

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION
OF BASIN ELECTRIC POWER COOPERATIVE,
INC. FOR AN ENERGY CONVERSION FACILITY
PERMIT FOR THE CONSTRUCTION OF A
COMBUSTION TURBINE GENERATOR NEAR
GROTON, SOUTH DAKOTA

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

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Transcript of Proceedings
June 1, 2005

COPY

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BEFORE THE PUBLIC UTILITIES COMMISSION,
GARY HANSON, CHAIRMAN (by telephone)
BOB SAHR, VICE CHAIRMAN
DUSTY JOHNSON, COMMISSIONER

COMMISSION STAFF
Rolayne Ailts Wiest
John Smith
Karen Cremer
Sara Greff
Greg Rislov
Keith Senger
Dave Jacobson
Michele Farris
Tina Douglas
Heather Forney
Pam Bonrud

Reported By Cheri McComsey Wittler, RPR, CRR

PRECISION REPORTING
L I M I T E D

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2 OF THE STATE OF SOUTH DAKOTA
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4 IN THE MATTER OF THE APPLICATION
5 OF BASIN ELECTRIC POWER COOPERATIVE,
6 INC. FOR AN ENERGY CONVERSION FACILITY EL04-041
7 PERMIT FOR THE CONSTRUCTION OF A
8 COMBUSTION TURBINE GENERATOR NEAR
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1 VICE CHAIRMAN SAHR: EL04-041, In
2 the Matter of the Application of Basin Electric
3 Power Cooperative, Inc. for an Energy Conversion
4 Facility Permit for the Construction of a
5 Combustion Turbine Generator Near Groton,
6 South Dakota.
7 And the question today is shall the Commission
8 approve the energy conversion facility permit.
9 Good morning.
10 MR. MATHER: Good morning. My name
11 is Russ Mather. I'm an employee of Basin Electric
12 in the legal department. And we have with us
13 several folks that will be available for questions.
14 Gene Lebrun is our local counsel from Lynn,
15 Jackson, Shultz & Lebrun. Myron Steckler is our
16 project coordinator, the engineer in charge.
17 Jim Berg is our manager of permitting and
18 environment. And we also have with us Gerald Rix
19 who is our mayor of Groton who chaired the Local
20 Review Committee.
21 And I'd just like to start by saying thank you
22 for hearing us. We are here indeed to ask for the
23 permit to be finally approved. We filed the
24 application for this permit back in December
25 of '04, held a public input hearing in February of

1 TRANSCRIPT OF PROCEEDINGS, held in the
2 above-entitled matter, at the South Dakota State
3 Capitol, Room 412, 500 East Capitol Avenue, Pierre,
4 South Dakota, on the 1st day of June 2005, commencing
5 at 8:30 a.m.
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1 this year, and we've been working since then with
2 staff to answer questions and to come to a
3 resolution of this matter.
4 We have entered into a Stipulation with the
5 PUC staff which sets forth all the salient facts
6 for this project, and there are no interveners. So
7 with that, just any of us would be available to
8 answer questions. We can provide anymore
9 information that you would want. If you have none
10 directly and shortly for me, I would like to offer
11 the floor to Mayor Rix just to make some comments
12 as it relates to the activities and recommendations
13 of the Local Review Committee.
14 VICE CHAIRMAN SAHR: Thank you. Why
15 don't we go ahead and hear from the Mayor, and if
16 you'd be available for any questions that might
17 come up afterwards.
18 MR. RIX: Thank you. Mr. Chairman,
19 good morning, everybody. I'm Mayor Gerald Rix, the
20 City of Groton. I guess I was asked by Basin to
21 attest to the point that we are happy to have them
22 to come into our area. I guess the only question
23 that I have received in Groton is when.
24 So we had our first review meeting, and it
25 turned out there wasn't any adverse comments. The

