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# EQB MONITOR

## Rulemaking Hearing Rescheduled

The public hearing on Environmental Review program rule amendments canceled for Thursday, February 26, 2009 has been rescheduled for **Monday, March 16, 2009** at the Fort Snelling History Center auditorium, Fort Snelling, MN, at the junction of state highways 5 & 55. There will be two sessions, one beginning at 2:00 p.m. and one beginning at 7:00 p.m.

For further information see the original hearing notices published in the Monitor on January 12, 2009 and January 26, 2009, or at the EQB webpage ([www.eqb.state.mn.us](http://www.eqb.state.mn.us)) under the titles: "Environmental Quality Board slates public hearing for changes to state environmental review program rules" (Media Release) and "Notice of Rulemaking Hearing, Jan. 13, 2009" (Notice).

Any questions may be directed to Gregg Downing, 651-201-2476 or [gregg.downing@state.mn.us](mailto:gregg.downing@state.mn.us).

## **ENVIRONMENTAL ASSESSMENT WORKSHEETS**

EAW Comment Deadline: April 8, 2009

### **Project Title: Upper Becker Dam Enhancement Project**

**Description:** The Upper Becker Dam Enhancement Project involves the construction of a flood control reservoir to retain floodwaters from the contributing drainage area until the downstream channel can accommodate flows. The proposed enhancement project would restore wetland and grassland complexes to enhance wildlife habitat, improve water quality and reduce local flooding. The project area is in Riceville and Spring Creek Townships, Becker County, Minnesota.

The *EQB Monitor* is a biweekly publication of the Environmental Quality Board that lists descriptions and deadlines for Environmental Assessment Worksheets, Environmental Impact Statements, and other notices. The *EQB Monitor* is posted on the Environmental Quality board home page at <http://www.eqb.state.mn.us/>.

Upon request, the *EQB Monitor* will be made available in an alternative format, such as Braille, large print, or audio tape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for Department of Administration. For information on the *EQB Monitor*, contact:

Minnesota Environmental Quality Board  
658 Cedar St., 300 Centennial Office Building  
St. Paul, MN 55155-1388  
Phone: 651-201-2480  
Fax: 651-296-3698  
<http://www.eqb.state.mn.us>

The EAW can be reviewed at the following locations:

Wild Rice Watershed District 11 5 <sup>th</sup> Avenue Ada, MN 56510	Detroit Lakes Public Library 1000 Washington Avenue Detroit Lakes, MN 56501
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Lake Agassiz Regional Library  
118 S. Fifth St.  
Moorhead, MN

Written comments on the EAW must be submitted to the Wild Rice Watershed District (WRWD) during the 30 day review period that ends on April 8, 2009. Written or emailed comments should be directed to Jerry Bents, WRWD Engineer, Houston Engineering, Inc., 1401 21<sup>st</sup> Avenue N., Fargo, ND 58102 or [jbents@houstoneng.com](mailto:jbents@houstoneng.com)

**RGU:** Wild Rice Watershed District

**Contact Person:**

Jerry Bents, WRWD Engineer  
Houston Engineering, Inc.  
1401 21<sup>st</sup> Avenue N.  
Fargo, ND 58102

**Project Title: County Ditch 18 – Goose Prairie Water Management Project**

**Description:** The County Ditch 18 – Goose Prairie Water Management Project involves the construction of a flood control reservoir to retain floodwaters from the contributing drainage area until the downstream channel can accommodate flows. The proposed project would restore wetland and grassland complexes to enhance wildlife habitat, improve water quality and reduce local flooding. The project area is in Goose Prairie Township, Clay County, Minnesota.

The EAW can be reviewed at the following locations:

Wild Rice Watershed District 11 5 <sup>th</sup> Avenue Ada, MN 56510	Detroit Lakes Public Library 1000 Washington Avenue Detroit Lakes, MN 56501
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Lake Agassiz Regional Library  
118 S. Fifth St.  
Moorhead, MN

Written comments on the EAW must be submitted to the Wild Rice Watershed District (WRWD) during the 30 day review period that ends on April 8, 2009. Written or emailed comments should be directed to Jerry Bents, WRWD Engineer, Houston Engineering, Inc., 1401 21<sup>st</sup> Avenue N., Fargo, ND 58102 or [jbents@houstoneng.com](mailto:jbents@houstoneng.com)

