



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET No. E002/TL-11-948

EFP Staff: David Birkholz..... (651) 296-2878

In the Matter of the Application of Xcel Energy for a Route Permit for the Southwest Twin Cities Scott County-Westgate 115 kV Transmission Line Rebuild Project

Issues Addressed: Application Acceptance; appointing a Public Advisor; and establishing an Advisory Task Force.

Documents Attached:

1. Route Permit General Vicinity Map
2. Draft Charge for an Advisory Task Force

Additional documents and information can be found on <http://mn.gov/commerce/energyfacilities> or on eDockets <http://www.edockets.state.mn.us/EFilin/search.jsp> (11-948).

This document can be made available in alternative formats; i.e. large print or audio tape by calling (651) 296-0391 (Voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

Introduction and Background

On April 12, 2012, Xcel Energy submitted a high voltage transmission line (HVTL) Route Permit Application¹ under the alternative permitting process to the Commission for the proposed transmission line upgrade of the 69 kV Scott County-Westgate system to 115 kV.

On March 9, 2012, Xcel Energy submitted an Application² to the Commission for a Certificate of Need (CN) for the proposed transmission line upgrade of the 69 kV Scott County-Westgate system to 115 kV. The docket number for the CN proceedings is E002/CN-11-332.

¹ Route Permit Application (RPA), eDockets Document ID 20124-73545-01

² Certificate of Need Application, eDockets Document ID 20123-72419-01

Project Location

The Project is located in Carver, Hennepin, and Scott counties, and within the cities of Chaska, Chanhassen, Shorewood, Excelsior, Greenwood, Deephaven, Minnetonka and Eden Prairie and Jackson Township. The western end of the Project Area is located at the Scott County Substation in Jackson Township, Scott County. From there, the Project Area extends to the north through Chanhassen Township, Carver County, to the cities of Chaska and Chanhassen; into and across the cities of Shorewood, Excelsior, Greenwood, Deephaven, Minnetonka and Eden Prairie; terminating at the Westgate Substation located in the city of Eden Prairie, Hennepin County.³ (See the attached General Vicinity Map.)

Project Description

The Project involves converting the existing double-circuit 115/69 kV transmission line to 115/115 kV operation from Scott County Substation, through Chanhassen Substation, to Structure #57 north of Bluff Creek Substation. This section of double-circuit line was permitted locally for 115/115 kV operation.⁴ Conversion to 115/115 kV operation will not require the rebuilding or replacement of any existing structures. The Proposed Route for the 115/69 kV conversion follows the existing transmission right-of-way for its entire 5.3 mile length.

The Project also includes rebuilding the existing single-circuit 69 kV to a single-circuit 115 kV line between Structure #57 to the Excelsior Substation, which will be converted for 115 kV use; rebuilding the line between Excelsior Substation and Deephaven Substation, which will also be converted for 115 kV use; and rebuilding the line between the Deephaven Substation and the Westgate Substation.. As a result, the Proposed Route for the rebuilt 69 kV to 115 kV line follows existing transmission line right-of-way for its entire length of nearly 15 miles.

The need for this Project is identified in the *Southwest Twin Cities Phase 2 Study Update Review* dated July 8, 2011. That study evaluated the need to address overload and low voltage conditions in the Project area when certain transmission lines are out of service. There are existing overloads and low voltages that need to be addressed immediately, and the transmission planning studies indicate that, without the proposed Project, there would be additional overloads of transmission line facilities and low voltages in the Project area in the future. According to the Applicant, without the proposed Scott County-Westgate 115 kV Transmission Line Rebuild Project transmission upgrades, overloading and low voltage conditions will worsen as the area experiences continued growth and development.⁵

State Regulatory Process and Procedures

Minnesota Statute 216E.03, subd. 2 provides that no person may construct a high voltage transmission line without a Route Permit from the Commission. An HVTL is defined as a transmission line of 100 kV or more and greater than 1,500 feet in length in Minnesota Statute 216E.01, subd. 4. The proposed transmission lines are HVTLs and therefore a Route Permit is required prior to construction. The Application was submitted pursuant to the provisions of the Alternative Permitting Process outlined in Minn. Rules 7850.2800-3900.

³ RPA at 9

⁴ Since neither Xcel Energy nor any local government is able to locate a copy of the local permit, they are applying for the upgrade to 115/115 kV in this Application.

