

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

Docket No. EL 05-022

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

**BIG STONE II CO-OWNERS'
OBJECTIONS AND RESPONSES TO
FIRST SET OF REQUESTS FOR
ADMISSIONS**

The Big Stone II Co-owners (hereinafter referred to as “Applicant”), by and through their attorneys of record, make the following objections and responses to the First Set of Requests for Admissions propounded by Minnesotans For An Energy-Efficient Economy, Izaak Walton League of America – Midwest Office, Union of Concerned Scientists, and Minnesota Center for Environmental Advocacy (“Propounding Intervenors”) dated March 22, 2006.

GENERAL OBJECTIONS

Applicant objects to all the requests for admission served by Propounding Intervenors on the grounds that the requests seek admissions as to matters which are irrelevant to the issues to be determined by the Commission. In these requests, Propounding Intervenors seek admissions regarding the qualifications and work performed by committees and working groups assembled by the United Nations and other organizations. Such requests are annoying, oppressive, vexatious and burdensome and would require the Applicants to expend significant time and expense to research and consider the work of these organizations.

Furthermore, Propounding Intervenors employ vague and ambiguous definitions for the phrases “climate change” and “greenhouse gas(es)” which further render responses to the requests oppressive, annoying, vexatious and burdensome.

Ultimately, the requests for admissions of Propounding Intervenors seek to pose the following sorts of issues to be litigated at the hearing scheduled for June 26-30:

- Whether, in fact, the Earth is undergoing a climate change.
- If a climate change is occurring, what is the cause(s) of the change.
- Whether, to the exclusion of other possible causes of a climate change, the proposed Big Stone II Project significantly contributes to that change.

Applicant submits that these inquiries are irrelevant under SDCL Ch. 49-41B and therefore beyond the scope of SDCL 15-6-26(b) and would waste the time of the Commission and the parties.

SPECIFIC OBJECTIONS

In addition to the general objections, Applicant makes the additional objections to specific requests, by reference to the heading, as follows:

Relevance Objection. The request seeks a response to a matter which is beyond the proper scope of discovery as defined by SDCL 15-6-26(b) because the request is not relevant to the subject matter involved in the pending action and/or are not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, SDCL 1-26-19(1), which is applicable to this proceeding, requires that all irrelevant, incompetent, immaterial or unduly repetitious evidence shall be excluded from contested cases.

Vagueness and Burdensome Objection. The request is overly broad and vague, annoying, oppressive and vexatious and imposes an undue burden upon Applicant to undertake investigation and research beyond the reasonable inquiry required by SDCL 15-6-36(a). Additionally, the direct and indirect costs of locating, reviewing, evaluating, and analyzing information to respond to the request will impose unreasonable financial and administrative burdens on the Applicant, or one or more of the individual Applicants, and these burdens will significantly outweigh the probative value of the information sought.

Legal Conclusion Objection. Applicant objects to the request on the grounds that the request improperly calls for Applicant to make an admission of the truth of a matter relating to something other than statements or opinions of facts or the application of law to fact contrary to SDCL 15-6-36(a). The request requires Applicant to admit or deny a statement of law.

Any responses provided are made subject to the general and specific objections and by providing any responses, Applicant does not waive any objections.

REQUEST FOR ADMISSION NO. 1

Admit that in order to obtain a permit under SDCL Chapter 49-41B Co-owners must prove that the Big Stone II unit will not pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.

RESPONSE: Notwithstanding any objections, Applicant admits that SDCL 49-41B-22(2) states: “The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area.”

REQUEST FOR ADMISSION NO. 2

Admit that climate change would pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION:Legal Conclusion Objection.

Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 3

Admit that the increased concentration of greenhouse gases in the atmosphere would pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 4

Admit that carbon dioxide (CO₂) is a greenhouse gas that is increasing in concentration in the global atmosphere.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 5

Admit that CO₂ is the primary greenhouse gas causing climate change.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 6

Admit that the Big Stone II unit would emit between four and five million tons of CO₂ into the atmosphere every year it operates, as indicated by the graph labeled Big Stone I and II Carbon Dioxide Intensity (JCO 0001731), provided in your response in this docket to Mary Jo Stueve's Request for Production of Documents No. 12.