**RGU:** Wild Rice Watershed District

**Contact Person:**

Jerry Bents, WRWD Engineer  
Houston Engineering, Inc.  
1401 21<sup>st</sup> Avenue N.  
Fargo, ND 58102

## **EA AVAILABLE**

**Project Title: 40<sup>th</sup> Street South Improvement Project**

**Description:** The Environmental Assessment (EA) documenting the potential effects of the proposed 40<sup>th</sup> Street South Improvement Project in the City of St. Cloud is available for review and comment. The scope of the proposed project includes the construction/reconstruction of 40<sup>th</sup> Street as a two-lane urban divided roadway from County State Aid Highway (CSAH) 136 to Clearwater Road. A 100-foot right-of-way corridor between CSAH 136 and ½ mile west of CSAH 75 will include full access roundabout intersections spaced approximately every 1/3 mile. A 120-foot right-of-way corridor between ½ mile west of CSAH 75 and Clearwater Road will include traditional intersections at a future intersection 1/3 mile west of CSAH 75, at CSAH 75, and at Clearwater Road.

Copies of the EA document are available for public review at the following locations:

- St. Cloud Public Works Department, 400 2<sup>nd</sup> Street South, St. Cloud
- Great River Regional Library, 1300 West St. Germain Street, St. Cloud

The comment period on the EA will extend through April 13, 2009. All comments should be directed to: Chris Hiniker, SEH Project Manager, 3535 Vadnais Center Drive, St. Paul, MN 55110. The EA can be made available to individuals who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529 or (651) 296-9930 TTY.

To afford an opportunity for all interested persons, agencies and groups to comment on the EA, a public open house meeting has been scheduled for Wednesday, April 1, 2009, at the St. Cloud City Hall, 400 2nd Street South, in St. Cloud. The public open house will be held from 6:00 p.m. to 7:30 p.m. A brief presentation describing the project will be provided at 6:30 p.m. Individuals with a disability who need a reasonable accommodation to participate in the public meeting are asked to contact the Minnesota Relay Service at the telephone numbers listed, as soon as possible.

**Project Proposer:** City of St. Cloud

**RGU:** City of St. Cloud

**Contact Person:**

Chris Hiniker, SEH Project Manager  
3535 Vadnais Center Drive  
St. Paul, MN 55110  
Phone: (651) 490-2063

**EIS NEED DECISIONS**

The responsible governmental unit has determined the following projects do not require preparation of an EIS. The dates given are, respectively, the date of the determination and the date the EAW notice was published in the *EQB Monitor*.

- Mower County Board of Commissioners, Ulland Brothers, Inc. Rock Quarry, February 24, 2009 (December 29, 2008)
- White Bear Lake Conservation District, Docks of White Bear proposed expansion, January 20, 2009 (December 15, 2008)
- Stearns County, Meyer's Cozy Corner Campground, February 17, 2009 (November 17, 2008)
- Minnesota Department of Natural Resources, Dark River Trout Stream Restoration Project, February 5, 2009 (July 7, 2007)

**DRAFT ENVIRONMENTAL IMPACT STATEMENT AVAILABLE****Project Title: Southwest Transitway DEIS**

**Description:** The Southwest Transitway project is proposed to improve mobility in the southwest part of the Twin Cities metro area including the cities of Eden Prairie, Minnetonka, Hopkins, Edina, St. Louis Park and Minneapolis. The Hennepin County Regional Railroad Authority (HCRRA) is partnering with the Federal Transit Administration (FTA) as lead agencies to develop the Southwest Transitway as a major transit capital investment.

The Southwest Transitway Alternatives Analysis (AA) was completed in 2007. The AA was the starting point for the DEIS and formed the basis for the scoping process. Based upon the AA, three light rail transit (LRT) alternatives and an Enhanced Bus alternative were proposed for inclusion in the DEIS. The alternatives included proposed station locations, park-and-ride facilities, and routings between stations. An LRT maintenance and storage facility will be needed, but a location was not identified during the AA. Candidate locations for the LRT maintenance and storage facility will be identified in the DEIS.

The build alternatives presented for comment during the Scoping Process included LRT 1A, LRT 3A, LRT 3C, and the Enhanced Bus as well as the No-Build Alternative.

