

**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
RESPONSE TO ORONOCO TOWNSHIP MOTION FOR RECONSIDERATION**

Laymen for Christ, Inc., owner and operator of Woodland Camp, a directly affected landowner, brings this Response to Oronoco Township's Motion for Reconsideration and requests that the Public Utilities Commission reject the Township's Motion for Reconsideration of its decision of April 12, 2012 and Order of May 30, 2012. The Commission's Order utilizing the White Bridge Road crossing of the Zumbro River is supported by the record. The record should not be reopened because the Commission correctly chose to utilize the White Bridge Road crossing of the Zumbro River -- use of the Dam Route crossing would be contrary to Minnesota's policy of non-proliferation of transmission, transmission siting criteria, the Dept. of Natural Resources comments and recommendations, and the record as a whole.

Oronoco Township claims in its Motion for Reconsideration that:

The Power Dam Group argued that the Commission should reject the Power Dam Route because of the alleged impacts the project would have on trees and camps

east of the Zumbro Dam, recreation on the Zumbro dam, and biodiversity and natural resources at the Zumbro Dam crossing itself.

Oronoco Township Motion, p. 6. Oronoco claims that:

The Power Dam Group presented new testimony, not a part of the record before the ALJ, regarding alleged impacts to trees, biodiversity, and natural resources on the Power Dam Route, recreation at the Power Dam, and the absence of an aerial crossing at the dam itself.

Oronoco Township Motion, p. 7.

The Township's multiple claims of presentation by the "Power Dam Group" of "late evidence," "new testimony" "false and misleading" information, claims and assertions are bizarre – despite access to a transcript, cited in the motion, there are no citations to any new information not in the record. These claims by Oronoco Township themselves seem to be false and misleading from even a cursory review of the record. Because no quotations or citations were provided, it is difficult to tell exactly what "false and misleading" statements Oronoco Township claims were made. The Motion's statements above and the Motion's attribution of "reasons" for the Commission's decision, focuses on:

- Alleged impacts to trees, biodiversity and natural resources on the Power Dam Route;
- Recreation at the Power Dam;
- The absence of an aerial crossing at the dam itself.

Oronoco Township Motion at 7.

Issue by issue, Laymen for Christ, Inc., owner and operator of Woodland Camp and/or its principals made no false and misleading statements, and these issues raised by Oronoco Township as "new" are not, they were raised in the record which contains much information about these impacts at the Zumbro Dam route crossing.

For the record, there is no "Power Dam Group." The parties that spoke at the Commission meeting of April 12, 2012 spoke, independently, on their own volition and not as a

part of a group.¹ This opportunity is offered to the public, to those people not parties in the proceeding, in most every Commission meeting. Oronoco is a party, and this opportunity to make public comments is not extended to the Township.

Oronoco Township alleges other unfairness in process. Despite the opportunity, Oronoco did not participate in the North Rochester-LaCrosse Task Force, as Merl Norman did, representing Wabasha County.² Oronoco Township did not file exceptions. And most importantly, despite its claims that it had no opportunity to rebut the public comments, that is not true. Oronoco Township did avail itself of the opportunity to comment after the public comments at the Commission meeting of April 12, 2012. Acting Chair Reha twice stated that parties would have the opportunity to respond to public comments.³ The time for rebuttal came after the complained of public comments, after which there was a break, providing Oronoco Township with an opportunity to assess public testimony.⁴ Mr. Krass, representing the township, did indeed speak after the public comments when offered time for Rebuttal.⁵ Oronoco's process complaints are without merit.

I PUBLIC COMMENTS REGARDING WHITE BRIDGE ROAD

Oronoco Township claims that the "Power Dam Group" introduced new information not in the record, and as is detailed at length below, that is not true. The information presented by individuals in public comment is not new. Any information presented regarding criteria for routing a transmission line is in the record, voluminously available to anyone who looks.

¹ Anyone with knowledge of politics in Wabasha County would find it laughable that two adversaries running for the Wabasha County Board, Merl Norman and Kevin Kautz, would be deemed allies by Oronoco Township.

² Hearing Ex. 47, North Rochester to Mississippi River Advisory Task Force.

³ Acting Chair Reha, Tr. p.138, l.17-25 noting intention of giving parties opportunity to speak; and opportunity provided. P. 149, l. 19-22.

⁴ Tr. p. 107.

⁵ Tr. p.152-153.

There were four public comments opposing use of the Zumbro Dam route. First, the comment of Anna Mae Norman, one of the founders of Woodland Camp:

CHAIR REHA: Thank you. Any questions?

All right. Anna Mae Norman. Is Anna Mae Norman here?

MS. ANNA MAE NORMAN: Yes. I'm right here.

CHAIR REHA: Oh. If you want to pass or don't want to comment, just –

MS. ANNA MAE NORMAN: No, I want to comment.

CHAIR REHA: Okay. Very good. We'd love to hear from you so take a seat.

MS. ANNA MAE NORMAN: (Inaudible).

CHAIR REHA: Welcome to the Commission.

MS. ANNA MAE NORMAN: Thank you. It's still good morning to you, Madam Chairman and the Commissioners, and to your staff.

I am Anna Mae Norman, and I live at 39757 573rd Street, Zumbro Falls. My husband and I are the founders, caretakers and adjacent landowners to Woodland Camp owned and operated by Laymen for Christ, Incorporated. We are a 501(c)(3) tax exempt, our certificate number is 25348. We purchased this rocky farmland with original growth forest area that lies next to the power dam on Lake Zumbro in 1966. We made the downpayment on this property with a small inheritance that I received when my parents' affairs were settled. My mother, age 44, my father, age 48, my two brothers, ages 17 and 15, my sister, 20, and her husband, 22, and their two children, ages two and three, died in a boating accident. This camp facility is a living memorial to my family and a ministry for Merl and I. The camp has no paid employees or staff.

We have 52 acres, which is the forest area of the land. We gave it to Laymen for Christ for the development of Woodland Camp and it has been used by many churches and para church groups. These past 45 years we've been there. And it encourages youth and adults in a serene, quiet, restful wooded setting unique to this part of southeastern part of Minnesota. The camp is located in the Richard J. Dorer Memorial Hardwood State Forest with original growth.

