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SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

January 17, 2008

Karen Cremer  
South Dakota Public Utilities Commission  
Capitol Building, 1st Floor  
501 East Capital Avenue  
Pierre, SD 57501-5071

Xcel Energy Split Rock to Lakefield Junction 345-kV Transmission Line and Add  
Facilities EL05-023  
Stipulation Update  
Burns and McDonnell Project Number: 40754

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Ms. Karen Cremer:

This letter is in reference to South Dakota Public Utilities Commission (PUC) Stipulation EL05-023, which was approved and agreed to on October 26, 2007. Section 9(o) indicated that Xcel Energy would supply the PUC with a copy of the Eagle Protection Plan (EPP). Enclosed is a copy of the modification request to the EPP that has been submitted to the U.S. Fish and Wildlife Service (USFWS).

The modification request has been submitted due to the bald eagle nest described in the EPP was determined to be no longer present on December 13, 2007 due to unknown causes. A new bald eagle nest is located further east of the proposed line along the Big Sioux River. The modified EPP follows guidance from the National Bald Eagle Management Guidelines (NBEMG) published in May 2007.

The USFWS has indicated, in phone conversations, they have no concerns with the modifications. The enclosed letter to the USFWS request concurrence that the modified EPP follows NBEMG.

Do not hesitate to contact me at any time. I can be reached by phone at (816) 822-3578 or by e-mail at [shaler@burnsmcd.com](mailto:shaler@burnsmcd.com). Thank you.

Sincerely,

Steven E. Haler  
Environmental Scientist



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January 16, 2008

U.S. Fish & Wildlife Service  
Mountain-Prairie Region  
South Dakota Ecological Services Field Office  
420 South Garfield Avenue, Suite 400  
Pierre, South Dakota 57501-5408

Modification: Bald Eagle Management Plan for the Southwest Minnesota Transmission Upgrade Project

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Ms. Natalie Gates:

This letter is in reference to the e-mail response dated September 26, 2007 to Bryan Gasper (Burns and McDonnell, Environmental Scientist) in which the reviewing office had no comments on Xcel Energy Bald Eagle Management Plan for the Southwest Minnesota Transmission Upgrade Project (SWTU Plan). The e-mail requested that if any changes or additional information becomes available to notify your office. Below is a description of changes to the bald eagle nest referenced in the original SWTU Plan.

The bald eagle nest described in the SWTU Plan (Figure 1) was determined to be no longer present on December 13, 2007 due to unknown causes (Figures 2 and 3).

A new (likely relocated) bald eagle nest (Figures 4 and 5) is located east of the proposed line along the Big Sioux River (Figure 1). The newly observed nest is located farther from the proposed line relative to the previously observed nest. It is Burns & McDonnell's professional opinion that the newly observed nest was constructed within the last year.

There was no observed activity at or around the nest during the period of observation on December 13, 2007. This also included observations under and near the nest and noted a lack of scat and the remains of prey on the ground. There was the presence of numerous prey tracks (*i.e.*, pheasants, raccoons) in the snow near and around the nest as well as waterfowl on the Big Sioux River. The nest is located immediately southeast and adjacent to a crop field that will be subject to activity throughout the year for agriculture purposes (Figure 6). The crop field was used in 2007 for corn production; therefore a considerable amount of activity took place near the nest during the building process. Additionally, the nest is now closer to the Burlington Northern/Santa Fe Railroad and Interstate 90. These factors did not deter the eagle(s) from constructing the nest in this location. There is an existing transmission line in the area that does not appear to have had an adverse effect on the bald eagles in the area. The continued presence of the



nesting bald eagles in the vicinity of the existing activities suggests that the eagles in the construction area can tolerate a greater degree of human activity than what is generally expected from eagles in areas that experience fewer human encounters.

The Primary, Secondary, and Tertiary Eagle Nest Buffer Zones outlined in the SWTU Plan are no longer described in current guidelines. As part of the modification to the SWTU Plan the new disturbance buffer zone in the SWTU Plan will follow guidance from the National Bald Eagle Management Guidelines (NBEMG) published in May 2007. The NBEMG includes specific recommendations to account for the construction of linear structures (*i.e.*, power lines) for avoiding disturbing the bald eagle. Additionally, the recommendations take into account construction in the vicinity of existing structures. The new buffer zone will be the 660 feet (Figure 1) as indicated in the table located on page 12 of the NBEMG. A buffer zone of 660 feet is based on 'if the activity will be visible from the nest' and 'if there is similar activity closer than one mile from the nest.' If the activity meets the above conditions, then the NBEMG recommends a buffer distance of '660 feet, or as close as existing tolerated activity of similar scope.' The SWTU activities meet both of the above conditions; therefore the recommended buffer zone of 660 feet will be observed.