*Light Rail Transit 1A:* This alternative would operate from downtown Minneapolis to Eden Prairie terminating at Trunk Highway (TH) 5. The route would connect to the Hiawatha LRT tracks on 5th Street past the

downtown Minneapolis Intermodal Station to Royalston Avenue to the Kenilworth Corridor through Minneapolis and the HCRRA property through St. Louis Park, Hopkins, Minnetonka and Eden Prairie terminating at TH 5 and the HCRRA's property. Stations are proposed at Royalston Ave., Van White Blvd., Penn Ave., 21st St., West Lake St., Beltline Blvd., Wooddale Ave., Louisiana Ave., Blake Rd. downtown Hopkins, Shady Oak Rd., Rowland Rd., TH 62, and TH 5.

*Light Rail Transit 3A:* This alternative would operate from downtown Minneapolis to Eden Prairie terminating at Mitchell Road/TH 5. via an extension of the Hiawatha LRT tracks on 5th Street past the downtown Minneapolis Intermodal Station to Royalston Avenue to the Kenilworth Corridor through Minneapolis, the HCRRA property in St. Louis Park and Hopkins, to new right-of-way through the Opus/Golden Triangle area, the Eden Prairie Town Center area terminating at TH 5 and Mitchell Road. Stations are proposed at Royalston Ave., Van White Blvd., Penn Ave., 21st St., West Lake St., Beltline Blvd. Wooddale Ave., Louisiana Ave., Blake Rd., downtown Hopkins, Shady Oak Rd., Opus, City West, Golden Triangle, Eden Prairie Town Center, SouthWest Station, and Mitchell Rd.

*Light Rail Transit 3C:* This alternative would operate from downtown Minneapolis to Eden Prairie terminating at Mitchell Road/TH 5 via Nicollet Mall to Nicollet Avenue (tunnel from Franklin Avenue to 28th Street), the Midtown Corridor through Minneapolis, the HCRRA property in St. Louis Park and Hopkins, to new right-of-way through the Opus/Golden Triangle, the Eden Prairie Town Center area terminating at TH 5 and Mitchell Road. Stations are proposed at 4th St., 8th St., 12th St., Franklin Ave., 28th St., Lyndale Ave., Hennepin Ave.(Uptown), West Lake St., Beltline Blvd., Wooddale Ave., Louisiana Ave., Blake Rd., downtown Hopkins, Shady Oak Rd., Opus, City West, Golden Triangle, Eden Prairie Town Center, SouthWest Station, and Mitchell Rd.

*Enhanced Bus:* The Enhanced Bus alternative, also known as the Transportation System Management (TSM) Alternative, is designed to provide lower cost, operationally-oriented improvements to address the project's purpose and need as much as possible without a major transit investment. It includes minor modifications to the existing express service and would augment Metro Transit and SouthWest Transit service between Minneapolis and Eden Prairie, Minnetonka, Hopkins, and St. Louis Park. This alternative will serve as the New Starts Baseline against which the cost-effectiveness of the proposed project will be measured, and includes improvements identified in the No-Build Alternative.

During the Scoping Period (September 8, 2008 through November 7, 2008) for the Southwest Transitway Project, a new alternative and a sub-alternative in Minneapolis were proposed. The alternative is labeled LRT 3E and the sub-alternative is labeled LRT 3C (11th/12th Sub-Alternative). Technical studies were conducted for LRT 3E and LRT 3C (11<sup>th</sup>/12<sup>th</sup> Sub-Alternative) to evaluate their feasibility with regard to the project's goals identified in the Purpose and Need Statement and to determine if they warranted inclusion in the Southwest Transitway DEIS.

The Southwest Technical Advisory Committee (TAC) met on January 15, 2009 and the Policy Advisory Committee (PAC) met on January 21, 2009. Based on the results of the technical analyses presented, the TAC and the PAC unanimously voted and recommended that LRT 3E Alternative be excluded from further consideration and that LRT 3C Sub-Alternative (excluding Blaisdell Avenue north of Franklin Avenue) warrants additional analysis to determine if it is of sound engineering, performance, and meets the purpose and need for the project and therefore should be included in the Southwest DEIS.

The HCRRA met on January 27, 2009 and unanimously accepted the Scoping Summary Report which is referred to as the Scoping Decision Document under EQB regulations.

