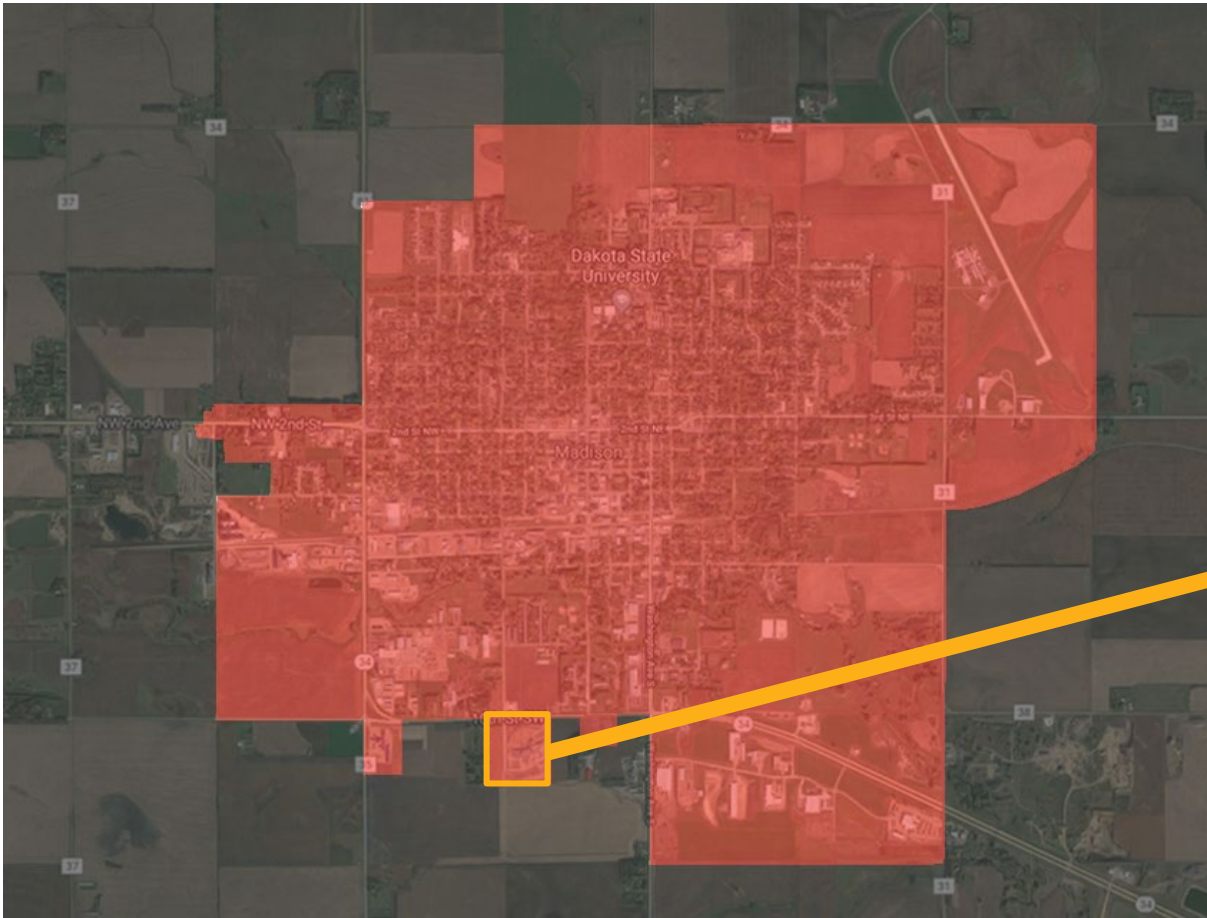




Sinclair Gas Station

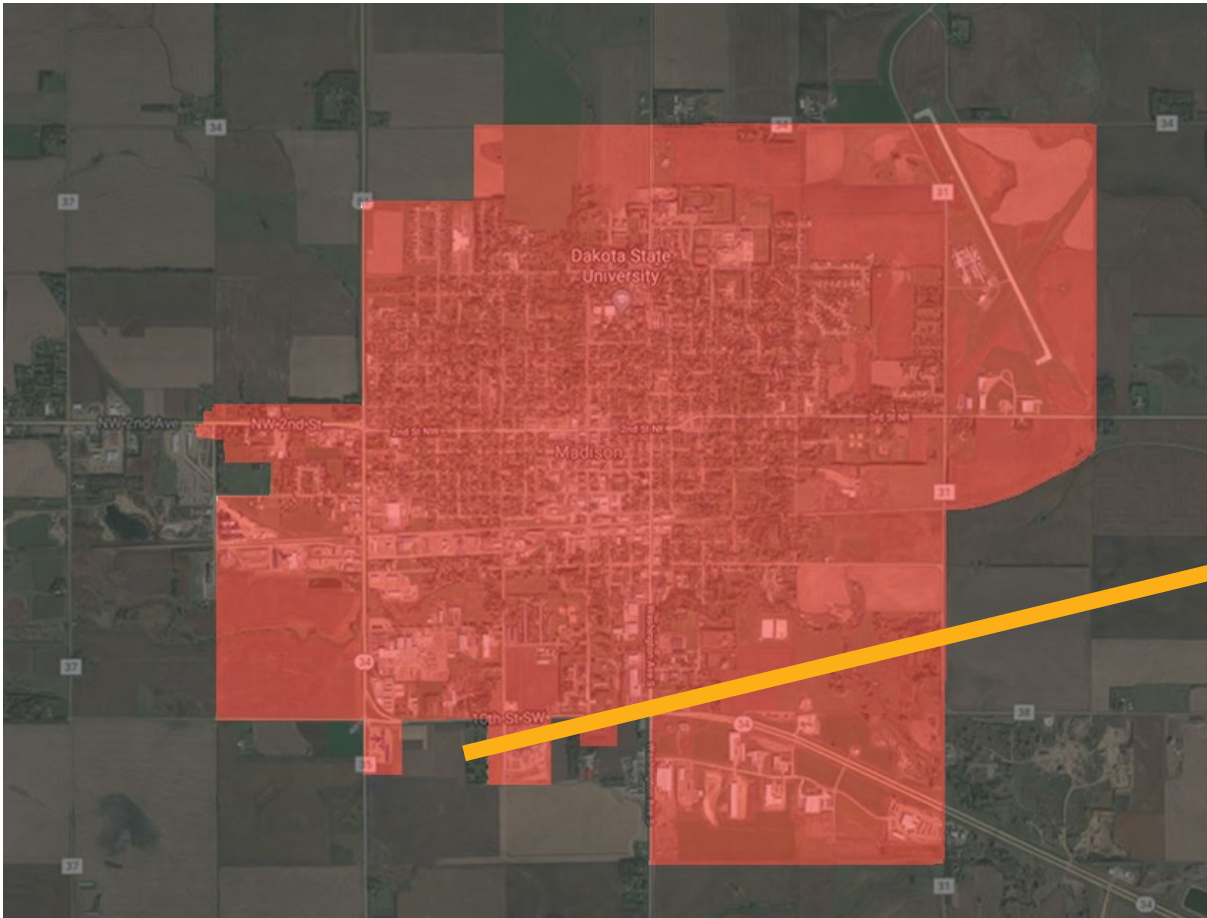






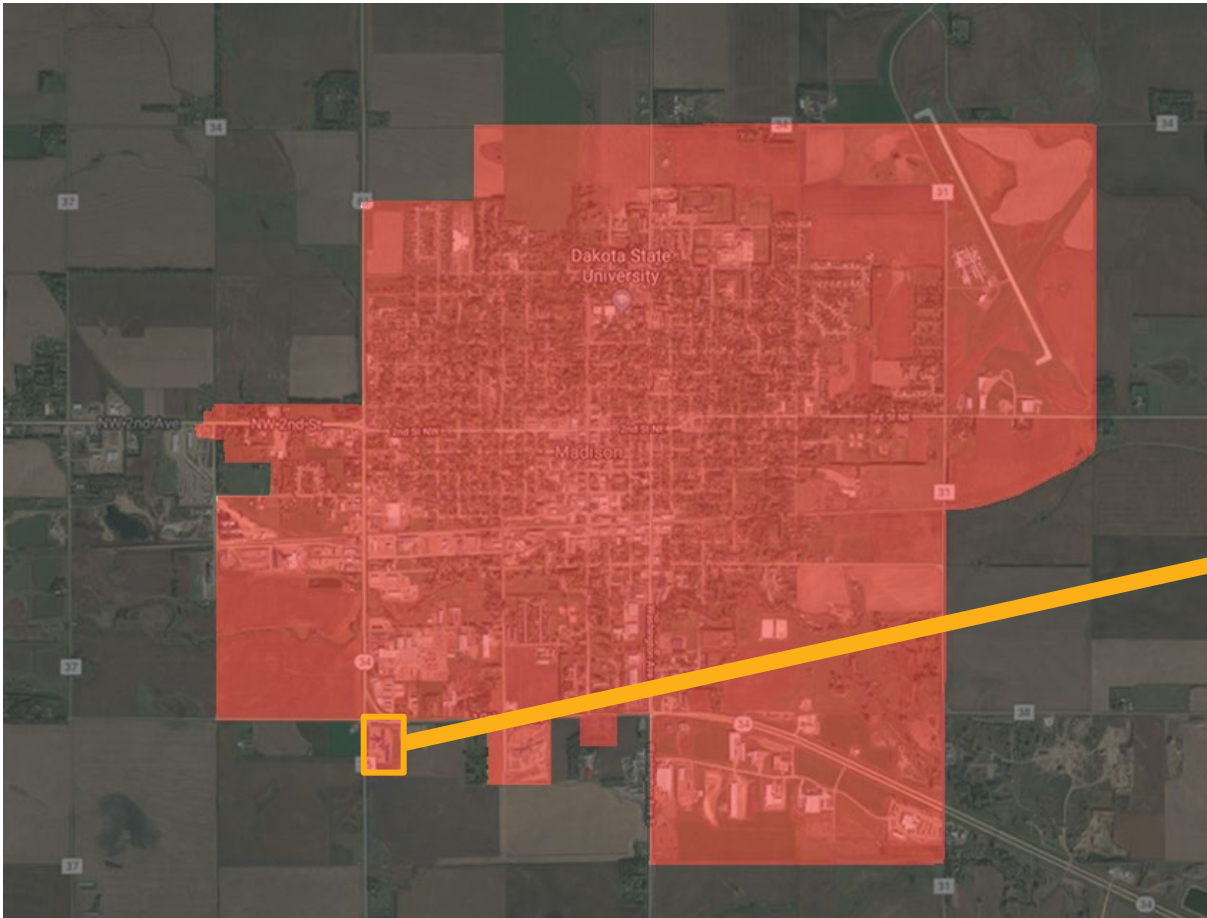
Madison Regional Health System





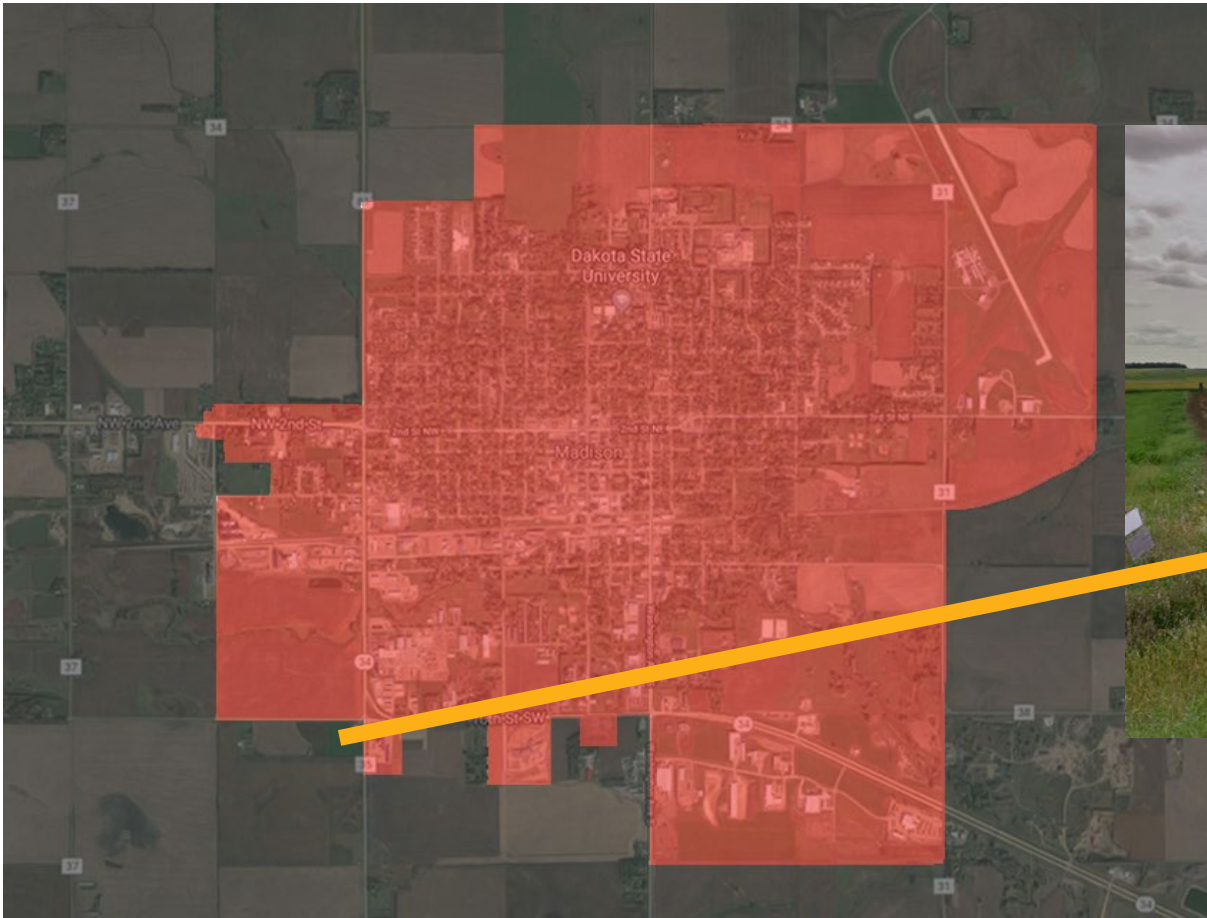
St. Thomas Cemetery

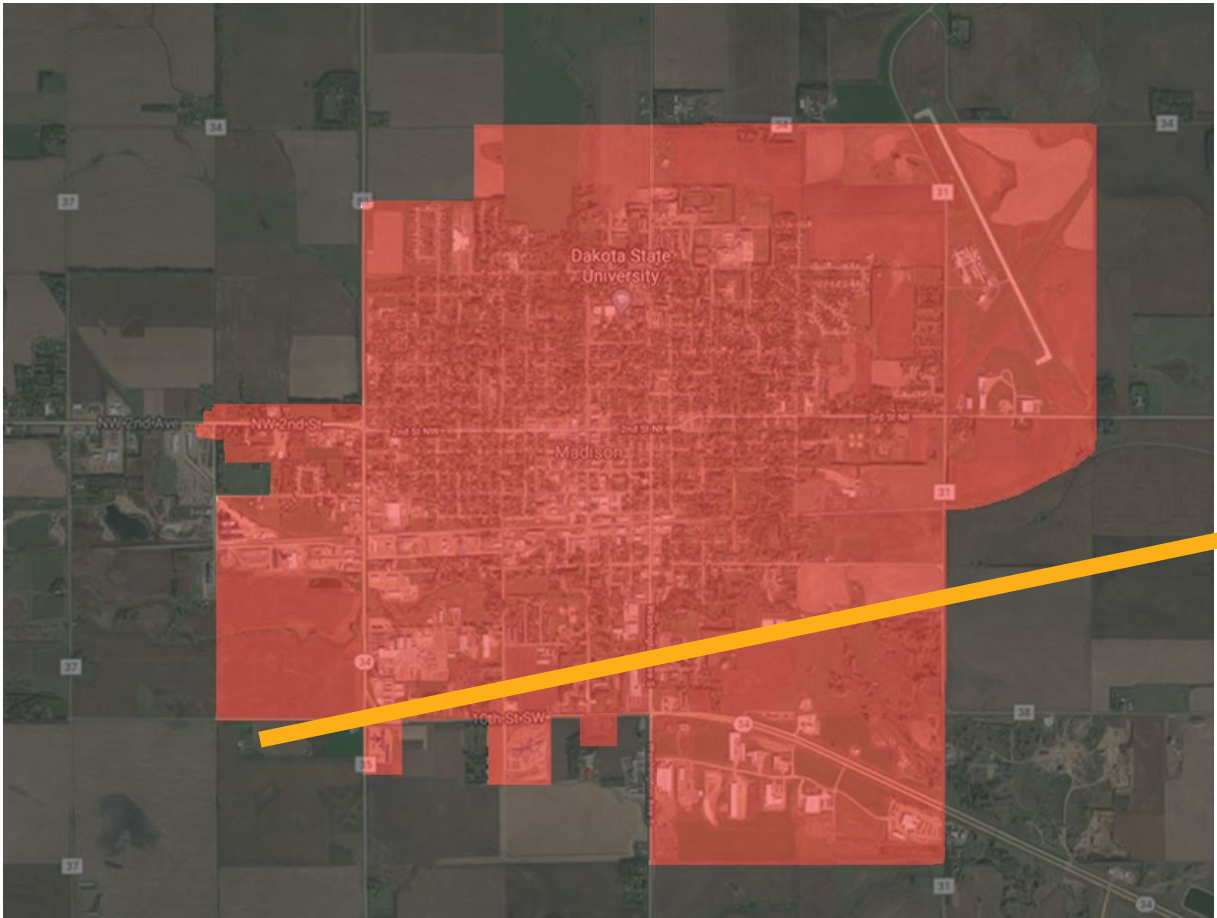




Mustang Seeds



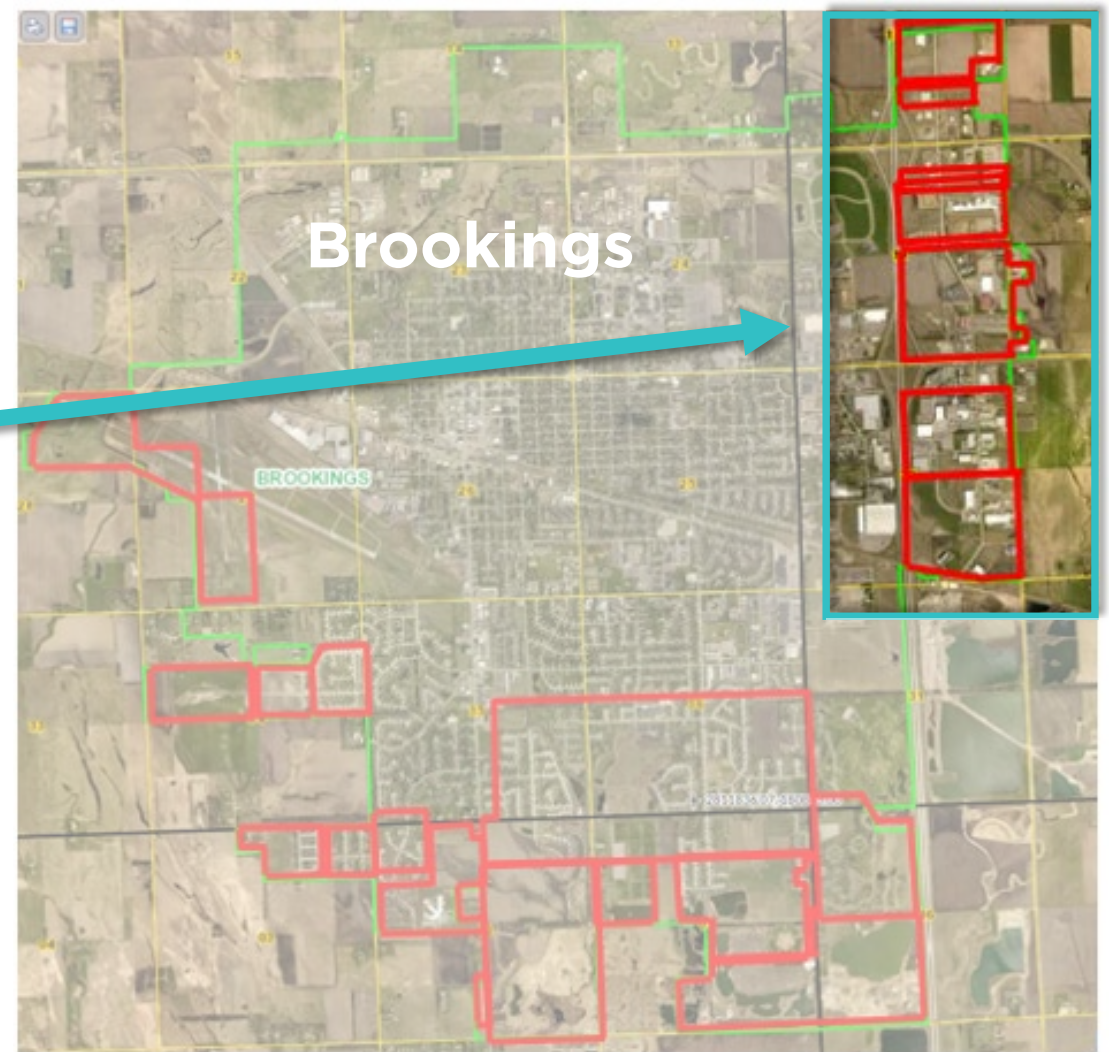




Brookings

Takings Since 1977

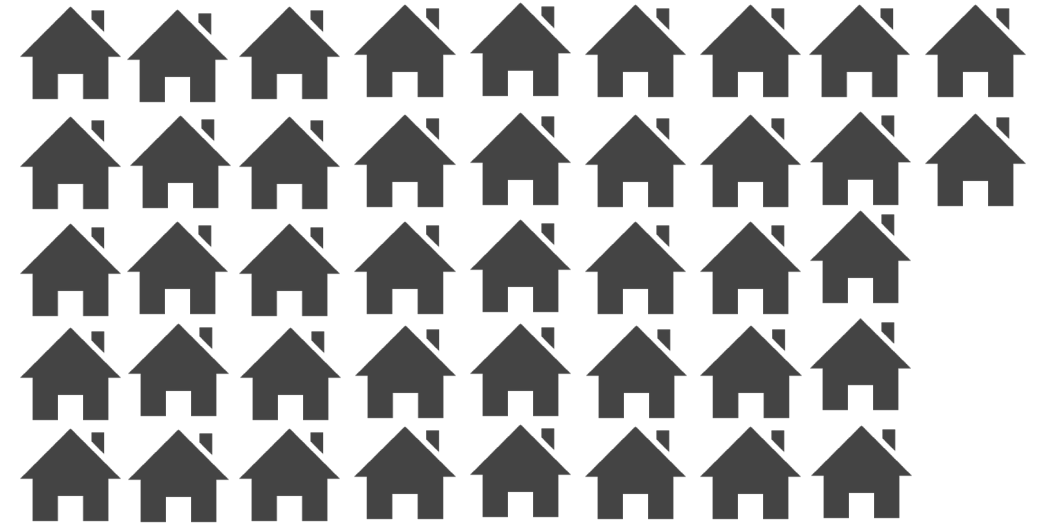
- More Than **2,600 Acres**
- More Than **1,600 Houses**
- **81 Businesses** – including:
 - Daktronics
 - Bel Brands
 - Swiftel Center
 - Larson Ice Center
 - Prairie AquaTech
 - Capital Credit Services



Average Density of South Dakota Service Areas

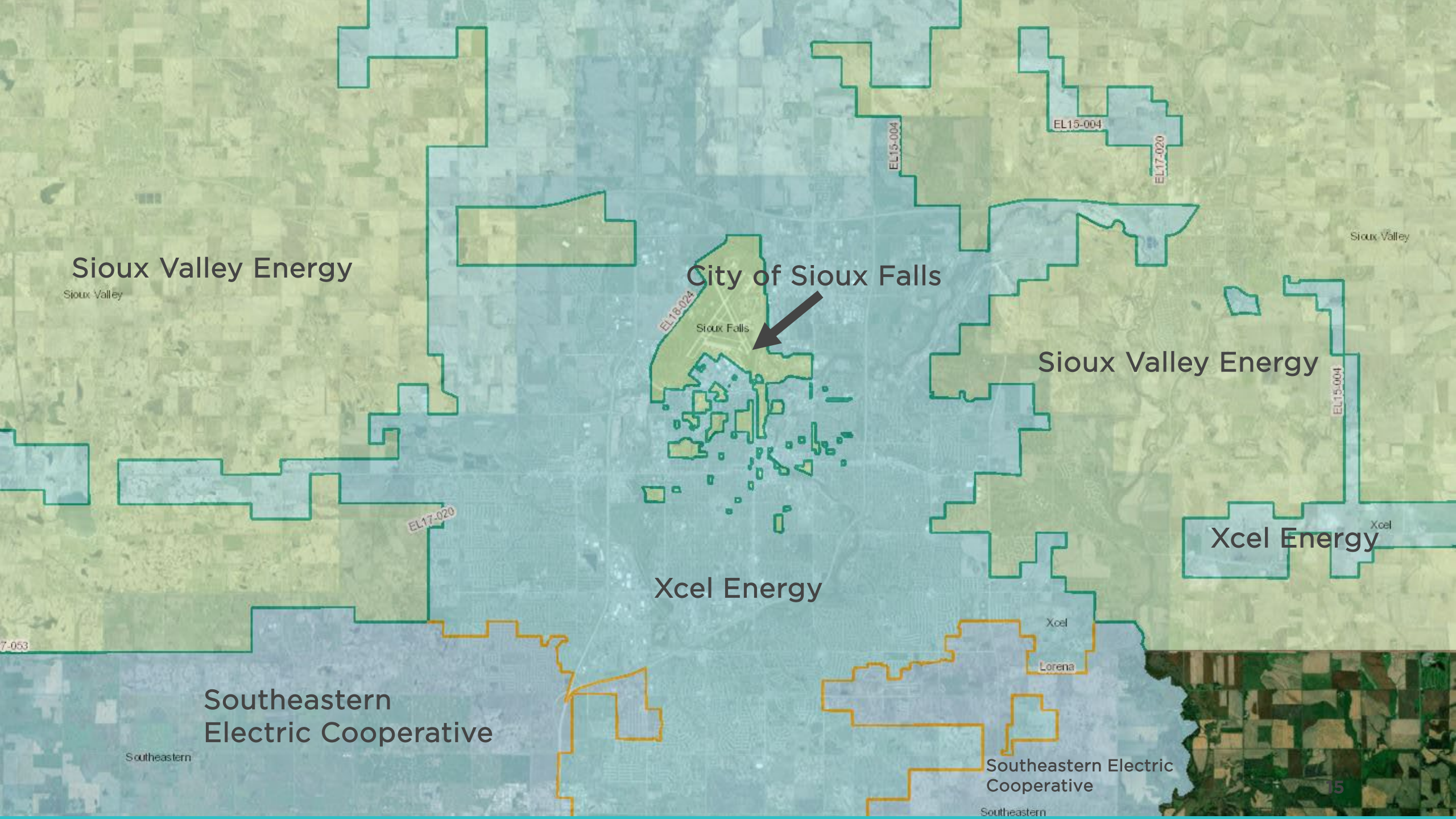


Electric cooperatives serve **2.5 members** per mile of line.



Municipal electrics serve **42 customers** per mile of line.