The only construction activity for the SWTU that would be located within the 660 feet buffer zone would be passage along an access route to a transmission line structure location (structure 508). This access route will parallel the existing Burlington Northern/Santa Fe Railroad line. The rail line has two trains that travel by the nest on a daily basis. Also, the access route would be on the far north end of a farmed crop field which is directly under and adjacent to the nest (Figure 6). This was used in 2007 for corn production and it is currently planed to be farmed again in 2008. It is Burns & McDonnell's professional opinion that the addition of equipment driving through this area near the nest will not pose additional disturbance to the bald eagles, if they are present, relative to what occurs in the area due to normal daily activities.

The current construction schedule indicated that the access route would be used in mid-February, early March, and mid-April. Prior to using the access location in mid-February, the construction foreman in the area will notify the construction manager and Xcel Energy of any reports that a bald eagle has been observed in the area of the nest. If bald eagle activity is noted in this area, Xcel Energy will provide an experienced observer to monitor the eagle activity near this portion of the SWTU Project site to determine if the nest is occupied. If it is determined that the nest is occupied, the nest will be observed to determine if the bald eagles are being disturbed by the use of the access route.

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The status of the SWTU Project is as follows: construction activities at the Split Rock Substation began on October 15, 2007. Foundation installation for the new transmission line structures will begin in the area starting in February followed by the transmission line structure erection and stringing activities.

As part of this letter we are requesting that the U. S. Fish and Wildlife Services concurs that the modifications are generally in compliance with the NBEMG which promote means to minimize impacts to the bald eagle.

Do not hesitate to contact me at any time. I can be reached by phone at (816) 333-9400 or by email at [bgasper@burnsmcd.com](mailto:bgasper@burnsmcd.com). Thank you.

Sincerely,

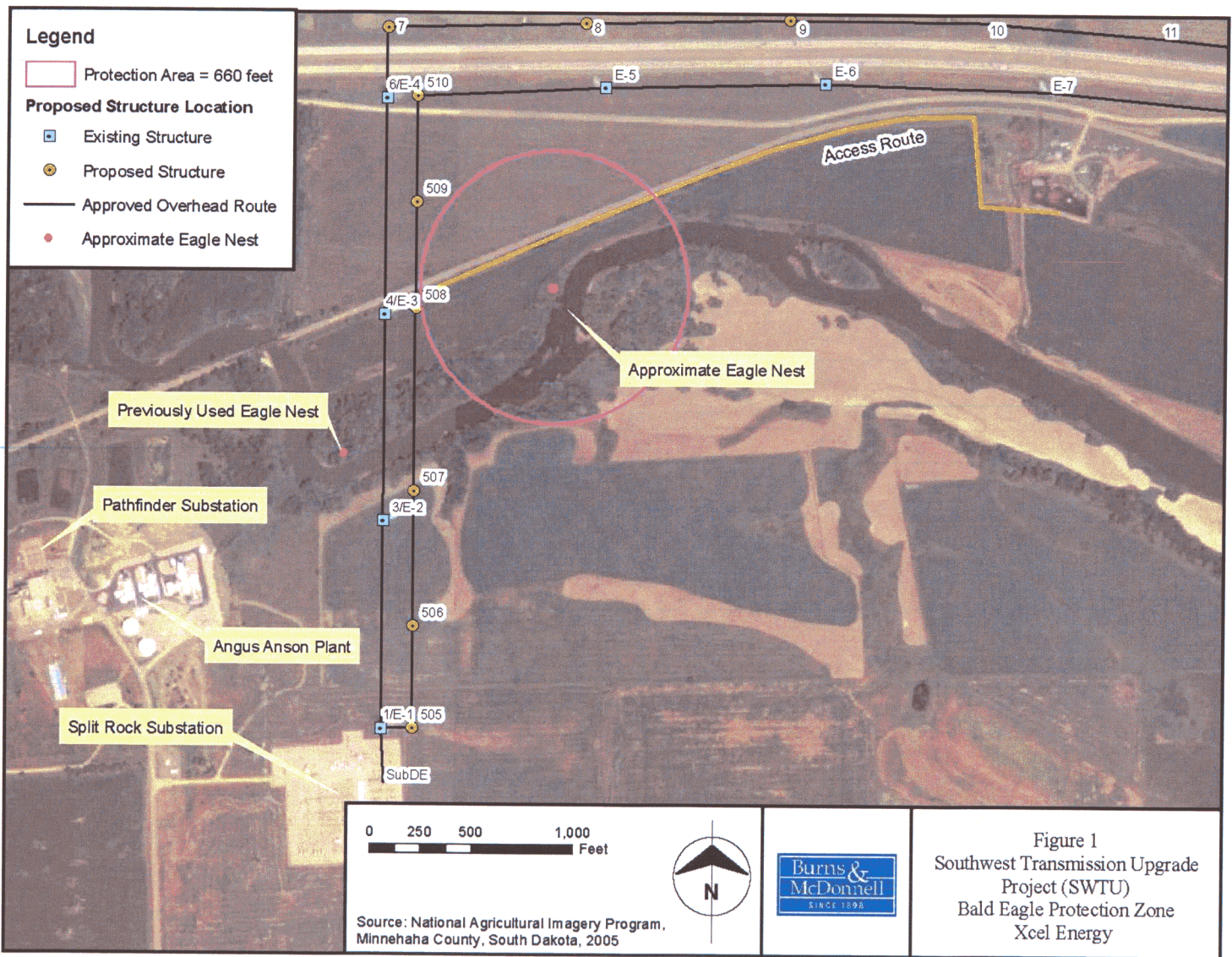
Bryan R. Gasper  
Environmental Scientist

