MINNESOTA DEPARTMENT OF COMMERCE

85 7TH PLACE EAST, SUITE 500
SAINT PAUL, MINNESOTA 55101-2198
MN.GOV/COMMERCE
651.539.1500 FAX: 651.539.1547
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February 2, 2015

Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Comments and Recommendations of Department of Commerce
Energy Environmental Review and Analysis Staff
Docket No. ET2, E015/TL-14-977

Dear Mr. Wolf,

Attached are comments and recommendations of Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the following matter:

In the Matter of the Application of Minnesota Power for a Route Permit for the 16 Line Replacement Project in St. Louis County, Minnesota

The application was filed on January 16, 2015, by:

Daniel McCourtney
Senior Environmental Compliance Specialist
Minnesota Power
30 West Superior Street
Duluth, MN 55802

EERA staff recommends acceptance of the application as complete. Staff is available to answer any questions the Commission may have.

Sincerely,

William Cole Storm
EERA Staff

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY ENVIRONMENTAL REVIEW & ANALYSIS

DOCKET NO. E015/TL-14-977

EERA Staff: William Cole Storm…….. (651) 538-1844
DATE:…….. February 2, 2015

In the Matter of the Application of Minnesota Power for a Route Permit for the Relocation of Line 16 HVTL Project

Issues Addressed: Application Acceptance and establishing an Advisory Task Force.

Documents Attached:
1. Project Area Map (Aerial)

Additional documents and information can be found on http://mn.gov/commerce/energyfacilities/Docket.html?Id=34059 or on eDockets http://www.edockets.state.mn.us/EFilin/search.jsp (14-977).

This document can be made available in alternative formats (i.e. large print or audio) by calling 651-539-1530 (voice).

Introduction and Background

On January 20, 2015, Minnesota Power (MP or Applicant) submitted a high voltage transmission line (HVTL) Route Permit Application[1] under the alternative permitting process to the Commission for the proposed transmission line relocation of the MP Line 16.

United Taconite requested that Minnesota Power remove an existing 115 kV HVTL (portion of the 16 Line) to accommodate United Taconite's plans to expand its tailings basin located south of Fayal Township.

Project Location
The project is located in St Louis County, south of Fayal Township and approximately four miles east of McDavitt Township.

Project Description and Purpose
Minnesota Power proposes to construct an approximately 3.0-mile-long, 115 kV HVTL in St. Louis County. In addition, three miles of existing transmission line will be taken out of service and removed. The proposed

[1] Route Permit Application (RPA), eDockets Document ID 20151-106265-01

HVTL would connect to Minnesota Power's existing 16 Line on the east side of United Taconite's existing tailings basin and proceed southeast, parallel to an existing railroad grade for approximately 1.25 miles. The line would then proceed southwest for approximately 1.75 miles where it would connect to the existing 16 Line.[2]

State Regulatory Process and Procedures

Minnesota Statute 216E.03, subd. 2 provide 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. Rules7850.2800-3900.

Applicants intending to submit a project under the Commission's alternative permitting process for high voltage transmission lines are required to provide a 10-day advance notice of this intent to the Commission before submitting their route permit application.[3] On November 17, 2014, applicants filed a letter with the Commission indicating their intent to submit a route permit application for the proposed project under the alternative permitting process.[4] Because the project will operate at a voltage between 100 and 200 kV, the project qualifies for the Commission's alternative permitting process.[5]

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).

A Certificate of Need is not required for the project because it is not classified as a large energy facility under Minnesota Statutes Sections 216B.243 and 216B.2421, subdivision 2(3). While the project is a HVTL with a capacity of 100 kV or more, it is not more than 10 miles long in Minnesota and it does not cross a state line. Therefore, the project is exempt from the Certificate of Need requirements

Environmental Review

Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by the Department of Commerce (Department) Energy Environmental Review and Analysis (EERA) staff under Minn. Rule 7850.3700. Public information and scoping meetings will be held to solicit public comments on the scope of the environmental assessment (EA).

[2] RPA at p 9
[3] Minnesota Rule 7850.2800.
[4] Notice of Intent by Minnesota Power to Submit a Route Permit Application under the Alternative Permitting Process, November 17, eDockets Number 201411-104709-01.
[5] Minnesota Rule 7850.2800.

The Department determines 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.

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 (Findings of Fact, Conclusions of Law, and Recommendation).

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 Department 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 Department.