For each of the proposed build alternatives (LRT 1A, LRT 3A and LRT 3C (Nicollet Mall and 11<sup>th</sup>/12<sup>th</sup> sub-alternatives) and the No-Build Alternative, the DEIS will evaluate social, and economic impacts of the

construction and operation of the proposed project. Impact areas to be addressed include: transportation; land use, zoning, and economic development; secondary development; land acquisition, displacements, and relocations; cultural resources, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; natural resource impacts including air quality, geology and soils, wetlands, water resources, hazardous materials, noise, vibration; energy use; safety and security; wildlife and ecosystems, including endangered species and energy and construction impacts. Measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated. A December 2009 publication of the DEIS is anticipated.

Additional information on the Southwest Transitway Project, including the Scoping Summary Report, is available on the project website found at <http://www.southwesttransitway.org/>.

**RGU:** Hennepin County

**Contact Person:**

Katie Walker, AICP, Project Manager  
Hennepin County  
Department of Housing, Community Works, and Transit  
417 North Fifth Street, Suite 320  
Minneapolis, MN 55401  
Phone: 612-348-2190  
Katie.Walker@co.hennepin.mn.us

## NOTICES

### **Public Meeting Notice – Northeast Regional Landscape Committee Minnesota Forest Resources Council**

The Northeast Regional Landscape Committee of the Minnesota Forest Resources Council (MFRC) will meet on Wednesday, March 18, 2009, from 9:30 a.m. – 3:00 p.m. in Duluth at the Natural Resources Institute (NRI) building.

For more information, please contact Lindberg Ekola at 320-256-8300 or go to the calendar on the MFRC website at <http://www.frc.state.mn.us>.

### **Public Meeting Notice – Northern Regional Landscape Committee Minnesota Forest Resources Council**

The Northern Regional Landscape Committee of the Minnesota Forest Resources Council (MFRC) will meet on Wednesday, March 19, 2009, from 9:00 a.m. – 2:00 p.m. in International Falls at the Holiday Inn.

For more information, please contact Lindberg Ekola at 320-256-8300 or go to the calendar on the MFRC website at <http://www.frc.state.mn.us>.

## Minnesota Department of Agriculture

### Notification of Releases of Genetically Engineered Organisms

File Number	Company	Crop	Project	County
09-NO-024	Pioneer	Corn	Altered Feed Properties, Fatty Acid Level, Amino Acid Composition, Fiber and Protein Quality; Cell Wall; Lipid and Oil Profiles, Starch Metabolism and Content; Visual and Selectable Markers; Reduced Phytate; Increased Oil Content, Starch and Lysine Levels; Improved Digestibility, Food and Nutritional Quality, Animal Feed Quality	Benton, Blue Earth, Chisago, Clay, Goodhue, Isanti, Kanabec, Kandiyohi, Meeker, Morrison, Mower, Murray, Olmsted, Otter Tail, Pine, Renville, Stevens, Todd, Wabasha, Waseca, Wilkin, Winona, Yellow Medicine
09-NO-025	Pioneer	Corn	Altered Fatty Acid Level, Stalk Attributes, Maturity, Fertility, and Plant Development; Visual and Selectable Markers; Reduced Plant Growth; Drought Tolerance; Increased Nitrogen Utilization Efficiency	Benton, Blue Earth, Chisago, Clay, Goodhue, Isanti, Kanabec, Kandiyohi, Meeker, Morrison, Mower, Murray, Olmsted, Otter Tail, Pine, Renville, Stevens, Todd, Wabasha, Waseca, Wilkin, Winona, Yellow Medicine
09-NO-026	Betaseed	Sugar Beet	Virus Resistance	Polk (2)
09-NO-027	Monsanto	Corn	Herbicide Tolerance	Steele
09-NO-028	Monsanto	Corn	Increased Yield	Steele
09-NO-029	Donald Danforth Plant Science Center	Wheat	Disease Resistance	Dakota
09-NO-030	Monsanto	Soybean	Increased Yield; Herbicide Tolerance	Clay
09-NO-031	Monsanto	Soybean	Modified Seed Composition; Herbicide Tolerance	Redwood (4)
09-NO-032	Monsanto	Soybean	Modified Seed Composition; Herbicide Tolerance	Blue Earth, Kandiyohi, Lincoln, McLeod, Nicollet, Renville, Sibley, Stearns
09-NO-033	Syngenta	Corn	Altered Seed Composition; Improved Seed Fiber Quality	Brown, Dakota, Goodhue, Mower

