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DATE: October 22, 2009

TO: William Glahn, Director *WLG*
Office of Energy Security

FROM: William Cole Storm, Energy Facility Permitting

RE: DOC Staff Recommendation for Adequacy Determination on the Request for Additional Dry Cask Storage at the Prairie Island Nuclear Generating Plant's Independent Spent Fuel Storage Installation Final Environmental Impact Statement PUC Docket No. E002/CN-08-510

The attached findings of fact, conclusions and order concerning the Environmental Impact Statement (EIS) prepared for the Prairie Island Nuclear Generating Plant's (PINGP) request for additional dry cask storage at its Independent Spent Fuel Storage Installation (ISFSI) are offered for your signature.

They document that all processes and procedures were followed by the Office of Energy Security (OES) Energy Facility Permitting (EFP) staff in fulfilling the requirements of Minnesota statute 116C.83, subd. 6 (b) and that the adequacy tests of Minnesota Rule 4410.2800, subp. 4. have been met.

Background

On May 16, 2008, Xcel Energy filed a Certificate of Need (CON) application for additional dry cask storage at the existing ISFSI at the PINGP with the Public Utilities Commission (PUC Docket No. E002/CN-08-510). This filing was pursuant to Minn. Stat. 116C.83, Minn. Stat. 216B.243, and Minn. Rule 7855. On July 15, 2008, the Public Utilities Commission (Commission) accepted the application as complete (July 22, 2008 Order).

The PINGP currently has State authorization for enough dry casks (e.g., 29) to store the spent fuel generated until the end of the current operating licenses in 2013 and 2014; there are currently 24 dry casks at the PINGP ISFSI. In order for the reactors to continue operation through a federal (Nuclear Regulatory Commission) license renewal period to 2033 and 2034, up to an additional 35 dry casks would be needed to be added to the existing ISFSI.

Authorization of any additional dry cask storage or expansion or establishment of an independent spent-fuel storage facility at a nuclear generation facility in Minnesota is subject to approval of a certificate of need by the Commission pursuant to Minn. Stat. 216B.243. An environmental impact statement (EIS) is required for the construction and operation of a new or expanded independent spent-fuel storage installation (Minn. Stat. 116C.83). The Department of Commerce is the

responsible governmental unit (RGU) for the environmental impact statement. Prior to finding the statement adequate, the commissioner must find that the applicant has demonstrated that the facility is designed to provide a reasonable expectation that the operation of the facility will not result in groundwater contamination in excess of the standards established in Minn. Stat. 116C.76, subdivision 1, clauses (1) to (3).

Along with its May 16, 2008, filing, Xcel Energy also filed a CON for the proposed PINGP Extended Power Uprate (EPU) Project (PUC Docket No. E002/CN-08-509). Additionally, Xcel Energy submitted a large electric power generating plant (LEPGP) Site Permit application to the Commission for the proposed EPU project (PUC No. E002/GS-08-690). Both dockets require the production of an environmental review document; an Environmental Report (ER) in the case of the CON and an Environmental Impact Statement in the case of the Site Permit. The Department of Commerce (Department) Office of Energy Security Energy Facility Permitting staff prepares the documents in either case.

Environmental Review

The three dockets relative to PINGP each requires an environmental review document.

Item	Docket No.	Review Document
CON for the EPU	E002/CN-08-509	Environmental Report
LEPGP Site Permit for the EPU	E002/GS-08-690	Environmental Impact Statement
CON for Additional Dry Casks	E002/CN-08-510	Environmental Impact Statement

The ER requirement of the EPU CON process and the EIS requirement of the LEPPG Siting process were combined into a single environmental review document pursuant to Minn. Rule 7849.7100. In addition, the Department in consultation with Commission staff determined that further process efficiencies would be achieved by incorporating the EIS requirements for the Additional Dry Cask Storage CON process with the environmental review requirements for the EPU CON and Site Permit.

Thus, the OES EFP staff prepared one document to fulfill:

- The Uprate CON and site permit environmental review requirements of 7849.7030 and 7849.5300, respectively, combined pursuant to 7849.7100.
- The Independent Spent Fuel Storage Installation EIS required pursuant to 116C.83, developed in accordance with 116D and Chapter 4410.

