

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application for a  
Pipeline Routing Permit for the  
Nashwauk-Blackberry Natural Gas  
Pipeline Project

**REPORT AND RECOMMENDATION**

Administrative Law Judge Bruce H. Johnson conducted both an evidentiary hearing and a public hearing in this matter at the Nashwauk City Hall in Nashwauk, Minnesota beginning at 9:00 a.m. on January 3 and 4, 2008.

Jennifer A. Jameson and Joseph T. Bagnoli of McGrann Shea Anderson Carnival Straughn & Lamb, Chartered, appeared on behalf of the Nashwauk Public Utilities Commission (the NPUC or Applicant). Karen Finstad Hammel, Assistant Attorney General, Minnesota Attorney General's Office, appeared on behalf of the Minnesota Department of Commerce (the Department). Bob Cupit was present on January 3, 2008, as a member of the Minnesota Public Utilities Commission (MPUC or Commission) staff, and William Storm and Suzanne Steinhauer were present on both days as members of the Department's staff.

**STATEMENT OF THE ISSUES**

1. Whether the Applicant has met the criteria for issuance of a natural gas pipeline routing permit (Routing Permit) set forth in Minn. Stat. § 216G.02, subd. 3, and Minn. R. 7852.1900, subp. 3?

The Administrative Law Judge concludes that the Applicant's application meets those criteria, and recommends that the Routing Permit be issued, subject to the conditions specified below.

2. Whether any of the proposed route alternatives minimize the human and environmental impacts associated with the proposed pipeline to a greater extent than the Applicant's Preferred Route?

The Administrative Law Judge concludes that none of the proposed alternatives will minimize the human and environmental impacts to a greater extent than the Applicant's preferred route, and recommends that the MPUC

issue a Routing Permit for the Applicant's preferred route, with the modifications discussed below.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following findings of fact:

## FINDINGS OF FACT

### Procedural Background

1. On March 7, 2007, the NPUC filed an application with the MPUC for a pipeline routing permit and partial exemption from pipeline route selection procedures. The purpose of the application was to enable the NPUC to construct a new 24-inch diameter natural gas pipeline, approximately 23 miles in length in Itasca County. The Commission docketed the matter as "PL, E -280/GP-06-1481."<sup>1</sup>

2. The NPUC's preferred route begins at a point on the existing Great Lakes Gas (GLG) 36-inch pipeline in Blackberry Township, runs north for approximately 13 miles to a point near the city of Taconite, and then turns northeast for approximately 9 miles until it reaches the City of Nashwauk (Applicant's Preferred Route). The pipeline's terminus is near the proposed Minnesota Steel plant, and pipeline's primary purpose is to supply that plant with natural gas service.<sup>2</sup>

3. On April 3, 2007, the Commission accepted the NPUC's application as being complete under the partial exemption rules.<sup>3</sup>

4. On April 18, 2007, the Department conducted a public information meeting on the NPUC's application at the Taconite Community Center. The public was given until May 18, 2007, to submit comments on the project and application.<sup>4</sup>

5. The Department conducted a second public information meeting on May 24, 2007, at the Nashwauk City Hall. The public comment period was extended to June 8, 2007.<sup>5</sup>

6. Approximately 50 people attended the second information meeting, and approximately 90 comment letters were received during the comment period. Many attendees expressed concern about the absence in the application of any

---

<sup>1</sup> Ex. 3; Ex. 27.

<sup>2</sup> Ex. 1; 30, p. 1; Ex. 26 p. 5.

<sup>3</sup> Ex. 3; Ex. 27.

<sup>4</sup> Ex. 4; Ex. 5; Ex. 6; Ex. 27.

<sup>5</sup> Ex. 7; Ex. 8; Ex. 9; Ex. 27.

discussion of alternative routes. Some voiced a desire to have a citizen advisory committee established.<sup>6</sup>

7. On July 12, 2007, the NPUC submitted a request to the Commission to convert its original application for a partial exemption into a proceeding pursuant to Minn. R. 4415.045 and 4415.0105 (subsequently re-adopted as Minn. R. ch. 7852).<sup>7</sup>

8. On July 27, 2007, the NPUC submitted a revised pipeline routing permit application that did not seek a partial exemption from pipeline route selection procedures.<sup>8</sup>

9. On August 9, 2007, the Commission accepted the revised route permit application and granted the NPUC's request to apply all pipeline route selection procedures. The Commission further authorized the Department of Commerce to establish a citizen advisory committee (CAC), and provided a specific charge and structure to the CAC.<sup>9</sup>

10. The Department established the CAC and scheduled three CAC meetings.<sup>10</sup>

11. On August 13, 2007, the Commission issued a Notice of Application Acceptance for a Pipeline Routing Permit and Public Information Meeting (Notice). The Notice identified the NPUC as the applicant and provided:

- the date of acceptance;
- a brief description of the project;
- the name and contact information for the public advisor;
- locations where materials were available for public review;
- procedures for proposing alternative routes by the deadline of October 15, 2007; and
- notice of public information meetings, including dates, times and locations.<sup>11</sup>

12. On August 28, 2007, the Department held a third public information meeting at the Taconite Community Center to inform the public of the conversion to the full review process, to receive comments on route alternatives or modifications, and to solicit input into the components of the comparative

---

<sup>6</sup> Ex. 9; Ex. 10; Ex. 16; Ex. 17.

<sup>7</sup> Ex. 11.

<sup>8</sup> Ex. 12.

<sup>9</sup> Ex. 14; Ex. 16; Ex. 17; Ex. 27.

<sup>10</sup> Ex. 16.

<sup>11</sup> Ex. 14.

environmental analysis for the project. Approximately 32 people attended the hearing, and two offered comments.<sup>12</sup>

13. The Department received 18 comment letters during the comment period that followed the third public information meeting. Concerns raised included: the minimum distance the pipeline's route could be from existing dwellings; whether access to the pipeline could be restricted with a fence or gate; to whom the natural gas would be sold; whether the abandoned pipeline right-of-way along Highway 169 could be utilized; and the feasibility of other routes or route segments.<sup>13</sup>

14. Also on August 28, 2007, the CAC met for the first time. The CAC met three times from August 2007 to October 2007. The meetings were open to and attended by members of the public.<sup>14</sup>

15. On October 26, 2007, the CAC issued its report recommending that the Applicant's Preferred Route and its Alternative Routes 1, 2, P-1 and P-2 all be considered during the ensuing public hearing. The CAC also recommended that consideration also be given an alternative route segment that some of its members were recommending (CAC Route Segment). Finally, the CAC recommended that comprehensive infrastructure planning be employed to identify common corridors for the railroads, highways, transmission lines and pipelines that will serve the Minnesota Steel plant.<sup>15</sup>

16. On October 30, 2007, the Department filed comments summarizing the process and the various routes in the application.<sup>16</sup>

17. The Commission met and considered the NPUC's application on November 8, 2007, and on December 7, 2007, issued an Order Authorizing Further Consideration of Certain Alternative Routes and Route Segments and requiring landowner notice. The Order authorized consideration of the Applicant's Preferred Route, four Route Alternatives (1, 2, P-1 and P-2) and one Route Segment (the CAC Route Segment). The Commission's Order also approved further consideration of the route alignment proposed by Mr. Michael Karna, even though MPUC approval was unnecessary because the requested alignment falls within the parameters of the pipeline corridor. Mr. Karna had also requested consideration of another alternative route segments that he was offering. However, the Commission's Order excluded both Mr. Karna's alternative route segment and another alternative identified as the White Alternative Route Segment from further consideration.<sup>17</sup>

---

<sup>12</sup> Ex. 18; Ex. 19; Ex. 26; Ex. 27.

