

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

**Beverly Heydinger
J. Dennis O'Brien
David C. Boyd
Phyhs A. Reha
Betsy Wergin**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

**In the Matter of Application for a Route Permit
for the CapX 2020 Hampton-Rochester-LaCrosse
High Voltage Transmission Project**

MPUC: E002/TL-09-1448

LAYMEN FOR CHRIST, INC. AND WOODLAND CAMP

**MOTION TO STRIKE TESTIMONY OF BROBERG, ATTACHED EXHIBITS 1-9
AND PORTIONS OF MOTION RELIANT ON TESTIMONY AND EXHIBITS**

Laymen for Christ, Inc., owner and operator of Woodland Camp, brings this Motion to Strike the Testimony of Broberg, Exhibits 1-9, and parts of the Motion reliant on the Testimony and Exhibits. Further, we ask that the Commission take official notice of the false and misleading nature of Broberg's Exhibits, particularly Exhibit 7, the area near the White Bridge Road boatlanding, which is shown very differently than it is now, than it is in Hearing Exhibit 35, where the boat ramp is visibly closed, fenced off, with a large sandbar covered with grass that is visible in the aerial photos.

In its Motion for Reconsideration, and in the Testimony of Broberg, Oronoco Township claims that the "PowerDam Group"¹ introduced new information not in the record, and in doing so, Oronoco Township attempts to introduce new information of its own, and not only new information, but demonstrably "false and misleading" information.

The record is closed. No new information can be added.

¹ A "Group" only in the eyes of Oronoco Township.

Broberg specifically states his intent to add new information:

I want to rebut the testimony offered by the Power Dam Group at the April 12, 2012 Commission meeting regarding the alleged impact to forests on the Power DamRoute, and specifically, at the crossing of the Zumbro River at the Power Dam. In addition, I want to provide testimony regarding the negative impacts to forests on the White Bridge route, since the Power Dam Group did not address these impacts.

Oronoco Township Motion, Testimony of Broberg, p. 2. He proceeds to do so.

Broberg’s “Testimony” is offering new, false and misleading information, in particular, Broberg’s Exhibit 7 which purportedly portrays the area just south of the dam with caption “White Bridge water picture approaching boat landing.”



What is not shown is the boat landing approach and the landing itself, which is closed and has been for years. Also not shown is the sandbar that has been there so long that tall grass is growing on it – this sandbar is clearly visible, just beyond the closed boat landing, in the aerial photos provided as Oronoco Township’s Motion Exhibits 1, 6, 8 and 9.

This is a photo taken last week of the closed boat ramp, White Bridge Road on right:



This is a photo taken of the closed boat ramp, closer to the river, with the sandbar in foreground:



What is also visible, but not noted in Broberg Exhibit 7, is in the upper right hand corner -- the pole of the distribution line that crosses the White Bridge Road and extends from west in this photo also taken last week:



From the east in this photo, taken last week from the opposite side, near the road to Sandy Point:



Broberg Exhibit 9, cropped, showing sandbar, that is also visible on Broberg Exhibits 1,6 and 8:



Applicant’s Hearing Exhibit 35, Google earth mapping, shows this area as well, the closed ramp, and the fence behind the “closed” sign is also visible:



Broberg argues in his testimony that the distribution corridor to the west of the Dam Route is suitable for transmission, but neglects to mention the distribution paralleling White Bridge Road, visible in the upper right corner of his “Exhibit 7.”

Each of the exhibits is problematic and misleading in its own way.

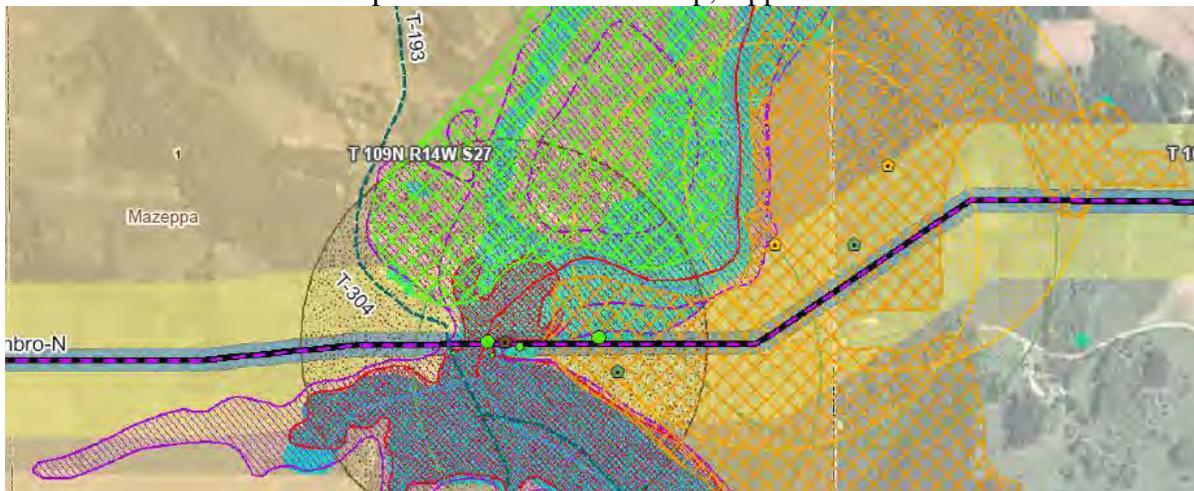
- Exhibit 1 portrays evidence not in the record and misrepresents facts in evidence in its depiction residences as “Year-Round Residences.” In comparing Exhibit 1 and Exhibit 2, green dots in Exhibit 1 are beyond even the 1,000 foot corridor portrayed in Exhibit 2. The magenta lines on the map are just lines on a map and not accurate representations of the routes as proposed. Dots are selectively placed, in varying distances including some beyond the “1,000 foot corridor” shown in Exhibit 2. Green dots are also selectively not included, for example, in the upper right hand corner of Exhibit 1. Exhibit 1 is not cited in Broberg’s testimony.
- Exhibit 2 portrays new information not in the record showing a transmission corridor to show that “[t]he White Bridge Route is actually located **outside** the County Road 12 right-of-way (“ROW”) and does not share County Road 12 ROW as it travels east. This misstates the use of “corridor” as transmission lines cannot be placed **inside** a road ROW.

