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February 24, 2010

VIA ELECTRONIC FILING

Burl W. Haar, Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, Minnesota 55101-2147

Re: In the Matter of the Application for a Route Permit for the CapX2020 Hampton-Rochester-La Crosse High Voltage Transmission Lines

MPUC Docket No.: E002/TL-09-1448

Dear Dr. Haar:

I have represented Citizens Energy Task Force in the certificate or need proceedings pertaining to the CapX2020 La Crosse Project. I am writing herein as a member of the public to request that the Public Utilities Commission reject the route permit application in the above-captioned matter as incomplete and in violation of Minnesota Statutes 216E.03, Subd. 3 and Minnesota Rules 7850.1900, Subp. 2.C mandating the following:

Any person seeking to construct a large electric power generating plant or a high-voltage transmission line must apply to the commission for a site or route permit. The application shall contain such information as the commission may require. The applicant shall propose at least two sites for a large electric power generating plant and two routes for a high-voltage transmission line. (Minn. Stat. 216E.03, Subd. 3)

An application for a route permit for a high voltage transmission line shall contain the following information:

C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference. (Minn. R. 7850, Subp. 2)

In the Application for a Route Permit for the CapX2020 La Crosse Project, the failure to provide at least two proposed routes for the high voltage transmission line is a very substantial deviation from legal requirements. The proposed overhead route at Alma is within the Upper Mississippi River National Wildlife and Fish Refuge and would place migratory birds, nesting eagles and habitat at risk. Yet there is only one route proposed at this critical Mississippi River crossing.

As demonstrated by the attached communications from the United States Fish and Wildlife Service, there is at least one alternative route that the USFWS has asked be considered that is missing from this Application – an underground river crossing route. The following quotes from USFWS communications demonstrate the need for a comprehensive review of the underground alternative in this routing proceeding:

We also believe that an alternative I-90 corridor using a buried line should be considered with this option in light of above concerns. We suggest a buried line due to the large number of eagles, egrets, herons, and pelicans cross back and forth over the interstate bridges as they use the various sloughs and channels on either side. (February 19, 2008 USFWS letter contained in Ex. 131, Docket 06-1115)

Alma . . . Two active eagle nests are located in the vicinity of the corridor. The oldest nest, which is immediately adjacent to the line on the Minnesota side of the main channel, was mapped on previous documents provided to Xcel in January 2008. A new eagle nest was discovered during a site visit on February 18, 2009 approximately 1,800 feet from the corridor, also in Minnesota. (May 4, 2009 USFWS letter contained in Attachment B, CETF Petition Rehearing, Docket 06-1115)

If the river crossing at Alma was used, how will the transmission lines routed along the Wisconsin boundary of the refuge impact birds using the refuge and what would be the visual impact of the lines to the landscape? How will the structures differ from the existing? . . . Describe the pros and cons of using underground crossings. Please include in the description the costs, infrastructure, and on-going maintenance that are needed for this type of crossing. (May 4, 2009 USFWS letter contained in Attachment B, CETF Petition Rehearing, Docket 06-1115)

In a brief phone call to Office of Energy Security staff, Matthew A. Langan, I raised the concern that the Application was incomplete according to law and that the underground crossing alternative that the USFWS specifically requested be considered by Applicants was not included in the Application. It was suggested to me that the scoping process could address this deficiency.

Minnesota statutes and rules do not place the burden of offering at least two HVTL routing alternatives on members of the public or even upon the State agencies in the environmental review process. The law requires that the Applicants comply with this requirement before the process of evaluation of routes begins, along with its constraints and time limitations.

I would respectfully request that the Public Utilities Commission hold the CapX2020 Applicants accountable to comply with the terms of Minn. Stat. 216E.03, Subd. 3 and Minn. R. 7850.1900, Subp. 2.C and provide an underground alternative to the Mississippi River crossing at Alma. Until that alternative is provided, the Application should not be deemed complete.

