



**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

**COMMENTS AND RECOMMENDATIONS OF THE  
MINNESOTA OFFICE OF ENERGY SECURITY  
ENERGY FACILITY PERMITTING STAFF**

DOCKET NO. E002/TL-07-1233

Meeting Date: May 8, 2008

Agenda Item # \_\_\_\_\_

Company: Xcel Energy

Docket No. E002/TL-07-1233

**In the Matter of the Application for a Route Permit for the Fenton – Nobles #2  
115kV High Voltage Transmission Line**

Issue(s): Should the Commission find that the Environmental Assessment and the record adequately address the issues identified in the Scoping Decision? Should the Commission issue a route permit identifying a specific route and permit conditions for the proposed Fenton to Nobles #2 HVTL project?

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**Relevant Documents** (in Commission Packet)

Initial Filing- Route Permit Application – Xcel Energy .....October 18, 2007  
Xcel Energy Letter Proposing Design Modification ..... February 26, 2008  
Environmental Assessment ..... March 5, 2008  
ALJ's Summary of Testimony at Public Hearings ..... April 15, 2008

The enclosed materials are work papers of the Office of Energy Security Energy Facility Permitting Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

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## **Statement of the Issues**

Should the Commission find that the Environmental Assessment and the record adequately address the issues identified in the Scoping Decision? Should the Commission issue a route permit identifying a specific route and permit conditions for the proposed Fenton to Nobles #2 transmission project?

## **Introduction and Background**

Xcel Energy proposes to build a second 115 kilovolt (kV) high voltage transmission line (HVTL) from its existing Fenton Substation to its existing Nobles County Substation. On October 18, 2007, Xcel Energy filed a route permit application for the Fenton – Nobles #2 115kV Project (the “Project”).

The proposed Project is the first of three transmission line route permits anticipated to be considered by the PUC for Xcel Energy’s (Xcel) “Buffalo Ridge Incremental Generation Outlet” (BRIGO) transmission project.

The BRIGO transmission project is part of a series of measures intended to increase transmission capacity to export wind energy generated on the Buffalo Ridge to Xcel Energy’s customers. Xcel indicates that the three proposed BRIGO transmission lines will increase the transmission outlet capacity on the Buffalo Ridge from approximately 825 megawatts (MW) to approximately 1,175 MW and resolve electric reliability issues in the city of Marshall.

The Minnesota Public Utilities Commission (PUC or Commission) issued a Certificate of Need (CON) to Xcel for the BRIGO transmission project on September 14, 2007. In its Order, the PUC required that Xcel file route permit applications for all the three BRIGO transmission lines no later than January 2008 and take necessary steps to have the lines constructed and in-service no later than spring 2009.<sup>1</sup>

### ***Project Area***

The Xcel Energy Fenton – Nobles #2 Project is proposed in Murray and Nobles counties, Minnesota. The proposed route begins south of Chandler at the existing Fenton Substation and terminates at the Nobles County Substation immediately north of Reading. Nearly the entire proposed route runs parallel to state, county and township road rights-of-way (ROW).

The area along the proposed route is rural and dominated by agricultural land uses. The area contains some rural homes and farmsteads. Several transmission and distribution lines are present in the area.

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<sup>1</sup> PUC Docket E002/CN-06-154, <https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=4772937>

### ***Project Description***

The length of the proposed transmission line route is approximately 23 miles. Xcel also proposes to install associated facilities including improvements to both substations to accommodate the new transmission line.

The Environmental Assessment (EA) conducted by the Office of Energy Security (OES) Energy Facilities Permitting (EFP) staff provides a detailed description and analysis of Xcel's proposed route, as well as, a short alternative route segment (Kluis Alternative). Nearly the entire 23 mile long route runs parallel and immediately adjacent to existing ROW.

Xcel is requesting a 400 foot wide route (200 feet each side of the centerline) and proposes to construct the transmission line primarily on private lands within 10 feet outside of the road ROW it parallels where possible.

Xcel Energy proposes to utilize two different transmission line structures (poles) for the proposed line. Most of the line will be constructed on steel, single circuit transmission line structures with davit arms designed to carry 115 kV conductors throughout the approved route. These structures are 90 feet tall and will have an average span of 500 feet between structures. Figure 2 in the Application shows a cross section drawing of a typical 115 kV single pole structures being considered for this Project.

Xcel Energy has also requested permission to install galvanized steel, single circuit, davit arm transmission line structures designed to carry 345 kV conductor on a limited basis primarily between the Fenton Substation and Minnesota Trunk Highway 91, and at locations where taller poles are necessary to cross other existing transmission lines and where the line is required to achieve longer spans to cross wetlands and bodies of water. These structures are 135 – 145 feet tall and will have an average span of approximately 950 feet. Xcel's February 25, 2008, letter proposing to use larger transmission structures shows a cross section drawing and photo of the 345 kV structure.

The transmission right-of-way (easement area) width requirement for the 115 kV transmission project would be 75 feet where the 115 kV structures will be used and 150 feet where the taller 345 kV structures will be used.<sup>2</sup>

### **Regulatory Process and Procedures**

A route permit from the Commission is required to construct an HVTL, which is a transmission line and associated facilities capable of operation at 100 kilovolts or more. The Power Plant Siting Act requirement became law in 1973 in Minnesota Statutes, 216E.001 through 216E.18. The rules to implement the permitting requirement for an HVTL are in Minnesota Rules Chapter 7849.

The Application was reviewed under the Alternative Review Process (Minnesota Rules 7849.5510) of the Power Plant Siting Act (Minnesota Statutes Chapter 216E). Under the

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<sup>2</sup> Exhibit 2, Chapters 4 -5

Alternative Review Process, an applicant is not required to propose any alternative sites or routes. The OES EFP staff holds initial public information/scoping meeting, develops a scoping decision recommendation, prepares a document called an EA, and holds public hearing is held. The Commission has six months to reach a decision under the Alternative Process from the time an application is accepted

### ***Application & Acceptance***

On September 20, 2007, a letter was filed with the Commission by Xcel noticing their intent to submit a Route Permit Application under the Alternative Permitting Process. On October 18, 2007, Xcel filed a Route Permit Application for a second 115 kV HVTL to be constructed between the Fenton Substation and the Nobles County Substation (Exhibit 1). The Commission accepted the Application as complete on November 2, 2007.

### ***Public Information and EA Scoping Meeting***

On November 15, 2007, EFP staff held the initial public information/scoping meeting in Wilmont. Approximately 25 persons, excluding OES staff and the Applicant's representatives, attended the meeting. The purpose of the public meeting was to provide the public with information about the Project, afford the public an opportunity to ask questions and present comments, and to solicit input on the content of the EA.

During the initial public information/scoping meeting concern was raised about the portion of Xcel's proposed route (approximately 1 mile) that follows along 70<sup>th</sup> Avenue between 11<sup>th</sup> Street and 1<sup>st</sup> Street in Murray County. Building the transmission line along this segment would require the removal of mature wind breaks protecting several west facing farmsteads in the segment. Potentially impact landowners, Jim and Joan Kluis, provided verbal and written comments proposing an alternative segment which was included in the scope and evaluated in the EA. The proposed alternative segment would move the transmission line approximately one half mile west running cross country along the half section line of Section 31, Moulton Township, Murray County.

Two comment letters were received during the scoping comment period concerning the Fenton – Nobles #2 Transmission Project. Jim and Joan Kluis provided comments proposing the alternative discussed above. The other comment letter was filed by the U.S. Army Corps of Engineers clarifying wetland permitting requirements for the Project.

The EA Scoping Decision was signed by the Director of the OES on January 18, 2008. The EA was made available on March 6, 2008.

### ***Public Hearing***

The OES EFP staff requested that the Office of Administrative Hearings assist the OES by assigning an ALJ to preside over the public hearing and provide a summary of testimony at the public hearing.

ALJ Eric Lipman conducted a public hearing during the evening of April 1, 2008. The public hearing was held at the Wilmont Community Center, 316 4<sup>th</sup> Avenue, Wilmont, Minnesota. Approximately 25 persons attended the hearing. The ALJ provided the opportunity for members

of the public to air their views regarding the proposed route of the 115 kV HVTL. The comment period closed on April 11, 2008. The ALJ filed his summary of testimony at the public hearing on April 15, 2008.

At the hearing and in written comments, several people raised concerns that the compensation Xcel pays to landowners for easement acquisition is inadequate. While this is an important issue to many, it is outside of the PUC's jurisdiction; disputes regarding easement valuation are subject to condemnation and eminent domain proceedings (Minnesota Statute Chapter 117) in the appropriate district courts.

The Kooiman family, in oral and written comments, opposed using the Kluis Alternative, as it would run along the eastern property boundaries of the family lands in Moulton Township, Section 31. The Kooiman family raised concerns that the placement of the transmission line along the Kluis Alternative will reduce the number of wind turbines that could potentially be built on this land. However, the family does not have any immediate plan or pending proposal to develop a wind facility on these lands. The Kooiman family would prefer a different route across its land which would add an additional mile of transmission line along their property, all of which is along road ROW. The route suggested by the Kooimans at the public hearing was not analyzed in the EA.

The president of the Nobles County Minnesota Farmers Union chapter, Tim Henning, testified in favor of the Nobles to Fenton transmission project. He also expressed concerns regarding crop and soil damages due to construction of the line and suggested that Xcel avoid springtime construction, avoid routing the line cross country through agricultural lands, and suggested that Xcel coordinate closely with landowners on the final placement of poles. Finally, Mr. Henning suggested having a local person, rather than an Xcel employee, serve as an ombudsman to act on complaints from landowners regarding construction of the line.

Jim Joens, a farmer and landowner, provided oral and written testimony pointing out soil and crop damages which resulted from construction practices related to building the first transmission line between the Fenton and Nobles substations. In addition, Mr. Joens complained about how landowners were treated by several of the contractors responsible for easement acquisition and construction for that line.