OBJECTION: Relevance Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 7

Admit that emissions from the Big Stone II unit would add to the increased concentration of CO₂ in the global atmosphere.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 8

Admit that Co-owners are required under ARSD 20:10:22:13 to provide estimates of changes in the existing environment which are anticipated to result from operation of the proposed facility, and identification of irreversible changes which are anticipated to remain beyond the operating lifetime of the facility.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.

RESPONSE: Notwithstanding any objections, Applicant admits ARSD 20:10:22:13 requires, among other things, “estimates of changes in the existing environment which are anticipated to result from construction and operation of the proposed facility, and identification of irreversible changes which are anticipated to remain beyond the operating lifetime of the facility.”

REQUEST FOR ADMISSION NO. 9

Admit that the annual emission of between four and five million tons of CO₂ from the Big Stone II unit, as indicated by the graph labeled Big Stone I and II Carbon Dioxide Intensity (JCO 0001731) provided in your response in this docket to Mary Jo Stueve’s Request for Production of Documents No. 12, would constitute a change in the existing environment under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 10

Admit that the emissions of between four and five million tons of CO₂ from the Big Stone II unit, as indicated by the graph labeled Big Stone I and II Carbon Dioxide Intensity (JCO 0001731) provided in your response in this docket to Mary Jo Stueve’s Request for Production of Documents No. 12, would contribute to an increase in CO₂ in the atmosphere that would persist for decades after the operating lifetime of the facility.

OBJECTION: Relevance Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 11

Admit that climate change will result in irreversible changes that are anticipated to remain beyond the operating lifetime of the facility.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 12

Admit that Co-owners are required under ARSD 20:10:22:13 to provide information about the environmental effects of the facility calculated to reveal and assess demonstrated or suspected hazards to the health and welfare of human, plant and animal communities which may be cumulative or synergistic consequences of siting the proposed facility in combination with other operating energy conversion facilities, existing or under construction.

OBJECTION: Legal Conclusion Objection.

RESPONSE: Applicant admits that ARSD 20:10:22:13 states, in part: “The environmental effects shall be calculated to reveal and assess demonstrated or suspected hazards to the health and welfare of human, plant and animal communities which may be cumulative or synergistic consequences of siting the proposed facility in combination with any operating energy conversion facilities, existing or under construction.”

REQUEST FOR ADMISSION NO. 13

Admit that climate change is a demonstrated or suspected hazard to the health and welfare of human, plant and animal communities under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 14

Admit that the CO₂ emissions from the Big Stone II unit, combined with those from other energy conversion facilities, existing or under construction, would contribute to increasing concentration of CO₂ in the atmosphere.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 15

Admit that the CO₂ emissions from the Big Stone II unit, combined with those from other energy conversion facilities, existing or under construction, increase the likelihood of climate change.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

REQUEST FOR ADMISSION NO. 16

Assuming proper intervention and pleading under SDCL 34A-10-2, admit that under SDCL 34A-10-8 any alleged pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein caused by the Big Stone II unit must be determined by the South Dakota PUC in considering the Big Stone II unit siting permit application.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.

RESPONSE: No response will be provided at this time pursuant to the objections. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 17

Assuming proper intervention and pleading under SDCL 34A-10-2, admit that under SDCL 34A-10-8 the South Dakota PUC is prohibited from approving the construction of the Big Stone II unit if it determines the unit has or is likely to have the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.

OBJECTION: Legal Conclusion Objection.

Relevance Objection.

RESPONSE: No response will be provided at this time pursuant to the objections. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 18

Admit that climate change will have or is likely to have the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein.

OBJECTION: Legal Conclusion Objection.
Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: No response will be provided at this time pursuant to the objections.

**INTERROGATORY NO. 1 AND
REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1**

If your response to any of Requests for Admissions 1 through 18 is a denial or anything other than an unqualified admission, then set forth in detail for each:

- a. the factual and legal reasons for your denial and/or your failure to provide an unqualified admission, including a detail of each and every fact supporting the same;
- b. the identity of each and every witness who supports your denial and/or your failure to provide an unqualified admission; and
- c. the identity of each and every document tending to support or relate in any way to your denial and/or failure to provide an unqualified admission, and identify by the name and address of each person having knowledge, facts or custody of such documents.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection.