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1 last meeting, our review committee, we went through
 2 the 12 items that were listed for us to review and
 3 we had I think a real good meeting out of that.
 4 The two county Commissioners never came to the
 5 meeting. They have never expressed anything. But
 6 I had the school board members and the cities of
 7 the local towns represented and to help with our --
 8 maybe to add a little bit to our committee, the
 9 Groton chairman of the school district is a
 10 graduate -- is an heir of the South Dakota School
 11 of Mines so many of the technical things we had
 12 good reference.
 13 If you have anything else that you would wish
 14 me to comment on -- we had the 12 questions that we
 15 reviewed. Do you wish me to mention those?
 16 VICE CHAIRMAN SAHR: You know, I
 17 know that I've had an opportunity to review those.
 18 MR. RIX: Okay.
 19 VICE CHAIRMAN SAHR: Maybe if
 20 Commissioners or staff had specific questions. It
 21 looked like you did a very thorough job, and I want
 22 to say on behalf of the Commission, thank you very
 23 much for your review and it looked like you had
 24 reviewed what was statutorily required. And I
 25 would just add too that having gone through a

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1 number of these processes, it really benefits us to
 2 have that local review and the input from people
 3 who know the area much better than we do at the
 4 state level. So we really do appreciate that.
 5 And it's also good to hear that you didn't see
 6 any red flags that we had missed. With that, I'd
 7 see if my fellow Commissioners had any questions.
 8 CHAIRMAN HANSON: I do not have any
 9 questions. Thank you, Commissioners.
 10 COMMISSIONER JOHNSON: I don't have
 11 any questions for the mayor.
 12 VICE CHAIRMAN SAHR: Any questions
 13 from advisers?
 14 MR. SMITH: No.
 15 VICE CHAIRMAN SAHR: Mr. Mayor,
 16 thank you very much. And please do thank the other
 17 members of the review committee, and we all
 18 reviewed it and appreciate the report as well.
 19 Thank you for your efforts. Thank you for coming
 20 to Pierre.
 21 MR. SMITH: Mr. Chairman, I would
 22 note the local review is incorporated as a
 23 component of the Stipulation.
 24 VICE CHAIRMAN SAHR: Thank you. Now
 25 we'll open it up to Commissioner questions.

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1 COMMISSIONER JOHNSON: Thank you
 2 very much, Mr. Vice Chairman. In going through the
 3 transcript of the public hearing it was mentioning
 4 that the peaking unit would run 10 or 15 percent of
 5 the time, primarily during the summer. Was that
 6 10 or 15 percent of the time during the summer, or
 7 was that sort of a blended average?
 8 MR. MATHER: I'm going to ask our
 9 engineer, Myron, to respond to that in a little
 10 more detail. Just a little background. I would
 11 like to emphasize this is a peaking unit. It will
 12 be hooked up and integrated with the grid. Like
 13 all resources that are interconnected with the
 14 electrical grid, it will respond to various
 15 conditions that are on that grid. So we won't have
 16 total control over when it runs and how it runs.
 17 For example, if other resources that are
 18 connected with the grid are subject to outages or
 19 go down, that will have an impact on how much it
 20 runs. And it will run more if it needs to
 21 compensate for other generation that is not
 22 available at any particular time. Likewise, if
 23 there are constraints on the transmission system
 24 that have the effect of making generation from
 25 other areas unavailable to serve load in this area,

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1 it will run.
 2 So I'll let Myron give you the technical
 3 detail on how exactly that was computed, but I did
 4 want to emphasize that that's an estimate of how it
 5 will fit into our needs but it might indeed run
 6 other than that.
 7 COMMISSIONER JOHNSON: That is a
 8 great point, and my question is you get more your
 9 expectation rather than any sort of a guarantee
 10 certainly.
 11 MR. MATHER: Absolutely.
 12 MR. STECKLER: Good morning. Our --
 13 VICE CHAIRMAN SAHR: If you would,
 14 please, since we are -- we have a court reporter
 15 here in Pierre and we are broadcasting over the
 16 Internet, if you would just identify yourself, who
 17 you work for, and where you live. Thank you.
 18 MR. STECKLER: My name is Myron
 19 Steckler. I work for Basin Electric. I'm the
 20 project coordinator to this project. And to your
 21 question on the 5 to 15 percent, I guess like Russ
 22 had mentioned, we have a lot of factors that
 23 determine that. Our estimate is 5 to 15 percent
 24 and that's through our marketing group on, you
 25 know, historical data and projections of load