Sioux Valley Energy

Sioux Valley

City of Sioux Falls

Sioux Falls

Sioux Valley Energy

Xcel Energy

Xcel Energy

Southeastern
Electric Cooperative

Southeastern

Southeastern Electric
Cooperative

Southeastern

Community Partner

RDLG Grant Program

Rural Development Loan & Grant Program



Rural Electric Economic Development (REED) Fund



Operation Round Up

Taxes Support Schools

Sioux Valley Energy has paid approximately **\$18 million in taxes to local school districts during the last decade.**

Tim McCarthy

Sioux Valley Energy CEO/General Manager



Dave Eide

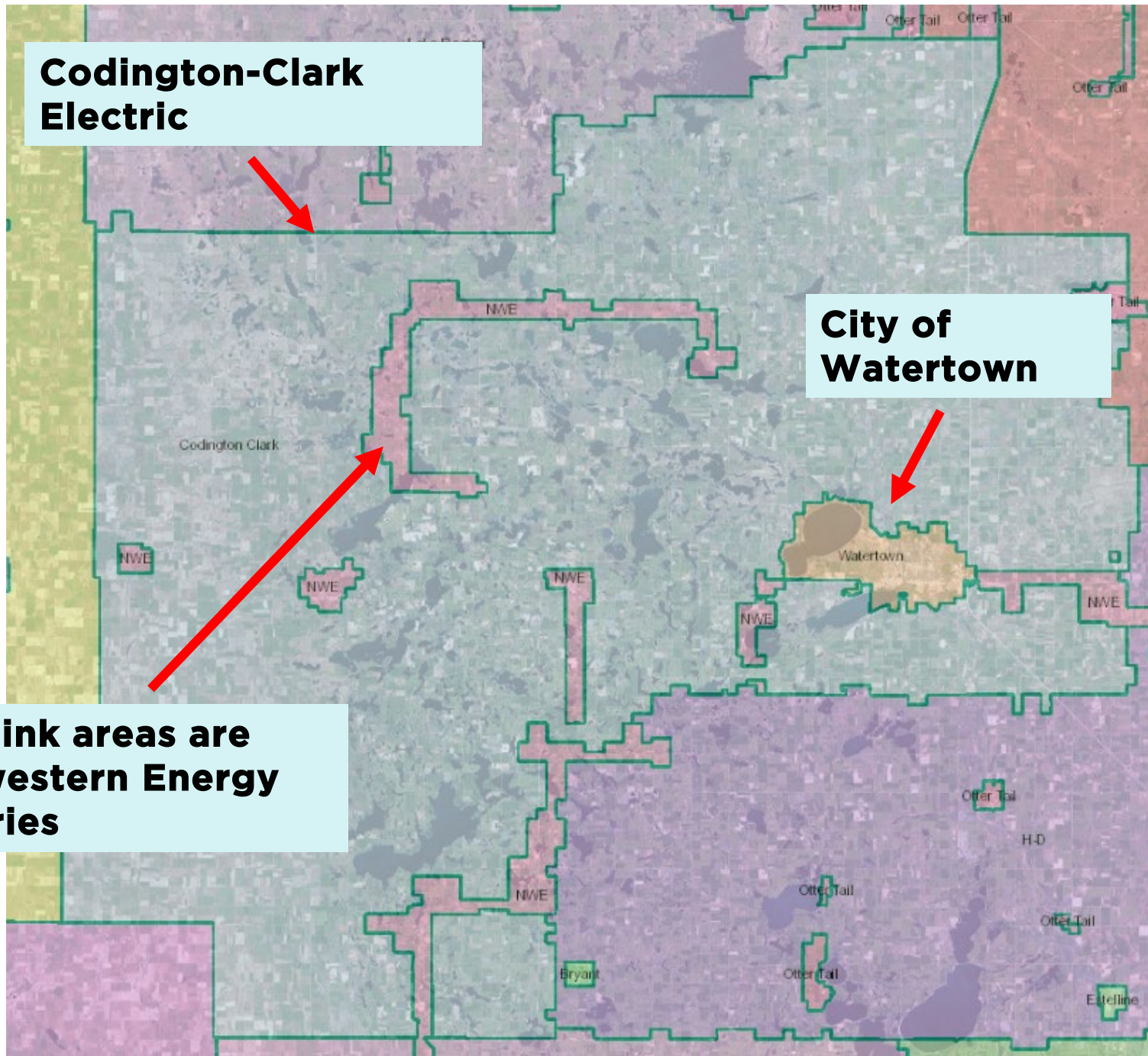
Codington-Clark Electric Cooperative General Manager



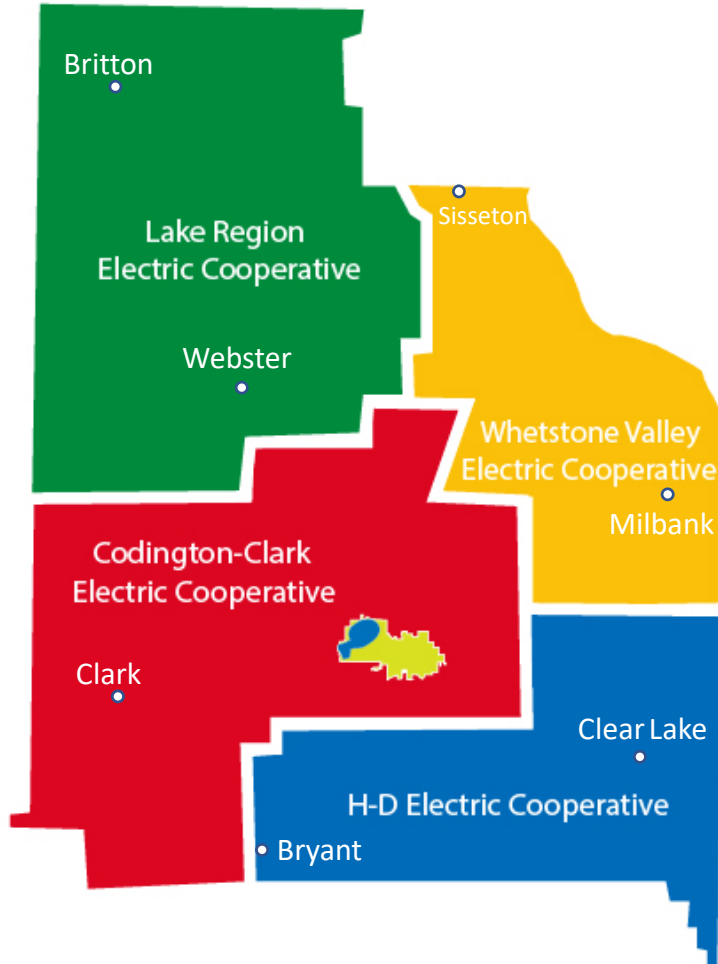
**Codington-Clark
Electric**

**City of
Watertown**

**Light pink areas are
Northwestern Energy
territories**



Density Comparisons



Watertown Municipal Utility:

