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**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION**

6 In the Matter of the Route Permit Application
7 by Great River Energy and Xcel Energy for a
8 345 kV Transmission Line from Brookings
9 County, South Dakota to Hampton, Minnesota

OAH DOCKET NO. 7-2500-20283-2
PUC DOCKET NO. ET-2/TL-08-1474

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**DIRECT TESTIMONY OF MICHAEL L. ALBRECHT
Exhibit MLA-1, Ex. _____**

16 **Q: Please state your name and address:**

17 A: My name is Michael Leo Albrecht, and I reside at 123 South Chestnut Street, Belle
18 Plaine, Minnesota, 56011.

19 **Q: Why are you providing this testimony?**

20 A: I am providing this testimony because I was one of the original first 50 applicants to be
21 granted a falconry permit from the Minnesota Department of Natural Resources back in the late
22 1960's. I was an active falconer until 1976. After that time, I continued with my raptor research
23 even though I didn't keep or fly any birds of my own. I assisted a couple of younger people who
24 had permits by guiding them to hawk nest sites, helping them to obtain, train and fly their birds.

25 From my extensive experience with birds, I know that the scenario in Le Sueur and Belle
26 Plaine are essentially the same, and that this transmission line proposed is problematic where
27 ever a crossing is proposed across the Minnesota River Valley. I consider the Minnesota River
28 Valley my back yard, Belle Plaine and Le Sueur and basically from Jordan to St. Peter. I have
29 spent the last 40 years in the field – the Minnesota River Valley has been the focus of my life.

30 **Q: What is your background regarding birds.**

1 A: My experience with eagles goes back to a time when I was nine years old when someone
2 shot an adult bald eagle and threw it on the steps of the Belle Plaine Herald, the local newspaper.
3 I had an uncle who was high school teacher and an amateur ornithologist who was appalled and
4 it made an impression on me. He taught me about birds and let me have access to his library and
5 by 1969, I had received a falconry permit from the state. I had permits for Red Tail Hawks,
6 Kestrels, and Great Horned Owls, and I held a falconry permit for 8 years. During that time I was
7 involved with live trapping adults, training birds, and hunting with them and raising babies and
8 training them. I've been involved in building and erecting nest boxes for wood ducks,
9 bluebirds, tree swallows, various woodpecker species, American Kestrels, and Screech Owls
10 since the 1980's in areas of habitat destruction due to both urban sprawl and the tiling and
11 draining of sloughs and marshes on the prairie above the Minnesota River Valley.

12 When I was trapping in the 1970's, when eagles were rare, there times along the Scenic
13 Byway, Sibley Co. Road 6, where I could not deploy live traps because of the presence of eagles
14 – if they were caught in the trap they would have flown off with the trap and eventually died.
15 Even back then it was very important to be mindful of the presence of eagles and the impacts our
16 activities have on them. People who found injured birds of prey would bring them to me for
17 treatment and rehabilitation – this was before the Raptor Center was formed. I also provided
18 lyceums at schools regarding falconry, where I would bring my birds and do demonstrations and
19 answer questions at the Belle Plaine and Le Sueur elementary schools.

20 I am also the Secretary and a board member of the Belle Plaine Historical Society, and
21 have been since 2008. I am very concerned about the impacts of the CapX 2020 transmission
22 line, as proposed, on the Minnesota River Valley and the Belle Plaine area. It is proposed to go
23 right through my research area.

