

March 18, 2011

Mr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101



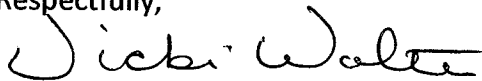
Attention: Brett Eknes

Re: Petition for Reconsideration  
Docket No. ET-2/TL-08-1474  
Brookings/Hampton 345kv Transmission Line

Dear Mr. Haar,

Enclosed is a Petition for Reconsideration of the Order Granting Route Permit in the above-referenced docket for the Gibbon Crossover/Belle Plaine Route (Segment 4).

Respectfully,



Vicki Wolter

Representing Petitioners named in the following Document for Reconsideration

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd  
J. Dennis O'Brien  
Thomas Pugh  
Phyllis A. Reha  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Route Permit Application  
For a 345kv Transmission Line from Brookings, SD  
to Hampton, MN (Segment 4) , Gibbon Crossover

Docket # ET-2/TL-08-1474

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**PETITION FOR RECONSIDERATION OF THE ORDER GRANTING ROUTE PERMIT**

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The following Sibley and Scott County residents respectfully request reconsideration of the Minnesota Public Utilities Commission's February 3, 2011, Order Granting Route Permit for the Gibbon Crossover/Belle Plaine Route in the above referenced docket:

Kurt and Jean Aslakson  
28268 State Hwy 25  
Belle Plaine, MN 56011

Joel Bahr  
25100 Meridian Circle  
BellePlaine, MN 56011

Kevin Fahey  
30286 State Hwy 25  
Belle Plaine, MN 56011

Mark Duffy  
28306 State Hwy 25  
Belle Plaine, MN 56011

Brian Entinger  
7551 W 270<sup>th</sup> Street  
Belle Plaine, MN 56011

Mark Koepp  
24151 Johnson Memorial Drive  
Belle Plaine, MN 56011

Marilyn M. Koepp  
24526 German Road  
Belle Plaine, MN 56011

Alan Giles  
23990 Stopplemann Blvd.  
Belle Plaine, MN 56011

William McCue  
11900 W 240<sup>th</sup> Street  
Belle Plaine, MN 56011

Glen Schultz  
13321 245 Street West  
Belle Plaine, MN 56011

Gary Steinhagen  
25101 German Road  
BellePlaine, MN 56011

Todd and Maria Tracy  
28236 State Hwy 25  
Belle Plaine, MN 56011

Vicki Wolter  
26363 State Hwy 25  
Belle Plaine, MN 56011

(The identified Scott and Sibley County residents shall be collectively referred to as "Petitioners.")

Petitioners, whose property and homes are in the path of the approved CapX2020 power line path, hereby respectfully request that the Public Utilities Commission, (to be referred to as the "PUC"), reconsider their approval of the Gibbon Crossover/Belle Plaine Route (Segment 4). Petitioners request that the PUC consider the Modified Preferred Route crossing at Le Sueur (Myrick Alignment Alternative) to be the proper choice in accordance to the state's policy of choosing a location that minimize adverse human and environmental impacts while insuring continuing electric power system reliability and integrity.

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## REQUEST FOR RECONSIDERATION

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One of the two primary reasons the PUC lists as their final reasons for deciding to approve the Gibbon Crossover Route is: 1) its use of an existing 69kV transmission corridor right-of-way across the Minnesota River. According to Dan Leshner, from Great River Energy, the Gibbon Crossover Route is 2 miles longer as a whole than the Modified Preferred Route crossing at Le Sueur. He also stated the Gibbon Crossover Route only shares with the existing 69kV transmission line for 1.5 miles, including the Minn. River Crossing in Belle Plaine. This means you are creating an entirely new 2 miles of easement in order to share only 1.5 miles of the existing 69 kV line that will have to be widened considerably and reconstructing the existing 69kV line crossing the river to minimize avian impacts, which has been stated in the record as a concern from the USFWS. (Refer to USFWS letter dated December 3, 2008; Document marked exhibit B). This does not make sense. It is not economical and will add to the cost of constructing the lines, not even taking into consideration the ongoing costs of operation and maintenance of the extra miles of line. (Please make reference to email questions/answers to Dan Leshner dated Feb. 24, 2011, response, Feb. 28, 2011, item 2; Document marked exhibit A). This will also ultimately impact more human life and impact more land than need be.

Please review, carefully, OAH Docket # 7-2500-20283-2, MPUC Docket# ET-2/TL-08-1474 Findings of Fact, Conclusions and recommendation of Remand.

One of the "concerns" raised at the February 3, 2011 hearing by the PUC was accessibility to the lines for maintenance and repairs at the river crossings. There were assumptions made in regard to this issue concerning both sites which were in error. At the Le Sueur crossing, there would be nearly 100% access even during major flooding. Highway 169 at that crossing location has never been closed in 46 years that we are aware of, even with last fall's record flooding. There has always been access available by road at the corner of #93 where the pole would be.

The Myrick hill has a road running all the way up to the top of the hill on Hwy 169, with access from 169. The assumption that it would be difficult to access the lines during flooding was entirely inaccurate. However, at the Belle Plaine Crossing, they would not be able to gain access to at least 1- 1 ½ miles of the lines during any flooding due to the river flooding over Cty. Rd. #6 (Blakely Rd) nearly each and every spring. This is one of the last roads to open in the area. There is no way to build access roads due to the sewer ponds and wetlands between Cty. Rd. # 6 and the MN River. This can easily be researched by looking at aerial maps of both areas, verifying road closures during flooding with MNDOT and communicating with reliable sources such as city and county officials. This was very concerning to be brought up with no chance to respond and seemed to steer some of the PUC officials to go along with the vote raising this as an issue.

Another subject of "concern" was soil stability in the Le Sueur area crossing. According to Kevin Lennon's September 10, 2010 Testimony, he states concerns of unstable soils which there is no evidence, tests, soil borings, anything to substantiate this. (Refer to Kevin Lennon's Remand Direct Testimony; Document marked exhibit C; 74. and 76. of OAH Docket# 7-2500-20283-2 MPUC Docket # ET-2/TL-08-1474 Findings of Fact, Conclusions and recommendations on Remand and Dan Leshner email question/answers item #4 marked exhibit A).

Petitioners would like to provide evidence of soil condition concerns for the Belle Plaine river crossing. Enclosed are two letters provided to us by MNDOT in regard to problems they had with soil conditions and an artesian condition when constructing the Belle Plaine Bridge. The artesian conditions in the Belle Plaine area created a substantial problem for them and it was well recorded in news articles as well. The area of the power line crossing has a great deal of wetland and a spring fed creek, strongly indicating these conditions could very well exist at that exact location. Now we have to go back to the fact that we are not building just one line and having the potential of boring into an artesian layer, but also reconstructing the second line, having to bore new foundations. Again, we have to go back to cost issues and consider the environmental impacts. (Letters are marked exhibit D and E; there are a total of 61 pages to exhibit E showing all charts, borings, etc. If you would like all of that, Vicki Wolter can email that to you.) This information is public record and could've been obtained by Great River Energy or the OES at any time.

Both of these issues, flood plain and soil stability, were raised at the very end of the decision making process with no chance for public response. It seemed like these issues tipped the scale to push the vote onto the Belle Plaine crossing and both are incorrect and unsubstantiated. Petitioners find this unreasonable.

The second reason the PUC approved the Gibbon Crossover Route was: 2) the more positive environmental impact from the alignment and engineering advantages it offers over the Le Sueur Crossing Route. This statement is not at all consistent with what the record shows. Again, we have to reiterate that you are choosing a route that is 2 miles longer as a whole on a 68-70 mile stretch. Why is there so much concern for one hillside that there are no homes on or could be constructed on. It won't even be visible from Hwy 169 due to a hill obstructing the site of the Myrick hill. In fact, the whole area at the river crossing in Le Sueur is pretty much unusable land for anything. It's as disturbed as you can get for qualifying as the state requires to pick an already disturbed area to construct the power line. The river crossing at Le Sueur is nothing but highway, retention ponds, railroad, overflow and flood plain. There is no usable

land to build on at all in this general area. But the PUC chooses a route where people are currently living, have plans for future development, cross lands that are tillable, cross wetlands that are owned by the DNR and has a heron rookery one tenth of a mile from this proposed crossing at Belle Plaine. ( We would like to request that this continued concern for a heron rookery within the Le Sueur River Crossing , which is repeated over and over in the latest Dockets that doesn't exist ,be removed from the concerns being that the DNR verified it no longer existed and that they had presented inaccurate, outdated information, apologizing for this at the February 3, 2011 meeting). There are three hillsides to deal with at the Belle Plaine River Crossing and at least as much forestry to be cleared if not more. These sites should really be viewed first hand by the PUC themselves to make an accurate decision when this impacts so many human lives.

Petitioners request that the PUC take the time to observe aerial maps of both of these areas and really see how much prime land and housing is affected by the Belle Plaine River crossing versus the Le Sueur River Crossing. Every aspect in regard to human impact, environmental impact, impact on farming land, and aesthetic impacts favor a Le Sueur River Crossing over a Belle Plaine River Crossing. The slight challenges that Great River Energy claims they "may" have with constructing the power line on the Myrick hill are minor compared to many areas like the Red Wing area. Great River Energy basically stated that either site was suitable to them and both sites met all requirements by state and federal statutes.

#### **PROCEDURAL ISSUES:**

- Residents have expressed through written testimony and verbal testimony during the remand hearings in October of 2010 of several residents within the corridor not receiving notices. Many of the Township Boards along this route did not receive any notice at all and are not listed on your mailing lists. This raises questions in whether the Applicants and/or the OES gave proper notice as required by MN Stat. 216.03 subd. 3a,4 and 6; MN R 7850.2100, subp. 2 and 4; MN R. 7850.2300, subp. 2; MN R. 7850.2500, subp. 2,7,8 and 9. This gave local governments no chance for a public outcry.
- Not one single meeting was held in Belle Plaine until the Remand Hearings which were only open to a very narrow scope long after the record was closed in February of 2010.
- Commissioner Reha had expressed, herself, of concerns with procedural issues.
- Petitioners find it unreasonable that the record was closed in February of 2010, a late letter was accepted from the USFWS dated June 10, 2010 which clearly impacted the decision process. (quoting Commissioner Reha when stating at the February 3, 2011 meeting, that had this letter not come into play and a vote was put through in July, she would've likely voted for Le Sueur). The remand hearings were limited to the eagle situation, but the OES was able to create and develop the Gibbon Crossover route during this time, coming up with one excuse after another to push this line onto the citizens of Belle Plaine with no opportunity for the people to get the facts into record. The OES and the PUC are fully aware of the gross inaccuracies in the record, partially due to inaccurate, outdated, and misleading information provided by the DNR and

USFWS. The record should be reopened to allow for these corrections and the final decision needs to be based on true and accurate information to make this process right.

- Petitioners question whether the vote by the Commissioners on February 3, 2011 is valid due to the fact that there was one board member absent from the voting process, Commissioner Thomas Pugh, and there was no seconding of the motion. (Refer to The Scott Foresman Roberts Rules Of Order; 4 pages included marked exhibit F).

## **ENVIRONMENTAL IMPACTS:**

The states policy requires the PUC to choose locations that minimize adverse environmental impacts.

- As noted in the USFWS letter dated December 3, 2008 (exhibit B) the Belle Plaine Crossing has more continuous native flood plain habitat than the Le Sueur Crossing. This letter also expresses concerns about the web of transmission lines due to the fact that there will be two side by side increasing the chance for bird strikes. More trees and brush would need to be cleared further fragmenting native flood plain habitat.
- Included is a four page document relating to concerns of Anthrax disruption in several Scott county townships along the route which could potentially cause harm to animals. (Document marked exhibit G)
- The ALJ and the Commission confirmed that the record demonstrates that there are fewer water resources within the Modified Preferred Route than within the Crossover route. (Docket # ET-2/TL-08-1474, Sept. 14, 2010 order granting route permit, pg.7)
- The ALJ and the Commission confirmed the record demonstrates that there are fewer threatened and endangered species within the Modified Preferred Route than within the Crossover route. The Modified Preferred Route would affect only one site identified by the Minnesota County Biological Survey compared to 16 for the Crossover Route. (Same Docket as previous statement, pg. 8).
- The Modified Preferred Route has 18.3 total acres of wetland in the right-of-way, 2.2 being forested and crosses 47 streams and rivers, 18 being PWI streams. No poles will be in wetlands. The Gibbon Crossover Route has a total of 51.8 total acres of wetlands, 4 being forested and crosses 52 streams and rivers, 23 being PWI streams. Seven poles will need to be placed in wetland areas. (OAH Docket# 7-2500-20283-2, MPUC Docket# ET-2/TL-08-1474; Finding of Fact, conclusions and recommendation of Remand).
- Petitioners question whether or not the oral testimony of Mike Kreger at the evening October 5, 2010 Remand hearing was put to record. The USFWS purchased 1,500 acres on the southeast side of Silver Lake also used by the DNR as a holding pond for fish. Is this area considered in the environmental impact study? It is currently part of the USFWS ongoing research along with the Minn. River Crossing. To date they are showing no wintering eagles in the Le Sueur/Henderson Buck's Lake area as local residents had led the DNR and USFWS to believe, leading to the June 10, 2010 letter. This information can be confirmed by contacting the USFWS. Item #123 in Findings of fact, conclusions, and recommendations on Remand, MPUC Docket ET-2/TL-08-1474, OAH Docket 7-2500-

20283-2 points out 20 eagles feeding in the Belle Plaine area. We have had large numbers sited throughout this winter since (photos were presented at the February 3, 2011 meeting by Ed Townsend). 14 eagles sited directly under 69kV lines up to 1 ½ -2 miles from the river in Faxon Township near Hwy 25.

- There is a heron rookery one tenth of a mile from the power line crossing at Belle Plaine. Mike Albrecht , verified as an expert by the DNR under testimony, presented two photographs with GPS coordinates at the February 3, 2011 meeting showing the Belle Plaine River Crossing rookery and the other photo shows where the Buck's Lake rookery once was years ago and no longer exists. We then had the DNR stand up and support this information, apologizing for having old information from 2003. This was a bullet point of concern for the Le Sueur Crossing, but when proven otherwise, it just got swept under the table; it should've then become a concern for the Belle Plaine Crossing.
- Item 60 in Findings of fact, conclusions and recommendation of Remand OAH Docket # 7-2500-20283-2; MPUC Docket# ET-2/TL-08-1474 referring to the USFWS letter of April 30, 2009 is erroneous. The information was based on false, inaccurate and misleading information provided by local residents on the Preferred Route (Le Sueur/Henderson) and the DNR and USFWS now know that through their own research.

#### **HUMAN IMPACT:**

It's the states policy to choose locations for these infrastructures that minimize adverse human impacts.

- The ALJ and Commission confirmed that the Modified Preferred Route has fewer homes within 0-500 feet from the route centerline compared to the Crossover Route.
- The Modified Preferred Route has fewer residents within 500' at or near the MN River than the Crossover Route.
- Corrections were made to maps at the October 2010 Remand Hearings showing several missing homes within the corridor and 40 plus homes missing in an area within ½ - 1 mile of the power line on State Hwy 25 in Faxon Township. There were also several airstrips and an airport pointed out as high concerns which nothing is mentioned as concerns about this.
- According to the notification list, there are at least seven churches impacted by this power line on the Gibbon Crossover Route .These are sacred to people who gather there to worship, celebrate life and grieve for lost loved ones. Is this not an invasion to whole groups of people? Maybe some of these churches have schools where children attend daily. If there is even a chance that EMF emissions could possibly affect the health of one individual, this line should not be exposing one more human than need be; therefore, choosing a route with the least amount of people which would be the Modified Preferred Route. It is perfectly clear according to the record and information provided to individuals and the Belle Plaine Herald by Great River Energy that there are more homesteads impacted on the Gibbon Crossover Route than the Modified Preferred Route, up to 20-25 more homesteads. Multiply this by an average of 3 to 4

persons in each home, that's an extra 60 to 100 people. How can you tell those people they don't count? That the PUC consider the routes fairly equal. This is not upholding the states policy and Petitioners find this unreasonable.

#### **IMPACTS ON FARMLAND:**

- The Modified Preferred Route has 325.2 acres of prime farmland within the right-of-way, where the Gibbon Crossover Route has 389 acres. That's 63.8 additional acres of prime farmland impacted by choosing the Gibbon Crossover Route. (#98 of Findings of fact, conclusions and recommendations on Remand MPUC Docket# ET-2/TL-08-1474; OAH Docket# 7-2500-20283-2).

#### **COSTS:**

- Petitioners would like a clear answer on how the cost figures during this process could've changed so much from \$20- \$50 million more to run the power line on the Gibbon Crossover Route versus the Modified Preferred Route to nearly equal. This information was provided to the Belle Plaine Herald also. These figures were being given to the citizens of Belle Plaine and The Herald by Great River Energy and the OES as late as August and September of 2010. The Modified Preferred Route was adopted on December 14, 2009, so excuses about changes to the Preferred Route cannot be a factor 8-9 months later. (Refer to exhibit H, email from Scott Ek dated August 5, 2010). From August 2010 to the Remand Hearings of October 2010, these figures dropped to \$3-\$21 million more to run the Gibbon Crossover Route versus the Modified Preferred Route. (Refer to Exhibit C, Remand Direct Testimony of Kevin Lennon). Now the OES and PUC consider them fairly equal. Are the costs of rebuilding the existing 69 kV lines considered in this? Are the costs of ongoing and future expense in operating, repairing and maintaining 2 extra miles of line included? How are they going to access these lines for repairs and maintenance between Cty Road 6 (Blakely Rd) and the river crossing? Are costs factored in for all the people who are going to say "Buy the Farm"? Land prices and taxes are considerably higher along the Gibbon Crossover Route than the Modified Preferred Route, especially in Sibley and Scott County near Belle Plaine. The fact is that it is obvious that the Gibbon Crossover Route is going to be more costly to construct and that should certainly be of great consideration with the economic position our state and our country. Nobody wants to see wasteful spending when there are other alternatives.

The PPSA requires that route permit determination "be guided by the states goals to conserve resources, minimize environmental impacts, minimize human settlement and



other land use conflicts, and insure the states electric energy security through efficient, cost effective power supply and electric transmission infrastructure.” According to the record, the ALJ found and the Commission confirmed that the Modified Preferred Route (Le Sueur River crossing) satisfies the route permit criteria set forth in MN Statute 216E.03, subd. 7 and MN Rule 7850.4100. MN/DOT has confirmed no issues or preference for either route. The Modified Preferred Route uses more existing transportation, pipeline and electrical system right-of-way than the Gibbon Crossover Route (Belle Plaine River Crossing). The Modified Preferred Route (Le Sueur River Crossing) has fewer aesthetic impacts, shorter distance with less poles, less impact on land-based economics, fewer archaeological and historic sites, less impact on flora, less impact on human life, less impact on prime farmland and less impact on wetlands and USFWS and DNR owned land and their expansion rights. (Refer to Docket ET-2/TL-08-1474 of September 14, 2010, Order granting Permit and OAH Docket 7-2500-20283-2 and MPUC Docket ET-2TL-08-1474, Findings of fact conclusions and recommendation on Remand).

### CONCLUSION

Petitioners recognize the importance and complexity of the issues before the Commission. However, based on the review of the record, state requirements and new information provided in relation to which the decision was based on, Petitioners respectfully request that the Commission grant Reconsideration and approve the Modified Preferred Route (Le Sueur River Crossing ) as the best choice in satisfying all criteria.

Dated this 18<sup>th</sup> day of March

Respectfully submitted,

Kurt Aslakson	<u>Kurt Aslakson</u>
Jean Aslakson	<u>Jean Aslakson</u>
Joel Bahr	<u>Joel Bahr</u>
Mark Duffy	<u>Mark Duffy</u>
Brian Entinger	<u>Brian Entinger</u>
Kevin Fahey	<u>Kevin Fahey</u>
Mark Koepp	<u>Mark Koepp</u>

Marilyn Koeep	<u>Marilyn Koeep</u>
Alan Giles	<u>Alan J Giles</u>
William McCue	<u>William McCue</u>
Glen Schults	<u>Glen Schults</u>
Gary Steinhagen	<u>Gary Steinhagen</u>
Todd Tracy	<u>Todd Tracy</u>
Maria Tracy	<u>Maria Tracy</u>
Vicki Wolter	<u>Vicki Wolter</u>



Vicki Wolter &lt;vikwolter@gmail.com&gt;

**CapX Power Line questions**

2 messages

Vicki Wolter &lt;vikwolter@gmail.com&gt;

To: "Lesher, Dan GRE-MG" &lt;dlesher@greenergy.com&gt;

Thu, Feb 24, 2011 at 10:55 AM

Dear Mr. Lesher,

I have a few questions regarding the power line route here on the Belle Plaine river crossing.