RESPONSE: Pursuant to the objection, no response is forthcoming at this time.

Intergovernmental Panel on Climate Change Third Assessment Report, Working Group I

REQUEST FOR ADMISSION NO. 19

Admit that the Intergovernmental Panel on Climate Change (IPCC) was formed by the United Nations Environment Programme and the World Meteorological Organization in 1988. [See

IPCC 2004 document, “Sixteen Years of Scientific Assessment in Support of the Climate Convention,” hereafter “IPCC 2004,” <http://www.ipcc.ch/about/anniversarybrochure.pdf>]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 20

Admit that the 43rd United Nations General Assembly passed a resolution in 1988 endorsing the establishment of the IPCC and requesting that the IPCC provide “a comprehensive review and recommendations with respect to: (a) the state of knowledge of the science of climate and climatic change;”. [IPCC 2004, p. 3]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 21

Admit that the United Nations General Assembly in 1990 noted the findings of the IPCC first comprehensive review of the science of climate change and initiated negotiations on the Framework Convention on Climate Change. [IPCC 2004, p. 4]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 22

Admit that in 1992 the United Nations Framework Convention on Climate Change (hereafter Framework Convention) was adopted. [IPCC 2004, p 5]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 23

Admit that the United States ratified and is bound by the Framework Convention. [http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.
Legal Conclusion Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document, assess the work of its authors or determine whether the government of the United States ratified the Framework Convention or the effect of such ratification as it may pertain to these proceedings. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 24

Admit that the Conference of the Parties to the Framework Convention has asked the IPCC to provide full assessments of the climate science every 4-5 years, and to prepare various technical papers related to specific aspects of climate science, technology, and socio-economics. [IPCC 2004, p. 5].

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 25

Admit that the most recent Assessment Report released by the IPCC is the Third Assessment Report (TAR), released in 2001, and that part of the TAR is the report of Working Group I of the IPCC, entitled “Climate Change 2001: The Scientific Basis.”
[http://www.grida.no/climate/ipcc_tar/wg1/index.htm]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 26

Admit that “Climate Change 2001: The Scientific Basis,” describes in its preface how it was prepared, stating: “This report was compiled between July 1998 and January 2001, by 122 Lead Authors. In addition, 515 Contributing Authors submitted draft text and information to the Lead Authors. The draft report was circulated for review by experts, with 420 reviewers submitting valuable suggestions for improvement. This was followed by review by governments and experts, through which several hundred more reviewers participated. All the comments received were carefully analysed and assimilated into a revised document for consideration at the session of Working Group I held in Shanghai, 17 to 20 January 2001. There the Summary for Policymakers was approved in detail and the underlying report accepted.”

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 27

Admit that each of the following is among the findings set forth in the Summary for Policymakers adopted as part of “Climate Change 2001: The Scientific Basis”:

a. “The global average surface temperature has increased over the 20th century by about 0.6° C.” [p.2 pdf version]

b. “The atmospheric concentration of carbon dioxide (CO₂) has increased by 31% since 1750. The present CO₂ concentration has not been exceeded during the past 420,000 years and likely not during the past 20 million years. The current rate of increase is unprecedented during at least the past 20,000 years.” [p.7 pdf version] [footnote omitted]

c. “There is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities....There is a longer and more closely scrutinised temperature record and new model estimates of variability. The warming over the past 100 years is very unlikely to be due to internal variability alone, as estimated by current models.” [p.10, pdf version][footnote omitted]

d. “In the light of new evidence and taking into account the remaining uncertainties, most of the observed warming over the last 50 years is likely to have been due to the increase in greenhouse gas concentrations.” [p.10, pdf version][footnote]

e. “The globally averaged surface temperature is projected to increase by 1.4 to 5.8° C over the period 1990 to 2100.” [p. 13 pdf version] [reference to graph omitted].

f. “Increase of heat index over land areas” is projected to be “very likely, over most areas” during the 21st century. [p. 15, Table 1, pdf version] [footnotes omitted].

g. “More intense precipitation events” are projected to be “very likely, over many areas” during the 21st century. [p. 15, Table 1, pdf version] [footnotes omitted].