1 **Q: What is your connection to the Minnesota River Valley?**

2 A: All of my outdoor activities and research are conducted in the Minnesota River Valley.
3 My yearly routine for the past 40 odd years starts in January/February/March with the field
4 observations of migratory raptors, courting/breeding and nesting activities of raptors as well as
5 deer, furred predators and raptor population densities. At this time I am also searching for shed
6 deer antlers, and calling and hunting furred predators such as fox and coyotes. In April and May,
7 you'll find me in these same areas harvesting morel mushrooms, turkey hunting, and doing
8 research of breeding and nesting habits of various passerines such as Scarlet Tanagers, oven
9 birds, and assorted warbler species along with nesting raptors such as Bald Eagles, Red Tailed
10 Hawks, American Kestrels and Screech Owls. June, July and August is spent on the Minnesota
11 River fishing catch and release for large Flathead Catfish, Northern Pike and Walleye, and also
12 keeping tabs on the raptors and mammals in the area. From September through December I am
13 hunting deer with bow and arrow and firearms, observing the migration of raptors, various
14 waterfowl, and passerines. These days afield keep me up to date on all wildlife activity in the
15 Minnesota River Valley. Again, I stress that this area is prime bald eagle territory. In a calendar
16 year, each of the past 30-40 odd years, I have spent at least 100 days a year in the field.

17 **Q: What documents have you reviewed in preparation of your testimony?**

18 A: I have reviewed the USFWS letters related to the proposed crossing of the Minnesota
19 River dated December 3, 2008; March 5, 2009; April 30, 2009; October 6,2009; November30,
20 2009; February 8, 2010; and June 10, 2010. Exhibit MLA-2, Ex. _____, USFWS
21 correspondence¹. I have also reviewed the DNR letters of November 30, 2010 and February 8,

¹ These USFWS letters of December 3, 2008; March 5, 2009; April 30, 2009; October 6,2009; November30, 2009; February 8, 2010; and June 10, 2010 were submitted at Public Hearing in Henderson, 12/7/09 and/or filed in PUC eDocket separately and also filed by Applicants May 25, 2010, eDocket number 20105-50749-01.

1 2010², and information provided by the Applicants in their letters of May 13 filed on May 25 in
2 the PUC eDockets, particularly the letter from Applicants to USFWS and the Brookings County-
3 Hampton 345kV Transmission Line Project Migratory Bird Treaty Act/Eagle Nest Survey.
4 Exhibit MLA-3, Ex. _____, DNR letters of November 30, 2009 and February 8, 2010; Exhibit
5 MLA-4, Ex. _____, May 13, 2010 CapX Applicant Letter to USFWS and Brookings County-
6 Hampton 345kV Transmission Line Project Migratory Bird Treaty Act/Eagle Nest Survey³. I
7 have also noted the Applicants filed several undergrounding studies for different locations that
8 were attachments to their May 13, 2010 letter to USFWS⁴. Exhibit MLA-5, Ex. _____, Black &
9 Veatch 345kV Underground Transmission Line River Crossing Cost Estimate, October 30, 2009;
10 Exhibit MLA-6, Ex. _____, Black & Veatch 345kV Underground Transmission Line Cost
11 Estimate – Hwy. 70, December 22, 2009; Exhibit MLA-7, Ex. _____, Power Engineers 345kV
12 Underground Report – St. Cloud – Monticello River Crossing, February 26, 2010; Exhibit MLA-
13 8, Ex. _____, Power Engineers CapX Hampton – Rochester – LaCrosse 345kV Project Alma
14 Mississippi River Crossing Underground Report, December 30, 2009. I also reviewed my own
15 correspondence from the DNR over the years and maps I had drawn of locations of eagle nests,
16 addressed below.

17 **Q: Please describe your work with raptors.**

18 A: From 1994 to 2006, I was a volunteer for Nongame Division for the Minnesota
19 Department of Natural Resources. During this time I was reporting field data on nesting pairs to
20 the DNR in New Ulm. Through the years, I've maintained many of my field notes and reports

² DNR letters were filed separately and also together February 8, 2010, filed in eDockets on February 10, 2010, by OAH, eDocketnumber 20102-46952-01.