- **13,009** meters
- **37** square miles

- COMPARED TO -

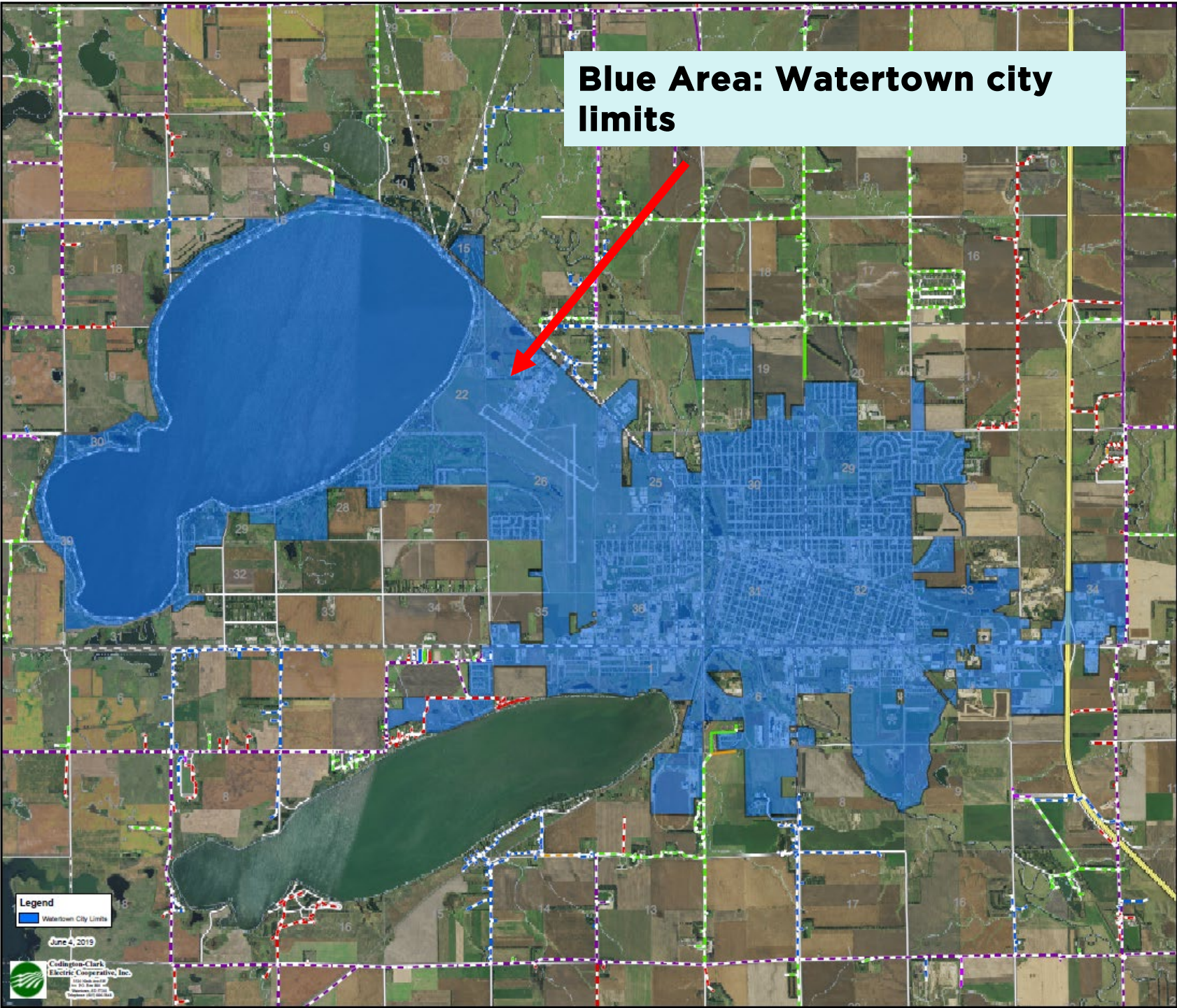
Electric Cooperatives:

- Codington-Clark: 3,330 meters
- H-D Electric: 3,632 meters
- Lake Region: 3,470 meters
- Whetstone: 3,395 meters

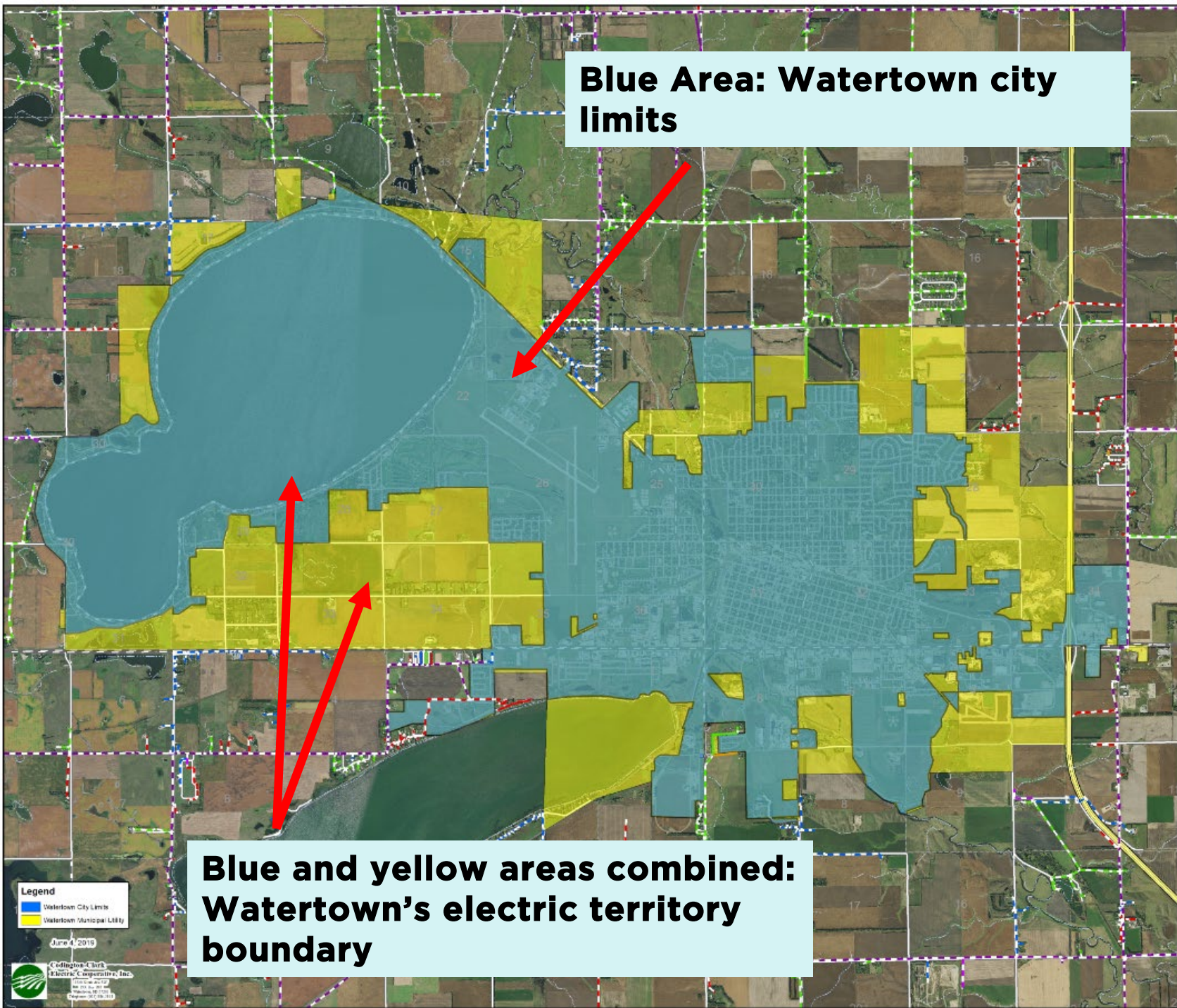
13,827
meters

6,230
total sq.
miles

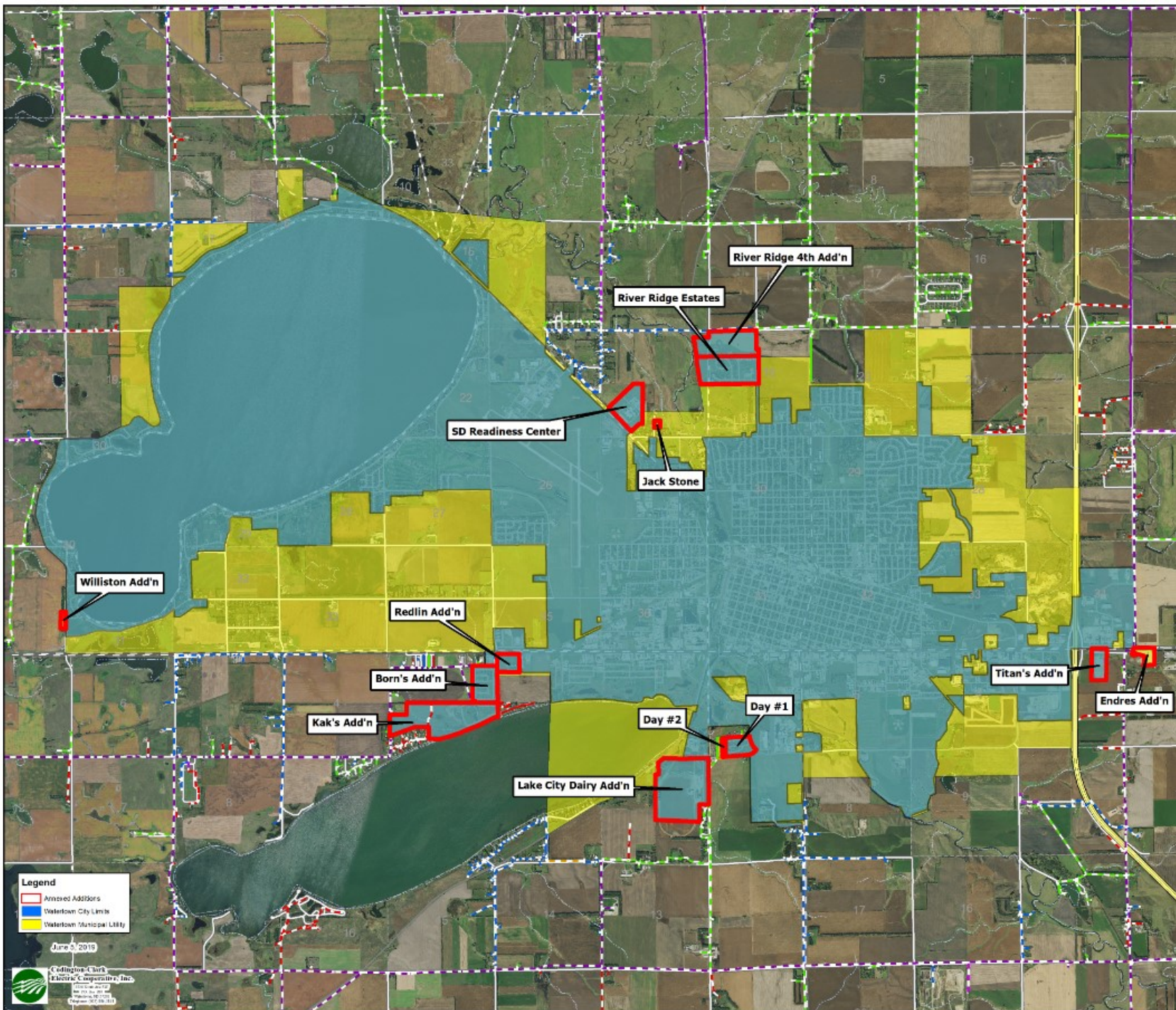
Blue Area: Watertown city limits



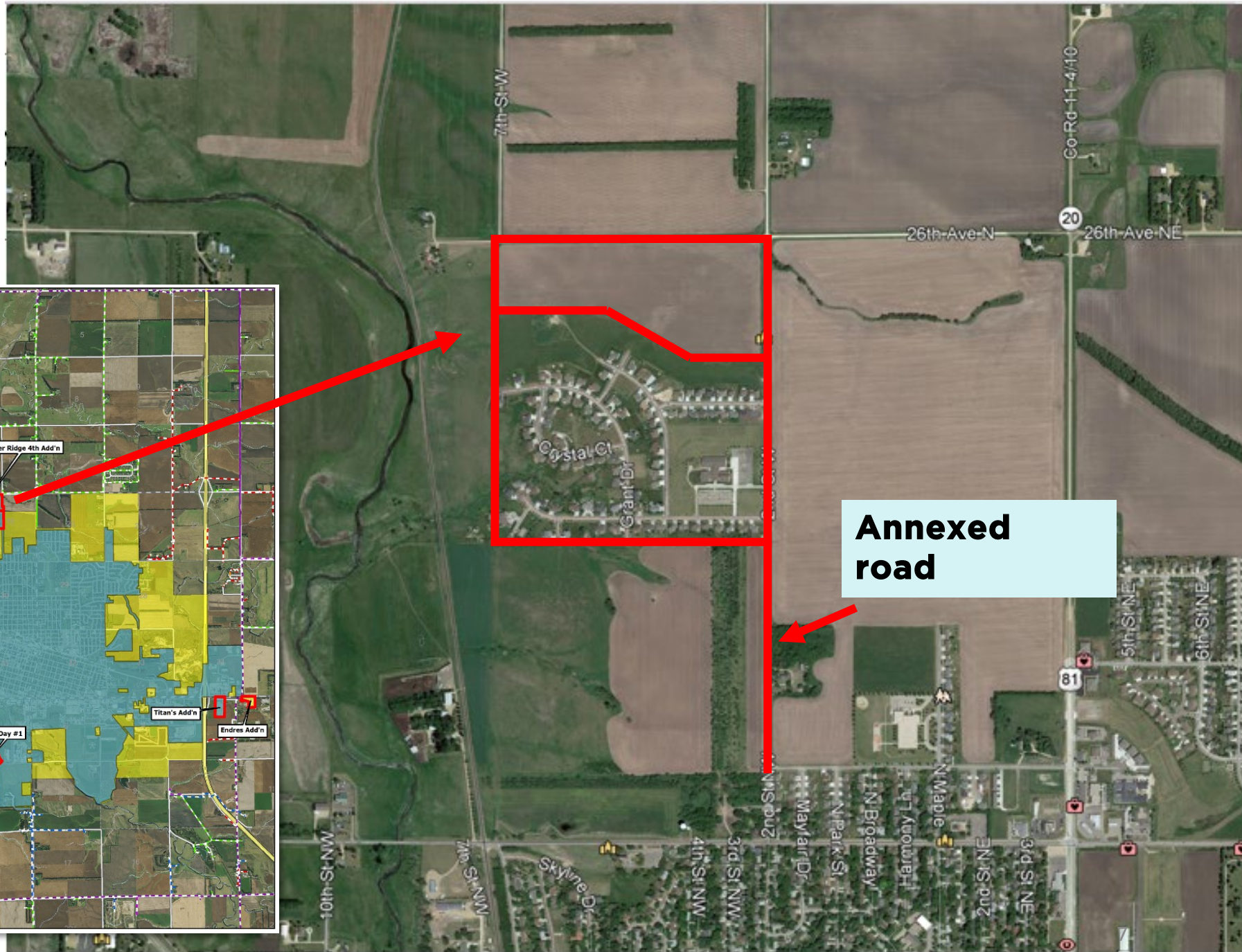
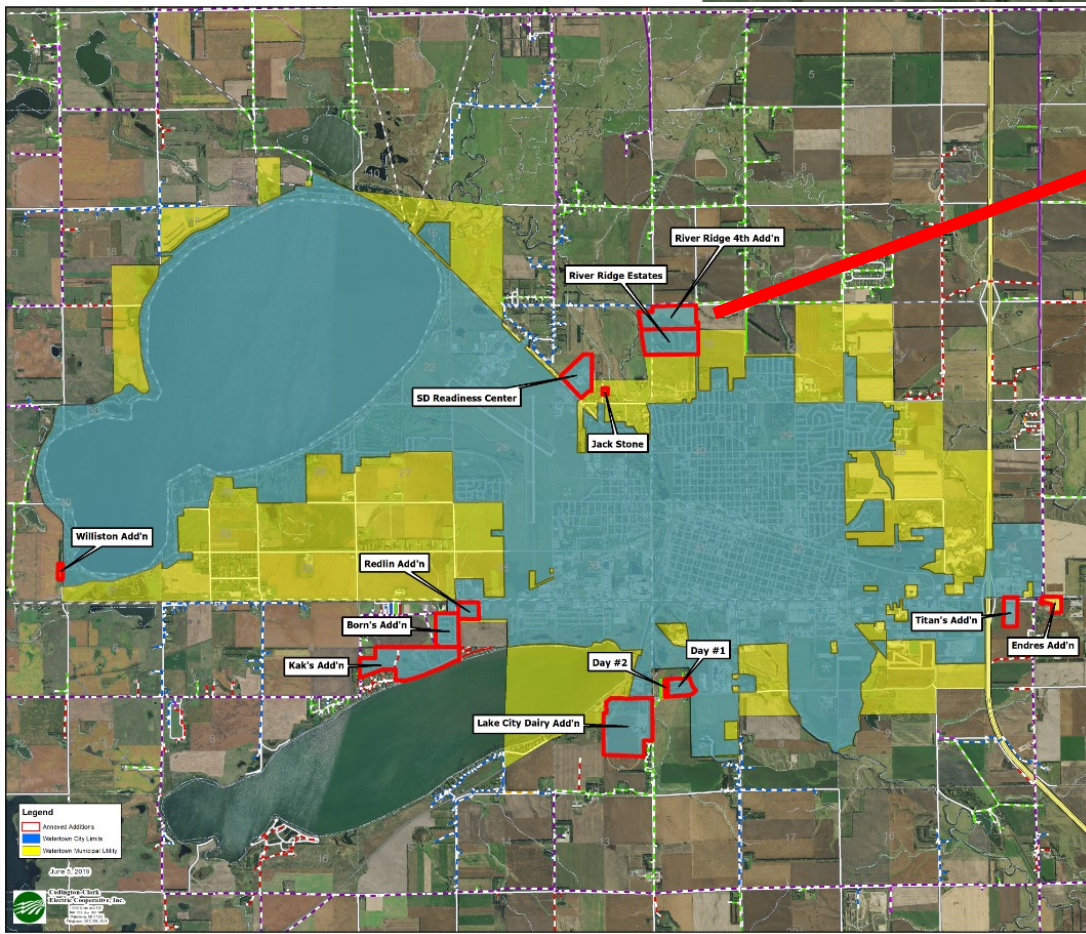
Blue Area: Watertown city limits



