

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Great River Energy for a Route Permit under the Alternative Permitting Process for the Palisade 115 kV Project near the city of Palisade, Minnesota

**SUMMARY OF
PUBLIC TESTIMONY**

This matter came before Administrative Law Judge Jim Mortenson for a public hearing on May 5, 2016, at Waukenabo Town Hall in Palisade, Minnesota.

Dan Leshner and Lisa Agrimonti appeared on behalf of Great River Energy (Applicant).

Suzanne Steinhauer appeared on behalf of the Department of Commerce, Energy Environmental Review and Analysis division (DOC-EERA).

Michael Kaluzniak appeared on behalf of Public Utilities Commission (Commission).

I. Procedural History

On May 4, 2015, Applicant filed notice of its intent to submit a Route Permit Application (Application) using the alternative permitting process for a proposed 115 kV transmission line (Project) in Aitkin County, Minnesota.¹ On August 25, 2015, Applicant filed its Application with the Commission.²

On October 19, 2015, the Commission found the application complete and directed use of the summary report review process to develop the record for the route permit.³ The Commission requested that the Office of Administrative Hearings compile this summary report of comments received regarding the Application and conduct at least one public hearing.⁴ The Commission also granted a variance to extend the ten-day timeline for the environmental assessment scoping decision.⁵

¹ NOTICE OF INTENT (May 4, 2015) (eDocket No. 20155-110087-01).

² APPLICATION (August 5, 2015) (eDocket Nos. 20158-113516-01 through 06).

³ ORDER FINDING APPLICATION COMPLETE, GRANTING VARIANCE, AND REFERRING APPLICATION at 2 (October 19, 2015) (eDocket No. 20158-108363-02); see also Minn. R. 7850.2800-.3900 (2015) (rules applicable to the alternative permitting process).

⁴ *Id.* at 3.

⁵ *Id.* at 4.

On October 27, 2015, a public scoping meeting was held at Waukenabo Town Hall in Palisade, Minnesota. The Commission, Applicant, and the DOC-EERA made presentations to the public about the Project and answered questions.⁶ Following the scoping meeting, a third route option was added to the originally proposed routes.⁷

On November 10, 2015, two state agencies, the Department of Natural Resources (DNR) and the Department of Transportation (DOT), submitted comments on the scoping decision for the environmental assessment and route permit for the Project.⁸

On November 19, 2015, the DOC-EERA filed a summary of the scoping process for the Project, including public comments from the meeting held on October 27, 2015.⁹

On November 25, 2015, the Applicant filed an Affidavit of Publication for the Notice of Application submission.¹⁰

On December 22, 2015, the DOC-EERA issued an Environmental Assessment Scoping Decision for the Project.¹¹

On February 23, 2016, the DOC-EERA notified affected landowners about the route permitting process for the Project.¹²

The Environmental Assessment was completed by the DOC-EERA in April 2016.¹³ Notice of the public hearing was issued on April 22, 2016.¹⁴

At least 20 people attended the public hearing at Waukenabo Town Hall on May 5, 2016, in Palisade, Minnesota.¹⁵ At the outset of the hearing, short presentations were made by Michael Kaluzniak for the Commission, Dan Leshner for the Applicant, and Suzanne Steinhauer for the DOC-EERA.¹⁶ Eighteen exhibits were entered into the record by Applicant.¹⁷ Nine people made comments or asked questions on the record during the public hearing.¹⁸ The hearing ended after the Administrative Law Judge offered the opportunity for anyone else to speak or ask questions, and no one accepted.¹⁹

⁶ See NOTICE OF PUBLIC INFORMATION AND ENVIRONMENTAL ASSESSMENT SCOPING MEETING (October 7, 2015) (eDocket No. 201510-114655-01); MEETING PRESENTATIONS (eDocket No. 20158-114823-01).

⁷ LETTER FROM STROHFUS TO WOLF (November 10, 2015) (eDocket No. 201511-115623-01).

⁸ LETTER FROM KOTCH TO STEINHAUER (November 10, 2015) (eDocket Nos. 201511-115606-01 through 03); LETTER FROM STROHFUS TO WOLF (November 10, 2015) (eDocket No. 201511-115623-01).

⁹ SCOPING SUMMARY COMMENTS (November 19, 2015) (eDocket No. 201511-115826-01).

¹⁰ LETTER FROM PARLOW TO WOLF (November 25, 2015) (eDocket No. 201511-115977-01).

¹¹ ENVIRONMENTAL ASSESSMENT SCOPING DECISION (December 22, 2015) (eDocket No. 201512-116740-01).

