

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40



April 29, 2011

Matthew Langan, State Permit Manager
Minnesota Office of Energy Security
Energy Facility Permitting
85 7th Place East, Suite 500
St. Paul, Minnesota 55101

Re: Hampton-Rochester-La Crosse 345 kV and 161 kV Transmission Line Project DEIS
[PUC Docket Number: E002/TL-09-1448]

Dear Mr. Langan:

The Minnesota Department of Natural Resources (DNR) has reviewed the Draft Environmental Impact Statement (DEIS) for the Hampton – Rochester – La Crosse 345 kV and 161 kV Transmission Line Project. The DNR appreciates the explanation of impacts and attention to detail included in the DEIS and provides the following comments regarding environmentally sensitive areas and state lands located in each segment, rare species, and information regarding construction, design and the DNR License to Cross Public Lands and Waters. Please also see the attached comments regarding the application for a route permit for the Hampton – Rochester – La Crosse Project dated May 20, 2011 for additional context and DNR input.

Segment 1: Hampton Substation to North Rochester Substation

The Cannon River in the project area is designated as a State Recreation River per Minnesota Rules 6105.1600. State wild, scenic, and recreational rivers are defined as rivers, along with their adjacent lands, that possess outstanding scenic, scientific, historical, and recreational resources (MN Statutes 86A.05, Subd. 10). Minnesota Rules 6105.0170 state that in reviewing License to Cross or Work in Public Waters permit applications for such crossings, primary consideration shall be given to crossings that are proposed to be located with or adjacent to existing public facilities, such as roads and utilities. Routes crossing the Cannon River should be limited to existing disturbed corridors such as an existing highway or transmission line.

Considering overall avoidance of natural resources as described in the DEIS, suggested use of an existing corridor to cross the Cannon River, and avoiding impacts to resources such as Byllesby Lake and the Warsaw WMA, the Preferred Route (1P) appears to generally impact the least natural resources for Segment 1. It is recommended that variations of the Preferred Route that may be necessary during project development be used to avoid public water crossings and associated natural resource impacts to the extent practicable.

Segment 2: North Rochester Substation to Northern Hills Substation

It appears that the proposed crossing of Shady Lake occurs at a location where there is no existing infrastructure. Flood damage to the dam at Shady Lake recently caused this waterbody to change from a reservoir to a river. Regional DNR staff have reported possible plans for a restoration project in this area. Avoiding a greenfield crossing in this area is preferred and would likely correspond well with future restoration plans.



Section 7.7.2.1 of the DEIS describes the risk of spreading Chronic Wasting Disease (CWD) in the Segment 2 area by moving soil containing prions, the disease agent for CWD. The DNR appreciates inclusion of this analysis and adds that avoiding construction work within the fence of the Elk Run Development, which was formerly an elk farm, would help avoid the movement of prions. Also, best management practices used to avoid the spread of invasive species, which should be used for all construction areas, should be particularly emphasized in areas identified in Section 7.7.2.1 for risk of CWD spread. Removing soil from equipment would help avoid the spread of invasive species as well as prions.

The Draft EIS indicates that for Segment 2, North Rochester Substation to Northern Hills Substation, all route alternatives provided will have some impact to the Douglas State Trail. The Douglas State Trail ROW is 100-foot wide and was purchased by the DNR using LAWCON (Land and Water Conservation Fund Act) funds. As provided in previous comments (January, 2009), LAWCON funding includes stipulations that any land planned, developed or improved with LAWCON funds cannot be converted to uses other than outdoor recreational uses unless replacement of land of at least fair market value and reasonable equivalent usefulness is provided (Title 16 of U.S. Code, Chapter 45, Section 2509). It is preferred that the proposed project avoid the Douglas State Trail to the greatest extent possible.

The Draft EIS, Section 8.2, is not clear about proposed route locations and whether or not the power lines will be physically located on state land within the Douglas State Trail Right-of-Way (ROW), or, if the transmission lines will run adjacent the trail ROW and not be located on state lands. Additionally, it is not clear as to whether or not the trail and transmission line ROWs will overlap in some way with potential visual impacts from the trail. Transmission lines currently run parallel to the trail between 60th Ave NW and CSAH 22 (West Circle Drive), however the transmission lines are located outside of the trail ROW.

The Draft EIS is also not clear as to whether the 80-foot ROW width must be clear of all woody vegetation along the Douglas State Trail. The removal of woody vegetation along the Douglas State Trail ROW along with the placement of the transmission lines and support structures would have a negative impact on trail users. The existing narrow strip of vegetation along the trail provides a wind break and shade, as well as scenic value, to trail users along the fairly open trail corridor.

