

7. Will our light bills increase?

No, light bills will not be increased in the project area. The power generated by this project will be consumed by customers of the New Ulm Public Utilities. The estimated cost of power generated at the project site is projected to be lower than the current cost of power of the New Ulm wholesale contract.

8. What are the safety implications of living near a wind turbine? How far away do children and people need to stay?

Each turbine will be located on private property under lease to the NUPUC and not generally accessible to the public at large.

9. What are the subsidies per MW hour for wind?

Every energy technology is "subsidized" to some extent. Wind energy is no exception. The NUPUC project has not received any "subsidies" that are not generally available to other developers.

Private developers of wind energy projects receive a production tax credit (PTC) that provides an inflation-adjusted 1.5 cents for each kilowatt-hour generated, over the first 10 years of the project. This credit reduces the tax liability of a wind farm, but is not a subsidy of public money flowing to the wind farm owner. The New Ulm project will not receive a PTC but it has received a low interest loan called a Clean Renewable Energy Bond (CREB). The New Ulm project has obtained a \$3 million dollar CREB bond allocation from the Federal Government that bears an interest rate of 0.5%

Other energy sources receive subsidies in many forms, including tax deductions, loan guarantees, liability insurance, and leasing of public lands at below market prices. Some, like the depletion allowance for oil and gas, are permanent in the tax code. Additional indirect subsidies include federal money for research and development programs and policy provisions in federal legislation.

The largest subsidy, however, may be an invisible one, the fact that the environmental impacts from fossil fuel use are not reflected through higher costs of those energy sources. Instead, all of society must pay the price for dirty air, polluted water, health costs, global warming, fuel spills, and cleanup and disposal of fuel byproducts attributed to traditional energy sources. Clean, renewable, domestic wind energy produces no emissions, requires no fuel and the cost is fixed and predictable over time.

In many ways "subsidies" for wind energy are no different than those for farmers. Federal policies for each see the benefits to society at-large from the enterprise and it is encouraged through economic incentives.

10. Has the City informed taxpayers what this project will cost? How much will taxes in New Ulm go up for wind energy?

The New Ulm wind energy project will help to lower power costs from current levels and as such will reduce electrical rates for New Ulm customers. The project will be funded through electric rates only and will therefore not have any impact on taxes paid by New Ulm residents.

11. How does the efficiency of wind energy production compare with other energy production options?

Wind turbines are efficient. One of the simplest ways to measure overall efficiency is to look at the "energy payback" of an energy technology, i.e., the amount of energy it takes to produce a given amount of energy.

The energy payback time for wind is in fact similar to or better than that of conventional power plants. A recent study by the University of Wisconsin-Madison calculated the average energy payback of Midwestern wind farms to be between 17 and 39 times as much energy as they consume (depending on the average wind speeds at the site), while nuclear power plants generate only about 16 times, and coal plants 11 times as much energy as they consume.

Wind turbines are also highly efficient in a larger sense: they generate electricity from a natural, renewable resource, without any hidden social or environmental costs—there is no need to mine for fuel or transport it, no global warming pollutants created, and no need to store, treat, or dispose of wastes.

12. Is there any chance of this project not going forward? Do our concerns really matter?

The project will move forward provided that it receives a permit from the MnPUC. The legitimate concerns expressed by the attendees of the meeting that are related to design issues, setbacks, noise emissions, etc., (permitting issues) associated with the project do matter and are being addressed during the design and permitting process as shown in the attached LEWCS application.

13. Will there be a chance for those answers to be responded to by the citizens?

Yes. A public hearing will be conducted as part of the MnPUC permitting process.

14. Is there a concern for digging dairy cows and barns with stray voltage?

No.

15. Who is liable if EMT pagers don't work and they don't get a call? Will their pagers work?

There is no evidence to suggest that this question illustrates a problem likely to occur with this project.

16. If a new gravel pit was being built it has to jump through many permitting hoops (such as MPCA, soil and water, shut down at night), why doesn't wind turbines?

The Minnesota Legislature has established a state policy to site Large Wind Energy Conversion Systems (LWECS, systems 5 megawatts in size and larger) in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

A Site Permit from the Minnesota PUC is required to construct an LWECS. An LWECS is any combination of wind turbines and associated facilities with the capacity to generate 5 megawatts (MW) or more of electricity.