h. “Increased summer continental drying and associated risk of drought” is projected to be “likely, over most mid-latitude continental interiors” in the 21st century. [p. 15, Table 1, pdf version] [footnote omitted].

i. “Increase in tropical cyclone peak wind intensities” is projected to be “likely, over some areas” during the 21st century. [p. 15, Table 1, pdf version] [footnotes omitted].

j. “Increase in tropical cyclone mean and peak precipitation intensities” is projected to be “likely, over some areas” during the 21st century. [p. 15, Table 1, pdf version] [footnotes omitted].

k. “Anthropogenic climate change will persist for many centuries. Emissions of long-lived greenhouse gases (i.e., CO₂, N₂O, PFCs, SF₆) have a lasting effect on atmospheric composition, radiative forcing and climate. For example, several centuries after CO₂ emissions occur, about a quarter of the increase in CO₂ concentration caused by these emissions is still present in the atmosphere.” [p. 17, pdf version].

OBJECTION: Relevance Objection.

Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient

knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 28

Admit that Attachment A, attached hereto, is a true and correct copy of the Summary for Policymakers adopted as part of Climate Change 2001: The Scientific Basis. [http://www.grida.no/climate/ipcc_tar/wg1/pdf/WG1_TAR-FRONT.PDF, pages 1-20, pdf version].

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 29

Admit that the IPCC Working Group I is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group I and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 30

Admit that the IPCC Working Group I is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of Big Stone unit II.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient

knowledge to assess the qualifications of the IPCC Working Group I and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 31

Admit that the IPCC Working Group I is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities, which may be cumulative or synergistic consequences of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group I and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 32

Admit that the IPCC Working Group I is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group I and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 33

Admit that the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 34

Admit that the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of the Big Stone unit II under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 35

Admit that the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities as a cumulative or synergistic consequence of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction, under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 36

Admit that the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 37

Admit that the environmental changes found to be occurring or projected to occur in the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 38

Admit that the environmental changes found to be occurring or projected to occur in the Summary for Policymakers: A Report of Working Group I of the Intergovernmental Panel on Climate Change as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that have, or are likely to have, the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection

Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenor are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

INTERROGATORY NO. 2 AND REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2

If your response to any of Requests for Admissions 19 through 38 is a denial or anything other than an unqualified admission, then set forth in detail for each:

- a. the factual and legal reasons for your denial and/or your failure to provide an unqualified admission, including a detail of each and every fact supporting the same;
- b. the identity of each and every witness who supports your denial and/or your failure to provide an unqualified admission; and
- c. the identity of each and every document tending to support or relate in any way to your denial and/or failure to provide an unqualified admission, and identify by the name and address of each person having knowledge, facts or custody of such documents.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Pursuant to the objections, no response is forthcoming at this time.

Intergovernmental Panel on Climate Change Third Assessment Report Working Group II

REQUEST FOR ADMISSION NO. 39

Admit that part of the IPCC Third Assessment Report (TAR) is the report of Working Group II (“WGII”) of the IPCC, entitled “Climate Change 2001: Impacts, Adaptation, and Vulnerability.” [http://www.grida.no/climate/ipcc_tar/wg2/index.htm]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the

information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 40

Admit that the preface of “Climate Change 2001: Impacts, Adaptation and Vulnerability” describes how it was prepared, stating: “The WGII report was compiled by 183 Lead Authors between July 1998 and February 2001. In addition, 243 Contributing Authors submitted draft text and information to the Lead Author teams. Drafts of the report were circulated twice for review, first to experts and a second time to both experts and governments. Comments received from 440 reviewers were carefully analyzed and assimilated to revise the document with guidance provided by 33 Review Editors. The revised report was presented for consideration at a session of the Working Group II panel held in Geneva from 13 to 16 February 2001, in which delegates from 100 countries participated. There, the Summary for Policymakers was approved in detail and the full report accepted.”