Greg Ponto, a landowner immediately adjacent to the Nobles County Substation, expressed his frustration with crop damages from construction of the first Fenton to Nobles transmission line. Mr. Ponto expressed preference for using larger transmission line structures as they allow for spans approaching 1,000 feet, thus requiring roughly half the number of structures when compared to the shorter structures. He indicates that fewer structures build reduces the permanent impacts to agricultural lands.

Kooiman family, who own lands along portions of the Kluis Alternative, expressed in written and oral comments that they believe the Kluis Alternative will negatively impact the future ability to develop a wind project on the Kooiman properties. In addition, the Kooimans indicated that the placement of the line on their fields will make future maintenance of the line and farm operations more difficult. At the hearing, the Kooimans suggested that the

transmission line be routed along Highway 91 through this area to avoid both homes and farming operations, which would add at least one additional mile to the route. The Kooiman's suggested route segment was not proposed until the public hearing and was not evaluated in the EA.

### ***Standards for Permit Issuance***

The Power Plant Siting Act sets standards and criteria and outlines the factors to be considered in determining whether to issue a permit for a HVTL (Minnesota Statute 216E and Minnesota Rules 7849.5900). Also, the law allows the PUC to place conditions on HVTL permits (Minnesota Statute 216E.03 and Minnesota Rule 7849.5960).

### **DOC EFP Staff Analysis and Comments**

The OES EFP staff has attached proposed Findings of Fact, Conclusions and Recommendation (Attachment A) and a proposed Route Permit (Attachment B). A list of documents that are part of the record in this proceeding is included on the attached Exhibit List (Attachment C). EFP staff made these documents available to the public on April 25, 2008. The Findings indicate that the permitting process has been conducted in accordance with Minnesota Rules Chapter 7849, identify route impacts and mitigation measures, and make conclusions of law. The proposed Route Permit includes measures to ensure the line is constructed in a safe, reliable manner and that impacts are minimized or mitigated.

### ***Staff Analysis***

EFP staff has reviewed Xcel Energy's proposed route and the Kluis Alternative segment. The proposed route and Kluis Alternative were examined in detail in the EA and at the public hearing.

The Kluis Alternative segment reduces the impact of the proposed route along 70<sup>th</sup> Street between 1<sup>st</sup> Avenue and 11<sup>th</sup> Avenue by moving the proposed transmission line off the road ROW to run cross country along the half section line, thus avoiding two farmsteads and the mature windbreaks protecting these homes. The Kluis Alternative does not add length or cost to the Project. Xcel Energy has stated its support for constructing the line along the Kluis Alternative. The EFP staff concludes that the Kluis Alternative is a more reasonable and prudent route than the proposed route in the affected area.

EFP staff has reviewed Xcel Energy's request for permission to install taller transmission line structures along the northern 2.5 miles of the route, in locations where the proposed line will cross sensitive streams and where the line will cross existing transmission lines. It is important to note that the northern 2.5 miles of the route is also within the 205 MW Fenton Wind Project, which features approximately 137 wind turbine generators, each approximately 380 feet tall.

Taller transmission line structures will likely be more visible due to their height and have spans approximately twice as long as standard 115 kV transmission structures (500 feet vs. 950 feet). Thus, while taller and more visible, only about half the number of structures will be required in this portion of the route. These visual impacts are highly subjective. Xcel Energy reports that no landowner potentially impacted along this portion of the route has objected to use of these taller

structures. In fact, at least one landowner has expressed a preference for the taller transmission structures as their use reduces the overall number of transmission poles required to be built.

The OES EFP staff conclude that approving the limited use of taller transmission line structures as requested by Xcel is appropriate in this case.

Unfortunately, crop damages do occur when transmission lines and other energy facilities are constructed. Xcel has identified in its Application several measures it plans to undertake to minimize crop damages. Xcel will compensate landowners for crop or soil damages caused by the construction of the transmission line.

The proposed route modified by the Kluis Alternative will place the transmission line primarily along road ROW, which reduces the impacts to agricultural properties. While crop damages are still possible, routing the line along road ROW generally reduces the amount of land exposed to potential crop and soil damage as the route can be accessed from the adjacent road.

Finally, EFP staff note that the route permit requires Xcel to designate a field representative who is the point person for the PUC and landowners to communicate with regarding construction related concerns, questions or complaints. EFP staff believe that having an Xcel Energy appointed representative provides the public with direct access to get questions answered and problems resolved in the most direct and expeditious manner.

## **PUC Decision Options**

### **A. Approve and Adopt the Findings of Fact, Conclusions of Law and Order for the Xcel Energy Fenton – Nobles Transmission Project which:**

1. determines that the Environmental Assessment and record created at the public hearing address the issues identified in the EA Scoping Decision;
2. approves the proposed route modified by the Kluis Alternative segment for the construction of the transmission line;
3. issues a high voltage transmission line Route Permit, with appropriate conditions, to Xcel Energy, and;
4. approves Xcel Energy's request to install taller transmission line structures along the northern 2.5 miles of the approved route and other locations where longer spans and clearance are required to cross streams, environmentally sensitive area and existing transmission lines.

### **B. Approve and adopt the Findings of Fact, Conclusions and Order as above while imposing any further permit conditions as deemed appropriate.**

### **C. Amend the Findings of Fact, Conclusions and Order and Route Permit as deemed appropriate.**

### **D. Make some other decision deemed more appropriate.**

## **EFP Staff Recommendation**

Staff recommends Option A.

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

<p><b>In the Matter of the Application for a Route Permit for the Fenton – Nobles #2 115kV High Voltage Transmission Line</b></p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ISSUING A ROUTE PERMIT TO XCEL ENERGY FOR THE FENTON – NOBLES #2 TRANSMISSION LINE PROJECT AND ASSOCIATED FACILITIES MPUC DOCKET NO. E002/TL-07-1233</b></p>
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The above-captioned matter came before the Minnesota Public Utilities Commission (PUC or Commission) on May 8, 2008, acting on an application by Xcel Energy (Xcel or the Company) for a Route Permit to construct a new, second 115 kilovolt (kV) high voltage transmission line (HVTL) circuit between the Company's existing Fenton Substation in Murray County and the existing Nobles County Substation in Nobles County, a distance of approximately 23 miles.

A public hearing was held on April 1, 2008. The public hearing record closed on April 11, 2008.

**STATEMENT OF ISSUE**

Should Xcel Energy be issued a Route permit to construct an approximately 23-mile, 115 kV HVTL from the Fenton Substation to the Nobles County Substation and install associated facilities at the substations to accommodate the new line?

If so, which route should be approved for the transmission line and what conditions should be imposed?

Based upon all of the proceedings herein, the Commission makes the following:

**FINDINGS OF FACT**

**The Applicant**

1. The Applicant is Xcel Energy, a Minnesota investor owned utility with headquarters in Minneapolis. Xcel Energy provides electricity services to approximately 1.2 million customers and natural gas services to 425,000 residential, commercial and industrial customers. Xcel Energy also provides electricity service to customers in Wisconsin, South Dakota and North Dakota. Xcel Energy owns and operates the Fenton

and Nobles County substations and will construct, own, and operate the proposed 115 kV transmission line.

### **The Project**

2. Xcel proposes to construct a second 115 kV transmission line and associated substation modifications between the Fenton Substation and Nobles County Substation. The Project is part of Xcel Energy's Buffalo Ridge Incremental Generation Outlet (BRIGO) transmission project, which is a series of measures intended to increase transmission capacity to export wind energy generated on Southwestern Minnesota's Buffalo Ridge to Xcel Energy's customers. The permit application, maps, appendices, and other documents were made available to the public through the PUC Energy Facility and edockets websites.<sup>1</sup>

3. The Xcel Energy Fenton – Nobles #2 Project is proposed in Murray and Nobles counties, Minnesota. The proposed route begins south of Chandler at the existing Fenton Substation and terminates at the Nobles County Substation a few miles north of Reading. Nearly the entire proposed route runs parallel to state, county and township road rights-of-way. The area along the proposed route is rural and dominated by agricultural land uses. The area contains some rural homes and farmsteads. Several transmission and distribution lines are present in the area.<sup>2</sup>

4. In its Application, Xcel identifies the proposed route for the line and the associated facilities:

A. Construct a second, approximately 23 mile, 115 kV transmission line between the Fenton Substation and the Nobles County Substation.

B. Install associated facilities at the Fenton Substation including four new 115 kV circuit breakers, disconnects, a five position ring bus, and new concrete foundations to support substation equipment.

C. Install associated facilities at the Nobles County Substation including a new 345 kV/115 kV transformer, two 345 kV breakers, four 115 kV breakers, a 345 kV 5 position ring bus and new concrete foundations to support substation equipment.

5. Xcel Energy proposes to utilize two different transmission line structures (poles) for the proposed line. Most of the line will be constructed on steel, single circuit transmission line structures with davit arms designed to carry 115 kV conductors throughout the approved route. In addition, Xcel Energy has proposed to install larger galvanized steel, single circuit, davit arm transmission line structures designed to carry

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<sup>1</sup> The Xcel Fenton – Nobles #2 Project information is located on the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?ld=19346>

<sup>2</sup> Exhibit 2 and Exhibit 3

345 kV conductor on a limited basis between the Fenton Substation and Minnesota Trunk Highway 91, and at locations where taller poles are necessary to cross other existing transmission lines and where the line is required to achieve longer spans to cross wetlands and bodies of water.

6. The average span will be 500 feet using the 90 foot tall 115 kV transmission structures. Figure 2 in the Application shows a cross section drawing of a typical 115 kV single pole structures being considered for this Project. The average span will be approximately 950 feet where Xcel proposes to use the approximately 140 foot tall 345 kV transmission structures. Xcel's February 25, 2008, letter proposing to use larger transmission structures shows a cross section drawing and photo of the proposed 345 kV structures.