Before the Commission can make its need decision on the request for additional dry cask storage, the RGU (i.e., DOC OES) for environmental review must find that the EIS is adequate.

I am available to discuss this matter and any specifics of the EIS process at your convenience.

Cc: Marya White

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

In the Matter of the Application by
Xcel Energy for a Certificate of Need for
Additional Dry Cask Storage at the
Independent Spent Fuel Storage
Installation at the Prairie Island Nuclear
Generating Plant in Goodhue County.

**FINDINGS OF FACT,
CONCLUSIONS AND ORDER
FINDING ENVIRONMENTAL
IMPACT STATEMENT TO BE
ADEQUATE**

PUC Docket No. E002/CN-08-510

The above-captioned matter came before the Director of the Department of Commerce Office of Energy Security (OES) on October 22, 2009, pursuant to an application by Xcel Energy to expand the Independent Spent Fuel Storage Installation at the Prairie Island Nuclear Generating Plant in Goodhue County, Minnesota.

STATEMENT OF ISSUE

Is the Environmental Impact Statement for the Request for Additional Dry Cask Storage at the Prairie Island Nuclear Generating Plant's Independent Spent Fuel Storage Installation adequate?

Based upon all of the proceedings herein, the Director of the Department of Commerce OES makes the following:

FINDINGS OF FACT

Proposed Project

1. In order for the reactors at the Prairie Island Nuclear Generating Plant (PINGP) to continue operation through a license renewal period to 2033 and 2034, up to an additional 35 dry casks will need to be added to the existing Independent Spent Fuel Storage Installation (ISFSI).
2. The Prairie Island Plant currently has state authorization for enough dry casks (29) to store the spent fuel generated at the Prairie Island Plant until the end of the current operating licenses in 2013 and 2014. In order for the reactors to continue operation through a license renewal period to 2033 and 2034, up to an additional 35 dry casks will need to be added to the existing ISFSI. Xcel Energy will provide the additional spent fuel storage by extending the concrete storage pads within the existing ISFSI located at the Prairie Island Plant.

3. A certificate of need (CON) is required from the Minnesota Public Utilities Commission (Commission) for expanded spent fuel storage associated with the operation of a nuclear power plant beyond its current operating license (Minn. Stat. 116C.83).
4. An environmental impact statement (EIS) is required for the construction and operation of a new or expanded independent spent-fuel storage installation (Minn. Stat. 116C.83). The Department of Commerce is the responsible governmental unit for the environmental impact statement.
5. Prior to finding the EIS adequate, the commissioner must find that the applicant has demonstrated that the facility is designed to provide a reasonable expectation that the operation of the facility will not result in groundwater contamination in excess of the standards established in Minn. Stat. 116C.76, subdivision 1, clauses (1) to (3).

Procedural History

6. On May 16, 2008, Xcel Energy submitted an Application for a Certificate of Need for Additional Dry Cask Storage at the existing ISFSI at the Prairie Island Plant.
7. On May 20, 2008, the Commission issued a notice requesting comments on the completeness of Xcel Energy's CN Application.
8. The Commission met on July 15, 2008, to consider the CON Application. In an Order dated July 22, 2008, the Commission accepted the CON Application as substantially complete pending supplemental filing. In a separate Order dated July 22, 2008, the Commission referred the CON Application for a contested case proceeding and public hearing.

Related Proceedings

9. Along with its May 16, 2008, filing to the Commission, Xcel Energy also filed a CON application for a proposed Extended Power Uprate (EPU) project at the Prairie Island Nuclear Generating Plant. The docket number for this proceeding is E002/CN-08-509.
10. The Commission met on July 15, 2008, to consider the EPU CON Application. In an Order dated July 22, 2008, the Commission accepted the CON Application as substantially complete pending supplemental filing.
11. The Department of Commerce Office of Energy Security Energy Facility Permitting (EFP) staff prepares an Environmental Report (ER) on proposed large electric power generating plants that come before the Commission for a determination of need (Minn. Rules 7849.7100); the proposed Extended Uprate falls within this definition.