<sup>13</sup> Ex. 22; Ex. 26.

<sup>14</sup> Ex. 15; Ex. 26.

<sup>15</sup> Ex. 25.

<sup>16</sup> Ex. 26.

<sup>17</sup> Ex. 27.

18. All property owners whose property was crossed by any of the routes identified in the Commission's December 7, 2007, Order received notice of the public hearing by mail.<sup>18</sup>

19. The notice was also published in three local newspapers on December 20, 2007, -- the *Mesabi Daily News*, the *Scenic Range News Forum*, and the *Grand Rapids Herald Review*.<sup>19</sup>

20. The Department filed a Comparative Environmental Analysis (CEA) on December 21, 2007.<sup>20</sup>

21. At the evidentiary and public hearings on January 3, 2008, and January 4, 2008, the NPUC presented the oral testimony of Phillip R. McLean, William Hendricks, Howard Hilshorst, Kelly Henry, Peter Clevestine, and Clarence Kadrmas. It also submitted pre-filed testimony from the following five witnesses:

- Phillip McLean, Pipeline Engineer;<sup>21</sup>
- William Hendricks, Mayor of City of Nashwauk;<sup>22</sup>
- Howard Hilshorst, Executive Vice President of Minnesota Steel;<sup>23</sup>
- Kelly Henry, Principal/Senior Environmental Scientist and Leader of the Natural Resources Practice at Short Elliott Hendrickson, Inc. (SEH);<sup>24</sup> and
- Peter Clevestine, Manager of the Engineering and Mineral Development Section of the Minnesota Department of Natural Resources.<sup>25</sup>

22. On January 4, 2008, the ALJ received the sworn testimony of Larry Schmelzer, a mine engineer employed by U. S. Steel Corporation at its Keewatin taconite plant.

23. Approximately 30 members of the public attended the hearings, eight of whom offered comments.

24. After the hearing, the NPUC submitted a set of detailed maps depicting the property owners along each of the six routes under consideration.<sup>26</sup>

---

<sup>18</sup> Ex. 28.

<sup>19</sup> Ex. 29.

<sup>20</sup> Ex. 30.

<sup>21</sup> Ex. 40.

<sup>22</sup> Ex. 41.

<sup>23</sup> Ex. 42.

<sup>24</sup> Ex. 43.

<sup>25</sup> Ex. 44.

<sup>26</sup> Ex. 46.

## Project Area and Description

25. The proposed pipeline is located within a semi-rural area of Southeastern Itasca County in northeastern Minnesota. The area is a mix of forest land, mine land, wetlands, pasture and small farms. The Applicant's Preferred Route is depicted as a red line on Exhibit 45.<sup>27</sup> The other routes under consideration are also depicted on the map. Approximately 42 percent of the route is farm-residential; 7 percent is municipal; and 61 percent is industrial. Rich iron ore deposits cover much of the area and there is a long history of past and present mining activities in the area.<sup>28</sup>

26. The proposed 24-inch pipeline route will originate at the existing Great Lakes Gas (GLG) 36-inch natural gas pipeline in Blackberry Township. Both the Preferred and alternate routes will then run both north and east for approximately 23 miles and terminate in the City of Nashwauk.

27. Plans for both the Preferred and Alternative Routes are to follow existing utility, railroad, natural gas pipeline, electric transmission line, highway, and road rights-of-way to the maximum extent possible.<sup>29</sup>

28. The proposed pipeline will primarily provide the natural gas service to the proposed Minnesota Steel Taconite Reduction Plant (Minnesota Steel Plant) near the City of Nashwauk, but the pipeline is sized at 24-inches to allow for service to other industrial expansion in the area, particularly anticipated industrial development in the City of Nashwauk.<sup>30</sup>

29. On December 21, 2007, the Department issued a Comparative Environmental Analysis of the pipeline project,<sup>31</sup> and final Environmental Impact Statement for Minnesota Steel Plant itself has been issued by the Minnesota Department of Natural Resources (DNR).<sup>32</sup>

30. The proposed pipeline will be constructed of welded steel, fusion body epoxy-coated pipe. It has been designed to deliver natural gas at a maximum rate of 206 million cubic feet per day and to operate at a pressure of 599 pounds per square inch gauge (psig). The Maximum Allowable Operating Pressure of the pipe will be 1016 psig.<sup>33</sup>

---

<sup>27</sup> See also map attached to Ex. 30.

<sup>28</sup> Ex. 30, p. 1.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Ex. 30.

<sup>32</sup> *Id.* at p. 1.

<sup>33</sup> Ex. 26, p. 5.

## Process of Route Selection and Development of Route Alternatives

31. From 1999 to 2007, Itasca County undertook a multi-faceted planning process to plan regional economic infrastructure. The Minnesota Steel Plant in Nashwauk had been in planning stages for many years and was intended to be a primary focal point of the County's regional infrastructure upgrades. Thus, the NPUC's pipeline route selection process began in 1999 as part of the County's infrastructure planning process.<sup>34</sup> The NPUC and its consultants then began considering infrastructure improvements, including a gas pipeline service, to serve the Minnesota Steel Plant and related development. The NPUC reviewed various maps and data and performed survey and field reviews to determine the best route for the proposed pipeline. The NPUC also met with numerous stakeholders along the proposed routes, including cities, state agencies, and railroad authorities. The intent of the preliminary meetings was to provide information regarding the proposed project and solicit public input relating to any issues or concerns related to the project.<sup>35</sup>

32. During the Itasca County infrastructure planning process and early proposals relating to the Minnesota Steel Plant, at least 15 pipeline routes and route segments were considered and evaluated. Ultimately, the Itasca County process resulted in three potential routes (Routes 1, 2, and 3).<sup>36</sup> After evaluating them, the NPUC developed the Applicant's Preferred Route and used that route in its initial application for a partial exception pipeline construction permit. As discussed above, additional routes were added after the NPUC converted its application for consideration under the full process.

33. In selecting the Applicant's Preferred Route, the NPUC took into consideration the criteria established in Minn. R. 7852.1900, subp. 3, and focused on the following goals consistent with the general criteria rule:

- Avoid as many farmsteads, residents and residential developments as possible;
- Avoid rare species habitats, wetlands, and water crossings when possible to reduce environmental impacts; and
- Reduce pipeline length to minimize inconvenience to residents, businesses and affected communities.<sup>37</sup>

34. On December 7, 2007, the Commission determined that the Applicant's Preferred Route, Route Alternatives 1, 2, P-1 and P-2, and the CAC Route Segment should proceed to the public hearing for further consideration.<sup>38</sup>

---

<sup>34</sup> See Ex. 26, p. 12.