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1 growth in the future. They estimate 5 to 15
 2 percent.
 3 Typically our peak is summer peak. That's the
 4 main purpose of this is for our peaking demand.
 5 But, however, we do also have a winter peak so we
 6 would also expect some run time during the winter.
 7 Again, it also is a backup to other units. We
 8 have units that are down. It's going to be
 9 controlled by the system how much it will run.
 10 COMMISSIONER JOHNSON: So the 5 to
 11 15 percent is an annual average spread over the
 12 entire --
 13 MR. STECKLER: Right.
 14 COMMISSIONER JOHNSON: So if summer
 15 is the heavy peak, you know, it wouldn't be unusual
 16 for it to run a third of the time during the
 17 summer.
 18 MR. STECKLER: Yes.
 19 COMMISSIONER JOHNSON: Black start
 20 capability?
 21 MR. STECKLER: No.
 22 COMMISSIONER JOHNSON: Okay. That's
 23 all I've got.
 24 VICE CHAIRMAN SAHR: Thank you.
 25 Commissioner Hanson, do you have any questions for

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1 either one of these gentlemen?
 2 CHAIRMAN HANSON: If someone could
 3 discuss just a little bit the noise factor, I think
 4 that is something that we've had some concern
 5 about, and if they could explain just the amount of
 6 noise, for instance, at the perimeter expressed in
 7 decibels, things of that nature for us.
 8 MR. STECKLER: Okay. I guess what
 9 we're stipulating is a L-10 during the daytime of
 10 60 dBA and then a nighttime of L-10 of 55 dBA. And
 11 basically that is the L-10 is a 90 percent of the
 12 time it will be under the limit stipulated.
 13 And this is at the -- I guess at the nearest
 14 resident to be measured -- I suppose I could read
 15 this. The noise levels for the unit and all the
 16 balance of the plant equipment when operating will
 17 not exceed the standards at the nearest occupied
 18 existing resident not owned by Basin Electric.
 19 And, like I said, the limits are the L-10 daytime
 20 of 60 and nighttime L-10 of 55 dBA.
 21 CHAIRMAN HANSON: All right. I
 22 appreciate that very much. Thank you.
 23 VICE CHAIRMAN SAHR: Thank you. And
 24 I think Ms. Farris from staff may have a follow-up
 25 comment or comments.

11

1 MS. FARRIS: Yes. I just wanted to
 2 give a little history on how we arrived at those
 3 values. South Dakota, we do not have a noise
 4 standard so I went and did a search on area states
 5 to see what levels that they had in their rule.
 6 Some of the states that did have rules were
 7 Idaho and Minnesota. Idaho, particularly they
 8 excluded generation facilities so I didn't look at
 9 theirs. So I went with Minnesota, and Minnesota
 10 does have the L-10 and the L-50 standard where the
 11 noise will not be exceeded more than 10 percent of
 12 the time in a one-hour period or 50 percent of the
 13 time in a one-hour period.
 14 And we chose the 10 percent of the time in a
 15 one-hour period. And part of our reasoning for
 16 that is if you don't have a range, you may have one
 17 exceedence in that one-hour period and then you've
 18 hit your exceedence for that permit requirement.
 19 And sometimes that's very difficult, you know, with
 20 testing equipment and whatnot where you may not
 21 have a one outlier data point. I think this is a
 22 more reasonable approach to determine what the
 23 average noise level is over that area.
 24 And then the proximity of the measurement was
 25 determined just on the chance that Basin would not

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1 have access to the residential -- or to the
 2 residence area. If for some reason the residents
 3 did not want them on their property, we wanted them
 4 to have the ability to measure right up to the
 5 property line. It would be preferable to be closer
 6 to the residence and that would be their ultimate
 7 goal but if for some reason they're not allowed
 8 there, they would still be able to meet that permit
 9 requirement with the 100 feet.
 10 VICE CHAIRMAN SAHR: Thank you.
 11 Then somewhat of a follow-up question. I noticed
 12 that the language was, I believe, occupied existing
 13 residence. So I -- with the word "existing" I
 14 presume if somebody came in and built near the
 15 unit, they are basically doing so at their own
 16 risk; is that correct?
 17 MS. FARRIS: That's correct.
 18 VICE CHAIRMAN SAHR: So the nearest
 19 residence right now, there's a woman who either
 20 rents or owns north of the proposed site. Is that
 21 the nearest residence right now?
 22 MS. FARRIS: Yes.
 23 VICE CHAIRMAN SAHR: So in that case
 24 the noise standards would be at her property?
 25 MS. FARRIS: Correct.