- Exhibit 3 portrays evidence not in the record and misleadingly so. The red line is not as depicted in the record. On the west side of the dam, it is not apparent, as evidence shows, that the 34.5kV distribution sized line drops south just outside the Exhibit 3 left edge. On the right, the alignment is not as proposed in the record.
- Exhibit 4, “Power Dam Route River Crossing” is false and misleading and has no relation to the route as presented in the record. Broberg does not reference this exhibit in his testimony. The route, as depicted in the record is very different, the span of river at the alignment is obviously different:



Source: Hearing Exhibit, Hillstrom Rebuttal, Schedule 15, p. 2 of 13.

- Exhibit 5 is a larger view of the same Exhibit 4 map showing “Biodiversity & Floodplain Map Power Dam Route” which is false and misleading when compared with the route map above and the FEIS map, Appendix A - Sheet MR 45:



- Exhibit 6 depicts the White Bridge Route, which again is off in its depiction in comparison with the record.. Broberg does not reference this exhibit in his testimony:



Source: Hearing Exhibit, Hillstrom Rebuttal, Schedule 15, p. 3 of 13.

- Exhibit 7 is also false and misleading in its depiction of the Zumbro River at the “boat landing.” See Hearing Exhibit 35, Google earth map above and Broberg Exhibits 1, 6, 8, and 9. The boat landing has been closed for many years, a sandbar has been blocking access to it for years, weeds are growing on the sandbar, and there is no funding to reconstruct the boat landing. In addition, there is a clearly visible 34.5 distribution line in the upper right corner of the photo which follows County Road 12 to the east and west of the bridge. Broberg does not reference this exhibit in his testimony.
- Exhibit 8 is false and misleading because it is used to claim that “[t]he new transmission line corridors on the White Bridge Route will add to the forest fragmentation in areas designated as having “moderate biodiversity.” (Ex. 8).” This is contrary to the testimony of the DNR’s Schrenzel, and the route map shows the alignment as skirting the edge of the MCBS area, not fragmenting it.
- Exhibit 9 is labeled “White Bridge Route” and it is unclear what it is representing. Broberg does not reference this exhibit in his testimony.

Broberg’s testimony cites only exhibits 2, 3, 5, and 8. Oronoco’s Motion cites the late offered exhibits, and portions of the testimony reliant on those exhibits should be stricken, specifically and conservatively:

- Page 10, lines 2-6;
- Page 11, lines 1-5;
- Page 11, last partial paragraph to page 12, l. 2;
- Page 12, last partial paragraph to page 13, l. 10;
- Page 14, last partial paragraph to page 15, l. 4, ending at “gasoline engines;”
- Page 16, first complete paragraph;
- Page 18, entire paragraph from “Specifically” to end of the page.

Oronoco Township's introduction of new evidence, and particularly the misleading Exhibit 7 is disturbing. Parties are obligated to follow rules of procedure, and Oronoco Township has not. Laymen for Christ, Inc., owner and operator of Woodland Camp, asks the Commission to strike the Testimony of Broberg, Exhibits 1-9, and parts of the Motion reliant on the Testimony and Exhibits. Further, we ask that the Commission take official notice of the false and misleading nature of Broberg's Exhibits, particularly Exhibit 7, falsely depicting the area near the closed White Bridge Road boat landing.

June 29, 2012



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Carol A. Overland certifies that on June 29, 2012, she filed a true and correct copy of the attached filing of the Laymen for Christ, Inc., owners and operators of Woodland Camp, by filing on eDockets on the PUC's website and served by U.S. Mail to those not designated for eFiling.

June 29, 2012



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