The Mitigation section, on page 138, does not fully discuss mitigation measures other than minimizing impacts by choosing a route alternative other than the most intrusive alternative offered. As none of proposed alternatives completely avoid the Douglas State Trail, it appears that there will be some impact to the trail. The Draft EIS does not currently offer any mitigation strategies for the unavoidable impacts to the recreational resources of this segment.

The DNR Parks and Trails Division requests further explanation of the potential impacts to the Douglas State Trail ROW and requests additional information about mitigation strategies related to the recreational resources for this segment. Parks and Trails staff will need to work with proposer on appropriate mitigation measures to comply with the requirements associated with LAWCON funding and to mitigate for the recreational and resource impacts to the trail.

8.2.4.5 Land Based Economies describes aggregate resources within Segment 2. Overall, sand and gravel deposits are scarce within this region. Generally, the original Preferred Route encumbers less undeveloped sand and gravel resources. The portion of original Alternative Route in the northwest corner of New Haven Township (Sections 5, 6, 7, and 8) dissects an important undeveloped, deposit of sand and gravel resources. This deposit is important because it is within a regional scarcity area for

Class C aggregates. Avoidance of this resource is recommended.

It is difficult to determine from the scale of the Land Use Compatibility Map whether there is more than one sand and gravel mine near the proposed line for Segment 2.

Please note that the Aggregate Source Information System (ASIS) is an additional source of information available from the DNR Division of Lands and Minerals regarding aggregate mining and is an inventory of pits used for state projects. However, please note that there are many additional gravel mines that are not in the ASIS database.

Segment 3: North Rochester Substation to Mississippi River

As stated in the attached May 20, 2010 letter, crossings of public waters should 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.

Map 8.3.40 shows the statutory boundary of state forest in Segment 3, but does not show the actual state ownership boundary, which would show considerably less acreage. This should be corrected to avoid any confusion about the amount of forested land and state ownership. If needed, the DNR Division of Forestry would be able to assist with more accurate mapping for this area.

If final routing does cross state forest, single pole construction is preferred to reduce the acreage of forest clearing.

The McCarthy Lake Wildlife Management Area (WMA) has many important natural resources that could be impacted by the proposed project. McCarthy Lake WMA has one of the largest concentrations of the Blanding's turtle, a state-listed threatened species, in the United States and is also considered a significant habitat area for six other species of native turtles. The WMA also receives substantial numbers of waterfowl during spring and fall migrations and provides nesting habitat for sandhill cranes, one of the few in the state for Greater sandhills, and many migratory waterbirds. In addition, there are recorded breeding Henslow's sparrows, state-listed as endangered, and other rare grassland bird species on the WMA, which require open grassland habitats. Studies have shown towers and poles to be considered "hostile" as an environmental component of grassland songbirds. Power line corridors are typically chemically treated to keep brush and trees down, and this may put many native plants at risk. Though there is an existing transmission corridor in this area, expansion of the ROW and construction and maintenance activities would increase impacts in this area. Also a proposed bypass to follow the west property line on the WMA for over a mile (3A-Kellogg or 3P-Kellogg) would cross a wetland mitigation bank currently being constructed. Considering these possible natural resource impacts, and to avoid forest impacts within DNR managed state forest along the Preferred Route, the DNR encourages utilization of Highway 42 (Route 3B-003) in this area.

In Section 8.4, it is unclear if the existing line near the Kellogg Crossing and the proposed line would be collocated on the same poles.

A description is included in the DEIS of an underground configuration to cross the Mississippi River. A thorough assessment of underground routing through this portion of the project is important as the Mississippi River is one of the primary flyways in North America. Underground routing is more expensive and technically challenging and therefore may be considered only practical when a uniquely

high risk of natural resource impact exists. Considering that this flyway is one of four primary flyways for all migratory species in North America, that transmission lines pose a risk of avian collision, and that the line is crossing through this narrow flyway corridor, this may be exactly the type of situation warranting the challenging use of underground configuration. A thorough analysis of underground routing, including some assessment of whether this crossing provides the most practical underground engineering out of possible crossings is recommended. This analysis may include locations other than previously described aerial crossings if engineering for underground configuration is more practical at another location.

Analysis of an underground crossing at an existing transmission crossing, such as the Kellogg/Alma location, should include collocation of existing transmission and new transmission so that the possible benefits of underground transmission are not lessened in the analysis.