<sup>35</sup> Ex. 12, p. 13-14, E 6-7.

<sup>36</sup> Ex. 26, p. 12.

<sup>37</sup> Ex. 12, E 14, 17, 24.

<sup>38</sup> Ex. 27.

These routes are depicted on Exhibits 30 (map) and 45 and are described as follows.

### **Applicant's Preferred Route (Alternative 3)**

35. The NPUC proposes to construct a 23.5 mile high pressure gas pipeline originating in the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 10, Township 54 North, Range 24 West, Itasca County (Latitude 47.172070, Longitude -93.383398). The Applicant's Preferred Route originates at take-off points on the two existing GLG pipelines in Blackberry Township. A tap will be installed so that a new 24-inch pipeline will run north for approximately 13.5 miles to a point near the City of Taconite. The Applicant's Preferred Route then turns northeast for approximately 10 miles until it reaches the City of Nashwauk. This segment was shortened to ten miles to address mineral concerns raised by the Minnesota DNR. The pipeline will terminate in the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 36 in Township 57 North, Range 23 West, Itasca County (Latitude 47.39019, Longitude -93.16886).<sup>39</sup>

36. The first two miles of the Applicant's Preferred Route will extend north-northeast to avoid a large wetland bog north of U.S. Highway 2. From there, the Applicant's Preferred Route will turn due east approximately two miles to be aligned directly south of the city of Taconite. The Applicant's Preferred Route will extend north from this point about 1.5 miles where it will cross the Swan River and then continue north until intersecting with the Northern Natural Gas (NNG) 8-inch pipeline right-of-way. The route will parallel the NNG pipeline for .9 miles and then follow a proposed 230 kV high voltage transmission line (HVTL) route for 4.2 miles. Within the latter segment, the route will cross the Swan River a second time. The next 1.3 miles of the proposed route will run within an existing HVTL right-of-way north of the city of Taconite. At Taconite, the pipeline will turn to the east, where it will proceed eastwards to the City of Nashwauk along nine miles of new route. This segment could be shortened to 8.5 miles to address mineral concerns raised by the Minnesota DNR.<sup>40</sup>

### **Alternative 1**

37. Alternative 1 extends 27.2 miles from a point west of the City of Cohasset, running approximately 8.5 miles north and 22.6 miles east to a point near the City of Nashwauk. Specifically, the alignment runs east from Cohasset approximately 2.7 miles, then turns north at County Road 168 for approximately 2.5 miles. It then runs northeast and east approximately 22 miles terminating at a point east of Nashwauk, Minnesota. This alternative alignment extends from the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 9, Township 55 North, Range 26 West, Itasca County (Latitude 47.234118, Longitude -93.650705). This alternative alignment terminates in the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of

---

<sup>39</sup> Ex. 12, p. 4-5.

<sup>40</sup> Ex. 12, p. 5.

Section 29 in Township 57 North, Range 22 West, Itasca County (Latitude 47.384504, Longitude -93.196173).<sup>41</sup>

### **Alternative 2**

38. Alternative 2 extends 24.6 miles from a point east of the City of LaPrairie, running approximately 10.7 miles north and 15.2 miles east to the termination point near the City of Nashwauk. Specifically, the alignment traverses east from LaPrairie approximately 7.4 miles where it intersects the preferred alignment. At this point, Alternative 2 turns north for approximately 7 miles and then northeast and east approximately 10.2 miles, terminating east of Nashwauk, Minnesota. This alternative alignment extends from the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 10, Township 55 North, Range 25 West, Itasca County (Latitude 47.23624, Longitude -93.488939). This alternative alignment terminates in the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 29 in Township 57 North, Range 22 West, Itasca County (Latitude 47.384504, Longitude -93.196173).<sup>42</sup>

### **Alternative P-1**

39. Alternative P-1 extends 25.4 miles from a point on the GLG 36-inch diameter pipeline south of State Highway 2 in Sago Township southeast of Warba, running approximately 19.4 miles north and 3 miles west to the termination point near the City of Nashwauk. Specifically the alignment traverses northeast approximately 19 miles along Highway 65 and Highway 16 and extends just east of the Saint Louis County boundary where it turns west-northwest approximately 8.8 miles to Highway 169, and then northeast along Hwy 169 approximately 4.7 to County Highway 58. It then runs approximately 5.7 miles west and southwest terminating at a point west of Nashwauk, Minnesota. This alternative alignment extends from the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 13, Township 53 North, Range 23 West, Itasca County (Latitude 47.077883, Longitude -93.202829). This alternative alignment terminates in the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 4 in Township 56 North, Range 23 West, Itasca County (Latitude 47.257282, Longitude -93.267021).<sup>43</sup>

---

<sup>41</sup> Ex. 27, p. 3.

<sup>42</sup> Ex. 27, p. 3.

<sup>43</sup> Ex. 27, p.3.

40. The Nashwauk Isthmus is a narrow strip of land lying between the Hawkins and LaRue mine pits near the City of Nashwauk, with both pits having a depth of 300 feet or more.<sup>44</sup> Alternative P-1, P-2, and the CAC Segment all involve routing the pipeline through the Nashwauk Isthmus. Factors including population density and maintaining a 2,000-foot blast zone from a high pressure natural gas pipeline present some severe, and perhaps insurmountable, technical difficulties in routing the pipeline through the Nashwauk Isthmus.<sup>45</sup>

### **Alternative P-2**

41. Alternative P-2 extends 29.9 miles from the same point as Alternative P1 at the GLG 36-inch diameter pipeline south of State Highway 2 in Sago Township. It then extends to the same termination point as Alternative P-1. Alternative P-2 traverses northeast, approximately 19 miles along Highway 65, to Highway 169 where it intersects Alternative P-1.

42. The alignment parallels Hwy 169 approximately 4.7 miles to County Highway 58 and then approximately 5.7 miles west and southwest terminating at a point west of Nashwauk. This alternative alignment extends from the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 13, Township 53 North, Range 23 West, Itasca County (Latitude 47.077883, Longitude -93.202829). This alternative alignment terminates in the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 4 in Township 56 North, Range 23 West, Itasca County (Latitude 47.257282, Longitude -93.267021).<sup>46</sup> Alternative P-2 presents the same difficulties as Alternative P-1 of routing the pipeline through the Nashwauk Isthmus.

### **CAC Alternative Route Segment**

43. The CAC Alternative Route Segment was developed in the course of the CAC's meetings. It traverses east from LaPrairie along the Alternative 2 Route corridor, for approximately 7.4 miles where it intersects the Applicant's Preferred Route (i.e., Alternative Route 2 and Alternative Route 3 share a corridor for approximately  $\frac{3}{4}$  of a mile). From this point the CAC Alternative Route Segment diverges from the other two routes and heads northeast for approximately 8.9 miles, where it connects to the Alternative Route P-1 corridor. From this point, the CAC alternative Route Segment shares the corridor for Alternative Route P-1 northeast along Hwy 169 approximately 4.7 miles to County Highway 58 and then approximately 5.7 miles west and southwest, terminating at a point west of Nashwauk.<sup>47</sup> The CAC Route Segment is also challenged by the Nashwauk Isthmus.<sup>48</sup> Like Alternatives P-1 and P-2, the CAC

---

<sup>44</sup> Ex. 42, p. 3.