7. The transmission line will utilize bundled (two conductors or wires per phase) 795 aluminum core steel supported (ACSS) conductors, as well as a shield wire to protect the conductors from lightning.

8. The transmission right-of-way (easement area) width requirement for the 115 kV transmission project would be 75 feet where the 115 kV structures will be used and 150 feet where the taller 345 kV structures will be used. The width of the right-of-way cleared will be less in areas where the new transmission line follows an existing linear corridor, such as an existing transmission line or road. Xcel Energy will seek a permanent easement, providing the right to construct, operate and maintain the transmission line, for the full width and length of the right-of-way. Additional right-of-way may be required for longer spans or special design requirements based on a final survey. Right-of-way width depends on conductor blowout and the recommended clearances to obstructions along the route.<sup>3</sup>

### **Procedural History**

9. Minnesota Statute 216B.243, subd. 2, states that no large energy facility shall be sited or constructed in Minnesota without the issuance of a Certificate of Need (CON) by the Commission. Minnesota Statute 216B.2421, subd. 2(3) defines a "large energy facility" as any high voltage transmission line with a capacity of 100 kV or more with more than ten miles of length or that crosses a state line. Because the proposed Project is greater than 10 miles in length, a CON is required.

10. The Commission issued a CON to Xcel Energy for the BRIGO transmission project, including the proposed Fenton – Nobles transmission line, on September 14, 2007. In its Order, the PUC required that Xcel file route permit applications for all the three BRIGO transmission lines no later than January 2008 and

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<sup>3</sup> Exhibit 2, Chapters 4 -5

take necessary steps to have the lines constructed and in-service no later than spring 2009.<sup>4</sup>

11. On September 20, 2007, a letter was submitted to the Commission by Xcel providing notice of its intent to submit a Route Permit Application under the Alternative Permitting Process set forth in Minnesota Rules 7849.5500 to 7849.5720.<sup>5</sup>

12. On October 18, 2007, Xcel filed a Route Permit Application for a second 115 kV HVTL to be constructed between the Fenton Substation and the Nobles County Substation.<sup>6</sup>

13. The Commission accepted the Application as complete on November 2, 2007.<sup>7</sup>

14. On November 5, 2007, Xcel mailed a combined Notice of Filing the Route Permit Application and Notice of Public Information and Environmental Assessment (EA) Scoping Meeting to those persons whose name appeared on the PUC's power plant general notification list, local officials and property owners in compliance with Minnesota Rule 7849.5550.<sup>8</sup>

15. Xcel published Notice of Application and Notice of Public Information and Environmental Assessment (EA) in the *Worthington Daily Globe* and the *Murray County Wheel Herald* on November 3 and November 5, 2007, in compliance with Minnesota Rules 7849.5500 and 7849.5570.<sup>9</sup>

16. A Public Information and EA Scoping meeting was held on November 15, 2007, at the Wilmont Community Center in Wilmont, Minnesota, in accordance with Minnesota Rule 7849.5570. Approximately 25 persons attended. During the meeting, several landowners voiced concerns related to transmission line construction, crop damage and the proximity of the proposed transmission line to homes along the proposed route. These issues, along with the typical line routing impacts, were incorporated into the EA Scoping Decision.

17. During the public information meeting, concern was raised about the portion of Xcel's proposed route (approximately 1 mile) that follows along 70<sup>th</sup> Avenue between 11<sup>th</sup> Street and 1<sup>st</sup> Street in Murray County. Building the transmission line along this segment would require the removal of mature wind breaks protecting several farmsteads in the segment. Potentially impacted landowners, Jim and Joan Kluis, provided verbal and written comments proposing an alternative segment which was

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<sup>4</sup> PUC Docket E002/CN-06-154 Order Granting Certificates of Need  
<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=4772937>

<sup>5</sup> Exhibit 1

<sup>6</sup> Exhibit 2 and Exhibit 3

<sup>7</sup> Exhibit 5

<sup>8</sup> Exhibit 6

<sup>9</sup> Exhibit 17

included in the scope and evaluated in the EA. The proposed Kluis Alternative segment would move the transmission line approximately one half mile west running cross country along the half section line of Section 31, Moulton Township, Murray County.

18. Two comment letters were received during the scoping comment period concerning the Fenton – Nobles #2 Transmission Project. Jim and Joan Kluis provided comments proposing the alternative described above. The other comment letter was filed by the U.S. Army Corps of Engineers clarifying wetland permitting requirements for the Project.<sup>10</sup>

19. The EA Scoping Decision was signed by the Director of the Office of Energy Security on January 18, 2008.<sup>11</sup>

20. The EA was filed with the PUC and made available on March 6, 2008.<sup>12</sup>

21. Pursuant to Minnesota Rule 7849.5710, Xcel published Notice of Public Hearing in the *Worthington Daily Globe* on March 19, 2008.<sup>13</sup>

22. On March 17, 2008, the OES mailed a Notice of Public Hearing to those persons on the project mailing list and to those local governmental representatives required to be served with notice in accordance with Minnesota Statute 216E.03 and Minnesota Rule 7849.5710.<sup>14</sup>

23. On March 24, 2008, the Notice of Public Hearing and Availability of Environmental Assessment was published in the *EQB Monitor*.<sup>15</sup>

24. Administrative Law Judge (ALJ) Eric Lipman presided over a public hearing during the evening of April 1, 2008. The public hearing was held at the Wilmont Community Center, 316 4<sup>th</sup> Avenue, Wilmont, Minnesota. The ALJ provided the opportunity for members of the public to air their views regarding the proposed route of the 115 kV HVTL. The comment period closed on April 11, 2008.<sup>16</sup>

25. Minnesota Office of Energy Security (OES), Energy Facility Permitting project manager Adam Sokolski appeared at the Public Hearing on behalf of the OES staff and pursuant to Minnesota Rule 7849.5710, subpart 3, provided a presentation describing the Route Permit process, the proposed Project, the EA and introduced documents into the record.<sup>17</sup>

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<sup>10</sup> Exhibit 7 and Exhibit 8

<sup>11</sup> Exhibit 9

<sup>12</sup> Exhibit 12

<sup>13</sup> Exhibit 17 and Exhibit 27

<sup>14</sup> Exhibit 11 and Exhibit 13

<sup>15</sup> Exhibit 16

<sup>16</sup> Exhibit 25

<sup>17</sup> Exhibit 24 and Exhibit 25

26. Xcel Energy employees Thomas Hillstrom, Mark Anderson and Chris Rogers appeared at the Public Hearing on behalf of the Company and testified about the Project, proposed route, human, agricultural and environmental impacts, and other matters related to the Project. Attorneys Catherine Bistock, Briggs and Morgan, and James Johnson, Xcel Energy, also appeared on behalf of the Company.<sup>18</sup>

27. Approximately 25 members of the public attended the Public Hearing. All persons who desired to speak were afforded a full opportunity to make a statement on the record.<sup>19</sup>

28. The hearing transcript was filed with the PUC on April 8, 2008.

29. The ALJ Lipman provided a comment period for written comments until April 11, 2008. Four written comments were received, two of which accompanied oral testimony at the hearing.<sup>20</sup> On April 15, 2008, ALJ Lipman filed a Summary of Testimony at the Public Hearing.<sup>21</sup>

30. Comments of Wayne Kooiman, Adrian Kooiman and Heath Kooiman: The Kooimans made three key points in their written comments. They expressed the view that placement of a transmission line along the Kluis Alternative will negatively impact the later development of wind rights by land owners; the placement of the line across their fields (as opposed to the road right-of-way) will make both maintenance of the line and adjacent farming operations more difficult; and that placement of the line along the west side of Highway 91 would avoid both existing homes and farming operations.<sup>22</sup>

31. Comments of Elmore Michael Eagen: Mr. Eagen, a landowner along the proposed route near the Nobles County Substation, wrote to signal his agreement with the claims that the compensation being offered in return for transmission line easements was inadequate. Mr. Eagen regarded both the valuation of land and the compensation offered for the taking of mature trees in the easement area to be inadequate. Mr. Eagen urged that a better and more equitable solution would be to compensate the landowner by way of both an initial sum and a series of periodic payments over the life of the transmission line.<sup>23</sup>

### **Environmental Assessment Analysis of Proposed Route and Alternative Route**

32. The EA was prepared in accordance with Minnesota Rule 7849.5700 and contained all of the information required. The EA evaluated Xcel Energy's proposed route and the Kluis alternative route segment proposed by Jim and Joan Kluis during the

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<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Exhibit 25

<sup>21</sup> Id.

<sup>22</sup> Exhibit 26

<sup>23</sup> Id.

EA scoping period.<sup>24</sup> In addition, the EA evaluated Xcel's proposal to use taller transmission structures on a limited basis.

### **Potential Impacts and Mitigation**

33. The total amount of agricultural land that will be permanently impacted by the Project is equal along the proposed route and the Kluis Alternative. Permanent impacts will occur due to the placement of the transmission line poles. Temporary impacts may include soil compaction and crop damage within the transmission line right-of-way (ROW). Landowners will be compensated for the use of their land and crop damages through easement payments. Additionally, to minimize loss of farmland and to ensure reasonable access to the land near the poles, Xcel intends to place the poles within ten feet outside of the road ROW for nearly the entire length of the route. When possible, Xcel will attempt to construct the transmission line before crops are planted or following harvest. Xcel will compensate landowners for crop damage and soil compaction that occur as a result of the Project.<sup>25</sup>

34. The proposed transmission lines will be designed to meet or exceed all requirements of the National Electric Safety Code (NESC), which is the utility safety standard that applies to all transmission lines. In addition, the substation facilities will be fenced, and access will be limited to authorized personnel. The proposed transmission line will meet the National Electric Reliability Council's (NERC) reliability standards.

35. The Project will create only nominal corona or noise impacts and mitigation measures are not necessary.

36. There are no areas of concentrated residential or commercial developments immediately adjacent or close to the proposed route and Kluis Alternative.