Whether underground or aerial crossing is planned for this project, further coordination regarding details such as pole placement, pole type and underground line placement should be coordinated with the DNR to address vegetation and wildlife impacts, possible rare species impacts, and for preparation of a License to Cross Public Lands and Waters.

Rare Species

The DNR recommends that the FEIS include an assessment of state-listed species of special concern as these are rare resources that may be impacted by project activities. Also, the list of legally protected species (state-listed threatened and endangered) may change within the time periods described for project construction. Some state-listed species of special concern may be included as threatened or endangered at the time of final project construction. These species could also become listed during ongoing maintenance activities. Therefore, inclusion in the EIS will assist project developers and the DNR with an understanding of potential impacts at the time of construction.

Key Habitats and Species of Greatest Conservation Need (SGCN) as described in Minnesota's Comprehensive Wildlife Conservation Strategy are mentioned in the beginning of the DEIS, but potential impacts to Key Habitats do not seem to be further discussed. Further analysis of Key Habitats would strengthen an environmental assessment of this project and would be an appropriate way to utilize Minnesota's wildlife planning, considering the possible impact footprint of a large project such as the Hampton – Rochester – La Crosse Transmission Line.

It appears that an incorrect table was included in Appendix F under the title Segment 1 – Rare Communities. A Rare Species table appears to be included instead of a Rare Communities table. A Rare Communities table should be inserted here.

Once a route is chosen through the Public Utilities Commission (PUC) permitting process, or earlier if possible, suitable habitat for threatened and endangered species will need to be identified along routes and may need to be surveyed. The applicant should coordinate with the DNR regarding any required surveys for threatened or endangered species. It is important to note that surveys may be required during a specific time period and may affect project planning and scheduling.

Project Overview

The DEIS indicated that three substations will be expanded or constructed. Brief descriptions of adjacent ROWs, graded areas and grade access roads are provided. The DEIS should include discussion on other existing utility lines within or near the proposed ROW and expand the description on

transmission line proximity to ROWs. While section 8.14.11 provides discussion on shared ROW with highways, this discussion should include shared ROWs with trails, transmission lines, and pipelines as shown on map 8.1-26.

Additional information should be provided on the effects to existing Farmland Natural Areas Program easements adjacent to the Applicant's Preferred Route.

Engineering and Operation Design

Figure 4.3-1 indicates heights that are inconsistent with the heights shown in the handout "345kV Transmission Pole Design Alternatives" which was provided at the meeting with the DNR on March 14, 2011. A consistent design should be included in the FEIS.

The DEIS indicates widths that are inconsistent with the widths shown in the handout "345kV Transmission Pole Design Alternatives" which was provided at the meeting with the DNR on March 14, 2011. A consistent width should be provided in the FEIS.

Construction

The DEIS should evaluate storm water management. Specific practices should be implemented for the protection of water quality from storm water runoff including contaminated runoff from construction, operation and maintenance activities.

It is recommended that the DEIS discuss and assess differences between winter and summer construction.

The DEIS should evaluate the location of storage piles and source of materials used in construction. The DEIS should discuss disposal or wasting of the excavated material from the construction of the tower footings and include consideration of Chronic Wasting Disease precautions.

The DEIS should discuss permanent and temporary access roads/points to the proposed ROW routes, whether they are asphalt, concrete, gravel, and the season and duration of use. These should be identified and impacts assessed.

The DEIS should identify all hazardous materials that will be used at project sites, the amount that is to be used and stored, and how they are to be transported. The likelihood and/or frequency of hazardous material spills and response plans should be discussed, particularly near sensitive areas such as water crossings.

The DEIS should evaluate clearing practices.

The DEIS should discuss possible preventive measures and management techniques for invasive species. DNR invasive species standards will apply to state-administered lands and water and will include cleaning of equipment. Native species mixes for re-vegetation and use of clean weed-free straw for mulch will be required on state land and public water crossings. Best Management Practices to avoid the spread of invasive species are also important for the containment of soil contaminated with prions associated with Chronic Wasting Disease.