1. You recently told Kevin Fahey that you would now be running the power lines on the south side of State Hwy. 25 in Faxon Township rather than the north side by his area. How is this possible with an existing smaller power line and the pipeline already running on the south side of 25? How could you put in your poles and stay within your permitted easement?

\* 2. The distance where you would be sharing the existing power line easement to cross the river in Belle Plaine is only about 3 miles, am I correct in that statement? According to notes from our Sept. 2010 conversations, you stated that the Belle Plaine/Gibbon Crossover was about 2 1/2 miles longer than the Le Sueur crossing. I don't see where sharing this short distance is so important on a stretch of 66-68 miles of this segment (please verify that I am correct here too.) The extra distance to completely construct and develop new easements on the extra 2 1/2 miles this route would cost way more in the long run, plus factor in widening this existing easement and reconstructing the existing 69KV line. It just makes no sense.

3. Could you please send me out a map of the river crossing at Belle Plaine and Le Sueur showing the route of the planned lines at this point. You can mail those to: Vicki Wolter  
26363 State Hwy 25  
Belle Plaine, MN 56011

\* 4. Do you have any borings or solid documentation to establish your concerns about soil conditions down by Le Sueur? What exactly are your concerns in regard to soil issues?

\* 5. You also expressed concerns about the sewer ponds down in Le Sueur. Back in our conversations in Sept. 2010 you said that was one of the very reasons you chose that area to begin with as a disturbance. These ponds are going to be disabled in the near future and the land is useless for anything else, so what is the concern?

\* 6. Isn't it true that a city official from Le Sueur had actually offered GRE the land known as the Mayo Park for free in exchange for tapping into your power grid?

Thank you for your time in this matter and if you have any questions for me feel free to call me also (952) 873-6148.

Vicki Wolter

Lesher, Dan GRE-MG &lt;dlesher@greenergy.com&gt;

To: Vicki Wolter &lt;vikwolter@gmail.com&gt;

Mon, Feb 28, 2011 at 1:31 PM

Dear Ms. Wolter,

1 – At this time the centerline has not been established and will not be finalized until engineering of the line has been completed later this year. In the application, and during the hearings, the Applicants showed a preliminary centerline for each route under consideration to measure the impacts. For the Belle Plaine crossing, as shown on Exhibit 166 from the remand hearings, the alignment is shown on the north and south side of Highway 25 to avoid residences.

2 – The Commission approved Gibbon Crossover Route follows the existing transmission line for approximately 1.5 miles, including the Minnesota River crossing in Belle Plaine. Per the testimony that I provided in September 2010, the transmission line route utilizing a Belle Plaine crossing is approximately 2 miles longer than the Modified Preferred Route utilizing Le Sueur. See Schedule 10 to the Remand Direct Testimony of Dan Leshner, Edockets Nos. 20109-54338-02 to 06 and 54660-01.

3 – Exhibit 166, which was part of the remand hearings, shows the route and a reference centerline for the Belle Plaine crossing. A copy is attached to this email.

4 – There have been no soil borings for the Brookings project. The Remand Direct Testimony of Mr. Kevin Lennon, Edockets No. 20109-54338-07, describes his view of the soil conditions at the river crossings.

5 – My remand testimony and Mr. Lennon's remand testimony describe issues relating to Bucks Lake and the retention ponds at the Le Sueur crossing. The initial centerline utilized the area over Bucks Lake and the retention ponds. However the MnDNR provided comments in the record that it would not support a crossing in this location. In response to MnDNR concerns, we developed an alignment that avoided Buck's Lake.

6 – Information about the City of Le Sueur's statements regarding Mayo Park is included in the April 22, 2010 ALJ Report, finding 491.

Sincerely

Dan Leshner

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**From:** Vicki Wolter [mailto:[vikwolter@gmail.com](mailto:vikwolter@gmail.com)]

# Exhibit B

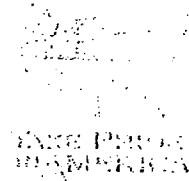


FWS MNV

## United States Department of the Interior

### U.S. FISH AND WILDLIFE SERVICE

Minnesota Valley National Wildlife Refuge  
3815 American Blvd E.  
Bloomington, MN 55425



December 3, 2008

Ms. Angela Piner  
HDR Engineering, Inc.  
701 Xenia Avenue South, Suite 600  
Minneapolis, Minnesota 55416

Dear Ms. Piner:

On November 3, 2008, you requested that the Minnesota Valley National Wildlife Refuge and Wetland Management District (Refuge) provide you with comments for use in your route application for the CapX 2020 Project (Project) to the Public Utilities Commission (PUC). As stated in your letter, the purpose of this Project is to install a new 345 kV transmission line between South Dakota and the Twin Cities Metropolitan area of Minnesota with the goal of improving the capacity and distribution of electricity to the Metropolitan area. Your letter states that, if approved by the PUC, the Project is to be implemented in a way that will minimize the impact to the public and public resources, including wildlife and their habitats.

Although the proposed Project consists of a linear corridor crossing the entire south central portion Minnesota, I am responsible for managing U.S. Fish and Wildlife Service (Service) trust resources in Sibley, Le Sueur, Scott, Rice and Dakota Counties so my comments pertain to only this portion of the project corridor. Service trust resources include migratory birds, Federally listed species of concern, and lands owned, leased, or managed by the Service.

#### Overall Project

Aerial obstructions, including overhead transmission lines and supporting facilities, have been documented to adversely affect migratory birds if those obstructions are not sited or designed to minimize collisions and electrocution. Aerial obstructions are especially hazardous when located in migration corridors, such as river valleys and landscape ridges or passes, and other areas that are especially attractive to wildlife such as wetlands and other waterbodies. As identified in our 2004 Minnesota Valley National Wildlife Refuge and Wetland Management District Comprehensive Conservation Plan, we have plans to continue to acquire lands and develop wildlife habitat resources in the project corridor. Our highest priority areas for acquisition and development in the project area are migration corridors and other areas with high habitat restoration potential. Thus, we have a continuing interest in how project features are sited, designed, constructed, and maintained.

In previous correspondence, we have provided you with a GIS data layer that identifies areas we currently manage and are proposing to acquire in the next few years. As we accomplish our

annual goals, that data layer is updated and would be available for your use as you refine project plans and design. Service's policy regarding adverse effects on these resources is that effects first should be avoided and minimized. Project features to off-set adverse effects is the least desirable mitigation action.

#### Proposed Minnesota River Crossings

Your letter of November 3, identified two proposed locations for the project to cross the Minnesota River at the Sibley - Le Sueur County line. These locations are identified as the Le Sueur crossing and the Belle Plaine crossing. In our evaluation of the relative merits of these crossing locations, we considered both the impacts to our trust resources at the crossing-sites and impacts to resources within the project corridor east and west of the river.

Belle Plaine Crossing The Belle Plaine location has more continuous native flood plain habitat than the Le Sueur location. Also, the Belle Plaine location is within the Refuge's authorized expansion area. However, this site has an existing transmission line. During a September 19<sup>th</sup> on-site meeting, engineers representing Great River Energy stated that the existing line likely would remain at this location and the new 345 kV line would be added directly next to it. This would widen the area cleared of trees and brush and further fragment native floodplain habitat. The new lines likely would be higher in the air than the existing lines and so having both lines at this location would result in obstructions occupying a larger 3-dimensional area than having one transmission line cross the river at a single location. This web of transmission lines would increase the likelihood of strikes by birds using the river corridor.

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

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

Le Sueur Crossing The proposed Le Sueur crossing location supports some native floodplain habitat but includes a water treatment facility and is adjacent to U.S. Highway 169. The water treatment facility is immediately west of the river and next to U.S. 169. The facility is scheduled to be decommissioned in the next three to five years. After decommissioning, these lands, which are already cleared of native floodplain habitat, may enable the transmission line to reach the Minnesota River without additional clearing thereby minimizing resource damage. The Le Sueur crossing has the potential for relatively less adverse effects on our trust resources.

In summary, we prefer the Le Sueur crossing and its southern route at this time. Even this route includes sensitive trust resources and the project should be planned with these in mind. Considering that this project will not be completed until 2020 and our very active habitat acquisition and restoration program, it is likely that our trust resources in the project corridor will

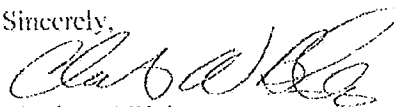
Environmental Scientist, Angela Piner

3

increase over the next 11 years. We wish to continue to be included in discussions as the Sibley, Le Sueur, Scott, Rice, and Dakota County portions of this project are refined. This way we will be able to provide you with up-to-date information regarding our trust resources and appropriate project mitigation features.

Thank you for the opportunity to comment on this project. If you have questions or need any additional information please contact me at 952.858.5900.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Charles W Blair', written in dark ink.

Charles W Blair  
Refuge Manager

# Exhibit C

Remand Direct Testimony and Schedules  
Kevin Lennon

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

In the Matter of the Route Permit  
Application by Great River Energy and  
Xcel Energy For a 345 kV  
Transmission Line From Brookings  
County, South Dakota To Hampton,  
Minnesota

PUC Docket No. E002/TL-08-1474  
OAH Docket No. 7-2500-20283-2

REMAND DIRECT TESTIMONY OF

KEVIN LENNON

On Behalf of

APPLICANTS

GREAT RIVER ENERGY, A MINNESOTA COOPERATIVE CORPORATION,  
AND  
NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION

September 10, 2010

Exhibit \_\_\_\_

eDocket Document ID  
20109-54338-07



1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND YOUR BUSINESS ADDRESS.**

3 A. My name is Kevin Lennon and my business address is 12300 Elm Creek  
4 Boulevard, Maple Grove, Minnesota 55369.  
5

6 **Q. HAVE YOU PREVIOUSLY PROVIDED DIRECT, REBUTTAL AND SUPPLEMENTAL**  
7 **TESTIMONY ON BEHALF OF THE APPLICANTS IN THIS PROCEEDING?**

8 A. Yes. I provided all three (Exhs. 104, 105 and 141, respectively).  
9

10 **Q. WHAT IS THE PURPOSE OF YOUR REMAND DIRECT TESTIMONY?**

11 A. The purpose of my Remand Direct Testimony is to provide information on the  
12 engineering and design constraints of the two Lower Minnesota River crossings  
13 and cost estimates for the crossover routes.  
14

15 **Q. PLEASE IDENTIFY THE SCHEDULES ATTACHED TO YOUR TESTIMONY.**

16 A. Schedule 1: Photograph Simulation of Double-Circuit 345 kV Transmission  
17 Lines Adjacent to the Existing 69 kV Transmission Line at the  
18 Minnesota River Crossing in Belle Plaine

19 Schedule 2: Photograph Simulation of Side-by-Side 345 kV Transmission  
20 Lines Adjacent to the Existing 69 kV Transmission Line at the  
21 Minnesota River Crossing in Belle Plaine  
22

1 Permitting agencies may have concerns that arise after the Commission issues a  
2 Route Permit. In the case of the Lower Minnesota River crossing, Applicants  
3 must work with the Minnesota Department of Natural Resources ("MnDNR"),  
4 the United States Fish and Wildlife Service ("USFWS"), and the United States  
5 Army Corps of Engineers to determine the appropriate structure design. These  
6 discussions will occur after the Commission has issued a Route Permit for the  
7 Cedar Mountain—Helena segment of the Project.

8  
9 Structure design flexibility is also needed in the event that constraints, such as  
10 changes in soil type, topography, span length and height restrictions, are  
11 encountered during surveying or construction. This is especially true in areas of  
12 river crossings. The length of the crossing, along with the topography and soil  
13 conditions near the river's edge may require a different structure than initially  
14 anticipated. Adjustments to alignments and structure locations may also be  
15 made when working with affected landowners.

16  
17 These constraints will not be fully known until Applicants begin site inspection,  
18 surveying, and land acquisition after the final route has been determined.  
19

*This will add to costs in  
BP - soil issues  
silty hillsides*

20 **Q. DURING THE INITIAL CONTESTED CASE PROCEEDINGS, APPLICANTS STATED**  
21 **THAT POTENTIAL DESIGNS AT THE BELLE PLAINE CROSSING INCLUDE A**  
22 **DOUBLE CIRCUIT H-FRAME 345 KV OR SIDE-BY-SIDE H-FRAMES. HAVE**  
23 **APPLICANTS PREPARED ANY PHOTOGRAPH SIMULATIONS?**

24 **A.** Yes. Applicants have prepared photograph simulations of two possible structure  
25 designs/configurations for the Belle Plaine crossing. The first simulation that is  
26 attached to my testimony as **Schedule 1** is what the crossing may look like if

1 double-circuit H-Frame 345 kV structures were to be installed adjacent to the  
2 existing 69 kV transmission line at the Belle Plaine crossing.

3  
4 The second simulation that is attached to my testimony as **Schedule 2** is what  
5 the crossing may look like if side-by-side H-Frame 345 kV structures were  
6 installed adjacent to the existing 69 kV transmission line at the Belle Plaine  
7 crossing.

8  
9 These simulations are purely conceptual. More design work and consultation  
10 with the appropriate state and federal agencies will determine what the actual  
11 structures will look like in their final form.

12  
13 **Q. DID APPLICANTS PREPARE ANY PHOTOGRAPH SIMULATIONS FOR THE LE**  
14 **SUEUR CROSSING?**

15 A. No.

16  
17 **Q. WHY WERE PHOTOGRAPH SIMULATIONS NOT PREPARED FOR THE LE SUEUR**  
18 **CROSSING OF THE LOWER MINNESOTA RIVER?**

19 A. The simulations attached to my testimony were created in connection with  
20 discussions with the USFWS and the Department of Commerce Office of  
21 Energy Security ("OES") specifically regarding the potential visual impacts of  
22 structure designs that might be possible at the Belle Plaine crossing.

1 Q. DURING THE CONTESTED CASE PROCEEDINGS, APPLICANTS ALSO PROPOSED  
2 THE MYRICK ALIGNMENT ALTERNATIVE ON THE EAST SIDE OF THE LOWER  
3 MINNESOTA RIVER NEAR LE SUEUR. HAVE APPLICANTS FURTHER  
4 EVALUATED ENGINEERING AND DESIGN REQUIREMENTS FOR THIS  
5 ALIGNMENT?

6 A. Yes. Since the record closed, Applicants have continued to evaluate engineering  
7 design options at both crossings. During these six months of further review, the  
8 Applicants identified some engineering concerns due to the Myrick Alignment  
9 Alternative on the Modified Preferred Route that, while not insurmountable, do  
10 present design challenges. Some of these challenges are not present at the Belle  
11 Plaine crossing.

13 Q. PLEASE DESCRIBE SOME OF THE ENGINEERING CHALLENGES AT THE LE  
14 SUEUR CROSSING.

15 A. The primary engineering challenges relate to the topography and the retention  
16 ponds at the Le Sueur crossing. will be disabled

17  
18 The location of level worksites often dictates the placement of structures because  
19 level working areas are required for the installation equipment. On the Myrick  
20 Alignment Alternative, south of US 169, the severe slope and ravines limit  
21 possible locations where structures can be placed. This constraint may result in  
22 longer spans, wider easements, more tree clearing, and taller poles which may  
23 create greater aesthetic impacts. Conversely if spans were shortened to  
24 accommodate level worksites, more poles would be required. Access for repairs  
25 and maintenance is also a consideration. Because of the steeper terrain near Le  
26 Sueur, an access road to each structure location may have to be constructed to

They will have no  
access to at least 1-1 1/2 miles  
of the line during any normal flooding  
in the Belle Plaine area. No roads can be  
built due to retention ponds and flood plaine.

1 accommodate construction and maintenance equipment. Because of the  
2 topography and slope of the Myrick Alignment Alternative, additional angle  
3 structures are likely to be required.

4  
5 Retention ponds are an issue at both the Le Sueur and Belle Plaine crossings, but  
6 the constraints are more significant at Le Sueur. As the alignment for the Le  
7 Sueur crossing has been modified to address agency concerns, the retention  
8 pond crossing at Le Sueur has become more difficult. (The Myrick Alignment

9 Alternative requires that the line be moved away from the retention ponds to the  
10 east side of US 169. This area is more flood-prone and has unstable soils. At the  
11 Belle Plaine crossing, the elevation is higher and less flood prone and, relatively  
12 speaking, has firmer soil.)

13 *no evidence at all to*  
14 *substantiate this statement - no soil*  
15 *borings have been done*  
16 Based on these considerations, the Belle Plaine crossing is preferable from an  
17 engineering perspective.

### 17 III. CROSSOVER ROUTE COSTS

18 Q. HAVE YOU REVIEWED THE TWO CROSSOVER ROUTES UNDER  
19 CONSIDERATION DURING REMAND?

20 A. Yes.

How close to home to make it inhabitable?  
no legal or technical rules

1 Q. HAVE YOU EVALUATED THE COSTS FOR THE PROJECT IF CONSTRUCTED  
2 FROM THE CEDAR MOUNTAIN SUBSTATION TO THE HELENA SUBSTATION  
3 ALONG THE MODIFIED PREFERRED ROUTE, THE GIBBON CROSSOVER  
4 ROUTE, AND THE ARLINGTON CROSSOVER ROUTE?

5 A. Yes. Based on preliminary evaluations, the Modified Preferred Route and the  
6 Gibbon Crossover Route are estimated to have comparable costs between the  
7 Cedar Mountain Substation and the Helena Substation. The Modified Preferred  
8 Route with the Myrick Alignment Alternative is likely to require more angle  
9 structures to accommodate the topography. An additional four (4) miles of line  
10 would also be required to connect with the north Helena Substation site. These  
11 requirements are expected to add approximately \$13 million to the original  
12 Modified Preferred Route estimate between the Cedar Mountain and Helena  
13 substations.

14  
15 A summary of the estimated costs of the routes are as follows (excluding the cost  
16 of substation construction):

- 17 • Cedar Mountain Substation to Helena Substation using the Modified  
18 Preferred Route and the Myrick Alignment Alternative: \$165 million  
19 (2010\$).
- 20 • Cedar Mountain Substation to Helena Substation using the Gibbon  
21 Crossover Route: \$168 million (2010\$).
- 22 • Cedar Mountain Substation to Helena Substation using the Arlington  
23 Crossover Route: \$186 million (2010\$).

24 3-21 million

25 These estimates are based on our current knowledge of the area. The evaluation  
26 of environmental impacts for the Gibbon Crossover Route and the Arlington

Buy the farm.

What about additional operating and maintenance  
costs per mile?

Cost passed on to public.

1 Crossover Route are provided in the Remand Direct Testimony of Daniel  
2 Leshner.

3  
4 **IV. CONCLUSION**

5 **Q. DOES THIS CONCLUDE YOUR REMAND DIRECT TESTIMONY?**

6 A. Yes.

7  
8 2694699v1



# Belle Plaine Bridge problems with artesian conditions.

## Exhibit D

Minnesota Department of Transportation

### Memo

Office of Bridges and Structures  
Mail Stop 610  
3485 Hadley Avenue North  
Oakdale, MN 55128-3307

Office Tel.: 651/747-2160  
Fax: 651/747-2115

Date: January, 12<sup>th</sup>, 2005

To: Andrea Hendrickson  
State Hydraulic Engineer

From: Petra DeWall  
Asst. State Hydraulic Engineer

Subject: S.P. 7209-08  
TH 25 over Minnesota River  
Sec. 31, Twp. 114N, R. 24W, in Sibley County, City of Belle Plaine  
Replacement of Bridge #5260  
New Bridge #72012  
Waterway Analysis-Revised

As requested, we have analyzed the waterway needs for the above crossing. The inplace structure, Br #5260 was built in 1934 and has had a history of scour problems. In 1952 the depth of scour had totally exposed the footings and half of the piling at the bridge. The highest recorded flow rate at the gage at Jordan, Minnesota before the repairs in 1952 was 62,900 cfs. Riprap was placed around the piers and the center of the channel was protected by stone paving to elevation 680. The flood of record occurred in 1965 (101,500 cfs) and no damage was reported occurring at the piers. The riprap was replaced at the abutments after a major flood in 1993 (92,200 cfs) and no problems were noted after succeeding major events. Measurements were taken during the 2001 flood and the protection held, see plot in (fig 1).

Although the protection at the bridge has held for over 50 years, local scour holes have formed downstream of the bridge. These holes were noted in soundings taken in 2001 and 2003, see attached contour map (fig 2) of the river bottom showing the data collected in 2003. The soundings taken in May of 2001 showed the holes went down to elevation 658.

