

MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES
Thursday, June 16, 2005
State Office Building, Hearing Room 5

EQB Members Present: Robert A. Schroeder, Dana Badgerow, Jonathon Bloomberg, Art Dunn, Brenda Elmer, Gene Hugoson, Matt Kramer, Dianne Mandernach, Gene Merriam, Glenn Wilson, and Paige Winebarger

EQB Members Absent: Sheryl Corrigan, Jerome Deal, Susan McCarville, and Lt. Governor Molnau

Also present at the meeting was Ronald Harnack.

I. Adoption of the proposed Agenda for the June 16, 2005 meeting and Minutes from the March 17, 2005 Environmental Quality Board Meeting

Commissioner Kramer made a motion that the minutes and proposed agenda be adopted and Commissioner Mandernach seconded

II. *Election of Vice Chair

Chair Schroeder stated that the EQB is required to have a Vice Chair and that he would call for nominations for that vacancy. The Chair suggested that he would like to put Brenda Elmer's name in for the nomination. Ms. Elmer brings experience and geographic representation that would serve the Board well. The Chair asked for a second on the nomination and Commissioner Wilson made the second. The Chair asked for other nominations and there being none asked for a voice vote which carried.

III. Executive Director's Report

Mr. Sullivan stated that board secretary Diana Telschow was leaving state service at the end of July and he thanked her for her service and wished her well. The next item was the transfer of the Power Plant Siting staff to the Department of Commerce. That staffs represent the highest quality of state employee, in energy, intelligence and commitment to serving the people of Minnesota. The Power Plant Siting staff include: Larry Hartman, John Wachtler, Bill Storm, George Johnson, David Birkholz, Andrea Dick and Deborah Pile who replaced Alan Mitchell.

There are handouts including: a Comparison of the Nobles County Route Options for the 115kV HVTL, A Base Map of the 345 kV and the 115 kV routes, an aqua colored Sample Resolution of the Xcel Energy Split Rock to Lakefield Junction 345/115 kV Transmission Line Project in Southwest Minnesota, and a red colored Alternative Sample Resolution Seeking Review by the Chief Administrative Law Judge of Changes Other than Those Recommended by the Administrative Law Judge to the Proposed Amendment to the Environmental Review Program Rules for Recreational Trails.

IV. Legal Counsel Report

Legal Counsel: Dwight Wagenius stated that there were two items in litigation right now, both appeals. First the Air Lake Transmission Line in Farmington area. The transcripts have just now been finished and that trips the schedule. The Appellate brief is due on July 11 and the EQB/PUC brief will be due on August 10th

On the amicus matter all the briefs except for one, which will be due on June 27, have been submitted to the Supreme Court on the environmental review issue known as CARD. We anticipate oral arguments this fall on that case.

V. Status of Transfer of EQB Energy Facility Siting Responsibilities to Public Utilities Commission and Department of Commerce

Edward A. Garvey, Deputy Commissioner of Commerce stated that the Omnibus Energy Bill was passed and signed by the Governor. One of the articles in the Omnibus Energy Bill dealt with the transfer of the Energy Facility Siting group. He summarized the transfer of Energy Facility Siting staff and responsibilities to the Public Utilities Commission and Department of Commerce was proceeding seamlessly.

Chair Schroeder asked what activities are now taking place to make sure that the public are properly noticed about the transfer. Deputy Commissioner Garvey stated that informal communications, through websites, as well as letters and notices being put out by the Environmental Quality Board, Department of Commerce and Public Utilities Commission. The Chair thanked Commissioner Badgerow, Mr. Garvey and Mr. Sullivan for their hard work during the transition.

VI. *Forestry/Timber Harvest GEIS, EQB Determination of Continued Adequacy

Jon Larsen, EQB staff, stated the issue before the Board is a request from the Department of Natural Resources for a determination by this Board on whether the 1994 Generic EIS (GEIS) on Forestry/Timber Harvesting remains adequate. There are three essential facts for this issue. First, a forestry and timber harvesting generic EIS was prepared and found adequate in 1994. A provision of the GEIS rule, Minnesota Rules part 4410.3800, subpart 8, requires any time a project specific review is prepared when a GEIS does exist, that the project specific review shall use information in the GEIS by tiering and shall reflect the recommendations contained in the GEIS if the EQB determines that the GEIS remains adequate at the time the specific project is subject to review. Lastly, current interpretation of the rule requires an RGU to seek a determination of the adequacy of the GEIS by the EQB board.

The staff recommendation is that this Board should determine that the 1994 GEIS does not remain adequate and are supported by the proposed Findings of Fact, Conclusions, and Order. Essentially new information and circumstances have superseded the information from the 1994 GEIS and it is proper to find that the GEIS is no longer adequate.