¹² LETTER FROM STEINHAUER TO [LANDOWNERS] (February 23, 2016) (eDocket No. 20162-118604-01).

¹³ ENVIRONMENTAL ASSESSMENT (April 2016) (eDocket No. 20164-120389-01).

¹⁴ NOTICE OF PUBLIC HEARING (April 22, 2016) (eDocket No. 20164-120509-01).

¹⁵ SIGN-IN SHEETS (May 5, 2016) (eDocket No. 20165-121405-02).

¹⁶ Palisade Public Hearing Transcript (Palisade Tr.) at 3-4 (May 5, 2016).

¹⁷ EXHIBIT LIST FOR PUBLIC HEARING (May 17, 2016) (eDocket No. 20165-121436-01).

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 38-39.

Following the adjournment of the public hearing, the record remained open through May 16, 2016, for interested persons to submit written comments. Written comments were submitted by three additional people, plus one person who had already commented during the public hearing.²⁰ The DNR also submitted written comments.²¹

II. Description of the Project

The Project is intended to provide electric service to the proposed Palisade Pump Station, which is part of the Line 3 oil pipeline replacement project being pursued by Enbridge Pipeline, Limited Partnership.²² The proposed Palisade Pump Station would be built on the east side of U.S. Highway 169, south of 510th Lane.²³ If the Palisade Pump Station is not built or is not built in the proposed location, the Project at issue in this proceeding will not move forward.²⁴

The Project consists of an approximately 13-mile 115 kV transmission line in Aitkin County to be built through the townships of Spencer, Morrison, and Waukenabo, Minnesota.²⁵ The length of the Project will vary depending upon the route alternative selected.²⁶ The Project will connect the proposed Palisade Pump Station with a new Rice River Breaker Station along Minnesota Power's existing Cromwell to Riverton 115 kV transmission line.²⁷

The Project largely follows U.S. Highway 169, crossing the Mississippi River at one of three alternate locations.²⁸ The first river crossing option, originally included in the Application, is referred to as the "east option."²⁹ For the east option, the Project would cross the Mississippi River adjacent to U.S. Highway 169.³⁰

The second river crossing option originally included in the Application is referred to as the "west option."³¹ For the west option, the Project would turn west approximately four miles north of the Rice River Breaker Station at 430th Street.³² The route would continue for approximately one-half mile to the end of 430th Street.³³ From that point, the route would follow a property line northwest across the Mississippi River to County

²⁰ SpeakUp Comments (eDocket No. 20165-121430-01).

²¹ LETTER FROM SCHRENZEL TO KALUZNIAK (May 16, 2016) (eDocket No. 20165-121393).

²² *Id.*; see PUC Docket No. PL-9/PPL-15-137 (Line 3 project).

²³ ENVIRONMENTAL ASSESSMENT at 2 (April 2016) (eDocket No. 20164-120389-01).

²⁴ *Id.*

²⁵ APPLICATION at 1-6 (August 5, 2015) (eDocket No. 20158-113516-02).

²⁶ ENVIRONMENTAL ASSESSMENT at 2 (April 2016) (eDocket No. 20164-120389-01).

²⁷ *Id.*

²⁸ *Id.* at 3-4. Originally, two river crossing options were proposed. A third option was proposed as part of the scoping process. See SCOPING SUMMARY COMMENTS at 5 (November 19, 2015) (eDocket No. 201511-115826-01).

²⁹ APPLICATION at 1-6, 1-7 (August 5, 2015) (eDocket No. 20158-113516-02).

³⁰ *Id.* at 1-7.

³¹ *Id.*

³² APPLICATION at 1-7 (August 5, 2015) (eDocket No. 20158-113516-02).

³³ *Id.*

Road 21.³⁴ Then the route would follow County Road 21 for approximately 1.2 miles back to U.S. Highway 169, and then north to the proposed pump station.³⁵

A third river crossing, proposed by Applicant following public comments at the October 2015 scoping meeting, is referred to as the “Chute Gardens option.”³⁶ This route option would take the Project west of U.S. Highway 169 near 435th Lane, cross the river, and then follow County Road 21 back to U.S. Highway 169.³⁷

Applicant has requested a route width of 200 feet on either side of the Highway 169 centerline for a majority of the route.³⁸ Wider route widths (to a maximum of 400 feet) are requested in some areas where alignment options are limited due to the proximity of homes and other features.³⁹ Larger areas of land have been requested where the pump station and breaker station will be located in order to accommodate design flexibility.⁴⁰ Applicant will acquire easements for the new 115 kV transmission line route from each impacted landowner.⁴¹