⁵ RPA at 12

Minnesota Statute 216B.243, subd. 2 states that no Large Energy Facility shall be sited or constructed in Minnesota without issuance of a Certificate of Need by the Commission. The 115 kV single-circuit and 115/69 kV double-circuit transmission lines proposed for the Scott County-Westgate project is a “large energy facility” because it has a capacity in excess of 100 kV and is more than 10 miles long.

The Scott County-Westgate project qualifies for review under the alternative permitting process authorized by Minnesota Statute 216E.04, subd. 2(3) and Minn. Rule 7850.2800, subp. 1(C) because the proposed HVTLs are between 100 and 200 kV. According to that same rule, since the Project qualifies for the alternative permitting process, the Applicant can choose to follow the procedures under Minn. Rule 7850.2800-3900 rather than the procedures for a full process under 7850.1700-2700. Xcel Energy has chosen to follow the alternative permitting process.

Route permit applications must provide specific information about the proposed project including, but not limited to, applicant information, route description, environmental impacts, alternatives, and mitigation measures (Minn. Rule 7850.3100). The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minn. Rule 7850.3200).

The review process begins with the determination by the Commission that the application is complete. The Commission has six months to reach a final decision on the route permit application from the date the application is determined to be complete. The Commission may extend this limit for up to three months for just cause or upon agreement of the applicant (Minn. Rule 7850.3900).

Environmental Review

Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by EFP staff under Minn. Rule 7850.3700. EFP staff will provide notice and conduct public information and scoping meetings to solicit public comments on the scope of the environmental assessment (EA). The Deputy Director of the Department of Commerce (Commerce) will determine the scope of the EA.

An EA is a written document that describes the human and environmental impacts of a proposed project (and selected alternative routes) and methods to mitigate such impacts. The EA will be completed and made available prior to the public hearing.

Public Hearing

Applications for high voltage transmission line route permits under the alternative permitting process require a public hearing upon completion of the EA pursuant to Minn. Rule 7850.3800. A portion of the hearing must be held in a county where the proposed project would be located.

There is no provision under Minnesota Statute 216E.03 or Minn. Rule 7850 for a contested case hearing under this process. The hearing must be conducted in the following manner, as per Minn. Rule 7850.3800, although the hearing examiner may vary the order in which the hearing proceeds:

- The staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;
- the applicant shall introduce its evidence by way of testimony and exhibits;
- the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and staff;
- the hearing examiner shall provide a period of not less than 10 days for the submission of written comments into the record after the close of the hearing; and
- the hearing examiner shall transmit the complete record created at the hearing, including all written comments, within five days of the close of the record, unless the hearing examiner is asked to prepare a report.

Joint Environmental and Hearing Processes

The Department of Commerce Energy Facility Permitting staff prepares an Environmental Report (ER) on proposed large electric power generating plants that come before the Commission for a determination of need (Minn. Rule 7849.1200). As previously stated, the proposed Scott County-Westgate project falls within this definition. The ER must contain information on the human and environmental impacts of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental report must also contain information on alternatives to the proposed project and address mitigating measures for anticipated adverse impacts.

Minn. Rule 7849.1900, Subpart 1, provides that in the event an applicant for a certificate of need for a HVTL applies to the Commission for a route permit prior to the time EFP completes the environmental report, EFP may elect to prepare an Environmental Assessment in lieu of the required environmental report. If combining the processes would delay completion of the environmental review, the Applicant and the Commission must agree to the combination. If the documents are combined, EFP must include in the EA the analysis of alternatives required by 7849.7060, but is not required to prepare an environmental report under 7849.7030.

Minnesota Statute 216B.243, subd. 4 requires a public hearing be held for the certificate of need to obtain public comments on the necessity of the project. Informal or expedited proceedings (i.e., non-contested) may be used when there are no material facts in dispute (Minn. Rule 7829.1200). If the Commission chooses to follow the informal or expedited proceeding based on the characteristics and nature of the Scott County-Westgate project, efficiencies may be achieved by combining the CN public hearing with the public hearing in the Route Permit process.

Public Advisor

Upon acceptance of an application for a route permit, the Commission must designate a person to act as the public advisor on the project (Minn. Rule 7850.3400). The public advisor is someone who is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person. The Commission can authorize Commerce to name a staff member from the EFP staff as the public advisor or assign a Commission staff member.

Advisory Task Force

The Commission may appoint an advisory task force (Minnesota Statute 216E.08). An advisory task force must include representatives of local governmental units in the affected area. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EA and terminates when the Commerce Deputy Director issues an EA scoping decision.