³ This May 13, 2010 CapX Applicant Letter to USFWS was filed by the applicants in eDockets on May 26, 2010 (corrected/complete version), eDocket number 20105-50836-01, and the Brookings County-Hampton 345kV Transmission Line Project Migratory Bird Treaty Act/Eagle Nest Survey was part of a large submission filed by the applicants in eDockets on May 24, 2010, eDocket numbers 20105-50749-01 through 20105-50749-09.

⁴ These studies were part of a large submission filed by the applicants in eDockets on May 24, 2010, eDocket numbers 20105-50749-03 through 20105-50749-08.

1 and letters from the Nongame Division of the DNR in New Ulm regarding my reports to them.
2 Exhibit MLA-9, Ex. _____, Letters from Nongame DNR. The area that I covered was right
3 where the Applicants are proposing to put the transmission line through in Belle Plaine. There
4 was a pair of nesting adults, “Sibley County Nest #1” which the DNR informally called “my
5 nest,” which I tracked and observed for 14 years. Exhibit MLA-10, Ex. _____, Aerial photo
6 with dot showing eagle nest from 2000; Exhibit MLA-11, Ex. _____, Map from USFWS letter to
7 Applicants, February 8,2010 (map only). After 2006, I stopped reporting eagle nests because
8 they were so common I was seeing them everywhere. For example, I have found an eagle nest
9 by Flying Cloud Airport in Eden Prairie, a nest in Savage behind the Cargill grain terminal by
10 Highway 13, by the Highway 25 river bridge a mile downriver towards Jordan, and by
11 Washington Lake, off Highway 25 by Green Isle, and these are nests that I’ve found when I’m
12 not specifically looking. I am also aware of all the Red Tail nests in the area.

13 Since 2006, I have conducted research and field studies on the breeding and nesting data
14 on accipiters, specifically Coopers Hawks and Sharp-shinned Hawks in and along the Minnesota
15 River Valley. Both these species are bird hunters – their primary food is passerines, various
16 species of small birds, as well as some game birds. It is no secret passerine numbers have been
17 declining, affecting the population of their primary predators, the Cooper and Sharp-shinned
18 Hawks.

19 **Q: Do you have any comments on the Brookings County-Hampton 345kV**
20 **Transmission Line Project Migratory Bird Treaty Act/Eagle Nest Survey provided by**
21 **Applicants in May, 2010?**

22 A: Yes, I have reviewed the Brookings County-Hampton 345kV Transmission Line Project
23 Migratory Bird Treaty Act/Eagle Nest Survey. , Exhibit MLA-4, Ex. _____. Overall, I’m

1 surprised at the low numbers of eagles these people saw. This study is dated April 19, 2010. By
2 then, a large number of migrant eagles would have already passed through at area and resident
3 pairs are in the midst of the nesting cycle. I would have started any field studies in March and
4 have conducted observations several days per week through mid-April. Based on my research
5 over the years, the numbers of eagles they observed seems light. I recall a day in late February
6 in 2006 when I observed and stopped counting at 38 eagles, both mature and juvenile birds
7 soaring, following and perched along the Minnesota River about 2 miles east of the Minnesota
8 Hwy. 25 bridge over a 6 hour period. Granted, this was a spectacular day and is not the norm,
9 however, on February 24, 2002, on a casual 5 mile drive from Belle Plaine to Blakeley on Scott
10 County Road 6, I observed six adult bald eagles in that short five mile drive. That same spring, I
11 observed 9 bald eagles, again, mature and immature birds, perched in a tree near the Belle Plaine
12 sewage disposal on Scott County Road 6. My field notes state that the morning of February 24th,
13 2002, there were three adults and one immature eagle feeding on winter kill fish as Susie's Lake,
14 next to the Highway 25 bridge. One must take into consideration that this is my research area
15 and I'm doing much more observation than a 1.5 hour flyover in an aircraft.