			and Grain Processing	(2), Rice (2), Waseca
09-NO-034	Monsanto	Soybean	Modified Oil Composition; Herbicide Tolerance	Blue Earth, Clay (2), Grant, Kandiyohi, Redwood (3), Sibley
09-NO-035	Syngenta	Corn	Herbicide Tolerance	Brown, Dakota, Goodhue, Mower (2), Rice (2), Waseca
09-NO-036	Pioneer	Corn	Herbicide Tolerance	Renville
09-NO-037	Syngenta	Corn	Herbicide Tolerance	Brown, Dakota, Goodhue, Mower (2), Rice (2), Waseca
09-NO-038	Syngenta	Corn	Drought Tolerance; Insect Resistance; Improved Stress Tolerance;	Mower
09-NO-039	Syngenta	Corn	Improved Yield and Stress Tolerance;	Mower
09-NO-040	Monsanto	Soybean	Increased Oil Content; Herbicide Tolerance	Redwood
09-NO-041	Monsanto	Soybean	Increased Yield; Herbicide Tolerance	Clay
09-NO-042	Syngenta	Corn	Herbicide Tolerance	Brown, Dakota, Goodhue, Mower (2), Rice (2), Waseca
09-NO-043	M.S. Technologies	Soybean	Abiotic Stress Tolerance; Herbicide Tolerance	Grant, Kandiyohi

Release 09-NO-012 previously listed in the EQB Monitor on February 9, 2009 has been withdrawn. This release was Monsanto soybean lines modified to include herbicide tolerance and modified seed composition in eight counties.

For more information contact Mary Hanks, Minnesota Department of Agriculture, 625 Robert St N., St. Paul, MN 55155, 651/201-6277, [mary.hanks@state.mn.us](mailto:mary.hanks@state.mn.us).

**STATE OF MINNESOTA**  
**Office of Energy Security**

**NOTICE OF PUBLIC HEARING  
AND AVAILABILITY OF  
ENVIRONMENTAL ASSESSMENT**

**In the Matter of the Route Permit Application for a 115/69 Kilovolt (kV) Transmission Line Rebuild from a Newly Proposed West New Ulm Substation to the Existing Fort Ridgley Substation**

**PUC Docket Number: E-002/TL-08-956**



**PLEASE TAKE NOTICE** that the Minnesota Department of Commerce Office of Energy Security (OES) will hold a public hearing on behalf of the Minnesota Public Utilities Commission (Commission) on the route permit application by Xcel Energy for a 115/69 kV transmission line rebuild and new substation in Brown and Nicollet counties, Minnesota.

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**PUBLIC HEARING**  
**Tuesday, March 24, 2009 - 6:30 P.M.**

**New Ulm Civic Center**  
**1212 North Franklin Street**  
**New Ulm, Minnesota 56073**

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**Project Description.** Xcel Energy is proposing to construct a new, 4.2-mile 115 kV transmission line between a newly proposed West New Ulm Substation in Brown County, Minnesota, and the existing Fort Ridgley Substation in Nicollet County, Minnesota. Approximately 3.8 miles or 90 percent of the new 115 kV transmission line will be constructed along the existing Fort Ridgley 69 kV transmission line alignment using double circuit 115/69 kV structures that would accommodate both the new 115 kV and the existing 69 kV on a single structure alignment. The proposed project also involves the construction of a new substation (West Ulm Substation) north of New Ulm in Brown County, Minnesota, and modifications to the existing Fort Ridgley Substation. (Figure 1).

**Environmental Assessment.** OES has completed an environmental assessment (EA) on the proposed project. The EA addresses the potential human and environmental impacts of the proposed project and evaluates two alternatives (Figures 2 and 3). Electronic versions of the EA including maps and other documents relevant to this matter are available for viewing and download on the PUC website or eDockets at:

<http://energyfacilities.puc.state.mn.us/Docket.html?Id=19744>

or

<https://www.edockets.state.mn.us/EFiling/search.jsp> (enter Docket Number 08-956).

**Conduct of Hearing.** The public hearing will be conducted in accordance with the requirements of the Power Plant Siting Act, Minnesota Statute 216E.04, and Minnesota Rule 7849.5710. The Honorable Raymond R. Krause, Administrative Law Judge, will preside over the hearing.