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 41

Admit that each of the following statements is made in the Summary for Policymakers of “Climate Change 2001: Impacts, Adaptation, and Vulnerability” [http://www.grida.no/climate/ipcc_tar/wg2/pdf/wg2TARspm.pdf]:

a. “Natural Systems are Vulnerable to Climate Change, and Some will be Irreversibly Damaged. Natural systems can be especially vulnerable to climate change because of limited adaptive capacity, and some of these systems may undergo significant and irreversible damage. Natural systems at risk include glaciers, coral reefs and atolls, mangroves, boreal and tropical forests, polar and alpine ecosystems, prairie wetlands, and remnant native grasslands. While some species may increase in abundance or range, climate change will increase existing risks of extinction of some more vulnerable species and loss of biodiversity. It is well-established that the geographical extent of the damage or loss, and the number of systems affected, will increase with the magnitude and rate of climate change.” [pp. 4-5, pdf version] [references omitted.]

b. “Many Human Systems are Sensitive to Climate Change, and Some are Vulnerable. Human systems that are sensitive to climate change include mainly water resources; agriculture (especially food security) and forestry; coastal zones and marine systems (fisheries);

human settlements, energy and industry; insurance and other financial services; and human health. ... Projected adverse impacts based on models and other studies include:

- A general reduction in potential crop yields in most tropical and sub-tropical regions for most projected increases in temperature
- A general reduction, with some variation, in potential crop yields in most regions in mid-latitudes for increases in annual-average temperatures of more than a few °C
- Decreased water availability for populations in many water-scarce regions, particularly in the sub-tropics
- An increase in the number of people exposed to vector-borne (e.g. malaria) and water-borne diseases (e.g., cholera), and an increase in heat stress mortality
- A widespread increase in the risk of flooding for many human settlements (tens of millions of inhabitants in settlements studied) from both increased heavy precipitation events and sea-level rise
- Increased energy demand for space cooling due to higher summer temperatures.” [p. 5, pdf version][references omitted]

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 42

Admit that Table SPM-1, entitled “Examples of impacts resulting from projected changes in extreme climate events” lists under the column “Representative Examples of Projected Impacts (all high confidence of occurrence in some areas)” each of the following impacts [p. 7, pdf version]:

- a. “Increased incidence of death and serious illness in older age groups and urban poor.”
- b. “Extended range and activity of some pest and disease vectors.”
- c. “Increased flood, landslide, avalanche, and mudslide damage.”
- d. “Increased soil erosion.”
- e. “Decreased crop yields.”
- f. “Increased damage to building foundations caused by ground shrinkage.”

- g. “Decreased water resource quantity and quality.”
- h. “Increased risk of forest fire.”
- i. “Increased risks to human life, risk of infectious disease epidemics, and many other risks.”
- j. “Increased coastal erosion and damage to coastal buildings and infrastructure.”
- k. “Increased damage to coastal ecosystems such as coral reefs and mangroves.”

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 43

Admit that Attachment B, attached hereto, is a true and correct copy of the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change. [http://www.grida.no/climate/ipcc_tar/wg2/pdf/wg2TARspm.pdf].

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 44

Admit that the IPCC Working Group II is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group II and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 45

Admit that the IPCC Working Group II is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of Big Stone unit II.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group II and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 46

Admit that the IPCC Working Group II is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities, which may be cumulative or synergistic consequences of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group II and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 47

Admit that the IPCC Working Group II is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the IPCC Working Group II and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 48

Admit that the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 49

Admit that the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of Big Stone unit II under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 50

Admit that the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal

communities, which may be cumulative or synergistic consequences of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction, under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 51

Admit that the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 52

Admit that the environmental changes found to be occurring or projected to occur in the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 53

Admit that the environmental changes found to be occurring or projected to occur in the Summary for Policymakers: Climate Change 2001: Impacts, Adaptation, and Vulnerability, A Report of Working Group II of the Intergovernmental Panel on Climate Change as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that have, or are likely to have, the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

**INTERROGATORY NO. 3 AND
REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3**

If your response to any of Requests for Admissions 39 through 53 is a denial or anything other than an unqualified admission, then set forth in detail for each:

- a. the factual and legal reasons for your denial and/or your failure to provide an unqualified admission, including a detail of each and every fact supporting the same;
- b. the identity of each and every witness who supports your denial and/or your failure to provide an unqualified admission; and
- c. the identity of each and every document tending to support or relate in any way to your denial and/or failure to provide an unqualified admission, and identify by the name and address of each person having knowledge, facts or custody of such documents.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Pursuant to the objections, no response is forthcoming at this time.

