



**Wisconsin Department of Transportation**  
**Office of the Secretary**  
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**Scott Walker, Governor**  
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Public Service Commission of Wisconsin  
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January 27, 2011

Sent via PSC's Electronic Regulatory Filing System:

[http://psc.wi.gov/apps35/erf\\_public/Default.aspx](http://psc.wi.gov/apps35/erf_public/Default.aspx)

MR. WILLIAM FANNUCCHI  
 PUBLIC SERVICE COMMISSION OF WISCONSIN  
 610 NORTH WHITNEY WAY, PO BOX 7854  
 MADISON, WI 53707-7854

**RE: CapX 2020 Project**  
**PSC Docket 5-CE-136**

Dear Mr. Fannucchi:

This letter responds to Xcel Energy's letter of January 13, 2011 regarding the above-referenced project. While true that Xcel has worked "diligently" with WisDOT over the past two years to attempt to minimize conflicts along the Q1-WIS 35 route, nonetheless we feel that efforts to avoid impacts to the Great River Road National Scenic Byway (GRRNSB) and recognize the public value of scenic easements on that route have been inadequate. The main concern is location of new transmission towers within the GRRNSB and WisDOT scenic easements.

It is the opinion of our General Counsel that even though existing transmission lines were allowed in the current scenic easements, most, if not all, of those easements do not allow for erection of *new* transmission lines since they are in direct conflict with the clear purpose of these numerous conservation easements and would have an unacceptable adverse impact on the natural scenic values for which the GRRNSB has been designated and is to be preserved. Included with this letter is easement language with highlighted portions to support our position.

Furthermore, we believe that approval of WisDOT and the Governor is necessary to release our scenic easement rights and that compensation is also required. The amount of compensation must be determined by appraisals of each affected parcel. The cost of the appraisals and the release of rights must be factored into the overall cost of the Q1-WIS 35 route since this could affect its potential viability. Therefore, WisDOT feels that this information is one component of the application that Xcel must provide to the PSC to make the CPCN complete. WisDOT's legal review also identified that many, if not all of the easements, are conservation easements that could be enforced by other interested parties, even if WisDOT took no action to enforce the protections created in the easements. This suggests there are additional costs Xcel should quantify and include in its analysis related to acquiring those interests.

Another area of substantial concern is the visual impacts along the Q1-WIS 35 route between Alma and WIS 88. The types of towers proposed significantly increases the negative visual impact to the GRRNSB. With the current configuration of H-frame poles, their height plus wood composition makes them blend in more with the natural viewscape. Even though Xcel touts that the number of existing H-frame poles and some distribution poles would be eliminated with the new Q1 line, the proposed 150-foot towers would significantly mar the viewscape no matter what color they are.

While this significant visual impact by itself does not affect the "completeness" issue of the CPCN, it does affect the issue with regards to the analysis of the WIS 88 corridor. To fairly consider whether the project could avoid or minimize visual impacts to the GRRNSB between Alma and WIS 88 by utilizing the WIS 88 corridor, WisDOT feels Xcel should have provided an in-depth analysis of the corridor including project costs. WisDOT realizes that WIS 88 may have visual impacts, but so may the Alma-Arcadia route or any other route selected for analysis. Because of the GRRNSB's national significance and the responsibilities of WisDOT to protect and preserve the outstanding scenic qualities of this statutorily designated route, any proposed visual impacts to it must be analyzed more comprehensively than any non-national scenic byway or regular highway in general. This includes establishing, as objectively as possible, a value associated with the visual impacts to the GRRNSB, e.g., quantifying the loss of tourism revenue and the loss of future enhancements to the Wisconsin portions of the Great River Road. Compensation for the loss of the scenic easements on the existing route in all likelihood will not be considered an adequate remedy. Therefore, WisDOT feels that the WIS 88 corridor analysis must be included in the CPCN to fully insure that impacts to the GRRNSB can be adequately and fairly assessed and compared with other routes.

Xcel states that the “basis for [National Scenic Byway designation loss] is unclear.” WisDOT’s scenic byways coordinator reviewed federal law and policy regarding this possibility and came to the following conclusion: “..., the strongest action that the FHWA National Scenic Byways Program would pursue is altering the route by segmenting or excluding the seven to 9 miles near Alma in which the high power lines would be visible.” Obviously, WisDOT is concerned that a potential gap could occur in the 250-mile Wisconsin segment. This in-turn would diminish the public value and decades of preservation and enhancement efforts of this major multi-state corridor and create a negative impression of Wisconsin when compared to the other ten states that the GRRNSB runs through.

In conclusion, WisDOT feels that the PSC must request additional information from Xcel as described in this letter to insure that their CPCN application is complete. The information seems essential in order to determine whether the routes are viable and to understand the tradeoffs that may be factored into route options under consideration. If you have any questions, please contact Bob Fasick, State Right-of-Way Accommodation & Permits Engineer at (608) 266-3438 or [robert.fasick@dot.wi.gov](mailto:robert.fasick@dot.wi.gov).