Deputy Commissioner Moore of the DNR stated that the DNR is the responsible governmental unit (RGU) for the Blandin Paper “Thunderhawk” expansion project at its mill at Grand Rapids. As part of that effort, the DNR wants to use portions of the GEIS in the environmental review but there are areas

that need to be updated. And as a consequence, the DNR scoped the EIS in a manner that would provide additional studies to do a thorough new EIS on the plant expansion.

Mr. Harnack asked if the information that the DNR is developing allows for addendums to the existing GEIS for making it adequate for future consideration. Deputy Moore said that the DNR is conducting a report card study of the GEIS and that will tell us how well we implemented the GEIS. The study will tell us whether the GEIS predictions on cumulative impacts on timber harvest were accurate and what future or additional research is needed to supplement or add on to the current GEIS.

Member Winebarger asked what happens during the process and how long that will take. Deputy Moore responded that this process will take from five to seven months. Chair Schroeder asked in the interim if the DNR was aware of any implications of a decision by this Board on the adequacy element that would negatively impact other projects. Deputy Moore said that the DNR was aware of no other projects that would be impacted by the updating of the GEIS. Member Winebarger asked if DNR staff was going to be the main resource for updating the information. Deputy Moore responded that the University of MN and many agencies will be involved in the updating of the GEIS.

Director Dunn asked if there were parts of the GEIS that were no longer adequate, couldn't the parts be determined to be inadequate instead of the whole document. Mr. Sullivan suggested that the basic standard for completing an environmental impact statement is to identify and use readily available information that is as up-to-date as possible. It would be difficult to pick parts that were adequate versus those that were not adequate.

Commissioner Badgerow asked if the resolution suggests that the GEIS is inadequate for all purposes. Member Bloomberg asked if the consequences of finding the GEIS is inadequate is essentially that the GEIS can no longer substitute for individual environmental review. Deputy Moore responded yes that is true.

Member Elmer asked whether procedurally this project or the GEIS determination come back to this Board. Mr. Sullivan responded it does not.

Mr. Harnack suggested that it is important for the Board to make a determination on whether the existing GEIS is adequate for this project and future projects.

Member Bloomberg said that Blandin was a client many years ago and that he had not advised them recently but he wanted this piece of information on the record.

Chair Schroeder asked for additional questions and whether anyone in the audience would like to testify, there being none said he would entertain a motion. Commissioner Wilson moved the resolution and it was seconded by Director Dunn. The Chair then asked for a roll call vote which passed by a vote of 11-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD
Determination of the Remaining Adequacy of the Generic Environmental Impact Statement on
Timber Harvesting and Forest Management

WHEREAS, Minnesota Rules part 4410.3800, subpart 8 provides that an RGU shall use the information from a GEIS by tiering and shall reflect the recommendations in a GEIS if the EQB determines that the GEIS remains adequate at the time of a project-specific environmental review; and

WHEREAS, the Minnesota Department of Natural Resources (MDNR) is conducting an environmental review of a proposed paper mill expansion project at Grand Rapids by UPM/Blandin Corporation; and

WHEREAS, in 1994 the EQB completed and found adequate a GEIS on Timber Harvesting and Forest Management in Minnesota; and

WHEREAS, the MDNR has requested the EQB to make a determination of whether the GEIS remains adequate for use in the review of the UPM/Blandin Corporation project; and

WHEREAS, the EQB has considered the entire record of this matter;

NOW THEREFORE BE IT RESOLVED, that the EQB hereby determines that the GEIS on Timber Harvesting and Forest Management does not remain adequate at this time; and

BE IT FURTHER RESOLVED that Robert A. Schroeder, Chair of the EQB, is hereby authorized to sign the Findings of Fact, Conclusions, and Order in this matter on behalf of the Board.

VII. *Approval of Scope of Environmental Impact Statement on Monticello Independent Spent Fuel Storage Installation

John Wachtler, EQB staff, stated that Xcel Energy will run out of storage capacity for spent nuclear fuel by 2010 and at the same time the plants operating license with the federal nuclear regulatory commission comes up for renewal. To keep the plant operating, Xcel Energy needs to get approval from the Public Utilities Commission (PUC) for a Certificate of Need to store additional spent fuel at the facility and renew their license with the Federal Nuclear Regulatory Commission.

The EQB's role in the certificate of need decision is that of an advisor or consultant on environmental issues so that the PUC has the information it needs to make an informed decision. On January 18, 2005, Xcel Energy submitted its ("CON Application") for the Monticello ISFSI to the Minnesota Public Utilities Commission (PUC). The draft EIS scope decision was released back in late March, 2005.