Cc: Mark Anderson, Xcel Energy

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**Figure 2** Location of the Old Bald Eagle Nest Near the Split Rock Substation, May 24, 2007

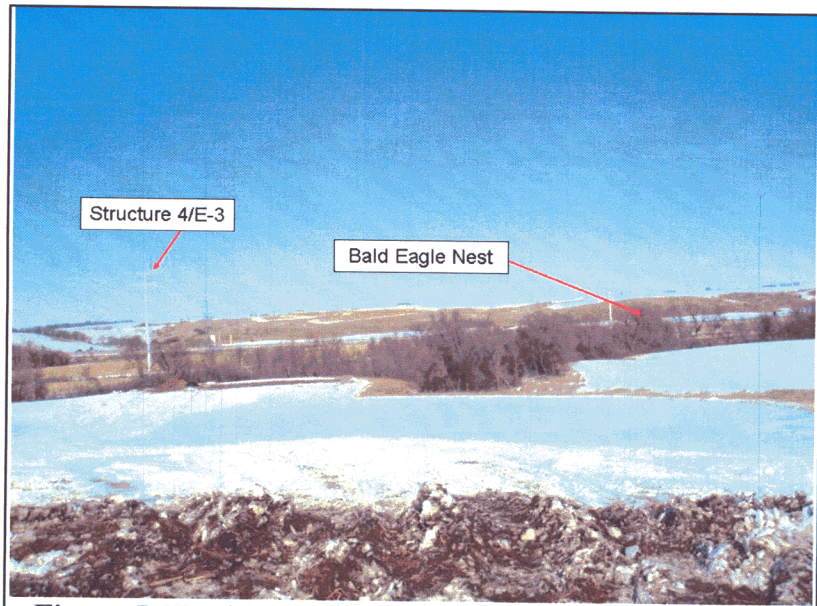


**Figure 3** Former Location of the Old Bald Eagle Nest Near the Split Rock Substation, December 13, 2007

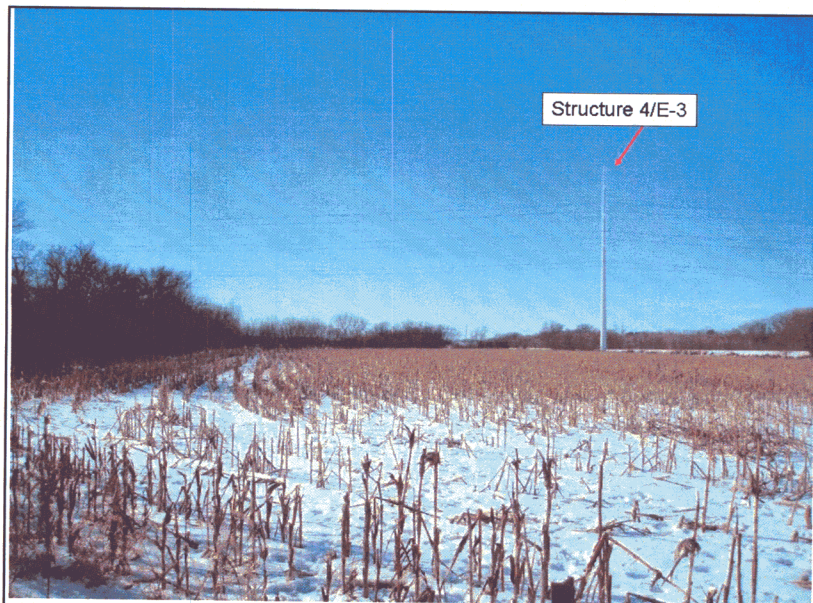


**Figure 4** Newly Observed Bald Eagle Nest Near the Split Rock Substation (photo taken north to south)

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**Figure 5** Newly Observed Bald Eagle Nest Near the Split Rock Substation (photo taken south to north)



**Figure 6** Crop Field Adjacent to Newly Observed Bald Eagle Nest (photo taken east to west from under nest)