13

1 MR. MATHER: Commissioner Sahr,
 2 that's where, as Ms. Farris had said, we may not --
 3 the preferred would be to get closer to their
 4 residence to measure, but if for some reason the
 5 owner said you can't come on, we needed to fall
 6 back to have a point of measurement we knew we
 7 could meet.

8 VICE CHAIRMAN SAHR: What is the
 9 expected life of this unit?

10 MR. MATHER: 33 years I believe is
 11 the industry standard classification.

12 CHAIRMAN HANSON: Mr. Chairman.

13 VICE CHAIRMAN SAHR: Yes,
 14 Commissioner Hanson.

15 CHAIRMAN HANSON: In regards to the
 16 noise factor, I'm wondering if someone could give
 17 me a little bit more of a comfort zone here.

18 I checked with -- well, across the state there
 19 aren't too many communities that have noise
 20 ordinances. There happens to be one in Sioux Falls
 21 that I'm familiar with, and that has a residential
 22 factor for the evening of 55 dBA, the evening being
 23 described as 10:30 p.m. to 6 a.m. and during the
 24 day, 6 a.m. to 10:30 p.m., at 60 dBA. The Federal
 25 Interagency Committee on Urban Noise analysis shows

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1 the day and night average sound level should not
 2 exceed 55 and HUD noise standards show that the
 3 55 is acceptable.

4 I say that and it sounds like in strong
 5 support of the 55 dBA. At the same time everything
 6 is relative, and when we're looking at a
 7 facility -- at a residence that is out in the
 8 country, they're certainly not accustomed to the
 9 type of noise that you're going to have in a larger
 10 city. I'm wondering if someone from the utility
 11 could give us some idea on the experiences that
 12 they may have had with previous facilities and
 13 noise levels.

14 MR. MATHER: Commissioner Hanson,
 15 this is Russ Mather. In terms of talking about
 16 previous history, do you mean a history of
 17 complaints or what our operational parameters have
 18 been?

19 CHAIRMAN HANSON: What's your
 20 relationship been with residential communities or
 21 with people living close by a facility similar to
 22 this? Have you had a challenge in meeting a level
 23 of quietness, I guess I'll say, for their comfort
 24 zone?

25 MR. MATHER: The only complaint that

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1 I am aware of is the one that relates to the
 2 Rapid City Tie. I believe you're familiar with
 3 that. We are meeting our PUC permit requirements
 4 there, but the -- there are two residents that --
 5 well, I haven't heard anything for a while but had
 6 made some objections on that basis, and on that
 7 facility. But I'm not aware that we have
 8 complaints anymore with any generation.

9 We operate wind turbines. I have not heard
 10 any complaints about any of the wind turbine
 11 locations. Our power plants, I guess I can't tell
 12 you that there's never been any complaints for
 13 those, but I don't know that there have been
 14 either. I've just not been made aware of any of
 15 our large thermal generating plants.

16 We have other distributed generation, in other
 17 words combustion turbine facilities, located in
 18 Wyoming, and I'm not aware of any complaints that
 19 we've had with respect to any of those combustion
 20 turbines. But I also, as I sit here, cannot tell
 21 you how close they are to any residence. So I
 22 don't know how good a comparison -- I'm not being
 23 very helpful, I guess is what I'm telling you.

24 CHAIRMAN HANSON: Okay. Well, thank
 25 you.

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1 MS. FARRIS: Chairman Sahr -- or
 2 Commissioner Sahr. Sorry about that. Just as a
 3 reference, I would just mention that Northwestern
 4 has two peaking units in Huron that they operate,
 5 and as far as I know we've never had any complaints
 6 regarding noise at those facilities.

7 Granted, there's not a residence right next to
 8 it, but there are some residences within the area.
 9 And in my previous life I was an inspector for that
 10 facility. And you could stand outside and have a
 11 conversation with a person -- you know, right next
 12 to it it was loud but not annoyingly loud.

13 VICE CHAIRMAN SAHR: Thank you.

14 Commissioner Johnson.

15 COMMISSIONER JOHNSON: Ms. Farris,
 16 have we had stipulations on noise for energy
 17 conversion facilities in the past, and, if so, what
 18 level have they been set?

