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FILED IN
ST. LOUIS COUNTY
SEP 15 2004
OFFICE OF
COURT ADMINISTRATOR
BY *DL*

STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DISTRICT COURT
SIXTH JUDICIAL DISTRICT
Court File: CO-04-600930

In the Matter of the Condemnation of Right-of-Way by Minnesota Power, a Division of ALLETE, Inc., a Minnesota Corporation, Under and Across Certain Lands in St. Louis County, Minnesota, owned by Scott A. Ollila; Teri Ollila; Fleet Mortgage Corporation; Jonathon P. Peterson a/k/a Jonathan P. Peterson; Flagstar Bank, FSB, formerly known as First Security Savings Bank, FSB; Citifinancial Services, Inc., a Minnesota Corporation, formerly known as Associates Industrial Loan Company; Penny Lynn Christiansen f/k/a Penny L. Peterson; Steve T. Christiansen; Douglas A. Hoffbauer; Lois L. Hoffbauer; Alf B. Haugsand, Jr.; Penny Haugsand a/k/a Lucia P. Haugsand; Wells Fargo Bank Minnesota, a National Association; Laura Conley; George Crocker; Richard Dahl; Shirley Ericson; Jennifer Kirkpatrick; Rachel Kirkpatrick; Calen Kirkpatrick; Natalie Kirkpatrick; Gene Laajala; John LaForge; Coralie Liebaert; Matt Neshengel; Daniel Proctor; Robert Ringstad; Eleanor Steffon; Josh Wiese; Darwin Zielke; John Schraufnagel; Glenn Olson; Neal Koepke; Debbie Ortman; Allison K. Haugsand; Emily M. Haugsand; Amy J. White; S.O.U.L. of Lake Superior, a chapter of S.O.U.L. Inc., a Wisconsin non-profit Corporation, a/k/a Save Our Unique Lands, Inc., a Wisconsin non-profit Corporation; Donald Liimatainen; Erin Stojan; Charles Johnson; Milton Watry; Greg Andler; Diane Peterson; Ava Johnson; Leora Barthel; David Crawford; Peg Tierney; William Marsh; Federico Vasquez; Carol Reschke; Ken Lindberg; Steven Birchler; Steven J. Vujcevic; Mary Madaras; and all persons or parties known or unknown claiming any right, title, estate, liens or interest in the real estate set forth herein.

**AMENDED
ORDER APPOINTING
COMMISSIONERS AND
FOR POSSESSION**

The above-entitled proceedings came duly on for hearing before the Honorable Heather L. Sweetland, Judge of the District Court, on the 20th day of August, 2004, upon the Amended Petition of Minnesota Power, a Division of ALLETE, Inc., a Minnesota Corporation for the taking of lands by Minnesota Power, a Division of ALLETE, Inc., a Minnesota Corporation, under the power of eminent domain. An Amended Notice of Hearing and Amended Petition for Condemnation Transfer of Title and Possession was served upon Respondents. Proof of service was filed in the office of the Court Administrator.

TORRENS ALSO

Return to:
Anderson et al
TFR # 171339
Cash 19⁵⁰ Chg

Anderson
AFR # 52669
Cash 19⁵⁰

Petitioner appeared by attorneys, Charles Andresen and Lyssa Supinski, representing Minnesota Power, a Division of ALLETE, Inc., a Minnesota Corporation. Respondents appeared in person or by attorneys as follows: James Boos, attorney at law, appeared on behalf of Respondents Scott A. Ollila, Jonathon P. Peterson, Douglas A. Hoffbauer, and Alf B. Haugsand; and Mark Liebaert appeared on behalf of the Vice President of Save Our Unique Lands, Inc., a Wisconsin Corporation, a/k/a S.O.U.L., Inc., a Wisconsin Corporation.

Having heard the evidence adduced by the parties, the arguments of counsel and considering all of the records and files herein, and due to a typographical error in the spelling of a commissioner's name in the previous Order dated September 9, 2004, the Court makes the following:

