

MPUC Docket No. E-6472/GS-06-668
OAH Docket No. 12-2500-17512-2

BEFORE THE
MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

FOR THE
MINNESOTA PUBLIC UTILITIES COMMISSION
127 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of a Joint LEPGP Site Permit,
HVTL Route Permit and Pipeline (Partial Exemption)
Route Permit Application for the Mesaba Energy Project

PREPARED DIRECT TESTIMONY AND EXHIBITS OF
EXCELSIOR ENERGY INC., MEP-I LLC, AND MEP-II LLC

BRAD R. KOVACH

JANUARY 16, 2007

1 **EXCELSIOR ENERGY, INC.**

2 **BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

3 **PREPARED DIRECT TESTIMONY OF**

4 **BRAD R. KOVACH**

5 **Q Please state your name, current employment position and business address.**

6 A Brad R. Kovach. I am a Senior Biologist/Project Manager and Minnesota
7 Certified Wetland Delineator with Short Elliott Hendrickson Inc. (“SEH”), a consulting
8 firm of engineers, architects, planners, and scientists with offices in ten states
9 throughout the Upper Midwest and Rocky Mountain regions. My subjects of expertise
10 include wetland permitting, assessment, mitigation, and policy; National
11 Environmental Policy Act related coordination; Minnesota Environmental Quality
12 Board Environmental Assessment Worksheet studies and coordination; wildlife,
13 botanical and ecological assessments; endangered species coordination; and water
14 quality. My business address is 3535 Vadnais Center Drive, St. Paul, Minnesota
15 55110.

16 **Q Would you please describe your educational and professional background.**

17 A I received a Bachelor of Science in Biology from Middle Tennessee State
18 University in 1987, and I have more than 15 years experience as a biologist in the
19 environmental services. My work experience includes environmental related project
20 management, documentation, analysis and policymaking under a wide array of local,
21 state, and federal regulation and policies. My project experience relates to the areas of
22 transportation, utility, petroleum and mining facilities, public works and infrastructure,
23 environmental research and planning, and scientific analysis. This experience includes

1 several years of wetland delineation and permitting; MPUC, FERC and NEPA
2 documentation; endangered species studies; and environmental inspection for gas
3 transmission line projects. My resume is appended as Exhibit ____ (BRK-1).

4 **Q On whose behalf are you testifying?**

5 A I am testifying on behalf of MEP-I LLC, MEP-II LLC, and Excelsior Energy
6 Inc. (collectively “Excelsior”), the developers of the Mesaba Energy Project
7 (the “Project”).

8 Scope and Summary

9 **Q What is the scope of your testimony in this proceeding?**

10 A The purpose of my testimony is to sponsor several sections of Excelsior’s Joint
11 Application and Environmental Supplement. The subjects of my testimony include
12 threatened and endangered species, ecology, and fish and wildlife resources.

13 Specifically, I am sponsoring the following sections:

14 **Joint Application**

15 Section 7.8 (Ecological Resources: West Range Site)

16 Section 8.8 (Ecological Resources: East Range Site)

17 **Environmental Supplement**

18 Section 2.10 (Ecological Resources)

19 Section 3.9 (Ecological Resources)

20 During the preparation of the Joint Application and the Environmental Supplement, I
21 worked closely with Excelsior in reviewing and preparing these sections. I also
22 communicated with state agencies and participated in the field reconnaissance that

1 formed the basis for much of the discussion in these sections. I am available to answer
2 questions relating to these sections.

3 Investigation Techniques

4 **Q Please describe briefly the sources for the information contained in these sections.**

5 A We first identified ecological resources using off-site methods, including the
6 review of aerial and satellite imagery as well as existing data collected by others. A
7 team of biologists from SEH, including myself, then conducted a field reconnaissance
8 to characterize the ecological conditions and identify resources that may require
9 additional studies and formal surveys. We also completed wetland delineations of
10 project elements that were approved for access. Additionally, we reviewed the
11 Minnesota Department of Natural Resources (Minnesota DNR) Natural Heritage
12 Information System (NHIS) database to identify any known records of rare or unique
13 ecological resources, including state and federally protected species.