The Minnesota PUC makes a decision to accept, conditionally accept, or reject an application. Within 45 days after acceptance of the application, the PUC makes a preliminary determination whether a permit should be issued or denied. If the determination is to issue a permit, a draft Site Permit is prepared and made available for public review. The Department of Commerce, Office of Energy Security holds a public information meeting and solicits comments on the draft Site Permit. The Minnesota PUC makes a final decision within 180 days of the acceptance of the application. If the project is approved, a Site Permit is issued with any conditions that the Minnesota PUC considers necessary to protect the environment, enhance sustainable development, and promote the efficient use of resources.

Additionally, there are a number of federal, state, and local permits and approvals that will need to be obtained to construct and operate the Project. These will be listed in the Site Permit application.

17. Is there a concern with landing air ambulances near wind turbines?

No. The 5 wind turbines will be constructed 750 feet or more from a public roadway and over 1,150 feet from the nearest residence. These setbacks exceed MnPUC setbacks and allow for adequate space for landing of an air ambulance in the vicinity. The NUPUC will work with local emergency service providers to ensure adequate emergency services in the area.

18. Can herbicide still be aerially applied?

Yes, herbicide can still be aerially applied to fields in and around the wind turbines. Leases with the affected landowners provide the conditions for aerial applications as required by farming operations. In addition, aerial applications typically occur at wind speeds well below the minimum operating threshold for wind turbines.

19. Is there an issue of problems with landing or flying air craft next to wind turbines?

All turbines will comply with Federal Aviation Administration (FAA) requirements. Competent pilots following established FAA procedures will have no conflicts with this project.

20. The new roads to the turbine, are they private or public?

The roads will be private. However, the roads will be designed to allow for crossing by farm equipment and available for use by the landowner for accessing the land surrounding the wind turbines.

21. Who will own the towers? Where does the power go?

The wind turbines will be owned and operated by the NUPUC. The power will be routed to the City of New Ulm and then onto the Midwest Independent System Operator (MISO) grid.

22. What happens to land values?

A recent study of land values determined that for the ten major wind projects studied, property values increased faster in the view shed (the areas from which the turbines could be seen) in eight of the ten projects. In nine of those areas the property values increased at a greater rate after the project came on line than before. In addition, after the projects came on line property values increased faster in the view shed than in the comparable communities.

23. Do you need to lock up wind rights for the surrounding property? Who gets paid for wind rights? What about the neighbors to the turbines what do they get?

Wind rights for those areas currently under lease to the NUPUC have been secured and the property owners will be compensated for such rights under the leases. To the extent that MnPUC requirements necessitate the acquisition of additional wind rights affected property owners will be compensated at agreed upon rates or as required by law.

24. Who needs to endorse the project from the county?

As noted above, Nicollet County has removed itself from any effective oversight of this project. The Project does not need to be endorsed by Nicollet County.

25. Line of sight guidance, what problems do you perceive?

It is not anticipated that the project will have any impact on this increasingly outdated farming process. Any possible impact would result only on properties currently under lease to the NUPUC, and affected property owners will be compensated for the use of their properties.

26. What is curtailment and what are the possible implications?

Curtailment is not an issue with this project or any of the NUPUC's power supply resources.

27. What do you do when the wind doesn't blow?

The wind turbines will be idle during periods of insufficient wind. During these times, the power that is normally generated by the wind turbines is replaced by other generation resources.

28. Is it still profitable without the CREB Bonds?

The project is not designed to be profitable. Rather, it is intended to meet renewable energy goals and to provide low cost energy to New Ulm electric consumers. The low interest CREB financing does improve the economics of the project.

29. Is it true that we want them in this area because it is close to a substation?

There are several reasons why this project location was selected including wind resources, the proximity to the point of use and the access to transmission lines and substations.

30. Are the current lines too small to handle this project? If so, is the cost bigger then and do you need more money?

The NUPUC does not consider transmission issues a major concern for this project.

31. Are there wind rights still needed?

The NUPUC is negotiating to secure additional wind rights and will compensate affected owners as agreed or required by law.

32. Will there be another meeting?

MnPUC regulations require an additional public hearing as part of the permitting process.

33. Do you provide fire training to area fire departments? What about rescue if something happens on the top of the turbine?