12. On August 1, 2008, Xcel Energy filed a Site Permit Application for the proposed EPU project to increase the generating capacity of the Prairie Island Plant. The docket number for this proceeding is E002/GS-08-690.
13. On August 15, 2008, the Commission issued an Order accepting the Site Permit Application as complete, authorizing the Office of Energy Security (OES) Energy Facilities Permitting (EFP) Staff to initiate the full review process under Minnesota Rules Chapter 7850, and referring the matter to the Office of Administrative Hearings for a contested case proceeding.
14. The EFP staff prepares a document called an EIS on proposed large electric power generating plants that come before the Commission for a Site Permit (Minn. Rules 7850.2500).
15. Minnesota Rule 7849.1900, Subpart 2, provides that in the event an applicant for a certificate of need for a LEPGP applies to the Commission for a site permit prior to the time the EFP completes the environmental report, the Department may elect to prepare an environmental impact statement (EIS) in lieu of the required environmental report. If the documents are combined, the Department includes in the EIS the analysis of alternatives required by part 7849.1500, but is not required to prepare an environmental report under part 7849.1200.

Environmental Scoping and Review

16. OES decided to prepare a single environmental review document for the three Prairie Island Nuclear Generating Plant dockets before the Commission. The single document fulfilled:
 - The Uprate CON and site permit environmental review requirements of 7849.1200 and 7850.2500, respectively, combined pursuant to 7849.1900.
 - The Independent Spent Fuel Storage Installation EIS required pursuant to 116C.83, developed in accordance with 116D and Chapter 4410.
17. On August 15, 2008, the OES issued a Notice of Public Information/Scoping Meeting to provide information to the public regarding the Certificates of Need and Site Permit Applications and to identify issues to study in the EIS to be prepared by the OES. The notice described the proposed project, provided directions for obtaining a copy of the applications, identified the public advisor, provided a deadline for submission of comments on the scope of the EIS, and provided notice of the initial public meeting. The OES provided the notice to all individuals on the project contact list. Xcel Energy published notice of the public meeting in the *Pierce County Herald* on August 13, 2008, and in the *Red Wing Republican-Eagle*, the *Hastings Star Gazette*, the *St. Paul Pioneer Press*, and the *Lake City Graphic* on August 14, 2008, pursuant to Minn. R. 7850.2300, subp. 2. Ex. 112, Public Notification of Applications

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- Compliance Filing. Notice was also published in the EQB Monitor on August 25, 2008 (Vol. 32, No. 17) (<http://www.eqb.state.mn.us/documents/EQB%20Monitor8-25-08.pdf>).
18. The OES released its draft EIS Scoping Document on August 25, 2008, and also issued a press release on September 3, 2008, regarding the availability of the draft EIS Scoping Document and the public meeting.
 19. The public information/scoping meeting was held as provided for in the Notice of Public Information Meeting on September 10, 2008, at Red Wing Public Library, Foot Room, 225 East Avenue, Red Wing, Minnesota at 7:00 p.m.
 20. Thirty-eight persons signed the attendance sheet at the public information/scoping meeting, with 10 of those persons pre-registering to speak; another five or so persons raised their hands to speak after the pre-registered speakers had their turn. The major area of concern voiced was the health and safety of the people living in close proximity to the PINGP and the associated ISFSI. Other issues included the environmental impacts from appropriating additional water from the Mississippi River, increased temperatures of the discharge water to the river and potential security of the ISFSI.
 21. On September 11, 2008, the Commission received two requests for the establishment of an Advisory Task Force (ATF). The first request was from Mr. Sigurd Anderson representing the Communities United for Responsible Energy (CURE) and the second request was from a Mr. John Howe.
 22. The Commission issued an Order on October 10, 2008, authorizing the formation of an advisory task force pursuant to Minn. Stat. 216E.08 and Minn. R. 7850.2400. The Commission charged the advisory task force with assisting OES EFP staff in developing the scope of environmental review for the EIS.
 23. The Advisory Task Force (ATF) met formally three times in October 2008, the 8th, 15th and 22nd. The meetings were open to the public, and frequently additional people attended to listen to the discussion. The ATF, through a facilitated process, reviewed the Xcel Energy proposal, discussed relevant issues, and suggested items for the scope of the EIS.
 24. The OES Director signed and released the EIS Scoping Decision on November 13, 2008. The OES provided a Notice of Scoping Decision and Intent to Prepare an Environmental Impact Statement to all parties on the project contact list on November 21, 2008.
 25. The OES released the draft EIS (DEIS) on March 17, 2009, for public comment. The deadline for comments on the DEIS was May 8, 2009. The OES issued a Notice of