37. The transmission line and structures may contrast with surrounding land uses; nearly the entire length of the proposed route and Kluis Alternative utilize existing transmission and transportation corridors, and will avoid homes to the greatest extent practicable. Xcel will work with landowners to identify concerns related to the transmission line, including tree clearing, replanting cleared areas, addressing soil compaction and crop damages. The final alignment of the transmission line, where routed along existing roads, can cross the road in order to avoid homes and farmsteads.

38. Socioeconomic impacts will be primarily positive. The Project will create short-term construction expenditures in the area and transmission capacity in order to further develop wind farms in the general area and along Buffalo Ridge.

39. There are no public recreational areas, Wildlife Management Areas (WMA), or other public parks near the Project. The Project will not impact these type of resources.

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<sup>24</sup> Exhibit 12

<sup>25</sup> Exhibits 2, 3, 12, 18-20

40. Traffic levels may be slightly impacted during construction of the Project, with no impacts anticipated during facility operation; and no mitigation necessary. The operation of the transmission line will have no impact on traffic patterns or usage. The route permit requires Xcel to cooperate with local units of government on placement transmission structures in a manner to accommodate planned future road rebuilding and reconstruction plans.

41. The proposed transmission line will not impact active mining operations.

42. The proposed route and Kluis Alternative route do not contain prohibited sites, including National Parks; national historic sites and landmarks, national historic districts; national wildlife refuges; national monuments; national wild, scenic and recreational river ways; state wild, scenic, and recreational rivers and their land use districts; state parks; nature conservancy preserves; state scientific and natural areas; and state and national wilderness areas.

43. Construction of the transmission line will result in no disturbances to the bedrock geology beneath the Project route. Soils exposed during construction may be vulnerable to erosion until stabilized. Some compaction of surface soils may result from the use of heavy construction equipment. Xcel Energy will implement best management practices (BMP) during construction activities to prevent and minimize soil erosion and compaction as stated in the Application and as required by the National Pollutant Discharge Elimination System (NPDES) permit issued by the Minnesota Pollution Control Agency (MPCA).

44. In March 2007, a review of records at the Minnesota State Historical Preservation Office (SHPO) indicated four previously recorded architectural resources within one mile of the proposed route. These include the Lismore fire hall, a commercial building, a church and a grain elevator. None of these resources is listed on the National Registry of Historic Places (NRHP). Xcel will also survey two areas along the route identified as having a high potential for archaeological resources near stream crossings. Impacts to previously identified resources are not anticipated as a result of the proposed project. In the event that an impact would occur, Xcel Energy would determine the nature of the impact and consult with the SHPO on whether or not the resource was eligible for listing in the NRHP.

45. Limited impacts to trees will occur due to the routing of the transmission line. Trees and tall vegetation will be cleared for approximately 40 feet on either side of the 115 kV transmission line along the route; and approximately 75 feet on either side of the route where the taller (135 – 145 foot) transmission structures are used. To minimize impacts to trees, Xcel will only remove trees located in the ROW for the transmission lines.

46. There is potential for displacement of wildlife during construction of the Project and the loss of small amounts of habitat from the transmission line route.

Displacement of fauna is anticipated to be temporary in nature. Because no long-term population-level effects are anticipated no mitigation will be required.

47. Transmission lines can pose an electrocution danger to large birds such as raptors. Xcel Energy's transmission line design standards provide adequate spacing to eliminate the risk of raptor electrocution, so there are no concerns about avian electrocution as a result of the transmission line.

48. The issue of electromagnetic fields (EMF) was discussed in the EA. EMF are present around any electrical device, have been the subject of much discussion regarding potential human health effects. The intensity of the electric field is related to the voltage of the line and the intensity of the magnetic field is related to the current flow through the conductors. Both magnetic and electric fields decrease in intensity with increasing distance from the source.

49. There is insufficient evidence to demonstrate a causal relationship between EMF exposure and any adverse human health effects. On the basis of the most current information available from the World Health Organization and expert advice of the Minnesota Department of Health, no Minnesota regulations have been established pertaining to magnetic fields from HVTLs.

50. Impacts to air quality will be minimal, temporary, and associated only with ROW clearing and line construction.

51. Construction of the Project will not directly affect surface water resources. During construction, there is a possibility of sediment reaching surface waters as the ground is disturbed by excavation, grading and construction traffic. Though no permanent impacts to water bodies or wetlands are anticipated, Xcel Energy will minimize impacts to wetlands and other water resources by using standard erosion control measures and BMPs. A NPDES permit from the MPCA and Storm Water Pollution Prevention Plan will be required for the Project. Once the Project is complete it will have no impact on surface water quality. No additional mitigation is necessary.

52. At the request of Xcel Energy, DNR searched the Minnesota Natural Heritage database for known occurrences of rare species and natural communities within the proposed route. The DNR's search resulted in the identification of endangered species critical habitat for the Topeka Shiner (*Notropis Topeka*), a species of fish present in Kanaranzi Creek along the proposed route. In correspondence included in the Application, the U.S. Fish and Wildlife Service (USFWS) concludes that the proposed transmission line and route will not have impacts on the Topeka Shiner. To prevent impacts to the Topeka Shiner, the route permit requires Xcel Energy to implement and follow the USFWS "Recommendations for Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota," which are found in Appendix B of the EA. Transmission line structures will be placed at locations to allow the transmission line conductor to span Kanaranzi Creek and any other creek designated as critical habitat for the species.

53. Both routes analyzed in the EA have similar human and environmental impacts, some of which are unavoidable if the Project is permitted and built. Neither route is expected to cause an irreversible or irretrievable commitment of resources.

54. In its Application, Xcel estimated that the Project will cost approximately \$24,500,000. The Company increased its cost estimates to approximately \$31,300,000 in its testimony provided at the public hearing.<sup>26</sup>

#### **Assessment of the Kluis Alternative**

55. At the November 15, 2007, Public Meeting, James and Joan Kluis, landowners who live along the Company's proposed route along 70<sup>th</sup> Avenue, suggested a route alternative for the northern most portion of the proposed route, south of the Fenton Substation. The Kluis family requested that instead of routing the transmission line south along 70<sup>th</sup> Avenue between 11<sup>th</sup> Street and 1<sup>st</sup> Street on the eastern side of the Kluis' property, the line be routed on the Kluis' property one half mile west of the proposed route location, along the half section line where a property division and fence line exists.<sup>27</sup>

56. The Kluis family stated that they preferred the Kluis Alternative because it would avoid placing the transmission line near three existing homesteads and avoid impacting a large grove of trees on the Kluis property along 70<sup>th</sup> Avenue.<sup>28</sup>

57. After the public meeting, Xcel Energy representatives contacted the five landowners (representing nine parcels) along the Kluis Alternative to inform them that the proposed alternative segment was being considered and to gather input on the proposal.<sup>29</sup>

58. Three landowners (representing five parcels) support the Kluis Alternative and the remaining two landowners (representing four parcels west of the Kluis Alternative) have expressed concerns about how the implementation of the Kluis Alternative may impact their ability to place wind turbines on their property.<sup>30</sup>

59. The issue of wind turbine setbacks was discussed at the April 1, 2008, Public Hearing. The OES staff noted that there is no setback requirement for wind turbines from transmission lines. Rather, turbine placement presents a question of prudence and the comfort of the involved parties with the distance between the wind turbines and the transmission line structures.<sup>31</sup>

60. There is no PUC established setback requirement for wind turbines in relation to transmission line structures and that wind turbines must be set back from a

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<sup>26</sup> Exhibit 2 and Exhibit 19

<sup>27</sup> Exhibit 7

<sup>28</sup> Exhibit 24, 35:2-10

<sup>29</sup> Id. and Exhibit 20, 4:10-24

<sup>30</sup> Exhibit 20, 5:3-11; and 37:1-4

<sup>31</sup> Exhibit 24 45:16-18

boundary line where the wind rights are owned by different persons or entities the distance of three rotor diameters (an approximate total of 700 feet) on the east-west directional axis and must be set back from other wind turbines at the same 3 rotor diameter distance, which greatly exceeds the 75 foot easement required for the proposed transmission line.<sup>32</sup>

61. Based on the record, it appears that the Kluis Alternative is not expected to have any material effect on potential wind generation development in the Kluis Alternative area.

62. Environmental and land use impacts from the Kluis Alternative are similar to the impacts presented by Xcel's proposed route, with some minor differences along the Kluis Alternative: (a) no residences would be immediately adjacent to the Kluis Alternative whereas two residences (within 200 feet) would be adjacent to the proposed route; (b) tree impacts would be less for the Kluis Alternative compared to the proposed route; (c) the Kluis Alternative may increase land-use impacts because the line would be placed along the eastern side of the section line as opposed to along an existing road right-of-way; and (d) there may be greater temporary impacts to the farmland along the Kluis Alternative during construction or repairs due to the need to access the site through farmland instead of from an adjacent road.<sup>33</sup>

63. The Company stated its proposed route remains a reasonable and feasible route, but that after thorough consideration of the Kluis Alternative and the opinions of the landowners along the Kluis Alternative, Xcel Energy has stated its support for constructing the line along the Kluis Alternative.<sup>34</sup>

64. Based on the record, it appears that the approval of the Kluis Alternative will not have any material effect on human settlement, public health and safety, land-based economies, archaeological and historic resources, the natural environment, and rare and unique natural resources.

#### **Assessment of Limited Use of Larger Structures**

65. Xcel has requested to use a limited number of larger steel transmission line structures designed to carry 345 kV conductor in several locations along the northern 2.5 miles of the proposed route and Kluis Alternative and at points where the proposed line will cross the existing 115 kV line near the Nobles County Substation and where the proposed line will span environmentally sensitive areas, such as a wetland area along Highway 91.<sup>35</sup> The taller structures were initially to be used along Interstate 90 in Southwestern Minnesota for Xcel Energy's recently constructed Nobles County – Split Rock 345 kV transmission line.