Applicant proposes to use single pole wood transmission line structures with horizontal post insulators for the Project.⁴² Single-pole ductile iron structures with horizontal post insulators, H-frame, laminated wood poles or steel poles may be required in some locations (e.g. to cross over a river, to cross under an existing line, for angled poles, or in areas where soil conditions are poor).⁴³ Typical pole heights will range from 60 to 90 feet above ground, and spans between poles will range from 275 to 450 feet. Some segments of the Project will carry distribution line underbuild.⁴⁴

The Project is calculated to cost approximately \$13 million dollars.⁴⁵ Construction for the Project is not expected to start until the spring of 2018.⁴⁶

III. Summary of Public Hearing Testimony

A. Jeff Theis

Jeff Theis commented on the record during the public hearing and also submitted written comments with demonstrative exhibits.⁴⁷ Mr. Theis owns property on 430th Street

³⁴ *Id.*

³⁵ *Id.*

³⁶ LETTER FROM STROHFUS TO WOLF (November 10, 2015) (eDocket No. 201511-115623-01).

³⁷ *Id.*

³⁸ APPLICATION at 1-3 (August 5, 2015) (eDocket No. 20158-113516-02).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Palisade Tr. at 18 (May 5, 2016).

⁴⁷ See Palisade Tr. at 27 (May 5, 2016) (“I have pictures, and I kind of did some photoshopping.”); Public Hearing Exhibit (Ex.) 27.

that would be impacted by the west option river crossing for the Project.⁴⁸ Mr. Theis claims the west option would split a property line established by himself and his brother, creating a barrier between the properties.⁴⁹ Mr. Theis intends to build a “dream home” on the flood plain his property sits on⁵⁰ and is concerned about the aesthetic impact of the Project crossing the middle of his property.⁵¹ Mr. Theis also claims the west option crosses a pond on a part of his property.⁵² Mr. Theis is concerned about the impact of the Project on the wildlife on his property, including whether it will be an avian hazard.⁵³ Mr. Theis challenged the validity of Applicant’s exemption from the requirement to obtain a certificate of need for the proposed Project.⁵⁴ Mr. Theis also challenged the legitimacy of the Environmental Assessment, suggesting six months was insufficient time for complete consideration of the Project’s impacts.⁵⁵ Ultimately, Mr. Theis prefers that the Project follow the east option adjacent to U.S. Highway 169.⁵⁶

B. James Stephen

James Stephen spoke on the record during the public hearing, asking questions about the alternative routes on the north end of the Project which would follow either the U.S. Highway 169 right-of-way (ROW) or the pipeline ROW.⁵⁷ Mr. Stephen thinks the route should follow the highway ROW because the pipeline ROW runs through wetlands, fields, and forests.⁵⁸ Mr. Stephen asked where the structures for the Project would be placed if the existing pipeline ROW is used.⁵⁹ Dan Leshar, appearing on behalf of Applicant, responded that if the existing pipeline ROW is followed, the Project would run along the west side of the pipeline with new easements that are outside of the existing pipeline easement areas.⁶⁰ Suzanne Steinhauer, appearing on behalf of the DOC-EERA, agreed that the ROW for the Project would be wider than the existing ROW for the pipeline.⁶¹

Mr. Stephen also asked whether farming could occur under the Project.⁶² Mr. Leshar responded that fences, roads, driveways, and farming operations could exist within the easement area.⁶³

⁴⁸ Palisade Tr. at 23 (May 5, 2016).

⁴⁹ *Id.* at 24. It is not clear to the Administrative Law Judge how the proposed route both splits the alleged property line and follows the property line as an easement.

⁵⁰ *Id.*; see also APPLICATION at 7- 27 (August 5, 2015) (eDocket No. 20158-113516-02).

⁵¹ Palisade Tr. at 24 (May 5, 2016).

⁵² *Id.* The exhibit submitted by Mr. Theis shows that, consistent with a detailed map of the area, the pond is to the north of the proposed route. See Public Hearing Ex. 27.

⁵³ Palisade Tr. at 25 (May 5, 2016).

⁵⁴ Palisade Tr. at 25 (May 5, 2016).

⁵⁵ *Id.* at 25-26.

⁵⁶ *Id.* at 26-27.

⁵⁷ *Id.* at 28.

⁵⁸ *Id.* at 28, 31.

⁵⁹ *Id.* at 28.

⁶⁰ *Id.* at 29-30.

⁶¹ Palisade Tr. at 31 (May 5, 2016).

⁶² *Id.* at 38.