OES staff will be present at the hearing and make a brief presentation about the project and introduce into the record a number of documents relating to the project. Representatives of the applicant (Xcel Energy) will be present to offer evidence and to answer questions. Members of the public will have an opportunity to ask questions of OES staff and the applicant, to make statements, and to offer written comments and material into the record.

The record will remain open until **4:30 P.M., Monday, April 6, 2009**, for interested persons to submit written comments to the Administrative Law Judge. Comments must be submitted directly to Judge Krause:

The Honorable Raymond R. Krause  
Office of Administrative Hearings  
P.O. Box 64620  
St. Paul, Minnesota 55164-0620

ray.krause@state.mn.us

The Administrative Law Judge will provide OES staff a written summary of testimony given at the hearing along with comments received during the prescribed comment period. The Commission will make a final decision on the route permit application after receipt of the complete record.

**Additional Information.** For more information about the process, the project, or to place your name on the project mailing list, please contact:

Scott Ek, Project Manager  
Energy Facility Permitting  
Office of Energy Security  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101-2198  
(651) 296-8813  
1-800-657-3794  
scott.ek@state.mn.us

David Birkholz, Public Advisor  
Energy Facility Permitting  
Office of Energy Security  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101-2198  
(651) 296-2878  
david.birkholz@state.mn.us

**Mailing List.** Any person may add his or her name to the mailing list maintained by OES for future mailings regarding this project. If you would like to receive notice of the Commission's final decision in this matter please add your name to the mailing list. Names can be added to the list by contacting the project manager or by registering on [the](http://energyfacilities.puc.state.mn.us/Docket.html?Id=19744) PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=19744>.

**STATE OF MINNESOTA**  
**Office of Energy Security**

**NOTICE OF APPLICATION ACCEPTANCE**  
**AND**  
**PUBLIC INFORMATION MEETING**

In the Matter of a Site Permit Application for the 30 MW  
Community Wind North Wind Project in Lincoln County, Minnesota  
PUC Docket IP6712/WS-08-1494

**March 16, 2009**

**5:30 p.m. Open House**  
**6:30 p.m. Public Information Meeting**

**Lake Benton Community Center**  
**105 West Benton**  
**Lake Benton, MN**

**DRAFT SITE PERMIT AVAILABLE**  
For the Proposed Community Wind North Wind Project  
MPUC Docket No. IP6712/WS-08-1494

**PLEASE TAKE NOTICE** that Community Wind North LLC, has applied to the Minnesota Public Utilities Commission (PUC) for a site permit to build and operate up to a 30 Megawatt (MW) large wind energy conversion system (LWECS) in Verdi Township located south and west of Lake Benton, Minnesota.

The Minnesota Department of Commerce (DOC), Office of Energy Security (OES) will hold a public information meeting at 6:30 p.m., following the open house on **March 16, 2009**, at the Lake Benton Community Center. The purpose of the public meeting is to provide information to the public about the proposed project and to take public comment and input on the draft site permit issued by the PUC. OES staff will provide an overview of the state's wind energy site permitting process and the proposed draft site permit for the Community Wind North Wind Project. The public information meeting and a comment period will provide the public an opportunity to ask questions about and make comments on the Project, the process and the draft site permit. Representatives of the OES and Community Wind North, LLC, will be at the meeting to describe the proposed Project and answer questions.

Prior to the public information meeting, the applicant will host an open house beginning at 5:30 p.m. The applicant's representatives will be available at the open house to discuss the project and answer questions.

### **Project Description**

The Applicant is considering three possible wind turbine generators for the Project. Depending upon the turbine model selected, the Applicant proposes to install 15 wind turbine generators and anticipates an in-service date of no later than December 2010. The proposed turbines would use 80 meter (262 feet) tubular towers measured at the hub height. Depending upon the model selected, the rotor diameter of the turbines would be 225-288 feet with a maximum overall height of approximately 375-406 feet above grade when one blade is in the vertical position.

Energy from the Project will be delivered directly to the Xcel Energy Yankee Substation in Section 5 of Verdi Township. Other associated facilities will include pad mounted step-up transformers and turbine access roads.

The site comprises approximately 2,660 acres in portions of 9 sections on Verdi Township. See accompanying map for site boundaries. The Applicants anticipate that 11.18 acres of land would be permanently removed from agricultural production for turbine sites and access roads.