Extensive comments addressed the following four major issues: (1) whether the state EIS would address the impacts of the continued operation of the plant as well as the proposed ISFSI, (2) the implications of federal preemption of radioactive health and safety standards, (3) the term of storage to be assumed for the nuclear spent fuel, and (4) what types of alternatives to continued operation of the plant would be studied.

Staff recommends that the Board adopt the proposed Findings of Fact, Conclusions and Order approving the proposed Scoping Decision and Scoping Environmental Assessment Worksheet for the Monticello ISFSI EIS.

Chair Schroeder asked for questions, there being none asked if there were people in the audience that would like to make comments on this topic.

Testimony:

Beth Goodpaster, MCEA, stated that her organization is against permanent storage of nuclear waste at the Monticello plant and that analysis of nuclear storage for 200 years is inadequate in the scoping decision.

Chair Schroeder asked for questions, there being none said he would entertain a motion. Commissioner Kramer moved to adopt the resolution and Commissioner Mandernach seconded the motion. Chair Schroeder then asked for a roll call vote which passed 11-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD

Determination of the Scope of the Environmental Impact Statement for an Independent Spent Fuel Storage Installation at the Xcel Energy Monticello Nuclear Generating Plant
Docket No. 04-87-CON-Monticello

BE IT RESOLVED, The Minnesota Environmental Quality Board has fulfilled all relevant procedural requirements of law or rule applicable to the preparation of a Scoping Document and Scoping Environmental Assessment Worksheet for the above referenced project and;

BE IT FURTHER RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order approving the final Scoping Decision and Scoping Environmental Assessment Worksheet; and

BE IT FURTHER RESOLVED, that Robert A. Schroeder, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order, approving the final Scoping Decision and Scoping Environmental Assessment Worksheet.

VIII. *Decision on Site Permit for Stoneray Power Partners, LLC for a 105-Megawatt Large Wind Energy Conversion System in Pipestone and Murray counties

Larry Hartman, EQB staff, stated that the Board is asked to issue a Site Permit to Stoneray Power Partners, LLC identifying the site for a 105 Megawatt large wind energy conversion system in Pipestone and Murray Counties.

Mr. Hartman stated that in February, 2005, enXco Development Corporation filed an application for a site permit for a 105-MW Large Wind Energy Conversion System (LWECS) to be located in southeastern Pipestone and northwestern Murray Counties in southeastern Minnesota. On February 16, 2005, the EQB Chair accepted the application and on February 28, 2005, issued a draft site permit for the project.

The proposed project comprises up to 70 wind turbines with an output capacity of 1.5 MW per turbine, depending on which turbine model is used. The towers will be as high as 262 feet (80 meters), and the rotor diameter may be up to 253 feet (77 meters). The project will be located on about 14,960 acres. EnXco expects to sell the power from this project to Xcel Energy.

The staff recommends issuance of a site permit for the Stoneray Power Project, LLC with the appropriate conditions contained in the staff's suggested permit. A resolution is included that adopts a set of Findings of Fact and issues a Site Permit for the project.

Chair Schroeder asked for questions. Member Elmer asked about the construction disturbance and when construction will begin. Mr. Hartman responded that temporarily (for a period 3 or 4 months) approximately 200 acres will be disturbed by construction and that the construction will begin in 2007. Chair Schroeder asked for additional questions, there being none said he would entertain a motion. Member Bloomberg moved the resolution and Member Elmer seconded the motion.

Chair Schroeder asked for additional questions. Commissioner Wilson asked if the resolution was clear that the permit might allow for larger turbines. Mr. Hartman responded that the nameplate capacity was approximately 105 megawatts and that typically the turbines are between 1.5 and 1.8 megawatts and that typically the towers are 80 meters. If changes are needed at a later date wind power permits have been amended in the past by the EQB.

Chair Schroeder asked for additional questions, there being none asked for a roll call vote which passed by a vote of 11-0.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD
STONERAY POWER PARTNERS, LLC, 105 MEGAWATT, LARGE WIND ENERGY
CONVERSION SYSTEM SITE PERMIT, EQB DOCKET NO. 05-90-LWECS-STONERAY**

BE IT RESOLVED, that the MEQB approves the proposed Findings of Fact, Conclusions, and Order and issues a Site Permit as proposed by the EQB staff to Stoneray Power Partners, LLC, for a 105 Megawatt Large Wind Energy Conversion System to be located in Murray and Pipestone Counties;

BE IT FURTHER RESOLVED, that the Chair of the MEQB is authorized to sign the Findings of Fact, Conclusions, and Order and the Site Permit.