⁶³ *Id.*

C. Loren Johnston

Loren Johnston owns property containing easements for the existing pipeline and commented on the record during the public hearing that he does not want to add the Project to the existing pipeline ROW area.⁶⁴ Mr. Johnston believes powerline transmission poles would negatively impact the aesthetics of his property.⁶⁵ Mr. Johnston also noted that a powerline has existed along the highway for 50 years and it should stay that way.⁶⁶

D. Heidi Roettger

Heidi Roettger commented on the record during the public hearing, stating that her parents own property on U.S. Highway 169.⁶⁷ She believes the Chute's Garden route option for crossing the Mississippi River should be used because it would not impact the homes of her parents, Mr. Jeff Theis, or Mr. Chute.⁶⁸ Ms. Roettger also believes the Chute's Garden route option would not require cutting down trees and creating a view of the highway.⁶⁹

E. Roger Glidden

Roger Glidden owns property in Morrison Township adjacent to County Road 21, which the west option for the Project would follow.⁷⁰ Mr. Glidden grows crops on his fields and aircraft are used as part of his farming operation.⁷¹ Mr. Glidden commented on the record during the public hearing that the east option should be used for the Project because it would not impact how his fields are used.⁷²

F. Tom Henderson

Tom Henderson owns seven acres of land between the Mississippi River and U.S. Highway 169.⁷³ Mr. Henderson commented on the record during the public hearing, stating that the west option would cross his land preventing any future building construction.⁷⁴ Mr. Henderson prefers the route following U.S. Highway 169 (east option) or the Chute's Garden option to cross the river.⁷⁵

⁶⁴ *Id.* at 32.

⁶⁵ *Id.*

⁶⁶ *Id.* at 32-33.

⁶⁷ *Id.* at 33.

⁶⁸ *Id.*

⁶⁹ *Id.* The Chute's Garden route alternative only removes the Project from running parallel to U.S. Highway 169 for a short distance.

⁷⁰ *Id.*

⁷¹ *Id.* at 33-34.

⁷² *Id.* at 34.

⁷³ Palisades Tr. at 34 (May 5, 2016).

⁷⁴ *Id.*

⁷⁵ *Id.* at 35.

G. Grant Sherman

Grant Sherman is the Waukenabo Township route supervisor.⁷⁶ On the record during the public hearing, Mr. Sherman expressed concern about the maintenance of the Enbridge pipeline, and suggested Enbridge move its proposed Palisade Pump Station to near County Road 3 where the pipeline will make a 90 degree turn.⁷⁷ According to Mr. Sherman, moving the pumping station will require three fewer miles of the Project route crossing personal property.⁷⁸

H. Dorothy Glidden

Dorothy Glidden commented on the record during the public hearing that County Road 21 is the last seven miles of the Great River Road (following the Mississippi River).⁷⁹ Ms. Glidden believes large powerline poles along the road would negatively impact the aesthetics of the road.⁸⁰

I. Jeff Schmidt

Jeff Schmidt owns property on the north end of the Project and recommended on the record during the public hearing that the Project follow the existing pipeline route.⁸¹ According to Mr. Schmidt, the easement necessary for the Project would remove trees in front of his home used for privacy and a windbreak, and also prevent future construction on the property.⁸²

IV. Summary of Written Comments

A. John Chute

John Chute owns a farm called Chute Gardens and is willing to have the Project cross his farm near the Mississippi River.⁸³ Mr. Chute recommends the east option as the “common sense option” because of maintenance and cost issues. Mr. Chute also points out that use of the existing road ROW means people living along the road should expect changes to the corridor.⁸⁴

⁷⁶ *Id.*

⁷⁷ *Id.* at 35-36.

⁷⁸ *Id.* at 36.

⁷⁹ *Id.* at 36-37.

⁸⁰ *Id.* at 37.

⁸¹ *Id.* at 37-38.

⁸² *Id.*

⁸³ Comment by John Chute (May 16, 2016) (SpeakUp) (eDocket No. 20165-121430-01).

⁸⁴ *Id.*

B. Christopher Woodall

Christopher Woodall owns a cider orchard business, which includes land with an orchard that would be crossed by the Project.⁸⁵ In the future, Mr. Woodall wants families to visit the orchard and purchase cider products, but worries the aesthetics of a powerline running through the orchard will have a negative impact on his future business.⁸⁶ Mr. Woodall questions the benefit of the Project to the community as compared to his business.⁸⁷ Mr. Woodall requests compensation for the negative impact of the Project on his business and land.⁸⁸