In the alternative, I would request that the Commission order: 1) that the environmental

Dr. Burl Haar
February 24, 2010
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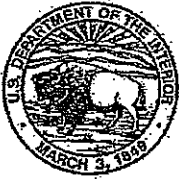
impact statement must analyze at least one underground river crossing in cooperation with the USFWS; 2) that the Applicants shall pay all costs for investigating that alternative; and 3) that the time limit for consideration of the routes for the La Crosse Project shall not begin to run until an underground river crossing has been thoroughly developed and analyzed.

Sincerely,

A handwritten signature in blue ink that reads "Paula J. Maccabee". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Paula Goodman Maccabee

cc: Mr. Kevin Foerster, USFWS Refuge Manager



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Upper Mississippi River National Wildlife and Fish Refuge
51 East Fourth Street - Room 101
Winona, Minnesota 55987



February 19, 2008

Pamela Jo Rasmussen
Lead, Siting and Permitting
Xcel Energy
P.O. Box 8
Eau Claire, Wisconsin 54702-0008

Dear Ms. Rasmussen:

In follow-up to our meeting on January 25, 2008, on the proposed Rochester to La Crosse 345-kV transmission line, we offer some initial feedback on Mississippi River crossing options being considered.

My staff and a representative of the Fish and Wildlife Service's Ecological Services program met February 13, 2008, to weigh the various crossing options and other line routing considerations. Staff included managers or staff from the Winona and La Crosse Districts of the Upper Mississippi River National Wildlife and Fish Refuge and Trempealeau National Wildlife Refuge.

We have two overall recommendations: 1) that any crossing considers use of existing energy company rights-of-way or easements, and 2) that any new connecting lines are kept away from the Mississippi River corridor.

Based on these overall recommendations, we believe the Alma crossing may pose the least environmental impact. Since there already exist two permanent rights-of-way or easements for the existing lines (copies attached), with total right-of-way of 180 feet, this route may need no further right-of-way permit from the U.S. Fish and Wildlife Service depending on project design. This route is also least likely to impact migratory birds since it is some distance from known bird concentration points. There is, however, an active eagle nest in or adjacent to the existing powerline on the Minnesota side of the refuge. Appropriate avoidance measures would need to be taken to minimize disturbance to this nest, especially when active.

Our second choice would be the La Crosse crossing since it could follow an existing 69-kV powerline (right-of-way attached). However, this route is of concern due to its proximity to an active eagle nest and great blue heron colony approximately 0.3 miles north (Wisconsin side) and an important heron and egret feeding area adjacent to the line (Minnesota side). There is also a bike/pedestrian trail proposed within the existing right-of-way (Wagon Wheel Trail Bike/Pedestrian Trail) just to the north on land owned by the City of La Crescent and the Service. This proposed trail would be located on a dike just south of the existing 69-kV towers and is known locally as former Stagecoach Road or Minnesota Avenue.

Ms. Pamela Jo Rasmussen

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We also believe that an alternative I-90 corridor using a buried line should be considered with this option in light of above concerns. We suggest a buried line due to the large number of eagles, egrets, herons, and pelicans cross back and forth over the interstate bridges as they use the various sloughs and channels on either side. There is also concern that larger towers and more lines may come into conflict with the La Crosse Airport and Federal Aviation Administration guidelines.

We do not believe the proposed Winona or Trempealeau crossings are worthy of further consideration. Each would likely involve new rights-of-way across portions of national wildlife refuges, and such rights-of-way would likely not be approved since Service policy and regulations do not allow new uses that fragment habitat on refuges. We also have migratory bird concerns with any increase in tower number, size, height, or line configuration within Trempealeau National Wildlife Refuge.

In regard to our second overall recommendation, we believe that lines leading to or from river crossings should use existing line corridors away from the river. For the Alma crossing, we recommend the existing 161-kV line to Waumandee to Blair to Holmen. This or a similar route using existing power line corridors would present the least impacts to migratory birds and other wildlife that concentrate on refuges or state wildlife management areas in or near the river or tributary corridors. This is also in line with our recent recommendation that wind turbines not be located within 10 miles of the floodplain edge due to migratory bird use patterns. We have also enclosed for your information a copy of the existing right-of-way on refuge land across the Black River. For the La Crosse crossing, we would recommend a corridor from Rochester along Interstate 90 since this freeway already presents a known habitat, wildlife, and visual disturbance.