Only properly trained and certified personnel will be working on the turbines. The NUPUC will coordinate with local emergency service providers to address safety issues.

34. Does your insurance cover a combine that runs a part through from the turbine? Or a car that gets hit? Or a kid walking to the bus?

The NUPUC maintains insurance to cover all of its operations. To the extent that the NUPUC's actions or facilities cause injury or damage for which the NUPUC is liable, insurance coverage is in force.

35. Ice throw: Aren't turbines supposed to shut down if there is no ice on the blades so they do not throw ice and hit somebody? Why don't they shut down?

Ice throw, while it can occur, is of little danger because setbacks typically required to minimize noise (typically 800 to 1,000 feet) are sufficient to protect against danger to the public, and because ice buildup slows a turbine's rotation and it will be sensed by a turbine's control system, causing the turbine to shut down.

36. Do you plan on paying the Township for road repair and road rebuilding and drain tile repair after construction is done?

Construction impacts will be mitigated per the requirements of the MnPUC Site Permit and other permit requirement, including local road access permits. The NUPUC will coordinate with local transportation authorities.

Any damage to drainage tile is covered by the leases with affected property owners.

Conclusion

The NUPUC is hopeful that these responses are helpful in responding to the questions and concerns raised at the February 16 meeting. The NUPUC and its various consultants are committed to developing a renewable energy project that is both beneficial to its ratepayers and environmentally responsible. Extensive investigation and planning has gone into the process thus far and those efforts will continue as this project moves through the permitting and construction phases.

Section G

This section is possibly the most important, please see the highlighted portions. The first two documents are from the law office representing the landowners to the NUPUC. These letters to the NUPUC expressed no interest in moving forward with the project. The document following these letters is dated a few weeks later and is a response to a question regarding whether or not eminent domain can be used on the Frantas' property. It appears as though eminent domain could be used, and it also appears that the best way to avoid this result is to negotiate with New Ulm before its potential use. The last document is dated just over a month after the response about eminent domain. This letter is from the NUPUC to the landowners and appears to push the unwilling landowners into an agreement with an implied threat of eminent domain. The leases were signed a few months later.

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WM. T. O'CONNOR
JAMES R. OLSON
ROBERT D. HINNENTHAL

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¹ALSO LICENSED IN WISCONSIN
²ALSO LICENSED IN KANSAS

March 27, 2008

Mr. Patrick Wrase
Public Utilities Commission
310-1st North
New Ulm, Minnesota 56073

RE: *New Ulm Wind Farm Project – Turbine Site Value Appraisals*

Dear Mr. Wrase:

This office represents Bradley and Diane Franta. As you know, the Frantas own land in Lafayette Township of Nicollet County. You have visited their property and discussed with them the possibility of a wind generation project on their property.

I am responding to your March 6th letter. In that letter, you state that the “New Ulm Wind Project has been undergoing reevaluation for the last few months...” Actually, it has been more like half a year since there has been any substantive discussions with my clients concerning this matter.

My clients have also been reevaluating this issue. I am writing to inform you that the Frantas have no interest in any wind generation project on their property. They are asking the City of New Ulm to look elsewhere for a site in the event that it does decide to proceed with a project. Certainly, there are other landowners who would be interested in having their property used in such a project. The Frantas respectfully request that you honor their desire to keep their farm the way it is so that

Mr. Patrick Wrase
March 27, 2008
Page Two

it can remain in the Franta family for decades to come, just as it has for decades in the past.

Thank you.

Sincerely yours,

Robert D. Hinnenthal

RDH/ljs

P.S. It is my understanding that Gene Kubesh has visited the Franta farm on your behalf. We suggest that you contact him so that unnecessary work can be avoided.

R.D.H.

bpc: Mr. & Mrs. Bradley Franta
60781-370th St.
New Ulm, MN 56073

bpc: Mr. Roger Klossner
40792-597th Ave.
New Ulm, MN 56073

bpc: Ms. Sharon Hacker
58794-340th St.
Lafayette, MN 56054

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March 28, 2008

COPY

Mr. Patrick Wrase
Public Utilities Commission
310-1st North
New Ulm, Minnesota 56073

RE: *New Ulm Wind Farm Project – Turbine Site Value Appraisals*

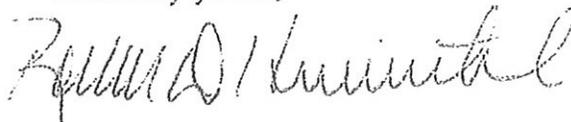
Dear Mr. Wrase:

I am enclosing this letter with the one I dictated yesterday on behalf of Bradley and Diane Franta. Today I was contacted by Roger Klossner. Mr. Klossner also asked me to advise you that he has no interest in proceeding further with any project on his property. Although I have not spoken with her directly, Mr. Klossner advised me that Sharon Hacker has also reached the same conclusion.