14 Ecological Conditions and Biological Communities

15 **Q Please provide a brief description of the ecological conditions and biological
16 communities that are present in the vicinity of the West Range IGCC Power
17 Station footprint and buffer land, including flora and fauna.**

18 A. As discussed in Section 7.8 of the Joint Application and Section 2.10 of the
19 Environmental Supplement, the area is characterized as a forested setting of Northern
20 Minnesota and is composed of second growth forest cover. It has been subjected to
21 decades of timber harvesting and is generally lacking old-growth forest cover. Past
22 mining, existing roads, and transmission lines have resulted in relatively minor habitat
23 fragmentation and alteration of habitat in the vicinity of the West Range IGCC Power

1 Station footprint and buffer land and surrounding area. Our research and investigation
2 indicates that state- and federally-protected species may have potential habitat or
3 occurrences within the vicinity of the footprint and buffer land. Excelsior will consult
4 with state and federal agencies to confirm that any potential effects on such species will
5 be minimal.

6 **Q Please briefly describe the ecological conditions and biological communities that**
7 **are present in the vicinity of the East Range IGCC Power Station footprint and**
8 **buffer land, including flora and fauna.**

9 A As discussed in Section 8.8 of the Joint Application and Section 2.10 of the
10 Environmental Supplement, the East Range IGCC Power Station footprint and buffer
11 land, like that on the West Range, is within the forest setting of Northern Minnesota
12 and is composed mostly of second growth forest cover. The area has been subjected to
13 timber harvesting, which has altered upland habitats from the presettlement condition.
14 The wildlife-habitat quality within the vicinity of the footprint and buffer land is
15 similar to habitat quality found in the surrounding areas and region. Habitats for state
16 and federally listed species are common to the region and present within the vicinity of
17 the footprint and buffer land. Excelsior will engage in consultation with state and
18 federal agencies to determine the potential effect of the project on these species and
19 any required mitigation measures.

20 **Q Please describe briefly the information contained in Section 3.9 of the**
21 **Environmental Supplement.**

22 A This section describes the Project's anticipated effects on ecological resources,
23 including flora, fauna, and state- and federally-listed threatened, endangered or

1 otherwise rare natural resources. It also describes the acreage of terrestrial ecological
2 communities potentially impacted by the Project.

3 Information obtained from the United States Fish and Wildlife Service
4 (USFWS) indicates that no federally protected plant species are known to be within the
5 vicinity of the West Range IGCC Power Station footprint and buffer land, but habitats
6 for, and occurrences of, federally protected species of fauna are present. For land in
7 the vicinity of the East Range IGCC Power Station footprint and buffer land, no
8 adverse effects are anticipated for federally protected plant species, which, according to
9 the USFWS, are not known to be present in St. Louis County. Three federally
10 protected species of fauna are known to be present in the area. According to the
11 Minnesota DNR NHIS, no records of state-listed species or rare features exist within
12 the vicinity of the East Range Power Station footprint and buffer land. For both sites,
13 coordination and consultation with the Minnesota DNR and USFWS will determine
14 whether formal surveys are necessary to determine the presence/absence of any
15 protected species and their habitats.