**Blue and yellow areas combined:
Watertown's electric territory
boundary**

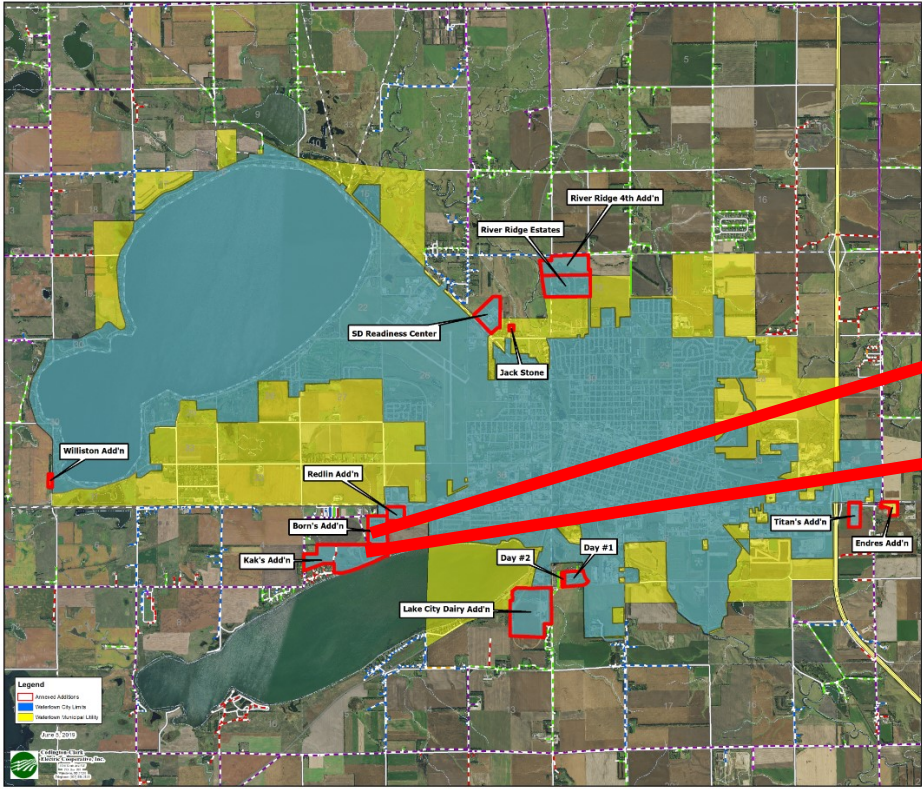


River Ridge Estates and River Ridge 4th Additions

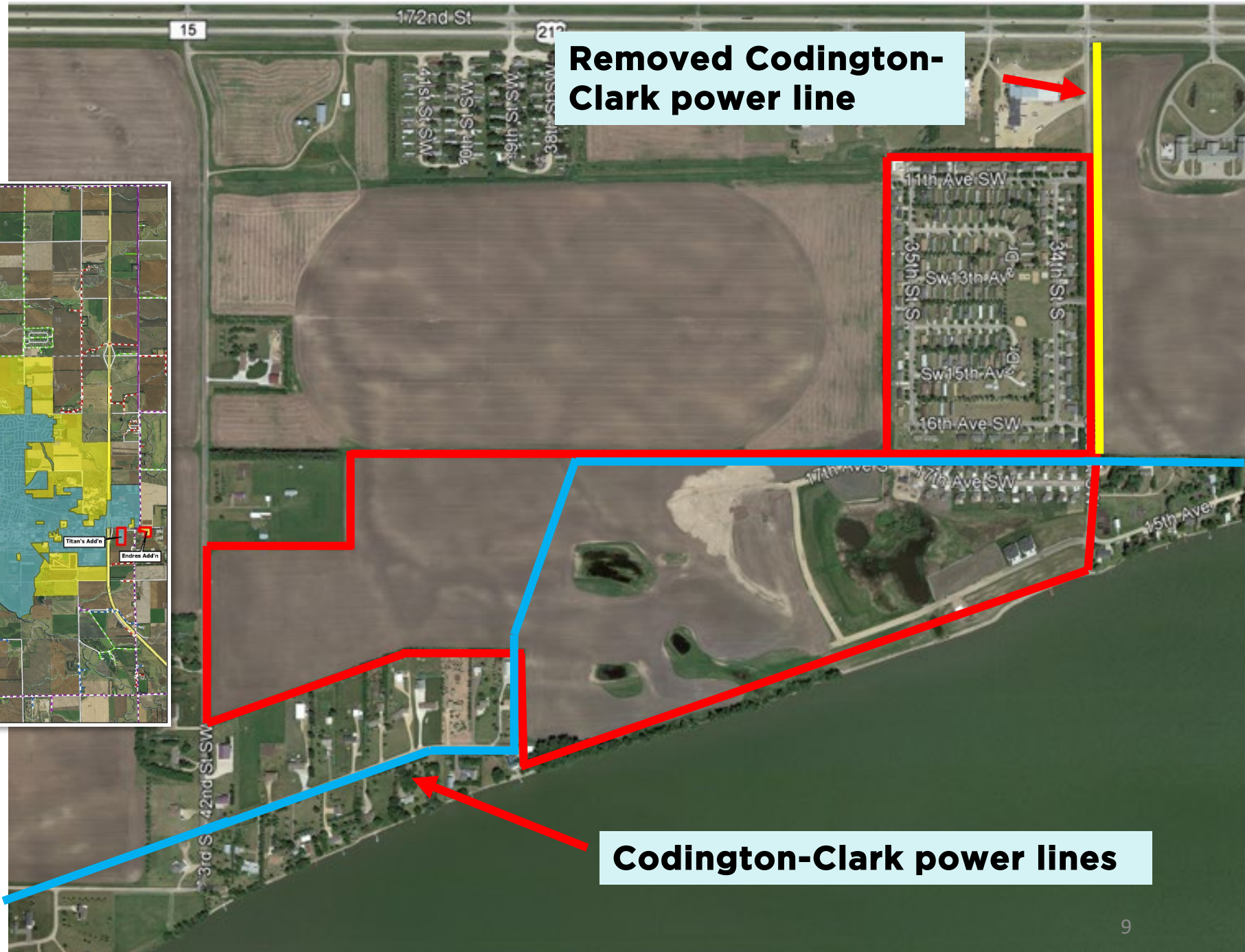
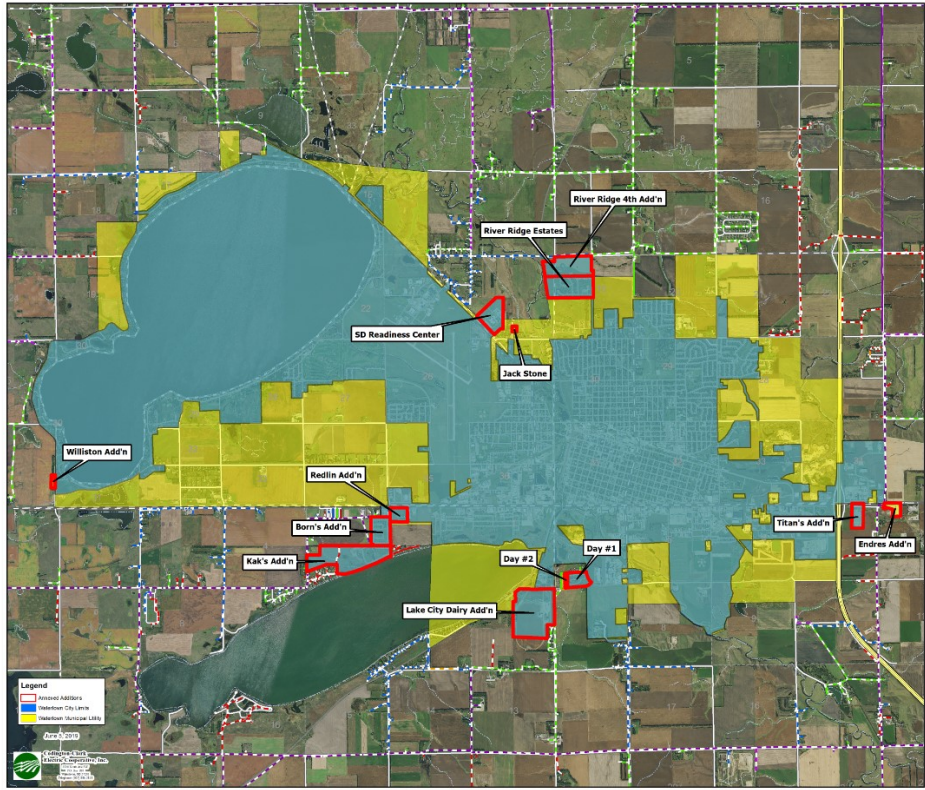


Annexed road

Borns and Kak Additions

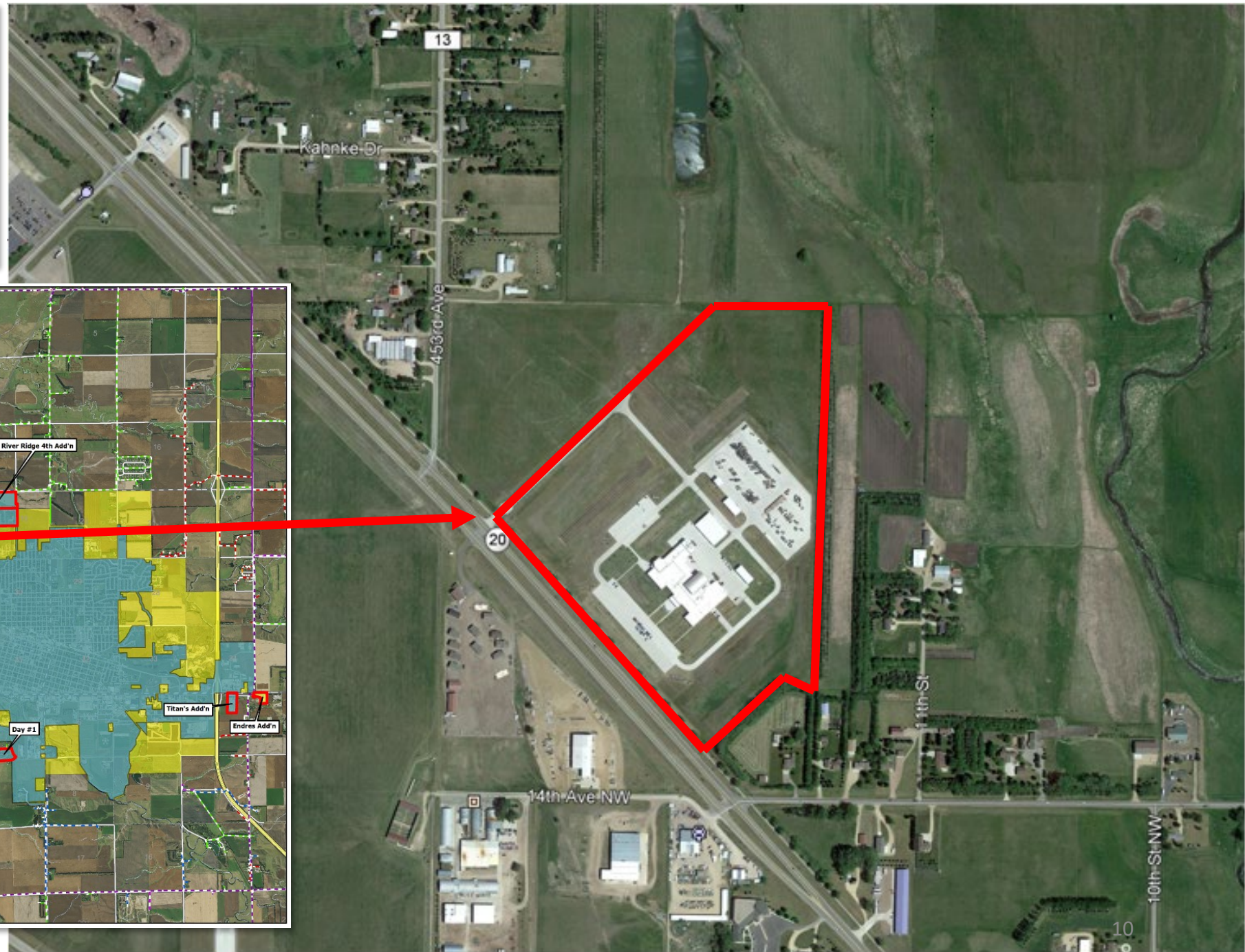
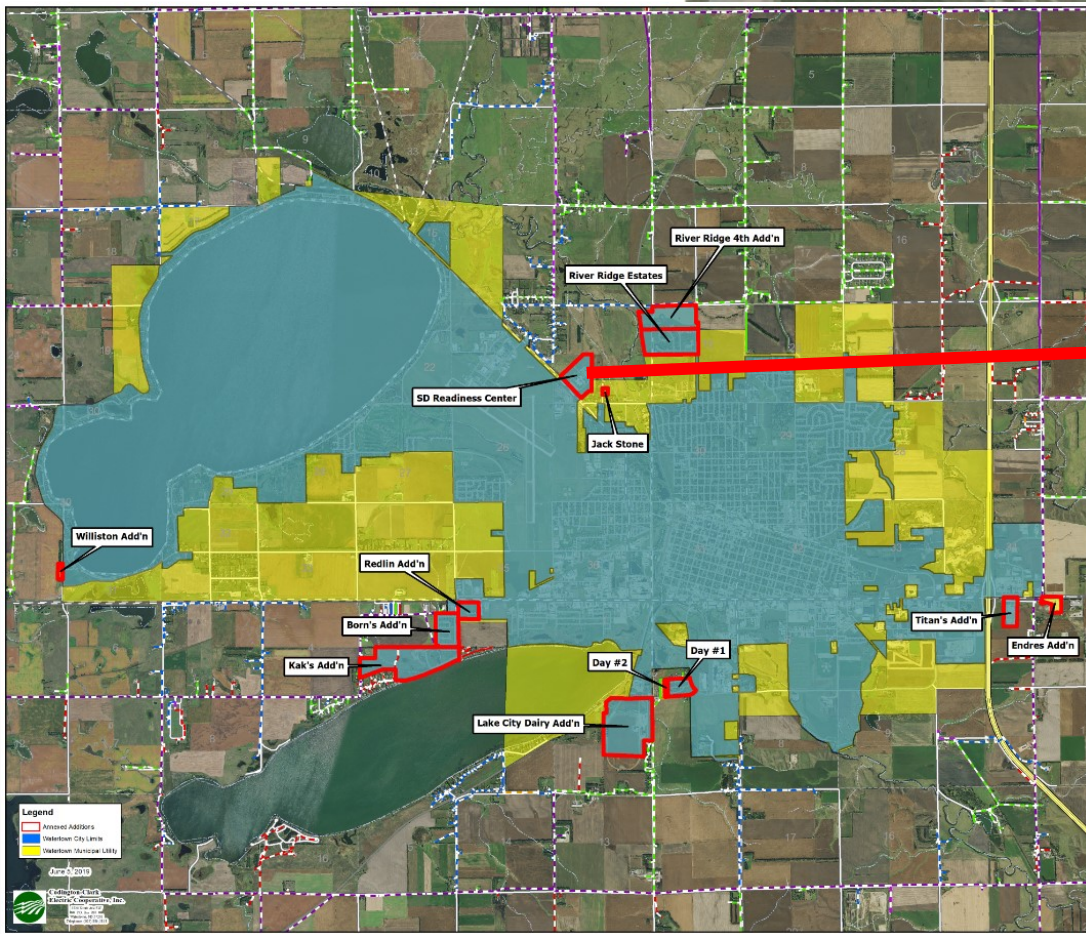