The proposed power dam crossing will cross on a green field as there are no transmission lines on this east side of the power dam as was erroneously reported in the administrative judge's report. The transmission lines from the west that come to the power dam go south on the west side of Lake Zumbro and the Zumbro River. All the electric power line for Woodland Camp and the Norman property are, since its inception, have been underground. So much will be taken away from this peaceful camp environment if a 150-foot swath takes down trees and brush and these huge 175-foot power poles are erected in its path.

The DNR response is on record in a letter dated June 29th, 2011 that their first preference for the transmission line crossing would be the White Bridge crossing. On most of the maps presented to the public, the White Bridge crossing is labeled

the modified preferred route. This site is the only crossing of the three that has the infrastructure in place, a power line corridor, a road, and easy access for construction and maintenance. Olmsted County and Oronoco developments are creating the demand and would benefit most from this transmission line. There is no need in Wabasha County. The Zumbro Township board, Mazeppa Township board and the Wabasha County board have all sent letters asking that the White Bridge modified preferred route be used.

In my conversations with Xcel personnel, I was told that Xcel prefers the White Bridge route. The DNR letter of June 29th, 2011 states their preference for the White Bridge preferred route. And most of the CapX 2020 maps identified the White Bridge route as the modified preferred route.

It's confusing to us why the ALJ is recommending the power dam route. Please --
CHAIR REHA: Your time is up, if you're almost finished.

MS. ANNA MAE NORMAN: Yeah, I just want to say, please do not approve the power dam route. Thank you.

CHAIR REHA: All right. Thank you so much. Any questions?

Public comment of Anna Mae Norman, Tr. p. 93-97.

Next was the public comment of Merl Norman, another founder of Woodland Camp and president of Layment for Christ, Inc.:

CHAIR REHA: ... Okay. Merl Norman. Welcome.

MR. MERL NORMAN: Hi. Merl Norman, related to Anna Mae.

CHAIR REHA: I figured that.

MR. MERL NORMAN: For 54 years, pretty close.

CHAIR REHA: Congratulations.

MR. MERL NORMAN: Hi. I want to thank those of you Commissioners that came down to Mazeppa, I know some of you were there and heard from us then.

Yeah, my name is Merl Norman, and the same address as Anna Mae's. And I'm the president of Laymen for Christ, not just because I was one of the founders, but they elected me. I'm the president of the Laymen for Christ board, owners and operators of Woodland Camp.

The board strived to keep the camp facility rustic. The churches and para church groups from the metro counties, urban areas, bring campers to the quiet, serene, wooded area to be encouraged and refreshed from the usual hassle of our world.

This site was originally chosen because of its isolation from roads and utilities. The uniqueness of the area, which is original growth, and includes eagles nesting and a large variety of wildlife, will be destroyed if the transmission path is the power dam route. The state forestry department helped us plan and advised us as

to the best use of and the protection of this original growth forest area. I brought my forest stewardship manual and I was going to bring it up here and show it to you. I've got some excerpts from that I'll leave here.

And also I want to talk briefly about the bluff protection, the woodland -- or the Wabasha County zoning ordinance on bluff protection wouldn't allow us to build structures like this. One of our main goals is to provide a safe environment for the campers. Transmission lines pose many potential problems and liability for the camp. Laymen for Christ plans to protect and guard the woodland and the natural environment for future generations. Transmission lines and the 150-foot swath would be devastating to this area. EIS, environmental impact statement. Birds, snails, turtles, rare species, wildlife, are all important. What about our children? What about our posterity? That's what Woodland Camp's been trying to help with. And we have snails, we have clams that the kids bring up from the river, we have turtles, we have -- I just want to share this with you.

The groves were God's first temples and in the presence of the trees one finds peace, quietude, and inspiration. Although trees benefit us from a multitude of practical ways, providing shade, clothing, shelter, and food, we never lose the feeling that they are the noblest members of the planet world. The majesty of straight column, tall growing trees furnish the inspiration of the gothic cathedrals of Europe. Those impressive churches, those vaulted arches, seem to lose themselves in the very heavens. And so in the presence of beautiful trees, man realizes his limitations and says what the poet, Joyce Kilmer, says.

I think that I shall never see
a poem lovely as a tree.
A tree whose hungry mouth is prest
against the sweet earth's flowing breast;
a tree that looks at God all day,
and lifts her leafy arms to pray;
a tree that may in summer wear
a nest of robins in her hair;
upon whose bosom snow has lain;
who intimately lives with rain.
Poems are made by fools like me,
but only God can make a tree.

Those hardwood forests you saw on that map must stay there. We must keep those for our children and our posterity.

CHAIR REHA: Thank you, Mr. Norman.

MR. MERL NORMAN: I am pleading with you.

CHAIR REHA: Mr. Norman, your time is up.

MR. MERL NORMAN: Do not use the power dam route. I am pleading.

CHAIR REHA: Thank you.

MR. MERL NORMAN: Thank you all.

CHAIR REHA: Thank you very much. Any questions?

Public comment of Merl Norman, Tr. p. 97-100.

Next was the comment of Steve Walker, Zumbro Township Supervisor:

MR. STEVE WALKER: I'm Steve Walker. I live at 5700 Highway 63 North, Zumbro Falls. I'm a supervisor in the township, Zumbro Township. The township would be where the dam crosses and it would come into our township. The hardwood forest he's talking about are very – we need them, we'd like to have them stay. But what they're not showing you is on the other side, the next township over, there's a camp site right there at the dam. And they rent campsites out, there's people fishing, boating, all the time there. Where the other access on the proposed route on White Bridge Road, they're saying they're using that for lake frontage and stuff, it's inundated with mud up there and it's just like a small trickle where the bridge is up there. The dam is where most of the people boat and it's about two and a half miles that goes to the south where they can boat and have their fun, but where they want to cross up there it isn't.

