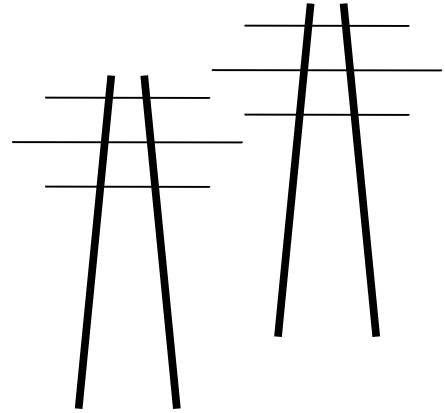


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August 9, 2010

William Glahn, Director
Office of Energy Security
Minnesota Department of Commerce
85 - 7th Place East, Suite 500
St. Paul, Minnesota 55101

RE: Appeal of Scoping Decision issued August 6, 2010
In the Matter of the Application for a Route Permit for the CapX 2020 Hampton-
Rochester-LaCrosse High Voltage Transmission Lines
OAH Docket No.: 3-2500-21181-2
PUC Docket No.: ET-2/TL-09-1448

Dear Mr. Glahn –

I represent NoCapX 2020 and United Citizen Action Network in the above-entitled docket, and other CapX 2020 dockets as well.

With dismay, I've reviewed the Scoping Decision issued last Friday, August 6, 2010, for the Environmental Impact Statement for the Hampton-LaX project. There is no mention of the ongoing Rural Utilities Service Environmental Impact Statement¹ and no requirement that the state work jointly with RUS on this. In addition, there is only one river crossing, an unreasonable restriction of analysis of alternative river crossings, particularly in light of RUS analysis of three distinct river crossings and Task Force recommendation to consider other than Alma crossings. The structure and "facilitation" of the Task Forces was most unusual, focused on "land-use" issues and membership was limited with only one exception, to representatives of local governments while at least three watershed groups were not included.

1. Failure to conduct joint environmental review.

¹ Rural Utility Service Environmental Impact Statement page is at
<http://www.usda.gov/rus/water/ees/eis.htm#Dairyland%20Power%20Cooperative,%20Inc.>

NoCapX 2020 and United Citizens Action Network request that the scope for the CapX 2020 Hampton-LaCrosse (Alma) transmission line be amended to incorporate a joint Environmental Impact Statement with the Rural Utilities Service.

As you know, and cited in the CapX 2020 Bemidji-Grand Rapids scoping decision, Minnesota Rules require cooperative environmental review, the operative term being “shall” in the rules:

4410.3900 JOINT FEDERAL AND STATE ENVIRONMENTAL DOCUMENTS.

Subpart 1. Cooperative processes.

Governmental units shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code 1976, title 42, sections 4321 to 4361.

Subp. 2. Joint responsibility.

Where a joint federal and state environmental document is prepared, the RGU and one or more federal agencies shall be jointly responsible for its preparation. Where federal laws have environmental document requirements in addition to but not in conflict with those in Minnesota Statutes, section 116D.04, governmental units shall cooperate in fulfilling these requirements as well as those of state laws so that one document can comply with all applicable laws.

Subp. 3. Federal EIS as draft EIS.

If a federal EIS will be or has been prepared for a project, the RGU shall utilize the draft or final federal EIS as the draft state EIS for the project if the federal EIS addresses the scoped issues and satisfies the standards set forth in part 4410.2300.

The EIS for the CapX 2020 Bemidji-Grand Rapids transmission line is a joint RUS/MOES EIS conducted under a Memorandum of Understanding between the agencies. This Hampton-LaCrosse EIS must at the very least incorporate the RUS EIS, and the state should work with RUS as for the CapX Bemidji-Grand Rapids EIS and produce a joint EIS in compliance with Minnesota Rules.

2. The EIS must include analysis of more than one river crossing

The scoping decision includes only one river crossing, the solitary Alma river crossing proposed by applicants. This is not sufficient alternatives analysis under MEPA. A project this large, with impacts legally acknowledged as significant, must include additional alternatives. This request for review and analysis additional options to be included in the EIS was raised in the Task Force that covered the river crossing, yet I cannot find any alternative to the Alma crossing in the scoping decision. This is such an obvious scoping flaw that it's difficult to see a need for additional words! The RUS EIS is analyzing at least three locations, in Alma, Winona,

and LaCrosse, and technical alternatives as well – this information is available online, at the link cited above. The Scoping decision should include river crossing options included in the RUS EIS.