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<sup>32</sup> Id.

<sup>33</sup> Exhibit 12, Exhibit 18

<sup>34</sup> Exhibit 18

<sup>35</sup> Exhibit 10, Exhibit 19

66. The larger poles would be approximately 135-140 feet tall with an average span between structures of 950 feet, have drilled pier foundations from 6-8 feet in diameter and 30-40 feet deep, and require an 80-foot right-of-way where poles parallel a road and a 150-foot right-of-way along the Kluis Alternative where the poles do not parallel a road.<sup>36</sup>

67. The OES reviewed the proposed use of the larger structures in its Environmental Assessment.

68. Xcel representatives contacted landowners along the Kluis Alternative and the remaining northern portion of the proposed route south of the Fenton Substation to inform them that the Company was proposing to use the larger poles along that route segment and to gather input on the proposal.<sup>37</sup>

69. No landowners expressed opposition to the proposed use of the larger pole structures.<sup>38</sup>

70. Because the larger poles allow for a wider span between structures, the use of these larger poles as proposed will reduce permanent agricultural impacts along the Kluis Alternative.<sup>39</sup>

71. The use of the larger poles would result in approximately 50 percent fewer poles being used along the Kluis Alternative and the remaining northern route to the Fenton Substation than if the originally proposed poles were used in this route segment.<sup>40</sup>

72. The use of the larger pole structures also facilitates the spanning of environmentally sensitive areas along the route, including a wetland area along Highway 91. The use of the larger pole structures may also be necessary to cross existing transmission lines along the route.<sup>41</sup>

73. Because the larger poles are taller, they would have a different aesthetic impact than the originally proposed poles, but would result in the presence of fewer poles. The net aesthetic effect of the larger pole structures is subjective, and the aesthetic effect of taller structures is offset by the reduction in the number of poles. In addition, a number of wind turbines that are more than twice as tall as the proposed larger pole structures are located in that vicinity.<sup>42</sup>

74. Based on the record, it appears that the use of the larger pole structures as proposed by Xcel Energy will not have any material effect on human settlement, public

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<sup>36</sup> Exhibit 10 and Exhibit 12

<sup>37</sup> Exhibit 18 and Exhibit 20

<sup>38</sup> Exhibit 20 and Exhibit 24

<sup>39</sup> Exhibit 18 and Exhibit 19

<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> Id.

health and safety, land-based economies, archaeological and historic resources, the natural environment, and rare and unique natural resources.

### **Applicable Statutory Conditions**

75. The project qualifies as a Large Energy Facility under Minnesota Statute 216B.2421, and requires a Certificate of Need from the Commission. The Xcel Energy Certificate of Need for this Project was issued on September 14, 2007, and is found in PUC docket number E002/CN-06-154. Minnesota Rule 7849.5720, Subpart 3, requires a Certificate of Need to be issued prior to making a final decision a Route Permit application.

76. The Project is eligible for the Alternative Routing Process of the Power Plant Siting Act, Minnesota Statute 216E.04 and Minnesota Rule 7849.5500.

77. Minnesota Statute 216E.03, subdivision 7 and Minnesota Rules 7849.5910 provide considerations in designating sites and routes and determining whether to issue a permit for a large electric power generating plant or a high voltage transmission line.

Based on the Findings of Fact, the Commission makes the following:

### **CONCLUSIONS OF LAW**

1. Any of the foregoing Findings more properly designated as Conclusions are hereby adopted as such.
2. The PUC has jurisdiction over the subject matter of this proceeding pursuant to Minnesota Statute 216E.03, subdivision 2.
3. The Project qualifies for review under the Alternative Review Process of Minnesota Statute 216E.04 and Minnesota Rule 7849.5510.
4. The Applicant, the OES and the PUC have complied with all procedural requirements required by law.
5. The OES has completed an Environmental Assessment on this Project as required by Minnesota Statute 216E.04, subdivision 5, Minnesota Rule 7849.5700.
6. The PUC has considered all the pertinent factors relative to its determination of whether a Route Permit should be approved as required by Minnesota Statute 216E.03, subdivision 7 and Minnesota Rule 7849.5910 and considered

all the pertinent factors in determining whether the Route Permit should be approved.

7. The conditions included in the Route Permit are reasonable and appropriate.

Based on the Findings of Fact and Conclusions contained herein and the entire record of this proceeding, the Commission hereby makes the following:

### **ORDER**

A Route Permit is hereby issued to Xcel Energy to construct approximately 23 miles of 115 kilovolt (kV) transmission line between the Fenton Substation and the Nobles County Substation and associated facilities at the substations to accommodate the new transmission line. The approved route shall follow the road centerlines as described in Xcel Energy's proposed route for the entire length except as modified to follow the Kluis Alternative segment. Xcel Energy's request to install taller transmission line structures along the northern 2.5 miles of the approved route, at points where the line will cross the existing 115 kV line near the Nobles County Substation and where the line will span environmentally sensitive areas is authorized.

The Route Permit shall be issued in the form attached hereto, with a map showing the approved route.

Approved and adopted this \_\_\_\_\_ day of May, 2008.  
BY ORDER OF THE COMMISSION

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Burl W. Haar,  
Executive Secretary

**ROUTE PERMIT FOR CONSTRUCTION OF A HIGH  
VOLTAGE TRANSMISSION LINE  
IN**

**MURRAY AND NOBLES COUNTIES, MINNESOTA**

**ISSUED TO  
NORTHERN STATES POWER COMPANY d/b/a XCEL  
ENERGY**

**PUC DOCKET No. E002/TL-07-1233**

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7849, this Route Permit is hereby issued to:

**NORTHERN STATES POWER COMPANY d/b/a XCEL  
ENERGY**

Northern States Power Company, d/b/a Xcel Energy (hereinafter referred to as Xcel Energy), is authorized by this route permit to construct a new 115 kilovolt (kV) high voltage transmission line between the Fenton Substation in Murray County and the Nobles County Substation in Nobles County, a distance of approximately 23 miles. Xcel Energy is authorized to make modifications at the Fenton Substation and the Nobles County Substation to accommodate the new 115 kV transmission line.

The transmission line shall be built within the route identified in this permit and as portrayed on the attached official route map, and in compliance with the conditions specified in this permit.

Approved and adopted this \_\_\_\_\_ day of  
May, 2008

BY ORDER OF THE COMMISSION

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Burl W. Haar,  
Executive Secretary

## **I. ROUTE PERMIT**

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Xcel Energy (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7849. This permit authorizes Xcel to construct approximately 23 miles of 115 kilovolt (kV) high voltage transmission line (HVTL) and make equipment modifications at the Fenton Substation and Nobles County Substation accommodate the new 115 kV transmission line.

## **II. PROJECT DESCRIPTION**

Xcel Energy is authorized to build a 23-mile, 115 kV transmission line and add associated electrical equipment necessary for connection of the permitted line at the existing Fenton and Nobles County substations.

The transmission line authorized by this permit will utilize bundled 795 aluminum conductor steel supported (ACSS) conductors. The line will be constructed on steel transmission structures (poles). Xcel Energy is authorized to use steel, single circuit transmission line structures with davit arms designed to carry 115 kV conductor throughout the approved route. In addition, Xcel Energy is authorized to install larger galvanized steel, single circuit, davit arm transmission line structures designed to carry 345 kV conductor on a limited basis between the Fenton Substation and Minnesota Trunk Highway 91, as well as, at locations where taller poles are necessary to cross other existing transmission lines and where the line is required to achieve longer spans to cross wetlands and bodies of water.

Specialty transmission line structures including, but not limited to, steel or laminated wood post structures on concrete foundations are authorized for long spans, road or waterway crossings, and when circumstances require.

## **III. DESIGNATED ROUTE**

The route designated by the Commission in this permit comprises the segments as described in detail below, as analyzed in the EA, and shown on the Official Route Map attached to this permit. In an effort to maximize Xcel Energy's ability to accommodate individual landowners' needs, a route width of 200 feet on either side of the stated route centerline (centerline of adjacent roads) is approved (400 foot total width). The approved right-of-way (ROW) width is 42.5-feet where the route is adjacent to existing road ROW or clear zones, and up to 75-feet wide where the route travels "cross-country." Where Xcel will install taller 135-145 foot structures, the approved ROW is 75-feet when parallel to existing road ROW and up to 150-feet wide where the route travels "cross country."

***Description of Route (See attached map)***

Starting at the Fenton Substation, the transmission line route will exit the west side of the substation and run south along 70<sup>th</sup> Avenue for approximately 1.35 miles to 11<sup>th</sup> Street. At 11<sup>th</sup> Street, the line will turn west and follow 11<sup>th</sup> Street approximately one-half mile to the half section line of Section 31, Fenton Township, Murray County. At this point, the line turns south, runs approximately one mile cross country along on the east side of the fence line and on the Kluis and Vanpersem properties in Section 31 to the 1<sup>st</sup> Street (Murray County Road 71 and Nobles County Road 72) and Minnesota Trunk Highway 91 intersection. The line will continue south along Highway 91 for approximately 8 miles to 180<sup>th</sup> Street (Nobles County Road 68), where it will turn east along 180<sup>th</sup> Street (Nobles County Road 68) for approximately 4 miles to Hesselroth Avenue. At Hesselroth Avenue the line will run south for approximately one mile to 190<sup>th</sup> Street and then turn east along 190<sup>th</sup> Street for approximately 4.5 miles to approximately one half-mile east of County Road 25. At this point, the proposed line will turn south and cross one half-mile of an agricultural field owned by Xcel Energy. The line then turns east several hundred feet and terminates at the Nobles County Substation. The centerline of the approved route is the road centerline where the line is parallel to existing roads.

Fenton Substation and Nobles County Substation Associated Facilities: Associated facilities including four new 115 kV circuit breakers, disconnects, a five position ring bus, and new concrete foundations to support substation equipment will be installed at the Fenton Substation. Associated facilities at the Nobles County Substation including a new 345 kV/115 kV transformer, two 345 kV breakers, four 115 kV breakers, a 345 kV 5 position ring bus and new concrete foundations to support substation equipment will be installed at the Nobles County Substation.