### **PUC Site Permit Review Process**

Community Wind North, LLC, a Minnesota based company, submitted a site permit application for the Project on January 20, 2009. On February 12, 2009, the PUC accepted the application as complete, made a preliminary determination that a permit may be issued and issued a draft site permit. The application and draft site permit are available from the website and contacts listed below. Landowners and governments within the Project boundary will receive a copy of the application directly from Community Wind North, LLC.

The OES is now initiating the public participation process under the Wind Siting Act (Minnesota Statutes Chapter 216F) and the Wind Permitting Rules (Minnesota Rules Chapter 7836). Upon completion of the public participation process, the OES will present the record of this matter to the PUC for a final permit decision.

**Public Comments**

The site permit application, draft site permit and the agency rules guiding the review process are available on the PUC website at:

<http://energyfacilities.puc.state.mn.us/Docket.html?Id=19891>

You may register on this same website to be added to the mailing list associated with this Project and to receive future notices by U.S. Mail.

Interested persons may comment on the application and draft site permit at the public meeting or may submit written comments until 4:30 p.m. on April 8, 2009. Written comments can be sent by mail, fax or by email. Please include the project docket number (**IP6712-08-1494**) on written comments. All comments should be directed to Larry Hartman (see below).

**Contested Case Hearing Request**

Any person may request a contested case hearing in this matter (Minnesota Rule 7836.0900). All contested case hearing requests must be filed with the Mr. Hartman in writing by 4:30 p.m. on April 8, 2009. The person requesting the contested case hearing must list the issues to be addressed in the hearing and the reason why a contested case hearing is required to resolve those issues. The PUC shall order a contested case hearing if it finds that a material issue of fact has been raised and that the holding of the hearing will aid the PUC in making a final decision on the site permit application and draft site permit.

**Project Contacts**

Larry Hartman, with the OES staff is the Project Manager for the permitting of the facility. Questions, comments and requests to add your name on the mailing list for the Project may be directed to:

OES Project Manager  
Larry Hartman, Tel: (651) 296-5089  
[larry.hartman@state.mn.us](mailto:larry.hartman@state.mn.us)

OES Public Advisor  
Deborah Pile, Tel: (651) 297-2375  
[deborah.pile@state.mn.us](mailto:deborah.pile@state.mn.us)

Toll Free (800) 657-3794  
Fax: (651) 297-7891  
Energy Facility Permitting  
Office of Energy Security  
Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101-2198

Questions about the Project and site permit application can also be directed to the applicant by contacting Mr. Wayne Hesse, Tel (507) 247-5672; [Wgh3@frontiernet.net](mailto:Wgh3@frontiernet.net)

**Eminent Domain for Community Wind North**

The Applicant does not have the power eminent domain to acquire the land or wind rights for the large wind energy conversion system. Wind and land rights necessary to build the facility must be in the form of voluntary easements or lease agreements between landowner and the Applicant. (*See project map on next page*)



**STATE OF MINNESOTA****Office of the Attorney General****OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES**

In the matter of the Permit Application of  
Daniel Gregg

**NOTICE AND ORDER FOR  
PREHEARING CONFERENCE AND HEARING**

TO: DANIEL GREGG, 30225 Norway Ave., Lindstrom, MN 55045.

DANIEL GREGG (“Gregg”) IS HEREBY NOTIFIED that the Minnesota Department of Natural Resources (“Department”) has initiated this action pursuant to Gregg’s appeal of the Department’s denial of his application for an aquatic plant management permit.

IT IS HEREBY ORDERED that a prehearing conference will be held on March 23, 2009, at 9:30 a.m. at the Office of Administrative Hearings, 600 N. Robert St., St. Paul, Minnesota, and that a hearing in this matter will be held at a time and place to be decided by the Administrative Law Judge at the prehearing conference. All mail should be directed to P.O. Box 64620, St. Paul, Minnesota 55164-0620.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Linda F. Close, Administrative Law Judge, Office of Administrative Hearings, 600 N. Robert St., St. Paul, MN 55101, telephone (651) 361-7900.

The prehearing conference will be conducted pursuant to the contested case procedures set out in chapter 14 of Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5100-.8400 (2007), and Minn. Stat. § 1030.311 and .315 (2008). A copy of these materials may be purchased from the Minnesota Book Store, telephone (651) 297-3000, or are available at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us). Copies of the rules are also available at [www.oah.state.mn.us](http://www.oah.state.mn.us).