<sup>45</sup> Ex. 27 at pp. 4-5.

<sup>46</sup> Ex. 27, p.3-4.

<sup>47</sup> Ex. 27, p. 4.

<sup>48</sup> Ex. 27, p. 5.

segment presents the difficulties associated with routing the pipeline through the Nashwauk Isthmus.

### **Comparative Environmental Analysis (CEA)**

44. SEH scientists and consultants hired by the NPUC evaluated the environmental impact of each route and route segment along a 1320-foot corridor, 660 feet on either side of the pipeline's centerline. The analysis was incorporated in the Environmental Assessment attached to the NPUC's application and into the CEA filed by the Department as Exhibit 30.

45. According to the Department's CEA, the overall human and environmental impact from this project is not likely to be significant, as long as all appropriate and specified mitigation measures for right-of-way preparation, construction, and pipeline operation and maintenance are followed.<sup>49</sup> The NPUC has promised to manage the project in ways that minimize construction-related effects on local natural resources and adjacent recreational activities.<sup>50</sup> The CEA includes a table comparing the environmental impacts of each route.<sup>51</sup>

46. The Applicant's Preferred Route is the shortest route, impacts the fewest number of human settlements and most carefully avoids interference with the development of current and future mining resources.<sup>52</sup>

47. The length of the Applicant's Preferred Route is 23.68 miles. The designated pipeline centerline passes within 330 feet of 5 existing residences. The one-eighth-mile wide corridor (+/-330 feet from centerline) crosses 127 private parcels and 10 public parcels for a total of 125,044 lineal feet of right-of-way (ROW) impacted. The one-quarter-mile wide corridor (+/-660 feet from the centerline) crosses 259 private parcels for a total of 3,512 acres affected and 24 public parcels for a total of 304 acres affected. This route requires 13 road crossings, 2 railroad crossings, and 8 crossings of intermittent or permanent water-bodies. A total of 3.33 miles of this route crosses through 26 unique mapped wetlands.<sup>53</sup>

48. The cost estimate for the Applicant's Preferred Route is \$24,289,000. The vast majority of the Applicant's Preferred Route crosses small plots of cultivated land and rural residential lots, large expanses of wetland and mixed deciduous and coniferous forest. Much of the mixed forest land is broken into small farm or rural residential land classifications. Fifty-six percent of the route crosses smaller plots of cultivated land and rural residential land, 14 percent crosses expanses of wetland, 19 percent crosses municipal areas, 9

---

<sup>49</sup> Ex. 30, p. 9.

<sup>50</sup> Ex. 12, p. 13.

<sup>51</sup> Ex. 30, table.

<sup>52</sup> Ex. 30, table.

<sup>53</sup> Ex. 30, p. 5.

percent crosses mixed deciduous and coniferous forest and 2 percent crosses disturbed mine lands.<sup>54</sup>

### **Criteria for Route Permit**

49. Minn. R. 7852.1900, subp. 3, establishes the ten criteria that the PUC must consider to designate a route and issue a routing permit for a gas pipeline. According to the rule, the PUC shall consider:

- Human settlement, existence and density of populated areas, existing and planned future land use, and management plans;
- The natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water and recreational lands;
- Lands of historical, archaeological, and cultural significance;
- Economies within the route, including agricultural, commercial or industrial, forestry, recreational and mining operations;
- Pipeline cost and accessibility;
- Use of existing rights-of-way and right-of-way sharing or paralleling;
- Natural resources and features;
- The extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup and restoration practices;
- Cumulative potential effects of related or anticipated future pipeline construction; and
- The relevant applicable policies, rules and regulations of other state and federal agencies, and local government land use laws including ordinances adopted under Minnesota Statute § 299J.05 relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.

### **Human settlement, existence and density of populated areas, existing and planned future land use, and management plans**

50. The Applicant's Preferred Route affects five houses within 330 feet of the centerline of the pipeline.<sup>55</sup> Route Alternatives P-1 and P-2 and the CAC Route Segment affect more homes.<sup>56</sup>

51. The Applicant's Preferred Route impacts the smallest number of lineal feet of right-of-way.<sup>57</sup>

---

<sup>54</sup> Ex. 30, p. 5.

<sup>55</sup> Ex. 30, table; Ex. 40, p. 12.

<sup>56</sup> Ex. 30, table p. 1 (affected homes range from 56 to 156 within 330 feet of pipeline centerline).

<sup>57</sup> Ex. 30, table p. 7; Ex. 40, p. 12.

52. In its application, the NPUC stated that it attempted to avoid individual residences and buildings when routing the pipeline.<sup>58</sup> The NPUC has agreed to consult and work with affected landowners during permitting, final design, and easement negotiation to avoid and minimize any temporary or permanent impacts to residences, farms, or other businesses.<sup>59</sup>

53. The proposed pipeline is necessary for the operation of the proposed Minnesota Steel plant and other proposed developments in the area.<sup>60</sup> The pipeline needs to extend beyond the proposed Minnesota Steel plant to support future anticipated development in the area near the City of Nashwauk.<sup>61</sup> The availability of additional natural gas supply in the area could increase the rate at which land in the area is converted into industrial and commercial development, and there is the potential for some increase in residential construction due to this project.<sup>62</sup>

54. Unlike the Applicant's Preferred Route, Alternatives P-1 and P-2, the CAC Route Segment, and the Karna Proposed Alternative Route would all go through the City of Nashwauk and result in substantial disruptions of the residents and the City's infrastructure.<sup>63</sup>

55. Alternative Route P-2 follows a populated area along Highway 65 and poses problems for homes near Goodland and Pengilly.<sup>64</sup>

56. Along the Route Alternative 2 segment near LaPrairie, the existing corridor is substantially occupied by existing utilities, including the NNG pipeline, communications lines and two overhead power lines, which would complicate the design and construction of the pipeline along that corridor.<sup>65</sup>

**Natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water and recreational lands.**

57. The Applicant's Preferred Route contains the least number of total watercourse crossings.<sup>66</sup>

58. The Applicant's Preferred Route affected the smallest number of federal and state-listed species—namely, one species within .50 miles of its

---

<sup>58</sup> Ex. 12, p. 57.

<sup>59</sup> Ex. 12, p. 57.

<sup>60</sup> Ex. 12, p.6; T. 85, 140-141.

<sup>61</sup> T. 85, 139, 142.

<sup>62</sup> Ex. 12, p.58.

<sup>63</sup> Ex. 40, p. 10; Ex. 45; T. 41-42, 44.

<sup>64</sup> Ex. 40, p. 10.

<sup>65</sup> Ex. 40, p. 10-11.