National Academy of Sciences

REQUEST FOR ADMISSION NO. 54

Admit that the National Academy of Sciences was formed by legislation signed in 1863, and that as mandated in its Act of Incorporation it has since then served to "investigate, examine, experiment, and report upon any subject of science or art" whenever called upon to do so by any department of the government.

http://www.nasonline.org/site/PageServer?pagename=ABOUT_main_page

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 55

Admit that the National Academy of Sciences is comprised of approximately 2,000 members and 350 foreign associates, of whom more than 200 have won Nobel Prizes.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 56

Admit that members and foreign associates of the Academy are elected in recognition of their distinguished and continuing achievements in original research, and that election to the Academy is widely considered one of the highest honors that can be accorded a scientist or engineer.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 57

Admit that National Academy of Sciences is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the National Academy of Sciences and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 58

Admit that National Academy of Sciences is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of Big Stone unit II.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the National Academy of Sciences and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 59

Admit that National Academy of Sciences is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities, which may be cumulative or synergistic consequences of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the National Academy of Sciences and admit to the foundation or accuracy of its reports.

REQUEST FOR ADMISSION NO. 60

Admit that National Academy of Sciences is qualified to assess and discuss the scientific data related to whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this request. Applicant is without sufficient knowledge to assess the qualifications of the National Academy of Sciences and admit to the foundation or accuracy of its reports.

Joint Academies' Statement

REQUEST FOR ADMISSION NO. 61

Admit that the U.S. National Academy of Sciences along with national science academies of Brazil, Canada, China, France, Germany, India, Italy, Japan, Russia, and the United Kingdom issued a statement in 2005 entitled "Joint Science Academies' Statement: Global Response to Climate Change," [hereafter "Joint Science Academies Statement"] [<http://nationalacademies.org/onpi/06072005.pdf>] which included each of the following statements:

a. Under the heading "Climate change is real," the statement says: "There will always be uncertainty in understanding a system as complex as the world's climate. However, there is now strong evidence that significant global warming is occurring. The evidence comes from direct measurements of rising surface air temperatures and subsurface ocean temperatures and from phenomena such as increases in average global sea levels, retreating glaciers, and changes to many physical and biological systems. It is likely that most of the warming in recent decades can be attributed to human activities (IPCC 2001). This warming has already led to changes in the Earth's climate." [footnotes omitted]

b. "The existence of greenhouse gases in the atmosphere is vital to life on Earth – in their absence average temperatures would be about 30 centigrade degrees lower than they are today. But human activities are now causing atmospheric concentrations of greenhouse gases – including carbon dioxide, methane, tropospheric ozone, and nitrous oxide – to rise well above pre-industrial levels. Carbon dioxide levels have increased from 280 ppm in 1750 to over 375 ppm today – higher than any previous levels that can be reliably measured (i.e. in the last

420,000 years). Increasing greenhouse gases are causing temperatures to rise; the Earth's surface warmed by approximately 0.6 centigrade degrees over the twentieth century. The Intergovernmental Panel on Climate Change (IPCC) projected that the average global surface temperature will continue to increase between 1.4 centigrade degrees and 5.8 centigrade degrees above 1990 levels, by 2100."

c. Under the heading "Reduce the causes of climate change," the statement says: "The scientific understanding of climate change is now sufficiently clear to justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now, to contribute to substantial and long-term reduction in net global greenhouse gas emissions."

d. "Action taken now to reduce significantly the increased concentration of greenhouse gases in the atmosphere will lessen the magnitude and rate of climate change. As the United Nations Framework Convention on Climate Change (UNFCCC) recognises, a lack of full scientific certainty about some aspects of climate change is not a reason for delaying an immediate response that will, at a reasonable cost, prevent dangerous anthropogenic interference with the climate system."

e. "Carbon dioxide can remain in the atmosphere for many decades. Even with possible lowered emission rates we will be experiencing the impacts of climate change throughout the 21st century and beyond. Failure to implement significant reductions in greenhouse gas emissions now, will make the job much harder in the future."