Required Permits and Approvals

The review and issuance of DNR lands and water crossing licenses are coordinated by the DNR Division of Lands and Minerals. The Lands and Minerals Regional Supervisor for Dakota Goodhue and Wabasha counties is Trina Zieman (651/259-5792). The applicant should contact Trina Zieman to schedule a pre-application meeting to discuss administrative procedures for submitting the land and water crossing applications. Several licenses may be required depending on the timing and scope of the project. DNR monitoring will be required in the DNR licenses. Independent monitors may also be required during construction. Additional work areas on state land that are adjacent to the ROW may be considered under the land crossing license application. Temporary access to the ROW across state land is not part of the license application process and is considered a separate transaction. Such temporary access could not be granted through a lease. Requests for temporary access require review and approval and may not be granted. Adequate time for processing these requests should be allowed. Please also consider Executive Order 11-04, which sets a goal for the DNR of completing environmental permits within 30 days of final approval of the Final Environmental Impact Statement. Coordination may be necessary regarding this project and meeting the goal included in Executive Order 11-04.

Please note that the DEIS page numbering and some map numbering appears to be different on two different versions of the document available during the comment period. The DNR appreciates receipt of the notice related to these changes. However, it is possible there may be some references in DNR comments that unintentionally do not match the most updated DEIS version. Please feel free to contact me with any needed clarifications if any confusion exists.

DNR staff appreciate the opportunity to review the DEIS for the Hampton – Rochester – La Crosse Transmission Line Project.

Sincerely,



Jamie Schrenzel
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(651) 259-5115

Enclosures: 1

C: Richard Davis, USFWS
Tom Hillstrom, Xcel Energy
Melissa Doperalski, DNR

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May 20, 2010

Matthew Langan
State Permit Manager
Minnesota Office of Energy Security
85 7th Place East, Suite 500
St. Paul, Minnesota, 55101-2198

Re: Route Permit Application and Draft Environmental Impact Statement (DEIS) Scoping for the Hampton-Rochester-La Crosse 345 kV Transmission Line Project [PUC Docket Number: E002/TL-09-1448]

Dear Mr. Langan:

The Minnesota Department of Natural Resources (DNR) has reviewed the route permit application for the Hampton-Rochester-La Crosse 345 kV Transmission Line Project and offers the following comments regarding the application and scoping for the DEIS. General DEIS Scoping Comments and Preferred, Alternative, and Route Option Comments are included. Most comments are suggested topics for analysis in the DEIS. Some comments are also provided as a review of the route permit application and are intended for early coordination of permit related topics.

General DEIS Scoping Comments

The DEIS should include a comparative environmental analysis of the Preferred, Alternate, and Route Options to determine which route would minimize negative environmental effects from the project. The DNR has several sources of information that should be included as part of the comparative analysis. The Natural Heritage Information System (NHIS) provides information on rare resources such as state threatened and endangered plant and animal species that should be included in the comparative analysis as well as an impact assessment and potential mitigation for the various alternatives carried forward for analysis in the EIS. The Minnesota County Biological Survey (MCBS) identifies and maps native plant communities and sites of outstanding, high and moderate biodiversity that should also be used. The MDNR has also prepared a comprehensive wildlife conservation strategy (*Tomorrow's Habitat for the Wild and Rare, An Action Plan for Minnesota Wildlife*, Jan. 2006) that identifies key habitats for Species of Greatest Conservation Need within each Ecological Classification System (ECS) subsection. The degree to which key habitats are affected by an alternative should also be included in the comparative analysis as well as an impact assessment and potential mitigation for the various alternatives carried forward in the EIS.

It should be noted that rare species surveys will be required if any native prairie remnants, other potential habitat of state-listed threatened, or endangered species will be impacted by the proposed project. In addition, habitat surveys may be required if more information is needed to assess areas with limited data.



The DEIS should include detailed information concerning any possible state-listed threatened or endangered species takings.

Tables 5.1-5 and 5.2-2 of the Route Permit Application, dated January 20, 2010, provide a format for communicating the rationale for choosing the Preferred over the Alternate Route selections. The DEIS should include details of where these features are located within the segments of the identified routes would be helpful in determining which route would have the least environmental impact to natural resources. An example of some of the features that warrant further discussion include conservation areas, grasslands, native communities, bluff habitats, and state-owned lands.

The application discusses further coordination between the project proposer and the DNR regarding rare species and habitats. The DNR encourages this further coordination. GIS shapefiles are needed from the project proposer for DNR review of rare species and habitats in the project area.

The DEIS should identify the locations, associated natural resource impacts, and mitigation planned for temporary laydown areas and staging areas for each route described.

The DEIS should describe maintenance activities, possible associated natural resource impacts, and mitigation that will take place associated with this project for each route. For example, maintenance activities within public lands may be detrimental to natural resources if herbicide spraying were included.

The DEIS should identify distances to nearby State Parks. If a route is proposed near a State Park, the DEIS should include a viewshed analysis and a description of the effects the transmission line would have to park visitors.

