



2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

February 21, 2017

Kodi Jean Verhalen
(612) 977-8591
kverhalen@briggs.com

ELECTRONIC FILING

Mr. Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101

**Re: In the Matter of the Petition of Minnesota Energy Resources Corporation
for a Route Permit for the Rochester Natural Gas Pipeline Project in
Olmsted County
MPUC Docket No. G011/GP-15-858
OAH Docket No. 8-2500-33180
Exceptions to Administrative Law Judge Report**

Dear Mr. Wolf:

Enclosed, please find Minnesota Energy Resources Corporation's ("MERC's") Exceptions and Clarifications to the Findings of Fact, Conclusions of Law, and Recommendations of the Administrative Law Judge in the above-referenced docket. This document has been filed on the eDocket system and served on the attached service list.

Thank you for your attention to this matter. Please feel free to contact me at (612) 977-8591 if you have any questions.

Sincerely,

/s/ Kodi Jean Verhalen

Kodi Jean Verhalen

KJV/jy

cc: Service List

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of the Petition of Minnesota
Energy Resources Corporation for a Route
Permit for the Rochester Natural Gas Pipeline
Project in Olmsted County

MPUC Docket No. G011/GP-15-858

OAH Docket No. 8-2500-33180

**MINNESOTA ENERGY RESOURCES CORPORATION'S
EXCEPTIONS AND CLARIFICATIONS TO THE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDATIONS OF THE ADMINISTRATIVE
LAW JUDGE**

February 21, 2017

Kodi Jean Verhalen
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 977-8400

Attorney on Behalf of
Minnesota Energy Resources Corporation

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I. INTRODUCTION

Minnesota Energy Resources Corporation (“MERC” or the “Company”) respectfully submits the following Exceptions and Clarifications to the Administrative Law Judge’s (“ALJ”) Findings of Fact, Conclusions of Law, and Recommendation (“ALJ Report”) in this proceeding. While the ALJ Report accurately summarizes the record, the Company has identified several findings that could benefit from additional, minor clarifications. Additionally, MERC proposes an alternative Finding to more narrowly address one landowner’s request to accommodate a modification to the location of the route on their land and one new finding to address modifications to the Generic Route Permit Template language proposed by MERC but not reflected in the ALJ Report. Finally, MERC proposed one additional finding to clarify Route Permit language, consistent with MERC’s request in its December 30, 2016 Reply Comments.

II. CLARIFICATIONS

MERC requests that Findings 18 and 165 be revised as follows to clarify the Company’s intentions.

18. Additionally, one workspace on ~~either~~ each side of the crossing will be required for each area where horizontal directional drilling (HDD) or boring is used along the proposed Project. At each of these locations, approximately 225 square feet will be excavated on ~~either~~ each side of the crossing and a workspace of at least 20,000 square feet in total size will be needed to complete the installation.

165. The Company met with the Olmsted County Public Works Department and the Olmsted County Engineer on October 17, 2016. The Company confirmed that it would work with the county and county engineer as to the impacts of the final alignment for the Project on road rights-of-way and local development plans. The Company pledges to identify mitigation measures that may be incorporated into the final design of the Project so as to avoid unnecessary duplicative construction along the selected route.

III. ALTERNATIVE AND ADDITIONAL FINDINGS

While the ALJ recommended adoption of the Company's proposed condition related to route width variations at Finding 307(1), MERC understands that the Commission may not want to approve a condition that so broadly allows the Company and a landowner to identify an alignment outside the route width approved by the Commission. As identified in the Company's Initial Brief and Proposed Findings of Fact,¹ the language regarding a landowner's request was proposed in response to one specific landowner's request at the public hearing.²

In lieu of adopting the language in the ALJ Report at Finding 307(1) providing that "including a landowner request for a different location entirely on that landowner's property so long as the Permittee is agreeable to the proposed location," MERC proposes that the Commission adopt the following special condition to the Route Permit. Adoption of such a special condition would be similar to the Commission's prior action in other pipeline routing dockets.³ The Company requests that the following new finding be adopted by the Commission and the following new special condition be incorporated into the Route Permit.

Finding 308a. At the Public Hearing, Mr. Oldfield expressed concern about the anticipated alignment for the Project bisecting his property in Salem Township. Mr. Oldfield expressed a willingness to work with the Company to locate the Project closer to his property boundaries. Based on this, it is appropriate for the Commission to include a special condition in the Route Permit allowing MERC and Mr. Oldfield to locate the Project alignment outside the Route Width so long as such location places the Project right-of-way entirely on Mr. Oldfield's property and it is in a location agreeable to MERC.

Oldfield Property Special Condition. The Permittee shall work with Mr. Oldfield to determine if there is an alternate alignment for the Project from that of the

¹ MERC's Initial Brief at 27-28; MERC's Proposed Findings of Fact at Finding 204.

² Public Hearing Transcript at 68:2-7 (Oldfield).

³ *In the Matter of the Application of Enbridge Energy Limited Partnership and Enbridge Pipeline (Southern Lights) L.L.C. for a Routing Permit for the Alberta Clipper Pipeline Project and Southern Lights Diluent Project*, Docket No. PL9/PPL-07-361, ROUTING PERMIT at 13-14 (Dec. 29, 2008).

Modified Preferred Route across Mr. Oldfield's property, where the easement of the pipeline would be entirely within the boundaries of his property, that is agreeable to the Permittee and Mr. Oldfield to locate the pipeline as close to the property boundaries as practicable. If the Permittee and Mr. Oldfield cannot reach an agreement as to location on Mr. Oldfield's property, the Permittee shall be allowed to construct the Project along the anticipated alignment of the Modified Preferred Route.