IX. *Decision on Xcel Split Rock to Lakefield Junction 345/115 kV Powerlines

John Wachtler, EQB staff stated that the Board is being asked to determine whether the Environmental Impact Statement (EIS) is adequate for the Xcel Energy 345 kilovolt HVTL from Split Rock to Lakefield Junction and for the 115 kV HVTL from Nobles County to Chanarambie Substation and the Nobles County Substation Project.

Mr. Wachtler stated that the process included numerous opportunities for the public to review and suggest new or revised routes and review potential impacts. The EQB held multiple scoping meetings, task force meetings, and draft EIS meetings, as well as many informal meetings with affected residents and landowners. The scoping and draft EIS process each included formal comment periods.

Staff knows of no one that is contesting the adequacy of the final EIS for this project. The staff recommends that the Board adopt the proposed Findings, Conclusion and Order determining that the final EIS is adequate.

Chair Schroeder asked if there were questions on the adequacy, there being none, said he would entertain a motion. Member Elmer said she would move the resolution on adequacy and Commissioner Merriam seconded the motion. Chair Schroeder asked for discussion, there being none, asked for a roll call vote on the adequacy decision which passed 11-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD,
Determination of Adequacy of the Final Environmental Impact Statement for
Xcel Energy's 345 kV High Voltage Transmission Line from Split Rock Substation to
Nobles County Substation to Lakefield Junction Substation and the
115 kV High Voltage Transmission Line from Nobles County Substation to Chanarambie
Substation and the Nobles County Substation Project
in Rock, Nobles, Jackson and Murray Counties, Minnesota
EQB Docket No. 03-73-TR-XCEL

BE IT RESOLVED, that the Minnesota Environmental Quality Board has fulfilled all relevant procedural requirements of law or rule applicable to the preparation of a Final Environmental Impact Statement for the above referenced project and;

BE IT FURTHER RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order finding the Final EIS adequate; and

BE IT FURTHER RESOLVED, that Robert A. Schroeder, chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order, finding the Final EIS to be adequate.

345 Route:

Mr. Wachtler then stated that the Board is being asked to issue a Route Permit to Xcel Energy covering three interconnected projects: (1) a 345 kilovolt transmission line approximately 86 miles long in Rock, Nobles and Murray Counties, (2) a 115 kilovolt transmission line approximately 40 miles long in Nobles and Murray Counties, and (3) a new substation in Nobles County.

Mr. Wachtler suggested that there were major issues involved with siting this permit. The issues include visual impacts, magnetic field concerns, the potential for future "double-circuits" on the new HVTLs, as well as the general trade off between following road right-of-way (residential impacts) versus following field section lines (farm impacts).

Mr. Wachtler stated that the ALJ recommended Xcel Energy's Preferred Interstate I-90 Route (blue route). Mr. Wachtler recommended that the Board consider the yellow route with a permit condition that Xcel Energy must work with residents and landowners along Segment I-90 to reduce impacts. Either 345-kV route option is acceptable to Xcel Energy.

Chair Schroeder asked for preliminary voting on the 345 kV segment. The Chair then asked for discussion. Mr. Harnack asked if the company would be required to come back to the EQB based on the additional modifications. Mr. Wachtler said they would have to come back to the Chair because of the way the permit is written. After Xcel does a detailed design of the route they would come back and specify the final transmission line detailed design and would then ask the Chair for approval.

Commissioner Merriam asked what the sequence of events in the line preference by Xcel was. Mr. Wachtler stated the sequence of events was the original Xcel route in their permit application was to go down the yellow route, then after all the meetings in the EIS process, Xcel came and said that the blue route is a better way to go but that was before the ALJ made their recommendation and went along with Xcel's change. Commissioner Merriam asked if people were more directly impacted by the Xcel preferred route or by staff recommended route. Mr. Wachtler stated that people will be affected with either route.

Commissioner Hugoson asked if the blue route when it turns north and south does it cut through the middle of the field or along roads. Mr. Wachtler responded that it cuts across fields.

Commissioner Badgerow asked why neither party suggest that the route continue on I-90 for the entire segment. Mr. Wachtler responded that the jogs are taken because of another 161 kV line owned by another utility and because there is a homeowner that has a private air strip along I-90.

Member Elmer asked about reliability issues of double circuiting. Mr. Wachtler responded while double circuiting the whole 86 miles would create liability problems that were not acceptable, there were shorter segments where the liability risk was tolerable.

Member Bloomberg asked if there was any other issue, other than the house, that would call into question the ALJ recommendations. Mr. Wachtler replied no.