Preferred, Alternative, and Route Options

There are two routes identified for crossing the Cannon River. Portions of the Cannon River in this area are designated as a State Recreation River per Minnesota Rules 6106.1600. State wild, scenic and recreational rivers are defined as rivers, along with their adjacent lands, that possess outstanding scenic, scientific, historical, and recreational resources (MN Statutes 86A.05, Subd.10). A greenfield crossing of the Cannon River would have substantial negative effects to the natural characteristics which underlie the Wild and Scenic River designation. In addition, Dakota County's Master Plan for Lake Byllesby Regional Park references the area as having high potential for intact pre-contact archaeological resources due the relatively undisturbed nature of the area (*Lake Byllesby Regional Park Master Plan*, July 2005). Routes to crossing this river should be limited to existing disturbed corridors such as highways or existing transmission lines.

The Preferred, Alternate, and Route Options would adversely affect the McCarthy Lake Wildlife Management Area (WMA). This area has many important natural resources that could be impacted by the proposed project. McCarthy Lake WMA has one of the largest concentrations of the Blanding's turtle, a state-listed threatened species, in the United States and is also considered

a significant habitat area for six other species of native turtles. The WMA also receives substantial numbers of waterfowl during spring and fall migrations and provides nesting habitat for sandhill cranes, one of the few in the state for Greater sandhills, and many migratory waterbirds. In addition, there are recorded breeding Henslow's sparrows, state-listed as endangered, and other rare grassland bird species on the WMA, which require open grassland habitats. Studies have shown towers and poles to be considered "hostile" as an environmental component of grassland songbirds. Power line corridors are typically chemically treated to keep brush and trees down, and this would put many native plants at risk. Although there is a route option to avoid the WMA, the proposed bypass would follow the west property line on the WMA for over a mile and would cross a wetland mitigation bank currently being constructed. The DNR cannot support this route option. The DEIS should analyze another route option in the area to avoid the above listed natural resources.

One of the proposed alignments is adjacent to the Woodbury WMA in Goodhue County near Zumbrota. There is a 69kV line less than a mile to the north. The DNR would recommend that the new line follow the existing alignment to the north for this route.

Page 3-3 of Section 3.0 of the route permit application discusses coordinating structure design with the USFWS. The DNR is interested in structure design related to public land and water crossings, particularly if a route crosses an area such as a state forest or WMA. Please coordinate with the DNR regarding the Mississippi River Crossing and other public land or water crossings.

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.

The Douglas State Trail corridor is a 100-foot ROW owned by the DNR. The corridor was purchased using federal Land and Water Conservation Fund Act (LAWCON) funds, which stipulate that the use of the corridor remains recreational. In Rochester, transmission lines run parallel the Douglas State Trail between 60th Ave NW and CSAH 22 (West Circle Dr.). The DEIS should give more detail about whether the trail ROW and the transmission line ROW overlap. If they do, there may be conflicts with LAWCON funding.

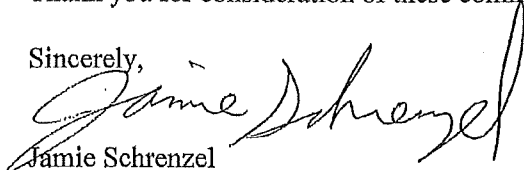
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The DEIS should include a robust description of possible underground crossings of the Mississippi River. The Mississippi River is one of the primary flyways in North America and, as discussed in the route permit application, a National Wildlife and Fish Refuge in this area. Examples of ways to further analyze an underground option follow: Underground route crossing options discussed in the DEIS should not only include an underground option at the location(s) best suited for considering aerial crossings, but should include an underground route at the location(s) best suited for engineering an underground route, which may or may not be the same location as the Alma crossing. The reasoning for the route(s) chosen for an underground crossing analysis should be included with the description of underground routing. A comparison of impacts and mitigation should be included for aerial and underground crossings of the Mississippi.

It would be informative if the DEIS contained a brief discussion of the possible extent of impacts in Wisconsin, particularly related to how the choice of a Mississippi River crossing location affects routing in Wisconsin and Minnesota. Providing information in the DEIS regarding the impacts in both Minnesota and Wisconsin would help the reader better assess the overall environmental impacts of an interstate project.

Thank you for consideration of these comments. If you have any questions, please contact me.