16 There are statements about nest activity where the source is not referenced. Their
17 statement is that no nests were observed within a mile of the proposed corridors, but that can and
18 does change year to year. Nests are typically spaced 2-3 miles apart based on their home range
19 and territory, and will not tolerate another pair in "their" territory. For example, with the Sibley
20 County Nest #1 pair, they had a succession of problems over four years – one year Great Horned
21 Owls took their nest, another year their nest blew down, and another one blew down and they
22 finally built one in a live tree that also blew down in 2006, and that's when a nest appeared on
23 the Hank Trimbo property near the Blakely Bridge. Even if their statements are accurate that can

1 change the following season. Most importantly, they are not taking into account that the entire
2 Minnesota River is a corridor that is used during spring and fall migrations.

3 For example, in 2000, the DNR reported nests at:

- 4 • Belle Plaine Sibley Co. Nest #1
- 5 • Le Sueur (No of Le Sueur along the east side of river but west of railroad tracks)
- 6 • Possibly near Jefferson Lake
- 7 • North of North Mankato along river
- 8 • Along Blue Earth River west of good Thunder
- 9 • Possibly a pair near Courtland along Minnesota River.

10
11 Exhibit MLA-9, Ex. _____, March 20, 2000 letter from DNR. This letter from 2000 is before the
12 Hank Trimbo nest near the Jessenland Church on the Scenic Byway along the river (Sibley Co.
13 nest #2), Washington Lake near Green Isle by state Wildlife Management Area present for at
14 least 4-5 years, and the others mentioned above.

15 Regarding the Nest Survey methodology, although the methodology seems correct, they
16 should have seen more eagles.

17 The comments regarding the Le Sueur crossing are not credible, because an equal number
18 of foraging bald eagles are using Susie's Lake by the Minnesota Hwy. 25 bridge outside of Belle
19 Plaine, Hillstrom's Lake along Scenic Byway on Sibley County Road 6 between Belle Plaine
20 and Blakeley, and Diers Lake. These are all forage and roost areas for both migrant and resident
21 populations of eagles and draw concentrations of these birds.

22 Regarding their analysis of eagles in Belle Plaine, they refer to "my nest," as being found
23 in 1992 and active from 1994-1998, which does not make sense. What they're not saying is that
24 after the owls took that nest, there were four more nests built by that pair. They correctly state
25 that the site is still being used. There is no mention of the Trimbo nest.

26 Their statements that there is no nest within one mile could be true but it could likely
27 change in the spring. What this "study" confirms is that this entire area is a major corridor for

1 spring and fall migration as well as nesting pairs, who utilize open water patches for foraging in
2 the winter. This entire area is prime real estate for bald eagles.

3 **Q: Do you have any comments regarding the DNR's analysis of the river crossing**
4 **options?**

5 A: I am concerned because the DNR states that there was not enough information to
6 compare alternatives or review the impacts of a crossing of the Minnesota River. In this case, I
7 reported to the DNR and in the years that they did not have budget for flyovers, they relied on
8 my hatching and surviving chick data for their files. This information is important to review for
9 the area and both proposed crossing. What everyone seems to be missing, as far as the
10 Minnesota River Valley goes, is that this is a critical wildlife habitat and there is no other option
11 for wildlife.

12 The DNR, in its comments on the Draft Environmental Impact Statement, said it did not
13 have sufficient information to “compare alternatives, segments, or various combinations of
14 segments,” or “determine the potential direct and indirect impacts.”. Exhibit MLA-3, Ex. _____,
15 DNR letter of November 30, 2009.

16 This November 30, 2009 letter states that the DNR does not support crossing of Buck's
17 Lake due to high concentration of species, but I would expect the DNR to be equally concerned
18 with impacts on wildlife at Susie's Lake and Hillstrom's Lake where I found the original nest in
19 1992, and Diers Lake, between the Sibley County #1 nest and Trimbo nest, and reported on these
20 nests and activity regularly to the DNR..