Mr. Harnack asked if the northerly blue line actually goes along half section lines and goes across farmland. Mr. Wachtler responded it crosses farmland. Mr. Harnack stated that there would be towers on agricultural land which the farmers would need to find a way to farm around. Mr. Wachtler responded yes.

Commissioner Badgerow asked about the possible issues of the impacted owners at the other end of the route. Mr. Wachtler responded that is one of the reasons he is recommending the yellow route because of the affected property owners.

Testimony:

John Nauerth, a resident along the 345/115 kV lines in Lakefield, Minnesota, asked if the environment or costs take precedence over people. He also asked if the dollar amount pumped into generation should also go to people affected by the transmission of the energy. Mr. Nauerth recommended the original Xcel Energy I-90 route (blue route) for the 345 kV line and has no recommendation for the 115 kV line.

Commissioner Merriam asked if residents along the 345 kV route were active in the process. Mr. Nauerth responded that residents were more active on the 161 kV route than the 345 kV route. He said he talked with a representative from Xcel Energy about the route and said that the representative responded that there is no good route for this transmission line.

Commissioner Hugoson commented that this gentlemen raises a valid point about economic benefit, that perhaps it is time to start compensating property owners who agree to transmission lines running on private property.

Chair Schroeder asked for more discussion, there being none, said he would entertain a motion on the preliminary 345 kV route. Commissioner Wilson moved the state recommended (yellow route) resolution and Commissioner Hugoson seconded the motion. Chair Schroeder asked for discussion on the motion, there being none, asked for a roll call vote which passed 11-0.

115 Route:

Mr. Wachtler stated there were three options on the 115-kV line; two routes in Nobles and one in Murray County. The ALJ recommended using Xcel Energy's preferred Modified East Route (yellow route) with one change in Wilmont Township in Nobles County. The blue route is Xcel Energy's preferred Modified East Route. Staff recommends that the Board select either Xcel Energy's Modified East Route (blue route) or the Modified East Route with the West Route Option (goldenrod route).

Chair Schroeder stated that there was a road on the blue route but not a road on the goldenrod route that the transmission line could follow, is that correct. Mr. Wachtler said the blue line is entirely along roadway but the goldenrod route follows roadways all but for one mile.

Director Dunn asked for clarification on distance the transmission lines would be from houses on the 115 kV Route. Mr. Wachtler responded that the distance the transmission line would be from houses would be at least 120 feet. Commissioner Badgerow said that on the aerial maps of the area the distance was at least 150 feet. Chair Schroeder asked for other questions, there being none, asked for testimony in regard to the 115 kV route, starting with Mr. Robert and Teresa Fuerstenberg.

Testimony:

Robert Fuerstenberg, farmer in Wilmont Township, stated that all three proposals will involve his farm. Mr. Fuerstenberg stated that his preference is the blue route and doesn't like the yellow route. He would like to see the transmission line parallel the road. **Teresa Fuerstenberg** stated that she disagreed with the ALJ's recommendation and would like to see the blue or the goldenrod route used for the transmission line.

Tim Henning, county president for the Minnesota Farmers Union in Nobles County. He said he was representing both his and the Farmers Unions interests. He has many friends and family that would be affected by the routing of the transmission line. The recommendation of the Farmers Union in Nobles County is the blue route. Mr. Henning stated that the biggest problem in rural Minnesota regarding the transmission lines is that the energy companies and the wind farms get compensation but the property owners with the transmission lines along their property receive no compensation.

Director Dunn asked how long the 115 kV transmission line would be adequate to carry the electricity from the wind farms and why you wouldn't site a larger transmission line to begin with in this instance. Mr. Henning responded that as soon as the new transmission line is constructed it will be at capacity, according to the company representative. Mr. Wachtler replied that a higher voltage transmission line would not be a good match for a collector line for energy supplied by wind farms. Director Dunn asked if two 115 kV lines could be double circuited or will there be another tough

decision in a year. Mr. Wachtler replied that the reality is that from a routing perspective double circuiting is great but from an electrical reliability and system standpoint sometimes it doesn't work and in this case another 115 kV line double circuited on this line would not work.

Chair Schroeder said he would entertain a preliminary motion. Commissioner Wilson said that he would move the staff recommended (entire blue route) and the motion was seconded by Director Dunn. Chair Schroeder asked for discussion, there being none asked for a roll call vote which passed 11-0.

Substation:

Mr. Wachtler stated that this is the last segment the Board decides in this matter. There are two choices the Xcel and ALJ preferred route (blue route) was along County Road 28. Staff is recommending the a section of the original Xcel Energy "West Route" along 70th Avenue, one mile west of County Road 28 (pink route) that would include six miles of "double-circuiting" with an existing 69-kV line. This route runs within a quarter mile of the Chandler Wildlife Area but the DNR thinks this route is acceptable with appropriate waterfowl protection measures; the Double Circuit Option would be acceptable.

