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JUN 16 2006

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**SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

June 15, 2006

**VIA UPS OVERNIGHT**

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*+Also licensed in Minnesota*

*J.W. Boyce (1884-1915)*

Patty VanGerpen, Ex. Director  
SD Public Utilities Commission  
500 E Capitol  
Pierre SD 57501

Re: In the Matter of the Application by Otter Tail Power Company on Behalf of Big Stone II Co-Owners for an Energy Conversion Facility Permit for the Construction of Big Stone II Project (EL05-022)  
Our File No. 11402.000

Dear Ms. Van Gerpen:

Please find attached the original and four (4) copies of the Motion to Take Judicial Notice together with four (4) copies of the Draft EIS. By copy of this letter the motion is being served on all counsel on the E-Service List.

Sincerely yours,

BOYCE, GREENFIELD, PASHBY & WELK, L.L.P.

Christopher W. Madsen

CWM/vjj

Enclosure

cc (via email): John J. Smith

John Davidson

Lesley J. Adam

Michael D. O'Neill

Elizabeth Goodpaster

Casey Davidson

Mary Jo Stueve

Karen Cremer

Bruce Nilles

Patrick Gallagher

George Hays

Sanjay Narayan

Todd Guerrero/David Sasseville

Bruce Gerhardson

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JUN 1 8 2006

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

In the Matter of Otter Tail Power Company  
on Behalf of Big Stone II Co-Owners for an  
Energy Conversion Facility Permit for the  
Construction of the Big Stone II Project

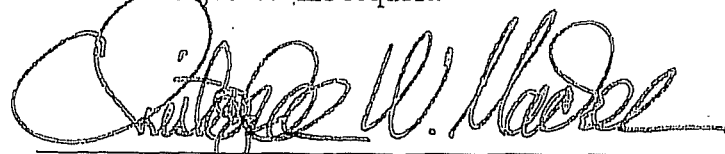
Docket No. EL 05-022

MOTION TO TAKE JUDICIAL NOTICE

Applicant Big Stone II Co-owners ("Applicant), by and through its undersigned attorneys of record, respectfully moves the Commission to take notice of the Draft Environmental Impact Statement dated May, 2006 ("Draft EIS"), pursuant to SDCL 1-26-19 and SDCL Ch. 19-10. Copies of the Draft EIS are publicly available upon request from the Western Area Power Administration. Applicant forwarded copies of the Draft EIS to all parties on the service list, including the PUC Staff, on May 5, 2006. Notice of the availability of the Draft EIS was published in the Federal Register of May 19, 2006. Four copies of the Draft EIS are being transmitted to the Commission with this motion. The Draft EIS has been marked as Applicants' Exhibit 53.

Counsel for Applicant has discussed this motion for judicial notice with counsel for the Staff and other parties. Pursuant to said discussions, counsel for Applicant is authorized to state that Staff and MCEA have no objection. ~~Mary Jo Stueve does object to this request.~~

Dated this 15<sup>th</sup> day of June, 2006



Thomas J. Welk

Christopher W. Madsen

Boyce, Greenfield, Pashby & Welk, L.L.P.

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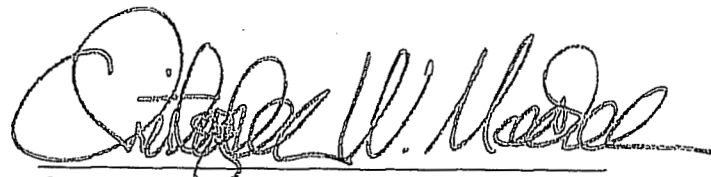
Attorneys for Co-owners

### CERTIFICATE OF SERVICE

I, Christopher W. Madsen, do hereby certify that I am a member of the law firm of Boyce, Greenfield, Pashby & Welk, L.L.P., attorneys for the Co-owners of Big Stone II Project and that on the 15<sup>th</sup> day of June, 2006, true and correct copies of the Motion to Take Judicial Notice were served via email to the following addresses listed on the E-Service List and by regular mail:

John Davidson	<a href="mailto:john.davidson@usd.edu">john.davidson@usd.edu</a>
Elizabeth I. Goodpaster	<a href="mailto:bgoodpaster@mncenter.org">bgoodpaster@mncenter.org</a>
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Sanjay Narayan	<a href="mailto:sanjay.narayan@sierraclub.org">sanjay.narayan@sierraclub.org</a>
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Dated this 16th day of June, 2006.



Christopher W. Madsen