Availability of the Draft Environmental Impact Statement and Notice of Public Meeting on March 17, 2009, in accordance with Minn. R. 7850.2500, subp. 7 and Minn. R. 4410.2600. The notice announced the availability of the DEIS for public review and comment, as well as the public meeting to be held on April 21, 2009, at the Red Wing Public Library. The notice also provided the deadline for submission of written comments on the DEIS. Notice of the DEIS and public meeting was sent to the each person on the project contact list and published in the EQB Monitor on March 23, 2009. (Vol. 33, No. 6) as required by Minn. R. 4410.2600, subp. 5.

26. The public meeting was held as provided for in the Notice of Availability of the Draft Environmental Impact Statement and Notice of Public Meeting on April 21, 2009, at Red Wing Public Library, Foot Room, 225 East Avenue, Red Wing, Minnesota at 6:00 p.m.
27. Based on sign-in sheets, the DEIS meeting was attended by 47 individuals, 12 of whom took the opportunity to speak on the record. OES staff led the presentation and presided over the public meeting. The public was encouraged to provide oral comments at the public meeting and to submit written comments to the OES by May 8, 2009. A court reporter was present at the public meeting to ensure that all oral comments were recorded accurately.
28. OES received 15 written comments on the DEIS during the public comment period.
29. In preparing the Final EIS, the OES Energy Facility Permitting (EFP) staff considered all comments to the extent practicable. An identification number was assigned to each commenter, including those who expressed comments orally at the public meeting. Individuals who submitted comments in multiple separate submissions were assigned a separate commenter number for each submission. Each specific comment by the same commenter was assigned a sequential comment number; for example, Comment 15-14 refers to the 14th comment by the commenter assigned as number 15.
30. Based on the comments received on the Draft EIS, OES EFP prepared responses and modified the EIS (Chapters 1 and 2) where appropriate. The EIS was also revised based on OES EFP's internal technical and editorial review of the DEIS (i.e., changes made to the EIS that were not in response to a comment received).
31. Transcripts of the public meeting, as well as scanned images of the original comment documents in order by assigned commenter number, are included in their entirety in Chapter 3 of the Final EIS. The commenters and their comments are identified and labeled on each document image beginning with the public meeting transcripts. Individual responses for each comment were provided on the right side of each page in close proximity to the corresponding comment. In cases where subsequent comments address the same issue, references were made to the earlier comment number for appropriate responses.

Criteria for Determination of Adequacy

Minnesota Rule 4410.2800, subp. 4, provides that the Final EIS is adequate if it:

- A. addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H;
- B. provides responses to the substantive comments received during the draft EIS review concerning issues raised in scoping; and
- C. was prepared in compliance with the procedures of the act and parts 4410.0200 to 4410.6500.

Based upon the foregoing Findings of Fact, the Director of the Office of Energy Security makes the following:

CONCLUSIONS

1. Any of the foregoing Findings that more properly should be designated as Conclusions are hereby adopted as such.
2. The Director of the Department of Commerce OES has the authority to determine the adequacy of the Final Environmental Impact Statement for the request for additional dry cask storage at the Prairie Island Nuclear Generating Plant's Independent Spent Fuel Storage Installation.
3. The Department of Commerce has fulfilled all relevant procedural requirements of law or rule applicable to the preparation of an Environmental Impact Statement.
4. The Final Environmental Impact Statement adequately addresses the significant environmental issues and alternatives identified in the Scoping Decision developed under Minnesota Rules part 4410.2100.
5. The Final Environmental Impact Statement provides responses to the substantive comments received during the draft EIS review concerning issues raised in scoping.

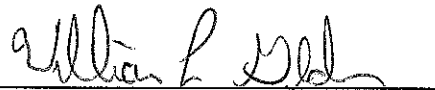
Based on the Findings of Fact and Conclusions contained herein and the entire record of this proceeding, the Department of Commerce hereby makes the following:

ORDER

The Director of the Department of Commerce OES hereby determines that the Final Environmental Impact Statement on the request for additional dry cask storage at the Prairie Island nuclear Generating Plant's Independent Spent Fuel Storage Installation is adequate.

Dated this 22nd day of October, 2009

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
OFFICE of ENERGY SECURITY



William Glahn
Director