Director Dunn asked if the right-of-way for the existing 69 kV line is wide enough for the 115 kV line. Mr. Wachtler replied that the bigger the line the wider the right-of-way the line needs but that there is enough room on this right-of-way for the 115 kV line.

Member Winebarger asked about homes impacted along the route. Mr. Wachtler said the numbers of homes are virtually identical along each route.

Chair Schroeder asked if there is a potential for expansion in the future, and what was the staff preference for a route to accommodate the expansion. Mr. Wachtler replied that there is potential for expansion in the double circuit line but there is no expansion where there is not double circuiting.

Commissioner Badgerow asked about the relative traffic counts along County Road 28 and 70th Avenue. Mr. Wachtler replied that County Road 28 is more heavily used route than 70th Ave. but he didn't have the traffic counts.

Chair Schroeder asked for additional discussion, there being none said he would entertain a motion. Commissioner Wilson said he would move the resolution on the blue route and seconded by Member Winebarger. Chair Schroeder asked for discussion.

Commissioner Merriam asked if the pink route would be double circuited then there would be no option for double circuiting in the future, is that correct. Mr. Wachtler replied that the reason he is recommending the pink line is the opportunity to double circuit 6 of the 8 miles. Commissioner Merriam asked if the law doesn't put a high priority on double circuiting and isn't that how the staff came to recommend the pink route. Mr. Sullivan replied it does put a high priority on double circuiting but it even puts a higher priority on minimizing new right-of-way. Double circuiting allows you to use all of the existing right-of-way without having to get new right-of-way for six miles of this 8 mile route. Legal Counsel replied Mr. Sullivan has stated that correctly and this has been addressed in at least one MN Supreme Court decision. The MN Supreme Court characterize that as the principle

of non-proliferation and applies most strongly to double circuiting but also applies to linear facilities such as highways.

Commissioner Badgerow asked if Commissioner Merriam was prepared to accept all the implications for the Chandler Wildlife Area. Commissioner Merriam replied after staff review he is prepared to accept all the implications for the wildlife area.

Chair Schroeder asked for additional discussion. Mr. Harnack stated that his chair Jerome Deal, BWSR wanted his preference is for the pink route because going on the existing right-of-way had merit particular. Commissioner Badgerow asked about impact on farm land on the pink route. Mr. Sullivan replied that where the existing 69 kV line comes from the left about two sections up from M2 and then proceeds north. Mr. Wachtler replied that section also follows the roadway. He also suggested that both routes would have similar impacts on agricultural land. Chair Schroeder asked for additional discussion, there being none, asked for a roll call vote which was defeated 9 to 1.

Chair Schroeder asked for another motion, Member Elmer moved the pink route resolution and Commissioner Mandernach seconded the motion. Chair Schroeder asked for discussion. Member Winebarger stated that part of the reason for her leaning toward the blue line is due to planning ahead for additional transmission lines going beside larger roads and right-of-ways. Chair Schroeder suggested that was what is taking place on the pink route. Mr. Sullivan responded that if the pink route is selected that the permit would require the construction of a double circuit line capable of handling two 115 kV circuits and the blue route would remain available for some point in the future for additional lines. Chair Schroeder asked for a roll call vote which passed 9 to 1.

Chair Schroeder stated that there is a teal resolution in front of the Board on all the preliminary votes that have passed on this matter. The Chair said he would entertain a motion on the resolution. Member Bloomberg moved the teal resolution on the 345 and 115 kV lines and Director Dunn seconded the motion. Chair Schroeder asked for discussion, there being none asked for a roll call vote which passed 10-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD
Xcel Energy Split Rock Substation to Lakefield Junction 345/115 kV Transmission Line
Project in Southwest Minnesota

BE IT RESOLVED, that the EQB hereby issues a route permit to Northern States Power Company d/b/a Xcel Energy for (1) the Minnesota portion of a 345-kilovolt high voltage transmission line (HVTL) approximately 86 miles long extending from the Split Rock Substation in Minnehaha County, South Dakota to the Nobles County Substation, and to the Lakefield Junction Substation in Jackson County, Minnesota; and (2) a Substation in Nobles County near Reading, Minnesota; and (3) a 115-kilovolt HVTL approximately 40 miles long extending from the new Nobles County substation in Nobles County, Minnesota to the Chanarambie Substation in Murray County, Minnesota.

BE IT FURTHER RESOLVED, that the Board authorizes the Chair to prepare Findings of Fact, Conclusions and Order and Route Permit reflecting the Board decision for the route approved.