Secondly, the need for this power is coming from Rochester, also, they're having two 161 lines come in, one at Chester and one at Northern Hills. And they haven't spoke much about the 161 line coming out of Chester, but I'm getting all the information because it's close to my farm. And they will be hooking on. So with taking the White Bridge route it is going to be closer for these two 161 lines to be hooked up. And Olmsted County has kind of washed their hands of taking this route. They said put it in Wabasha. The need is huge in Olmsted County. Wabasha County is 22,000 people, Olmsted County is 142,000 people. Now, they should take some of the burden of this power line through their county to help with what their needs are. We have one stoplight in our county. How many does Olmsted have? They have many of them.

But I'm begging you to take the White Bridge Road. The DNR has stated such. And Wabasha County has proposed to take it, I have the paperwork here, they want that route, and our township board would prefer that route. Seeing that this line goes through my farm on the farm side -- and I know I don't want to bore you with farm stuff -- but I remember when this routing started and they were talking about going through Winona with it. They said there was a truck outfit that was worth \$1.5 million, that would cost too much to move. How do you move a farm that's been in the family for 55 years? How do you take a 250-acre farm and move that? Thank you.

CHAIR REHA: Thank you very much.

Public comment of Steve Walker, Tr.p. 100-102.

Fourth was the comment of Kevin Kautz, Chair of the Zumbro Town Board:

MR. KEVIN KAUTZ: Kevin Kautz, Zumbro Township Chairman, Zumbro Valley Snowmobile Association Chairman. I'd like to use a map, too, please.

CHAIR REHA: Okay. Would this be Segment 2 then?

MR. KEVIN KAUTZ: Over the power dam, the Zumbro power dam.

CHAIR REHA: There it is.

MR. KEVIN KAUTZ: Way down. Zoom down, please, down to the dam. This is the place – this is the judge's ruling.

CHAIR REHA: Right.

MR. KEVIN KAUTZ: To put power lines through three camps right here.

UNIDENTIFIED: Is that the preferred route?

UNIDENTIFIED: At the White Bridge.

MR. KEVIN KAUTZ: The preferred route, right through here. Why should Wabasha County be stripped off its beautiful bluff lands to support Olmsted County's electrical infrastructure? The state's largest commercial development is now on the sunrise in Olmsted County. Location, location, location. On record, Wabasha County, Zumbro Township, Mazeppa Township, City of Mazeppa, Mazeppa Valley Snowmobile Club all support the preferred route. Thank you.

CHAIR REHA: Thank you.

Public Comment of Kevin Kautz, Tr. p.130-131.

These comments included several areas of routing criteria that the Commission is to consider in its decision, but they did not contain new information not in the record. Information about the trees, the Richard J. Dorer Memorial Hardwood Memorial State Forest, greenfield crossing with no transmission line at dam, absence of an aerial crossing of the dam, DNR preference for a White Bridge crossing of the Zumbro River, infrastructure at White Bridge Road crossing, Xcel choice of White Bridge Road as “Preferred,” eagles and wildlife, state forestry department and Stewardship program, bluff protection, Wabasha County zoning ordinance, Joyce Kilmer’s “Trees,” camping, fishing and boating activity, zero boat ramps on the White Bridge Road route, Wabasha County comment letter, Zumbro Township resolution, Mazeppa Township resolution, City of Mazeppa resolution, Mazeppa Valley Snowmobile Club letter, and of course, Joyce Kilmer’s poem “Trees” are all a matter of record in this proceeding.

The record in this proceeding is extensive, and comments made by the four individuals who spoke at the Commission meeting were not “new.” Because Oronoco Township did not cite

specific instances and made only general claims, below are the categories of information complained of, and a range of information from the record, demonstrating that the Comments were in no way “new.”

II. PUBLIC COMMENTS ARE NOT “NEW” INFORMATION

The information provided by public commentators at the Commission’s April 12, 2012 meeting is not new information. Comments made covered a range of topics, all of which are within the record of this proceeding. Oronoco Township’s statements that it is new information does not make it so.

A. IMPACTS TO TREES, BIODIVERSITY AND NATURAL RESOURCES

Oronoco Township is mistaken in its assertion that the “Power Dam Group” commented regarding impacts to trees, biodiversity and natural resources on the Power Dam Route that are not in the record. References to impacts at the Zumbro Dam location can be found in documents filed through the lengthy administrative process, from the initial application to testimony during the Evidentiary Hearing. Many of these references were relied on by the Commission in its Order that the White Bridge Road option be used, ranging from the Application to testimony to public comments for the record.

Minnesota’s DNR Stewardship plans, referred to by Merl Norman, and the Minnesota sustainable Forest Incentive and Green Acres, were the subject of testimony in the record:

Recognizing the fiscal benefits of sustainable forestry and land management, the State of Minnesota has a number of programs in place to assist the private landowner in a “win-win” situation. Some of these programs include: DNR Stewardship plans, state chapters of the American Tree Farm Association, the MN Sustainable Forest Incentive and Green Acres.

Exhibit 39, Testimony of Rohlfing/Hackman, P. 13.

Merl Norman also referred to protection of the blufflands, which is also part of the

Hearing record, specifically regarding the slopes in the area and protection of Wabasha County blufflands in the County Ordinance:

I have spoken to land use officials in at (sic) Wabasha County, who showed me their Bluffland Ordinance. Attached as Exhibit E is a true and correct copy of the Wabasha County Bluffland Ordinance. The ordinance was enacted “to protect and preserve the sensitive physical features of the Bluffland areas by regulating development, preventing erosion and maintaining vegetative cover on the slopes and tops of the bluffs.” Id. 1

Exhibit 39, Testimony of Rohlring/Hackman, p. 17.

The application includes information also referred to in the PUC meeting comments:

A greater number of MDNR rare native plant communities occur within 1 mile of the Zumbro Dam Route Option centerline compared to the Preferred White Bridge Road Route. In addition, more state special concern species occurrences exist within 1 mile of the Zumbro Dam Route Option centerline compared to the Preferred Route.

Hearing Exhibit 1, Application, p. 8-55.