Borns and Kak Additions

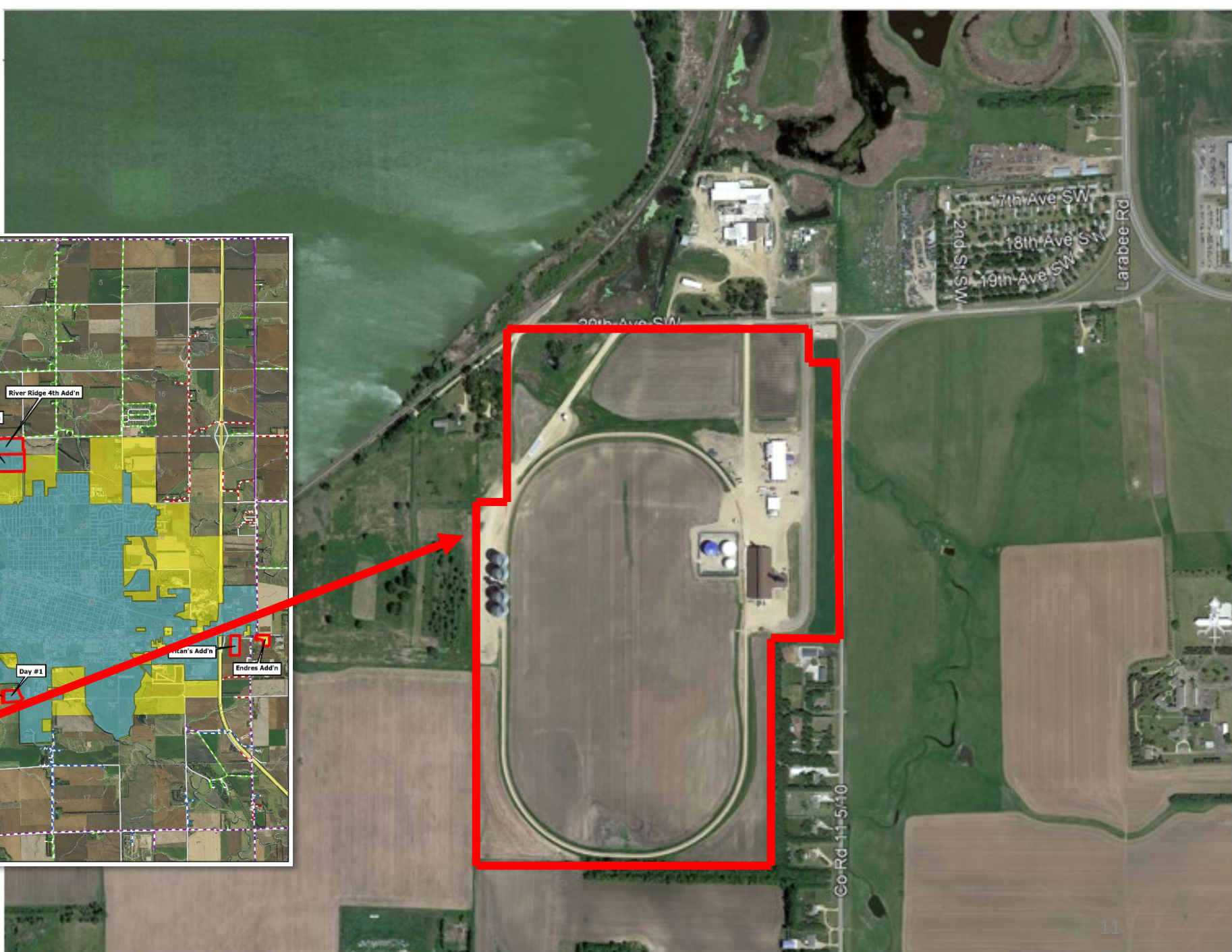
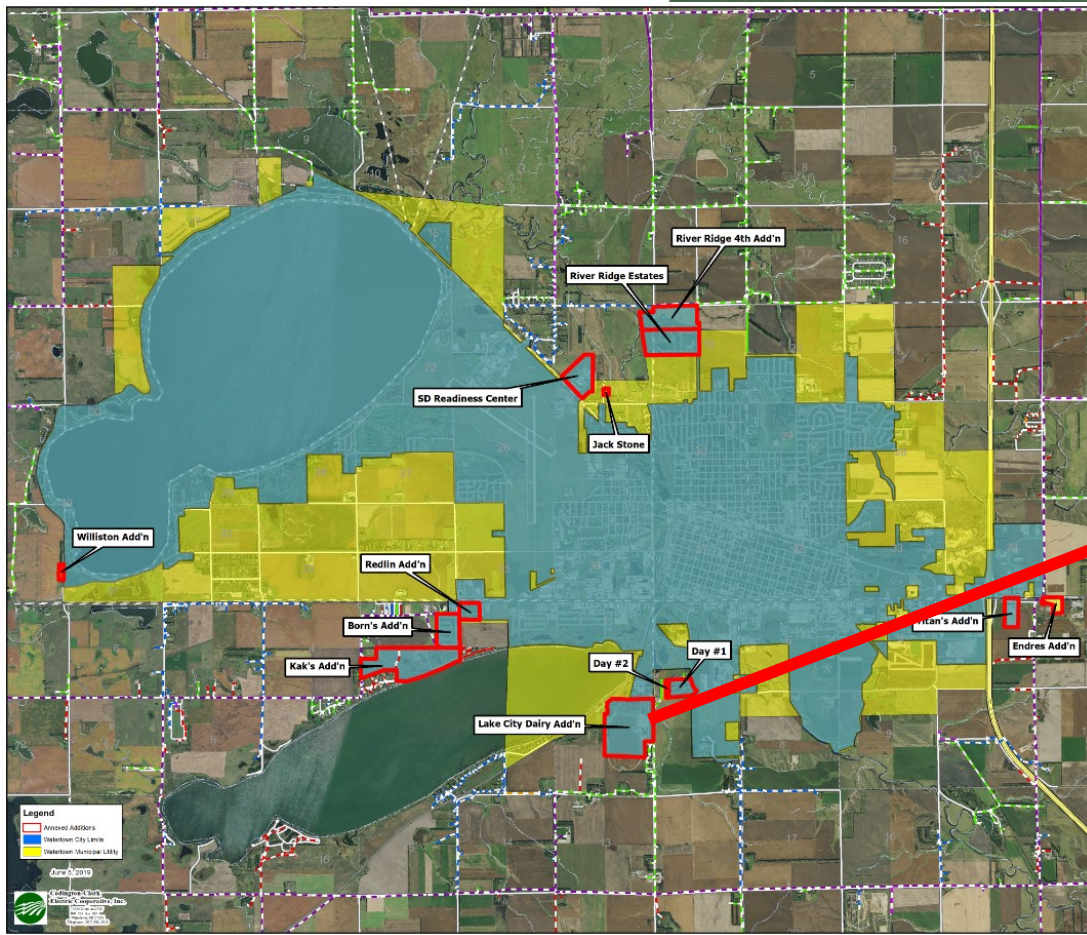


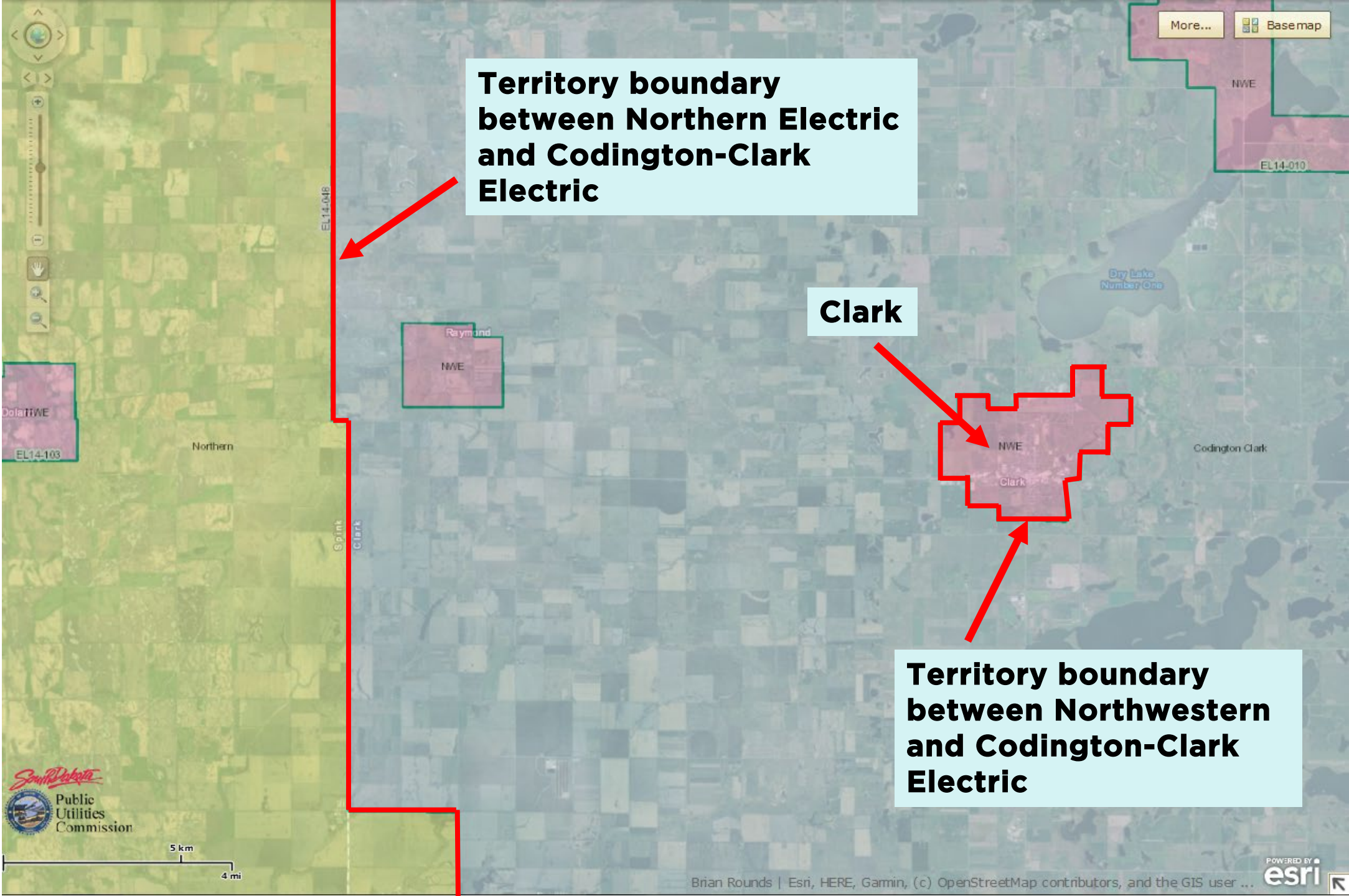
Codington-Clark power lines

SD National Guard Readiness Center



Lake City Dairy Addition





**Territory boundary
between Northern Electric
and Codington-Clark
Electric**

Clark

**Territory boundary
between Northwestern
and Codington-Clark
Electric**

Long Term Planning

- Codrington-Clark borrows about \$2 million each year for infrastructure.
- Most of our loans are amortized over 30+ years to spread out costs and keep rates low.
- We also borrow in the form of retained capital credits.



Community Partners

- \$948,000 in loans to several businesses



Dakota Butcher



Trav's Outfitters



Community Partners

- \$300,000, 0% interest loan to Watertown Development Company
- \$432,000 to Glacial Lakes Energy ethanol plant



We have provided \$1.68 million to promote Watertown.



The current law allows the government to shift costs to the member-owners of electric cooperatives.



Dave Eide

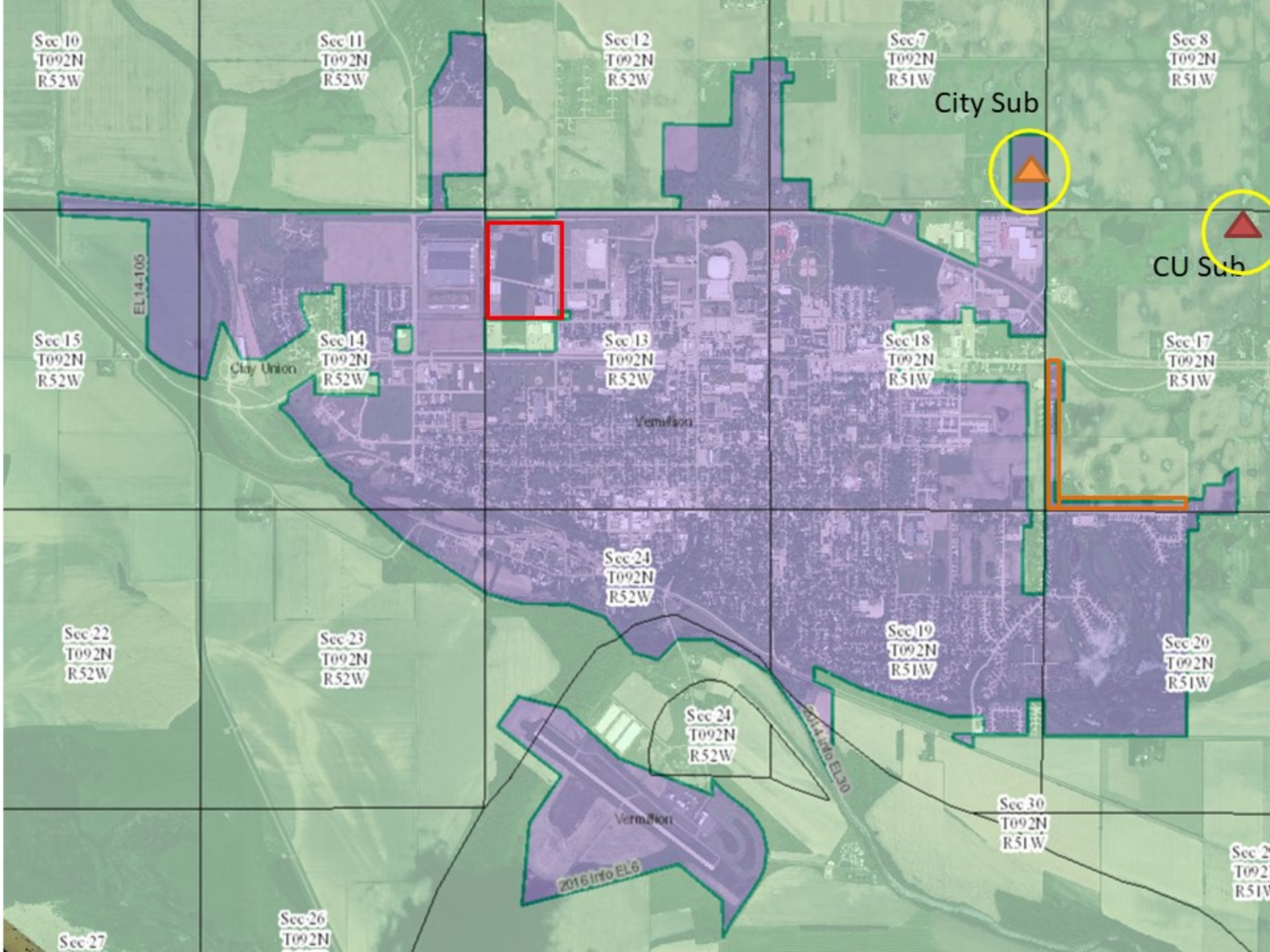
Codington-Clark Electric Cooperative General Manger