Borings were taken at the site and an artesian condition was discovered at the proposed pier location. The elevation of the artesian confining layer was measured at ~640. Foundations are currently being designed so that the piling does not puncture this layer. The proposed foundations at this structure will be exposed if the calculated scour depth for the 500 year event is reached. It is recommended that the riprap used on the abutment slopes be extended out to also protect the piers. See attached sketch (fig 3) for proposed placement of riprap.

As advised in HEC No. 23, it is recommended that a "wait and see" approach to the installation of further countermeasures be used at this structure. A spur dike was considered, but due to wetland and right of way issues, it was felt that the stability of the inplace protection and a larger waterway opening at the proposed bridge would be sufficient. In the absence of a spur dike at this location, it is recommended that riprap be extended on the NW embankment to 1' above the 100 year water



surface elevation, for a distance of 200'. To determine whether additional countermeasures will be required, monitoring should be done. A basic line stream bottom survey must be done upon completion of the bridge and additional readings taken after major flooding events to see that the removal of some of the stone paving, the increased bridge opening and the riprap protection is working as expected.

### Hydraulic Data

* Stream name	Minnesota River
Drainage area	16010.00 mi <sup>2</sup>
Flood of record (1965)	101500 ft <sup>3</sup> /s
Maximum observed highwater elevation	NA
* Design flood (50-year frequency)	90300 ft <sup>3</sup> /s
Road sag point elevation	734.1
Design stage	728.4
Total stage increase	0.4 ft
* Headwater elevation	728.8
Stage increase of the in place condition	0.5 ft
Minimum waterway opening	16931.5 ft <sup>2</sup>
below elevation	728.2
Low member at or above elevation	734.2
Mean velocity through structure	5.3 ft/s
Main channel velocity	3.2 ft/s
* Greatest flood (500-year frequency)	179000 ft <sup>3</sup> /s
Road sag point elevation	734.1
Stage	735.3
Total stage increase	0.9 ft
* Headwater elevation	736.2
Stage increase of the in place condition	1.3 ft
Mean velocity through structure	8.7 ft/s
Main channel velocity	3.9 ft/s
Estimated scour elevation	648.6
* Basic flood (100-year frequency)	114000 ft <sup>3</sup> /s
Stage	730.5
Total stage increase	0.5 ft
* Headwater elevation	731.0 ft
Stage increase of the in place condition	0.7 ft
Mean velocity through structure	6.3 ft/s
Main channel velocity	3.3 ft/s
** Estimated scour elevation	658.3
Approximate flowline elevation	690.0
Skew	15°
Riprap size	Class V Riprap over filter material

\* Items to be shown on bridge plan

\*\* Scour elevations are given for both the 500 and 100 year events as the 500 year is below the recommended end of piling elevation (650). Protection and monitoring are recommended at this location due to the artesian condition.

All elevations are given in NAVD 88 datum

D. Dorgan- State Bridge Engineer  
 V. Svensson- Bridge Planning and  
 Hydraulics Engineer  
 R. Cekalla - Preliminary Plan Engineer  
 S. Morgan- District Hydraulics Engineer  
 R. Sinn- District Project Manager  
 K. Molnau  
 K. Western



## Minnesota Department of Transportation

### Memo

Office of Materials & Road Research  
Geotechnical Engineering Section  
Mailstop 645  
1400 Gervais Ave  
Maplewood, MN 55109

Office (651) 779-5599  
Fax: (651) 779-5510

**Date:** October 7, 2004

**To:** Daniel Dorgan, State Bridge Engineer  
Office of Bridges and Structures  
Mail Stop 610, Oakdale

**From:** Blake E. Nelson, P.E. *BEN*  
Foundations Unit

**Subject:** S.P. 7209-08, Bridge 72012 Replacing 5260.  
T.H. 25 Over Minnesota R., NW. of Belle Plaine  
Foundations Recommendations

#### Project Description

The above referenced project involves replacing existing Bridge 5260, a three-span overhead truss supported on wood piling with new Bridge 72012. Layout sheet No. 1 of 1 dated 5/7/2002 shows the new structure to be a three-span 586' structure. The centerline profile grade will increase about 8' at new abutment locations. The south abutment will be moved 68' south and the north abutment will be moved 66.3' north of the existing abutment.

#### Field Exploration

Two borings were taken behind each of the in-place abutments. The first two (T-1 {#65395} and T-2 {#65396}) were taken in 1978 and the more recent borings (T-1 {#62885} and T-4 {#62887}) in 2003. Another boring, T-3 {#62886} was taken in the river bottom near the north pier. Two CPTs were pushed near T-3 in the river bottom and an additional 31 were pushed around the four corners of the approach embankments.

The south abutment is nearest the city of Belle Plaine. Borings at the south abutment were drilled along the right hand shoulder of the highway starting at approximately elevation 742. Loamy fine sand was the most common soil type but some layers of slightly plastic silt loam and traces of organic matter were also found. Water was measured at elevations 712 and 719 in the borings. Field blow counts ranged from about 3 to 19 bpf down to an elevation of about 680. Both borings found a weak spot in this region. The 1978 found 3 bpf at elevation 710 and a "weight of rod" condition at elevation 690 and the 2003 boring found a "weight of hammer" at 710. Unconfined compression tests near the weak layers had cohesions of 350 and 830 psf. Dry densities were 92.3 and 85 pcf and moist densities were 119 and 114 pcf.

About 60 feet down (elevation 680) in both borings the blows showed a sudden and sustained increase from about 45 to 55 bpf for the duration of the borings near elevation 637. The soil type was still sand, loamy fine sand and fine sandy loam.

Note that the existing tapered timber piling average tip elevation is 674 for the south abutment or about 6' into the stiff soils found in our borings.

The north abutment borings, T-2 in 1978 and T-4 in 2003, were taken off the left shoulder

behind the existing abutment of the inplace highway. Starting at approximately elevation 740 the soil types were very similar to the south abutment borings and consisted of sands, fine sand, loamy sand and some slightly plastic sandy loam till. Field blow counts ranged from mostly 5 to 20 bpf to elevation 680. Back to back 1 bpf results were found near elevation 705 in the most recent boring. Water was measured at approximately elevation 705 in the 1978 boring and 718 in 2003.

The next 20 feet of drilling found changing soil conditions in both borings. The SPT results bounced around in the 22-33 bpf range but have some 7-10 bpf silty clay loam. A cohesion of 290 psf was found in 1978 with a dry density of 88.7 and field density of 116.3 pcf. Both borings below 85' or about elevation 655 things got noticeably harder with blows ranging between 43 bpf and 75 in 0.8'. The deepest boring went down to about elevation 610.

The inplace timber piling for the north abutment were driven to an average tip elevation of 666.

Low river conditions during boring T-3 drilling for the north pier allowed for access on an exposed sand bar, elevation 699. This boring encountered water within one-foot of the surface. SPT blows ranged from "weight of hammer to 10 in the upper 30 feet. Soil consisted of fine sand in this region. Below about elevation 670 to the end of the boring at elevation 624 very dense loamy very fine sand, fine sand, thinly varved silts and some gravel were encountered. Blows ranged from 42 to 90 bpf.

CPT results for soundings CA01 (unique no. 63049) and CA02 (63050) taken on the river sand bar near boring T-3 encountered somewhat easy pushing in the upper 38' before an abrupt increase in tip resistance at elevation 661.

Average tip elevation of the inplace timber piling is elevation 659 or five to ten feet of penetration into the dense soil as compared to boring T-3 or just several feet penetration compared to the CPT results. The August 18, 2004 Bridge Office Hydraulics report noted scour holes near the bridge measured down to elevation 658.

Details may be found on the attached boring logs. CPT logs C01-C31 (unique nos. 64425-64455) are also attached for review. Most of the CPT logs show a stiff layer beginning around elevation 687 to 683. This is consistent with all four of the abutment borings that found firm soil beginning at about elevation 680.

### **Artesian Encountered**

This boring had 23.5' of hollow stem augers on the top portion of the hole during drilling. The hole was grouted upon completion of drilling but before the final 18.5' of auger could be removed a flowing artesian developed pushing the grout out of the augers. Twenty feet of head and a flow estimated at 400 gpm began. After the hollow stem augers were raised to 20' above the sand bar to control the hydraulic head on the flow the artesian blew out around the outside of the augers. The augers were then lowered using a cable without noticeable resistance to a depth of about 55'. The augers were then advanced ten more feet using the drill rig. Again the artesian blew out around the outside of the augers creating a large void about ten feet in diameter.

A series of progressively more rigorous attempts were made to seal the artesian during the next month without success. Attempts included using Baroid, sandbagging, dumping sand and gravel in the crater, sinking a low permeability geotextile, diverting the flow, pumping neat cement grout and pumping a quick setting sodium silicate-portland cement mix. All attempts to

seal the hole failed and the flow did not appear to slow down except for a short time during sealing attempts. Other ideas included installing a cofferdam around the area to confine and control the flow before sealing.

The exact elevation at which the artesian is coming from or if there might be multiple artesian in the river bed at different elevations cannot be stated with certainty. In review, the artesian blew in when the casing was pulled to 20'. One cannot assume all the flow is coming from the very bottom of the boring (75') or that in any given location under the river an artesian may or may not exist. Clay type confining soils were not encountered to whereby an artesian can be easily predicted at a given elevation but the most likely confining layer appears to be the thinly varved silts in a ten-foot soil layer from elevation 649.1 to 639.1.

Spring flooding and early summer rains raised the river elevation 12' or more inundating the hole, reducing head differential and sweeping large sediment loads across the area. Subsequent investigations in the flowing Minnesota River during August 2004 by the District and the Geotechnical Section with the great help of many well coordinated employees too numerous to name using a variety of special equipment, ideas and hard work revealed the artesian had stopped flowing.

### **Geotechnical Analysis**

#### **Stability**

The eight-foot grade increase with some questionable soils raises some concern for the global stability of the approach embankments. Apparently for hydraulic opening requirements of the new bridge during flood stage the loading for grade increase has been offset and even reduced by the proposed longer bridge and associated 20' wide bench areas above elevation 720. Note again the existing roadway elevation is somewhat over elevation 740. Plans show the new south abutment location 68' back from the existing abutment and the new north abutment 66.3' further back from where the north abutment is located. This should result in flatter slopes and less load for driving moment to cause instability than the existing condition. Cross sections were not available but once off the existing bridge the roadway embankment appears wide enough to accommodate the new conditions. Should embankment widening be needed a review of the stability should be done. Furthermore it is assumed no embankment surcharges will be used.

#### **Piling**

Static pile analysis calculations were done for the abutments and the piers to predict capacity, pile length and a target tip elevation such that it can be seen how scour, possible artesian and capacity inter relate.

Twelve-inch pipe pile driven to a tip elevation of 666 for the north abutment will have an allowable capacity of 68 tons using a factor of safety of two. Depending on the boring used in the calculations this pile could go another ten feet deeper.

The south abutment piles if driven to elevation 675 will have an allowable capacity in excess of 68 tons with five feet of penetration into very firm sands. Monotube pile 8"x14"x25' will have an allowable capacity of 143 tons.

The piers were investigated for options including a monotube, 12" and 16" pipe pile. The monotube was of interest to see if capacity could be gained without excessive length being driven into the artesian zone. An 8"x14"x25' monotube section was found to have an allowable capacity of only 34 tons if driven to elevation 660. This was for several reasons. First, due to potential scour conditions the skin friction was subtracted off the total capacity. Secondly, the small tip area did not add as much capacity as other pile

SP 7209-08, T.H. 25  
Bridge 72012  
October 7, 2004

types would. Most of the capacity is in end bearing because of the hard layer at the tip and soft scourable soils along the shaft.

Next, the 12" closed end pipe pile was investigated for the same length. The tip is again at elevation 660 but the pile length will depend on where the bottom of the footing is located. This elevation is 40' below the river bottom where boring T-3 was taken. Twenty-one tons of capacity were ignored due to scour and still it was found to have 154 tons ultimate capacity or 77 tons allowable.

Finally, a 16" closed end pipe pile was investigated for a tip elevation of the same 660. Results indicated an allowable capacity of 137 tons.

### **Recommendations**

Based on the existing conditions along with an analysis of the project soils, we recommend:

1. Strip and remove any topsoil from the fill areas.
2. Drive 12" pipe pile to elevation 666 at the north abutment for a predicted capacity of 68 tons.
3. Drive 12" pipe pile to elevation 675 at the south abutment for a predicted capacity of 68 tons.
4. Drive 12" or 16" pipe pile for the piers to elevation 660 for a predicted capacity of 77 tons or 137 tons, respectively. Scour considerations may increase the predicted lengths.

### **Attachments:**

Hollow-Stem Auger Borings T-1, T-3 & T-4 (Unique Nos. 62885-62887), T-1 and T-2 (Unique Nos. 65395-65396) and CPT Soundings CA01-CA02 (Unique Nos. 63049-63050) and C01-C31 (Unique Nos. 64425-64455).

cc: G. Engstrom  
G. J. Person  
J. Hager  
C. Kremer  
File (2)

Exhibit  
E

THE SCOTT, FORESMAN  
ROBERT'S RULES  
OF ORDER ®®®®  
Newly Revised

The Only Complete, Up-to-Date Version  
Revised for the Eighties

the floor in most business meetings. In great assemblies or conventions, or in bodies which must handle a heavy agenda (40) or complex issues, additional situations often occur where the best interests of the assembly require the floor to be assigned to a claimant who was not the first to rise and address the chair. For the rules governing these cases, see 41.

#### §4. THE HANDLING OF A MOTION

The handling of a motion varies in certain details according to conditions. In the ordinary case there are six essential steps—three by which the motion is *brought before the assembly*, and three in the *consideration* of the motion.

##### How a Motion Is Brought Before the Assembly

The three steps by which a motion is normally brought before the assembly are as follows:

- 1) A member *makes* the motion. (The words *move* and *offer* also refer to this step. A person is said to "make a motion," but he uses the word "move" when he does so. He is also said "to move" a particular proposal, as in "to move a postponement.")

##### \* 2) Another member *seconds* the motion.

- 3) The chair *states the question on the motion*. (The step of stating the question on the motion should not be confused with *putting the question*, which takes place later and means putting the motion to a vote.)

Neither the making nor the seconding of a motion places it before the assembly; only the chair can do that, by the third step (stating the question). When the chair has stated the question, the motion is *pending*. It is then open to debate (if it is a main motion or one of several other *debatable* parliamentary motions, which are described in later chap-

ters). If the assembly decides to do what a motion proposes, it *adopts* the motion, or the motion is *carried*; if the assembly expressly decides against doing what the motion proposes, the motion is *lost*, or *rejected*.

**MAKING A MOTION.** To make a main motion, a member must obtain the floor, as explained above, when no other question is pending and when business of the kind represented by the motion is in order. The member then makes his motion, in simple cases by saying, "I move that . . . [announcing what he proposes in a wording intended to become the assembly's official statement of the action taken]." For more important or complex questions, or when greater formality is desired, he presents the motion in the form of a *resolution*. The usual wording then is, "I move the adoption of the following resolution: '*Resolved*, That . . .'; or, "I offer the following resolution: '*Resolved*, That . . .'" A resolution or a long or complicated motion should be prepared in advance of the meeting, if possible, and should be put into writing before it is offered. The mover then passes it to the chair as soon as he has offered it. If conditions make it impractical for a member offering a written resolution to read it himself, he should sign it and pass or send it to the chair ahead of time (in a large meeting, often by page or messenger), or he can deliver it to the secretary before the meeting. In such a case the member offers his resolution by saying, "I move the adoption of the resolution relating to . . . which I have sent to the chair [or "have delivered to the Secretary"]." The chair then says, "The resolution offered by Mr. A is as follows: . . . [or, "The Secretary will read the resolution offered by Mr. A"]." (For additional information on the proper form for main motions and resolutions, see 10.)

As soon as a member has made a motion, he resumes his seat. He will have the right to speak first in debate, if he wishes, after the chair has stated the question. If the motion has not been heard or is not clear, another member can ask



that it be repeated, which the chair can request the maker or the secretary to do, or can do himself.

It should be noted that, under parliamentary procedure, discussion of any subject is permitted only with reference to a pending motion. When necessary, a motion can be preceded by a few words of explanation, which must not become a speech; or a member can first request information, or he can indicate briefly what he wishes to propose and can ask the chair to assist him in wording an appropriate motion. In general, however, when a member has obtained the floor while no motion is pending—unless it is for a special purpose, such as to ask a question—he makes a motion immediately. Any desired improvements upon the member's proposal can be accomplished by several methods after the motion has been made. (For summary, see p. 93.) For a member to begin to discuss a matter while no question is pending, without promptly leading to a motion, implies an unusual circumstance and requires permission of the assembly (see 32) in addition to obtaining the floor. Although the rules in this paragraph can sometimes be relaxed in a very small body, an observance of their spirit can be an important factor in achieving a rapidly moving and interesting meeting.

SECONDING A MOTION. After a motion has been made, another member who wishes it to be considered says, "I second the motion," or, "I second it," or even, "Second!"—without obtaining the floor, and in small assemblies without rising.\* In large assemblies, and especially in those where nonmembers may be seated in the hall, the seconder should stand, and without waiting to be recognized should state his name (with other identification, if appropriate) and say, "Mr. President [or "Mr. Chairman"], I second the motion."

If no member seconds the motion, the chair must be sure that all have heard it before proceeding to other business.

\*Motions need not be seconded in a small board or a committee.

In such a case the chair normally asks, "Is there a second to the motion?" In a large hall he may repeat the motion before doing so. Or, if a resolution was submitted in writing and read by the chair or the secretary rather than by the mover (as described on p. 27), the chair may say, "Mr. A has moved the adoption of the resolution just read. Is there a second to the resolution?" If there still is no second, the chair says, "The motion [or "resolution"] is not seconded"; or, "Since there is no second, the motion is not before this meeting." Then he immediately says, "The next item of business is . . ."; or, if appropriate, "Is there any further business?"

A second merely implies that the seconder agrees that the motion should come before the meeting and not that he necessarily favors the motion. A member may second a motion because he would like to see the assembly go on record as rejecting the proposal, if he believes a vote on the motion would have such a result. A motion made by direction of a board or a committee (of more than one person) requires no second from the floor, since its introduction has been directed by a majority vote within the board or committee and is therefore desired by more than one member.

The requirement of a second is for the chair's guidance as to whether he should state the question on the motion, thus placing it before the assembly. Its purpose is to prevent time from being consumed by the assembly's having to dispose of a motion that only one person wants to see introduced.

In handling routine motions, less attention is paid to the requirement of a second. If the chair is certain that a motion meets with wide approval but members are slow in seconding it, he can state the question without waiting for a second. However, until debate has begun in such a case—or, if there is no debate, until the chair begins to take the vote and any member has voted—a point of order (see 23) can be raised that the motion has not been seconded; and then

the chair must proceed formally and ask if there is a second. Such a point of order should not be made only for the sake of form, if it is clear that more than one member wishes to take up the motion. After debate or the taking of a vote has begun, the lack of a second has become immaterial and it is too late to make a point of order that the motion has not been seconded. If a motion is considered and adopted without having been seconded—even in a case where there was no reason for the chair to overlook this requirement—the absence of a second does not affect the validity of the motion's adoption.

For lists of certain parliamentary motions that do not require a second, see tinted pages 42–43.

THE STATING OF THE QUESTION BY THE CHAIR. When a motion that is in order has been made and seconded, the chair formally places it before the assembly by *stating the question*; that is, he states the exact motion and indicates that it is open to debate (and certain other parliamentary processes to be explained in 5 and 6) in the manner indicated below as appropriate to the case:

—The basic form used by the chair in stating the question on an ordinary motion is, "It is moved and seconded that [or "to"] . . . [repeating the motion]. Are you ready for the question?"\* For example, "It is moved and seconded that the Society allocate fifty dollars for . . ."; or, "... that fifty dollars be allocated . . ."; or, "It is moved and seconded to allocate fifty dollars for . . . Are you ready for the question?"

—In the case of a resolution, the chair may state the question by saying, "It is moved and seconded to adopt the following resolution [or, "... that the following resolution be adopted"]": *'Resolved*, That . . . [reading the

\*In stating the question on one of the parliamentary motions that can be neither debated nor amended (see 6), the chair does not include the words "Are you ready for the question?" but *puts the question* (that is, puts it to a vote) immediately after stating it.

resolution].<sup>†</sup> Are you ready for the question?"