EERA Staff Analysis and Comments

EERA staff has conferred with the applicants about the proposed project and has reviewed a draft application. EEEA staff believes that staff comments on the draft application have been addressed in the application submitted to the Commission. Staff has evaluated the application against the application completeness

requirements of Minnesota Rule 7850.3100.[6] Staff finds that the application contains appropriate and complete information with respect to these requirements, including descriptions of the proposed project and potential environmental impacts and mitigation measures. Accordingly, staff believes that the application meets the content requirements of Minnesota Rule 7850.3100 and is complete. The Commission's acceptance of the application will allow EERA staff to commence the environmental review process.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, EERA 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 were used to complete this evaluation.

Project Size. The applicants' proposed project is a 115 kV line approximately 3 miles in length. Transmission line structures will range from 60 to 75 feet in height. With respect to the length of the project, this is a transmission line project of small size in Minnesota. With respect to the height of transmission line structures, the 115 kV structures are relatively small – that is, they are similar in height to existing poles used for electrical distribution in the project area. On whole, these project size factors do not weigh in favor of a task force.

Complexity. Several specific factors contribute to minimizing the complexity of the proposed project, they include: the small number of local governmental units involved, the fact that the area has been significantly altered by mining activities, the limited number of residential properties potentially impacted, and the compatibility with local land use and zoning regulation within the proposed project area.

The proposed route would cross areas zoned as industrial, residential and forest agricultural management. Based on the Applicant's review of recent aerial photography, there are no residential or non-residential buildings within 1,000 feet of the proposed route. Thus, no displacement of residences or businesses is anticipated.

On whole, EERA staff believes the project presents a relatively low level of complexity.

Known/Anticipated Controversy. Given the Applicant's preliminary community efforts and the relatively strong support of iron mining activities in the area, EERA staff believes that any controversy involving this project to be localized around specific alignment issues/alternatives within the proposed route.

On November 21, 2014, Minnesota Power sent notice letters describing the proposed project, requesting comments, and announcing a public informational meeting to pertinent federal and state agencies, local government units, and nearby landowners. Four responses were received: one comment was submitted by the U.S. Army Corps of Engineers (ACOE), one from the Pollution Control Agency (MPCA), one from the US Department of Agriculture (USDA), and one from the State Historical Preservation Office (SHPO).

[6] The completeness requirements of Minnesota Rule 7850.3100 (alternative permitting process) and Minnesota Rule 7850.1900 (full permitting process) are identical with one exception -- under the alternative permitting process an applicant is not required to propose alternative routes in their application; they must, however, describe any alternative routes evaluated and rejected prior to application submittal.

The ACOE and MPCA letters highlighted potential permits that may be required from these agencies. The USDA letter stated the proposed project would not impact USDA easement lands. The SHPO letter recommended that a Phase I archeology survey be completed for the proposed project; this survey was completed and is detailed in the route permit application.

On December 10, 2014, Minnesota Power held a public information meeting on the proposed project at the Fayal Township Community Center in Eveleth, Minnesota. Five people attended the meeting. On whole, EERA staff anticipates a relatively low level of controversy concerning the project.

Sensitive Resources. The area adjacent to the proposed route has been significantly disturbed by human activity; the Eveleth Taconite Tailings basin borders the project area to the north. The project area is bounded on the east by a Canadian National Railroad line. The new portion of the 16 line would be adjacent (along the west side) to the ROW of the Canadian National Railroad line.

However, the project area does contain numerous wetlands. Based on the US Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) data approximately 157.5 acres of Forested/Shrub Wetland are within the proposed route; this represents approximately 94 percent of the route. Approximately 33.3 acres of Forested/Shrub Wetland are within the anticipated transmission line ROW; this represents approximately 95 percent of the anticipated ROW. Due to a maximum span of 800 for the proposed H-frame structures, it will not be possible to span the wetland crossings; approximately 24 structures will need to be placed within wetlands. Additionally, in forest type wetlands spanning does not mitigate the impacts to wetland type conversion that occurs due to ROW clearing.

The proposed project area is zoned as industrial, residential, and forest agricultural management. The landowners include United Taconite, Canadian National Railroad, State of Minnesota, and one private landowner.

No USFWS Waterfowl Production Areas (WPA) are located within or in the vicinity of the proposed route. The Anchor Lake Wildlife Management Area (WMA) is located approximately 0.75 miles east of the proposed project location. The proposed project is not located in the immediate vicinity of any recognized recreational area; however, Hiekkila and Murphy Lakes are located within one mile of the proposed project.

There are records (Minnesota Natural Heritage Inventory System {NHIS} database) of five northern goshawk (state special concern) nests comprising one territory, as well as one bald eagle nest within one mile of the project.

On whole, EERA staff anticipates minimal impacts to sensitive resources in the project area.