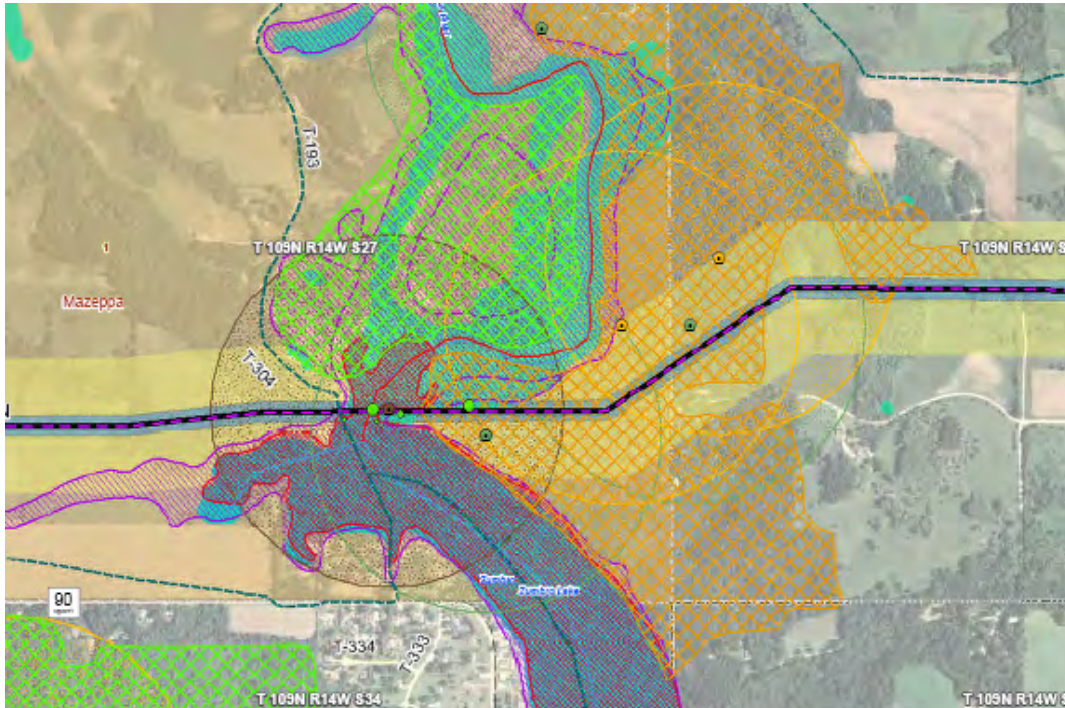
FEIS Table 8.7-5 provides a summary comparison of the potential resource impacts of the Zumbro Dam Route Option and the Preferred White Bridge road Route, based on the factors set forth in Minn. R. 7850.4100. Using this comparison, the Applicant concluded that the Preferred White Bridge Road route best conserves natural resources, minimizes potential environmental and human settlement impacts, as well as minimizing other land use conflicts, and would be the most cost-efficient option.

Hearing Exhibit 113, FEIS, Table 8.7-5.

The FEIS maps show sites of biodiversity ranked High and Moderate Biological Significance, and also pinpoint Zoological, Botanical and Ecological sites, showing the “trees, biodiversity and natural resources” along the Zumbro Dam crossing. Appendix A – Sheet MR 45, showing:

- High Significance MCBS site on West Side extending to the northern shoreline
- Moderate Significance MCBS site directly to North of crossing and High Significance MCBS site above
- One Zoological MN DNR Natural Heritage site at crossing

- Two Botanical MN DNR Natural Heritage sites on the west side
- Two Ecological MN DNR Natural Heritage sites on west side



Hearing Exhibit 113, FEIS, Appendix A, Sheet Map MR45.

Information regarding the presence of eagles below the dam is also a part of the record:

The Zumbro River below the dam, which includes the proposed North 3A crossing, remains ice free in large areas throughout the winter. It is used by Bald Eagles as a fishing resource during winter months when most other water sources are frozen over.

Hearing Exhibit 39, Testimony of Rohlfig/Hackman, p.23.

The DNR comments, relied on by the Commission, were repeated throughout the record, in individual comments for Scoping, on the DEIS, and as requested by the ALJ during the hearing testimony. Regarding impacts on trees and forests, biodiversity sites and natural resources, the DNR commented:

- Generally, crossings of public waters should be located where there is existing infrastructure. For example, the Zumbro River should be crossed where existing infrastructure exists and there is the least impact to resources from clearing or construction activities. The Preferred Route crossing of the Zumbro appears to result in

the least impact from clearing, and utilizes an existing river crossing. Hearing Exhibit 49, Scoping Comments (note they are filed by name, not agency).

- As stated in the ...May 20, 2010 scoping comment letter, crossings of public waters should be generally located where there is existing infrastructure. For example, the Zumbro River should be crossed where existing infrastructure exists and there is the least impact to resources from clearing or construction activities. The Zumbro River crossing at the white bridge in Segment 3 appears to result in the least impact from clearing, and utilizes an existing river crossing. Hearing Exhibit 113, FEIS Appendix O, Agency Comments, p. O-8 (Commerce response 3J does not exist, see p. O-12).

After the hearing, the DNR provided comments regarding the Zumbro River Crossings in Segment 3 which bears repeating in its entirety:

As stated in previous comment letters, the DNR recommends crossings of public waters to generally be located where there is existing infrastructure. For example, the Zumbro River should be crossed where existing infrastructure exists and there is the least impact to resources from clearing or construction activities. The Zumbro River crossing at the white bridge in Segment 3 appears to result in the least impact from clearing, and utilizes an existing river crossing.

Specifically, there are three Zumbro River crossings included in the project record: the north crossing, which is a greenfield crossing, a middle crossing at a dam, and the southernmost crossing at the white bridge. As stated above a crossing with no existing infrastructure such as the northernmost crossing is not encouraged. The northernmost crossing also has Natural Heritage Information System (NHIS) records of a state-listed turtle in the vicinity of the crossing. There is also a Minnesota County Biological Survey (MCBS) Site of Biodiversity Significance ranked as Moderate near the crossing. The Zumbro River crossing near the dam is located next to an MCBS Site of Biodiversity Significance ranked as High. Rare species in the area include state-listed special concern American ginseng (plant), and state-listed special concern moschatel (plant). The southernmost white bridge crossing would affect an MCBS site of Biodiversity Significance ranked as Moderate and one ranked as Below. To avoid a greenfield crossing, the northernmost route is not recommended. Considering a comparison of rare species, MCBS site presence and ranking, and a general goal of reducing deforestation between the two crossings with existing infrastructure, the DNR recommends utilizing the white bridge crossing in this area rather than the crossing at the dam.