—If the chair, in stating the question on a written resolution or motion, wishes the secretary to read it, he may state the question as follows: "It is moved and seconded to adopt the resolution which the Secretary will now read. [Secretary reads resolution, after which the chair continues:] The question is on the adoption of the resolution just read. Are you ready for the question?"

—If a written resolution was not read by the mover but was read by the chair or the secretary before being seconded, the chair may state the question thus: "It is moved and seconded to adopt the resolution just read. Are you ready for the question?"

—The chair at his discretion may also use the form given immediately above in cases where the member offering a resolution has read it clearly and the chair is confident that all members have understood it. In such a case, however, any member has the right to have the motion or resolution read again when the question is stated.

In principle, the chair must state the question on a motion immediately after it has been made and seconded, unless he is obliged to rule that the motion is out of order or unless, in his opinion, the wording is not clear.

Rules and explanations relating to the conditions under which the various motions are out of order will be found particularly in 5, 6, and 7; in 10 (pp. 91–93); and in the first three of the "Standard Descriptive Characteristics" given in the sections on each of the parliamentary motions (11–36). When a member who has legitimately obtained the floor offers a motion which is not in order, the chair may be able, in certain instances, to suggest an alternate motion which would be in order and would carry out the desired intent to the satisfaction of the maker. If the chair is obliged to rule that the motion is out of order, he should say, "The chair rules that the motion is out of order [or "not in order"] because . . . [briefly stating the reason]." (He

# Exhibit G



## Minnesota Board of Animal Health

*Safeguarding Animal Health*

[www.bah.state.mn.us](http://www.bah.state.mn.us)

November 15, 2006

Larry Hartman, EFP Staff  
Department of Commerce  
857th Place East, Suite 500  
St. Paul, MN 55101-2198

Dear Mr. Hartman,

In response to the concern about soil excavation and anthrax, the Board of Animal Health can provide the following information and guidelines. Because anthrax can survive for long periods of time in the ground, disturbance of soil in locations where anthrax affected animals are buried may uncover spores, allowing livestock grazing on these areas to ingest the spores. Livestock that ingest anthrax spores may become infected with anthrax and die. To avoid possible exposure of grazing livestock to disturbed soil that could contain anthrax spores, the Board recommends animals not graze on these locations or that livestock are vaccinated for anthrax vaccine each spring before grazing these areas. The anthrax vaccine is extremely effective in preventing anthrax mortality in livestock when animals are vaccinated annually in the spring.

The Board of Animal Health has statutory authority over anthrax infected livestock and requires persons to report suspected and confirmed cases of anthrax in livestock. Herds that contain anthrax affected animals must be quarantined for 30 days after the mortality has ended. There are also requirements for disposal of affected animal carcasses and cleaning and disinfection of any buildings where animals died of anthrax (Minnesota Rules, Chapter 1705.0010-0050.)

The Board also provides educational materials on anthrax. In recent years, the agency has developed an educational campaign in areas of the state where anthrax has affected livestock, educating livestock producers about anthrax and the preventative measures that can be taken. If you would find it useful, the Board would be willing to provide you with our informational materials for your efforts to inform producers concerned about anthrax in livestock.

I hope you find this information useful in planning and responding to citizen concerns about anthrax in association with pipeline construction.

Sincerely,

A handwritten signature in black ink that reads "Linda C. Glaser, DVM".

Linda C. Glaser, DVM  
Cattle Programs Division

cc: Robert Patton, AICP, Minnesota Dept. Agriculture  
Allen Frechette, Scott County Environmental Health Manager  
Randall E. Duncan, Natural Resource Group, Inc.  
Jayne Griffith, Minnesota Department of Health  
William Hartmann, Minnesota Board of Animal Health

625 North Robert Street • St. Paul, MN • 651-296-2942 • 651-296-7417 FAX • 1-800- 627-3529 TTY  
*In accordance with the Americans With Disabilities Act, an alternative form of communication is available upon request.*

## ANTHRAX MITIGATION PLAN FOR SCOTT COUNTY

### Introduction

Minnesota Pipe Line Company, LLC (MPL) has developed this Anthrax Mitigation Plan to address potential risks associated with pipeline excavation activities in areas of known historical outbreaks of anthrax in livestock in Scott County. The plan provides an overview of anthrax, identifies the locations of historical outbreaks of the disease in the vicinity of the proposed pipeline route of MPL's MinnCan Project, and identifies mitigative measures to minimize the potential for grazing animals in the vicinity of the project to ingest anthrax spores and become infected with the disease.

As indicated by the Minnesota Department of Health in its letter attached in Appendix A, there is little to no risk to humans of contracting anthrax as the result of soil disturbance activities. The construction workers on the project and the landowners in the vicinity of the project are not at risk for contracting the disease as the result of pipeline construction activities. Therefore, this plan addresses concerns related to animal health and not human health.

### Overview of Anthrax

According to information provided on the Minnesota Board of Animal Health's (BAH) website ([www.bah.state.mn.us/diseases/anthrax](http://www.bah.state.mn.us/diseases/anthrax)), anthrax is a naturally occurring disease caused by the bacteria *Bacillus anthracis*. Grazing animals such as cattle, horses, sheep, and goats are most commonly affected by the disease. Since the early 1900s, anthrax has been reported on approximately 200 Minnesota farms located primarily in the southwestern and northwestern parts of the state.

Anthrax spores can occur naturally in the soil of areas with historical outbreaks of the disease and can survive for long periods of time. As indicated in the letter from the BAH attached in Appendix B, soil disturbance activities in locations where anthrax affected animals are buried may uncover spores, which could possibly be ingested by livestock grazing in these areas. The ingested spores could become active and cause the animal to become infected with anthrax. A vaccine is available to prevent livestock in high risk areas from getting infected.

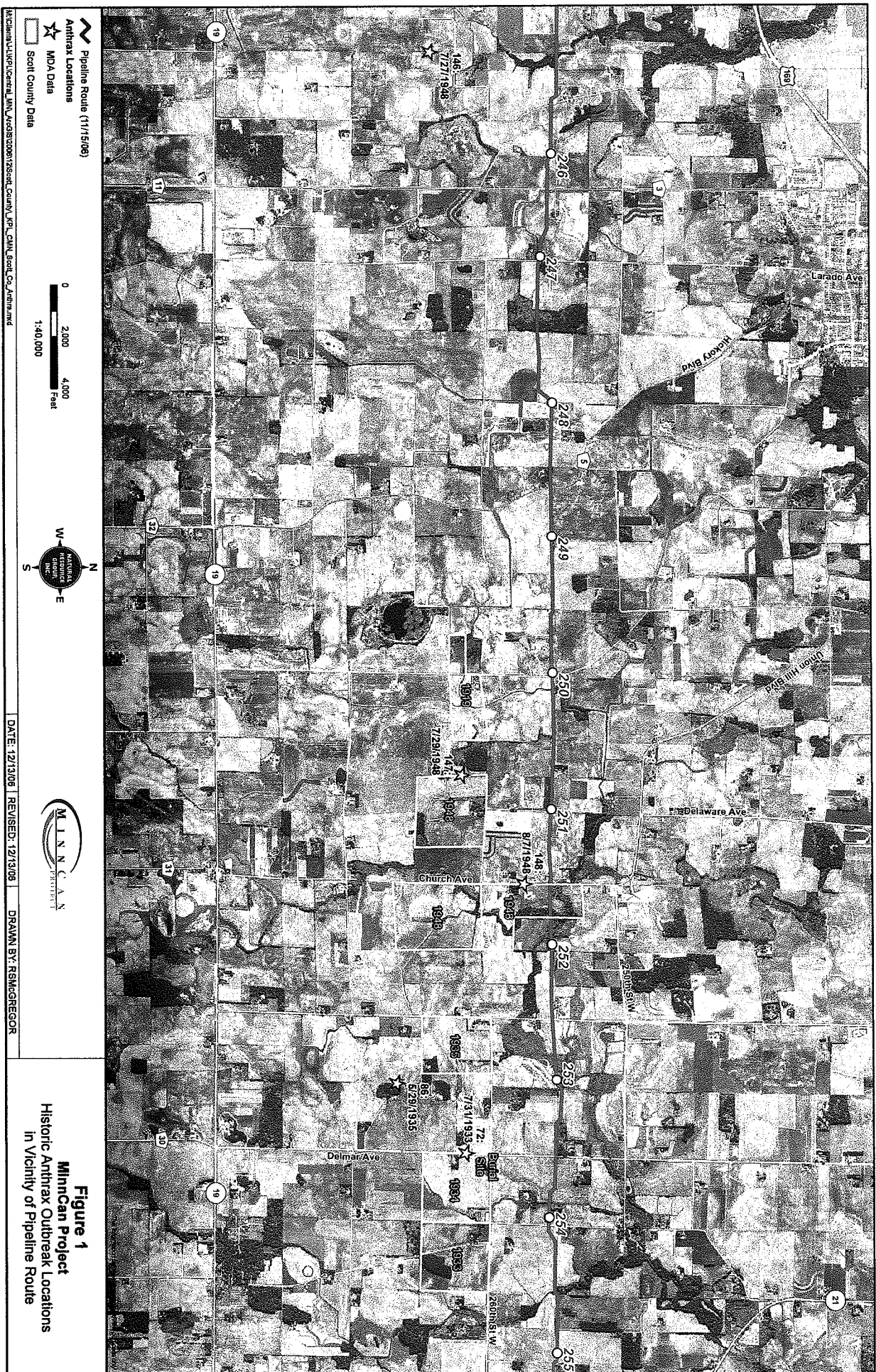
### Locations of Historical Anthrax Outbreaks in Scott County

Based on information provided by Scott County and the Minnesota Department of Agriculture, several farms located in three townships in Scott County (Belle Plaine, Helena, and St. Lawrence Townships) have experienced historical outbreaks of anthrax. These outbreaks occurred between 1919 and 1953. There have been no reported anthrax cases in Scott County since 1953 despite extensive excavation activities that have occurred in the county over the years. The locations of the anthrax outbreaks in the vicinity of the pipeline route are shown on Figure 1. Most of these sites are located south of the pipeline route and only one actual burial site has been documented. The pipeline route crosses one farm at approximate milepost (MP) 251.5 that had an anthrax outbreak in 1948. The landowners do not currently raise livestock on this property, but there are two livestock operations within about 1 mile of this property (see Figure 2).

### **Mitigative Measures to Prevent Anthrax Infection**

To minimize the potential for grazing animals in the vicinity of the MinnCan Project to ingest uncovered anthrax spores and become infected with the disease, the following mitigative measures will be implemented:

- Prior to construction, MPL will notify the landowner of the property with the historical anthrax outbreak crossed by the pipeline route (MP 251.5) of the potential risks to grazing animals as the result of pipeline construction. If this landowner plans to have grazing animals in the vicinity of the construction area, MPL will make arrangements to either fence off the disturbed right-of-way on this property for two years or work with the landowner to have the animals vaccinated.
- Prior to construction, MPL will notify local veterinarians of its proposed activities and inform them of the property with the historical anthrax outbreak that will be crossed by the project.
- Prior to construction, MPL will notify feedlot operators located within 1 mile of the historical-anthrax property at MP 251.5 of its proposed activities (see Figure 2). MPL will work with these operators and their veterinarians to develop a mutually agreeable plan of action to protect the health of their livestock.
- During construction, MPL will implement dust control measures such as watering on the disturbed areas of the historical-anthrax property to minimize windborne transport of spores to adjacent properties.





Vicki Wolter <vikwolter@gmail.com>

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## FW: Brookings-Hampton Cost Information

6 messages

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Dallas Giles <dallas.giles@hotmail.com>  
To: vikwolter@gmail.com

Sun, Aug 22, 2010 at 12:39 PM

Costs from Scott EK

---

From: John.Lambrecht@state.mn.us  
To: dallas.giles@hotmail.com  
Date: Thu, 5 Aug 2010 10:31:16 -0500  
Subject: Fw: Brookings-Hampton Cost Information

Sent from Blackberry

---

**From:** Ek, Scott (COMM) <scott.ek@state.mn.us>  
**To:** Lambrecht, John (DHS) <john.lambrecht@state.mn.us>  
**Sent:** Thu Aug 05 08:58:10 2010  
**Subject:** Brookings-Hampton Cost Information

Mr. Lambrecht,

Per our phone conversation, here is the information you requested.

The total cost of the Project, the information comes from the Administrative Law Judge's Findings of Fact, Conclusion, and Order. You can view the document at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=eDocketsResult&docketYear=08&docketNumber=1474>

Costs include the survey, engineering, materials, construction, right-of-way, and project management associated with the transmission line and substations, is dependent, in significant part, on the length of the transmission lines facilities. The total cost is estimated to be between \$700 million and \$755 million in 2007 dollars. This estimate is subject to change as it can be affected considerably by several variables such as the timing of construction, availability of construction crews and components, and the final route selected by the Commission.

The Modified Preferred Route and its Associated Facilities will cost \$705

million (\$2007) to construct and \$300 to \$500 per mile to operate and maintain.

The Alternate Route and its Associated Facilities will cost \$755 million (\$2007) to construct and \$300 to \$500 per mile to operate and maintain.

The Crossover Route and its Associated Facilities will cost \$724 million (\$2007) to construct and \$300 to \$500 per mile to operate and maintain.

Please feel free to contact me with any questions.

Thank you,

SCOTT EK

Office of Energy Security | Energy Facility Permitting

85 7th Place East, Suite 500 | St. Paul, Minnesota 55101-2198

Office: [651.296.8813](tel:651.296.8813) | Fax: [651.297.7891](tel:651.297.7891)

[scott.ek@state.mn.us](mailto:scott.ek@state.mn.us)

[www.energyfacilities.puc.state.mn.us](http://www.energyfacilities.puc.state.mn.us)

[www.energy.mn.gov](http://www.energy.mn.gov)

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**Vicki Wolter** <[vikwolter@gmail.com](mailto:vikwolter@gmail.com)>  
To: [peddleman17@hotmail.com](mailto:peddleman17@hotmail.com)

Mon, Aug 23, 2010 at 9:52 PM

[Quoted text hidden]

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**Mail Delivery Subsystem** <[mailer-daemon@googlemail.com](mailto:mailer-daemon@googlemail.com)>  
To: [vikwolter@gmail.com](mailto:vikwolter@gmail.com)

Mon, Aug 23, 2010 at 9:52 PM

Delivery to the following recipient failed permanently:

[peddleman17@hotmail.com](mailto:peddleman17@hotmail.com)

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting



the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550 Requested action not taken: mailbox unavailable (state 14).

----- Original message -----

MIME-Version: 1.0

Received: by 10.216.193.195 with SMTP id k45mr5382187wen.32.1282618344296;

Mon, 23 Aug 2010 19:52:24 -0700 (PDT)

Received: by 10.216.183.74 with HTTP; Mon, 23 Aug 2010 19:52:24 -0700 (PDT)

In-Reply-To: <BLU104-W2379D89CC4FDA28B60660C82810@phx.gbl>

References: <50A3BE8C8629B840BB06C75AACA57A680C8793A84D@DHS100EX24.mn-dhs1.co.dhs>  
<BLU104-W2379D89CC4FDA28B60660C82810@phx.gbl>

Date: Mon, 23 Aug 2010 21:52:24 -0500

Message-ID: <AANLkTimX7nDdijKoK+uYRa\_D0za\_C4W\_oA8xHqCvWA5O@mail.gmail.com>

Subject: Fwd: FW: Brookings-Hampton Cost Information

From: Vicki Wolter <vikwolter@gmail.com>

To: peddleman17@hotmail.com

Content-Type: multipart/alternative; boundary=0016e6ddfe0fcb518e048e88da16

----- Forwarded message -----

From: Dallas Giles <dallas.giles@hotmail.com>

Date: Sun, Aug 22, 2010 at 12:39 PM

Subject: FW: Brookings-Hampton Cost Information

To: vikwolter@gmail.com

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Administrative Law Judge's Findings of Fact, Conclusion, and Order.

[Quoted text hidden]

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Vicki Wolter <vikwolter@gmail.com>  
To: Pedalman17@hotmail.com

Tue, Aug 31, 2010 at 9:21 PM

[Quoted text hidden]

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**Vicki Wolter** <[vikwolter@gmail.com](mailto:vikwolter@gmail.com)>  
To: Ben.Hill@state.mn.us

Tue, Feb 8, 2011 at 9:58 AM

----- Forwarded message -----

From: **Vicki Wolter** <[vikwolter@gmail.com](mailto:vikwolter@gmail.com)>

[Quoted text hidden]

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**Dallas Giles** <[dallas.giles@hotmail.com](mailto:dallas.giles@hotmail.com)>

Wed, Feb 23, 2011 at 9:29 PM

To: Orin Kruschke <[okruschke@yahoo.com](mailto:okruschke@yahoo.com)>, Vicki Wolter <[vikwolter@gmail.com](mailto:vikwolter@gmail.com)>, Renee Wagner <[rwagner@mmcd.org](mailto:rwagner@mmcd.org)>, Nancy Giles <[agnng14@hotmail.com](mailto:agnng14@hotmail.com)>, John Lambrecht <[john.lambrecht@state.mn.us](mailto:john.lambrecht@state.mn.us)>, stierbus@frontiernet.net, Jesse Theis <[jtheis@rahr.com](mailto:jtheis@rahr.com)>

FYI

---

From: [dallas.giles@hotmail.com](mailto:dallas.giles@hotmail.com)

To: [kelby@kelbywoodard.com](mailto:kelby@kelbywoodard.com); [rep.kelby.woodard@house.mn](mailto:rep.kelby.woodard@house.mn)

Subject: FW: Brookings-Hampton Cost Information

Date: Wed, 23 Feb 2011 22:28:18 -0500

Good Evening Representative Woodard,

I received your message from this afternoon. Thank you for your follow-up and I was glad to hear your office is actively working on this issue. Please let me know if there is anything people in Belle Plaine can assist with as I am only one of many that have been working on this issue for months.

Below is an interesting email that we received from Scott Ek at the Office of Energy Security back in August. Essentially states that route through Belle Plaine would be 20-50 million dollars (depending on what alternate route was selected) more than the modified preferred (crossing at Le Sueur).

As we have moved through the October public comment period, Great River Energy stated it was more like 4-20 million more for Belle Plaine crossing and then at the Feb. 3rd PUC hearing the commissioners made comments stating the costs were essentially equal.

We are not sure how these costs continue to change and it has been difficult to get a straight answer but again it just doesn't make good sense to come through Belle Plaine. I know that the costs probably don't matter to the energy companies but seeing that any costs will surely be passed onto the public through energy rates it seems that this should also be measured in a decision that the PUC is making.

Thanks again for your continued action.

Dallas  
[715-441-3841](tel:715-441-3841)

---

From: [John.Lambrecht@state.mn.us](mailto:John.Lambrecht@state.mn.us)

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Subject: Fw: Brookings-Hampton Cost Information

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Please feel free to contact me with any questions.

Thank you,

**SCOTT EK**

Office of Energy Security | Energy Facility Permitting

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Office: 651.296.8813 | Fax: 651.297.7891

scott.ek@state.mn.us

www.energyfacilities.puc.state.mn.us

www.energy.mn.gov

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd  
J. Dennis O'Brien  
Thomas Pugh  
Phyllis A. Reha  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Route Permit Application  
for a 345 kV Transmission Line from Brookings  
County, South Dakota to Hampton, Minnesota

ISSUE DATE: September 14, 2010

DOCKET NO. ET-2/TL-08-1474

ORDER GRANTING ROUTE PERMIT

**PROCEDURAL HISTORY**

On December 29, 2008, Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (collectively, the Applicants), filed a route permit application under the full permitting process for 237 – 264 miles of 345 kV transmission line and associated facilities between the existing Brookings County substation near White, South Dakota, and a newly proposed substation near Hampton, Minnesota.

On January 29, 2009, the Commission issued an Order in this docket accepting the Applicants' Route Permit Application as substantially complete. The Order also authorized the OES's Energy Facilities Permitting staff to process the application under the full permitting process in Minn. Rules, Parts 7850.1700 *et seq.*, to name a public advisor in this case, and to establish an advisory task force or task forces and develop a structure and charge for them.

On February 5, 2009, the Commission issued its Notice and Order for Hearing, referring this matter to the Office of Administrative Hearings (OAH) for a contested case proceeding, including the public hearing required as part of the review of the route permit application.

On April 22, 2010, the Administrative Law Judge (ALJ) assigned to conduct the public hearing and contested case proceeding issued his FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION (hereafter the ALJ's Report).

On May 7, 2010, exceptions to the ALJ's Report were filed by Bimeda, Inc. (Bimeda), No CapX 2020 and UCAN, and Mark Katzenmeyer.

