



Building a legacy – your legacy.

1648 Third Avenue SE  
Rochester, MN 55904  
Tel: 507-289-3919  
Fax: 507-289-7333

April 13, 2016

Larry Hartman  
Environmental Review Manager  
Minnesota Department of Commerce  
Minnesota Public Utilities Commission  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101

Via email: larry.hartman@state.mn.us

Re: PUC docket Number 15-858  
Minnesota Energy Resources Route Permit for the  
Rochester Natural Gas Pipeline Project in Olmsted County  
Objection to proposed route with supporting information  
WSB Project No. 02400-020

Dear Mr. Hartman:

In accordance with the authorization of Mr. Franklin Kottschade, owner of 14 parcels encompassing 190 acres located in the N/2 of the NW/4 and NW/2 of the NW cornered of section 26, T106N R14W, City of Rochester, Olmsted County Minnesota (Figure 1) I am writing to file an objection to the pipeline route proposed by Minnesota Energy Resources (Figure 2) defined as the B&F Properties segment. The proposed preferred route and route alternative buffer extending from station 11.6 on the west, to 12.4 on the north, indirectly impacts his entire development and directly impacts 8 of Mr. Kottschade's 14 parcels. The table below and the attached Figure 1 notes the parcels controlled by Mr. Kottschade and notes the direct or indirect pipeline impact on Mr. Kottschade's property and development plans.

Map ID	PIN	Owner Name	Direct/Indirect impact
1	642624025228	Franklin Kottschade	Direct
2	642624056230	B&F Properties LLC	Indirect
3	642313081592	B&F Properties LLC	Indirect
4	642711081598	Franklin Kottschade	Direct
5	642612081606	Willow Creek Commons LLC	Direct
6	642624081608	Willow Creek Commons LLC	Direct
7	642621081610	Franklin Kottschade	Direct
8	642612081615	Willow Creek Commons LLC	Direct
9	642612081616	SJC Properties LLC	Indirect
10	642612081617	Willow Creek Commons LLC	Indirect
11	642613081618	Willow Creek Commons LLC	Indirect
12	642612081619	Franklin Kottschade	Direct
13	642612081620	Willow Creek Commons LLC	Direct
14	642613081621	Willow Creek Commons LLC	Direct

PUC docket 15-858  
Objection to Proposed Pipeline Route  
Franklin Kottschade Property  
4/13/2016  
Page 2

Narrative:

The 14 Kottschade parcels located west of US 63. South of 40<sup>th</sup> St SW, east of 11<sup>th</sup> Ave SW and north of the platted lots to the south, encompassing a total of 190.5 acres, have been under various stages of development for more than 15 years. The Kottschade parcels, formerly known as the Cote Farm were subject to Zone Change and Conditional Use Permits for mining and grading going back to the mid 1990's.

The Kottschade parcels have been the subject of earlier development affected by condemnations from the City of Rochester along 40<sup>th</sup> St SW on the north property line and later by MNDOT for the US 63/40<sup>th</sup> St SW interchanges in the northeast portion of the parcel. Both regulatory takings were challenged in the Courts by Kottschade. On 40<sup>th</sup> St SW Kottschade prevailed over the City of Rochester on the loss of value based on the taking impairing potential residential development. Mr. Kottschade was granted a financial settlement, regulatory concessions and guaranteed approvals of future development plans for the remainder of his property as part of the court ordered settlement. On the US63/40<sup>th</sup> St Interchange Kottschade prevailed in his case against MNDOT on the basis of the loss of valuable sand and gravel resources. Both cases resulted in multi-million dollar awards to Mr. Kottschade. It appears that Minnesota Energy and their consultant HDR have ignored Mr. Kottschade's long history of successful litigation on earlier condemnations and do not appear to have taken into account the land and mineral values that have been established over the last decade.

Since the adjudication of the condemnation cases have settled in Mr. Kottschade's favor he has moved forward with site improvements including massive grading and the installation of upgraded sanitary sewer to serve his development plans. Kottschade has relied on the terms of court settlements and has sought and received permits, recorded plats and has entered into contractual Development Agreements with the City of Rochester, and has outstanding option agreements for future commercial development. His development plans accommodate sand and gravel extraction, site grading and infrastructure to serve 150 residential lots and 450,000 square feet of commercial buildings. These parcels have been substantially improved and received numerous permits and are not simply open agricultural lands as they might appear on air photos or on a quick site visit. The failure to take into account the pending development and the long history of approved entitlements is an error of omission by the project proposer. It is clear that Minnesota Energy and their consultant HDR have ignored the long public record of development plan approvals on the property and have not taken into account the property values or the economic activity and taxes generated by the Kottschade developments.

Mr. Kottschade had not received notice of this proposed pipeline route until February 2016 and was never notified of alternative route considerations. Minnesota Energy and their consultant HDR never contacted Mr. Kottschade or sought consideration of the proposed route and it is clear that the proposers have never reviewed or taken into consideration the record of litigation or development approvals on the site. Mr. Kottschade stated to me "This may well be the most expensive land ever proposed for a new pipeline in Minnesota. It will be interesting to see how Minnesota Energy will justify the high costs to the Public Utilities Commission and rate payers."

Supplemental Information:

For the purposes of entering data into the public record I have compiled numerous documents that are electronically attached to this letter. Below I have summarized the significance of the attachments.