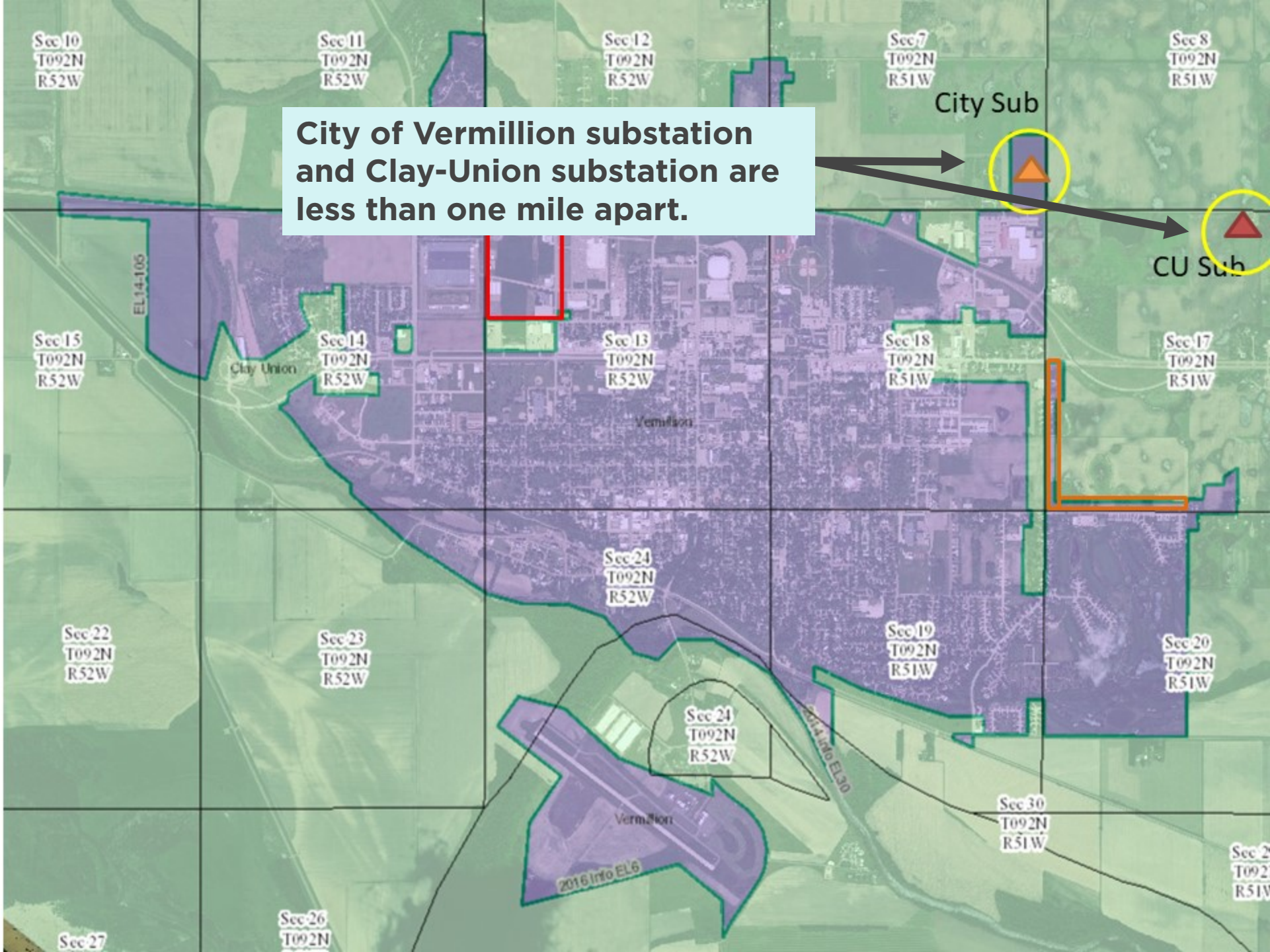
Chris Larson

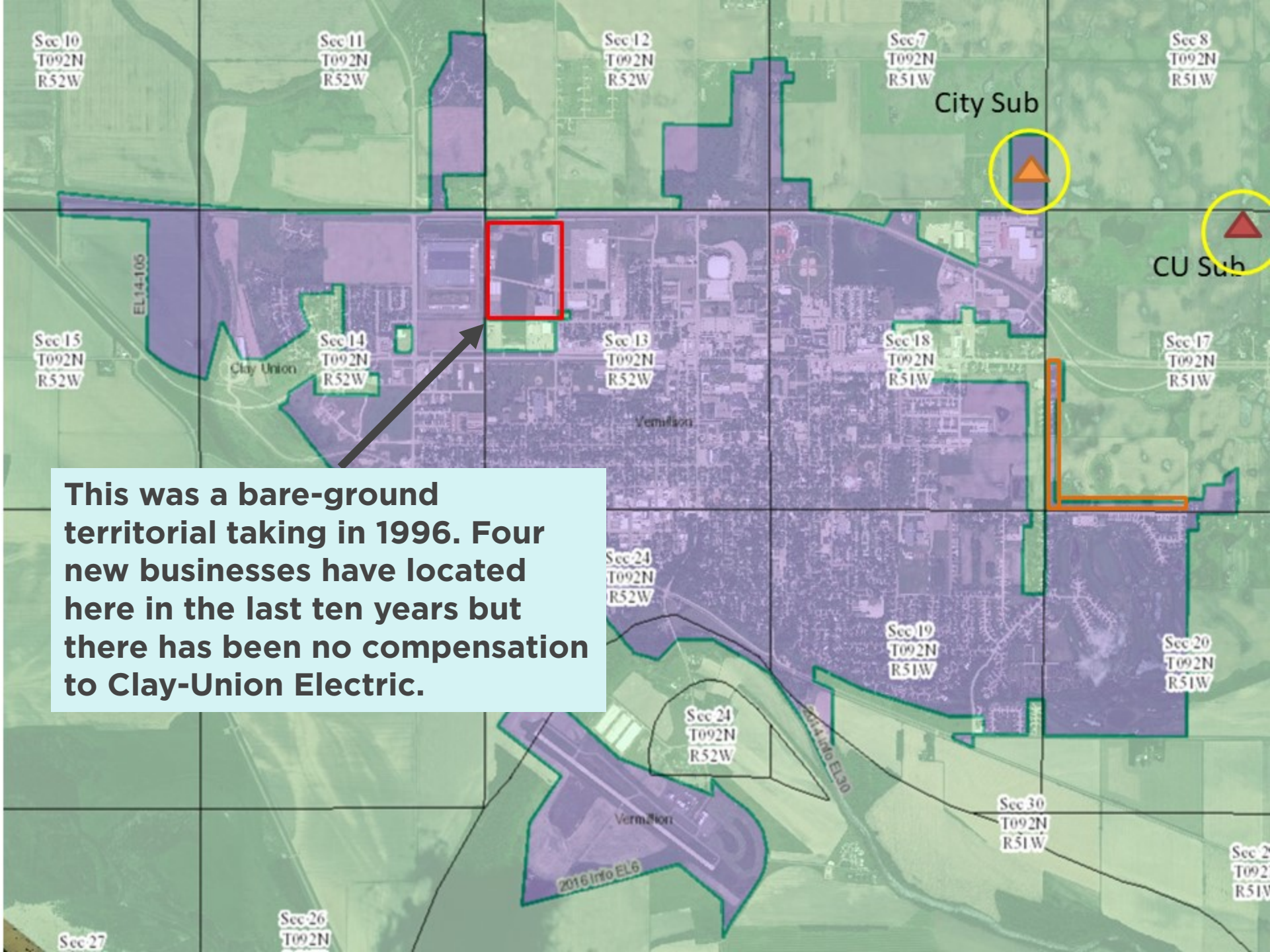
Clay-Union Electric CEO/General Manager



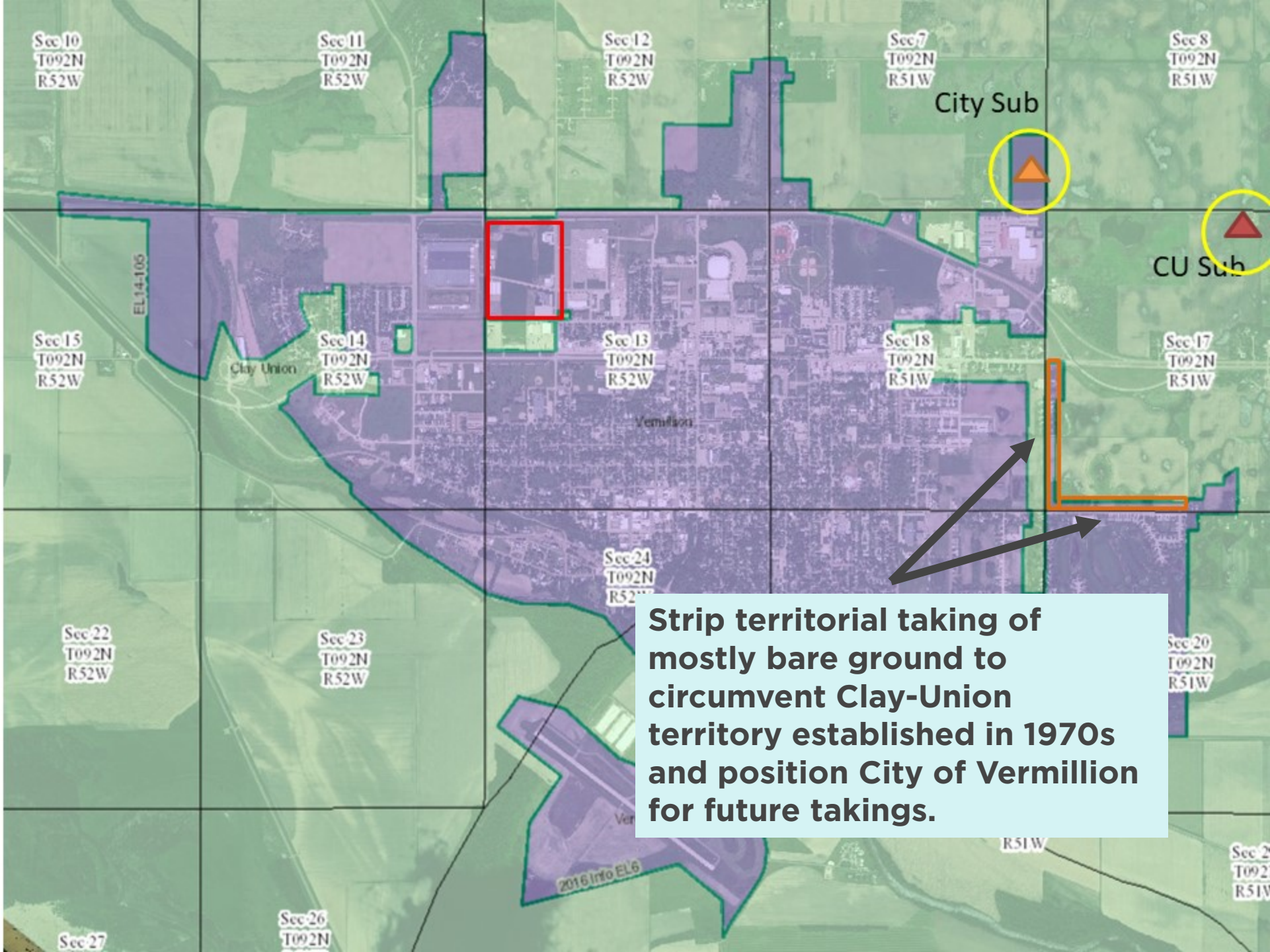


City of Vermillion substation and Clay-Union substation are less than one mile apart.





This was a bare-ground territorial taking in 1996. Four new businesses have located here in the last ten years but there has been no compensation to Clay-Union Electric.



Strip territorial taking of mostly bare ground to circumvent Clay-Union territory established in 1970s and position City of Vermillion for future takings.

Clay-Union Electric

- Electric cooperatives operate on a not-for-profit basis.
- Electric cooperatives pay several taxes.
 - *Payroll Tax*
 - *Property Tax*
 - *Kilowatt Hour Tax*
 - *State Sales Tax*
 - *City Sales Tax*
 - *Contractor's Excise Tax*
 - *Electric Municipal Tax*

Generation & Transmission Co-ops



**Rushmore Electric
Power Cooperative**

A Touchstone Energy® Cooperative 



**BASIN ELECTRIC
POWER COOPERATIVE**

A Touchstone Energy® Cooperative 

Long-Range Planning

- Clay-Union Electric
 - *4-Year Construction Plans*
 - *10-Year Financial Forecasts*
- East River, Rushmore, and Basin
 - *25 to 30-Year Forecasts and Generation and Transmission Planning*
- **Government Takings Disrupt Long-Range Planning**



Territorial Taking Impact

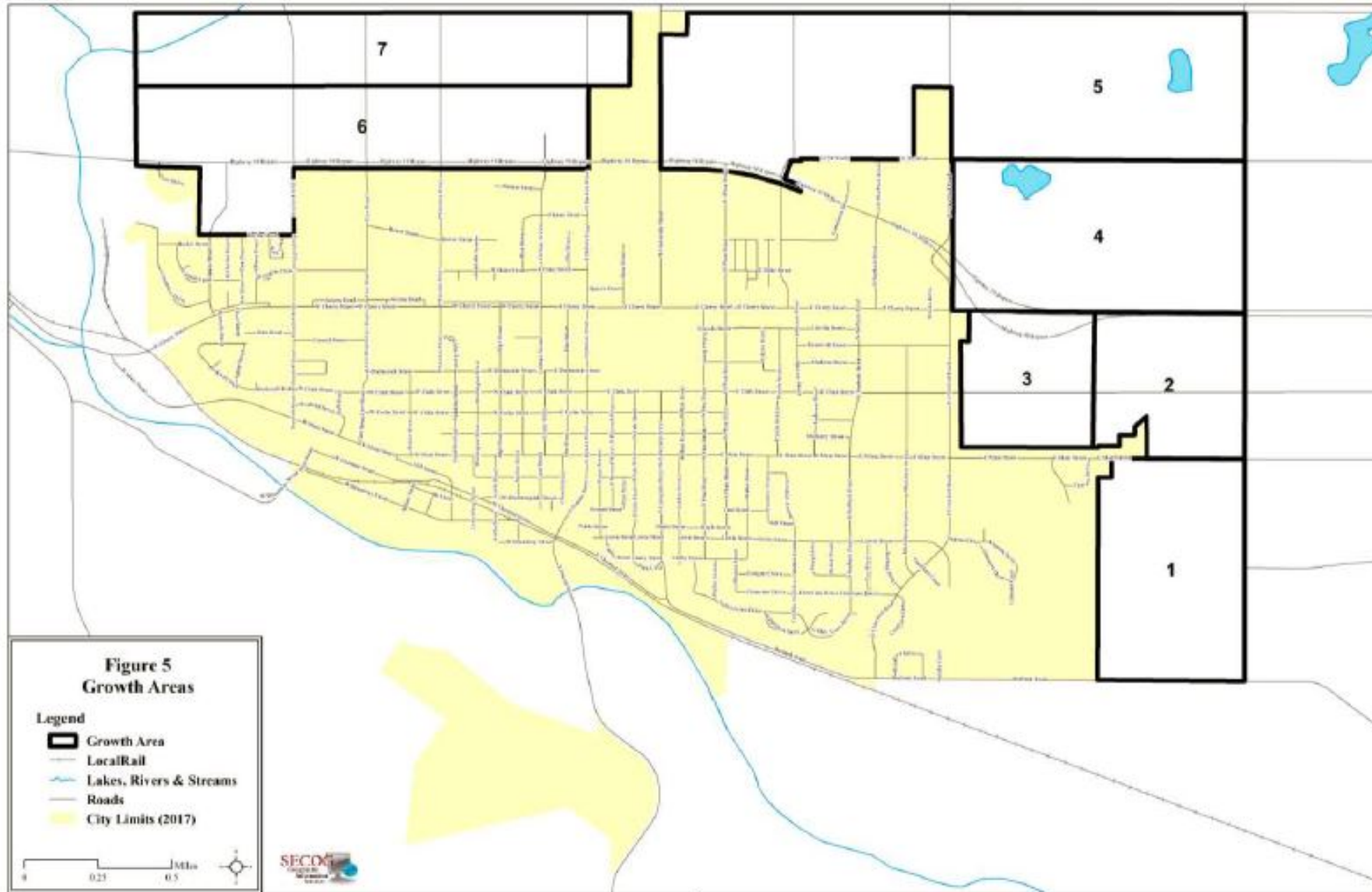
- **Clay-Union members lose sales of 7 Million kWh's every year.**
- **The lost revenue could decrease Clay-Union rates by 4%.**

Compensation For Territorial Takings

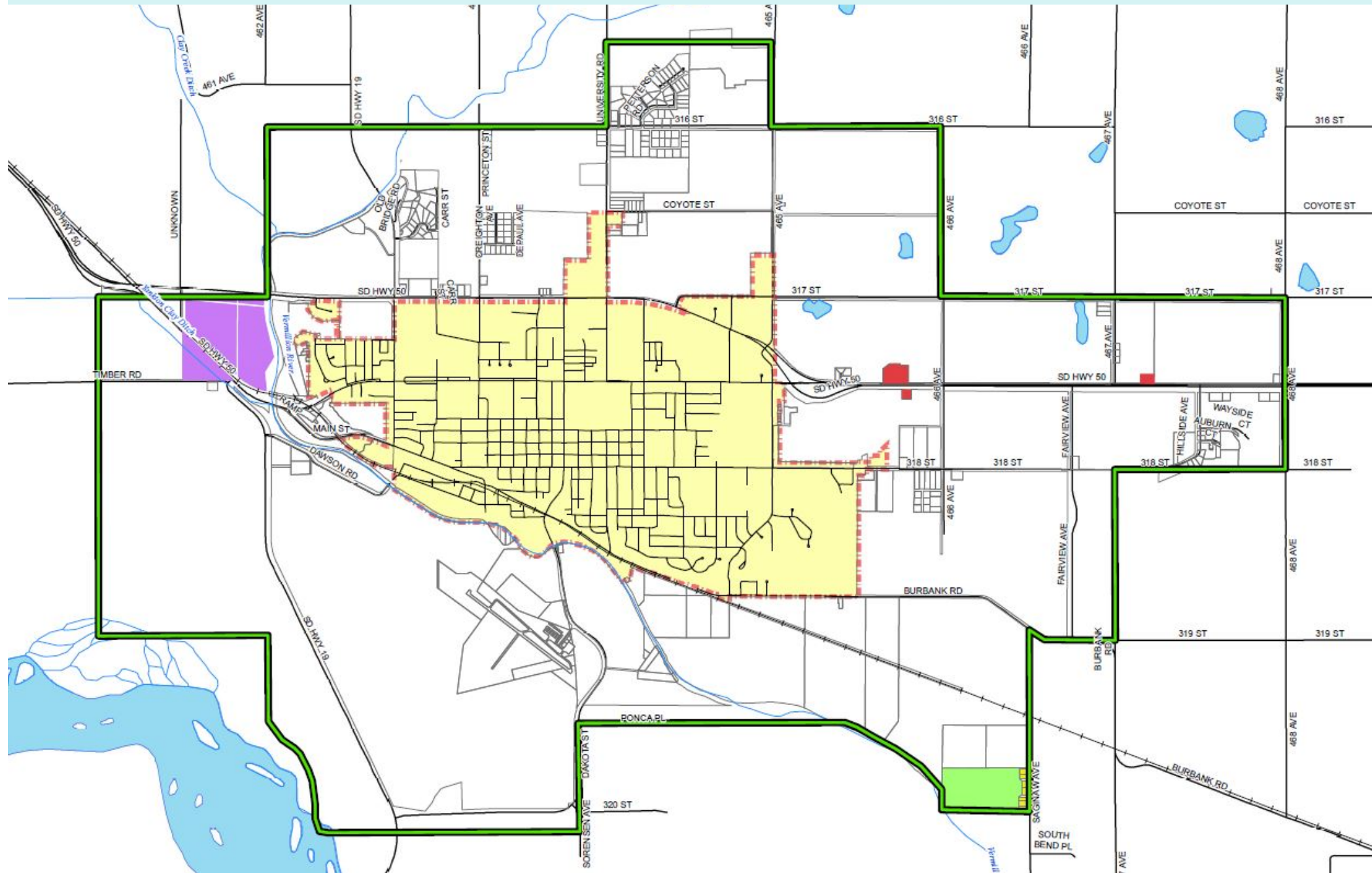
Since 1999 Clay-Union Electric has received nearly **\$31,000** from the City of Vermillion to compensate the co-op for lost members and **\$9,000** in compensation for facilities.

Vermillion Growth Areas

Figure 5: Growth Areas



Clay County and City of Vermillion Joint Jurisdictional Zoning Area (JJZA)



Vermillion Planning & Zoning Commission Memo (February 11, 2019)

Conclusion/Recommendations: The Commission is asked if development that cannot be annexed within the JJZA should be encouraged. Any proposed development occurring within the JJZA will require a change of zoning. This will start the process for the City to start the philosophical discussion if scattered development should be allowed, and encouraged. This discussion will start with the Commission. Staff's strict interpretation of the Plan is that development in the JJZA that cannot be annexed should not be allowed to occur. By having scattered development the City not only loses the ability to control development in its growth areas, it also loses the possibility of easily servicing these new developments with municipal utilities, services, and to ultimately integrate the developments into the community.

- JJZA is acronym for Joint Jurisdictional Zoning Area around Vermillion.

Clay-Union Is A Community Partner



Vermillion United Way

- \$400,000 Rural Electric Economic Development (REED) Fund loan for the Vermillion United Way.



National Music Museum (Vermillion Area Chamber and Development Company)

- Approved a \$1.2 million REED Fund loan
- \$300,000 zero-interest Rural Economic Development Loan & Grant (RDLG) Program loan.

Linda Salmonson

East River Electric Power Cooperative Economic Development Manager



Electricity is not generally the primary driver of economic development site selection or decision making.