On June 15, 2010, the OES filed a letter and attachment it had received from the U.S. Fish and Wildlife Service (USFWS) dated June 10, 2010 regarding the river crossings at Le Sueur and Belle Plaine.

On July 2, 2010, the OES filed Comments and Recommendations, including a map of the route it was recommending the Commission permit.

The Commission met on July 13 and 15, 2010 to hear oral argument and to consider this matter.

## **FINDINGS AND CONCLUSIONS**

### **I. The ALJ's Report**

The ALJ issued his Report on April 22, 2010. His Report addresses transmission line siting for the applicants' high voltage transmission line route permit for the proposed Brookings to Hampton 345 kV transmission line project, and recommended that the Commission find the OES's Environmental Impact Statement (EIS) adequate.

The ALJ's report consists of a summary of the comments made at the public hearings and the written comments that are part of the record,<sup>1</sup> 565 findings of fact, 16 conclusions, and three recommendations. The ALJ's three recommendations were as follows:

1. That the Commission determine that all relevant statutory and rule criteria necessary to obtain a Route Permit have been satisfied and that there are no statutory or other requirements that preclude granting a Route Permit based on the record.
2. That the Commission grant a Route Permit to Applicants on behalf of themselves and the participating CapX2020 utilities for the facilities delineated in the Report. Specifically, the ALJ recommended that the Commission grant a permit for the Applicants' Modified Preferred Route, which is the Applicants' Preferred Route as modified by the following:
  - The OES's EIS Alternative Route Segment 3P-06 in Underwood Township, Redwood County. The Modified Preferred Route leaves the Preferred Route and heads south between sections 35 and 36 until it comes to the north side of State Highway 19. The Modified Preferred Route continues east for one mile until it joins the Preferred Route at the junction of County Highway 5 and County Highway 12.
  - The OES's EIS Alternative Route Segment 3P-04 in Eden Township in Brown County is approximately 0.5 mile north of 320th Street, where the Modified Preferred Route heads east along the half section line of Section 7 for one mile.

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<sup>1</sup> See Attachment 1 of the ALJ's Report at pages 102-138.

- The Modified Preferred Route turns north on 330th Avenue for approximately one mile and turns east on the half section line of Section 5. The Modified Preferred Route then turns north on 327th Avenue for 0.5 mile where it rejoins the Preferred Route.<sup>2</sup>

3. That Applicants be required to take those actions necessary to implement the Commission's Orders in this proceeding.

## **II. The OES's Recommendations**

The OES stated that it reviewed the record in this case relative to the standards, criteria and factors to be considered in determining whether to issue a permit for a high-voltage transmission line set forth in the Power Plant Siting Act (Minn. Stat. § 216E.03 and 216E.04) and applicable Commission rules (Minn. Rules, Part. 7850.4000).

The OES also stated that it has taken into account the input of state and federal agencies related to the permissibility of various portions of the alternative routes under consideration, pursuant to Minn. Stat. § 216E.10, subd. 3 (a) and Minn. Stat. § 216E.03, subd. 7(b) (12). The OES stated that in weighing the impacts of the alternative routes, it was guided by the state's policy of choosing locations that minimize adverse human and environmental impacts while insuring continuing electric power system reliability and integrity.

Based on its review, the OES recommended that the Commission adopt the ALJ's Report, with a few minor corrections and clarifications, except as to the ALJ's recommendation of the Minnesota River crossing at Le Sueur.<sup>3</sup> The OES concluded that an aerial crossing of the Minnesota River at Le Sueur was fatally flawed and that the Alternative Crossover Route at Belle Plaine would have fewer impacts.<sup>4</sup> The OES recommended that the Commission adopt its proposed Findings of Fact, Conclusions of Law and Order, which incorporate the ALJ report, with supplemental

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<sup>2</sup> The applicants also developed two alignment modifications and a route width modification, which were incorporated into the Modified Preferred Route: 1) the alignment of the Preferred Route centerline at the Le Sueur Minnesota River crossing was changed to parallel U.S. Highway 169; 2) the Preferred Route width and proposed alignment were changed to avoid the RES Specialty Pyrotechnics, Inc., facilities near Belle Plaine, consistent with the Institute of Makers of Explosives' detailed guidance regarding proximity of transmission line facilities to pyrotechnic facilities; 3) the Preferred Route width was expanded to 3,000 feet for a certain narrow area north of Marshall, Minnesota.

<sup>3</sup> ALJ recommendation 2. A.(1) at page 2 of its Report.

<sup>4</sup> Subsequently, in its July 27, 2010 Order, the Commission referred the issue of the Minnesota River crossing to the OAH for further record development. See *In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, Docket No. ET-2/TL-08-1474, ORDER REMANDING TO OFFICE OF ADMINISTRATIVE HEARINGS (July 27, 2010).

findings addressing the Alternative Crossover Route at Belle Plaine, as well as corrections and clarifications.<sup>5</sup>

The OES also prepared a Route Permit with conditions, in accordance with Minn. Stat. § 216E.03 and Minn. Rules, Part 7850.4600. The OES stated that its draft permit and conditions are based on the record and conditions of past permits issued by the Commission.

### **III. Exceptions to the ALJ's Report**

In his Report, the ALJ stated:

Exceptions must be specific, relevant to the matters at issue in this proceeding, and stated and numbered separately. Proposed Findings of Fact, Conclusions, and Order should be included, and copies thereof served upon all parties.

#### **A. NoCapX/UCAN's Filing Regarding the ALJ's Report**

With respect to the objections raised by NoCapX/UCAN related to the ALJ's recommended Minnesota River crossing at LeSueur, the Commission will defer decision pending return of the issues referred to the OAH for development in its July 27, 2010 Order in this matter.

As to NoCapX/UCAN's other proposed changes, however, the Commission finds the Department's summary of NoCapX/UCAN's proposed changes to the ALJ's Report and the OES's analysis of and recommendations regarding those changes to be reasonable.<sup>6</sup> With respect

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<sup>5</sup> Among the ALJ Findings that the OES recommended the Commission adopt were the following:

3. OES has conducted an appropriate environmental analysis of the Project for purposes of this route permit proceeding and the FEIS satisfies Minn. R. 7850.2500. Specifically, the FEIS addresses the issues and alternatives raised through the scoping process in light of the availability of information and the time limitations for considering the permit application, provides responses to the timely substantive comments received during the DEIS review process, and was prepared in compliance with the procedures in Minn. R. 7850.1000-7850.5600.

4. Applicants gave notice as required by Minn. Stat. § 216E.03, subd. 3a; Minn. Stat. § 216E.03, subd. 4; Minn. R. 7850.2100, subp. 2; and Minn. R. 7850.2100, subp. 4.

5. OES gave notice as required by Minn. Stat. § 216E.03, subd. 6; Minn. R. 7850.2300, subp. 2; Minn. R. 7850.2500, subp. 2; Minn. R. 7850.2500, subp. 7; Minn. R. 7850.2500, subp. 8; and Minn. R. 7850.2500, subp. 9.

6. Public hearings were conducted in communities located along the proposed high voltage transmission line routes. Applicants and OES gave proper notice of the public hearings, and the public was given the opportunity to speak at the hearings and to submit written comments. All procedural requirements for the Route Permit were satisfied.

<sup>6</sup> See Department comments filed July 2, 2010 at pages 11-15.



to those proposed changes, therefore, the Commission will not adopt those proposed changes to the ALJ's Report.

**B. Exceptions by Theresa Ruhland, Bimeda, Inc. and Mark Katzenmeyer**

As to the exceptions taken by Theresa Ruhland, Bimeda, Inc. and Mark Katzenmeyer related to the ALJ's recommended Minnesota River crossing at LeSueur, the Commission finds that the objections raised by these parties relate to the Minnesota River crossing in Segment 4. Since the river crossing route to be permitted for Segment 4 has been referred to the OAH in the Commission's July 27, 2010 Order in this matter for further development, the Commission will defer decision on the exceptions raised by these parties pending return of the river crossing issues from the OAH.

**IV. Objections and Recommendations From Members of the Public Regarding the ALJ's Report**

In his Report, the ALJ summarized the public testimony received at the 17 public hearings that were held in eight different Minnesota communities along the Modified Preferred Route and the Alternate Route between November 30 and December 28, 2009. The ALJ stated:

These Findings summarize many of the significant comments offered during the public hearings. The Administrative Law Judge regrets that he has not summarized everyone's testimony, but much of the testimony offered repeats or is similar in substance to that presented below. The remarks of everyone were heard, read, and considered carefully by the Administrative Law Judge.

In addition, on July 13, 2010, before meeting to deliberate this matter, the Commission received comments regarding the ALJ's recommendations from 29 members of the public.

**A. Minnesota River Crossing**

Several of the July 13, 2010 commenters raised issues related to the ALJ's recommended Minnesota River crossing at LeSueur. As noted above, the Commission has, in its July 27, 2010 Order in this matter, referred the route segment which includes the disputed Minnesota River crossing in Segment 4 to the OAH for further development. Since the river crossing route to be permitted for Segment 4 has been referred to the OAH for further development, the Commission will defer decision on the objections raised by these parties pending return of the river crossing issues from the OAH.

**B. Segment Alternative 6P-06**

The ALJ's recommendation that drew opposition from more commenters on July 13, 2010 than any recommendation concerned route segment 6P-06. The ALJ concluded and recommended as follows:

Selection of Alternative 6P-06 is appropriate. The avoidance of impacts by the Modified Preferred Route on a Buddhist Temple, the Vermillion River and its tributaries, and avoiding a greater number of residences and businesses outweighs the

impacts on agricultural land and the Vermillion River and its tributaries that will occur if Alternative 6P-06 is selected.

Eight members of the public spoke against that recommendation.<sup>7</sup> While the Commission understands the thoughtful and heartfelt concerns raised by the speakers and appreciates this level of involvement in the process, the Commission finds, on balance, that the ALJ properly weighed the multiple considerations involved with this decision and made the correct recommendation. The Commission notes that two members of the public spoke in support of the ALJ's recommendation<sup>8</sup> but emphasizes that its decision to adopt the ALJ's recommendation is not based on weighing the quantity of public opposition or support manifest in the course of this process, but on a weighing of the relevant considerations and seeking the public interest of all.

The ALJ analyzed segment alternative 6P-06 in detail on pages 74 – 79 of his Report, Findings of Fact 341 – 454. The Commission finds that these findings are appropriate and well-founded in the record and will adopt them. This analysis supports the ALJ's Conclusion #7, stated on page 99 of his Report:

The record demonstrates that the Modified Preferred Route, as modified by adoption of Alternative 6P-06 between Lake Marion and Hampton Substations, and its Associated Facilities, satisfies the route permit criteria set forth in Minnesota Statute § 216E.03, subd. 7 and Minnesota Rule 7850.4100.

In addition, the ALJ made specific findings favorable to or neutral to Alternative 6P-06 when reviewing the criteria required to be considered when making a route selection, as detailed below:

The ALJ found and the Commission confirms that the Modified Preferred Route has fewer homes within 0-500 feet from the route centerline compared to the Alternate Route and the Crossover Route and that if the Modified Preferred Route is modified further to incorporate Alternative 6P-06, even fewer homes would be within 0-500 feet from the centerline compared to the Modified Preferred Route.<sup>9</sup>

The ALJ found and the Commission confirms that the record shows that the Modified Preferred Route, and that Route with Alternative 6P-06 included, have fewer aesthetic impacts compared to the Alternate Route and the Crossover Route. The ALJ stated:

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<sup>7</sup> The following individuals objected to the ALJ's recommendation that the Commission issue a route permit for segment 6P-06: see Troy Anderson's comments, part of the transcript of the July 13, 2010 meeting on pages 23-27; Steve Duff's comments on pages 34-37; Rick Klaus' comments on pages 50-52; John Mooney's comments on pages 58-60; Brian Whipke's comments on pages 66-69; Charles Lewis' comments on pages 69-73; Ray Kaufenberg's comments on pages 86 – 95.


<sup>8</sup> Supporting the ALJ's recommendation for segment 6P-06 were Dick Ozmont, whose comments are part of the transcript of the July 13, 2010 meeting at pages 33-34, and Kristen Johnson, whose comments are at pages 65-66.

<sup>9</sup> ALJ Finding of Fact #158.

The Modified Preferred Routes will cause the least amount of aesthetic impacts, and fewer still if Alternative 6P-06 is incorporated. The Modified Preferred Route including use of Alternative 6P-06, is shorter in distance than the Alternate Route or Crossover Route.<sup>10</sup> As a result, the Modified Preferred Route will use fewer poles. In comparison to the Alternate Route and Crossover Route, there are fewer residences within 500 feet of the Modified Preferred Route, and fewer still if Alternative 6P-06 is accepted.<sup>10</sup>

The ALJ found that there are no anticipated impacts to cultural values by constructing the Project along the Modified Preferred Route if Alternative 6P-06 is adopted, which will avoid the crossing of property occupied by a Buddhist Temple in Hampton.<sup>11</sup>

Minnesota high voltage transmission line routing criteria require consideration of the proposed route's impacts to land based economies, specifically agriculture, forestry, tourism, and mining. The ALJ found and the Commission confirms that the record demonstrates that the Modified Preferred Route with Alternative 6P-06 incorporated, will have less of an impact to land-based economies than the Alternate Route and the Crossover Route.<sup>12</sup>

 The ALJ found and the Commission confirms that the record demonstrates that there are fewer archaeological and historic sites within the Modified Preferred Route, and on that Route if Alternative 6P-06 is incorporated, than within either the Alternate Route or the Crossover Route.<sup>13</sup>

The ALJ found and the Commission confirms that operation of the Project along either the Modified Preferred Route (with or without adoption of Alternative 6P-06), Alternate Route, or Crossover Route is not anticipated to cause any long-term impacts to air quality.<sup>14</sup>

The ALJ found and the Commission confirms that the record demonstrates that there are fewer water resources within the Modified Preferred Route (and even fewer still if Alternative 6P-06 is adopted), than within either the Alternate Route or the Crossover Route.<sup>15</sup>

The ALJ found and the Commission confirms that the record demonstrates that there is less impact upon flora within the Modified Preferred Route, with or without Adoption of Alternative 6P-06, than within the Alternate Route or the Crossover Route.<sup>16</sup>

The ALJ found and the Commission confirms that the evidence demonstrates that neither the Modified Preferred Route, the Modified Preferred Route with Alternative 6P-06 incorporated, the Alternate Route, nor the Crossover Route will have significant impacts on fauna.<sup>17</sup>

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<sup>10</sup> ALJ Finding of Fact # 167.

<sup>11</sup> ALJ Finding of Fact #171.

<sup>12</sup> ALJ Finding OF Fact #229.

<sup>13</sup> ALJ Finding of Fact #236.

<sup>14</sup> ALJ Finding of Fact #240.

<sup>15</sup> ALJ Finding of Fact #251.

<sup>16</sup> ALJ Finding of Fact #259.

<sup>17</sup> ALJ Finding of Fact #270.

The ALJ found and the Commission confirms that the record demonstrates that there are fewer threatened and endangered species within the Modified Preferred Route, whether or not Alternative 6P-06 is incorporated, than within the Alternate Route or the Crossover Route. The record also demonstrates that the Modified Preferred Route, or that Route modified by Alternative 6P-06, and Alternate Route would affect only one site identified by the Minnesota County Biological Survey compared to 16 for the Crossover Route.<sup>18</sup>

The ALJ found and the Commission confirms that the design options of the facilities along the Modified Preferred Route, and along that Route as modified by Alternative 6P-06, along the Alternate Route, and along the Crossover Route maximize energy efficiencies, mitigate adverse environmental effects, and accommodate future expansion.<sup>19</sup>

The ALJ found and the Commission confirms that the record demonstrates that the Modified Preferred Route (whether or not that Route is modified by Alternative 6P-06), Alternate Route, and Crossover Route nearly equally use or parallel existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries.<sup>20</sup>

The ALJ found and the Commission confirms that the record demonstrates that the Modified Preferred Route, and that Route as modified by Alternative 6P-06, uses more existing transportation, pipeline, and electrical transmission system right-of-way than either the Alternate Route or Crossover Route.<sup>21</sup>

The ALJ found and the Commission confirms that the record demonstrates the Modified Preferred Route supports the reliable operation of the transmission system whether or not modified further by Alternative 6P-06.<sup>22</sup>

The ALJ found and the Commission confirms that the record shows that the Applicants' Amended Request for a 600 foot-wide route width, except for those areas where they continue to request a width of 1,000 feet to 1.25 miles, for the Modified Preferred Route is consistent with the Power Plant Siting Act (Minn. Stat. Chapter 216E) whether or not modified by Alternate 6P-06.<sup>23</sup>

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<sup>18</sup> ALJ Finding of Fact #278.

<sup>19</sup> ALJ Finding of Fact #284.

<sup>20</sup> ALJ Finding of Fact #291.

<sup>21</sup> ALJ Finding of Fact #305.

<sup>22</sup> ALJ Finding of Fact #307.

<sup>23</sup> ALJ Finding of Fact #543.

### **C. Objections to Other Route Segments**

Robb Schoenbauer objected to the ALJ's recommendation of the Applicant's preferred route for the segment between the Helena and Lake Marion substations and called for further study of the property values along the preferred and alternate routes for this segment. His comments are part of the transcript of the July 13, 2010 meeting at pages 14-18.

Cindy Helmberger also objected to the ALJ's recommendation that the Commission grant a permit for the Applicant's preferred route segment between the Helen and Lake Marion substations. Her comments are part of the transcript of the July 13, 2010 meeting at pages 40-48.

Having considered the comments of Mr. Schoenbauer and Ms. Helmberger, the Commission concludes that on balance the ALJ's recommended route segment is appropriate and will be permitted. Routes are chosen to minimize the overall impact of the route. As the record shows, the ALJ has properly weighed the factors required by statute and rule. Consequently, the Commission will adopt his recommendation.

Daniel Wambeke did not object to the ALJ's recommendation of route segment IP-01 in Lyon County, but requested that the Commission adopt a permit condition requiring the line to be built on the west side of the road between 340<sup>th</sup> Street on the north and 310<sup>th</sup> Street on the south. His comments are part of the transcript of the July 13, 2010 meeting at pages 19-22.

The Commission generally gives the utility discretion to locate the line within permitted route depending on the conditions it encounters within that corridor. The Commission will not impose this requested alignment as a permit condition, but does expect the Company to take reasonable steps to accommodate landowners' interests and concerns within the permitted corridor and will be reviewing the Permittee's final planned alignment before construction begins.

Randy and Carol Schroeder objected to the ALJ's recommendation of route segment 3P-04 and requested that the Commission authorize a different route. Their comments are part of the transcript of the July 13, 2010 meeting at pages 23-27 and 37-40.

Milo Christenson also objected to the ALJ's recommendation of route segment 3P-04, specifically to the ALJ's recommendation that the Commission permit a route along the half-mile section of Section 5 of Eden Township in Brown County. His comments are part of the transcript of the July 13, 2010 meeting at pages 54-58.

Having considered the comments of Randy and Carol Schroeder and Milo Christenson regarding the ALJ's recommendation, the Commission finds that on balance that the route selected by the ALJ is appropriate based on the record. The Commission notes that the Company's selection of a final alignment of the poles and lines is made considering the specific challenges and landowner interests encountered within the permitted route and is reviewed by the Commission for reasonableness before construction is authorized.

Roger Tupy objected on behalf of himself and two other organic farms in the area to the ALJ's recommendation that the Commission permit a route in Scott County, Cedar Lake Township along County Road 2. His comments are part of the transcript of the July 13, 2010 meeting at pages 52-54.

The Commission acknowledges the concerns raised by Mr. Tupy, but on balance finds that the ALJ's recommended route is appropriate and will approve it. Routes are chosen to minimize the overall impact of the route. As the record shows, the ALJ has properly weighed the factors required by statute and rule. The Commission notes that to the extent that Mr. Tupy's concern is based in the organic nature of his and his neighbors' land, one of the permit conditions the Commission is applying to the Applicants in this matter is that follow requirements in their Agriculture Mitigation Plan, which was developed to continue to original status of the fields impacted by the power line.<sup>24</sup>

Parnell Mahowald objected to the ALJ's recommendation that the Commission permit a route that would run so close to his farm. Mr. Mahowald's comments are part of the transcript of the July 13, 2010 meeting at pages 84-86. Taking Mr. Mahowald's expressed concerns into account, the Commission finds that the ALJ's recommendation is sound and will adopt it.