On behalf of my clients, I request that the city reevaluate its project. We also ask that the city consider how long these families have owned their farms and the substantial change that such a project would bring to the long-standing use of these farm properties.

Thank you.

Sincerely yours,



Robert D. Hinnenthal

RDH/lb
Enc.

INTEROFFICE MEMO

TO: ROBERT D. HINNENTHAL
FROM: JEREMY M. BERG
SUBJECT: BRADLEY & DIANE FRANTA – WIND FARM LEASE, #911-07
DATE: APRIL 11, 2008

As you have requested, I have researched whether the city of New Ulm could exercise the power of eminent domain to obtain an interest in the Frantas' property for purposes of constructing and operating a wind farm project. Additionally, I have researched whether – if the first issue was answered in the affirmative – the Frantas would be able to retain fee ownership of the condemned property subject to some sort of lesser estate. By way of a short answer, the City of New Ulm could exercise its power of eminent domain to obtain an interest in the Frantas' property. Additionally, the City is authorized to take an interest in the property, including fee title.

Eminent domain is the right of the state to appropriate private property to public uses.¹ It is an inherent and essential attribute or prerogative of sovereignty.² The United States and Minnesota Constitutions limit the power of eminent domain.³ The mode of exercising the power is a matter of legislative discretion; and so is the extent of the interest to be acquired.⁴ The right of eminent domain may be delegated by the state, through its legislature, to a political subdivision or administrative body of the state or to a private individual or corporation.

Municipalities are generally vested with the right of eminent domain by their charters, but a general statute confers the right of eminent domain to all cities for broad purposes.⁵ Section 8 of the New Ulm City Charter authorizes the City to exercise eminent domain both within and without the corporate limits for any public use of purpose, in accordance with the general laws of the state. Similarly, Minnesota law authorizes the exercise of the right of eminent domain for any purpose authorized by law with or without the corporate limits of the city.⁶ More specifically, municipal power agencies may acquire all real property by condemnation in eminent domain that it deems necessary for carrying on the purposes as stated in the Local Public

¹ *State v. Bentley*, 12 N.W.2d 347 (Minn. 1943).

² *Unites States v. Federal Land Bank*, 127 F.2d 505 (8th Cir. 1942).

³ U.S. CONST. amend. V; MINN. CONST. art. I, § 13.

⁴ *State ex rel. Twin City Bldg & Inv. Co. v. Houghton*, 176 N.W. 159 (Minn. 1920); *Fairchild v. City of St. Paul*, 49 N.W. 325 (Minn. 1891).

⁵ See Minn. Stat. § 117.011; Minn. Stat. §§ 465.01, 465.16.

⁶ Minn. Stat. § 465.01.

Utilities title of the Municipal Electric Power chapter of the Code.⁷ The purpose of the Title is, among other things, to provide a means for cities owning and operating a utility for the local distribution of electric energy to secure an adequate, economical, and reliable supply of energy.⁸

It would appear to be indisputable that the City of New Ulm, or the Public Utilities, could exercise the power of eminent domain to acquire an interest in the Franta property for a wind project if it chose to do so.⁹ The question then becomes whether the Frantas would have any ability through the eminent domain procedure to limit the interest condemned by the City to something less than a fee simple interest in the affected property.

The estate or interest to be acquired by condemnation is exclusively for legislative determination.¹⁰ Where a statute neither expressly nor by implication grants the right to take an estate in fee simple, only such an estate or interest can be taken as is necessary to accomplish the purpose of the taking. *Id.*; *Piche v. Ind. School Dist. No. 621*, 634 N.W.2d 194 (Minn. App. 2001). In other words, unless a statute authorizes a condemning authority to obtain fee simple title, only an easement or right-of-way may be condemned.