GOED Top Projects

2018

- **Agropur – Lake Norden**
- Terex – Watertown
- **Graco – Sioux Falls**
- **Max Pro – Woonsocket**
- **Dakota Seafood – Rapid City**
- **Geronimo Energy – Clark County**
- **Intrinsic Materials – Rapid City**
- Prairie AquaTech - Volga

2017

- Hendrix Genetics – Beresford
- **Vantage Point Solutions – Mitchell**
- **Gage Brothers – Sioux Falls**
- **Otter Tail Power – Deuel County**
- **SAB Biotherapeutics – Lincoln County**
- **VRC Metal Systems – Rapid City**
- **Red’s All-Natural Burritos – North Sioux City**
- **Performance Pet Products – Mitchell**
- Balcon Enterprises – Elk Point
- **Great Plains Processing – Yankton**
- Century Custom Molding – Beresford

2016

- **Royal Canin – North Sioux City**
- **GCC Dacotah – Rapid City**
- **Farmers Business Network – Sioux Falls**
- **Interstates Control Systems – Sioux Falls**
- **South Dakota Partners – Clear Lake**
- **Synchrony Financial – Rapid City**
- Vermillion Technology Center - Vermillion

*Highlighted Projects Located in Investor-Owned or Co-op Service Territory

We're fiscally responsible
State pension is 100 percent funded

We don't have a lot of taxes
Second best tax climate in the nation

We're hard workers
The Midwest work ethic is alive and well

Businesses love us
Second most business friendly state

Our workforce is growing
South Dakota is a net immigration state

We're easy to get to
South Dakota is the geographic center of the United States

We don't like red tape any more than you do
We get out of the way so you can succeed

Source: SDReadyToWork.com

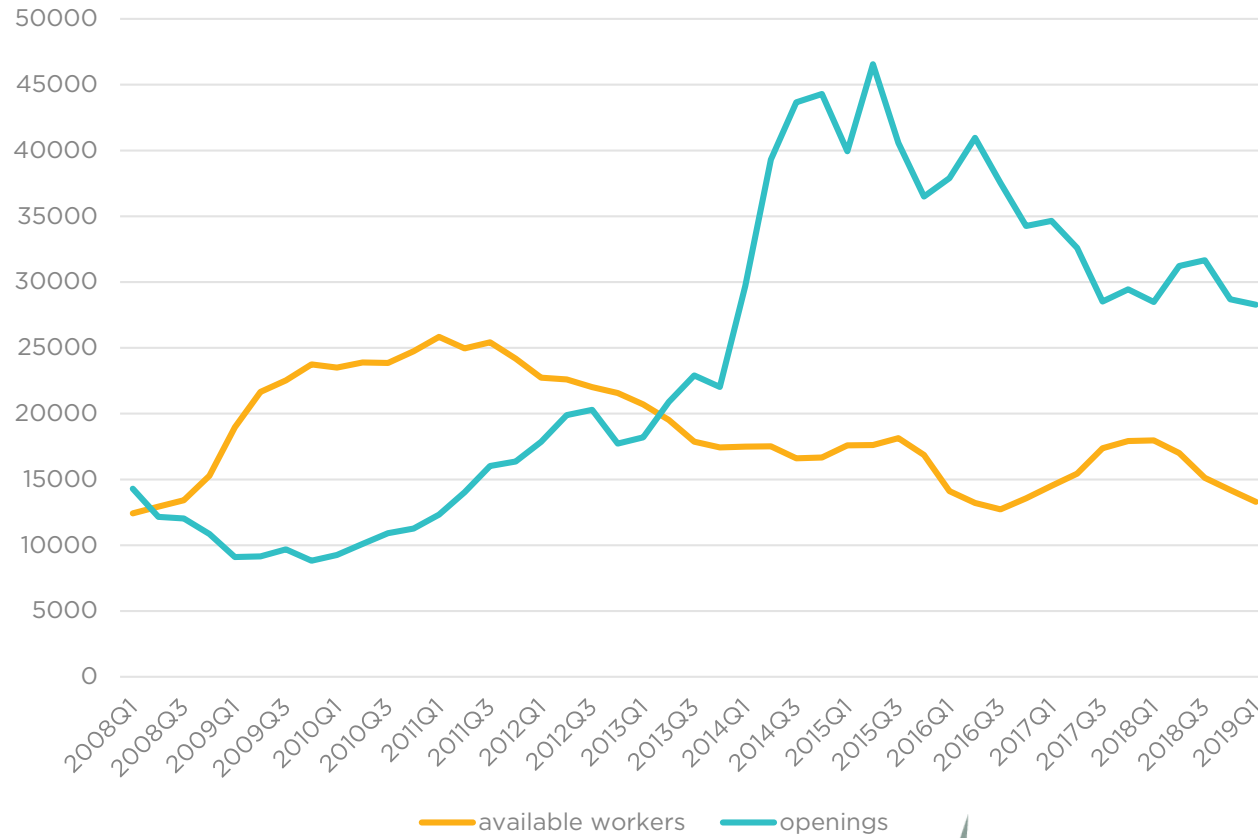


Winning Strategies For Rural Investment

- **Innovative, Unique and Targeted Strategy**
- **Financial and Personnel Resources**
- **Workforce to Meet Existing and Future Businesses**
- **Community Assets** – (e.g. broadband, shovel-ready sites, buildings, and utilities)
- **Communities Where People Want to Live** (stabilize and grow rural population)

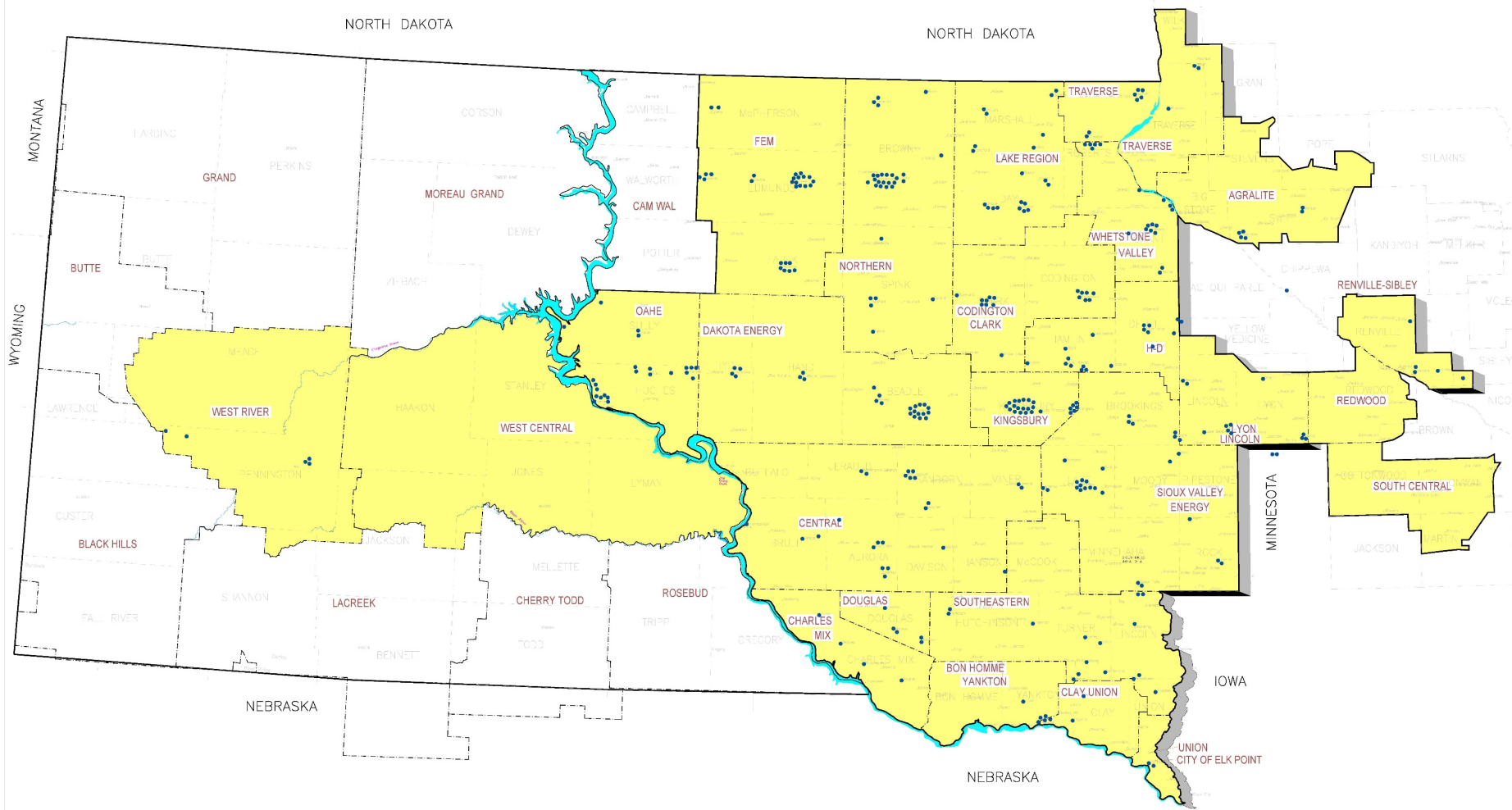
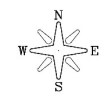
Source: Site Selectors Guild

South Dakota Jobs vs. Workforce



South Dakota Communities

- 310 municipal communities in SD
- 35 served by municipal electric
- 275 of the 310 have frozen service territory