The Commission is not required to assign an advisory task force for every project. However, in the event that the Commission does not name a task force, the rules allow a citizen to request appointment of a task force (Minn. Rule 7850.3600). The Commission would then need to determine at its next meeting if a task force should be appointed or not.

The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to the EA scoping decision by the Commerce Deputy Director.

EFP Staff Analysis and Comments

EFP staff worked with the Applicant to review drafts of the Application. Subsequently, it has conducted a completeness review of the Xcel Energy Scott County-Westgate transmission line upgrade HVTL Route Permit application. EFP concludes that the Application meets the content requirements of Minn. Rule 7850.3100 and is substantially complete. Application acceptance allows initiation of the public participation and environmental review processes.

Environmental Review

EFP staff has concluded that combining the ER and EA into a single environmental review document is reasonable in this case (Minn. Rule 7849.1900 subp.1). The Route Permit Application was filed prior to the completion of the ER required for the CN and prior to initiation of the scoping process for the ER. Thus, preparing an EA in lieu of the ER will achieve process efficiencies without delaying the environmental review. It will also enable staff to solicit comments pertinent to the scoping of both the Environmental Report (CN process) and the Environmental Assessment (Route Permit process) in a single public process. EFP would then develop one scoping document and one environmental document for both processes.

Public Hearing

Because the Route Permit Application was filed so early in the CN process, efficiencies could be gained by coordinating the public hearing of the CN proceeding with the public hearing required in the Route Permit alternative review process.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, EFP staff considered four project characteristics: size, complexity, known or anticipated controversy and sensitive resources. The proposed design information and preliminary environmental data contained in the HVTL route permit application was used to complete the following evaluation:

Project Size. At approximately 20 miles, the Scott County-Westgate Project is a moderate length transmission line when compared to the majority of the HVTL applications that come before the Commission. At 115 kV, it is the minimum size voltage to trigger state permitting.

Poles will be 60 to 90 feet in height, although 70-110 foot structures will be required in areas where the existing distribution line is under built. The Project will use a right-of-way of 75 feet, and the Applicant expects in most cases to rebuild the 115 kV line within the existing 69 kV line right-of-way.

Complexity. The proposed route for the transmission line uses existing transmission rights-of-way for the Project's entire length. The first 5.3 miles will not be physically altered; the existing double-circuit installation will be converted to 115 kV operation. However, the existing 69 kV transmission path traverses a mix of wetland areas, recreational areas (including paralleling a bike path along Lake Minnetonka) and dense commercial and residential areas.

There are currently 12 homes and three businesses within 25 feet of the existing line, though Xcel Energy does not anticipate any displacements.⁶ Xcel Energy has requested a route width of 100 feet on each side of the existing line to allow for mitigation. However, population densities may make it difficult to significantly move the existing centerline.

The proposed transmission line rebuild parallels existing roadways and trails for 11.3 miles (57 percent). 8.7 miles (43 percent) go cross country along existing rights-of-way.⁷ The routing alternative opportunities are limited by dense population areas and restricted in that the line must directly connect through each of four separate substations.

Known/Anticipated Controversy. EFP staff anticipates public interest around a possible alternative along State Highway 7. Xcel Energy has considered and rejected this option, preferring to use the existing route and right-of-way to rebuild.⁸ EFP has received comments from several local residents on both sides of the issue. EFP anticipates the discussion will continue through scoping and presumes inclusion of the alternative in the Scoping Decision. EFP has not received comment from the public on any other segment or issue at this time, although different alternatives may come up through the scoping process.

Sensitive Resources. The land use in the project area is primarily urban and the proposed route utilizes existing ROWs, both transmission and transportation. While various large wetland complexes and small isolated wetlands are located through the project area, wetland and surface water impacts are expected to be minimal by employing best management practices and select alignment and pole placement. According to the Applicant, construction processes will be designed to avoid encroachment and effects on rare species and unique natural resources to the extent practicable.⁹

The Project can be seen from Lake Minnetonka and several other area lakes. However, the existing line is also visible from these resources, and the Applicant does not expect any impact to these resources during construction.¹⁰ There will be no new visual impacts to scenic and recreational sites; rather the impact will be incremental.

⁶ RPA at 61

⁷ *Id.* at 35

⁸ *Id.* at 22

⁹ *Id.* at 89

¹⁰ *Id.* at 72

There are no issues that represent unusual circumstances to be addressed in the application review process or that would not otherwise be addressed in the environmental review process. No other sensitive resources have been identified at this time.