21 This letter also states:

22 Page 6-25 discusses the use of bird flight diverters as a method to reduce potential
23 avian fatalities. The DNR supports the use of bird flight diverters in areas with a
24 high potential for collision, such as river crossings or in the vicinity of waterfowl

1 productions, WMA's, recreational areas, or wetland complexes. However, where
2 possible, avoidance of these highly utilized areas is first encouraged.

3
4 Exhibit MLA-3, Ex. _____, DNR letter of November 30, 2009. The Minnesota River Valley is a
5 "highly utilized area" and should be avoided, as the DNR advises.

6 There is also trapping near Hillstrom's Lake and Diers Lake where trappers come in and
7 take fur bearers, skin the animals and leave the carcasses, which attract eagles and hawks, and I
8 presume the same thing would be occurring at Buck's Lake and other areas along the river.
9 Someone did not do their homework, and it's my belief that they assumed no one knew about
10 this important habitat.

11 The DNR said in the Comments of February 8, 2010 that the Final EIS:

12 ... does not describe expected impacts in enough detail to evaluate specific
13 routes and segments. It is difficult for the DNR to provide constructive input during
14 the environmental review process about which route or segments would best protect
15 state resources if information such as estimated acreage of permanent and temporary
16 impacts for each location, total impact acreage for each route, and specific plans for
17 mitigation of impacts are not provided in the Draft or Final Environmental Impact
18 Statements.

19
20 Exhibit MLS-3, Ex. _____, DNR Letter of February 8, 2010.

21 Because of my work with the DNR and the DNR's extensive knowledge of eagles and
22 wildlife generally in the Minnesota River Valley, these letters from the DNR and the lack of
23 information for them to evaluate impacts is an appalling situation. I believe they should weigh in
24 on the river crossings and that their comments should receive a fair hearing.

25 I don't want the transmission line crossing the Minnesota River Valley in Le Sueur or in
26 Belle Plaine because this is a migratory corridor, it attracts feeding and migratory eagles and
27 other wildlife, including waterfowl, herons, geese, ducks. This entire area is a major corridor
28 because it is the most wild, pristine wildlife area in this part of the state. It really is the last
29 frontier, it's all that's left, all the wetlands, the sloughs, the marshes in the prairie, were tiled and

1 drained over the years and turned into crop fields and housing projects. With that prime habitat
2 no longer there, the Minnesota River bottoms are really all that is left for wildlife to use.

3 **Q: Have you reviewed the USFWS letters?**

4 A: Yes, I have.

5
6 **Q: Do you have concerns about issues raised in those letters?**

7
8 In the December 3, 2008, letter, they address concerns in the Belle Plaine area. They state
9 regarding the Belle Plaine corridor:

10 We have records of individual eagles using the Belle Plaine location and an active
11 nest within a half mile of the location. Although the bald eagle has been delisted
12 under the Endangered Species Act it is still protected by the Bald Eagle Act of
13 1940. This Act requires that human activities in close proximity to an active nest be
14 restricted during the bald eagle's mating and rearing season. In the Belle Plaine
15 vicinity this season is approximately from February through July.

16
17 Given these considerations, we believe that using the Belle Plaine crossing for this
18 project would have relatively high, unacceptable adverse effects on our trust
19 resources.

20
21 Exhibit MLA-2, Ex. _____, USFWS Letter of December 3, 2008.

22 I agree with this statement 100% based on my experience in the field. Further, these
23 statements would apply to the Le Sueur crossing as well, and I believe that using the Le Sueur
24 crossing for this project would also have relatively high, unacceptable adverse effects on our
25 trust resources.

26 **Q: Do you have any comments regarding the November 30, 2009 USFWS letter and**
27 **issues raised?**

28 A: On the second page, the USFWS letter mentions that the Le Sueur treatment pond is to be
29 retired, and the planned future use of the area as a wildlife habitat, as noted by USFWS, not
30 compatible with use as a transmission corridor. They are trying to increase habitat in the last

1 area available, to preserve it, and I fully agree that it is not appropriate to site transmission
2 through this area. Exhibit MLA-2, Ex. _____, USFWS Letter of November 30,2009.