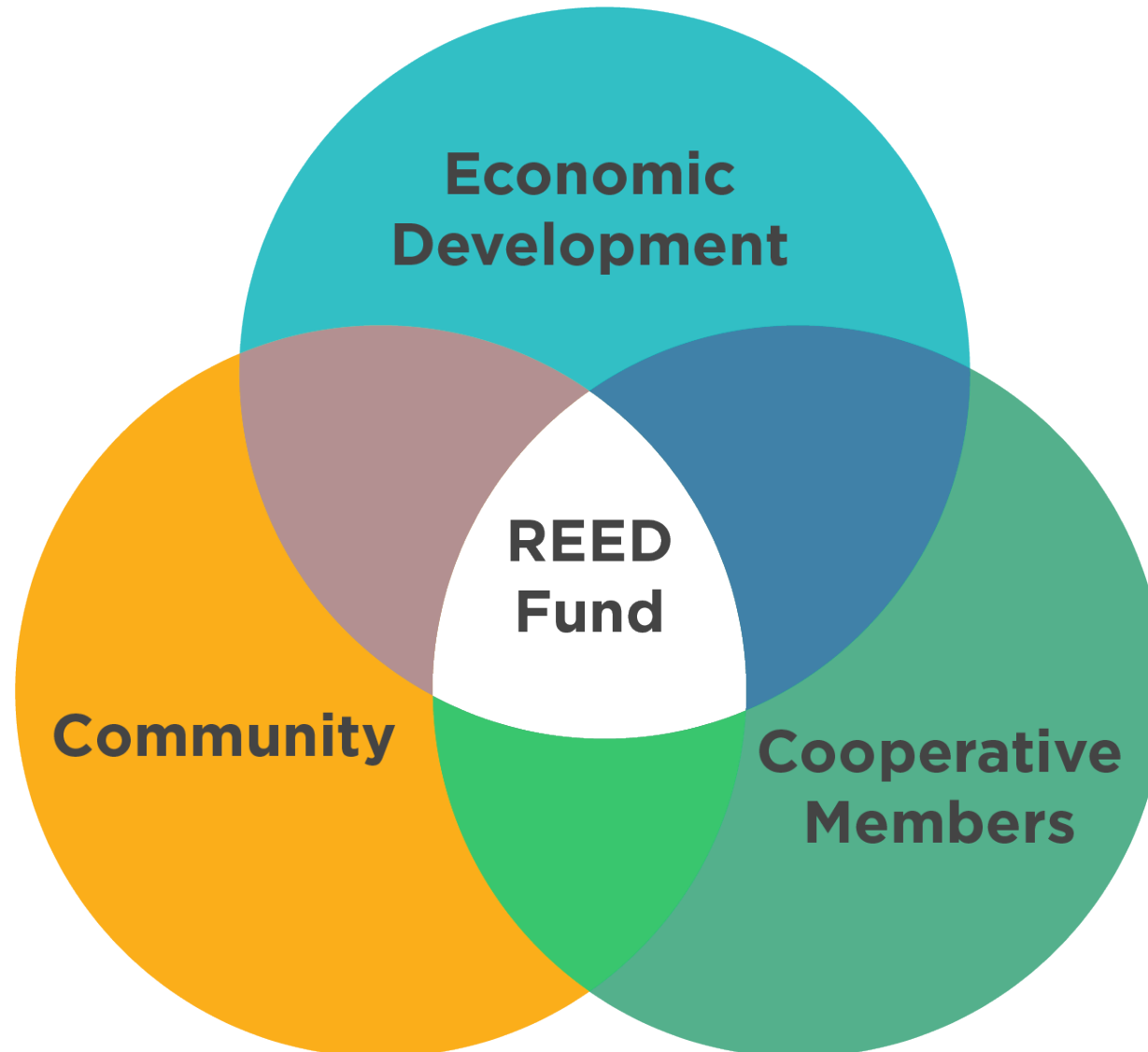


LEGEND

- 35 MILE, 600 FT. M. BOUNDARY
- COUNTY BOUNDARY



Co-op and Community Interdependence



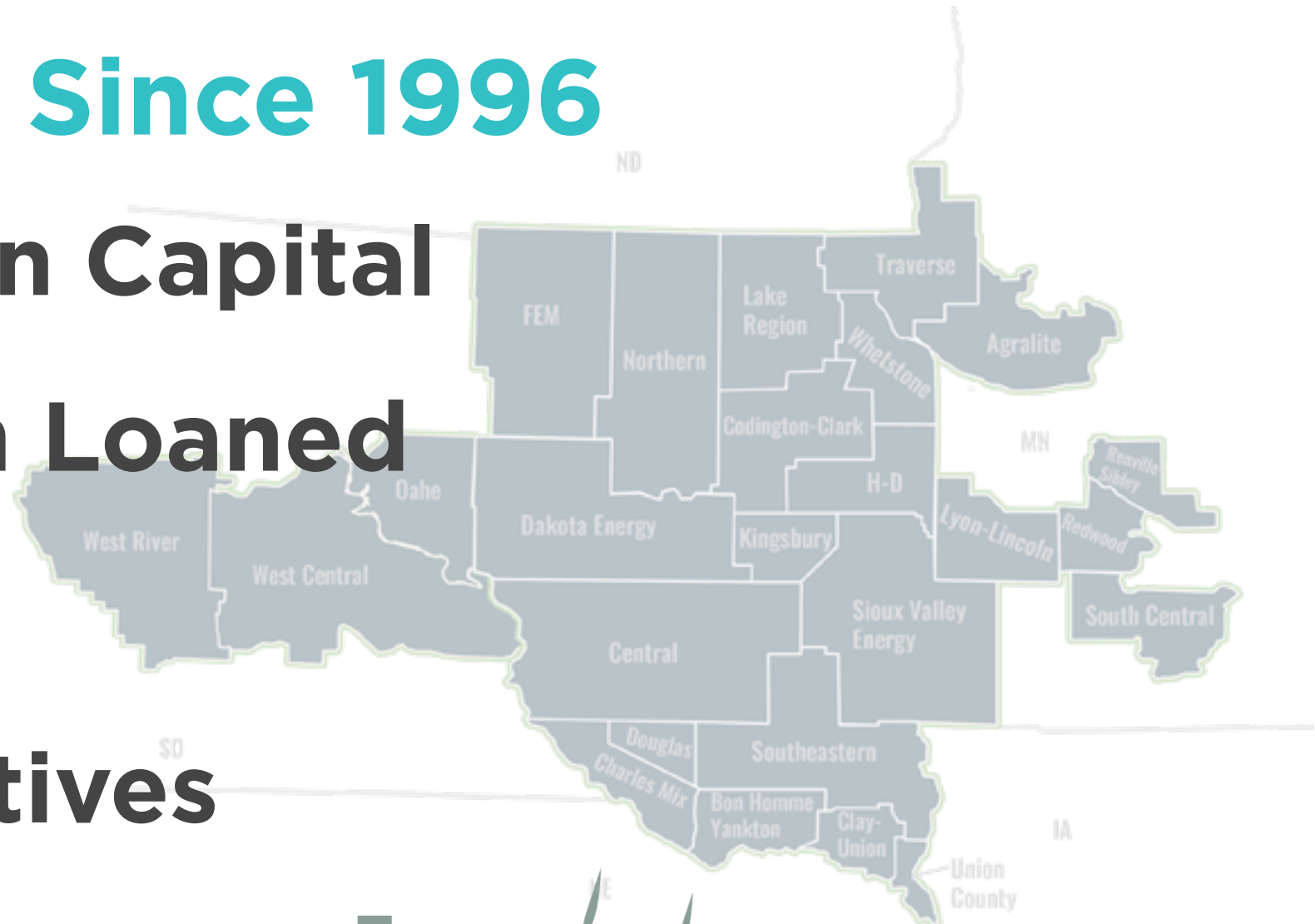
REED Fund Since 1996

\$41 Million in Capital

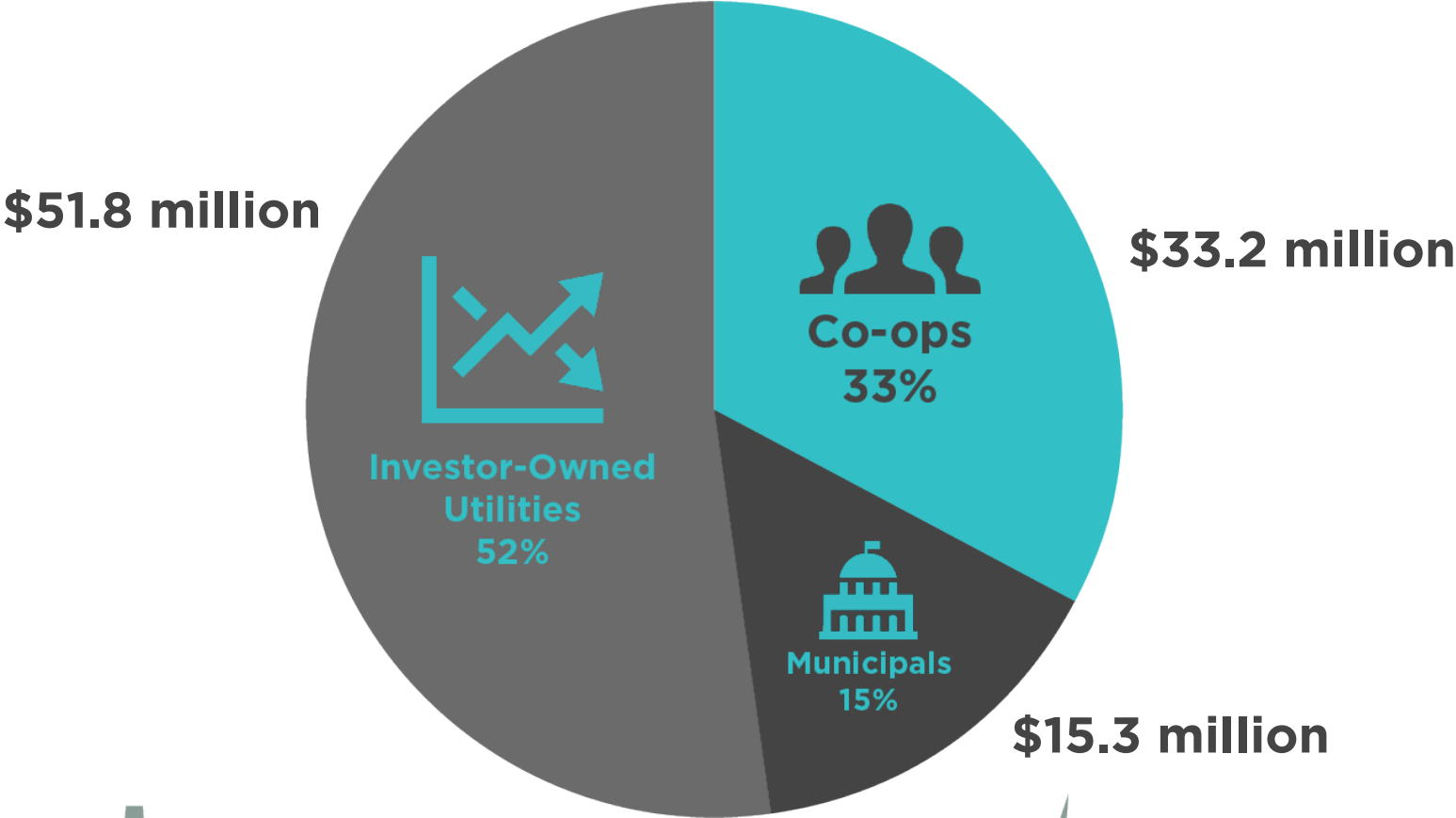
\$100 Million Loaned

333 Loans

26 Cooperatives



REED Fund Projects By Utility



REED Fund Projects



MedGene Labs, Brookings



LifeFloor, Madison

REED Fund Projects



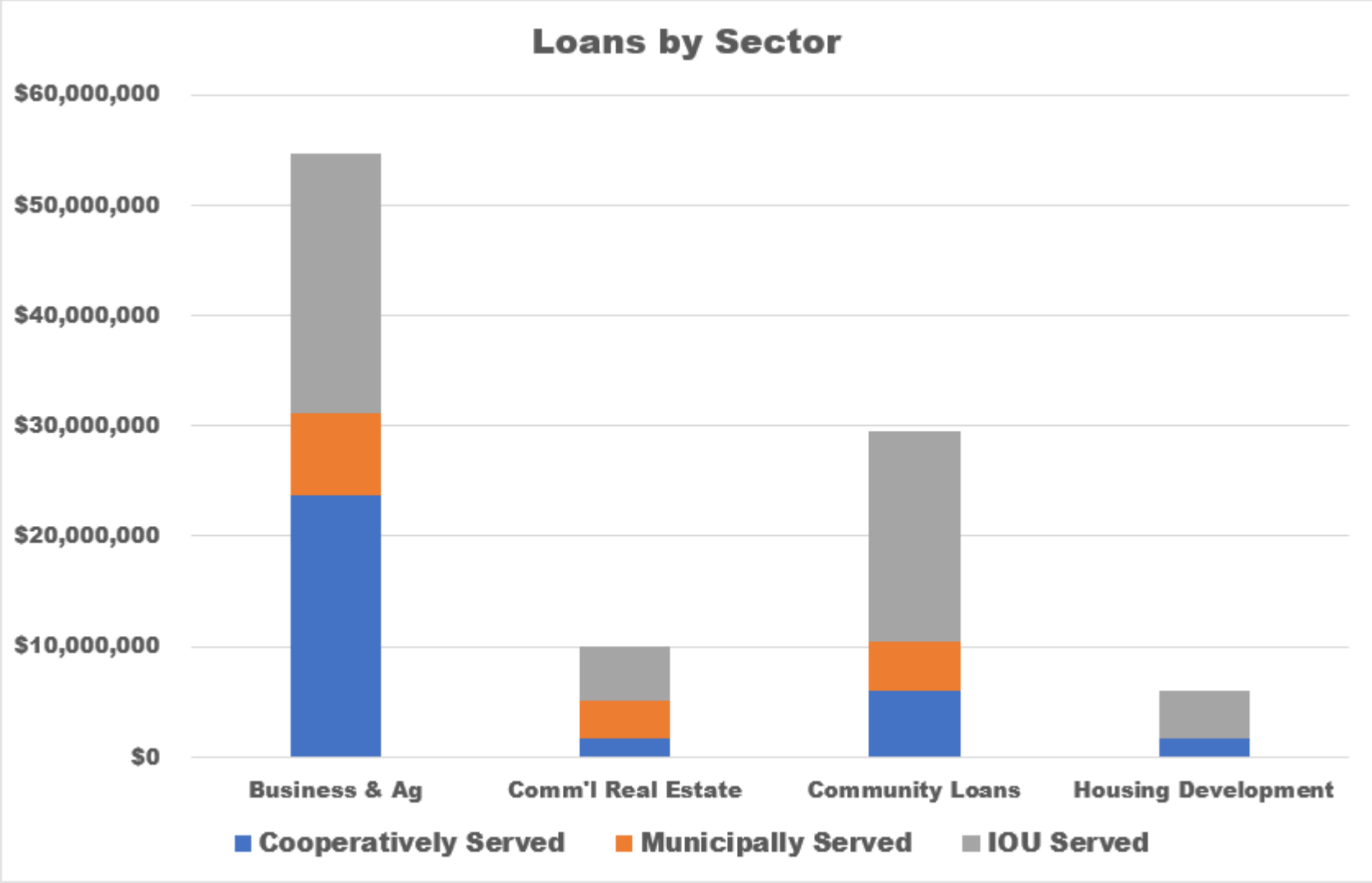
SDSU Growth Partnership, Brookings



National Music Museum, Vermillion



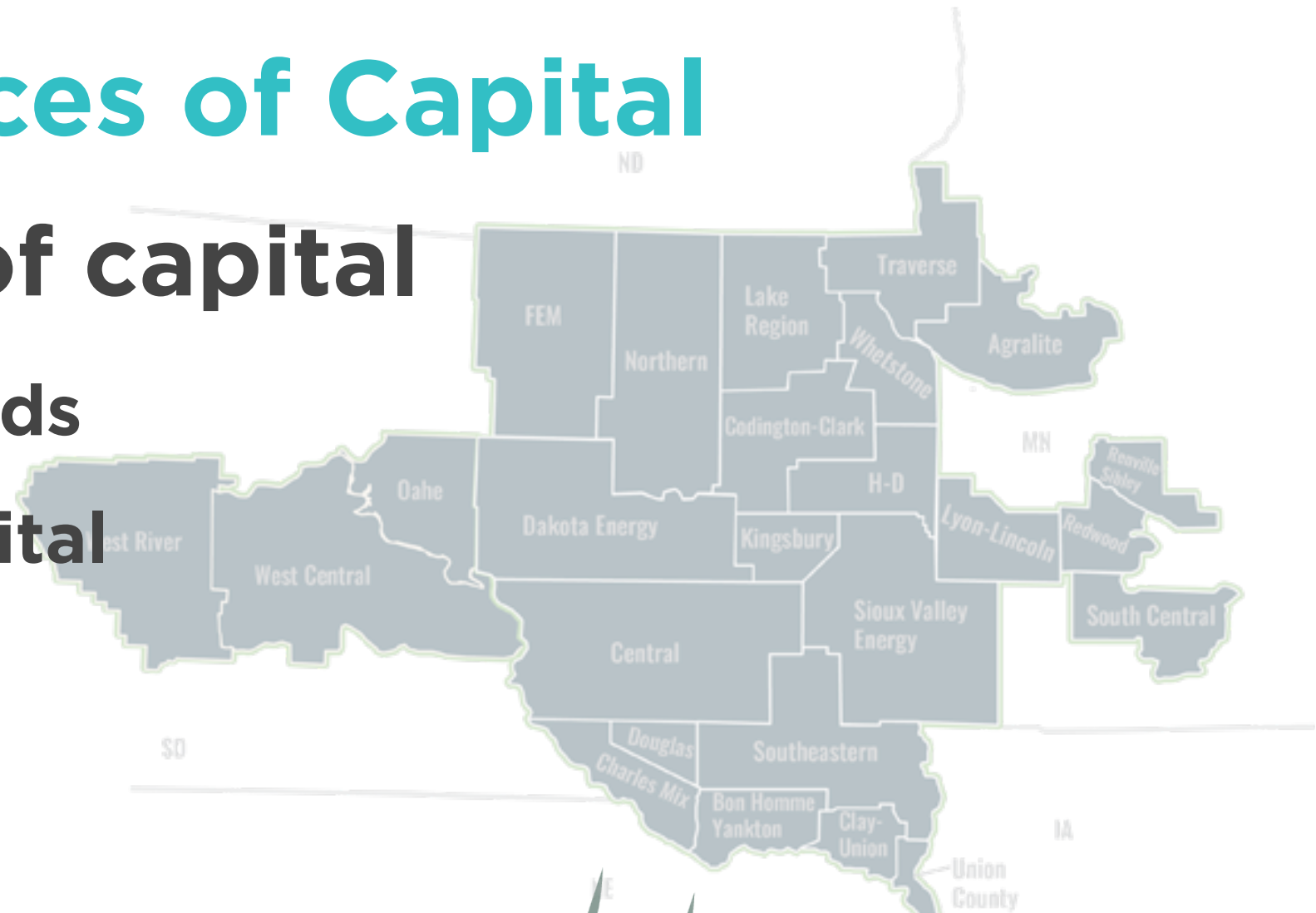
REED Fund Loans by Utility Group



REED Sources of Capital

16 sources of capital

- Federal funds
- Private capital
- Grants
- Loans



REED Fund Impact

\$800 million in leveraged funds

9,300 jobs

2.2 million square feet of facilities



Linda Salmonson

East River Electric Power Cooperative Economic Development Manager



Edward Anderson

General Manager
South Dakota Rural Electric Association, Pierre, S.D.



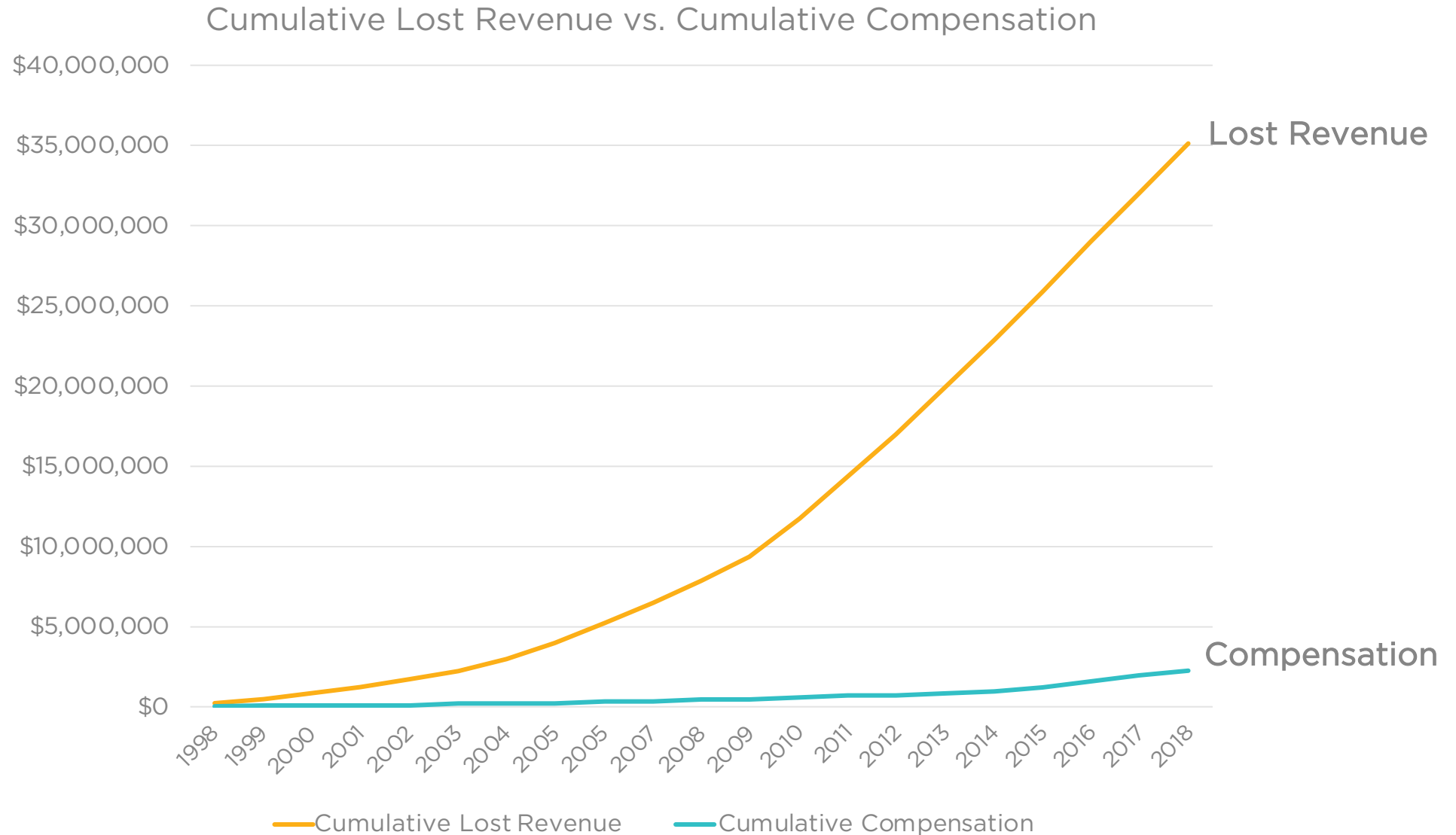
History leading up to 1975 law

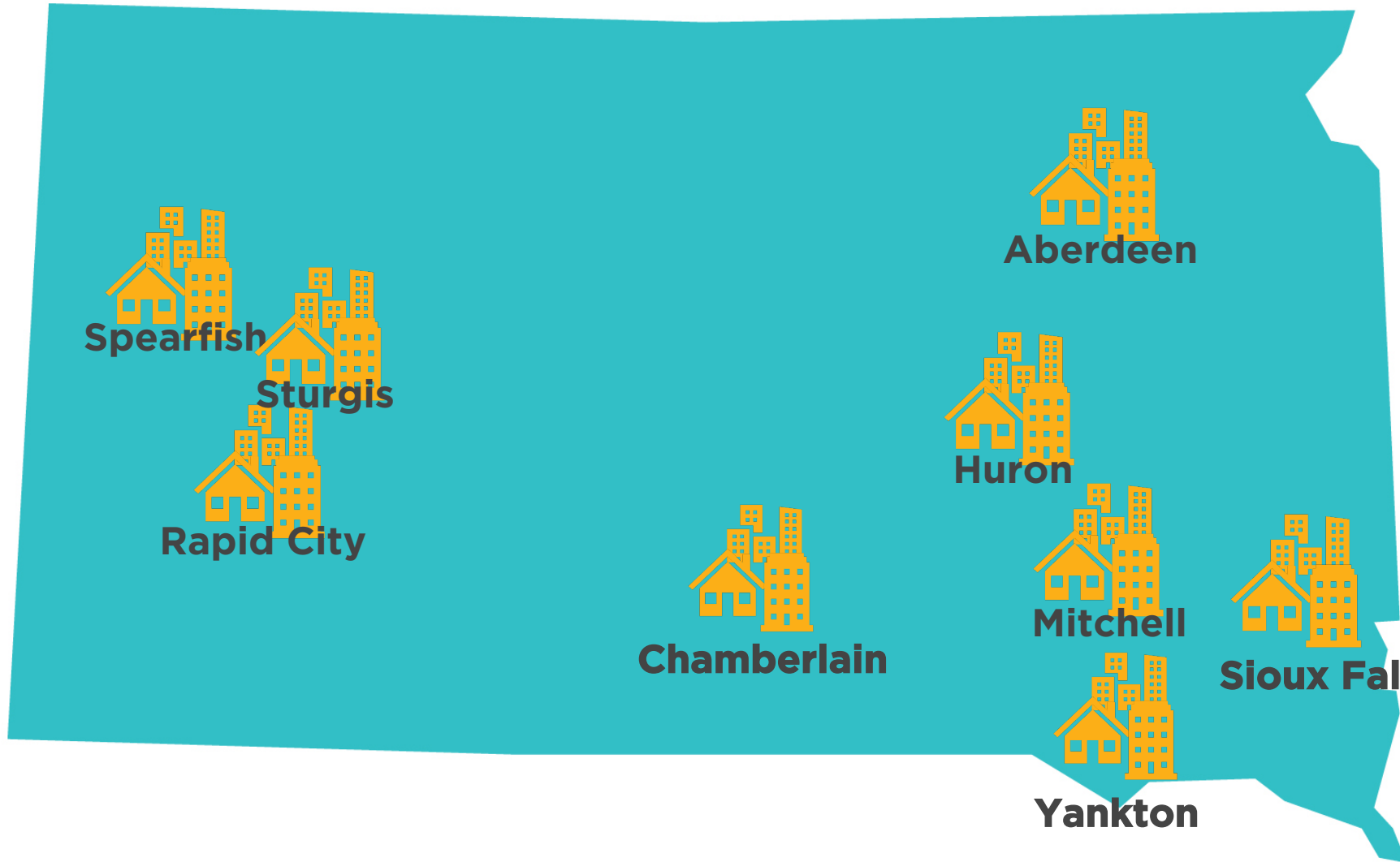
- Three sectors of industry supported territory reform
- Rate regulation was on the table
- Deal was cut
 - Municipalities insisted on ability to **displace incumbent utilities**
 - Co-ops did not support, but accepted it.

1975 Law History

- **Differences in densities** between cities and electric cooperatives
- Economics are straightforward: **Density is everything.**
 - Distribution of costs of building, operating and maintaining a system across a customer or member base.
 - ***Systematic loss through taking can NEVER be recovered.***

Lost Revenue vs. Compensation





**Unilateral taking of service
territory by government
holds the interests of
government *superior* to any
other participant in that
industry.**