Based on the analysis above, that the proposed route necessarily connects with four substations, replaces the transmission line within existing rights-of-way, and that a primary alternative route has already been introduced into the proceedings, EFP staff concludes that an advisory task force is not warranted at this time. In the event the Commission chooses to authorize Commerce to employ an advisory task force at this time, EFP staff has created and includes a proposed structure and charge (see attached).

The permitting process should provide adequate opportunities for the public to identify issues and route alternatives to be addressed in the environmental assessment. Staff can also assist local landowners and governmental units in understanding the siting and routing process and identifying opportunities for participating in further development of alternative routes or permit conditions.

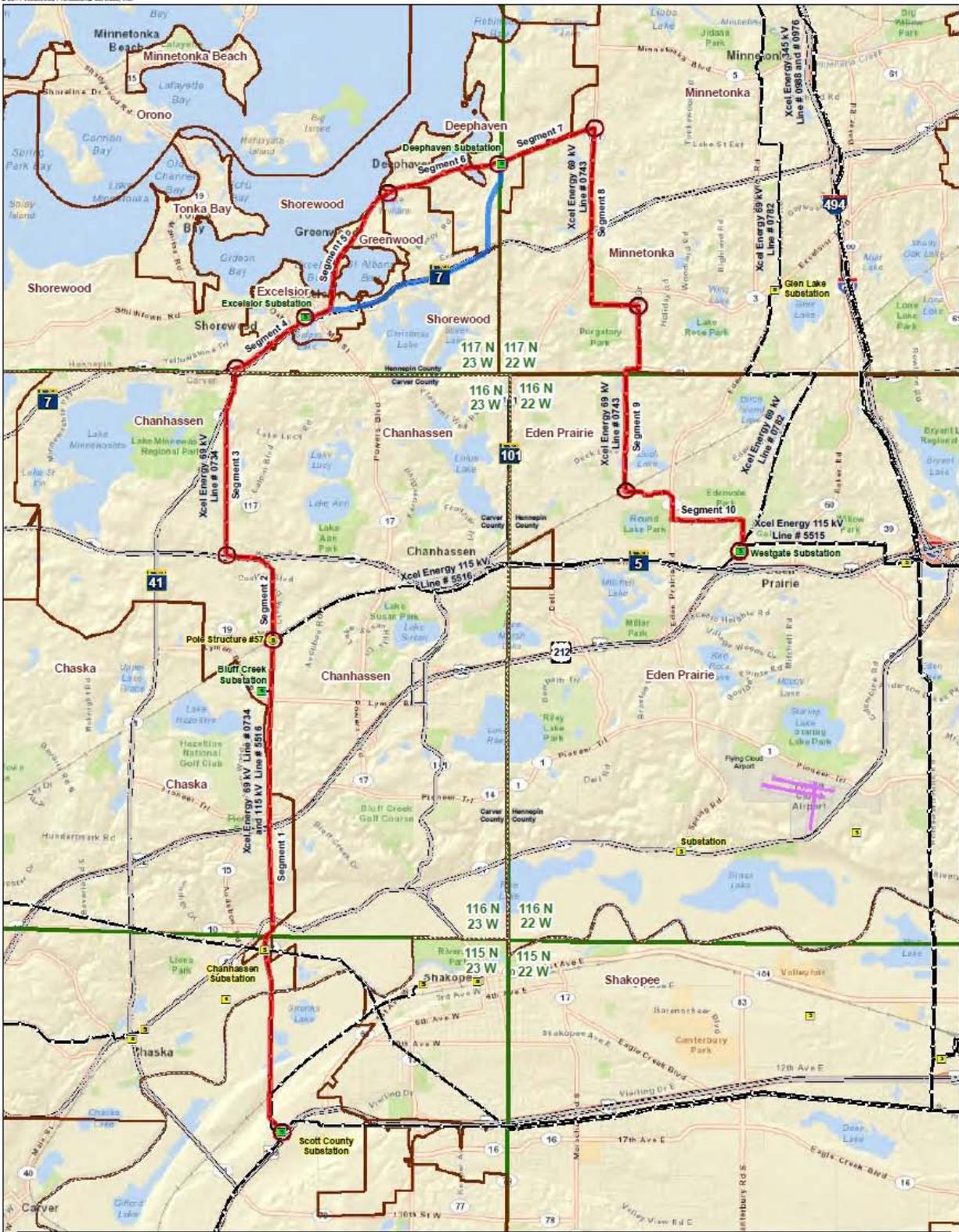
* * * * *

Commerce EFP Recommendations

Commerce EFP staff recommends that the Commission:

1. Accept the HVTL Route Permit Application submitted by Xcel Energy for the Scott County-Westgate 69 kV to 115 kV Upgrade Transmission Project as complete and authorize EFP staff to process the application under the alternative review process pursuant to Minnesota Rules 7850.2800 to 7850.3900;
2. Authorize Commerce to appoint a public advisor in this matter; and
3. Determine that based on the available information, an advisory task force is not warranted at this time.