<sup>66</sup> Ex. 30, table, at 1 (8 crossings, compared to range of 8-17 for all routes).

route, compared to a range of 3-14 species for the remaining Route Alternatives.<sup>67</sup>

59. The Applicant's Preferred Route also crosses the least number of grassland cover areas (2.93 miles, compared to a range of 2.93 to 9.48 miles for the alternative routes).<sup>68</sup>

60. The Applicant's Preferred Route crosses approximately 3.33 miles of NWI-mapped wetlands. The alternative routes cross from 1.18 to 5.01 miles of mapped wetlands. None of the routes affect recreational land.<sup>69</sup>

61. The Application stated that construction along the pipeline route will cause temporary disturbances to forestry and recreational areas, but construction is not expected to have long term impacts in the area. No significant long term impacts to vegetation and wildlife, geology and soils, and water resources and wetlands are expected from the project. Best management practices such as silt fencing and erosion control measures will be implemented during construction to protect adjacent wetlands to preserve soil biota in excavated areas. Care will be taken in replacing soil so that the backfilled soil column will be functionally similar to its condition prior to the excavation. Seeding with native plant species appropriate to the hydrologic regime is planned for final restoration.<sup>70</sup>

#### **Lands of historical, archaeological, and cultural significance.**

62. The Applicant's Preferred Route does not affect any listed sites within .25 miles of the route.<sup>71</sup>

63. Construction of the pipeline will not have any direct impact on the cultural, historic or aesthetic values of the area.<sup>72</sup>

64. The NPUC hired the 106 Group to review Minnesota Historical Society and Minnesota State Historic Preservation Office data to identify previously recorded cultural resources within the proposed construction right-of-way for the Applicant's Preferred Route. The NPUC's preliminary research did not identify any archeological sites or historic properties within any of the routes under consideration. Before the start of construction, the NPUC will adopt a sensitivity model for the selected pipeline route. The model will divide the approved route into sectors of high, moderate, and low probabilities of containing previously undocumented resources. Once the model and underlying data have

---

<sup>67</sup> Ex. 30, table, at 2.

<sup>68</sup> Ex. 30, table, at 2.

<sup>69</sup> Ex. 30, table, at 2.

<sup>70</sup> Ex. 12, p. 57-58.

<sup>71</sup> Ex. 30, table, at 2.

<sup>72</sup> Ex. 12, p.58; Ex. 30, p.18.

been reviewed and approved by the appropriate agencies, the NPUC will develop and implement field survey protocols to be utilized during construction.<sup>73</sup>

### **Natural resources and features**

65. The terrain along the proposed pipeline is a mix of forest land, wetlands, pasture, small farms, and mine lands. Preliminary information indicates that the proposed pipeline may encounter agricultural lands in portions of the proposed corridor.<sup>74</sup>

66. Regarding impact on natural resources, the Applicant's Preferred Route crosses 15.14 miles of forested land, 3.33 miles of wetlands, and 2.93 miles of grassland.<sup>75</sup> Construction of the pipeline will result in short-term impact to vegetation and will not cause any appreciable change in the type of vegetation cover. There will be tree cutting and vegetation clearing along the estimated 23.68 mile of the Applicant's Preferred Route's right-of-way. As noted in the CEA, the impacts to vegetation and wildlife along the Applicant's Preferred Route will be minimal due to the widespread abundance of similar habitat present. The application stated that the NPUC will minimize interference with agricultural operations. Impacts to vegetation and wildlife along the Applicant's Preferred Route will be minimal due to the widespread abundance of similar habitat present.<sup>76</sup>

67. In those areas where there is potential to cross agricultural lands, the pipeline will be placed on section lines and field breaks, where possible, to minimize interference with agricultural operations.<sup>77</sup> The Applicant's Preferred Route crosses 10,560 feet of agricultural land (tax class parcels); 70,710 feet of prime farmland soils, and 2,106 feet of farmland soils of statewide importance.<sup>78</sup> Although very little active farmland will be disrupted by the construction of the proposed pipeline route, any areas of prime farmland that are or have been used for cropland in the last three years and are impacted by the pipeline right-of-way, will be compensated.<sup>79</sup>

### **Economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations.**

68. The record contains significant testimony and evidence on the importance of the mineral resources and mining operations in the area of the proposed pipeline.<sup>80</sup> The P-1, and P-2 Alternatives, and the CAC Route

---

<sup>73</sup> Ex. 30, p. 14.

<sup>74</sup> Ex. 30, p. 15.

<sup>75</sup> Ex. 30, at 9-10.

<sup>76</sup> Ex. 30, at 10, 15.

<sup>77</sup> Ex. 30, p.15.

<sup>78</sup> Ex. 30, table p. 2.

<sup>79</sup> Ex. 30, p. 15.

<sup>80</sup> See e.g., Ex. 44 at p. 5, 7; T. 69-70; Ex. 41 at p. 3-4.

Segment would compromise mineral resources or mining activities.<sup>81</sup> These three routes also fall within the industry standard 2,000-foot buffer zone between a high-pressure gas pipelines in this case and blasting associated with mining.<sup>82</sup>

69. Pipeline construction will require highly skilled, highly paid construction workers, including heavy equipment operators, electricians, iron workers and other trades who will add significant payroll into the regional economy.<sup>83</sup>

70. Iron ore deposits on the Mesabi Range, along with associated past and present mining activities (i.e. mine pits, tailings basins, stockpiles, reclaim ponds, etc.), follow a belt of iron ore 110 miles long, averaging 1 to 3 miles wide, and reaching a depth as low as 500 feet. The Mesabi Range extends between Grand Rapids and Babbitt, Minnesota. This regional feature must be considered when evaluating potential pipeline routes. As previously discussed,<sup>84</sup> the Nashwauk Isthmus presents some severe technical difficulties for routing Alternatives P-1, P-2, and the CAC Segment through that area.<sup>85</sup>

71. The proposed pipeline crosses the Biwabik Iron Formation on the Mesabi Iron Range. It is the responsibility the DNR tries to preserve the mineral resources of the area for development. In the DNR's view, in order o sustain taconite mining in the future, it is best to leave land beneath and immediately adjacent to ore bodies unencumbered.<sup>86</sup>

72. Minnesota Steel intends to mine in the area near the City of Nashwauk within the next 20 years. Specifically, Minnesota Steel intends to mine the old Butler pit 5 (west and slightly south of the City of Nashwauk, north of highway 169) and the Minnesota Steel pit 6 (west of the old Butler pit) over the next 20 years.<sup>87</sup> Minnesota Steel will not engage in blasting within 2000 feet of a high pressure gas pipeline such as the one proposed.<sup>88</sup>

73. The only portion of the Applicant's Preferred Route (and Route Alternatives 1 and 2) that may affect mineral resources is the last .50 miles of the route.<sup>89</sup> During the hearing, the NPUC testified that the Applicant's Preferred Route could terminate .50 miles before the end-point specified in its Application, as long as the route continued two miles beyond Minnesota Steel to support further industrial development.<sup>90</sup>

---

<sup>81</sup> T-77; T-145-48; T-151-53; T-53.

<sup>82</sup> Ex. 41 at 3; Ex. 42 at 3; T-72.