The purposes of the prehearing conference include simplifying and narrowing the issues, establishing a discovery and motion schedule, establishing hearing dates and locations, and exploring the possibilities for resolving the issues without the necessity of a hearing.

The attorney for the Minnesota Department of Natural Resources, Jill Schlick Nguyen, Assistant Attorney General, 445 Minnesota Street, #900; St. Paul, Minnesota 55101-2127, (651) 296-2377, may be contacted to discuss discovery or informal disposition of this matter.

After the hearing in this matter, the record and the Administrative Law Judge's recommendations will be forwarded to the Commissioner of Natural Resources to make a final decision. Department staff involved in the hearing will not participate in the Commissioner's deliberations in this matter. In addition, the Commissioner will be advised by an attorney other than Jill Schlick Nguyen.

### ALLEGATIONS

1. On October 10, 2008, Gregg applied for an aquatic plant management permit allowing him to use a "weed roller" or untended automated aquatic plant control device in South Center Lake, at his property located at 30225 Norway Avenue, Lindstrom, Minnesota.
2. Department staff inspected the site on October 13, 2008, and the Department denied Gregg's permit application by letter dated October 31, 2008. The Department stated, "[s]oft sediment in the proposed control area exists and significant displacement of bottom sediment would result with common automated aquatic plant control devices."
3. On December 1, 2008, Gregg filed a request for Commissioner's review pursuant to Minn. R. 6280.1100 (2007).
4. The Commissioner upheld the permitting decision by letter dated December 15, 2008. The Department's decision is proper for reasons including, but not limited to, the following:
  - A. The proposed use of an untended automated aquatic plant control device does not comply with Minn. R. 6280.0250, subp. 3 (2007) because its use would harm floating leaf aquatic macrophytes, in this case, water lilies, without sufficient justification.
  - B. The permit application does not comply with Minn. Stat. § 103G.615, subd. 1 (2008) and Minn. R. 6280.0250, subp. 3 (2007) because an aquatic plant management permit cannot authorize excavation of the lake bottom.
  - C. The permit application does not comply with Minn. R. 6115.0200, subp. 3(F) (2007) because excavation is prohibited where it does not provide an effective solution due to recurrent sedimentation.
  - D. The permit application does not comply with Mimi. R. 6115.0200, subp. 3(G) (2007) because the application does not include provisions for disposal of excavated materials.



E. The permit application does not comply with Minn. R. 6115.0200, subp. 5(A) (2007) because the project is not reasonable due to the type of sediment and longshore drift in the project area.

5. Gregg has not applied for a public waters work permit which would allow him to alter the course, current or cross-section of public waters. See Minn. Stat. § 103G.245, subd. 1 (2008).

6. On December 27, 2008, Gregg requested a contested case hearing pursuant to Minn. R. 62.80.1100 (2007).

### **ISSUE**

Whether the Department's decision to deny a permit is consistent with the applicable Minnesota statutes and rules, specifically Minnesota Rules 6115.0200 and 6280.0250 (2007)?

The relevant laws and rules include, but are not limited to, Minn. Stat. § 103G.245, 103G.311, 103G.315, 1030.315, and 103G.615 (2008), Minn. R. 6115.0150-.0280 (2007), and Minn. K. 6280.0100-.1200(2007).

### **ADDITIONAL NOTICE**

1. Respondent's failure to appear at the hearing may result in a finding that the Respondent is in default, that the Department's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

2. If any party has good cause for requesting a de lay of the hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the hearing. A copy of the request must be served on the other party.

3. Any party intending to appear at the hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service of this Notice and Order. A copy must be served on the Department's attorney. A Notice of Appearance form is enclosed.

4. At the hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence and cross-examine witnesses, and to submit evidence and argument. Ordinarily the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the hearing should bring all evidence bearing on the case, including any records or other documents. Be advised that if data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2.

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing shall be made in writing to the Administrative Law Judge pursuant to Mimi. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling (651) 361-7900.

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator so that mediation can be scheduled promptly.

8. The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court. A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling (651) 361-7900.

9. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the administrative law judge must be promptly notified. To arrange for an accommodation or an interpreter, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, Minnesota 55164-0620, or may call (651) 361-7900 (voice) or (651) 361-7878 (TTY).

Dated this 9th day of February, 2009.

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

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Mark Holsten  
Commissioner

AG: #2380251-v1