f. "We urge all nations, in the line with the UNFCCC principles, to take prompt action to reduce the causes of climate change, adapt to its impacts and ensure that the issue is included in all relevant national and international strategies. As national science academies, we commit to working with governments to help develop and implement the national and international response to the challenge of climate change." [citation omitted]

g. "G8 nations have been responsible for much of the past greenhouse gas emissions. As parties to the UNFCCC, G8 nations are committed to showing leadership in addressing climate change and assisting developing nations to meet the challenges of adaptation and mitigation."

h. "We call on world leaders, including those meeting at the Gleneagles G8 Summit in July 2005, to:

- Acknowledge that the threat of climate change is clear and increasing.

[bullet points omitted]

- Show leadership in developing and deploying clean energy technologies and approaches to energy efficiency, and share this knowledge with all other nations."

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 62

Admit that the document in Attachment C, attached hereto, is a true and accurate copy of the “Joint Science Academies’ Statement.”

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 63

Admit that the Joint Science Academies’ Statement includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 64

Admit that the Joint Science Academies’ Statement includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of the facility under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 65

Admit that the Joint Science Academies' Statement includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities as a cumulative or synergistic consequence of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction, under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 66

Admit that the Joint Science Academies' Statement includes information relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 67

Admit that the environmental changes that the Joint Science Academies' Statement finds to be occurring or projects to occur as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that pose a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 68

Admit that the environmental changes that the Joint Science Academies' Statement finds to be occurring or projects to occur as a result of the increased concentration of greenhouse gases in the atmosphere constitute changes that have, or are likely to have, the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

INTERROGATORY NO. 4 AND REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4

If your response to any of Requests for Admissions 54 through 68 is a denial or anything other than an unqualified admission, then set forth in detail for each:

a. the factual and legal reasons for your denial and/or your failure to provide an unqualified admission, including a detail of each and every fact supporting the same;

b. the identity of each and every witness who supports your denial and/or your failure to provide an unqualified admission; and

c. the identity of each and every document tending to support or relate in any way to your denial and/or failure to provide an unqualified admission, and identify by the name and address of each person having knowledge, facts or custody of such documents.

OBJECTION: Relevance Objection.
Vagueness and Burdensome Objection.

RESPONSE: Pursuant to the objections, no response is forthcoming at this time.

NAS Climate Highlights Report

REQUEST FOR ADMISSION NO. 69

Admit that in its 2005 publication, “Understanding and Responding to Climate Change: Highlights of National Academies Reports,” [http://dels.nas.edu/basc/climate-change_final.pdf] the National Academy of Sciences makes each of the following statements:

a. “A growing body of evidence indicates that the Earth’s atmosphere is warming. Records show that surface temperatures have risen about 1.4° F (0.7° C) since the early twentieth century, and that about 0.9° F (0.5° C) of this increase has occurred since 1978. Observed changes in oceans, ecosystems, and ice cover are consistent with this warming trend.” [p.2]

b. “The Earth is warming.... The most striking evidence of a global warming trend is closely scrutinized data that show a relatively rapid and widespread increase in temperature during the past century [citation omitted]. The rising temperatures observed since 1978 are particularly noteworthy because the rate of increase is so high and because, during the same period, the energy reaching the Earth from the Sun had been measured precisely enough to conclude that Earth’s warming was not due to changes in the Sun.” [p. 4]

c. “Steps can be taken to reduce greenhouse gases in the atmosphere. Despite remaining unanswered questions, the scientific understanding of climate change is now sufficiently clear to justify taking steps to reduce the amount of greenhouse gases in the atmosphere. Because carbon dioxide and some other greenhouse gases can remain in the atmosphere for many decades, centuries, or even longer, the climate change impacts from concentrations today will likely continue well beyond the 21st century and could potentially accelerate. Failure to implement significant reductions in net greenhouse gas emissions will make the job much harder in the future – both in terms of stabilizing their atmospheric abundances and in terms of experiencing more significant impacts.” [p. 16].