DNR Comment, Public Comments to ALJ, eFiled⁶.

⁶ eFiled 7/29/11 by OAH in batch of Public Comments, available online at: [20117-64768-01](#) PUBLIC 09-1448 TL OAH PUBLIC COMMENT-- RECEIVED BEFORE JUNE 30, 2011 07/29/2011

The impacts of transmission on the Richard J. Dorer Memorial Hardwood State Forest are present for the Zumbro Dam route but not the White Bridge Road route – the White Bride Road crossing of the Zumbro River is not within the R.J. Dorer Memorial Hardwood State Forest. Hearing Exhibit 113, p. 181, Map 8.3-40. No new information was presented about the R.J.Dorer Memorial Hardwood State Forest as it was discussed extensively in all stages of the proceeding. For example:

Recreational areas in the RJD Forest would be visually impacted by all route alternatives in this segment.

Hearing Exhibit 113, FEIS, §8.3, p. 184; see also Id., Exhibit O, Comments of Dale and Suzanne Rohlring, FEIS ID180 and 181, Appendix O, p.O-425-437; Hearing Ex. 39, Direct Testimony of Rohlring/Hackman, pps. 2, 5-6, 11-13, 25; Hearing Ex. 40, Rebuttal Testimony of Rohlring/Hackman, referencing Figure 8.3.4.8- 2, Acres of Forested and Non-Forested Wetland within proposed Right of Way of Each Route Alternative.

The Minnesota Department of Natural Resources (DNR) has listed the RJD Forest as one of the best places in the state for birdwatching, motorized trail riding, horseback riding and mountain biking (DNR2010a).

Hearing Exhibit 113, FEIS, Section 7.12.3, p. 60, Richard J. Dorer Memorial Hardwood State Forest.

There was also specific testimony at the April 12, 2012 PUC meeting that emphasized this basic information already in the record in several distinct instances:

MS. SCHRENZEL: ... The DNR does encourage the use of the White Bridge Road crossing instead of the other options to avoid either a green field crossing, which is the north route, or to avoid the large forested MCBS site of biodiversity significance ranked as high, and the state listed special concern plant species near the crossing at the dam. From an environmental perspective, the White Bridge crossing has the least impacts, according to our analysis.

Comments of Schrenzel, Tr. at 74, PUC Meeting 4/12/12.

Regarding the Dam Route compared with the White Bridge Road route:

CHAIR REHA: What about the fact that there is the dammed lake area in that southern crossing?

MS. SCHRENZEL: The comments I received from the region focused on -- I think saw the entire river area as a recreational area and focused on the deforestation impacts.

CHAIR REHA: Okay.

MS. SCHRENZEL: This is a state water trail, too, so we value that recreational resource, absolutely.

CHAIR REHA: I think the reference was to Lake Zumbro being a highly recreational area. You're saying that the entire river segment that encompasses all of these options or alternatives is considered highly valuable for purposes of the environment?

MS. SCHRENZEL: The information that I received from reviewers and from reviewing our water trail information was that the -- I didn't get any special comments on the lake itself, but I -- from reviewers. The focus was definitely on the -- outweighed by the other impacts to plant species or having a green field crossing. And we value the recreational resource along the whole -- that whole area.

Id., p. 74-75; see also Hearing Exhibit 100, DNR Water Trail Network. Later in the meeting,

Mr. Langan, of Commerce, and Ms. Schrenzel, DNR, were called up again to address the impacts and distinctions of the Zumbro River crossings. First, Mr. Langan:

Now I'll turn to the Zumbro Dam crossing. It appears to still be in focus. Again, along this route you'll notice that here the green dots indicate surface water areas. The green hashed area along this portion is another site of biodiversity significance running up the bluffs here. Again, the impaired water status indicated by the red hashed area and the purple areas of the floodplain. You see a -- the circle denoted here is a -- indicates that within a one mile radius either suitable habitat exists for or there was a documented occurrence of a zoological listed species. And in this area, you see some more circles in this area, again, denoting that the natural -- the DNR's natural heritage database turned up an occurrence of a -- in this case, an ecological listed species. What I'm guessing here is that that may be the maple-basswood forest community that's in that area.

Id., p. 147-148. Then Ms. Schrenzel, of the DNR, elaborated on the FEIS and previously filed DNR comments regarding the area:

So our comments stated, and it's quite similar, we were working off similar databases. So the Zumbro River crossing near the dam is located next to an MCBS site of biodiversity significance ranked as high. And that area, it is helpful to have this map, maybe we can figure out if the line would cross through if it was located 200 feet to the north.

And then rare species in the area near the dam includes state listed special concern -- American ginseng and state listed special concern -- and I'm going to ruin this name because I'm not a botanist, moschatel, and the White Bridge crossing does affect an MCBS site of biodiversity significance ranked as moderate. So the difference is moderate to high. And one ranked also as below, which means that they surveyed it and decided not to rank it as having a special significance. And then that's pretty much -- I believe the zoological, there may be a turtle in the area or a muscle (sic), but I think it's avoidable.

Id., p. 148-149. Again, all information presented by Mr. Langan and Ms. Schrenzel was from either the FEIS or DNR Comments filed in this docket.

Oronoco Township urges that the entire route should be considered when weighing the environmental factors and that “the Power Dam Group’s focus on trees and biodiversity at only the river crossing on the Power Dam Route is insufficient.” Motion at 13. This is just the opposite of what Oronoco recommended in its DEIS comments! In that case, Oronoco’s Broberg stated that “The limiting factor is crossing the Zumbro River at one of three locations, so the analysis should first focus on which crossing is most appropriate.” Oronoco is arguing depending on which way the Commission’s decision falls.