Sincerely,



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Principal Planner
Environmental Review Unit
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Minnesota Department of Natural Resources

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May 20, 2010

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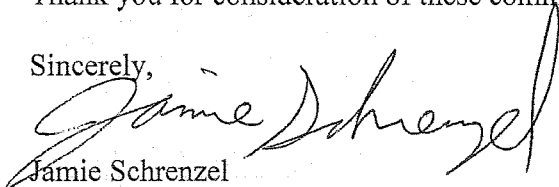
The purpose of the Land and Water Conservation Fund Act (LAWCON) is to help preserve, develop and provide accessibility to outdoor recreation resources. LAWCON stipulates that any land planned, developed or improved with LAWCON funds cannot be converted to other than outdoor recreational use unless replacement land of at least equal fair market value and reasonable equivalent useful is provided. (Title 16 of U.S. Code, Chapter 45, Section 2509). The process related to determining whether a crossing of public lands with LAWCON funding is possible may be time consuming. If any routes are proposed to cross public land, the applicant should coordinate with the DNR to determine whether the public lands have LAWCON funding and determine further steps regarding the license to cross public lands and waters. If any conflicts exist with the purpose of LAWCON funding, the DEIS should explain this topic.

The DEIS should include a robust description of possible underground crossings of the Mississippi River. The Mississippi River is one of the primary flyways in North America and, as discussed in the route permit application, a National Wildlife and Fish Refuge in this area. Examples of ways to further analyze an underground option follow: Underground route crossing options discussed in the DEIS should not only include an underground option at the location(s) best suited for considering aerial crossings, but should include an underground route at the location(s) best suited for engineering an underground route, which may or may not be the same location as the Alma crossing. The reasoning for the route(s) chosen for an underground crossing analysis should be included with the description of underground routing. A comparison of impacts and mitigation should be included for aerial and underground crossings of the Mississippi.

It would be informative if the DEIS contained a brief discussion of the possible extent of impacts in Wisconsin, particularly related to how the choice of a Mississippi River crossing location affects routing in Wisconsin and Minnesota. Providing information in the DEIS regarding the impacts in both Minnesota and Wisconsin would help the reader better assess the overall environmental impacts of an interstate project.

Thank you for consideration of these comments. If you have any questions, please contact me.

Sincerely,



Jamie Schrenzel
Principal Planner
Environmental Review Unit
(651) 259-5115

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40

June 29, 2011



Judge Kathleen D. Sheehy
Office of Administrative Hearings
P.O. Box 64620
600 North Robert Street
St. Paul, Minnesota 55164-0620

Re: Hampton-Rochester-La Crosse 345 kV and 161 kV Transmission Line Project
[PUC Docket Number: E002/TL-09-1448; OAH Docket No. 3-2500-21181-2]

Dear Judge Sheehy:

The Minnesota Department of Natural Resources (DNR) has reviewed the Route Permit Application and Draft Environmental Impact Statement (DEIS) for the Hampton-Rochester-La Crosse Transmission Line Project and has provided testimony during the Office of Administrative Hearings (OAH) evidentiary hearing. The attached comments regarding the DEIS, dated April 29, 2011, are included for analysis and consideration in the administrative record and findings of fact. In addition to these comments, further clarification is provided, as requested by parties in the evidentiary hearing, regarding DNR comments about possible Zumbro River crossings in Segment 3 of the project.

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 threatened 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.

Thank you for the opportunity to provide input regarding the Hampton-Rochester-La Crosse Transmission Line Project. Please contact me with any questions regarding the attached comments, evidentiary hearing testimony, or additional information provided in this letter.

Sincerely,

A handwritten signature in black ink that reads 'Jamie Schrenzel'.

Jamie Schrenzel
Principal Planner
Environmental Review Unit
(651) 259-5115

Enclosures: 1

Judge Sheehy 6/29/2011



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Minnesota Department of Natural Resources

November 21, 2012

500 Lafayette Road • St. Paul, MN • 55155-40__



David Birkholz, State Permit Manager
Minnesota Office of Energy Security
85 7th Place E., Suite 500
St. Paul, Minnesota 55101-2198

Re: Hampton Rochester La Crosse Transmission Project Construction Environmental Control Plan
(CECP) – North Rochester to Northern Hills Segment
[PUC Docket Number: E002/TL-09-1448]

Dear Mr. Birkholz:

The Minnesota Department of Natural Resources (DNR) has reviewed the Construction Environmental Control Plan (CECP) for the North Rochester to Northern Hills Segment and provides the following recommendations.

Avian Mitigation Plan (AMP):

The DNR appreciates the detailed discussion provided in the Avian Mitigation Plan, particularly Section 6.0 Analysis of Potential Avian Impacts and the decisions behind the proposed placement of bird diverters. This information is useful for DNR's review of the AMP.