Sincerely,

*Mike Berg*

Mike Berg  
Deputy Secretary

Attachments

cc: (All via e-mail)  
Tom Hillstrom, Xcel Energy Siting and Permitting Supervisor  
Grant Stevenson, Xcel Energy Senior Project Manager  
Al Lorenz, Mississippi River Parkway Commission Chair  
Erin O’Brien, Wisconsin Wetlands Association Policy Director  
Selected WisDNR and WisDOT staff

SCENIC EASEMENT

This Indenture, Made by Alvina B. Kochenderfer a/k/a Alvina Kochenderfer, a widow... grantor... hereby conveys and warrants to STATE OF WISCONSIN, grantee, for the sum of... Five Hundred Thirty-Two and No/100... Dollars (\$ 532.00...)

A parcel of land in T 20 N, R 12 W, Sec. 22 in the NW 1/4-NW 1/4, NE 1/4-NE 1/4, SE 1/4-NE 1/4 thereof, and in Sec. 23 in the NW 1/4-NW 1/4, SW 1/4-NW 1/4 and the SE 1/4-NW 1/4 thereof, consisting of all that land in said forties lying within a uniform width of 700 feet, 350 feet lying each side of the following described reference line:

Beginning in said Sec. 22 on the north line at a point located 664.6 feet east of the north 1/4 corner thereof; said line being the north boundary of the parcel being described; thence along a reference line bearing S 54°-30' N, 4,567.0 feet to the east and west 1/4 line, said line being the south boundary of the parcel being described,

Said parcel consisting of 59.00... acres, more or less, is now being used for... Agricultural... and is hereinafter designated as the "restricted area".

TERMS AND CONDITIONS

Whereas, the State of Wisconsin desires to preserve and protect, for scenic purposes, the natural beauty of said restricted area and to prevent any future developments which may tend to detract therefrom, the following restrictions on future use and development and the following permitted uses are hereby established.

RESTRICTIONS

- 1. No use or occupation other than the hereinafter permitted use shall hereafter be established or maintained within or upon the restricted area.
2. No dump of ashes, trash, rubbish, sawdust, garbage, or offal, or any other unsightly or offensive material shall hereafter be placed upon the restricted area.
3. No signs, billboards, outdoor advertising structures or advertisement of any kind shall be hereafter erected, displayed, placed or maintained upon or within the restricted area.
4. No trees or shrubs shall be destroyed, out, or removed from the restricted area, except as may be incidental to a permitted occupation or use of the property, or required for reasons of sanitation and disease control, and except for selective cutting of timber by methods prescribed by written permit from the grantee.
5. Lots used, leased or sold within the restricted area for residential purposes shall have a frontage on the adjacent state trunk highway of not less than three hundred (300) feet for each residence.

Checked By E.E.P.

RECEIVED FOR RECORD Doc. # 119049 22... DAY OF April... A.D. 1963 AT 8:45... O'CLOCK A.M AND RECORDED IN VOL. 109... OF Deeds... PAGE 267... Vernie B. Hetrick REGISTER OF DEEDS Buffalo COUNTY

THIS INSTRUMENT WAS DRAFTED BY THE STATE HIGHWAY COMMISSION OF WISCONSIN

PERMITTED USE OR OCCUPATION OF RESTRICTED AREA

- 1. General crop or livestock farming including construction, erection, maintenance and repair of buildings incident to such use, and construction, maintenance or establishment of recommended soil conservation structures or practices, and normal farm improvements.
- 2. Telephone, telegraph, electric or pipe lines or micro-wave relay structures for the purpose of transmitting messages, heat, light or power.
- 3. Any use not heretofore specified which exists upon or within the restricted area as of the time of execution of this easement, including normal maintenance and repair of existing buildings, structures and appurtenances, but such use shall not be expanded nor shall any structures be erected or structural alterations be made within the restricted area.

4. Single family residential use.

5.

The conditions of this easement shall not prevent any permanent excavation or work necessary for purposes of the permitted uses.

This easement grants to the State of Wisconsin, and its agents, the right to enter upon the restricted area only for the purpose of inspection and enforcement of the terms of this easement.

This easement does not grant the public the right to enter the restricted area for any purpose.

IN WITNESS WHEREOF, being the owner and holder of certain lien which is against said premises, do hereby join in and consent to said easement free of said lien.

ALSO IN WITNESS WHEREOF, the said grantor has hereunto set her hand and seal this 16th day of April, A.D., 1963.

SIGNED AND SEALED IN PRESENCE OF

Dora Haeuser (s)

Dora Haeuser

Ernest T. Pearson Jr. (s)

Ernest T. Pearson, Jr.

Alwina B. Kochenderfer (s) (SEAL)

Alwina B. Kochenderfer

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF WISCONSIN } ss.  
Buffalo County

Personally came before me, this 16th day of April, A.D., 1963, the above named Alwina B. Kochenderfer to me known to be the person who executed the foregoing instrument and acknowledged the same.

(SEAL)

Ernest T. Pearson, Jr. (s)

Ernest T. Pearson, Jr.

Notary Public Walworth County, Wisconsin

My Commission expires 7/15, A.D., 1963.

Negotiated by Ernest T. Pearson, Jr.