The local governments potentially affected by the Zumbro Dam crossing route all submitted comments and/or resolutions regarding trees, biodiversity and natural resources. for the record in this proceeding. Concerns were specifically raised regarding impacts on more specific aspects of the Zumbro River, the Richard J. Dorer Hardwood Memorial State Forest, and agricultural land. See e.g., Comments of Wabasha County, David Johnson, Wabasha County Administrator:

Today the Wabasha County Board of Commissioners voted unanimously to support the Preferred Southern Route, including the White Bridge Crossing, for the Hampton-Rochester-LaCrosse transmission project as the route most consistent with Wabasha County’s Comprehension(sic) Land Use Plan and having the least adverse impact on Wabasha County. This route shares the impact more equitably with Olmsted County rather than running the full length of Wabasha County.

The Wabasha County Board of Commissioners is requesting that the Preferred Southern Route be chosen for this project.

FEIS, Appendix O, Comment of Wabasha County, p. 0-21-22 (FEIS ID #5-6). See also

Comments of Zumbro Township raising concerns of:

- 1) Proximity to homes, dwellings and work areas, and associated health risks;
- 2) Loss of productivity and revenue on agricultural tracts and sustainable forest activity, and decreased property value;
- 3) Irreversible damage to farmed land, livestock, wooded and bluffland, river and trout streams, and water quality associated with project construction and maintenance, and permanent & temporary right of ways;
- 4) Increased cost of project maintenance through the heavily wooded and bluff land;
- 5) Non-existent crossing/infrastructure at the Zumbro River;
- 6) Deforestation and habitat fragmentation through the entire township and RJ Dorer Memorial Hardwood State Forest;
- 7) Devastation to the aesthetics of the township and its residents, as well as impact to the recreational enjoyment and revenue reliant upon our natural environment: aesthetics, land, water and native species.

Hearing Exhibit 113, Comment of Zumbro Township, Resolution, p. O-46; see also Comment of Eddy Jostock, Zumbro Township Supervisor, Id., p. O-508.

The comments made by individuals at the Commission meeting of April 12, 2012, consisted of information already in the record, not new information that inappropriately swayed the Commission in its deliberations and decision.

B. RECREATION AT THE POWER DAM

Oronoco Township is mistaken in its assertion that the “Power Dam Group” commented regarding impacts to recreation on the Power Dam Route that are not in the record. References to impacts at the Zumbro Dam location can be found in documents filed through the lengthy administrative process, from the initial application to testimony during the Evidentiary Hearing. Many of these references were relied on by the Commission in its Order that the White Bridge Road option be used.

Oronoco Township itself raised the impacts of the transmission line on recreation if the Zumbro Dam crossing were used. In Oronoco Township's Comments to the DEIS, Broberg stated that in addition to concerns regarding the Oronoco Township route, use of "3P Zumbro North would have substantial impact to recreational resource." Hearing Exhibit 113, FEIS Comments of Oronoco Twp., 32CI, p. O-89.

Mr. Broberg also noted that although the area is not designated a Scenic Byway, he named the 3P-Zumbro N as a route crossing the Zumbro River that residents in the vicinity consider a scenic area. Hearing Exhibit 113, p. O-88, Oronoco Twp. Comment 32CD.

Oronoco also noted that "3P-Zumbro-N is the only crossing with a seaplane base landing strip" and that "this route would have the greatest impact regarding airports and landing strips." Id., p. O-89, Oronoco Township Comment 32 CH.

Oronoco Township's definition of recreation and boating focuses on motorized recreation, where the Zumbro River is home to non-motorized recreation and is an important resource. The record has many references to recreation along the Zumbro River, and not only Lake Zumbro. This distinction was pointed out in NRG Testimony rebutting Oronoco Township:

Mr. Broberg has a narrow view of sites and forms of recreation, focused on 6 motorized and commercial activities. Motorized recreation occurs on Lake Zumbro, but this focus on motorized activity that predominates on Lake Zumbro fails to take into account the significantly different popular recreational activities and opportunities that the Zumbro River affords.

Hearing Exhibit 40, p. 4, l. 5-10. The importance of the Zumbro River for recreation was highlighted by the DNR, in Comments, Testimony, and at the April 12 Commission Meeting.

First, the Zumbro River is part of the DNR's State Water Trail program. Hearing Exhibit 100 –

Zumbro Water Trail Map. The FEIS was supplemented to address that it is the “entire Zumbro River System” that is part of the Water Trail network:

All route alternatives in this segment would cross the Zumbro River (Map 8.3-39), which provides recreational opportunities such as boating, fishing, and swimming. **The entire Zumbro River system, including its forks and branches, is part of the Minnesota State Recreation Water Trail network. Crossings of the State Recreation Water Trail are discussed in Section 7.12.6.**

Hearing Exhibit 113, FEIS, Section 8.3, p. 183 (**emphasis** of information added to FEIS).

All route alternatives in this segment would cross the Zumbro River (Map 8.3-39), which provides recreational opportunities such as boating, fishing, and swimming. **The entire Zumbro River system, including its forks and branches, is part of the Minnesota State Recreation Water Trail network. Crossings of the State Recreation Water Trail are discussed in Section 7.12.6.**

8.3.4.8 Water Resources – (corrected EIS information in **bold**) Analysis of Segment Alternatives for the North Rochester Substation to Mississippi River Segment

Regarding the impacts on recreation, as above, the DNR’s Jamie Schrenzel emphasized information already in the record, that the DNR values the recreational potential of the entire Zumbro Water Trail:

MS. SCHRENZEL: The comments I received from the region focused on -- I think saw the entire river area as a recreational area and focused on the deforestation impacts.

CHAIR REHA: Okay.

MS. SCHRENZEL: This is a state water trail, too, so we value that recreational resource, absolutely.

CHAIR REHA: I think the reference was to Lake Zumbro being a highly recreational area. You're saying that the entire river segment that encompasses all of these options or alternatives is considered highly valuable for purposes of the environment?

MS. SCHRENZEL: The information that I received from reviewers and from reviewing our water trail information was that the -- I didn't get any special comments on the lake itself, but I -- from reviewers. The focus was definitely on the -- outweighed by the other impacts to plant species or having a green field crossing. And we value the recreational resource along the whole -- that whole area.

Tr., p. 75, l. 3-25; see also Hearing Exhibit 100, DNR Water Trail Network.