BE IT FURTHER RESOLVED, that Robert A. Schroeder, Chair of the Board, is authorized to sign the appropriate Findings of Fact, Conclusions and Order, and the Route Permit, based on the action by the Board.

Mr. Harnack asked if there is a more comprehensive way to review transmission needs in a area like southwestern Minnesota. Mr. Sullivan replied that the state has over the years tried to engage in long range strategic energy planning and existing statutes provide a process for that planning. He said it remains a difficult task but we need to keep working hard at that planning.

X. *EQB Adoption of Rules Establishing Mandatory EAW and Exemption Categories for Recreational Trails

Gregg Downing, EQB staff stated that this item involves the final stages of rulemaking for recreational trails. The 2003 Legislature directed the EQB to adopt rules establishing thresholds for environmental review for recreational trail projects. The EQB provided two opportunities for interested persons to participate in development of those rules prior to the formal rulemaking process. Based on the comments received, a list of possible amendment options was released for review. The rule amendments as proposed in the hearing process were based on the comments received. The EQB approved the proposed rules for formal rulemaking at the September, 2004 meeting. Staff has followed the standard rulemaking process and is now at the point of actually adopting amendments to the rules to establish mandatory EAW requirements and exemptions applying to certain recreational trail projects.

A rulemaking hearing was held at five locations with an afternoon and evening session at each location. Administrative Law Judge Steve Mihalchick presided at the hearing. After the close of the hearing, the public was given an additional 20 days to submit written comments into the record. During the hearing and comment period a total of 77 written comments were received by the ALJ. The written and oral comments were summarized in the report by the ALJ. After the hearings were concluded, the EQB staff submitted 2 letters to the ALJ containing suggestions for modifying the proposed amendments in response to certain comments. The modifications make a number of clarifications to the amendments but do not make any changes in their substance. The law judge approved each of those suggested modifications.

Since the package was prepared, staff has learned that the Department of Natural Resources probably would like to make an additional change in these rules and we understand that Commissioner Merriam would like to explain the change. EQB staff does not have any objection to the change that the DNR will be suggesting but does have a concern about the timing implications. Chair Schroeder suggested that the Board needs to do the rulemaking as quickly as possible because of the timeline of rulemaking.

Chair Schroeder asked Commissioner Merriam to cover what changes the DNR is suggesting. Commissioner Merriam stated that the original provision was requested by the DNR but in more recent discussions with senior management involved with trails issues he has concluded that it was not a good idea to add this clause to the rules. Since ATV use is already allowed by law without designation on a state forest road it is unnecessary to add the clause. At best the language in question is superfluous. However, the DNR has already heard local officials say that by adding this clause the DNR has removed DNR roads from the rule but is not making the same allowance for local township roads.

Chair Schroeder stated that the Board can accept the changes Commissioner Merriam outlined and resubmit to them to the Chief ALJ for determination on whether the changes caused the rules to be substantially different

Chair Schroeder asked for discussion; there being none, he said he would entertain a motion. Commissioners Mandernach moved the sample resolution (printed on red paper) and Commissioner Merriam seconded the motion. Chair Schroeder asked for additional discussion; there being none, he asked for a roll call vote. The resolution passed 10-0.

Resolution Of The Environmental Quality Board

Seeking Review by the Chief Administrative Law Judge of Changes Other than Those Recommended by the Administrative Law Judge to the Proposed Amendments to the Environmental Review Program Rules

Establishing Mandatory EAW and Exemption Categories for Recreational Trails and If the Chief ALJ Determines the Changes to Be Substantially Different, Initiating the Procedures to Adopt a Substantially Different Rule

WHEREAS, Minnesota Laws 2003, Chapter 128, Article 1, Section 167, subd. 3, directed the Minnesota Environmental Quality Board (EQB) to adopt rules “providing for threshold levels for environmental review of recreational trails”; and

WHEREAS, on September 16, 2004 the EQB authorized the proposed amendments for rulemaking; and

WHEREAS, the proposed amendments were duly noticed and a series of public hearings presided over by Administrative Law Judge Steve Mihalchick were held to receive public comments; and

WHEREAS, the EQB staff proposed a number of modifications to the rules as proposed in response to comments received; and

WHEREAS, the Administrative Law Judge has prepared a report recommending that the rule amendments be adopted as modified; and

WHEREAS, the EQB has considered all public comments and information in the record; and

WHEREAS, the DNR has requested that two of the approved modifications be deleted from the amendments; and

WHEREAS, the rules governing rulemaking, Minn. Rules, part 1400.2240, subp. 5, require that the Chief Administrative Law Judge must review any changes proposed to a rule other than those

recommended in the report of the Administrative Law Judge to determine if the proposed changes would make the proposed rule substantially different than the rule as proposed; and

WHEREAS, the rules governing rulemaking provide that an agency may adopt a substantially different rule if it follows the procedures set forth at Minn. Rules, part 1400.2110;

NOW THEREFORE BE IT RESOLVED, that Robert A. Schroeder, the Chair of the Environmental Quality Board, is authorized to request a review by the Chief Administrative Law Judge of the changes requested by the DNR to determine if those changes would make the adopted rules substantially different than the proposed amendments and to bring the matter back before the Board for further action as soon as possible.