## **V. Adequacy of the Environmental Impact Statement**

At the time when the Commission determines whether to issue a route permit, the Commission is to make a finding whether the OES's Environmental Impact Statement and the record created in the public hearing address the issues identified in the EIS Scoping Decision. Minn. Rules, Part 7850.1500, subp. 10 states:

### **Subp. 10. Adequacy determination.**

The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. . . . . The final environmental impact statement is adequate if it:

- A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
- B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

While several commenters expressed dissatisfaction with the OES's EIS, none 1) identified discrepancies between what the EIS Scoping decision required and what the EIS addressed, 2) demonstrated failure to provide responses to substantive comments as required by Subp. 10, B or 3) showed that the EIS was not prepared in compliance with Subp. 10, C.

Based on its review, the Commission finds that the EIS meets the requirements of Minn. Rules, Part 7850.2500, subp. 10 and will approve it as to the parts of the route permitted in this Order. The Commission reserves judgment regarding adequacy of the EIS with respect to the portion of

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<sup>24</sup> See the attached Route Permit, Section IV. Permit Conditions, B. 8 and the Agriculture Impact Mitigation Plan attached thereto.

the route not permitted in this Order and remanded in an earlier Order to the OAH for further proceedings.

The route segment for which approval of the EIS is deferred is the segment connecting the Cedar Mountain Substation in Renville County on the west to the Helena Substation in Scott County in the east and denominated "CH" in the Overview Map provided by the OES. When the merits of that portion of the route come back before the Commission, the Commission will consider the merits of the EIS for that segment, along with any additions to the EIS regarding that segment that the Department sees fit to make in light of the further proceedings regarding that segment currently underway before the OAH.

The Commission clarifies that in this Order the Commission is approving the Findings of Fact, Conclusions of Law, and Order proposed by the OES and the OES's EIS and is issuing a route permit for Sections 1, 2, 3, 5, 6 (including 6P-06), but is not approving those Findings of Fact, Conclusions of Law, and Order and EIS with respect to Section 4 (segment CH on the OES's Overview Map) and is not issuing a route permit for that section, the segment between the Cedar Mountain substation and the Helena substation.

#### **VI. Landowner Rights With Respect to Right-of-Way Negotiations**

Once the Applicants have the Route Permit issued in this Order, one of their next steps will be to contact affected landowners to negotiate rights-of-way necessary to construct the line. At the July 13, 2010 hearing on this matter, the Johnsons raised a concern that landowners generally are not informed regarding their rights in the context of such negotiations. On July 15, 2010, Robert and Patricia Johnson (the Johnsons) submitted a proposal, requesting the Commission to adopt the following permit condition:

##### **Section IV PERMIT CONDITIONS, E. Notification to Landowners (p. 13)**

Prior to the start of construction, the Permittees shall submit to the Commission for approval a fact sheet summarizing in plain language and referencing landowner rights under Minnesota Statutes 216E.12, Subd. 4 and Ch. 288, 2010 Minnesota Session Laws, amending Minn. Stat. §117.189 and §117.225 regarding eminent domain and easements for high-voltage transmission lines. The Permittees shall provide all affected landowners with a copy of the approved landowner fact sheet at the time of the first contact with the landowners after issuance of this permit and shall make a compliance filing to the Commission.

Having considered this matter, the Commission has decided to impose, as a permit condition, an obligation on the Permittees to distribute to relevant landowners information prepared by state agencies regarding landowner rights with respect to right-of-way negotiations concurrent with the Applicants' first contact with those landowners regarding right-of-way acquisition. This resolution was agreeable to the Johnsons and the Applicants. No party objected to this new Permit Condition.

## ORDER

1. The Commission approves the OES Energy Permitting Staff proposed Findings of Fact, Conclusions of Law and Recommendation as modified by the following five points listed below:
  - (1) the OES's errata sheets, dated July 8 and 14, 2010;
  - (2) the OES's proposed changes to permit conditions, dated July 13, 2010;
  - (3) an amendment to Section 7 on page 11 of the Draft Permit, changing the phrase "will consider input pertaining to visual impacts" to "consult with landowners or land management agencies prior to final location of structures";
  - (4) adding a further permit condition requiring the Applicants to distribute to relevant landowners information prepared by state agencies regarding landowner rights with respect to right-of-way negotiations concurrent with the Applicants' first contact with those landowners regarding right-of-way acquisition;
  - (5) the Commission is not approving those Findings of Fact, Conclusions of Law, and Order and EIS with respect to Section 4 (segment CH on the OES's Overview Map) and is not issuing a route permit for that section, the segment between the Cedar Mountain substation and the Helena substation.<sup>25</sup>
2. A copy of the OES's proposed Findings of Fact, Conclusions of Law, and Order approved in this Order, which incorporates the changes indicated in the OES's errata sheets (see Order Paragraph 1 (1) above) is attached.
3. The Commission approves the OES's EIS and issues route permits for Sections 1, 2, 3, 5, 6 (including 6P-06), with the modifications set forth above to the findings of fact, EIS, and route permits.
4. Attached is a copy of the approved route permit for Sections 1, 2, 3, 5, 6, which incorporates
  - 1) the OES's proposed changes to permit conditions (see Order Paragraph 1 (2) above);
  - 2) an amendment to Section 7 on page 1 of the Draft Permit (see Order Paragraph 1(3) above), changing the phrase "will consider input pertaining to visual impacts" to "consult with landowners or land management agencies prior to final location of structures"; and

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<sup>25</sup> The Commission has referred the issue of the Minnesota River crossing in Section 4 to the OAH for further record development. See *In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, Docket No. ET-2/TL-08-1474, ORDER REMANDING TO OFFICE OF ADMINISTRATIVE HEARINGS (July 27, 2010).



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd  
J. Dennis O'Brien  
Thomas Pugh  
Phyllis A. Reha  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Route Permit Application  
for a 345 kV Transmission Line from Brookings  
County, South Dakota to Hampton, Minnesota

ISSUE DATE: March 1, 2011

DOCKET NO. ET-2/TL-08-1474

ORDER GRANTING ROUTE PERMIT  
FOR REMANDED SEGMENT OF  
ROUTE

**PROCEDURAL HISTORY**

On December 29, 2008, Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (collectively, the Applicants), filed a route permit application under the full permitting process of Minn. Rules, Parts 7850.1700 to 7850.2800 for 237 – 264 miles of 345 kV transmission line and associated facilities between the existing Brookings County substation near White, South Dakota, and a newly proposed substation near Hampton, Minnesota.

Following lengthy proceedings with much public input, the contested case hearing record closed on February 8, 2010. The Administrative Law Judge (ALJ) issued his Findings of Fact, Conclusions of Law and Recommendations on April 22, 2010.

On June 15, 2010, the Office of Energy Security of the Minnesota Department of Commerce (the OES) filed a letter and attachment it had received from the U.S. Fish and Wildlife Service (USFWS) dated June 10, 2010 regarding concerns it had identified with the proposed river crossings at Le Sueur. The letter stated in part:

... an aerial crossing [of the Minnesota River] at Le Sueur is more likely to harm bald eagles than an aerial crossing at Belle Plaine. Again, since the Belle Plaine option is practicable, it appears unlikely that a BGEPA [Bald and Golden Eagle Protection Act] permit would be issued for an aerial crossing at Le Sueur.

Based in significant part on the issues addressed in the USFWS letter and the comments filed by the OES on July 2, 2010, the Commission remanded for further proceedings the Cedar Mountain to

Helena 345 kV segment section of the route, which contains the Lower Minnesota River crossing at issue herein (Segment 4).<sup>1</sup>

The Commission requested that on remand the ALJ consider which route is preferable for crossing the Minnesota River – a crossing at Le Sueur or a crossing at Belle Plaine, and to address which connector, or crossover route to the Belle Plaine crossing is preferable (if the Belle Plaine crossing were selected). The Commission also asked the ALJ to address the letter filed by the U.S. Fish and Wildlife Service on June 10, 2010, and give the parties the opportunity to further develop the record with respect to the issues raised in that letter and to determine whether the ALJ wished to modify or augment his findings, conclusions, and recommendations with respect to the Cedar Mountain to Helena segment of the route.

On September 14, 2010, the Commission issued an ORDER GRANTING ROUTE PERMIT in this docket, adopting the Administrative Law Judge's (ALJ's) findings and recommendations for five of the six segments of the route considered (Segments 1, 2, 3, 5, and 6).<sup>2</sup>

Consistent with the Commission's July 27 Order remanding Segment 4 of the route, the Administrative Law Judge (ALJ) held further contested case proceedings which included pre-filed testimony, three days of public and evidentiary hearings, and additional written comments. Public comment was received on the remanded proceeding until November 1, 2010. The contested case record on the remand proceeding closed on November 24, 2010.

On December 22, 2010, the ALJ filed his Findings of Fact, Conclusions of Law and Recommendation on Remand.<sup>3</sup>

On February 3, 2011, the Commission met to consider the matter and the record closed under Minn. Stat. § 14.61, subd. 2.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of the Issues Posed and Commission Action Taken**

In this proceeding on remand, the Commission is asked to consider, for the proposed 62 – 74 mile Cedar Mountain to Helena 345 kV segment of the Applicants' high voltage transmission line (Segment 4),<sup>4</sup> which of the following three route options best complies with the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 and Minn. Rules, Part 7850.4100:

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<sup>1</sup> Order Remanding to Office of Administrative Hearings, (July 27, 2010).

<sup>2</sup> The Commission's September 14, 2010 Order also designated the two substations for Segment 4 (the Cedar Substation and the Helena Substation).

<sup>3</sup> On December 23, 2010, the ALJ filed brief Amendments to the Findings of Fact, Conclusions, and Recommendation on Remand.

<sup>4</sup> The Cedar Mountain and Helena substations were approved by the Commission in its September 14, 2010 Order in this proceeding.

- The Modified Preferred Route<sup>5</sup> with an aerial crossing of the Minnesota River at Le Sueur;
- The Gibbon Crossover Route connecting the Modified Preferred Route and the Alternate Route<sup>6</sup> in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine; or
- The Arlington Crossover Route connecting the Modified Preferred Route and Alternate Route in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine.<sup>7</sup>

As more fully set forth herein, the Commission approves the Gibbon Crossover Route, connecting the Modified Preferred Route and the Alternate Route in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine, for primarily two reasons: 1) its use of an existing 69 kV transmission corridor right-of-way across the Minnesota River; and 2) the more positive environmental impact from the alignment and engineering advantages it offers over the Le Sueur Crossing route.

## II. The ALJ's Report on Remand

The ALJ issued his Findings of Fact, Conclusions of Law and Recommendations on Remand (ALJ Report on Remand) on December 22 and brief amendments to his Report on Remand on December 23, 2010. The ALJ's recommendations on remand were as follows:

1. That the Commission determine that all relevant statutory and rule criteria necessary to obtain a Route Permit have been satisfied and that there are no statutory or other requirements that preclude granting a Route Permit based on the record.

<sup>5</sup> In the Application, Applicants identified a Preferred Route and an Alternate Route for the 345 kV transmission line. The portion of the Preferred Route considered in this proceeding (Route Segment 4) runs from west to east, from the proposed Cedar Mountain Substation. The proposed line runs eastward, north of Fairfax and Gibbon, Minnesota, turning south before reaching Winthrop, Minnesota, then running eastward south of Winthrop to Le Sueur. After crossing the Minnesota River at Le Sueur, the Preferred Route then heads eastward toward Heidelberg, turning north to the proposed Helena Substation located southeast of Belle Plaine. As later modified, using the Myrick Alignment, Route Segment 4 along the Preferred Route would run approximately 67 miles. This segment has been identified as the Modified Preferred Route.

<sup>6</sup> The Applicants identified the Alternate Route as running, from west to east, along the same line as the Modified Preferred Route to the east of Gibbon, where the Alternate Route turns north to run eastward along the north of Arlington, Minnesota. From there, the Alternate Route runs eastward and further north to a point to the west of Belle Plaine. From that location, the line runs south, crossing the Minnesota River, then traveling south and turning east to the Helena Substation. The Gibbon Crossover Route was analyzed in the OES's Environmental Impact Statement, but no party in the initial ALJ proceedings discussed or proposed that this route option be adopted for Segment 4 of the route.

<sup>7</sup> In the proceeding on remand, the ALJ considered two connector, or crossover routes between the Modified Preferred Route and the Alternate Route -- the Arlington Crossover route (as modified during the OES Environmental review) and the Gibbon Crossover. A map developed by OES staff indicating the three route options for Segment 4 of the route permit is attached to this Order.

2. That the Commission grant a Route Permit to Applicants on behalf of themselves and the participating CapX2020 utilities for the facilities described below:

A. For the segment between Cedar Mountain Substation and Helena Substation of the 345 kV transmission line between Brookings, South Dakota, and Hampton, Minnesota, and associated Facilities:

(1) The Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur; or

(1a) If the Modified Preferred Route is not granted a Permit, the ALJ recommends granting a Route Permit for the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine; and

(2) A route width of 600 feet except for those locations identified by Applicants where Applicants are requesting a route width of 1,000 feet or up to 1.25 miles;

3. That Applicants be required to take those actions necessary to implement the Commission's Orders in this proceeding.<sup>8</sup>

The ALJ also recommended that the Commission find the OES's Environmental Impact Statement (EIS) adequate for this routing decision.

The ALJ's Report on Remand consists of a summary of the comments made at the public hearing and the written comments that are part of the record,<sup>9</sup> 180 findings of fact, 13 conclusions of law and three recommendations. Specifically, the ALJ's report addresses the issue of which route is preferable for the Lower Minnesota River crossing – near the City of Le Sueur or near Belle Plaine – and summarizes the additional procedural history and record with respect to the issues the Commission requested be addressed in its July 27, 2010 Order.

The ALJ concluded that the Modified Preferred Route for Segment 4, with an aerial crossing of the Minnesota River at Le Sueur is the best alternative for the 345 kV transmission line between Brookings county Substation and Hampton Substation.<sup>10</sup>

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<sup>8</sup> The ALJ's recommendations on remand changed from those included in his April 22, 2010 Findings, Conclusions, and Recommendation, for Segment 4 of the route. In the April 22 ALJ Report, the ALJ recommended the Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur; or, if the Commission did not grant a permit for the Modified Preferred route, the ALJ recommended granting a route permit for the Alternate Route utilizing the Crossover/Alternate route, with an aerial crossing of the Minnesota River at Belle Plaine (the Arlington Crossover route).

<sup>9</sup> See Attachment 1 of the ALJ's Report on Remand at 39-54.

<sup>10</sup> Conclusion 9, ALJ Report on Remand (December 22, 2010).

The ALJ Report on Remand thoroughly analyzes the criteria under Minn. Stat. § 216E.03, subd. 7(1)-(12) and Minn. Rules 7850.4100 for siting high-voltage power lines.

### **III. The OES's Recommendation**

#### **A. Background**

On July 2, 2010, the OES filed comments and recommendations following the ALJ's April 22, 2010 Findings, Conclusions and Recommendation and the submission of the June 10, 2010 USFWS letter. On the issue of which route should be approved to cross the Lower Minnesota River, the OES stated, based on the USFWS's letter, that an aerial crossing of the Minnesota River at Le Sueur was no longer a viable alternative.

OES reviewed the complete contested case record as to Segment 4 in the initial proceedings, the ALJ Report, exceptions, and the USFWS and Minnesota Department of Natural Resources (MnDNR) recommendations, and developed an alternative crossover route from data developed for the draft Environmental Impact Statement, and the Applicants' application – the Gibbons Crossover Route.

The OES then analyzed and compared the two possible north-south connector segments near Belle Plaine -- the Arlington Crossover route (recommended by the ALJ in the initial proceedings), and the Gibbon Crossover route.<sup>11</sup> As between the two crossover routes in the Belle Plaine area, the OES, in its July 2 comments, recommended the Gibbon Crossover route.

#### **B. OES Recommendations on Remand**

Following the proceedings on remand, OES filed comments on January 27, 2011. OES stated that it had reviewed the record in this case relative to the standards, criteria and factors to be considered in determining whether to issue a permit for a high-voltage transmission line set forth in the Power Plant Siting Act (Minn. Stat. § 216E.03 and 216E. 04) and applicable Commission Rules (Minn. Rules, Part 7850.400).

The OES also stated that it had taken into account the input of state and federal agencies related to the permissibility of various portions of the alternative routes under consideration, pursuant to Minn. Stat. § 216E.10, subd. 3 (a) and Minn. Stat. § 216E.03, subd. 7(b)(12). The OES stated that in weighing the impacts of the alternative routes, it was guided by the state's policy of choosing locations that minimize adverse human and environmental impacts while insuring continuing electric power system reliability and integrity.

Based on its review of the entire record (including the administrative record developed before the ALJ resulting in his April 22, 2010 Findings and Recommendations as well as the record developed before the ALJ resulting in his Findings, Conclusions, and Recommendations on

<sup>11</sup> See draft Environmental Impact Statement (DEIS) and final Environmental Impact Statement (final EIS) at Appendix G (the Arlington Crossover Route was referred to as "the USFWS/MnDNR Alternative" in the EIS and the Gibbon Crossover Route was referred to as "Crossover Area Example 2" in the EIS. The Gibbon Crossover Route, while referenced in the draft Environmental Impact Statement submitted by OES had not been evaluated as an alternative by the ALJ in the initial proceedings.

Remand), the OES recommended that the Commission approve and adopt its proposed Findings of Fact, Conclusions of Law, and Recommendations for the remanded portion of the Brookings to Hampton transmission line, which grant a route permit for the Gibbon Crossover Route connecting the Modified Preferred Route and the Alternate Route with an aerial crossing of the Minnesota River west of Belle Plaine.

The OES's proposed findings, conclusions and recommendation incorporate the majority of the ALJ's December 22, 2010, Findings of Fact, Conclusions of Law, and Recommendation on Remand and the ALJ's December 23, 2010 Amended Findings of Fact, Conclusions of Law, and Recommendation on Remand. The OES also identified certain corrections, additions, and changes to the ALJ's findings, as well as a supplemental finding to acknowledge that the proposed Crossing at Belle Plaine would follow an existing 69 kV transmission line right-of-way owned by Great River Energy.<sup>12</sup>

The OES also recommended that the Commission not accept the ALJ's Conclusions 9 and 10, which would authorize the Applicants to use the Modified Preferred Route, with an aerial crossing at Le Sueur, for Segment 4 of the route permit.

#### **IV. Exceptions to the ALJ's Report on Remand**

##### **A. NoCapX/UCAN's Exceptions to the ALJ's Report**

NoCapX and U-CAN filed exceptions claiming that documents submitted early in the course of the OES's preparation of the Environmental Impact Statement demonstrated that none of the river crossings proposed in this case was "feasible or constructible." They pointed to early comments filed by the United States Fish and Wildlife Service, the Minnesota Department of Transportation, and the Minnesota Department of Natural Resources raising environmental and aesthetic concerns about crossing the Minnesota River.

All three agencies have subsequently concluded, and stated on the record, that they do not oppose either of the two routes recommended by the Administrative Law Judge. The Commission concludes that the now-resolved concerns raised earlier by these three agencies do not warrant rejecting the proposed route permit.

Similarly, NoCapX and U-Can argued that the fact that the OES did not immediately file in this docket all comments submitted in the course of its preparation of the Environmental Impact Statement was a fatal procedural flaw; they pointed to no statutes or rules requiring those filings. The Commission rejected this claim in its original order and continues to reject it. Under Minn. Rules 7850.2500, the OES conducts a separate proceeding to prepare the Environmental Impact Statement.

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<sup>12</sup> See Applicants' December 29, 2008 Application for a route permit, Section 5.2.4 at page 5-10.

NoCapX and U-Can lastly argued that the route permit should be denied because applicants have allegedly failed to make a compliance filing on ownership issues required in the companion certificate of need case.<sup>13</sup> The Commission concurs with the OES that the proper proceeding in which to raise that issue would be the certificate of need case.

Finally, as to the substance of NoCapX and U-Can's position in this proceeding, the Commission concurs with the ALJ's Findings in the Report on Remand that undergrounding is not a practicable option for crossing the Minnesota River due to the significant environmental impacts, construction challenges and costs.<sup>14</sup>

Therefore, the Commission will not adopt the NoCapX/UCAN's proposed changes to the ALJ's Report on Remand.

**(B.) Exceptions by Theresa Ruhland, Bimedia, Inc. and Mark Katzenmeyer**

In these proceedings on remand, Theresa Ruhland, Bimedia, Inc. and Mark Katzenmeyer have urged the Commission to select the Alternate Route with a Minnesota River crossing at Belle Plaine, and have filed exceptions furthering that position.<sup>15</sup> By virtue of the Commission's decision to adopt the Alternate Route utilizing the Gibbon Crossover Route with an aerial crossing of the Minnesota River at Belle Plaine, all impacts to these landowners are avoided.