As you move forward with planning, we also encourage you to consider and document the option of arcing or burying crossing lines below the river, removal of existing lines (especially across refuge or wildlife management lands) if no longer critical or doubling is possible on any new line, and discussion on future wind power development or plans. If wind power generation expands in southern Minnesota, how will this play into the proposed 345-kV line and the route selected? Our concern is that wind power generation could fuel the need for another line and crossing, thus causing cumulative impacts beyond the one line being considered at this time.

Finally, this input is to provide you information for planning purposes and does not represent agency endorsement of the proposed project. It also reflects the views of refuges in the project area. Our Ecological Services office has been, and will continue to be, involved in overall review of the project and will likely offer separate feedback and comment as project planning proceeds. Also, there are still concerns with active eagle nests, and interest in reviewing construction methods and timing, tower and line design, required maintenance, and other aspects of the project that are yet unknown. We will continue to review and comment on plans as they develop to ensure minimal impact to refuges and fish and wildlife resources.

Ms. Pamela Jo Rasmussen

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If you have any questions concerning these comments, please feel free to contact me at (507) 494-6218 or via e-mail at don_hultman@fws.gov.

Sincerely,



Don Hultman
Refuge Supervisor/Manager

Enclosures

cc: Matt Cummings, EDAW, Inc.
Chuck Thompson, Dairyland Power
District Managers, La Crosse and Winona
Trempealeau NWR
Twin Cities ES Office



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Upper Mississippi River National Wildlife and Fish Refuge
51 E. Fourth Street - Room 101
Winona, Minnesota 55987



IN REPLY REFER TO:

May 4, 2009

Thomas Hillstrom
Supervisor, Siting and Permitting
Xcel Energy
414 Nicollet Mall (MP 8A)
Minneapolis, Minnesota 55401

Dear Mr. Hillstrom:

On February 11, 2009 we met with you and others to discuss preliminary planning for the CapX 2020 345-kV transmission line. On March 18, 2009, I had a conference call meeting with District Managers of the Upper Mississippi River National Wildlife and Fish Refuge and biologists from our Migratory Birds and Ecological Services programs to discuss the proposed line.

This letter provides you follow-up information, and a series of considerations and questions, to assist you and contractors as you proceed with the development of alternatives and their evaluation. As noted in earlier correspondence, this letter does not represent agency endorsement of the proposed project nor a decision on whether any needed right-of-way permits through the Upper Miss or Trempealeau national wildlife refuges will or will not be granted.

Regulations and policy governing uses on national wildlife refuges prohibit new uses or projects which fragment habitat and such projects include roads, bridges, and powerlines. The one exception is for minor expansion of existing rights-of-way. "Minor" is not defined and left to the discretion of the refuge manager based on professional judgment taking into account refuge-specific conditions and anticipated impacts.

Based on discussions with staff, a review of our regulations and policy, and a review of your preliminary right-of-way pole configurations, I do not believe the various options would involve a minor expansion of any of the existing rights-of-way. Most of the options involve a 75 percent or more expansion of right-of-way width to be viable. Therefore, I would have to recommend to our Regional Director (the deciding official on new or expanded right-of-way requests) that no expansion of existing right-of-way be granted and that any design option be restrained or confined to existing right-of-way width.

We want you to be aware of this restraint up-front to avoid alternatives and design configurations that will likely be rejected later.

Please find enclosed Attachment 1 which is a cursory analysis of the alternative crossings for your information. This information helped us get our arms around the alternative routes being considered and may prove useful to you and your biological assessment contractors.

Finally, Attachment 2 is a series of considerations and questions for your use in preparing documents and analyses associated with the CapX 2020 project. Again, feel free to share this with your contractors.

If you have any questions, please contact me or Assistant Refuge Manager Rick Frietsche.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hultman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Don Hultman
Refuge Manager

Attachments (2)

cc: Chief, Refuges, Region 3
District managers

Attachment 1.