3. The Task Forces were unreasonably manipulated both in membership and process. Task Forces should be reconvened with freedom and information to do their work.

The Task Force process in this docket should be revisited and done correctly. I personally have represented parties participating in Task Forces since 1995, and have been increasingly disturbed by the truncation of time for review by the Task Force; lack of the most basic materials such as an application (applications should be provided with notice of the first meeting -- how does one review options and consider scope without knowing exactly what is proposed?); failure to include necessary organizations; and in this case, abject unwillingness to include citizens in the CITIZENS Advisory Task Force.

In this Hampton-LaCrosse Task Force fiasco, I attended all but one of the Task Force meetings and was appalled at what I observed.

First, membership was unreasonably limited, in numbers and representational breadth. Membership was limited to local government representatives and citizens who had expressed interest were denied membership. Three groups representing affected watersheds were not included, specifically the Cannon River Watershed Partnership, the Zumbro Watershed Partnership, and the Belle Creek Watershed District. Belle Creek Watershed District is a statutory local unit of government that should have been included even under the MOES narrow scope of inclusion.

Second, the “facilitated” focus was on “land-use” issues rather than the charge of the Task Force. For some reason not supported by the rules, Task Forces are no longer facilitated by a member of the Task Force, and are instead “facilitated” by MOES staff or a state facilitator. In this case, a state facilitator was used who has also “facilitated” these Task Force meetings previously. I am using “quotes” for a reason – the members were not provided with basic determinative information, were directed to limit input rather than explore options, were not provided with known agency policies or an understanding of them (i.e., DOT Policy of Accommodation, FAA rules, USFWS jurisdiction) nor were these agencies invited to send representatives to explain. Environmental review is about a lot more than land-use, and this restriction and direction is contrary to canons of environmental review and MEPA.

The rationale was that the Task Forces were populated with “land-use professionals” because the focus was on “land use.” That is not the focus of scoping, is not the charge of the Task Forces, and local officials are not “land use professionals,” they are elected officials or their representatives. At the second meeting of both Task Forces, members were directed to NARROW their lists of issues – this is NOT the point of scoping, scoping is about raising all important issues to assure that they are covered, not limited. In another meeting, members were asking about siting near airports, and basic information about siting transmission near airports and locations of nearby airports was not provided (this was a problematic issue with Brookings, where “alternative” routes moved forward into the scoping decision when they were not feasible because of locations of existing airports).

When I asked where the “citizens” were and why the “land-use” focus at the end of the first meeting, I was told that the public could not ask questions!! After the meeting was over, I was told of the “land-use” rationale. Leading into the third issue regarding Task Forces...

Third, public participation was unreasonably limited, particularly where Task Force members had logical questions and the “facilitator” did not have the information, and the state’s MOES representative (who in this case did a much better job than others I’ve seen) or the applicants were the only resources. This presents a skewed reality. For example, when one member of the public asked about review of river crossings and alternatives, and why there was only one, at Alma, the applicants were allowed to present their view of Alma as the best therefore only, but following that explanation, when I personally quickly stated that RUS was reviewing three crossings, Alma, Winona, and LaCrosse, I was told to leave the meeting. This is important information that Task Force members should have, and yet they were completely unaware that RUS was conducting environmental review, and were not invited to look at RUS scoping materials in consideration of their task! This, again, is contrary to MEPA. Critical information was not conveyed to the Task Force, information that they should have had to guide their concerns regarding the scope of the EIS. There was no public comment period at any of the five of six meetings that I attended, and this is NOT the norm and is unacceptable.

The Task Forces were unreasonably manipulated both in membership and process. Task Forces should be reconvened with freedom and information to do their work.

4. The EIS scope must be amended and Task Forces be reconvened.

NoCapX 2020 and United Citizens Action Network request that the scope for the CapX 2020 Hampton-LaCrosse (Alma) transmission line be amended to incorporate a joint Environmental Impact Statement with the Rural Utilities Service. The scope must also be amended to include more than one river crossing to at least give lip-service to “alternatives” analysis. To further this enlarged scope, the Task Forces must be reconvened and presented with direction to address river crossing alternatives and be given RUS scoping information to review and consider options not available to them previously.

Very truly yours,



Carol A. Overland

For

NoCapX 2020 and United Citizen Action Network

cc: Parties of Record, Parties of Interest, and eFiled