<sup>83</sup> T. 14-15.

<sup>84</sup> See Finding 40, above.

<sup>85</sup> See also Ex. 30, p. 15-16.

<sup>86</sup> T. 69-73, 77-78.

<sup>87</sup> T. 53.

<sup>88</sup> T. 58.

<sup>89</sup> See T. 75 (noting northern outcrop of Biwabik Iron Formation).

<sup>90</sup> T-139; T-142-143.

74. No mineral bodies are adversely affected by Alternative Routes 1 and 2 or the Applicant's Preferred Route (as modified to terminate a half-mile before the originally proposed end point).<sup>91</sup>

75. Alternative Routes P-1 and P-2, and the CAC Route Segment all compromise present or contemplated future mining activities.<sup>92</sup>

76. On the second day of the hearing, the NPUC agreed that it could terminate the pipeline ½ mile short of the current proposed termination point (the point at which the route turns north as designated on page D-18 of Ex. 12, and south of County Road 58) for Route Alternatives 1, 2, and 3 to address the DNR's concerns about mineral encumbrances in that area.<sup>93</sup> With that modification, the Applicant's Preferred Route will still extend approximately two miles beyond the Minnesota Steel Plant and be able accommodate additional development for the City of Nashwauk. If the Applicant's Preferred Route were terminated at that point, the NPUC would be able to construct a lower-pressure distribution gas line to the City of Nashwauk as necessary.<sup>94</sup> This distribution line would not create the problems with blast buffer zones or otherwise interfere with mining activities.<sup>95</sup> As long as the proposed pipeline terminates two miles beyond the proposed Minnesota Steel plant, it will not disrupt future planning for the City of Nashwauk.<sup>96</sup> However, terminating the pipeline at Minnesota Steel Plant would undermine Nashwauk's planned development efforts.<sup>97</sup>

77. From a broader economic perspective, the local economy will benefit from construction of the pipeline.<sup>98</sup> The construction of the pipeline and the proposed Minnesota Steel Plant will create a number of new jobs for the City of Nashwauk and the surrounding area. Pipeline construction will require highly skilled, highly paid construction workers, including heavy equipment operators, electricians, iron workers and other trade workers who will add significant payroll into the regional economy.<sup>99</sup> The state and counties will also benefit from income and sales taxes paid because of the construction of the project.<sup>100</sup> The International Union of Operating Engineers, representing 13,000 members in Minnesota, North and South Dakota, supports the project because of the number of jobs it will create.<sup>101</sup>

---

<sup>91</sup> T. 78, 145-148, 151-153.

<sup>92</sup> T. 77, 145-148.

<sup>93</sup> T. 136-137.

<sup>94</sup> T. 138.

<sup>95</sup> T. 138.

<sup>96</sup> T. 139, 140-142.

<sup>97</sup> T. 139, 142.

<sup>98</sup> Ex. 30, p. 14.

<sup>99</sup> Ex. 30, p. 14-15.

<sup>100</sup> Ex. 30, p. 15.

<sup>101</sup> T. 93.

### **Pipeline cost and accessibility.**

78. Pipeline construction along the Applicant's Preferred Route is estimated to cost \$24,289,000.<sup>102</sup> That is lower than the estimated construction costs for each of the Route Alternatives, which range from \$25.67 million to \$34.59 million.<sup>103</sup>

79. Improving the accessibility to natural gas service in or near the cities of Taconite and Nashwauk will have a positive economic impact on those portions of Itasca County in the long term.<sup>104</sup>

### **Use of existing rights-of-way and right-of way sharing or paralleling.**

80. The Applicant's Preferred Route will use or run parallel to existing rights-of-way for electric transmission lines, gas pipelines, railroads, and state and county roads for a total of 35,804 feet, which is the maximum extent possible.<sup>105</sup>

81. Route Alternative P-1 shares a former railroad corridor where the landscape and terrain have already been altered in ways that are not conducive to construction of a pipeline. Using that route would therefore present significant problems for the construction and maintenance of the pipeline.<sup>106</sup>

82. Route Alternative 1 follows an existing high-voltage overhead power line throughout its entire route. Hazards posed by a high-voltage line would require protective measures and increase the pipeline cost.<sup>107</sup>

### **The extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions for pipeline right-of-way preparation, construction, cleanup, and restoration practices.**

83. The Application stressed that the NPUC will make mitigating adverse impacts to the human and natural environment a high priority.<sup>108</sup> Efforts to minimize the effect of the project on human and natural environment will include: using low-impact construction techniques in sensitive areas; installing erosion and sedimentation control measures; and restoring rights-of-way as closely as possible to pre-construction conditions. The NPUC has agreed to work closely with the landowners and applicable agencies to ensure that proper

---

<sup>102</sup> Ex. 30, p. 5.

<sup>103</sup> Ex. 30, table p. 2. It appears the cost estimates for the P-1, P-2, and CAC Route Segment do not include the cost of traversing the Nashwauk isthmus.

<sup>104</sup> Ex. 12, p. 56.

<sup>105</sup> Ex. 12, p.5, 56-57; Ex. 30 at 17 and Table e.

<sup>106</sup> Ex. 40, p. 8-9.

<sup>107</sup> Ex. 40, p. 11-12.

<sup>108</sup> Ex. 12, p. 59.

restoration of the right-of-way is accomplished.<sup>109</sup> The NPUC incorporated an Agricultural Impact Mitigation Plan into its Application.<sup>110</sup> The NPUC has also agreed to use an independent third-party, environmental inspector to monitor construction activities and ensure environmental compliance throughout construction of the project.<sup>111</sup>

84. The extent of changes to the environment caused by the pipeline largely depends on the type of vegetative cover that the pipeline right-of-way will cross. Small changes will occur in agricultural fields but greater changes will occur when forested areas are cleared to accommodate construction and maintenance of the right-of-way.<sup>112</sup> The NPUC has agreed to minimize or avoid the impact on soils by employing the mitigation measures described in the Upland Erosion Control, Revegetation, and Maintenance Plan, the Agricultural Impact Mitigation Plan, and the Wetland and Water Body Construction and Mitigation Procedures.<sup>113</sup>

85. The NPUC will also require each contractor's supervisory personnel to have environmental training completed before commencement of construction and to provide environmental training to other construction personnel. Environmental compliance will be enforced through contract provisions, inspection, documentation, and communication.<sup>114</sup>

86. The necessary permanent right-of-way will be 70 feet. The permanent right-of-way is necessary for maintenance of the pipeline and will be as narrow as possible. It will be necessary to have an additional 30 feet of temporary right-of-way during construction. A larger right-of-way during construction is necessary to prepare the terrain and allow enough room for construction equipment to be used safely.<sup>115</sup>

### **Cumulative potential effects of related or anticipated future pipeline construction.**

87. The proposed pipeline is designed to meet the natural gas supply needs of the planned Minnesota Steel Plant and to provide capacity for additional industrial and other customers in the Nashwauk area who may be seeking gas service in the future. No expansion of the pipeline is planned at this time.<sup>116</sup>

---

<sup>109</sup> Ex. 12, p. 59.