**Upper Mississippi River National Wildlife and Fish Refuge
Trempealeau National Wildlife Refuge
May, 2009**

CapX2020**Routing Alternatives – Analysis of Refuge Habitats That Would Be Impacted**

Route	Length of route through refuge property	Area of open water/marsh*	Area forested and type*	ROW existing width, permitted width, dates of establishment and expiration, and stipulations/restrictions
Alma	5,670 feet	10 acres open water/1.9 acres marsh	9.6 acres	Existing 125', permitted 180', established 12/23/48, indefinite, general stipulations
Winona	13,540 feet	45.7 acres	7.8 acres	Existing less than 100'; permitted 100', indefinite (on Trempealeau NWR). New metal poles installed 2003. There is also an unused ROW (Dairyland) across Trempealeau NWR approx. 1.5 miles east of above, established 5/18/79, 250', indefinite, general stipulations.
Black River Bottoms	4,320 feet	18.3 acres	11.8 acres	Existing 80' with "danger trees" removed on either side; permitted width is "within 20' on both sides of centerline"; issued March 28, 1951 and expired in 2001; general stipulations
La Crosse	6,510 feet	15.5 acres	10.9 acres	Existing less than 100'; permitted width is 100'; issued June 6, 1967 and expires in 50 years (June 5, 2017); general stipulations

* A 300 foot wide corridor was used for the purpose of this preliminary summary/analysis only and may or may not reflect actual proposed or approved width.

Supplemental Information on Each Route, Significant Resources

Alma

The current Dairyland Power crossing near Alma, WI traverses the refuge at the Zumbro River bottoms in Wabasha County, Greenfield Township (T110N-R10-9W Sec's 31 & 32). The crossing extends approximately 2,000 feet on the Minnesota side of the main channel. In Wisconsin, if the new alignment is to the south of the current line, it would impact the refuge for 2,500 feet, if it is to the north, it will be outside the refuge boundary.

Forest inventory data collected at points near the crossing during 2002 and 2005 indicate a mature floodplain forest dominated by silver maple and green ash with Eastern cottonwood and swamp white oak. River birch, hackberry, and American elm were also noted. The associated marshes and the main corridor are dominated by reed canary grass. The corridor was photographed at random points on February 17 and 18, 2009 (photos are available).

Two active eagle nests are located in the vicinity of the corridor. The oldest nest, which is immediately adjacent to the line on the Minnesota side of the main channel, was mapped on previous documents provided to Xcel in January 2008. A new eagle nest was discovered during a site visit on February 18, 2009 approximately 1,800 feet from the corridor, also in Minnesota.

The CapX2020 program provided biodiversity maps dated January 24, 2008 for public review. These maps indicated that the Zumbro River has outstanding biodiversity (index provided by Minnesota Department of Natural Resources). An outstanding biodiversity classification is defined as "*sites containing the best occurrences of the rarest species, the most outstanding examples of the rarest native plant communities, and/or the largest, most intact functional landscapes present in the state.*"

Minnesota's Comprehensive Wildlife Conservation Strategy (January 2006), mapped the Species of Greatest Conservation Need (SGCN) in the state. Greenfield Township has 101-400 validated records of SGCN since 1990, the second highest occurrence rating in the state.

Winona

The only refuge land this route would cross is on Trempealeau National Wildlife Refuge (islands in the Mississippi River are owned either by the City of Winona or the state). This alternative would follow an existing 100 foot-wide right-of-way adjacent to the Canadian National Railroad line for approximately 2 miles then veer ESE for another 1.5 miles before heading north to Wisconsin State Highway 35.

This route crosses the expanse of wetland that makes up most of the 6,226-acre refuge. Due to this predominantly wetland habitat crossing the importance of the refuge to wetland-dependent migratory birds, this alternative is opposed by the U.S. Fish and Wildlife Service (see letter to Xcel Energy dated February 19, 2008).

Black River Bottoms

Permit issued to Dairyland Power Cooperative in 1951 expired 50 years later in 2001. Dairyland has applied for a new permit. Some question as to the permitted width. FWS records show permitted width is “within 20’ on both sides of centerline.” According to Ron Severson, Senior Right-of-Way Agent for Dairyland, their records do not authorize a width. Severson indicated Dairyland’s crews are maintaining a corridor 80’ wide and also removing “danger trees” outside the 80’. According to Severson, maintenance was completed in the last year; work is done in winter when there is better access. Refuge Special Use Permits have not been issued for maintenance.