On page 7, second to the last paragraph states "Field observations made during pre-application and pre-construction surveys and field work performed...were also used in making determinations of bird collision risk." The DNR requests clarification of this statement as it may be interpreted that avian surveys have been completed for the project.

The AMP should include a section on state-listed birds and should list the steps that will be taken in the case of injury or death of a state-listed bird. The injury or death of state-listed species should be reported to the DNR.

The AMP states that "all bird fatalities or injuries will be reported to the USFWS per the reporting requirements outlined in the MOU..." The DNR has received a copy of the Memorandum of Understanding (MOU) between the UFWFS and Xcel Energy (July 2009) through a different record process (CAPX2020 Fargo to St. Cloud). The DNR recommends that as the AMP defers to this document regarding specific Xcel Energy responses, the document be submitted as part of the record for this project. The AMP should also identify which Sections of the MOU are applicable as it relates to the AMP. The DNR also suggests that the MOU be available for Xcel Energy and their contractors during construction activities.

In addition to references to the MOU, for the intended purpose of the MOU, the DNR requests that company protocols for the handling of injured birds be included in the AMP. This would include reporting forms, reporting contact charts and types of semi-annual or annual reports that are included in the protocols. The DNR requests copies of semi-annual or annual reports that are provided to the UFWFS.

The DNR agrees with all bird diverter locations proposed in the AMP dated October 16, 2012. In addition, the DNR recommends bird diverter placement in the following areas;

- AMP map pages 10 and 32, the crossing of the North Branch Middle Fork Zumbro River and of the intermittent stream south of this location, west of Pine Island. This area is a woodland/wetland corridor that serves as a travel corridor for a variety of species. During wetter periods, the surrounding wetlands



and agricultural fields may become inundated with standing water. These areas become holdover areas for birds. Recommended locations for placement would be commencing at County 11 Blvd extending south to 5th Street Southwest.

- AMP map page 35, located between 75th Street Northwest and 65th Street Northwest, west of Rochester. There is a wetland and intermittent stream crossing located north of 65th Street Northwest. The DNR recommends bird diverters be placed in this area commencing mid-Section 2 extending approximately 570 meters south to the southern extent of the wooded habitat east of the line.

Vegetation Removal, Revegetation, and Vegetation Management Plan (Plan):

In general, under the introduction of the purpose of the plan, the DNR suggests the inclusion of an item that addresses vegetation practices specific to resource agencies identified areas of concern (e.g. sites such as state lands and water crossings, sensitive areas such as wetlands, rare plant communities or Sites of Biodiversity Significance, USFWS areas if applicable).

Section 2.1 General Practices. Two line item comments:

Bullets 6 and 10 – The DNR recommends that these practices be required, and if there are situations in which they cannot be followed, that those be identified and minimization and mitigation efforts be discussed.

The DNR recommends that invasive species management (both aquatic and terrestrial) be identified (or include reference to the appropriate Section in the Plan) under Section 2.0 General Right-Of-Way Vegetation Management.

Public Utilities Commission (PUC) Permit Condition 4.2.5 states that “In many cases certain low and slow growing species that do not exceed a mature height of 15 feet can be planted in the right-of-way...” Section 2.0 of the Plan includes language that states “Vegetation that will not conflict with the safe installation and ongoing maintenance of the line may be retained if after specific review it is deemed acceptable by the Permittee.” Further, in Section 3.0 Vegetation Removal, the Plan states that all woody vegetation in upland areas will be removed within the ROW and managed through the operational life of the project. Please clarify if selective vegetative practices are being considered for upland areas.

Section 3.2 Douglas State Trail. Please clarify what meant by “significant portions” in the following sentence “The North Rochester – Northern Hills line does not cross significant portions of state-owned lands.” In the November 15, 2012 meeting with DNR, Department of Commerce and Xcel Energy, project representatives stated that there is no plan to cross state land in this segment. The DNR commented that recent materials received depicted the line ROW within state lands. As discussed in the November 15, 2012 meeting, the DNR has requested additional information including shapefiles and a better detailed maps from Xcel Energy to verify parcel boundaries to determine if a DNR Utility License to Cross State Land will be required.

Section 3.1 Wetland and Riparian Areas. Xcel Energy’s typical selective vegetation removal approach does not seem applicable to a 161 kV line because the ROW for this route is described as a 40-90-foot wide. The Plan describes woody vegetation clearing within 100 feet of a transmission pole. Please clarify (see above comment on vegetation removal). The DNR also requests clarification regarding how or if the 100-foot transmission pole buffer takes into consideration pole structure types/configurations and kilovolts.