<sup>110</sup> Ex. 12, App. B.

<sup>111</sup> Ex. 12, p. 13.

<sup>112</sup> Ex. 30, p. 18.

<sup>113</sup> Ex. 30, p.13; Ex. 12, Appendix B.

<sup>114</sup> Ex. 12, p. 13.

<sup>115</sup> T. 28, 35, 82-83.

<sup>116</sup> Ex. 12, p. 12.

**The relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.**

88. The Department's CEA stated that the potential negative human, environmental and public health impacts that could result from the proposed pipeline project are mitigated by several factors. Several levels of regulatory controls are placed on the project by the need to apply for and obtain federal, state, county and local permits and the requirement to follow permit conditions for separate actions or portions of the project. These include an overall project permit, requiring review by several independent agencies charged with responsibility for management of environmental resources, discharge limitations, restrictions on land use modification, material specifications, and construction standards. Additional protection is provided by on-site material and installation inspection, third-party agricultural and environmental inspectors, city, county and consultant staff and agency personnel.<sup>117</sup>

**Public Comment**

89. Bob Norgard spoke at the public hearing to oppose the proposed pipeline. He stated that the residents of Trout Lake Township should not be burdened by the pipeline to benefit the City of Nashwauk.<sup>118</sup>

90. Ellen Randle also spoke at the hearing and stated she did not want the pipeline to traverse her property.<sup>119</sup>

91. Larry Schmelzer and Jerry Dombek, mine engineers employed by United States Steel – Keewatin Taconite, spoke at the second public hearing. They voiced opposition to Alternative Route P-1 and the construction of any gas line routes east of Nashwauk because any such pipeline routes would interfere with U. S. Steel's ability to conduct mining in ore bodies under or adjacent to any such routes.<sup>120</sup>

92. Nineteen comments were received during the public comment period following the public hearing; sixteen opposed Alternative Routes P-1, P-2 and the CAC Route Segment. Specifically, those commenters opposed the three alternative routes because of their proximity to populated areas and highways, the higher costs associated with the alternatives, and the impact on existing

---

<sup>117</sup> Ex. 30, p. 17.

<sup>118</sup> T. 99; see *also* Ex. 50.

<sup>119</sup> T. 100-101.

<sup>120</sup> T. 146, 153.

snowmobile trails and environmental ecosystems.<sup>121</sup> The majority of those public comments also expressed support for the Applicant's Preferred Route.<sup>122</sup>

93. Three written comments opposed the Applicant's Preferred Route. Michael Karna opposed the Applicant's Preferred Route because it would traverse property he owns;<sup>123</sup> he also believed that there was an inconsistency between the number of houses affected in the partial exemption application and in the full application. Bob Norgard raised some issues about the mineral resources in the area and also proposed an end point to what he considered to be a "citizens" alternative route. Clarence and Ellie Randle's comment suggested that the Applicant's Preferred Route had been inappropriately altered to cross their property. As noted in a comment letter from the NPUC consultant Charles Michael, it appears the Randles confused the route proposed for the Excelsior Energy project with the proposed NPUC pipeline route. The NPUC route has not changed since the Application was filed.

94. Bob Staydohar and Dwight Randle, members of the CAC, submitted comments opposing Route Alternatives P-1 and P-2 and the CAC Route Segment. They supported the Applicant's Preferred Route based upon the information provided during the CAC process.<sup>124</sup>

95. Some members of the public submitted comment letters objecting that they received insufficient notice of the public hearing.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

## CONCLUSIONS

1. The Commission and Administrative Law Judge have jurisdiction to consider the NPUC's application for a Routing Permit.<sup>125</sup>

2. The PUC has determined that the NPUC's application was substantially complete and accepted the full application for a routing permit on August 9, 2007.

3. Three public information meetings were held in locations near the proposed pipeline route, and two public hearings were held before the ALJ in Nashwauk. Proper notice was provided for the public hearings, and the public was given the opportunity to appear at the hearings or to submit public comments. All procedural requirements for the Routing Permit were met.

---

<sup>121</sup> See e.g., Lorence, Schmidtbauer, Colgaro, Grecinger Comments.

<sup>122</sup> *Id.*

<sup>123</sup> See Karna Comments, January 10, 2008.

<sup>124</sup> See Randle, Staydohar Comments.

<sup>125</sup> Minn. Stat. §§ 216B.243 and 14.50.

4. The Applicant's Preferred Route satisfies the criteria set forth in Minn. R. 7852.1900, subp. 3.

5. Neither the Route Alternatives nor the CAC Route Segment described in the Commission's December 7, 2007, Order offer significant advantages over the Applicant's Preferred Route in terms of human or environmental impacts. Rather, each of those Route Alternatives and the CAC Route Segment raise some greater human and environmental concerns.

6. The NPUC has conducted an appropriate environmental assessment consistent with Minn. R. 7852.1500 and 7852.3100 (formerly 4415.0115- .0170) and met the requirements for alternative environmental review in Minn. R. 4410.3600.

7. The Applicant's Preferred Route should be modified to terminate in the Nashwauk area at a point one-half mile before the end-point identified in the Application in order to avoid interference with development of mineral resources.

8. The NPUC's Routing Permit should contain the following conditions:

a. The route must terminate one-half mile before the end point identified in the Application.

b. The NPUC must employ environmental inspectors to monitor construction activities throughout the duration of the project in order to ensure compliance with environmental requirements, such as erosion control measures and wetland maintenance and reconstruction activities.

c. The NPUC must comply with the prevention, mitigation, monitoring, and inspection measures set forth in the Agricultural Impact Mitigation Plan document attached as Appendix B to its Application.

e. The NPUC must comply with the practices described in its Application for right-of-way preparation, construction, cleanup, and restoration.

f. The NPUC must comply with all applicable state rules that are identified in its Application, including all applicable setback requirements and other terms and conditions of permits or licenses issued by state agencies.

g. The NPUC must comply with the terms and conditions of all permits and licenses identified in its Application to be issued by local governments.

h. The NPUC must cooperate with all entities having existing easements or infrastructure within the pipeline route to ensure minimal disturbance to existing or planned developments.

i. The NPUC must develop a sensitivity model for the Applicant's Preferred Route and before beginning construction must work with the Minnesota Historical Society to develop and implement field survey protocols to protect any identified archaeological sites or historic properties.

j. The NPUC must obtain all necessary permits authorizing access to public rights-of-way and must obtain approval of landowners for access to private property.

k. The NPUC's easement documents must comply with Minnesota Statutes § 301B.03.

Based on these Findings of Fact and Conclusions, and for the reasons stated in the accompanying Memorandum, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

The NPUC's application for a routing permit for a natural gas pipeline, known as the Blackberry-Nashwauk Pipeline, should be GRANTED, subject to the conditions set forth in the Conclusions.