16 Minimization of Impacts

17 **Q What measures will Excelsior take to avoid and minimize impacts on flora and**
18 **fauna?**

19 **A** Excelsior will limit its timber and land-clearing activities to periods outside of
20 the songbird-nesting season to minimize the potential for the incidental taking of
21 songbird nests. Excelsior will also use the impact-minimization and replacement
22 standards set forth in federal, state, and local permits. Excelsior will mitigate effects
23 on fish and wildlife resources at wetland and water-body crossings by meeting the

1 requirements of the NPDES permit, wetland permits, and other environmental permits.
2 Specific mitigation measures could include replacement of wetland habitats when
3 permanent dredge and fill impacts are involved; implementation of erosion,
4 sedimentation, and turbidity-control standards; erosion control plans; and restoration of
5 grades and bottom-contour topographies of water bodies. Additionally, when water
6 and wetland crossings are necessary for utilities, Excelsior will employ minimally-
7 invasive construction techniques such as directional drilling to minimize effects on
8 aquatic resources and habitats.

9 **Q What measures will Excelsior take to avoid and minimize impacts on threatened,**
10 **endangered, or otherwise rare species?**

11 **A** The project will continue to coordinate with the Minnesota DNR to determine
12 whether formal surveys and additional reviews are necessary for state-listed Threatened
13 or Endangered species or Species of Special Concern. For federally protected species,
14 Section 7 Formal Consultation will occur to obtain a Determination of Effect Decision
15 and identify specific coordination needs and identify appropriate mitigation measures.
16 For both state and federally listed species, potential mitigation measures may include
17 seasonal changes in construction schedules, salvage and relocation, habitat
18 preservation, operational-related measures, and other project-specific measures defined
19 through the consultation process with the agencies. In the year before construction,
20 Excelsior will work with the United States Fish and Wildlife Service and Minnesota
21 DNR to ascertain whether additional species occurrences have been recorded or are
22 present. Based on the coordination results with these agencies, Excelsior will consider
23 the potential presence of any state or federally listed species in planning the final layout

1 of the project. To protect bald eagles, Excelsior will comply with federal requirements
2 by coordinating with agencies to obtain updated information about nesting sites before
3 construction.

4 Supplements and Clarifications

5 **Q Are there any parts of the sections that you have sponsored that you would like to**
6 **supplement or clarify at this time?**

7 A No, not at this time.

8 Conclusion

9 **Q Does this conclude your testimony?**

10 A Yes.

EXHIBITS

EXHIBIT ____ (BRK-1)

Bradley R. Kovach Senior Biologist/Project Manager

General Background

Mr. Kovach has more than 15 years of experience as a biologist in the environmental services. His work experience includes environmental related project management, documentation, analysis and policymaking under a wide array of local, state, and federal regulations/policies. Subjects of expertise include wetland permitting, assessment, mitigation, and policy; National Environmental Policy Act (NEPA) related coordination; Minnesota Environmental Quality Board Environmental Assessment Worksheet (EAW) studies and coordination; wildlife, botanical and ecological assessments; endangered species coordination; and water quality. His work experience covers all levels of the subject areas ranging from marketing and policymaking to field sampling and study design, data analysis, writing and document preparation, and project interagency and public sector interaction/presentation. Brad's project experience in transportation, utility, petroleum and mining facilities, public works and infrastructure, environmental research and planning and scientific analysis. This includes several years of wetland delineation and permitting, MPUC, FERC and NEPA documentation, endangered species studies, and construction environmental inspection for gas transmission line projects.

Experience

University of Minnesota Football Stadium EIS – Minneapolis, Minnesota. Brad provided environmental documentation (scoping and EIS), public involvement and technical studies services for a new 50,000-seat, on-campus football stadium and associated infrastructure improvements. SEH led a comprehensive public involvement program within a time-sensitive project development process.

Crow River Estates Environmental Assessment Worksheet (EAW) – Paynesville, Minnesota. Prepared an EAW for a proposed 300-acre multi-use housing, retail, and commercial development in west central Minnesota. Project was partially located within the Crow River floodplain and involved other natural resource related project effects.

Minnesota Steel Industries (MSI) Environmental Screening and Scoping Study – Itasca and St. Louis Counties, Minnesota. Project team member who conducted environmental screening of project site and linear corridor alternatives for a proposed industrial facility located within former mine lands in Northern Minnesota. Included determining potential project effects on wetlands, Threatened and Endangered species and fish and wildlife habitats and related text production that summarized findings in a Scoping Study.