This page intentionally left blank.



Scott County - Westgate 115kV Upgrade

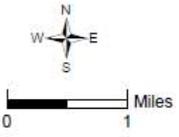
Carver, Hennepin and Scott Counties, Minnesota

- Scott County to Westgate Substation Transmission Line Rebuild Project
- Alternate Alignment
- Existing Transmission Lines
- Segment Start and End Location
- Xcel Substations
- Existing Substations/Taps
- Pole Structure #57
- County Boundary
- Municipal Boundary
- Township Boundary
- Highway
- Runway

Data Sources: All data are approximate. Land Management Information Center (2006), Metro Velocity Suite (2010-2011), MNDOT Swampan (2009), ESRI (2009), Xcel Energy (2010), Westland (2010), and ESRI WMS World Street Map, ESRI, Oklahoma, AKC, The Atlas, USGS (revised 2011).



General Vicinity Map



This page intentionally left blank.



In the Matter of the Route Permit
Application for the Scott County-Westgate
69 kV to 115 kV Upgrade Project in Scott,
Carver and Hennepin Counties

PROPOSED
ADVISORY TASK FORCE
STRUCTURE AND CHARGE
DOCKET NO. E002/TL-11-948

WHEREAS, the applicants submitted a route permit application for the proposed Scott County-Westgate 115 kV transmission line project on April 12, 2012; and

WHEREAS, the Commission, under Minnesota Statute 216E.08, may establish an advisory task force (ATF) to assist it in carrying out its duties; and

WHEREAS, under that same statute the Commission shall provide guidance to the ATF in the form of a charge; and

WHEREAS, on _____, the Commission authorized Department of Commerce Energy Facility Permitting (EFP) to establish an ATF with the structure and charge herein noted;

THEREFORE, having reviewed this information, the Department of Commerce makes the following determination with regard to the structure and charge of an ATF relating to the above matter.

SCOTT COUNTY-WESTGATE ADVISORY TASK FORCE STRUCTURE & CHARGE

As authorized by the Commission, the Department of Commerce establishes an ATF to assist in identifying impacts and route alternatives to be evaluated in the environmental assessment to be prepared by EFP staff for the proposed Scott County-Westgate 69 kV to 115 kV transmission line upgrade. The Scott County-Westgate ATF members will be solicited, as required by Minnesota Statute 216E.08, subdivision 1, from the following governmental units:

- Metropolitan Council
- Carver County
- Chanhassen Township
- Hennepin County
- Scott County
- Jackson Township
- City of Chanhassen
- City of Deephaven
- City of Eden Prairie
- City of Excelsior
- City of Greenwood
- City of Minnetonka
- City of Shorewood

In addition, the ATF will include no more than one person each with property on or near Highway 7 and on or near Route Segments 5/6.

The ATF will comprise no more than 15 members.

This document can be made available in alternative formats (i.e. large print or audio) by calling 651-296-0391 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

The Department of Commerce charges the Scott County-Westgate ATF with:

1. Identifying specific impacts and issues of local concern that may be included in the scoping decision document and evaluated in the environmental assessment, including issues regarding potential conflicts with local planning and zoning.
2. Identifying potential alternative transmission line routes or route segments and alignments that may be included in the scoping decision document and evaluated in the environmental assessment that may maximize positive impacts and minimize or avoid negative impacts of the project in specific areas of concern.

ATF members are expected to participate with EFP staff in up to three meetings and to assist staff with the development of a summary of the task force's work. Meetings will be facilitated by EFP staff or a facilitator engaged by EFP staff.

The ATF will expire upon completion of its charge or upon release of the environmental assessment scoping decision by the Department of Commerce, whichever occurs first.

EFP staff is directed to solicit and appoint, as appropriate, members of the ATF and to begin work on the above noted charge.

Signed this ____ day of _____, 2012

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

William Grant, Deputy Commissioner