1. Parcel maps with ownership and acreages.
  - a. The map shows
2. Proposed Route: B&F Properties
  - a. This map was part of the Minnesota Energy's rout application
3. Willow Creek Commons mixed use development concept plan
  - a. This development plan is the conceptual plan used to design and seek permits for the commercial and residential areas that will be impacted by the proposed pipeline route.
4. City of Rochester Conditional Use Permit application 04-01 Willow Commons substantial land alteration 6/19//2006
  - a. Substantial land alteration and site grading has been approved and rough grading has been completed.
5. City of Rochester Land Use Plan Amendment (LUPA) 04-05 Willow Creek Commons, 60.85 acres from "medium density residential 2/4/2008"
  - a. The LUPA is in keeping with court settlements that the city has agreed to support residential development on the site.
6. City of Rochester Zoning District Amendment #04-14 Willow Creek Commons for 60.85 acres from M-1 and R-1 to R-3 2/4/2008
7. City of Rochester General Development Plan #243 Willow Creek commons LLC
8. City of Rochester/Olmsted County Preliminary Plat #06-05 Bonnie Vista Estates and Variance #06-10 by Franklin P. Kottschade/Willow Creek Commons LLC
9. City of Rochester City Council Actions 6/19/2006
  - a. The substantial land alteration has been approved and the remaining items are awaiting action based on Mr. Kottschade's timeline and schedule.
10. Map of 2015 existing utilities
  - a. Trunk line sewer on the east side of the parcel has just been replaced and upgraded to a 30" sewer to accommodate the willow Creek and surrounding development.
11. Official Plat Willow Creek Commons, 27.2 acres
  - a. The Willow Creek commons Plat, approved in 2014 for parcels 8-12 as shown on figure 1
12. Construction Plan: Mass Grading & SWPPP Willow Creek Commons
  - a. Construction Plans and Specification are complete and approved by the City.
13. Construction Plans Stormwater ponds, Stress, Storm Sewer, Sanitary Sewer, Waterman
  - a. Construction Plans and Specification are complete and approved by the City of Rochester.
  - b. Drawing 5/42 shows the existing topography of parcels 1-14 that are south of the creek. A close view of the western half of the site clearly shows that the streets and building pads have been graded to accommodate future development.
14. Preliminary Drainage Report Willow Creek Commons residential
  - a. The drainage report for the residential portion of the property has defined the necessary dimension for the Stormwater rate control and water quality basins necessary for the development. The proposed pipeline would take out a substantial number of lots, streets and completely change the hydrology profile of the developed site requiring re-engineering and the loss of all of the professional fees already expended by Mr. Kottschade.
15. An Economic Analysis of the Reconstruction of the US Hwy 63 in Rochester from US52 to 48<sup>th</sup> St by T.W. Hamilton 8/23/2012

PUC docket 15-858  
Objection to Proposed Pipeline Route  
Franklin Kottschade Property  
4/13/2016  
Page 4

- a. This economic analysis of a single highway interchange provides a detailed assessment of the economic rationale supporting substantial public infrastructure investments and estimates the economic values including land values, jobs and tax base generated by the development on the Kottschade and surrounding property

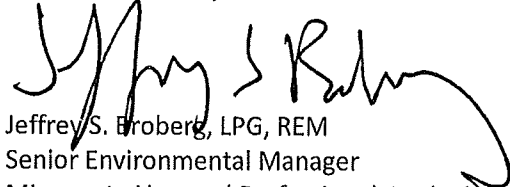
Conclusion:

Mr. Kottschade objects to the proposed route for the Minnesota Energy pipeline through the 'SJC Parcels' as proposed. The alignment does not take into account the development history or the development plans and does not take into account major disruptive impact that the pipeline would have to any plans and future development. The omission of public data is a substantial error and omission that should be corrected and we are asking the Public utilities commission reject the proposed route and remand Minnesota Energy's route proposal back to consider alternatives that do not have such a substantial impact on the growth of the southern corridor of the City of Rochester.

If you have any questions or comments please contact I directly as Mr. Kottschade's designated representative.

Sincerely,

*WSB & Associates, Inc.*



Jeffrey S. Proberg, LPG, REM  
Senior Environmental Manager  
Minnesota Licensed Professional Geologist #30019  
Registered Environmental Manager #3009

Cc: Mr. Franklin Kottschade  
Mr. Gary Van Cleve, Dorsey and Whitney  
Ms. Lindsey Lyle, Minnesota Energy

Attachments:

1. Parcel maps with ownership and acreages.
2. Proposed Route: B&F Properties
3. Willow Creek Commons mixed use development concept plan
4. City of Rochester Conditional Use Permit application 04-01 Willow commons substantial land alteration 6/19//2006
5. City of Rochester Land Use Plan Amendment 04-05 Willow Creek Commons, 60.85 acres from "medium density residential 2/4/2008
6. City of Rochester Zoning District Amendment #04-14 Willow Creek Commons for 60.85 acres from M-1 and R-1 to R-3 2/4/2008
7. City of Rochester General Development Plan #243 willow Creek commons LLC

PUC docket 15-858  
Objection to Proposed Pipeline Route  
Franklin Kottschade Property  
4/13/2016  
Page 5

8. City of Rochester/Olmsted County Preliminary Plat #06-05 Bonnie Vista Estates and Variance #06-10 by Franklin P. Kottschade/Willow Creek Commons LLC
9. City of Rochester City Council Actions 6/19/2006
10. Map of 2015 existing utilities
11. Official Plat Willow Creek Commons, 27.2 acres
12. Construction Plan: Mass Grading & SWPPP willow Creek commons
13. Construction Plans Stormwater ponds, Stress, Storm Sewer, Sanitary Sewer, Waterman
14. Preliminary Drainage Report Willow Creek Commons residential
15. An Economic Analysis of the Reconstruction of the US Hwy 63 in Rochester from US52 to 48<sup>th</sup> St by T.W. Hamilton 8/23/2012