The proposed transmission lines will be designed to meet or surpass all relevant local and state codes, and North American Electric Reliability Council (NERC) and Xcel Energy standards. Appropriate standards will be met for construction and installation, and all applicable safety procedures will be followed during and after installation.

#### **IV. PERMIT CONDITIONS**

The Permittee shall comply with the following conditions during construction of the transmission line and associated facilities and the life of this permit.

**A. Plan and Profile.** At least 14 calendar days before right-of-way preparation for construction begins, the Permittee shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the transmission line. The Permittee may not

commence construction until the 14 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intend to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

## **B. Construction Practices.**

- 1. Application.** The Permittee shall follow those specific construction practices and material specifications described in the Xcel Energy Application to the Commission for a route permit, dated October 17, 2007, and as described in the EA unless this permit establishes a different requirement, in which case this permit shall prevail.
- 2. Field Representative.** At least 10 days prior to commencing construction, the Permittee shall advise the Commission in writing of the person or persons designated to be the field representative for the Permittee with the responsibility to oversee compliance with the conditions of this Permit during construction. The field representative's address, phone number, and emergency phone number shall be provided to the Commission and shall be made available to affected landowners, residents, public officials and other interested persons. The Permittee may change its field representative at any time upon written notice to the Commission.
- 3. Cleanup.** All waste and scrap that is the product of construction shall be removed from the area and properly disposed of upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.
- 4. Vegetation Removal.** The Permittee shall minimize the number of trees to be removed in selecting the right-of-way (ROW). As part of construction, low growing brush or tree species are allowable at the outer limits of the easement area. To the extent practical, low growing vegetation that will not pose a threat to the transmission facility or impede construction should remain in the easement area.
- 5. Erosion Control.** The Permittee shall implement reasonable measures to minimize runoff during construction and shall plant or seed non-agricultural areas that were disturbed where structures are installed.
- 6. Temporary Work Space.** The Permittee shall limit temporary easements to special construction access needs and additional staging or lay-down areas required outside of the authorized ROW.

**7. Restoration.** The Permittee shall restore the ROW, temporary work spaces, access roads, abandoned ROW, and other private lands affected by construction of the transmission line. Restoration within the ROW must be compatible with the safe operation, maintenance, and inspection of the transmission line.

Xcel Energy shall work with landowners, the DNR, and local wildlife management programs to restore and maintain the right-of-way to provide useful and functional habitat for plants, nesting birds, small animals and migrating animals and to minimize habitat fragmentation in a manner consistent with inspection and safe maintenance of the right-of-way.

Within 60 days after completion of all restoration activities, the Permittee shall advise the Commission in writing of the completion of such activities.

**8. Notice of Permit.** The Permittee shall inform all employees, contractors, and other persons involved in the construction of the transmission line of the terms and conditions of this permit.

**C. Periodic Status Reports.** Upon request, the Permittee shall report to the Commission on progress regarding finalization of the route, design of structures, and construction of the transmission line. The Permittee need not report more frequently than quarterly.

**D. Complaint Procedure.** Prior to the start of construction, the Permittee shall submit to the Commission the company's procedures to be used to receive and respond to complaints. The procedures shall be in accordance with the requirements set forth in the complaint procedures attached to this permit.

**E. Notification to Landowners.** The Permittee shall provide all affected landowners with a copy of this permit at the time of the first contact with the landowners after issuance of this permit. Xcel Energy shall contact landowners prior to entering the property or conducting maintenance along the route and avoid maintenance practices, particularly the use of fertilizer or pesticides, inconsistent with the landowner's or tenant's use of the land.

Xcel Energy shall work with landowners to locate the HVTL on their property to minimize the loss of agricultural land, forest, and wetlands, with due regard for proximity to homes and property lines.

**F. Completion of Construction.**

**1. Notification to Commission.** At least three days before the line is to be placed into service, the Permittee shall notify the Commission of the date on

which the line will be placed into service and the date on which construction was complete.

**2. As-Builts.** Upon request of the Commission, the Permittee shall submit copies of all the final as-built plans and specifications developed during the project.

**3. GPS Data.** Within 60 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (GIS compatible maps, GPS coordinates, etc.) for all above ground structures associated with the transmission lines, each switch, and each substation connected.

#### **G. Electrical Performance Standards.**

**1. Grounding.** The Permittee shall design, construct, and operate the transmission line in such a manner that the maximum induced steady-state short-circuit current shall be limited to five milliamperes rms alternating current between the ground and any non-stationary object within the ROW, including but not limited to large motor vehicles and agricultural equipment. All fixed metallic objects on or off the ROW, except electric fences that parallel or cross the right-of-way, shall be grounded to the extent necessary to limit the induced short circuit current between ground and the object so as not to exceed one milliampere rms under steady state conditions of the transmission line and to comply with the ground fault conditions specified in the National Electric Safety Code (NESC).

**2. Electric Field.** The transmission line shall be designed, constructed, and operated in such a manner that the electric field measured one meter above ground level immediately below the transmission line shall not exceed 8.0 kV/m rms.

**3. Interference with Communication Devices.** If interference with radio or television, satellite or other communication devices is caused by the presence or operation of the transmission line, the Permittee shall take whatever action is prudently feasible to restore or provide reception equivalent to reception levels in the immediate area just prior to the construction of the line.

#### **H. Special Conditions**

**1. Archaeological and Historic Resources.** Xcel Energy shall make every effort to avoid impacts to identified archaeological and historic resources when installing the HVTL on the approved route. In the event that an impact would occur, the Applicants will consult with State Historic Preservation Office (SHPO) and invited consulting parties. Where feasible, avoidance of the resource is required. Where not feasible, mitigation for project-related impacts on National

Register of Historic Properties (NRHP)-eligible archaeological and historic resources must include an effort to minimize project impacts on the resource.

**2. Wetlands/Water Resources.** Wetland impact avoidance measures that shall be implemented during design and construction of the transmission line will include spacing and placing the power poles at variable distances to span and avoid wetlands. Unavoidable wetland impacts as a result of the placement of poles shall be limited to the immediate area around the poles. To minimize impacts, construction in wetland areas shall occur in the winter. If necessary, wooden or composite mats will be used to protect wetland vegetation. All requirements of the USACE (wetlands under federal jurisdiction), MDNR (Public Waters/Wetlands), and County (wetlands under the jurisdiction of the Minnesota Wetland Conservation Act) shall be met.

Impacts to floodplains, in particular the placement of power pole structures, shall be avoided to the maximum extent possible by placing these structures above the floodplain contours outside of the designated floodplain, and by spanning the floodplain with the transmission line.

If construction activities at the substation and switching station will result in the disturbance of one acre or more of soils, a National Pollutant Discharge Elimination System (NPDES) stormwater permit will be required. Erosion control measures and Best Management Practices (BMPs) shall be followed during these activities.

**3. Accommodation of Existing and Planned Infrastructure.** Xcel Energy is required to work with the townships and counties along the route to accommodate their concerns regarding drain tiles, pole depth and placement in relationship to existing roads and road expansion plans.

**4. Federally-endangered Topeka Shiner.** To prevent sedimentation in streams inhabited by the federally-endangered (state special concern) Topeka shiner (*Notropis topeka*), Xcel Energy shall employ best management practices as described in the U.S. Fish and Wildlife Service “Recommendations for Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota,” which is attached to this permit. Transmission line structures will be placed at locations to allow the transmission line conductor to span Kanaranzi Creek and any other creek designated as critical habitat for the species.

## **I. Other Requirements.**

**1. Applicable Codes.** The Permittee shall comply with applicable North American Electric Reliability Council (NERC) construction standards and requirements of the National Electric Safety Code (NESC) including clearances to

ground, clearance to crossing utilities, clearance to buildings, ROW widths, erecting power poles, and stringing of transmission line conductors.

**2. Other Permits.** The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required local, state and federal permits for the project and comply with the conditions of these permits. A list of the required permits is included in the permit application and the environmental assessment. The Permittee shall submit a copy of such permits to the Commission upon request.

**3. Pre-emption.** Pursuant to Minnesota Statutes 216E.10, subdivisions 1 and 2, this route permit shall be the sole route approval required to be obtained by the Permittee and this permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

**J. Delay in Construction.** If the Permittee have not commenced construction or improvement of the route within four years after the date of issuance of this permit, the Commission shall consider suspension of the permit in accordance with Minnesota Rule 7849.5970.