Also in the record regarding recreation is the Wabasha County Comprehensive Plan, which sets out the importance of the “below the power dam” part of the Zumbro River as a recreational resource, as cited by Rohlfing/Hackman in their direct testimony:

Recreation is a large source of Wabasha County revenue, as cited in the Wabasha County Comprehensive Plan, p. 9. “Recreational activities center on the Zumbro River, the Mississippi River and the DNR managed lands.” It also states “Canoeing and fishing are the primary tourist activities in the Upper Valley Area” and over 19,700 linear feet of trout streams are affected. A transmission line through the Valley would impact enjoyment of the natural state of the river below the power dam. As noted above, the Upper Valley area of the Zumbro River is an important recreation area and protected natural resources are used for recreation.

There is a MN designated “catch and release” special regulation section for smallmouth bass from the Zumbro Dam down river to Zumbro Falls. This invites anglers to our area of the Zumbro River.

According to the area addressed by the Minnesota DNR “ Zumbro River and Whitewater River: A Water Trail Guide⁷,” the 3A Alternate Route would transect one of the “two most popular trips of the Zumbro River.” Canoeing and fishing are primary tourist activities in the Upper Valley Area.

Hearing Exhibit 39, Direct Testimony of Rohlfing/Hackman p. 15-16; see also Hearing Exhibit 40, Attachment J, Wabasha Co. Comprehensive Plan, p. 9.

The mud and sand near the White Bridge Road was referred to by Steven

Walker in his comments before the Commission:

Where the other access on the proposed route on White Bridge Road, they're saying they're using that for lake frontage and stuff, it's inundated with mud up there and it's just like a small trickle where the bridge is up there.

Commission Mtg., Comments of Walker, Tr. p. 101. Oronoco objects, stating that his testimony is “misleading” and Broberg offers his “Exhibit 7” as proof Motion, p. 14.. However, Walker’s comments are reflected in the FEIS in the “boat access” chart, showing that there is no boat access. Hearing Exhibit 113, FEIS, AppendixJ, Segment 3. On Xcel’s Google earth exhibit, the

⁷ Cited in original testimony: Zumbro River and Whitewater River: A Water Trail Guide, available online at:<http://www.ccakc.org/images/zumbro.pdf>

sand bar in front of the closed boat ramp is obvious, and also visible is the fence preventing access to the boat ramp:



Hearing Exhibit 35 (screen shot above); see sandbar also Oronoco Township’s Motion for Reconsideration, Testimony of Broberg, Exhibits 1, 6,.8 and 9.

The comments made by individuals at the Commission meeting of April 12,2012 regarding recreation on the Zumbro River consisted of information already in the record, not new information that inappropriately swayed the Commission in its deliberations and decision.

C. ABSENCE OF AN AERIAL CROSSING AT THE DAM ITSELF

Oronoco Township is mistaken in its assertion that the “Power Dam Group” commented regarding transmission and an aerial crossing on the Power Dam Route about facts that are not in the record. References to impacts at the Zumbro Dam location can be found in documents from the initial application to testimony during the Evidentiary Hearing. Many of these references were relied on by the Commission in its Order that the White Bridge Road option be used. However, it should be noted that despite comments on the record that there was no aerial

crossing of the dam, Commerce did not fully correct the FEIS. The record reflects not just absence of aerial crossing, also absence of transmission!

Xcel correctly noted in its Application that there was no existing aerial transmission at the proposed Zumbro Dam crossing:

The Zumbro Dam Route Option crosses the Zumbro River in a location without existing aerial infrastructure and where impacts to a high quality Maple Basswood forest (Maple Basswood) would occur on the east bank of the river

Hearing Exhibit 1, Application, p. 8-55; see also Hearing Exhibit 35, Google Earth files.

Second, there is no transmission line crossing the river at the Dam.

Applicants also clearly stated that in their application.

Because both the Route Option and the Preferred White Bridge Road Route would require some tree clearing in an area characterized by residential and recreational land use, and no existing transmission line crosses the river at these locations, impacts to aesthetics would be similar for both routes.

Hearing Exhibit 1, Application, p. 8-53; see also Hearing Exhibit 35, Google Earth files.

Xcel then requested correction of the EIS in its DEIS Comments:

The DEIS, at page 171, states that routes 3P-Zumbro-N and 3P-Zumbro-S cross the Zumbro River where there is an existing transmission line crossing. This statement should be corrected to note that there are no existing electrical facilities present at any of the crossings. The north Zumbro River crossing (Alternate Route) crosses the Zumbro River at a location where there is no existing infrastructure. The middle Zumbro River crossing (3P-Zumbro-N and 3P-Zumbro-S) crosses the Zumbro River at an existing dam. The south Zumbro River crossing crosses the Zumbro River at the White Bridge Road bridge.

Hearing Exhibit 21, Hillstrom Schedule 18, DEIS Comments April 29, 2011 (same as Hearing Exhibit 113, FEIS, Appendix O, p. O-205-207).

However, after receiving the Comment of Xcel asking that the FEIS be corrected,

Commerce inexplicably only corrected one part of the FEIS, the section on recreation:

All route alternatives in this segment would cross the Zumbro River. No existing electrical facilities are present at any of the crossings.

Hearing Exhibit 113, FEIS, Section 8.3, p. 184. This error, and a similar one regarding the Byllesby Dam, was brought to the attention of the Commission at the April 12, 2012 meeting, that the record reflected that there was no transmission, but the FEIS and several Findings of Fact were incorrect:

In your handouts, on page 2 is a page of the application, page 55, and that states very clearly, there is no infrastructure. There's no aerial crossing there. Page -- the second your handout, which is 8-53 of the application, states there is no transmission line crossing at the dam. There isn't. That's the facts of the case.

And this was raised in the DEIS because the DEIS said that as well. That there was a transmission crossing. And Mr. Hillstrom, in his comments to that, which is annexed in your handout, if you look at that comment you will see that in the last page, it would be page 5 of his comment, asked for that to be corrected, and it was not. There is no transmission infrastructure there. That's what the record says. And the ALJ's findings of fact, they were wrong.