Therefore, the Commission will not adopt the proposed changes to the ALJ's Report on Remand submitted by the Ruhlands, Bimedia, Inc. and Mark Katzenmeyer.

**V. Public Comments During the Remand Proceeding**

The ALJ heard testimony at four public hearings in three different locations during the remand. These hearings were conducted in Le Sueur on October 4, 2010; Arlington on October 4, 2010; and twice in Belle Plaine on October 5. More than 250 persons attended the four public hearings, and some 48 persons testified. In addition, members of the public, state and federal agencies, and businesses submitted a large number of written comments.

In his Report on Remand, the ALJ summarized the extensive oral and written comments received on remand in Attachment 1.<sup>16</sup> The comments discussed concerns about the impact the routing decision would have on the public, landowners, businesses, and a school in the three route areas being considered, and addressed specific landowner concerns, as well as more widespread concerns including, but not limited to, the following:

<sup>13</sup> In the Matter of the Application of Great River Energy, Northern States Power Company (d/b/a Xcel Energy) and Others for Certificates of Need for Three 345 kV Transmission Lines with Associated System Connections, Docket No. ET-2, E-002, et al./CN-06-1115

<sup>14</sup> See ALJ Report on Remand, Findings 162 – 168.

<sup>15</sup> These commentors each raised Exceptions to the ALJ's April 22, 2010 Findings, Conclusions and Recommendation for Segment 4, to use the Modified Preferred Route with an aerial crossing at Le Sueur as well as to the ALJ's Findings, Conclusions, and Recommendation on Remand.

<sup>16</sup> In the April 22, 2010 Findings, Conclusions and Recommendations, the ALJ summarized the extensive oral and written comments made in the initial proceedings, which also addressed Segment 4.

- Impact on existing farms and land-based economies for each of the three route options
- Engineering challenges due to the topography, steepness of terrain, and soil stability
- Effect on scenic easement areas, flood plains, and rights-of-way - Dave Seykora spoke on Feb. 3, 2011 denying any MNDOT problems w/ easements
- Impact on bald eagles and other avian species - equal if not greater in BP due to new ongoing research
- MNDOT issues with the Highway 169 crossing area, including the rest stop and scenic easement areas - not an issue with MyreK Route
- Concerns regarding a heron rookery which lies within the proposed Le Sueur/US 169 river crossing - not there but is one with 50+ nests near B.P. crossing

At the hearing before the Commission, ten persons made oral comments addressing their concerns with the two route alternatives recommended by the ALJ on remand.

The Commission respects the concerns raised by landowners, businesses and local governments in this proceeding and the level of involvement of these participants. The Commission also recognizes that any route adopted will affect residents, landowners and businesses in the transmission path, and has carefully weighed the evidence presented and the issues raised.

#### **VI. U. S. Fish and Wildlife Service, Minnesota Department of Natural Resource, and Minnesota Department of Transportation**

##### **A. U.S. Fish and Wildlife**

Beginning in December 2008, the U.S. Fish and Wildlife Service (USFWS) began providing comments to Applicants regarding the project. Fish and Wildlife raised various concerns about how the proposed transmission lines at Le Sueur and Belle Plaine could negatively affect bald and golden eagle populations in those areas.<sup>17</sup>

USFWS initially supported a Minnesota River crossing at Le Sueur,<sup>18</sup> but subsequently indicated its support for the Le Sueur crossing only if a non-aerial construction method were used, having identified high concentrations of waterfowl during migratory periods and a heron rookery within the Le Sueur corridor.<sup>19</sup> If a non-aerial crossing were not feasible, USFWS subsequently

<sup>17</sup> See Report on Remand, Findings 55 – 69.

<sup>18</sup> Report on Remand, Finding 58,

<sup>19</sup> Id., Finding 60.



recommended a Minnesota River Crossing at Belle Plaine, using either a non-aerial method or an aerial method combining the existing 69 kV line over the river and the project on the same structures.<sup>20</sup>

In response to the concerns raised by USFWS and the Minnesota Department of Transportation (MnDOT), Applicants evaluated several non-aerial construction methods: connecting the new transmission line to the U. S. Highway 169 bridge, attaching the line to a stand alone pier that would be constructed next to the Highway 169 bridge, and undergrounding the 345 kV transmission line. These construction methods were thoroughly evaluated by Applicants, and by the ALJ in his April 22, 2010 Report, and rejected.<sup>21</sup>

After the close of the initial administrative record before the ALJ, on June 10, 2010, USFWS sent a letter to Applicants, reiterating its opinion that the Belle Plaine crossing appeared practicable, and stating that it was unlikely a Bald and Golden Eagle Protection Act permit could be issued for a Le Sueur crossing.

Following commencement of the administrative proceedings on remand, on October 29, 2010, USFWS sent Applicants a letter addressing the issues which sparked the proceeding on remand, and suspending its recommendation of June 10, 2010. Based on new information available to the agency, it concluded that it did not have sufficient biological evidence to determine conclusively that more bald eagles would be affected by one crossing alternative or the other. USFWS stated that once the Commission selects a route for permitting, it will work with the Applicants to develop and process a permit application for whichever route is selected.

#### **B. Minnesota Department of Natural Resources**

The Minnesota Department of Natural Resources (MnDNR) provided comments and responded to the concerns raised by USFWS. MnDNR provided written comments and recommendations to OES in November 2009, but did not state a preference for the crossing of the Minnesota River between Le Sueur or Belle Plaine. MnDNR also commented in this proceeding on remand, stating again that based on the currently available information, the two locations have roughly similar environmental effects,<sup>22</sup> and that it sees no strong difference in the impact on migratory bird populations for either a Le Sueur or Belle Plaine crossing.

#### **C. Minnesota Department of Transportation**

The Minnesota Department of Transportation (MnDOT) also filed comments in this proceeding. On November 30, 2009, MnDOT filed a comment on the Draft Environmental Impact Statement, which advised that it would be unable to issue a Utility Permit for the proposed alignment in a

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<sup>20</sup> Id.

<sup>21</sup> See ALJ Report, Findings 357 – 375 (undergrounding) Findings 376 – 381 (co-locating along the Highway 169 bridge) and Findings 382 – 386 (co-locating along a newly constructed self-supported pier) April 22, 2010.

<sup>22</sup> See MDNR comments on remand (October 18, 2010).

segment of the Applicants' Modified Preferred Route at Le Sueur because the Modified Preferred Route would run through a scenic easement area located near the rest area adjacent to U.S. Highway 169.

Applicants thereafter reevaluated the alignment of the Modified Preferred Route in Segment 4 in the vicinity of the Minnesota River Valley Safety Rest Area to determine if there were any changes that could alleviate MnDOT's concerns. On December 14, 2009, Applicants developed a new alignment generally within the 4,700-foot wide route that avoided MnDOT's concerns regarding scenic easements at the Le Sueur Minnesota River crossing (the Myrick Alignment Alternative). MnDOT also noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by Applicants.<sup>23</sup>

At the Commission hearing on the proceeding on remand, MnDOT stated that it takes no position on any route -- its concern being with the road safety and efficiency of any route configuration selected.

## **VII. Commission Action**

### **A. Route Selection**

#### **1. The ALJ's Recommendations**

In this proceeding on remand to determine the route for Segment 4 of the Brookings to Hampton 345 kV transmission line, three options were considered by the ALJ – the Modified Preferred route with an aerial crossing of the Minnesota River at Le Sueur, the Alternate route using the Gibbon crossover route, with an aerial crossing of the Minnesota River at Belle Plaine, and the Alternate route using the Arlington crossover route with an aerial crossing of the Minnesota River at Belle Plaine. The ALJ concluded that all three routes considered meet the necessary statutory and rule criteria and constitute viable options for the Commission's consideration.<sup>24</sup>

The ALJ analyzed the route options in detail, and recommended that the Commission grant a route permit to the Modified Preferred route with the Minnesota River crossing at Le Sueur, or if that route was not selected, the Alternate Route, using the Gibbon Crossover Route with a Minnesota River crossing at Belle Plaine. The ALJ's Findings and Conclusions confirm that both route options satisfy the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 and Minn. Rules, Part 7850.4100.

#### **2. Both the Le Sueur Route and the Gibbon Crossover Route Alternatives Satisfy Relevant Route Permit Criteria**

The ALJ found and the Commission confirms that the record shows that the two routes displace no homes or businesses within 0 to 75 feet of the route centerline, and found that for both routes, there

<sup>23</sup> The Proposed Findings of Fact, Conclusions of Law and Recommendation on Remand (attached hereto), paragraph 53, has been amended to clarify that an alignment within the route is available that avoids the scenic easement at Belle Plaine.

<sup>24</sup> Report on Remand, Conclusions 7 and 8.

are six homes within 75 to 150 feet of the route centerline. The Commission further confirms that the number of occupied homes per mile is similar for the two route alternatives (with the Modified Preferred Route having 0.7 and the Gibbon Crossover having 0.9).<sup>25</sup>

The ALJ found and the Commission confirms that there will be similar impacts on land based economies.<sup>26</sup>

The ALJ found and the Commission confirms that the Gibbon Crossover route has fewer archaeological and historic sites and has lesser impact on those resources than either the Modified Preferred route or the Arlington Crossover route.<sup>27</sup>

The ALJ found and the Commission confirms that the evidence in the record of the Remand Proceeding does not show a marked difference between the impact on eagles to be expected from following either the Modified Preferred Route crossing the Minnesota River at Le Sueur or the Alternate Route crossing at Belle Plaine. The ALJ found and the Commission confirms that there is no impact on eagles that precludes permitting either crossing point.<sup>28</sup>

The ALJ found and the Commission confirms that both the proposed routes nearly equally use or parallel existing rights-of-way, survey lines, natural division lines and agricultural field boundaries.<sup>29</sup>

The ALJ found and the Commission confirms that the record shows that the probable costs of the two routes are comparable.<sup>30</sup>

### **3. The Gibbon Crossover Route is the Preferable Route**

Having closely examined the record of this proceeding on remand, as well as the evidence presented regarding Segment 4 during the initial contested case, the Commission concurs with the ALJ in nearly all his Findings of Fact. The Commission, however, reaches a different conclusion from the ALJ. The Commission is persuaded, based on its own analysis as well as the recommendations of the OES and the Applicants, that the ALJ's alternate recommendation, the

<sup>25</sup> Report on Remand, Finding 85.

<sup>26</sup> See OES January 27, 2011 Comments and revised Finding of Fact 100 in the attached Findings of Fact, Conclusions of Law and Recommendations for the remanded portion of the Route.

<sup>27</sup> Report on Remand, Finding 133.

<sup>28</sup> Report on Remand, Finding 126.

<sup>29</sup> The OES recommended and the Commission will adopt the OES modification to the ALJ's Finding 141 to reflect that the routes are very nearly equal in their use of existing transportation, pipeline and electrical transmission system right-of-way (with approximately 72 percent of the Modified Preferred route following existing transportation, pipeline and electrical transmission rights-of-way as compared to 68 percent for the Gibbon Crossover route).

<sup>30</sup> Report on Remand, Finding 36.

Gibbon Crossover Route connecting the Modified Preferred Route and the Alternative Route, with an aerial crossing of the Minnesota River west of Belle Plaine, is the preferable route for Segment 4 of the project.

The Commission first notes that it is unusual, at this stage of a route permit proceeding, to be faced with two route options, both recommended by the ALJ. However, after careful analysis of the record on remand, the Commission cannot concur with the ALJ's conclusions and recommendation that the Modified Preferred Route is the best alternative for Segment 4 of the Route permit.

Instead, the Commission accepts and adopts the modifications to the ALJ's Findings, Conclusions and recommended route proposed by the OES, as articulated and explained in the attached Findings of Fact, Conclusions of Law and Order Issuing an HVTL Route Permit to Great River Energy and Xcel Energy, for the reasons discussed below.

**a. Modifications to the ALJ's Findings and Conclusions Proposed by OES**

The OES's proposal modifies certain of the ALJ's Findings (Findings 23, 46, 88, 95, 100, 141, 157, 166, and Paragraph 43 of Attachment 1) for the reasons set forth in the OES's January 27, 2011 comments and the attached Findings of Fact, Conclusions of Law and Order as to Segment 4 of the Brookings to Hampton 345 kV Route Permit. The Commission concurs with these proposed modifications to the ALJ's Findings of Fact on Remand, and will adopt them.

The OES also proposed that the Commission not adopt Findings 38 and 39 as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010 Order in this docket. OES also proposed that the Commission not adopt Finding 53 and its corresponding footnote 85. The Commission concurs that these Findings are not necessary to Segment 4 of the route permit, and will not adopt them.

In addition, the OES proposed adopting a supplemental Finding of Fact evidencing that the Alternate route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine.<sup>31</sup> The Commission concurs that this Finding is necessary and integral to its decision herein, and will adopt it.

Finally, the OES proposed that the Commission decline to adopt Conclusions 9 and 10 of the Report on Remand, which conclude that the Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur, is the best alternative for Segment 4 of the route. The Commission concurs, and does not accept and adopt these Conclusions for the reasons set forth herein.

Accordingly, the Commission will grant a route permit for the ALJ's alternate recommendation -- to use the Alternate route using the Gibbon Crossover route with an aerial crossing of the

<sup>31</sup> OES January 27, 2011 comments at 23.

Minnesota River at Belle Plaine, as best satisfying the applicable statutory and rule criteria considering the human impact, the strong deference to existing easements for high-voltage transmission lines, and the impact on the environment.<sup>32</sup>

#### **b. Commission Rationale**

The Commission finds that the Alternate Route using the Gibbon Crossover with an aerial crossing at Belle Plaine is the preferable choice for Segment 4, because, among other factors, it uses an existing transmission corridor and offers alignment and engineering advantages over the Le Sueur Crossing.

The Commission is guided in this decision by consideration of the legislative goals set by statute for route selection – to minimize environmental impacts and conflicts with human settlement while using existing easements whenever possible. Further, the Commission is mindful of Minn. Rule 7850.4100 (J), which requires consideration of a proposed route's use of existing transportation, pipeline and electrical transmission corridors in granting a route permit for a high voltage transmission line. Importantly, the Commission's longstanding policy and preference to locate a high-voltage transmission line in an existing high-voltage transmission corridor, has recently been enacted as law.<sup>33</sup>

As Applicants indicate in their December 29, 2008 Application for the route permit, the Gibbon Crossover route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. (The Gibbon Crossover route follows the existing 69 kV line for approximately 0.5 miles before crossing the Minnesota River and for approximately 1.5 miles after crossing the river.) In contrast, the proposed Le Sueur crossing with the Myrick Alignment follows some roads, but also goes cross county across a forested area.<sup>34</sup> The Commission finds that the ability to use the existing transmission line right-of-way over the Minnesota River is a strongly preferential factor in support of the Gibbon Crossover route.

Further, the Commission finds that the Gibbon Crossing offers alignment and engineering advantages over the Le Sueur Crossing. During the course of this proceeding, Applicants developed a new alignment of the Le Sueur Crossing Route, which came to be known as the Myrick Alignment Alternative, to address issues raised by MnDOT regarding scenic easements.

<sup>32</sup> The Power Plant Siting Act, Minn. Stat. § 216E, requires that route permit determinations “be guided by the state’s goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state’s electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.”

<sup>33</sup> During the 2010 legislative session the Minnesota Legislature amended Minn. Stat. § 216E.03 to add Subsection (e), requiring such consideration for future proceedings:

The commission must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

<sup>34</sup> Ex. 164 at p. 6 (Leshner Remand Direct). As currently configured, Applicants moved the alignment for the Le Sueur crossing to the south of U.S. 169 along the Myrick Alignment.

The Applicants' experts testified, however, that the Le Sueur Route, with the Myrick Alignment, while workable, poses engineering challenges and design constraints, e.g., severe slopes and ravines that limit the locations where structures can be placed.<sup>35</sup>

This topography would likely result in longer spans, wider easements, more tree clearing, and taller poles which could also negatively affect aesthetic impacts. Conversely, if spans were shortened to accommodate level worksites, more poles would be required. Finally, because of the steeper terrain near Le Sueur, an access road to each structure might have to be constructed to accommodate construction and maintenance equipment. These issues are not present at Belle Plaine using the Gibbon Crossover.<sup>36</sup>

Applicants' expert also testified that retention ponds are an issue at both the Le Sueur and Belle Plaine crossings, but pose more significant challenges at Le Sueur.<sup>37</sup> Following the redesign of the Modified Preferred Route to address MnDOT concerns, the retention pond crossing at Le Sueur became more difficult. The Myrick Alignment Alternative caused the line to be moved away from the retention ponds to the east side of U.S. Highway 169. This area is more flood prone than the Belle Plaine crossing, and has unstable soils. On the other hand, at the Belle Plaine crossing, the elevation is higher and has firmer soils.<sup>38</sup>

The ALJ's recommendation to grant a route permit for the Modified Preferred Route, with an aerial crossing at Le Sueur, discounted the testimony offered by Applicants' experts regarding the issues with the Le Sueur/Myrick Alternative. The Commission disagrees, and will defer to the experience and expertise of the Applicants' engineers, whose testimony adds additional support for the choice of the Gibbon Crossover Route.

Further, the Commission is not persuaded that the concerns raised by the Belle Plaine School District as to the proximity of the current elementary school location and possible future high school warrant elimination of the Belle Plaine Crossing sites from consideration. The elementary school is located in the southwest corner of Belle Plaine, at least 0.4 - 0.5 miles from the proposed transmission corridor. Further, the need for and location of a new high school still remains uncertain, and its proposed location is in an area at least as far away from the transmission corridor as the elementary school.<sup>39</sup>

Further, comments that the Belle Plaine crossing might negatively affect future growth in the area are speculative at best. Population growth and economic development fluctuate in response to multiple factors, and there is no evidence in the record on the probable effect of this or other transmission lines on community growth. In fact, the only record evidence on Belle Plaine growth issues shows recent declines from projected growth rates, which bear no relationship to the proposed transmission line.

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<sup>35</sup> Ex. 164 at p. 5 (Lennon Remand Direct).

<sup>36</sup> Id.

<sup>37</sup> Id. at 6.

<sup>38</sup> Id.

<sup>39</sup> ALJ Report on Remand, Findings of Fact 92 and 93.

Finally, the Commission has thoroughly considered the entire record in this proceeding with respect to Segment 4. The record is robust, with significant public input into the process. The Commission finds that neither route has a significant advantage in terms of human impact.

## **B. Adequacy of the Environmental Impact Statement**

At the time when the Commission determines whether to issue a route permit, the Commission is to make a finding whether the OES's Environmental Impact Statement and the record created in the public hearing address the issues identified in the EIS Scoping Decision. Minn. Rules, Part 7850.1500, subp. 10 states:

### **Subp. 10. Adequacy determination.**

The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. . . . The final environmental impact statement is adequate if it:

- A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
- B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

The OES issued the final EIS on January 26, 2010. Each of the three routes considered by the Commission in this proceeding was considered in the final EIS.<sup>40</sup>

The ALJ concluded the EIS prepared by OES contains an appropriate environmental analysis of the project for purposes of this route proceeding, and satisfies Minn. Rule 7850.2500.<sup>41</sup> The ALJ further found that the Commission's remand of this proceeding did not change the locations to be examined for routing of the segment under consideration.<sup>42</sup> Finally, the ALJ concluded that the record shows that the FEIS is adequate for this routing decision because it addressed the issues and alternatives raised in the Scoping Decision, provided responses to the substantive comments received during the draft EIS review process, and was prepared in compliance with Minn. Rules 7850.2500 to 7850.3700.

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<sup>40</sup> See FEIS and DEIS at Appendix G (the Arlington Crossover Route was referred to as "the USFWS/MnDNR Alternative" in the EIS and the Gibbon Crossover Route was referred to as "Crossover Area Example 2" in the EIS.

<sup>41</sup> ALJ Report on Remand, Conclusion 3 (December 22, 2010).

<sup>42</sup> ALJ Report on Remand, Finding of Fact 180 (December 22, 2010).

Based on its review, the Commission finds that the EIS meets the requirements of Minn. Rules, Part 7850.2500, subp. 10 and will approve it as to Segment 4 of the route, which is permitted in this Order.<sup>43</sup>

### **VIII. Prior Findings Adopted**

Many of the Findings of Fact in the ALJ's April 22, 2010 Findings, Conclusions, and Recommendations relate to the project, but are not specifically at issue in this proceeding on remand. The Commission reaffirms these Findings, which are included in the attached Findings of Fact, Conclusions of Law and Order Issuing an HVTL Route Permit to Great River Energy and Xcel Energy.