XI. *Decision on Minnkota Power – Lund Substation and 230 kV HVTL, Lake of the Woods County

George Johnson, EQB staff stated the issue before the Board is whether to grant a route permit to Minnkota Power Cooperative for its proposed 230 kV high voltage transmission lines to interconnect its new Lund substation, near Baudette, Minnesota, with the existing nearby transmission system. Mr. Johnson added that this is a non-controversial high voltage transmission line.

The permit application is for the construction, operation, and maintenance of two parallel 230 kilovolt high voltage transmission lines each approximately 2,600 feet in length. Minnkota proposes to construct a total of 10 H-frame steel structures in two rows of five each approximately 90 feet apart. The average span length will be approximately 600 feet. The height of the proposed structures will be approximately 70 feet. The H Frame structures will be similar to the structures on the existing 230 kV transmission line in the area.

A public meeting was held in the Baudette City Hall, on April 26, 2005. The purpose of the meeting was to provide information, to answer questions, and to scope the environmental assessment. No members of the public attended the meeting. There were no questions or concerns from the public about the new substation or the proposed transmission lines. Mr. Johnson of EQB staff was selected to act as Public Hearing examiner in accordance with Minnesota Rules 4400.2850 subp 2.

The staff prepared the EA and a public hearing was held in Baudette on May 24, 2005. It was presided over by EQB staff, George Johnson. No members of the public attended. One Minnkota project engineer, John Graves and one EQB staff, George Johnson attended. No issues or comments were raised.

The hearing record closed on June 6. The administrative record was prepared by EQB staff. No formal report or route recommendation was provided by EQB staff. The complete record is available for review at the EQB office.

EQB Staff has reviewed the record and recommends a route permit be issued with certain typical conditions. The draft Route Permit includes conditions addressing construction, public safety, and electrical standards. In addition the Route Permit includes sections addressing expansions and

modifications, transfer of ownership, applicability of federal and state laws, and severability. Minnkota representatives have stated that they have no objection to these conditions.

Staff recommends the Board approve the sample resolution adopting the proposed Findings of Fact, Conclusions, and Order issuing the route permit with conditions.

Chair Schroeder asked for further discussion, there being none said he would entertain a motion. Commissioner Hugoson moved the resolution and Commissioner Badgerow seconded the motion. Chair Schroeder asked for discussion, there being none asked for a roll call vote which passed 10-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD
Minnkota Power Cooperative Inc. High Voltage Transmission Line Route Permit
Lund Substation and 230 kV Line Tap Project
Near Baudette in Lake of the Woods County, Minnesota

BE IT RESOLVED, that the EQB approves and adopts the proposed Findings of Fact and Conclusions and Order issuing a route permit to Minnkota Power Cooperative Inc. for two 230 kV high voltage transmission lines, each one-half mile long and parallel and also including the new Lund substation and associated facilities.

BE IT FURTHER RESOLVED that the Chair of the Board is authorized to sign the Findings of Fact, Conclusions, and Order and the route permit.

XII. Status Report on EQB Study of Environmental Review Program: Responses to Request for Comments

Gregg Downing, EQB staff, stated that there is no action is required of the Board regarding this item. He said that he would like to make three points on the matter. First, public comments were received on the 48 possible amendments to the Environmental Review program rules. Comments show only a few of the items are controversial. Second, the EQB has asked for assistance from three of member agencies to lead teams to develop three of the mandatory categories under consideration. The Department of Natural Resources will be responsible for developing ideas for the lakeshore and highly important natural resources categories and the Department of Agriculture and Pollution Control Agency will jointly develop the animal feedlots category revision. The third point has to do with the schedule to move forward with the rulemaking. Staff was hopeful that they could come back to the Board in July with a schedule for the rulemaking, however; it will be sometime this fall before those ideas take shape.

Director Dunn asked who was working on the rule changes for gravel pits. Mr. Downing replied that EQB staff will be working on those rule changes.

Chair Schroeder asked for additional questions and seeing none, asked for a motion to adjourn. Commissioner Wilson made the motion to adjourn and Commissioner Hugoson seconded the motion.