3 This USFWS letter also states that “[l]ands within Sibley, Le Sueur, Scott, Rice and
4 Dakota Counties are potential expansion zones for the Minnesota Valley National Wildlife
5 Refuge or Minnesota Valley Wetland Management District.” This expansion is already
6 occurring. If you drive down Sibley Co. 6, the Scenic Byway, you will see that they started
7 buying property right by Diers Lake, and the land below the Jessenland Church which abuts the
8 Hank Trimbo nest, and further land acquisitions are planned. What they have done is purchased
9 prime wildlife real estate and opened it to hunters and birdwatchers, a benefit to the public and
10 ensuring eagles will have nesting areas.

11 This letter also strongly recommends “non-aerial” crossings, because of the potential for
12 harm to migratory birds. This is an important recommendation.

13 **Q: Have you reviewed the June 10th USFWS letter:**

14 A: Yes, the USFWS issued a letter on June 10, 2010. Exhibit MLA-2, Ex. _____, USFWS
15 June 10, 2010. This letter states that:

16 Transmission lines crossing the Minnesota River at Le Sueur is likely to result in take of
17 bald eagles. If such a take does occur, the project applicant will need to have first
18 obtained a permit to avoid violating federal law.

19
20 It is my opinion, based on my experience in the field, that transmission lines crossing the
21 Minnesota River at Belle Plaine is likely to result in take of bald eagles. If such a take does
22 occur, the project applicant will need to have first obtained a permit to avoid violating federal
23 law. From their letter, USFWS agrees, stating that “[b]ased on current literature, historic eagle
24 nest locations, and advice from raptor experts, a “take” of eagles is possible even in the Belle
25 Plaine location.”

1 Further, where the letter states that “[t]he area near the proposed Le Sueur crossing
2 attracts wintering migrants that would not necessarily be familiar with the transmission line,
3 Additionally, the Le Sueur areas attract eagles in larger numbers than the Belle Plaine site would
4 at a given time.... Despite its lesser impact, the Belle Plaine crossing still has the potential to
5 affect bald and golden eagles.” Based on my experience and observations, this claim goes
6 against everything I have seen. Both locations and any location along the Minnesota River
7 would have equal detrimental impact on eagles and other birds covered by the Migratory bird
8 act. The statement regarding familiarity with the transmission line is ludicrous, because whether
9 a bird is familiar or not with transmission does not make any sense – a migrant is a migrant, a
10 bird from somewhere else and not a permanent resident. None of the migratory birds would be
11 familiar with a new line! The same migrating birds passing through Le Sueur will pass through
12 Belle Plaine.

13 **Q: Do you have an opinion regarding impacts of aerial crossings on birds?**

14 A: USFWS strongly recommended non-aerial crossings. The danger of direct bird strikes
15 with transmission lines is an important issue, and not only the direct strike impact, but the
16 associated loss of habitat is also an impact to be considered, and it’s not just birds but all wildlife
17 that is affected. The applicants have provided additional studies regarding the cost of
18 undergrounding at various locations and situations, and if there is to be a crossing of the
19 Minnesota River Valley, “non-aerial” crossing should be considered.

20 **Q: Do you have any final words?**

21 A: The reason the Minnesota River Valley is so crucially important, not only for eagles, but
22 all variety of bird and animal species, is that it is basically the last wild refuge in this part of the
23 state. Perhaps it is in everyone’s best interest to leave it for our wildlife – the eagles are finally

1 rebounding after decades of decline due to DDT poison in the food chain. This is a great
2 achievement on man's part. I believe we have done enough damage to our wildlife and wild
3 places. Let's leave this last area of the eagles alone.

4 **Q: Does this conclude your testimony?**

5 A: Yes.