## **V. PERMIT AMENDMENT**

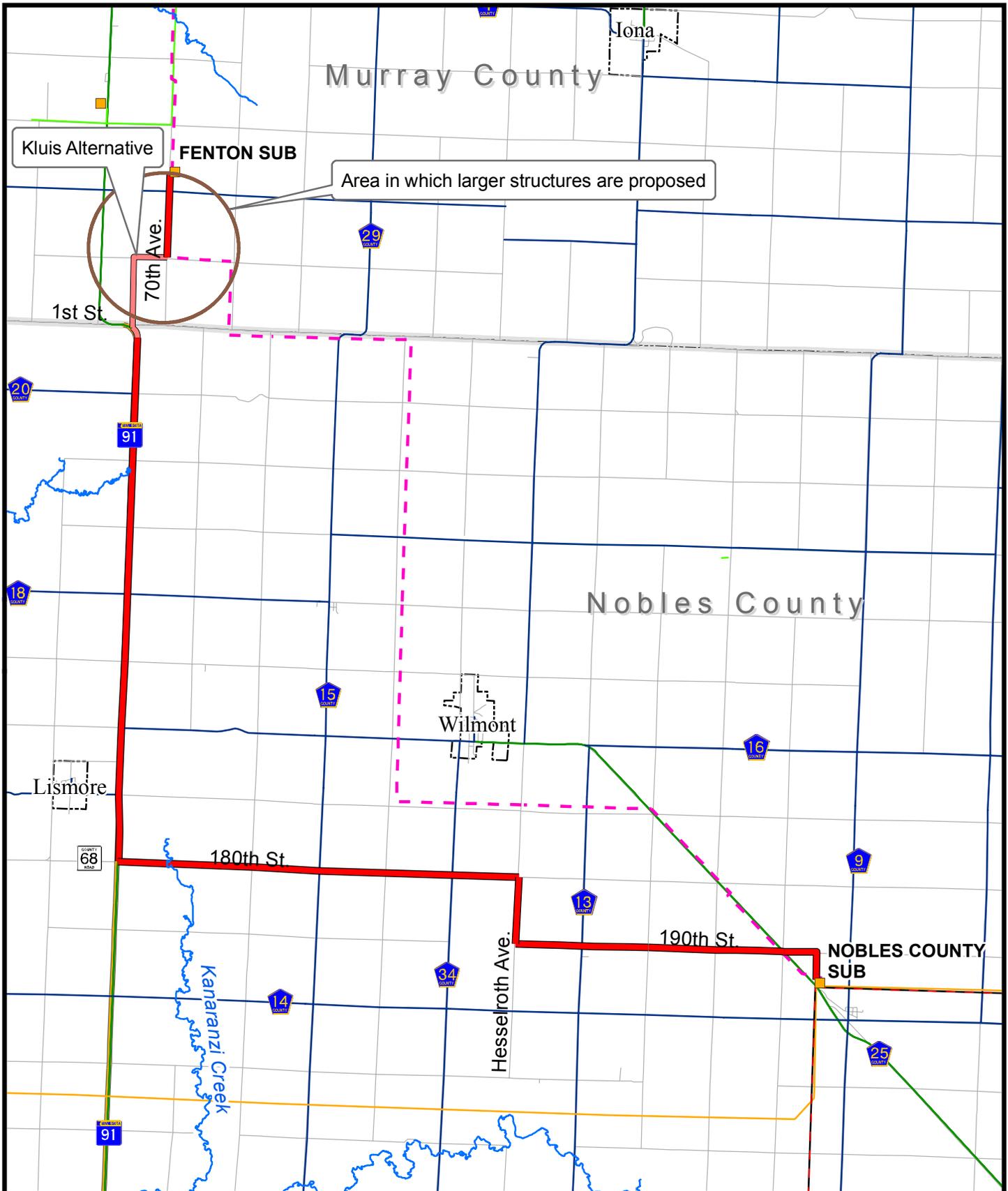
The permit conditions in Section IV. may be amended at any time by the Commission. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

## **VI. TRANSFER OF PERMIT**

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with such information as the Commission shall require to determine whether the new Permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new permittee, and interested persons such process as is required.

## **VII. REVOCATION OR SUSPENSION OF THE PERMIT**

The Commission may initiate action to revoke or suspend this permit at any time. The Commission shall act in accordance with the requirements of Minnesota Rules part 7849.6010 to revoke or suspend the permit.



**Legend**

- |                      |   |                             |
|----------------------|---|-----------------------------|
| Proposed Route       | Transmission Lines Under Construction   | Existing Transmission Lines |
| Existing Substations | Split Rock to Lakefield Junction 345 kV | 69 kV                       |
| Kluis Alt            | Nobles to Chanarambie 115 kV            | 115 kV                      |
|                      |   | 161 kV                      |

**PUBLIC UTILITIES COMMISSION  
COMPLAINT REPORT PROCEDURES FOR  
HIGH VOLTAGE TRANSMISSION LINES**

**1. Purpose**

To establish a uniform and timely method of reporting complaints received by the Permittee concerning the Permit conditions for site preparation, construction, cleanup and restoration, and resolution of such complaints.

**2. Scope**

This reporting plan encompasses complaint report procedures and frequency.

**3. Applicability**

The procedures shall be used for all complaints received by the Permittee.

**4. Definitions**

**Complaint:** - A statement presented by a person expressing dissatisfaction, resentment, or discontent as a direct result of the HVTL and associated facilities. Complaints do not include requests, inquiries, questions or general comments.

**Telephone Complaint:** - A person presenting a Complaint by telephone shall indicate whether the Complaint relates to (1) a substantive Routing Permit matter, (2) a HVTL location matter, or (3) a compensation matter. All callers must provide the following information when presenting a Complaint by telephone: (1) name; (2) date and time of call; (3) phone number; (4) email address (if available); (5) home address; (6) parcel number.

**Substantial Complaint:** – Written complaints alleging a violation of a specific Route Permit condition that, if substantiated, could result in Permit modification or suspension pursuant to the applicable regulations.

**Person:** - An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

**5. Responsibilities**

Everyone involved with any phase of the HVTL is responsible to ensure expeditious and equitable resolution of all complaints. It is therefore necessary to

establish a uniform method for documenting and handling complaints related to this HVTL project. The following procedures will satisfy this requirement:

- A. The Permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  1. Name of the Permittee and project.
  2. Name of complainant, address and phone number.
  3. Precise property description or tract numbers (where applicable).
  4. Nature of complaint.
  5. Response given.
  6. Name of person receiving complaint and date of receipt.
  7. Name of person reporting complaint to the PUC and phone number.
  8. Final disposition and date.
- B. The Permittee shall assign an individual to summarize complaints for transmittal to the PUC.

## 6. Requirements

The Permittee shall report all complaints to the PUC according to the following schedule:

**Immediate Reports:** - All substantial complaints shall be reported to the PUC by phone or by e-mail the same day received or on the following working day for complaints received after working hours. Such reports are to be directed to HVTL Permit Compliance at the following:  
[DOC.energypermitcompliance@state.mn.us](mailto:DOC.energypermitcompliance@state.mn.us) or 1-800-657-3794. Voice messages are acceptable.

**Monthly Reports:** - By the 15th of each month, a summary of all complaints, including substantial complaints received or resolved during the proceeding month. Such summaries shall be sent to Dr. Burl W. Haar, Executive Secretary, Minnesota Public Utilities Commission, Metro Square Building, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, MN 55101-2147. A copy of each complaint shall be sent to Permit Compliance, Minnesota Department of Commerce, 85 7<sup>th</sup> Place East, Suite 500, St. Paul, MN 55101-2198.

**Unresolved Complaints:** - The permittee shall submit all unresolved complaints to the PUC for resolution by the PUC, where appropriate, no later than 45 days after the date of the submission.

## 7. **Complaints Received by the PUC**

Copies of complaints received directly by the PUC from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the Permittee.

**Initial Screening:** - Commission Staff shall perform an initial evaluation of unresolved Complaints submitted to the Commission. Complaints raising substantive Routing Permit issues shall be processed and resolved by the Commission. Staff shall notify MP and GRE and the Complaining person if it determines that the Complaint is a Substantial Complaint. With respect to such Complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the Staff notification. Staff shall present Briefing Papers to the Commission, which shall resolve the Complaint within twenty days of submission of the Briefing Papers.

**Condemnation/Compensation Issues:** - If the Commission's Staff initial screening determines that a Complaint raises issues concerning the just compensation to be paid to landowners on account of MP and GRE's acquisition of HVTL easements, Staff shall recommend to the Executive Secretary that the matter be resolved under the provisions of Minnesota Statutes, Chapter 117. If the Executive Secretary concurs, he shall so report to the Commission and the matter shall be dealt with in the HVTL condemnation proceedings as an issue of just compensation.

# **Recommendations for Projects Affecting Waters Inhabited by Topeka Shiners (*Notropis topeka*) in Minnesota**

**U.S. Fish and Wildlife Service  
Twin Cities Field Office  
(612) 725-3548**

## **Background**

Topeka shiner (*Notropis topeka*) occurs throughout the Big Sioux and Rock River Watersheds in five southwestern Minnesota counties (Figure 1). The U.S. Fish and Wildlife Service (Service) listed Topeka shiner as an endangered species in 1998 and designated critical habitat<sup>1</sup> for it in 2004. The Endangered Species Act (ESA) prohibits the taking<sup>2</sup> of this species.

## **Endangered Species Act Guidance for Actions Affecting Topeka Shiner Habitat**

### Federal Agency Actions

Federal agencies or their designated non-federal representatives must consult with the Service on any action that they fund, authorize, or carry out that may affect Topeka shiner or its critical habitat. If an agency proposes to implement an action that is likely to result in adverse effects to Topeka shiner, it must undergo formal consultation with the Service. If the agency determines that an action may affect Topeka shiners, but that those effects are not likely to be adverse, it may avoid formal consultation by receiving written concurrence on this determination from the Service.

For general information regarding the section 7 process, contact the Service's Twin Cities Field Office at (612)725-3548 or review our internet site - <http://www.fws.gov/midwest/Endangered/section7/index.html>.

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1 See 69 Federal Register 44,736 (July 27, 2004) or <http://www.fws.gov/midwest/endangered/fishes/index.html#topeka> for further information about Topeka shiner critical habitat.

2 The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

## Private or Local (Non-federal) Actions

Private landowners, corporations, state or local governments, and other non-federal entities or individuals who wish to conduct activities that might incidentally take Topeka shiners must first obtain an incidental take permit from the U.S. Fish and Wildlife Service (Service). To determine whether an action may require an incidental take permit, coordinate with the Service when planning actions that may affect streams or off-channel habitats in the Rock River or Big Sioux River watersheds in Minnesota. Contact the Service's Twin Cities Field Office (612/725-3548) for further information or see the following website for information regarding Endangered Species permits – <http://endangered.fws.gov/permits/index.html?#forms>.

## **Project Recommendations**

The following recommendations are provided to help design actions that would avoid or minimize adverse effects to Topeka shiner. These recommendations may not address every way in which proposed actions may affect this species and may not preclude the need for formal consultation for federal actions or for an incidental take permit for non-federal actions.