And so that means that that 464 is wrong, also finding of fact 436 and 488, which state that there is transmission infrastructure. That's finding of fact 464, 436 and 488.

Overland at Commission Meeting, 4/12/2012, Tr. p. 45-46.

Other incorrect language referencing existing transmission crossing is found in the FEIS, on the pages which the ALJ cited and relied on in her Recommendation FoF 464.

- p. 174: Zumbro Dam Crossing Option – Route alternatives 3P-Zumbro-North and 3P-Zumbro-South would follow the existing crossing of the Zumbro River at the Zumbro Dam and Hydroelectric Generation Facility.
- p. 176: Route alternatives 3P-Zumbro-N and 3P-Zumbro-S could minimize impacts to the Zumbro River because an existing HVTL already crosses the Zumbro River at this location.

Xcel agreed at the PUC Meeting that the Findings of Fact and FEIS was in error and that there is no existing transmission line at the Zumbro Dam:

MS. AGRIMONTI: -- respond to the details you have. One, with respect to the crossing of the Zumbro River, I do think Ms. Overland has identified an error, there isn't an existing transmission line there. But Mr. Hillstrom will talk about what existing infrastructure is located at the dam.

Agrimonti, Counsel for Xcel, at PUC Meeting Tr. p.53. Mr. Hillstrom stated:

Moving to the south now at the -- at the Zumbro Dam. There is no aerial transmission crossing at the dam. However, there is a transmission line that comes out at the west side of the dam and you can see the tree clearing where that transmission line follows out to the west. That's a low voltage transmission line, it's 34.5 kilovolts, not by any means a high voltage line, and it is basically comparable to a distribution line. I think that was the original transmission line that carried the power from the dam to the city of Rochester when it was built.

Comments of Xcel's Tom Hillstrom at PUC Meeting, Tr. p.60-61. Hillstrom reiterated this lack of transmission and infrastructure later in the meeting:

MR. HILLSTROM: And like we talked about, there is no existing transmission corridor as you head to the east from the dam. And this is the area of the youth camps. And I think to illustrate that a little bit better I can -- I'll turn the route back on and I have a file on here which shows property boundaries and the route width itself.

Hillstrom, PUC Meeting, Tr. p. 141.

The DNR also addressed this lack of infrastructure both in Comments and at the PUC meeting. Because there is no existing infrastructure, as above, the DNR recommends utilizing the White Bride Road crossing because it has fewer impacts.

Specifically, there are three Zumbro River crossings included in the project record: the north crossing, which is a greenfield crossing, a middle crossing at a dam, and the southernmost crossing at the white bridge. As stated above a crossing with no existing infrastructure such as the northernmost crossing is not encouraged. The northern most crossing also has Natural Heritage Information System (NHIS) records of a state-listed turtle in the vicinity of the crossing. There is also a Minnesota County Biological Survey (MCBS) Site of Biodiversity Significance ranked as Moderate near the crossing. The Zumbro River crossing near the dam is located next to an MCBS Site of Biodiversity Significance ranked as High. Rare species in the area include state-listed special concern American ginseng (plant), and state0listed special concern moschatel (plant). The southernmost white bridge crossing would affect an MCBS site of Biodiversity Significance ranked as Moderate and one ranked as Below. To avoid a greenfield crossing, the northernmost route is not recommended. Considering a comparison of rare species, MCBS site presence and ranking, and a general goal of reducing deforestation between the two crossings with existing infrastructure, the DNR recommends utilizing the white bridge crossing in this area rather than the crossing at the dam.

DNR Comment, Public Comments to ALJ, eFiled⁸.

At the April 12, 2012 meeting, the Commission recognized that the Findings of Fact and FEIS were incorrect, corrected the Findings of Fact to reflect that there is no aerial crossing at the dam, and that there is no transmission crossing the dam or to the east. However the FEIS has yet to be corrected. The information on page 174 and 176 remains incorrect. The ALJ relied on these incorrect statements in her selection of the Zumbro Dam crossing, and cited the FEIS. The FEIS should be corrected, because the record does not support the information on pages 174 and 176. Hearing Exhibit 113, FEIS, p. 174 and 176.

The comments made by individuals at the Commission meeting of April 12, 2012 regarding absence of an aerial crossing, transmission, and infrastructure at the Zumbro Dam river crossing consisted of information already in the record, not new information. The Commission corrected errors in the Findings based on the record, but has not corrected the FEIS. The information regarding lack of transmission infrastructure is a material fact, particularly when considering that the ALJ relied on that incorrect information, citing it in her Recommendation. However, recognition of incorrect information, based on the uncontested record on that issue, does not mean that the Commission was inappropriately swayed in its deliberations and decision by public recitation of facts in evidence..

III. THE RECORD SHOULD NOT BE OPENED BECAUSE THE COMMISSION CORRECTLY CHOSE TO UTILIZE THE WHITE BRIDGE ROAD WHEN CONSIDERING MINNESOTA'S POLICY OF NON-PROLIFERATION, TRANSMISSION SITING CRITERIA, AND AGENCY COMMENTS

Laymen for Christ, Inc., owner and operator of Woodland Camp again request that the Public Utilities Commission reject the Township's Motion for Reconsideration. The

⁸ eFiled 7/29/11 by OAH in batch of Public Comments, available online at: [20117-64768-01](#) PUBLIC 09-1448 TL OAH PUBLIC COMMENT-- RECEIVED BEFORE JUNE 30, 2011 07/29/2011

Commission's Order is not based on the Power Dam Group's comments. Utilizing the White Bridge Road crossing of the Zumbro River is supported by the record, particularly in light of the corrections to the Findings of Fact to be consistent with the record and state that there is no transmission line at the Zumbro Dam. The Commission should correct the remaining errors in the FEIS regarding transmission at both of the dams in this proceeding, because at each, the FEIS is incorrect. However, the record should not be reopened because the Commission correctly chose to utilize the White Bridge Road crossing of the Zumbro River -- use of the Dam Route crossing would be contrary to Minnesota's policy of non-proliferation of transmission, transmission siting criteria, the Dept. of Natural Resources recommendations, and the record as a whole. The Commission should deny the Motion for Reconsideration of Oronoco Township.

June 29, 2012



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**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

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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