FINDINGS OF FACT

1. Petitioner is a division of ALLETE, Inc., a corporation organized and existing under the laws of the State of Minnesota, with offices within Minnesota at 30 West Superior Street, Duluth, Minnesota, 55802, and is authorized by its Articles of Incorporation to construct, own, maintain, and operate electric transmission facilities for the transportation of electric power on behalf of public utilities, and others.
2. Petitioner is a division of ALLETE, Inc., a Public Service Corporation pursuant to Minnesota Statutes § 300.03.
3. Petitioner has obtained an exemption from the requirements of the Minnesota Power Plant Siting Act (Minn. Stat. § 116C, S1-69), for the construction of said transmission line by Order of the State of Minnesota Environmental Quality Board, dated March 19, 2001.
4. Respondents Rachel Kirkpatrick, Calen Kirkpatrick and Natalie Kirkpatrick are minors and that their natural mother, Respondent Jennifer Kirkpatrick, agreed to act as Guardian Ad Litem on their behalf in these proceedings. The Court finds notice was given and Jennifer Kirkpatrick and the children were present in Court.
5. Petitioner has a valid existing easement 100 feet in width over the lands set forth in Exhibit A, parcel 1, as recorded in the Office of the County Recorder as Document No. 6018.
6. Petitioner has a valid existing easement 100 feet in width over the lands set forth in Exhibit A, parcels 2 and 3, as recorded in the Office of the County Recorder as Document No. 6016.
7. Petitioner has a valid existing easement 100 feet in width over the lands set forth in Exhibit A, parcel 4, as recorded in the Office of the County Recorder as Document No. 6009.

8. Petitioner has a valid existing easement 100 feet in width over the lands set forth in Exhibit A, parcels 5, 6 and 7, as recorded in the Office of the County Recorder as Document No. 6024.
9. Petitioner has a valid easement for an electric transmission line over the property described in Exhibit A, parcel 8, which easement has been recorded in the office of the Registrar of Titles for St. Louis County as Document No. 296773, as shown on Certificate of Title No. 232629. Said easement allows for a single electric transmission line.
10. The proposed taking appears to be necessary as provided by law.
11. Petitioner did on the 15th day of July, 2004, pursuant to Minnesota Statutes §117.042, notify all Respondents of its intent to take possession of the premises subject to these proceedings.

Based upon the foregoing findings, the Court makes the following:

ORDER

1. Respondent Jennifer Kirkpatrick is hereby appointed to act as Guardian Ad Litem on behalf of Respondents Rachel Kirkpatrick, Calen Kirkpatrick and Natalie Kirkpatrick in these proceedings.
2. Steve Goldschmidt, John Fillenworth and Anthony Vatalaro (with Jerome Agnew and William Clements as alternates), who are disinterested persons and residents of said County of St. Louis, be and they are hereby appointed Commissioners to ascertain and report the amount of damages that will be sustained by the owners of said lands on account of said taking; that said Commissioners shall hold their first meeting in the office of the Court Administrator in the Courthouse at Duluth, Minnesota, at 9:00 a.m. on the 17th day of September, 2004; that said Commissioners shall file their final Report with the Court Administrator within ninety (90) days from the date hereof; that the compensation of each said Commissioners shall be as follows: the sum of Two Hundred Fifty Dollars (\$250.00) per day for each and every day occupied by the Commissioner in the performance of his duties as such, reimbursements for mileage actually traveled in his own conveyances at the rate of \$0.375 per mile, and disbursements for travel expenses and such meals and lodging as are reasonably necessary in the performance of such duties.
3. Notice of the first meeting of said Commissioners shall be personally served upon said landowners or by mailing a copy thereof to each landowner's last known address at least two (2) days before the date set for said hearing; that said Commissioners may adjourn said hearing from time to time as found necessary; and that said Commissioners shall cause oral notice to be given to those present of the time and place where they will meet and consider the damages and compensation said landowners are entitled to receive.

4. The property is hereby taken for a public use and that the taking is authorized by law under Minn. Stat. §§ 300.04 and 222.36.
5. The estate acquired by Petitioner, its successors and assigns, in said lands shall be permanent right-of-way easements, free of all encumbrances, over, under, and across said lands for construction, installation, operation, repair, replacement and maintenance for electric transmission lines, together with such devices used or useful in the operation, maintenance and use of such said lines, over, under, and across the real property situated in St. Louis County, Minnesota, described in attached Exhibit A, against all persons or parties unknown claiming any right, title, estate, liens, or interest in said real estate together with the following rights: the use of necessary and appropriate temporary work space on each side of said right-of-way easements.
6. Petitioner is entitled to possession of the premises upon the filing of the Commissioners' award herein or on the 28th day of October, 2004, whichever shall be sooner, provided that Petitioner shall deposit with the Court, prior to October 28, 2004, an amount equal to Petitioners approved Appraisal of value.
7. Attached hereto and incorporated herein by reference is the attached Memorandum of Law.

Dated: September 15, 2004

Heather L. Sweetland
DISTRICT COURT JUDGE HEATHER L. SWEETLAND