C. Jason Theis

Jason Theis is the brother of Jeff Theis, who commented on the record during the public hearing.⁸⁹ Mr. Jason Theis shares his brother's concern that the west option would negatively impact the construction of his dream homestead, and that the Project will divide the property.⁹⁰ According to Mr. Jason Theis, the Project will significantly limit the brothers' ability to build on their land because of the Project's proposed location on the property.⁹¹ Mr. Jason Theis believes use of his property for the Project is an abuse of the authority of eminent domain in violation of his rights, and the west option should not be utilized.⁹²

D. Loren Johnston

Loren Johnston submitted a written comment largely echoing his comments made on the record at the public hearing.⁹³ In his written comment, Mr. Johnston added that he plans to build a retirement home on his property with a view of the field where the Project would be located if it follows the existing pipeline ROW.⁹⁴ Mr. Johnston worries about the Project's potential danger to birds of prey if it follows the existing pipeline ROW, which includes an area where he sees eagles and hawks.⁹⁵ Mr. Johnston also worries that cutting hay near the Project would be more difficult.⁹⁶ Johnston wonders whether the presence of the Project along the existing pipeline ROW will affect personal safety while hunting in the area.⁹⁷ Mr. Johnston believes installation and maintenance of the Project will be easier if it follows U.S. Highway 169, where a current powerline exists on the west side of his property.⁹⁸

⁸⁵ Comment by Christopher Woodall (Apr. 27, 2016) (SpeakUp) (eDocket No. 20165-121430-01).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Comment by Jason Theis (May 9, 2016) (SpeakUp) (eDocket No. 20165-121430-01).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Comment by Loren Johnston (May 11, 2016) (eDocket No. 20165-121430-01).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

E. DNR

The DNR recommends use of bird diverters and border zone/wire zone vegetation management practices, including a route permit condition requiring Applicant to coordinate with the DNR regarding avian mitigation and vegetation management details once a route for the Project is selected.⁹⁹ The DNR also recommends a permit condition requiring the use of wildlife-friendly erosion control in certain areas.¹⁰⁰

The DNR believes the east option, crossing the Mississippi River adjacent to U.S. Highway 169, would have the least impact on natural resources overall because it follows existing infrastructure.¹⁰¹ Likewise, the DNR commented that following the existing pipeline ROW on the northern part of the Project would involve more forest and wetland impacts than establishing the Project along U.S. Highway 169.¹⁰²

V. Conclusion

This summary of public comments is respectfully submitted to the Commission.



JIM MORTENSON
Administrative Law Judge

Dated: June 17_, 2016

NOTICE

This report contains a summary of public testimony. It is not a final decision. Pursuant to Minn. R. 7850.3900 (2015), the Commission will make the final determination of following a review of the record.

⁹⁹ Comment by DNR (May 16, 2016) (eDocket No. 20165-121393-01).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

June 17, 2016

See Attached Service List

Re: In the Matter of the Palisades Route Permit Application {15-423}

**OAH 5-2500-32920
PUC ET2 / TL-15-423**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **SUMMARY OF PUBLIC TESTIMONY** in the above-entitled matter.

If you have any questions, please contact my legal assistant Rachel Youness at (651) 361-7881 or rachel.youness@state.mn.us, or facsimile at (651) 539-0310.

Sincerely,



JIM MORTENSON
Administrative Law Judge

JRM:ry

Enclosure

cc: Docket Coordinator

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

CERTIFICATE OF SERVICE

In the Matter of the Palisades Route Permit Application {15-423}	OAH Docket No.: 5-2500-32920 PUC ET2 / TL-15-423
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Rachel Youness, certifies that on June 17, 2016 she served the true and correct **SUMMARY OF PUBLIC TESTIMONY** by eService (in the manner indicated below) to the following individuals:

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Service List Member Information

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Anderson	Julia	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	Yes
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	No
Jensen	Patrice	patrice.jensen@state.mn.us	MN Pollution Control Agency	Electronic Service	No
Kotch	Stacy	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	Electronic Service	No
Kromar	Karen	karen.kromar@state.mn.us	MN Pollution Control Agency	Electronic Service	No
Lindell	John	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	Electronic Service	Yes
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Schmidt	Carole	cschmidt@greenergy.com	Great River Energy	Electronic Service	No
Schrenzel	Jamie	jamie.schrenzel@state.mn.us	Minnesota Department of Natural Resources	Electronic Service	No
Shaddix Elling	Janet	jshaddix@janetshaddix.com	Shaddix And Associates	Electronic Service	Yes
Strohfus	Mark	mstrohfus@greenergy.com	Great River Energy	Electronic Service	No
Wolf	Daniel P	dan.wolf@state.mn.us	Public Utilities Commission	Electronic Service	Yes

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