During briefing, the Company and the Department of Commerce, Environmental Review and Analysis ("EERA") disagreed as to whether all permits obtained for the Project should be efiled in the Project docket. While EERA advocated for filing of all permits, the Company requested that the Generic Route Permit Template language, requiring permits be provided upon request, be retained. The ALJ did not address this issue in the ALJ Report. The Company believes that it is appropriate to use the Generic Route Permit Template language on this topic, requiring the Company to provide copies of permits upon request, but acknowledges the value in identifying all permits obtained or in process of being obtained for each segment of the Project. To address this topic, MERC respectfully requests that the Commission revise Finding 295(b) as follows:

(b) a detailed listing of environmental control plans or other special conditions imposed by permits or licenses issued by ~~state or federal agencies relating to the Project~~ federal, state, and local agencies or units of government, and a list of permits required for the construction of the Project;

Additionally, there are three areas of the Generic Route Permit Template that the Company requested be revised that were not addressed in the ALJ Report. MERC respectfully requests that the Commission incorporate the revisions identified below for the reasons stated in the Company's December 30, 2016 Reply Comments. The Company requests that these items be adopted as a new Finding to the ALJ Report and incorporated into the Route Permit.

Finding 308b. Based on the information provided in the record, the following revisions should be made to Route Permit language included in the

Generic Route Permit Template or proposed by EERA in its December 23, 2016, Comments:

If any federal funding, permit, or license is involved or required, the Permittee shall ~~notify the SHPO as soon as possible in the planning process to coordinate complete any~~ Section 106 (36 C.F.R. pat 800) review that is necessary by coordinating with the federal agency or federal authority and SHPO as deemed necessary by the federal agency or federal authority.⁴

Soil excavated from the wetlands and riparian areas shall be ~~contained and not placed back into the wetland or riparian area~~ handled in compliance with the permit from the appropriate regulatory agency. If any soil is excavated from wetlands or riparian areas not under state or federal jurisdiction, the soil shall be contained and not placed back into the wetland or riparian area.⁵

In agricultural land, the Permittee may seek a depth requirement waiver from the affected landowners to install the pipeline at the same depth ~~as the existing pipelines required by 49 C.F.R. 192.327.~~⁶

IV. CONCLUSION

Based on the foregoing, the record in this proceeding, and its Initial Brief, Proposed Findings of Fact, and Reply Comments, MERC respectfully requests that the Commission adopt the ALJ Report with the clarifications and modifications described above.

Dated: February 21, 2017

Respectfully submitted,

/s/ Kodi Jean Verhalen
Kodi Jean Verhalen
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 977-8400

Attorney on Behalf of
Minnesota Energy Resources Corporation

⁴ Language is shown in redline from the draft language proposed by EERA in its December 23, 2016 Comments.

⁵ Language is shown in redline from the Generic Route Permit Template language.

⁶ Language is shown in redline from the Generic Route Permit Template language. MERC notes this revision is requested as existing pipelines in the area of the Project were installed in the 1940s before there were federal or state standards for pipeline depth. The revision is requested to reflect the federal minimum depth requirements for natural gas pipelines.

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CERTIFICATE OF SERVICE

I, Roshelle L. Herstein, hereby certify that on the 21st day of February, 2017, on behalf of Minnesota Energy Resources Corporation (MERC), I electronically filed a true and correct copy of:

Exceptions to Administrative Law Judge Report;

on www.edockets.state.mn.us. Said documents were also served via U.S. mail and electronic service as designated on the attached service list.

Dated this 21st day of February, 2017.

/s/ Roshelle L. Herstein

Roshelle L. Herstein

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_15-858_Official Service List
Laura	Demman	laura.demman@nngco.com	Northern Natural Gas Company	1111 S. 103rd Street Omaha, NE 68125	Electronic Service	No	OFF_SL_15-858_Official Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_15-858_Official Service List
Emerald	Gratz	emerald.gratz@state.mn.us	Office of Administrative Hearings	PO Box 64620 Saint Paul, Minnesota 55164-0620	Electronic Service	No	OFF_SL_15-858_Official Service List
Mary	Holly	mholly@winthrop.com	Winthrop & Weinstine, P.A.	225 S Sixth St Ste 3500 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-858_Official Service List
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_15-858_Official Service List
Michael	Krikava	mkrikava@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-858_Official Service List
Amber	Lee	ASLee@minnesotaenergyresources.com	Minnesota Energy Resources Corporation	2665 145th St W Rosemount, MN 55068	Electronic Service	No	OFF_SL_15-858_Official Service List
John	Lindell	john.lindell@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_15-858_Official Service List
Eric	Lipman	eric.lipman@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Electronic Service	No	OFF_SL_15-858_Official Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Rick	Moser	rjmoser@integrysgroup.com	MERC	700 N Adams Street Green Bay, WI 54307	Electronic Service	No	OFF_SL_15-858_Official Service List
Catherine	Phillips	catherine.phillips@we-energies.com	We Energies	231 West Michigan St Milwaukee, WI 53203	Electronic Service	No	OFF_SL_15-858_Official Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes	OFF_SL_15-858_Official Service List
Eric	Swanson	eswanson@winthrop.com	Winthrop Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_15-858_Official Service List
Kodi	Verhalen	kverhalen@briggs.com	Briggs & Morgan	2200 IDS Center 80 South Eighth Street Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_15-858_Official Service List
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_15-858_Official Service List