One active bald eagle nest is located in proximity to the transmission line (\leq 2-mile). Another active nest is located about .75-mile from the line.

The Black River Bottoms was designated Resource Classification A during the development of the Upper Miss Refuge Master Plan in the 1980s. This designation is defined as “high value fish and wildlife habitat which is unique and irreplaceable on a national basis or in the ecoregion. This area is one of only of handful of sites in Wisconsin providing habitat for the eastern massasauga rattlesnake, Wisconsin’s most endangered reptile. Massasaugas are a candidate species for the federal list and are listed as endangered in Wisconsin. The bottoms also provide habitat for the Blanding’s turtle, a species listed as threatened in Wisconsin. Red-shouldered hawks, another threatened species in Wisconsin, are also found in the Black River Bottoms. The loss and fragmentation of large blocks of forest, particularly riparian forests, is a continuing concern.

La Crosse

Excel Energy is the current owner. About 3,720’ of transmission line in Minnesota; poles are located on land owned by the City of La Crescent but immediately adjacent to Refuge land. About 2,790’ of transmission line is located on the Refuge in Wisconsin.

One active bald eagle nest is located about .5-mile from the transmission line along French Slough. Four former nests were located along the transmission line corridor, ranging from <.1-mile to about .75-mile.

In Minnesota, Refuge and City of La Crescent-owned wetlands along the transmission line were designated Resource Classification A during the development of the Upper Miss Refuge Master Plan in the 1980s. This designation is defined as “high value fish and wildlife habitat which is unique and irreplaceable on a national basis or in the ecoregion. Refuge lands and waters along the corridor in Wisconsin were designated Resource Classification B, or “valuable fish and wildlife habitat which is relatively scarce or becoming scarce on a national basis or in the ecoregion.

An active rookery, containing great blue heron (381 active nests in 2007 from aerial survey), great egret (153 nests in 2007 from aerial survey), and double-crested cormorant nests, is located along the East Channel in Wisconsin upriver from the railroad and transmission line. This

rookery covers a large forested area located about .35 to .75-mile from the line. Although population estimates are not available, a large number of double-crested cormorants roost in the trees along the East Channel in September and early October. This roost is located upriver from the line.

The proposed 5,440' Wagon Wheel bicycle/pedestrian trail, connecting the City of La Crescent (MN) with Shore Acres Road, would be built on an old dike directly under the transmission line. Planning for the project has begun with construction scheduled in 2011. This segment is part of the eventual goal of linking the Root River State Trail (MN) to the La Crosse River and Great River Trail Systems (WI).

Attachment 2.

Upper Mississippi River National Wildlife and Fish Refuge

CapX2020 Considerations and Questions

Using the existing permitted ROW, describe the height and design of structures that would be required to traverse each of the refuge crossings. Include all structures that would be located on the Refuge ROW and use designs that are recommended to minimize bird strikes.

If the river crossing at Alma was used, how will the transmission lines routed along the Wisconsin boundary of the refuge impact birds using the refuge and what would be the visual impact of the lines to the landscape? How will the structures differ from the existing?

Describe the pros and cons of using underground crossings. Please include in the description the costs, infrastructure, and on-going maintenance that are needed for this type of crossing.

Expanded and newly cleared rights-of-way will create avenues of entry for invasive species. What are the anticipated impacts of invasive plants (reed canary grass, crown vetch, purple loosestrife, and others)? How will impacts be mitigated or prevented?

What are the advantages and disadvantages (for birds and other wildlife, and people/companies) of various power line configurations such as taller poles with lights, shorter poles without lights, and expanded widths of rights-of-way?

The Refuge assumes that migrating waterfowl and raptors (probably other waterbirds also) follow the river corridor within a yet to be determined distance from the river floodplain. What is that distance for the majority of the birds? Can the power line route be at least that far from the river floodplain?

We cannot consider the river crossing location in isolation. What are the advantages and disadvantages of each crossing in terms of impacts to migratory birds and bats created by installation of a line within a mile of the river floodplain versus more than ten miles? For example, what are the impact differences between the Alma crossing and going to Blair, Wisconsin? and a line paralleling the river to Trempealeau and beyond?