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 70

Admit that the conclusions of the National Academy of Sciences quoted in Requests for Admission 69 are relevant to determining whether the increased concentration of CO₂ in the atmosphere poses a threat of serious injury to the environment under SDCL 49-41B-22.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 71

Admit that the conclusions of the National Academy of Sciences quoted in Requests for Admission 69 are relevant to determining whether the increased concentration of CO₂ in the atmosphere will change the existing environment, including causing irreversible changes anticipated to remain beyond the operating life of the facility under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 72

Admit that the conclusions of the National Academy of Sciences quoted in Requests for Admission 69 are relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause hazards to the health and welfare of human, plant and animal communities as a cumulative or synergistic consequence of siting Big Stone unit II in combination with other operating energy conversion facilities, existing or under construction, under ARSD 20:10:22:13.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 73

Admit that the conclusions of the National Academy of Sciences quoted in Requests for Admission 69 are relevant to determining whether the increased concentration of CO₂ in the atmosphere will cause pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenor are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

REQUEST FOR ADMISSION NO. 74

Admit that the environmental changes found to be occurring or projected to occur as a result of the increased concentration of greenhouse gases in the atmosphere by the National Academy of Sciences in its 2005 publication, "Understanding and Responding to Climate Change: Highlights of National Academies Reports," constitute changes that pose a threat of serious injury to the environment under SDCL 49-41B-22;

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied.

REQUEST FOR ADMISSION NO. 75

Admit that the environmental changes found to be occurring or projected to occur as a result of the increased concentration of greenhouse gases in the atmosphere by the National Academy of Sciences in its 2005 publication, "Understanding and Responding to Climate Change: Highlights of National Academies Reports," constitute changes that have, or are likely to have, the effect of pollution, impairment, or destruction of the air, water, or other natural resources or the public trust therein under SDCL 34A-10-8.

OBJECTION: Legal Conclusion Objection
Relevance Objection
Vagueness and Burdensome Objection

RESPONSE: Applicant has made reasonable inquiry and the information known to it is insufficient to enable Applicant to admit or deny this statement. Applicant is without sufficient knowledge to admit the foundation of the referenced document, assess the accuracy of the information contained in the document or assess the work of its authors. Therefore, this request is denied. Furthermore, because Propounding Intervenors are actively participating in this docket, SDCL Ch. 34A-10 is not applicable.

INTERROGATORY NO. 5 AND REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5

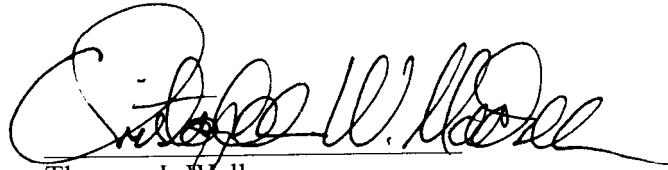
If your response to any of Requests for Admissions 69 through 75 is a denial or anything other than an unqualified admission, then set forth in detail for each:

- a. the factual and legal reasons for your denial and/or your failure to provide an unqualified admission, including a detail of each and every fact supporting the same;
- b. the identity of each and every witness who supports your denial and/or your failure to provide an unqualified admission; and
- c. the identity of each and every document tending to support or relate in any way to your denial and/or failure to provide an unqualified admission, and identify by the name and address of each person having knowledge, facts or custody of such documents.

OBJECTION: Relevance Objection
Vagueness and Burdensome Objection.

RESPONSE: Pursuant to the Objections, no response is forthcoming at this time.

Dated: April 24, 2006



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CERTIFICATE OF SERVICE

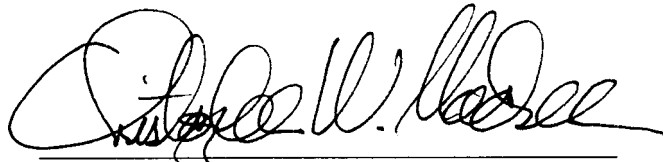
I, Christopher W. Madsen, do hereby certify that I am a member of the law firm of Boyce, Greenfield, Pashby & Welk, L.L.P., attorneys for the Co-owners of Big Stone II Project and that on the 11th day of April, 2006, true and correct copies of the Big Stone II Co-owners' Objections and Responses to First Set of Requests for Admissions were served via email on the following:

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