Therefore, we highly recommend that you coordinate as early in the planning process as possible with the Service's Twin Cities Field Office (612/725-3548) when contemplating any action that may affect streams or associated off-channel habitats (oxbows, abandoned channels, etc.) in the Big Sioux River or Rock River watersheds in Minnesota (Fig. 1).

In some cases, projects may not be implemented without going against one or more of these recommendations. In those cases, project planners, landowners, etc. should promptly coordinate with the Service's Twin Cities Field Office to determine whether formal section 7 consultation (federal agencies) or an incidental take permit (private landowners, local government agencies, etc.) would be required.

1. Do not dewater stream reaches or temporarily divert streams for construction. Pumping to dewater stream areas or off-channel habitats will almost always require formal section 7 consultation (federal actions) or an incidental take permit (non-federal actions, see above) if Topeka shiners are likely to be present.
2. To avoid disrupting Topeka shiner spawning, do not conduct in-stream work before August 15.
3. Follow all applicable requirements and best management practices for stormwater and erosion control – for example, requirements contained within stormwater permits from Minnesota Pollution Control Agency (MPCA).<sup>3</sup>

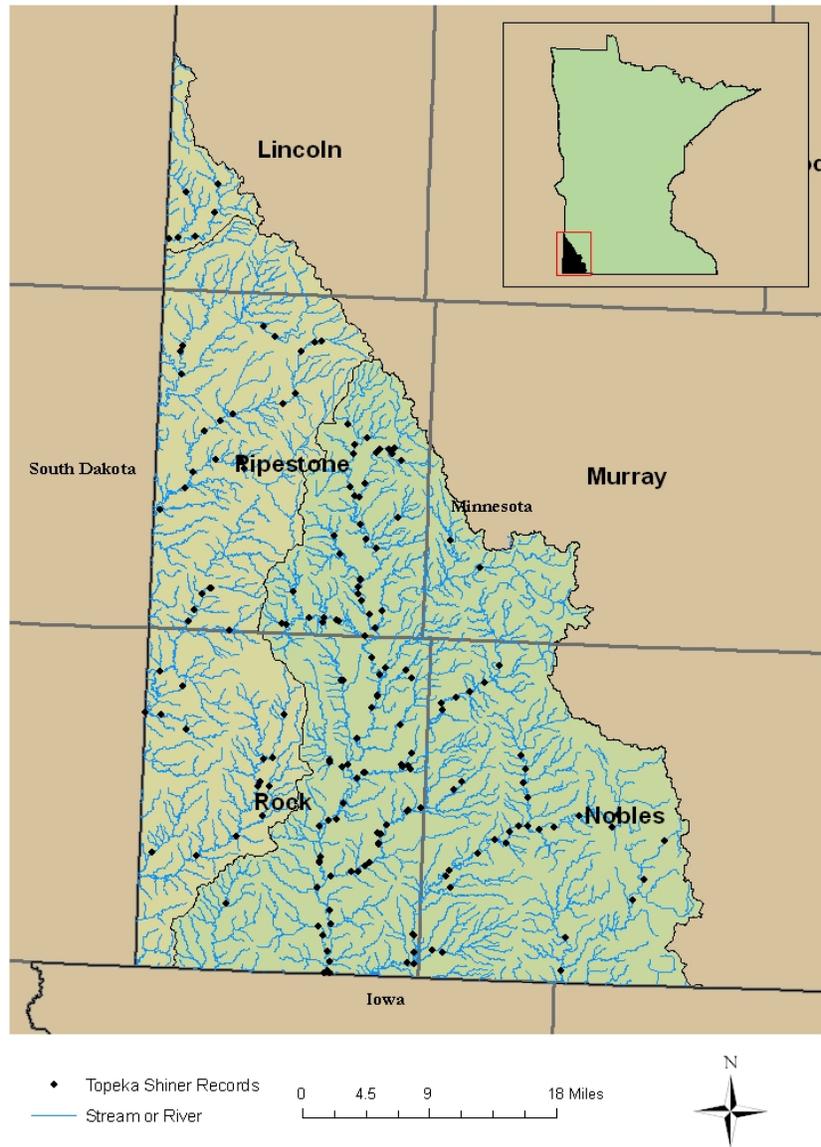
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<sup>3</sup> Resources for designing effective erosion control – Protecting Water Quality in Urban Areas Manual (MPCA, see

4. Minimize removal of riparian (streamside) vegetation; if such removal is necessary, it should occur sequentially as needed over the length of the project and it should be replaced as soon as if feasible upon project completion.
5. Mulch areas of disturbed soils and reseed promptly with non-invasive plant species, preferably native species.
6. Implement appropriate erosion and sediment prevention measures to the maximum extent practicable. Inspect devices frequently to ensure that they are effective and in good repair, especially after precipitation.
7. Leave existing features, such as bridge abutments, retaining walls, and riprap, in place as much as is feasible.
8. Ensure that erosion prevention measures are in place and in adequate condition when leaving work site.
9. Design and install instream structures in a manner that will not impair passage of Topeka shiners and other fish species during and after construction.
10. Where feasible, replace bridges with bridges or other open-bottomed structures to avoid altering the natural stream bottoms.
11. Do not operate motorized vehicles instream. Excavation, culvert placement, etc. should be conducted from streambanks outside of standing or flowing water.
12. Backfill placed in the stream shall consist of rock or granular material free of fines, silts, and mud. Machinery parts (i.e., backhoe buckets, etc.) shall be cleaned of all such material and free of grease, oil, etc. before their instream use.
13. Prevent materials and debris from falling into the water during construction.
14. If the project is modified, or if field conditions change, the applicant or agency representative should contact U.S. Fish and Wildlife Service before proceeding.
15. Ensure that contractors and subcontractors understand all permit provisions that are necessary to avoid or minimize adverse effects to Topeka shiners.

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<http://www.pca.state.mn.us/water/pubs/sw-bmpmanual.html>); Minnesota Department of Transportation Erosion Control Handbook for Local Roads (<http://www.lrrb.gen.mn.us/PDF/200308.pdf>). Also see <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html#factsheets>.



**Figure 1. Recorded occurrences of Topeka shiner and officially designated critical habitat in Minnesota. Data included here were provided by the Natural Heritage and Nongame Research Program of the Division of Ecological Services, Minnesota Department of Natural Resources (DNR), and were current as of January 2007. These data are not based on an exhaustive inventory of the state. The lack of data for any geographic area shall not be construed to mean that no significant features are present."**



ATTACHMENT C

**XCEL ENERGY FENTON TO NOBLES #2  
TRANSMISSION PROJECT**

**PUBLIC HEARING EXHIBIT LIST**

**In the Matter of the Application for a Route Permit for the Fenton – Nobles #2  
115kV High Voltage Transmission Line**

**PUC Docket No. E002/TL-07-1233**

<b>DOC Exhibit No.</b>	<b>Exhibit</b>	<b>Date</b>	<b>eDockets Document Number</b>
1	Notice of Intent to File Application Under the Alternative Permitting Process	September 20, 2007	<a href="#">4785358</a>
2	Route Permit Application	October 18, 2007	<a href="#">4804197</a>
3	Route Permit Application Appendices	October 18, 2007	<a href="#">4804198</a>
4	Department of Commerce Energy Facilities Permitting Staff Comments and Recommendations to the Commission on Completeness of the Application	October 23, 2007	<a href="#">4807990</a>
5	Order Accepting Application	November 2, 2007	<a href="#">4819343</a>
6	Notice of Application Acceptance, Public Information and Scoping Meeting	November 5, 2007	<a href="#">4827725</a>
7	Comments of Jim and Joan Kluis	November 30, 2007	<a href="#">5037429</a>
8	Comments of the U.S. Army Corps of Engineers	December 6, 2007	<a href="#">4867813</a>

<b>DOC Exhibit No.</b>	<b>Exhibit</b>	<b>Date</b>	<b>eDockets Document Number</b>
9	Environmental Assessment Scoping Decision	January 18, 2008	<a href="#">4899589</a>
10	Xcel Energy: Letter Describing Design Modification	February 26, 2008	<a href="#">4971803</a>
11	Notice of Availability of Environmental Assessment	March 6, 2008	<a href="#">4990569</a>
12	Environmental Assessment	March 6, 2008	<a href="#">4990568</a>
13	Notice of Public Hearing	March 17, 2008	<a href="#">5008774</a>
14	ALJ's Scheduling Order	March 24, 2008	<a href="#">5029179</a>
15	ALJ's Service List	March 24, 2008	<a href="#">5029180</a>
16	Notice of Availability of Environmental Assessment ( <i>EQB Monitor</i> )	March 24, 2008	<a href="#">5035322</a>
17	Affidavits of Service and Publication	March 25, 2008	<a href="#">5035321</a>
18	Direct Testimony of Thomas G. Hillstrom, Xcel Energy	March 28, 2008	<a href="#">5040085</a>
19	Direct Testimony of Mark Anderson, Xcel Energy	March 28, 2008	<a href="#">5040086</a>
20	Direct Testimony of Christopher C. Rogers, Xcel Energy	March 28, 2008	<a href="#">5040087</a>
21	Xcel Energy Map Exhibit Presented at the Public Hearing	April 11, 2008	<a href="#">5093958</a>
22	Henning Comments Received at Hearing	April 1, 2008	<a href="#">5134877</a>
23	Ponto Comments Received at Hearing	April 1, 2008	<a href="#">5134881</a>

<b>DOC Exhibit No.</b>	<b>Exhibit</b>	<b>Date</b>	<b>eDockets Document Number</b>
24	Hearing Transcript	April 8, 2008	
25	ALJ's Summary of Testimony at the Public Hearing	April 15, 2008	<a href="#">5108359</a>
26	Public Comments Received by ALJ	April 11, 2008	<a href="#">5134879</a>
27	Xcel Energy Corrected Affidavit of Publication	April 24, 2008	<a href="#">5137185</a>