Dated: February 22, 2008

s/Bruce H. Johnson

---

BRUCE H. JOHNSON

Assistant Chief Administrative Law Judge

Reported: Shaddix and Associates  
transcript prepared, 2 volumes

### **NOTICE**

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, and the Rules of Practice of the Minnesota Public Utilities Commission ("Commission") and the Office of Administrative Hearings, exceptions to this Report, if any, by any party adversely affected must be filed according to the schedule which the Commission will announce. Exceptions must be specific and stated and

numbered separately. Proposed Findings of Fact, Conclusions and Order should be included, and copies thereof shall be served upon all parties. Oral argument before a majority of the Commission will be permitted to all parties adversely affected by the Administrative Law Judge's recommendation who request such argument. Such request must accompany the filed exceptions or reply (if any), and an original and 15 copies of each document should be filed with the Commission.

The Commission will make the final determination of the matter after the expiration of the period for filing exceptions as set forth above, or after oral argument, if one is held.

Further notice is hereby given that the Commission may, at its own discretion, accept or reject the Administrative Law Judge's recommendations and that the recommendations have no legal effect unless expressly adopted by the Commission as its final order.

## MEMORANDUM

The Applicant's Preferred Route meets all of the criteria set forth in Minn. R. 7852.1900. No alternative route would minimize the human and environmental impacts to a greater extent than the Applicant's Preferred Route, particularly if a minor modification is made to where the pipeline terminates in the vicinity of the City of Nashwauk. In comparison to the alternative routes under consideration, the Applicant's Preferred Route affects the fewest number of residences of any route and requires the shortest length of right-of-way. The Applicant's Preferred Route also costs less than the alternative routes; contains the fewest number of watercourse crossings; affects the smallest number of federal and state-listed species; crosses the least number of grassland cover areas; and does not affect any listed historical, archaeological sites within .25 miles of the route.

The P-1 and P-2 Alternatives and the CAC Route Segment compromise future mining operations by falling within the industry standard 2000-foot buffer zone between a high-pressure gas pipeline and blast mining. As described in the NPUC's application, only the last half-mile segment of the Applicant's Preferred Route would interfere with future development of mineral resources. If the Applicant's Preferred Route is modified by deleting that last half-mile segment, as the ALJ recommends, it would have no adverse impact on the future development of mineral resources and mining operations in the area. The NPUC has agreed to delete that segment of the pipeline.

The proposed pipeline is designed not only to meet the natural gas needs of the planned Minnesota Steel Plant, but also has the potential to serve additional industrial customers in the Nashwauk in the future. The construction of the pipeline and the pipeline itself will benefit the local economy. The proposed pipeline has generated little public opposition. Although some members of the public oppose the pipeline because it will cross their property, affected property owners will be adequately compensated for any interference with the use of their land. The Applicant's Preferred Route affects few homes—only five homes are situated within 330 feet of the right-of-way centerline. The fact that a few homeowners may be burdened is not reason to deny the pipeline routing permit.

Some members of the public commented that they had received insufficient notice of the public hearing held on January 3 and 4, 2008. Minn. R. 7852.1300, subp. 2, requires ten calendar days of notice prior to the hearing. The notices in this matter were published on December 20, 2007 – two weeks before the first hearing date. Two days of hearing were conducted to allow comment from all interested parties. Thus, the NPUC complied with applicable notice requirements, and the notice it gave was sufficient.

In summary, the record establishes that the Applicant's Preferred Route satisfies all routing criteria. The Route Alternatives that the Commission directed

to be considered in its December 7, 2007, Order, do not provide any significant advantages over the human or environmental impacts of the Applicant's Preferred Route. The ALJ therefore recommends that the PUC grant the requested routing permit for the Applicant's Preferred Route, if modified to eliminate the last half-mile segment.

**B. H. J.**



## MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street  
Saint Paul, Minnesota 55101

**Mailing Address:**

361-7900  
P.O. Box 64620  
361-7878  
St. Paul, Minnesota 55164-0620  
361-7936

Voice: (651)

TTY: (651)

Fax: (651)

February 22, 2008

See Attached Service List

**Re: *In the Matter of the Application for a Pipeline Routing Permit  
for the Nashwauk-Blackberry Natural Gas Pipeline Project***  
**OAH NO.: 12-2500-19166-2**  
**MPUC No. PL, E-280/GP-06-1481**

Dear Parties:

The documents listed below have been filed with the E-Docket system and served as specified on the attached service list.

Report and Recommendation  
Service List as of 10/2/07

Sincerely,

s/Bruce H. Johnson  
BRUCE H. JOHNSON  
Assistant Chief Administrative Law Judge

Telephone: (651) 361-7839

BHJ:dsc  
Enclosures

**In the Matter of the Application for a Pipeline Routing Permit for the  
Nashwauk-Blackberry Natural Gas Pipeline Project**

**Administrative Law Judge's Service List as of October 2, 2007**

Serve one copy of the document or item, unless otherwise indicated, on the following persons. If you E-File a document on the PUC E-Filing system, persons with the E-File notation (**EF**) below need not be served a paper copy, unless otherwise indicated.

Burl W. Haar  
Minnesota Public Utilities Commission  
121 East Seventh Place, Suite 350  
St. Paul, MN 55101-2147  
**(EF or original)**

Hon. Steve M. Mihalchick  
Office of Administrative Hearings  
PO Box 64620  
St. Paul, MN 55164-0620  
**(EF)**

Sharon Ferguson  
Docket Coordinator  
MN Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101-2198  
**(EF or 4 copies)**

Robert Cupit  
Minnesota Public Utilities Commission  
121 East Seventh Place, Suite 350  
St. Paul, MN 55101-2147  
**(EF)**

Karen Finstad Hammel  
Assistant Attorney General  
445 Minnesota Street  
Suite 1400  
St. Paul, MN 55101

Kathleen M. Brennan  
McGrann Shea  
800 Nicollet Mall, Suite 2600  
Minneapolis, MN 55402-7035

Joseph T. Bagnoli  
McGrann Shea  
800 Nicollet Mall, Suite 2600  
Minneapolis, MN 55402-7035

In addition to E-filing or paper service, electronic copies should also be e-mailed to the following persons:

bob.cupit@state.mn.us  
bill.storm@state.mn.us  
burl.haar@state.mn.us  
deborah.pile@state.mn.us  
jshaddix@janetshaddix.com  
jtb@mcgrannshea.com  
karen.hammel@state.mn.us  
kmb@mcgrannshea.com  
sharon.ferguson@state.mn.us  
steve.mihalchick@state.mn.us

Nonpublic data must be served only in hard-copy format by U.S. mail or delivery.

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
ADMINISTRATIVE LAW SECTION  
600 NORTH ROBERT STREET  
PO BOX 64620  
ST. PAUL, MINNESOTA 55164-0620

**CERTIFICATE OF SERVICE**

In the Matter of the Application for a Pipeline Routing Permit for the Nashwauk-Blackberry Natural Gas Pipeline Project	OAH No. 12-2500-19166-2 MPUC No. PL, E-280/GP-06-1481
---	--

Denise S. Collins, certifies that on the 22<sup>nd</sup> day of February, 2008, she served a true and correct copy of the attached **Report and Recommendation** by serving as specified on the attached service list, addressed to the following individuals:

Burl W. Haar  
Executive Secretary  
MN Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place E  
St. Paul, MN 55101

Attached service list