Three Bays Environmental Impact Study, U.S. Steel – St. Louis County, Minnesota. Project team task manager for addressing natural resource subjects in a MEQB EIS for a proposed development on the southeast side of Lake Vermillion in Tower, Minnesota. Included field reconnaissance for fish and wildlife and Threatened and Endangered species and assembly of EIS document using both SEH data and data/studies prepared by others.

Education

*Bachelor of Science-Biology
Middle Tennessee State
University (1987)*

Continuing Education

*SEH Project Managers Training
(2002)*

*Award Winning Presentation
Training by Dag Knudsen (2004)*

*Systematic Development of
Informed Consent (SDIC)
Training, the Bliker
Methodology (2001)*

*Context Sensitive Design
Workshop – Mn/DOT (2001)*

*Minnesota Board of Soil and
Water Resources Wetland Field
Delineation Training Course
(1996)*

*Hydric Soils Course –
University of Minnesota (1996)*

*Project Managers Academy –
Mn/DOT (1996)*

*Interagency Prescribed Fire
Management Course and
Certificate (1994)*

*Candidate and Coursework for
Master of Science in Ecology –
University of South Florida
(1990-92)*

Professional Associations

Society of Wetland Scientists

Minnesota Wetland

*Professionals Association –
former Board Member,
Secretary*

Minnesota Ornithological Union

Ecological Society of America

Professional Certifications

*Minnesota Certified Wetland
Delineator (2005)*



115kV Tower Transmission Line, Minnesota Power/Great River Energy Cooperative – St. Louis County, Minnesota. Project task manager responsible for natural resource team environmental screening and preparation of environmental sections for a State Certificate of Need (CON) and Route Permit Application for a proposed transmission line in northern Minnesota. CON and Route Permit Application were prepared in accordance with the rules of the MEQB and Minnesota Public Utilities Commission (PUC).

Denley Road Environmental Assessment, U.S Forest Service (USFS) Superior National Forest – St. Louis County, Minnesota. Task manager for wetland delineations, T & E species coordination, and assembly of natural resource sections in a federal Environmental Assessment (EA) prepared for a proposed USFS road reconstruction project in Superior National Forest. Included preparation of the EA and a Biological Evaluation in accordance with USFS policy and NEPA guidance.

County Trunk Highway S Endangered Species Survey – Osceola, Wisconsin. Project manager and field biologist for a field survey for two federally listed endangered plant species within the St. Croix National Wild and Scenic River corridor. Included application of botanical survey methods and GPS mapping of rare plants.

Hawk Ridge Estates Migratory Bird Coordination – Duluth, Minnesota. Provided the Duluth Housing Authority with mitigation plan and public involvement support for requested action by Duluth City Planning Commission related to approval of an Environmental Assessment Worksheet (EAW) for a proposed development in the Lester Park region. Included development of a mitigation plan in accordance with federal Migratory Bird Act requirements, consensus building informal discussions with concerned citizen groups, and testimony in support of the proposed action and consensus for the mitigation to the Planning Commission. Resulted in successful approval of the EAW.

St. Paul District, U.S. Army Corps of Engineers and Minnesota Wetland Conservation Act Wetland Permitting. Completed numerous joint wetland permit applications for various projects in Minnesota under the auspices of the federal Clean Water Act, Section 404 and the Minnesota Wetland Conservation Act. Included wetland delineation, permit application, and replacement plan components for each permit application.

Endangered Species Inventory – Sioux Falls, South Dakota. Project manager and field team leader for surveys of rare botanical and fauna species on a 600-acre tract of native prairie in Southeast South Dakota. Included surveys for the federally threatened western-prairie-fringed-orchid and the state threatened lined snake. Prepared a study report of the survey findings for inclusion as a supplemental study in an environmental assessment for a transportation project.