The Commission will so order.

### **ORDER**

1. The Commission approves and adopts the OES's proposed Findings of Fact, Conclusions of Law and Recommendation for the remanded portion of the Great River Energy and Xcel Energy 345 kV Transmission Line from Brookings County, South Dakota, to Hampton, Minnesota.
2. A copy of the OES's proposed Findings of Fact, Conclusions of Law, and Order approved in this Order, is attached.
3. The Commission approves the OES's final Environmental Impact Statement, finding that it meets the requirements of Minnesota Rules, Part 7850.2500, subp. 10, for the remanded portion of the route, as more fully set forth in the body of this Order, and issues the route permit for Section 4.
4. The Commission hereby amends the route permit issued September 14, 2010, in this docket to include a description of Segment 4 – for the segment between Cedar Mountain Substation and Helena Substation – and official route maps as:  
  
the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.
5. Attached is a copy of the approved route permit for Section 4.

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<sup>43</sup> The Commission's September 14, 2010 Order in this docket approved the EIS for the remaining segments of the route permit.



6. This Order shall become effective immediately.

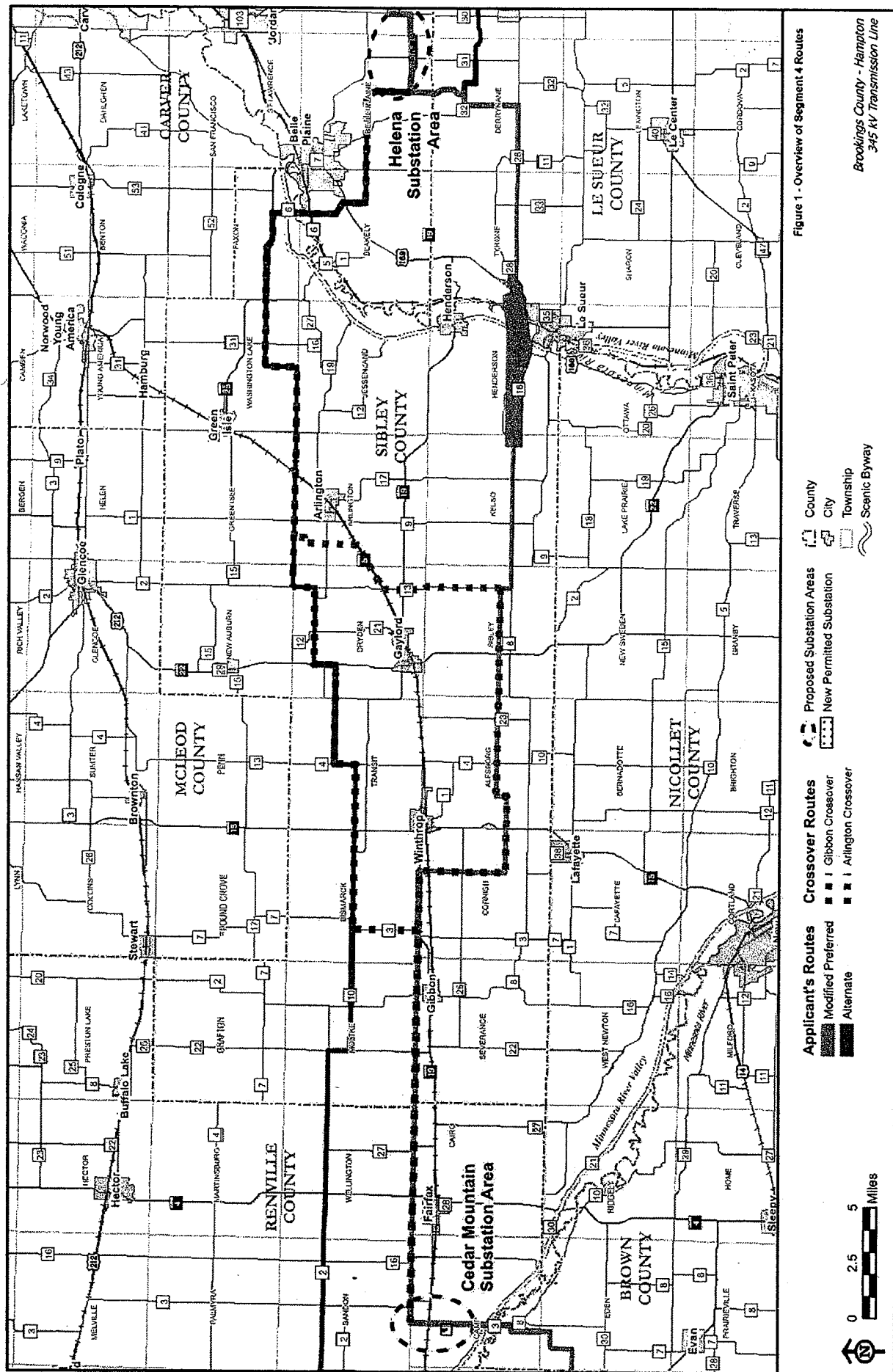
BY ORDER OF THE COMMISSION

*Daniel P. Wey, Jr.*

Burl W. Haar  
Executive Secretary



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## **BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

David Boyd  
Phyllis Reha  
Thomas Pugh  
J. Dennis O'Brien  
Betsy Wergin

Chair  
Vice Chair  
Commissioner  
Commissioner  
Commissioner

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

**ISSUE DATE: March 1, 2011**

**DOCKET NO. ET2/TL-08-1474**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER ISSUING AN HVTL ROUTE  
PERMIT TO GREAT RIVER ENERGY  
AND XCEL ENERGY**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on February 3, 2011, acting on an application by Great River Energy and Xcel Energy for a route permit to construct a new 237 to 262 mile transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, Rice, and Dakota counties, Minnesota.

### **STATEMENT OF ISSUE**

For the remanded portion of the route, should the Minnesota Public Utilities Commission find that the environmental impact statement is adequate? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the remanded portion of the proposed Brookings to Hampton 345 kV transmission line project?

Based upon all of the proceedings herein, the Commission makes the following:

### FINDINGS OF FACT

The Commission adopts the December 22, 2010, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Brookings to Hampton Transmission Project related to PUC Docket No. ET2/TL-08-1474, and the December 23, 2010, Amendments to Findings of Fact, Conclusions, and Recommendation, with the following modifications:

Finding 23 is amended as follows to correctly reflect that the Alternate Crossover Route (a/k/a Gibbon Crossover Route) was developed entirely by OES EFP staff and was analyzed in the EIS and described in the July 2, 2010, comments and recommendations submitted to the Commission.

23. The ALJ Recommendation identified the Preferred Route, with modifications at the crossing point of the Minnesota River, as the better route for the 345 kV HVTL. The ALJ also noted that the Belle Plaine crossing was suitable. After the ALJ Recommendation was issued, the OES EFP developed another alternative ~~Applicants developed another alternative~~ to cross from the Preferred Route to the Alternate Route, ~~in consultation with OES~~, running from near Gibbon (known as the "the Gibbon Crossover Route" or "Alternate Crossover Route"). The Gibbon Crossover Route runs for approximately 69 miles. That route follows existing roads, railroad and transmission line rights of-way for approximately 47 miles (68 percent). The Gibbon Route was analyzed in the EIS and described in the July 2, 2010, OES EFP staff comments and recommendations to the Commission.

Finding 46 is amended to correctly describe the Minnesota Department of Transportation's (Mn/DOT) Utility Accommodation Policy. A utility permit is required for every utility that occupies any portion of any trunk highway right-of-way. The amended language indicates the circumstance that would not require a permit from Mn/DOT.

46. In Route Segment 4, the Modified Preferred Route parallel to U.S. Highway 169 does not require a ~~Utility~~ Utility Permit because the affected section of U.S. Highway 169 is not a freeway. from Mn/DOT if the poles are more than 75 feet outside the highway right-of-way.

Finding 88 is amended to correctly note that the only portion of the Minnesota River designated as a Scenic River is the segment from Lac Qui Parle dam to Franklin where the Alternate Route crosses. The segments of the Minnesota River where the Modified Preferred Route crosses near Le Sueur and where the Alternate Route and crossover routes would cross near Belle Plaine are not designated scenic.

88. The aesthetic impacts differ among the Modified Preferred Route, Alternate Route, and Crossover Route. The Modified Preferred Route will cause the least amount of aesthetic impacts. The Modified Preferred Route is shorter in distance than the Alternate Route or Crossover Route.<sup>1</sup> As a result, the Modified Preferred Route will use fewer poles. In comparison to the Alternate Route and Crossover Route, there are fewer residences within 500 feet of the Modified Preferred Route at or near the Minnesota River.<sup>2</sup> Also, the Alternate Route and Crossover Routes (Belle Plaine Crossing) crosses the Minnesota River where it is designated "scenic" whereas the Modified Preferred Route (Le Sueur Crossing) and the crossover routes (Belle Plaine crossing) does not cross the Minnesota River where it is designated "scenic".<sup>3</sup>

Finding 95 is amended to reflect impacts are similar to all routes.

95. ~~In light of the factors noted in the preceding Findings, the record, including the proceedings on Remand, indicates that~~ The Modified Preferred Route, will have fewer impacts on public services compared to the Arlington Crossover Route and the Gibbon Crossover Route will have similar impacts to public services.

Finding 100 is amended to clarify that the Alternate Route west of Belle Plaine would not significantly impact the city of Belle Plaine's capacity for development and expansion to the west.

100. The record demonstrates that the Modified Preferred Route, the Arlington Crossover Route, and the Gibbon Crossover Route will have similar marginally less of an impacts to existing land-based economies than the Arlington Crossover Route or the Gibbon Crossover Route. The Modified Preferred Route will have significantly less impact on the capacity for expansion of existing development to the west of Belle Plaine than the Arlington Crossover Route or the Gibbon Crossover Route.

Finding 141 is amended to reflect that the differences between the routes are nearly equal with respect to right-of-way sharing.

- ( 141. The record demonstrates that, in Segment 4, the Modified Preferred Route, Arlington Crossover Route, and Gibbon Crossover Route nearly equally use or parallel ~~uses more~~ existing transportation, pipeline, and electrical transmission system right-of-way ~~than either of the two Crossover Routes.~~ )

<sup>1</sup> Ex. 102 at p. 9 (Poorker Direct); Ex. 2 at 5-6 (Application); Ex. 140 at p. 7 (Poorker Supplemental).

<sup>2</sup> Ex. 102 at p. 17-18 (Poorker Direct); Ex. 2 at 4-10 (Application); Applicants January 19, 2010 Letter to the ALJ at Route Impact Table, filed 01/19/10, Doc. Id. 20101-46155-01.

<sup>3</sup> Ex. 2 at p. 4-10 (Application).

Finding 157 is amended. Mn/DOT has indicated that the third sentence this is incorrect because specific concerns were expressed by Mn/DOT relating to Route Segment 4. Deleting the third sentence would resolve the problems.

157. Mn/DOT, USFWS, and MnDNR expressed concern with various aspects of the Modified Preferred Route. These concerns were addressed in the ALJ Recommendation. ~~Regarding Segment 4, Mn/DOT and MnDNR expressed no specific concerns.~~

Finding 166 is amended to clarify that for both the Le Sueur and the Belle Plaine routes, there are alignments within the designated routes that could encroach on Mn/DOT scenic easements.

166. As discussed elsewhere in this Recommendation, the USFWS has not identified any impact to the eagle population that precludes issuance of a permit for aerial routing of the HVTL. ~~Mn/DOT has affirmatively stated that neither proposed crossing will affect any scenic easement held by Mn/DOT.~~ No undergrounding alternative has been identified that would significantly reduce the cost of that option.

Attachment 1, Oral Testimony at the Public Hearings, Paragraph 43 is amended clarify that an alignment within the route is available that avoids the scenic easement.

43. David Seykora from the Minnesota Department of Transportation noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by the Applicants. The easement is extends about 1500 feet east of from the intersection of Highway 169 and German Road (CSAH 53), and extends extending about 750 feet south of the road. Highway 169. An alignment of the 345kV line on the west side of German Road would avoid encroachment on the scenic easement.

Based on the record in this proceeding, the Commission does not adopt the following findings of fact:

Findings 38 and 39 are not necessary, as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010, Order issuing a route permit for the project.

38. Applicants' proposed site for the Cedar Mountain Substation for the Modified Preferred Route is located in Camp Township, Renville County at the northwest corner of the intersection of County Road 3 and 640<sup>th</sup> Avenue. The new Cedar Mountain Substation will require five to eight acres of fenced and graded area depending on the final route selection and final substation design.
39. Applicants' proposed site for the Helena Substation for the Modified Preferred Route is located on the southeast corner of the intersection of 231<sup>st</sup> Avenue and 320<sup>th</sup> Street (County Road 28) in Derrynane Township in Le Sueur County. The new Helena Substation will require approximately five to eight acres of fenced and graded area depending on final route selection and final substation design.

Finding 53 is not correct, as Mn/DOT has indicated it does hold a scenic easement along Highway 169, east of CSAH 53.

53. During the hearings on remand Mn/DOT indicated that there are no Mn/DOT scenic easements located along Route Segment 4 of the Project in Belle Plaine or Le Sueur (using the Myrick Alternative).

#### **SUPPLEMENTAL FINDINGS OF FACT**

The following finding is added to acknowledge that the proposed crossing at Belle Plaine would follow an existing electric transmission right-of-way.

[New] The Alternate Route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. The existing 69 kV transmission line is owned and operated by Great River Energy.

There are a number of additional findings in the ALJ's initial report that are not specifically at issue in this remand proceeding, but should be reaffirmed for Segment 4. They are the same as the original findings, and they need not be restated in their entirety. These findings are as follows:

[New] Many of the findings in the ALJ's Findings of Fact, Conclusions of Law and Recommendation relate to the Project but are not specifically at issue in this remand proceeding. The following findings are reaffirmed as applicable for the Project: Findings 187-218 (electric and magnetic fields, including stray voltage); Findings 357-395 (underground construction, co-location with U.S. Highway 169 bridge, co-location with self-supporting pier, and co-location with transmission line at Belle Plaine); Findings 481-505 (Myrick Alignment Alternative); Findings 419-430 (RES Specialty Pyrotechnics, Inc. ("RES" alignment adjustment); and Findings 521-530 (Cedar Mountain to Franklin 115 kV transmission line); and Findings 148-151 (statutory criteria under the Power Plant Siting Act.<sup>4</sup>

[New] Many of the findings relating to application of statutory and rule criteria are not specifically at issue or provide introductory material to a discussion of a particular criterion apply to Segment 4 regardless the route selected. The following findings are adopted for the three alternative routes considered for Segment 4: Findings 152 (introductory finding), Findings 159-162 (noise), Findings 165-166 (aesthetics), Findings 169-170 (cultural values), Finding 172 (recreation), Findings 178 and 181 (public services), Findings 219-220 (effects on land based economies), Findings 230-231 and 235 (effects on archeological and historic resources), Findings 217-219 (introductory and air quality), Findings 243-247 (water quality and resources), Findings 253-255 (flora), Findings 260- 263 and 265-266 (fauna), Findings 271-274 (effects on rare and unique natural resources), Finding 279 (application of various design considerations), Finding 285 (use or paralleling of existing right-of-way, survey lines, natural division lines and agricultural field boundaries), Finding 292 (use of existing transportation, pipeline, and electrical transmission system right-of-way), Finding 306 (electrical system reliability), Finding 308 (costs of constructing, operating, and maintaining the facility), Findings 314-317 (adverse human and environmental effects which cannot be avoided), Findings 321-324 (irreversible and irretrievable commitments of resources), Findings 327-328 (consideration of issues presented by state and federal agencies), and Findings 532-533 (route width flexibility).

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<sup>4</sup> *In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, Docket No.: ET-2/TL-08-1474, Findings of Fact, Conclusions, and Recommendation (April 22, 2010 and amended April 30, 2010).



## **CONCLUSIONS OF LAW**

Conclusion 9, concluding that the Modified Preferred Route for Segment 4 is the best alternative for the 345 kV transmission line between Brookings County Substation and Hampton Substation, is not accepted.

Conclusion 10, concluding that it is appropriate to grant a Route Permit for the 345 kV transmission line and Associated Facilities along the Modified Preferred Route, is not accepted.

## ORDER

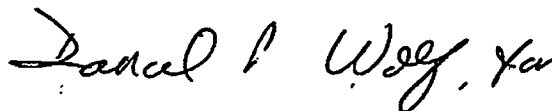
Based on the Findings of Fact and Conclusions of Law modified herein and the entire record of this proceeding, the Commission hereby makes the following Order:

1. The findings, conclusions and recommendations contained in the Administrative Law Judge's December 22, 2010, Findings of Fact, Conclusions and Recommendation, and December 23, 2010, Amended Findings of Fact, Conclusions and Recommendation are adopted except as inconsistent with this Order or otherwise specified herein.

2. Specifically, the Commission declines to adopt Findings 38, 39, and 53; and Conclusions 9 and 10 of the December 22, 2010, Findings of Fact, Conclusions and Recommendation.

3. The Commission hereby grants the Applicants a Route Permit, in the form attached, to construct Segment 4 of the high-voltage transmission line requested between Brookings County, South Dakota and Hampton, Minnesota along the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.

BY ORDER OF THE COMMISSION



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Burl W. Haar,  
Executive Secretary



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**ROUTE PERMIT ADDENDUM  
TO  
STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION  
  
ROUTE PERMIT FOR CONSTRUCTION OF A HIGH-VOLTAGE  
TRANSMISSION LINE AND ASSOCIATED FACILITIES  
IN  
  
LINCOLN, LYON, YELLOW MEDICINE, CHIPPEWA, REDWOOD,  
BROWN, RENVILLE, SIBLEY, LE SUEUR, SCOTT, AND DAKOTA  
COUNTIES**

**ISSUED TO  
GREAT RIVER ENERGY AND  
NORTHERN STATES POWER COMPANY**

**PUC DOCKET No. ET2/TL-08-1474**

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850, this route permit is hereby issued to:

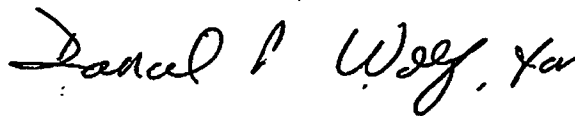
**GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY**

Great River Energy and Northern States Power Company, d/b/a Xcel Energy, are authorized by this route permit to construct the 240-mile segment located within the State of Minnesota, of a new 345 kilovolt (kV) high-voltage transmission line from a new Hampton Substation in Dakota County, Minnesota, to the Brookings Substation in Brookings County, South Dakota.

The transmission line and associated facilities shall be built within the route identified in this permit, as portrayed on the official route maps, and in compliance with the conditions specified in this permit.

Approved and adopted this 1<sup>st</sup> day of March, 2011

BY ORDER OF THE COMMISSION



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Burl W. Haar,  
Executive Secretary

On page 2, under I. Route Permit, revise as follows:

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Great River Energy and Xcel Energy (Permittees) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes the Permittees to construct approximately ~~169~~ 240 miles of new 345 kV transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, and Dakota counties, Minnesota.

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On page 2, under II. Project Description, Section II.A., revise as follows:

**A. High-Voltage Transmission Line**

The route authorized in this Permit includes ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) totaling approximately ~~169~~ 240 miles, constructed between (1) the Brookings County substation near White, South Dakota, and a new Hampton substation near Hampton, Minnesota and (2) the Lyon County substation near Marshall, Minnesota, and the Minnesota Valley substation near Granite Falls, Minnesota. See web links to the maps for the approved route segments on Attachment A.

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On page 2, under II. Project Description, add the following paragraph immediately preceding Section II.A.(5).

**4. Cedar Mountain Substation to Helena Substation**

This segment is approximately 71 miles long passing through Renville, Sibley, and Scott counties. This segment will be constructed and operated as a double-circuit 345 kV on double-circuit structures.

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On page 26, Attachment A, First sentence, revise as follows:

Web links to the maps for the ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) authorized in this Route Permit are:

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On page 26, Attachment A, Web links to maps authorized by the route permit, add the following immediately preceding **Segment 5** = HL on OES's Overview Map (Helena Substation to Lake Marion Substation):

**Segment 4** = CH on OES's Overview Map (Cedar Mountain Substation to Helena

Substation)

1 of 7: CH 1-12

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-01>

2 of 7: CH 13-24

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-02>

3 of 7: CH 25-36

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-03>

4 of 7: CH 37-48

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-04>

5 of 7: CH 49-60

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-05>

6 of 7: CH 61-72

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-06>

7 of 7: CH 73-84

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-07>