Although neither the New Ulm City Charter or the City's general statutory right of eminent domain authorizes the taking of fee title to condemned property, the Local Public Utilities title of the Minnesota Statutes authorizes the condemning authority to take "in fee simple absolute or a lesser interest" at its discretion in accordance with chapter 117.¹¹ Chapter 117 places only a limitation that, if the property proposed to be taken is greater than an easement, the interest or estate shall be described in the proceedings, and, if a fee simple title, it shall be without any right of reversion.¹² Because there is no limitation on the estate that the City could potentially condemn in this case, it would be within its rights to obtain fee simple title to whatever portion of the Frantas' property it deems necessary for the wind project.

Because the City could take any estate, including fee simple title, by condemnation in an eminent domain proceeding, it would seem that negotiations with the City prior to commencement of the proceedings would be the best way to ensure that the Frantas retain fee simple title to the property, subject to some sort of lease and/or easement. Before beginning a condemnation proceeding, a condemning authority must make a good-faith attempt to negotiate personally with the owner to acquire the property by direct purchase instead of the use of eminent domain proceedings.¹³ In making this negotiation, the City must consider the appraisals in its possession, including any appraisal obtained and furnished by the owner if available, and other information that may be relevant to a determination of damages.¹⁴ If it appears that the City is intent on placing its wind project on the Frantas' property and condemnation is inevitable,

⁷ Minn. Stat. § 453.56.

⁸ Minn. Stat. § 453.51.

⁹ *Otter Tail Power Co. v. Brastad*, 151 N.W. 198 (Minn. 1915)(holding that condemnation could be used for a project for the generation and distribution of electricity and gas for public use).

¹⁰ See *Buck v. City of Winona*, 135 N.W.2d 190 (Minn. 1965).

¹¹ Minn. Stat. § 453.56.

¹² Minn. Stat. § 117.215.

¹³ Minn. Stat. § 117.036

¹⁴ *Id.*

pre-proceeding negotiation would seem to be the appropriate time to ensure that the Frantas retain fee title.

I am personally aware of a large wind project in which the developer received a "Short Form Land Lease & Wind Easement" from the landowner. This was not a condemnation situation, but none-the-less, if negotiation with the city is to take place, we would have a source for a potential lease/easement document. The property in question is the W1/2 SW1/4 7-104-33, Martin County and is owned by Gary Wilson. According to the Martin County Recorder, the document no. is 2005R377495. Martin County requires prepayment for the document at \$1.00 per page, and this document is five pages long.

Please let me know if there is anything further you would like from me regarding this file.

JMB



Public Utilities Commission

City of New Ulm

Administration
310 First North Street
New Ulm, Minnesota 56073

Telephone: (507)-359-8264
Fax: (507)-354-7318

**** CERTIFIED MAIL ****

May 15, 2008

Re: SW1/4 of the NE1/4 and the East 786.55 feet of the SE1/4 of the NW1/4 Section 19,
Township 111, Range 30 West

Brad Franta
60781 370th Street
New Ulm, MN 56073

Dear Mr. Franta,

You were previously notified that the New Ulm Public Utilities Commission (PUC) was undertaking an appraisal of your undeveloped farm property in Section 19 of Lafayette Township, Nicollet County. That process has now been completed. Subsequent analysis of that information has confirmed that lease payments in the range you have suggested cannot be sustained or justified for the PUC's proposed use of this property.

The PUC has invested a great deal of time and money in evaluating the development of your property as a potential site for harvesting wind resources. This investment has included wind resource analysis, feasibility studies, and the successful application for United States Internal Revenue Services project funds. A preliminary determination has been made that portions of your farm property in the NW1/4 and NE1/4 of Section 19 is the appropriate location for several utility related functions of the PUC, including the development of renewable energy resources. For that reason, the staff of the PUC intends to recommend to the Commission and the New Ulm City Council that this property be acquired in fee by the City of New Ulm for public utility purposes.

Minnesota law requires that the PUC make a good faith effort to acquire your property by direct, negotiated purchase before other means are used. We would like to meet with you to discuss and negotiate the direct purchase of your property under mutually agreeable terms and conditions. This may include methods by which the tax consequences of a sale to the City can be minimized. We feel that acquisition of your property in this way will enable us to provide a more attractive offer that we hope you will find worthwhile.