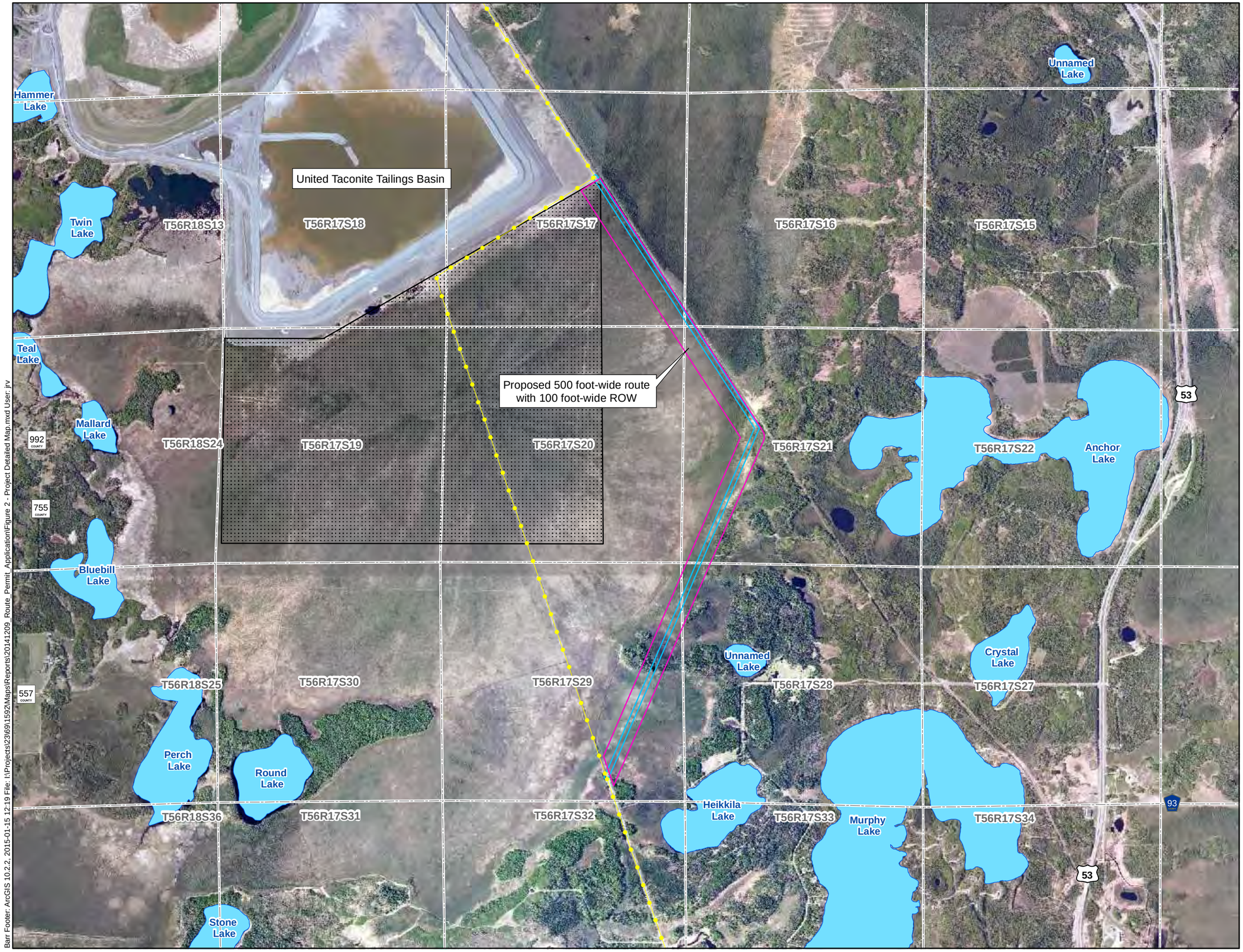
Based on the analysis above, EERA staff concludes that an advisory task force is not warranted at this time.

EERA staff believes that the alternative 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 EERA Recommendations

Commerce EERA staff recommends that the Commission accept the route permit application for the Minnesota Power 16 Line Replacement project as complete. EERA staff recommends that the Commission take no action on an advisory task force at this time.



Existing 16 Line
Proposed 16 Line 100 foot-wide ROW
Proposed 16 Line 500 foot-wide Route
PWI Basin
Tailings Basin Expansion Area
Public Land Survey Sections

N

0 2,000 4,000 Feet

EERA C&R Map

PROJECT DETAILED MAP
Proposed 16 Line Reroute
Saint Louis County, MN

Barr Footer: ArcGIS 10.2.2, 2015-01-15 12:19 File: I:\Projects\2369\1592\Maps\Reports\20141209_Route_Permit_Application\Figure 2 - Project Detailed Map.mxd User: jrv