Section 3.1 of the Vegetation Management Plan states that clearing will take place within two Sites of High Biodiversity Significance and that clearing will be done under frozen ground conditions. The DNR recommends that all construction activities in these two areas are done under frozen ground conditions. One of these sites contains a native plant community identified as imperiled in Minnesota. This community is an Elm-

Ash-Basswood Terrace Forest located in T109N R15W Sections 30 and 31. Reducing impacts to this community and reducing tree clearing as much as possible is recommended.

It should be noted in Section 3.1 that construction within wetland and riparian areas that are under DNR jurisdiction (from ordinary high water mark) will need to comply with the requirements of the DNR License to Cross Public Lands and Waters.

Section 5.0 Noxious Weeds and Invasive Species Control (and other appropriate Sections or references within the document). Please note that cutting buckthorn without herbicide treatment can significantly exacerbate a buckthorn infestation because the stump will regenerate sprouts, increasing density and potential seed source. The DNR recommends that *all* stumps be treated or, at a minimum, that all stems over 1 inch in diameter be treated with herbicides.

Section 6.0 Seeding and Mulching. The Plan states that erosion control specifications and details are found in the Construction Stormwater Pollution Prevention Plan (SWPPP). The PUC permit condition 4.2.7 states that the "Permittee shall consult with the DNR to identify where wildlife-friendly erosion control mesh should be used during and following construction activities." The application of wildlife-friendly erosion control mesh, including proposed locations of, should be included in the Plan and coordination should occur with the DNR.

Regarding seed substitutions, given the rarity of sedge meadows/wetlands, the DNR does not agree with the seed substitutions referred to in the plan when based on the relative cost of the seeds. If the availability of finding appropriate native seeds for these areas is a problem, we request that Xcel Energy (or the Environmental Monitor) contact DNR for further coordination.

The Plan states that there is hope for revegetation to occur naturally from the local communities. In areas where the local plant community is an invasive species or an undesirable species such as reed canary grass, the DNR encourages the Company to consider restoring native vegetation as part of their restoration practices.

Xcel Energy has agreed to provide the DNR with shapefiles of the pole locations/numbers. Once received, the DNR will be able to provide a more detailed review of natural resources in regards to pole footprints. However, the DNR has identified a few pole locations from review of the maps provided in the CECP that from review, warrant further discussion.

- Pole 5310-10. This pole is located within 50 feet of an actively eroding bank. A recently received water crossing license application included language that described this pole location as being 312 feet from the stream centerline; however, it appears that this was measured on the centerline of the powerline rather than the proposed pole location. The DNR recommends moving the pole outside of the floodplain. This would reduce potential damage to the structure during flood events from woody debris. The DNR would encourage a new pole location to span the low lying wooded area along the stream. For this pole location, the DNR is also involved in conversations with Xcel Energy regarding a state-listed species. The DNR requests further discussions regarding this pole location and the issues raised above.
- Pole 5310.15. Pole concerns are similar to the above with the exception that a state-listed species is not known to occur here.

In situations where a pole is located within a DNR public water or wetland that is proposed to be abandoned as an active line, please note that the DNR would require the pole(s) be removed.

The DNR has received additional information from Xcel Energy regarding Glade Mallow Surveys along the North Rochester to Northern Hills Construction Spread in a letter packet dated November 9, 2012. The

information in this packet is considered sensitive as it includes discussions and maps specific to known protected species locations. The DNR will be reviewing this information in addition to the Threatened and Endangered Species Construction Constraints and Proposed Avoidance/Minimization Measures packet. Comments on these two packets that represent portions of the CECP will be completed at a later date as coordination is currently underway between the DNR and Xcel Energy.

It should be noted that it has not yet been determined whether a Takings Permit will be required for the Glade Mallow. If needed, the takings permit may require more stringent conditions than those identified in the Vegetation Management Plan or in the Threatened and Endangered Species Construction Constraints and Proposed Avoidance / Minimization Measures. The DNR will be providing a response to the Threatened and Endangered Species Construction Constraints and Proposed Avoidance / Minimization Measures and the Glade Mallow Survey Results and it is recommended that this response, if applicable, be incorporated into the CECP.

Thank you for the opportunity to review the CECP. Please contact me with any questions.

Sincerely,



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C: Tricia DeBleeckere, Minnesota Public Utilities Commission
Tim Rogers, Xcel Energy
Ellen Heine, Xcel Energy