19 MS. FARRIS: We have not in the
 20 past. The first time was the Rapid City Tie
 21 project.

22 COMMISSIONER JOHNSON: Okay. This
 23 question would be a question for either you or
 24 anybody with Basin. The Local Review Committee
 25 mentioned a possibility of a shelter belt. Do we

17

1 have any projections on what that might do to noise
 2 levels?
 3 MS. FARRIS: Currently right now
 4 there is a row of trees separating the residence
 5 from the house, and then I will let Basin --
 6 COMMISSIONER JOHNSON: Is that all
 7 along the property line?
 8 MS. FARRIS: I don't know if it goes
 9 all the way along the property line, but in front
 10 of the residence itself there is a shelter belt
 11 there already.
 12 COMMISSIONER JOHNSON: Okay.
 13 MR. MATHER: I can't add very much
 14 to that. We did have indications from the
 15 Tetra Tech, the consultant that we hired to do some
 16 of the background noise studies, that vegetative
 17 barriers can be effective in reducing noise. There
 18 is a vegetative barrier there now. Giving you hard
 19 data on what different levels of vegetative
 20 barriers might do, I don't think we can do that
 21 unless you have -- that hasn't been included in any
 22 of the studies that we have done.
 23 COMMISSIONER JOHNSON: So, I mean,
 24 if the studies indicated that you were, you know,
 25 above the level stipulated in the Commission's

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1 order, what would be your next step to mitigate
 2 sound?
 3 MR. MATHER: Well, I think there
 4 would be a number of things that we'd have to look
 5 at. Obviously, if we are above the levels that are
 6 stipulated in the permit, we have to get in
 7 compliance. And certainly a vegetative barrier
 8 would be looked at. I sound wall would be looked
 9 at. Different run times would be difficult to do.
 10 I don't know where the studies would take us from
 11 there, Myron.
 12 MR. STECKLER: This is Myron
 13 Steckler. Once you determine what piece of
 14 machinery is producing the noise that is carrying,
 15 bringing up the average, there are ways to silence
 16 each piece individually. And, like I said, until
 17 you -- you know, obviously a lot of the pieces of
 18 equipment already have silencers on them. The
 19 turbine itself has a sounding closure. Your stack
 20 is baffled so it produces less noise.
 21 What the next step would be at this time it's
 22 unknown, but like Russ had said, we would meet the
 23 noise standard that we stipulated.
 24 COMMISSIONER JOHNSON: Ms. Farris, I
 25 thought you did a good job of explaining why you

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1 felt the L-10 standard was better than maybe an
 2 L-50 or L-90.
 3 Why 60 decibels, though? In the public
 4 hearing it was indicated that 54 was really the
 5 anticipated top end for the noise of this facility
 6 at that location.
 7 MS. FARRIS: Two reasons 60 was
 8 selected. One, Minnesota has that in their rule,
 9 and the other is basic office noise is 60 decibels
 10 and --
 11 COMMISSIONER JOHNSON: Depends on
 12 the office, I suspect, but sure.
 13 MS. FARRIS: Yeah. And that's why
 14 that number was selected. Plus you have noise from
 15 regular daytime activity. This is located right
 16 next to a highway. Highway noise alone is higher
 17 than 60.
 18 COMMISSIONER JOHNSON: I know the
 19 applicant and staff have worked hard to contact,
 20 you know, landowners in the area. Maybe just a
 21 brief description of some of those efforts would be
 22 helpful for the record.
 23 MS. FARRIS: On January 27 Basin
 24 sent a letter to all the affected landowners
 25 regarding the project, and they were all sent

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1 certified. And I went back, and I looked and the
 2 woman that lives in that property, she received
 3 hers and did sign for that letter. So she was
 4 notified on 1-27 of the hearing -- or the public
 5 meeting, and she did not attend the public meeting.
 6 After the public meeting I did an Internet
 7 search for her and I did find a phone number and
 8 when I tried to call that number it was
 9 disconnected. So I followed that up with a letter
 10 that I also sent certified that just summarized the
 11 project, gave her an idea of what to expect, asked
 12 her to contact me because I couldn't get ahold of
 13 her and I would like to discuss this with her.
 14 And I know she received that letter on
 15 February 12. We got the receipt back. And I never
 16 heard anything from her.
 17 There was also a gentleman who lives at that
 18 residence and I did an Internet search on his name
 19 and the phone number that I got for that I did call
 20 that number and when I asked for that person it was
 21 an older gentleman on the line and he had no idea
 22 who I was talking about or what I was talking
 23 about. I tried a couple of times thinking maybe I
 24 had the number wrong and got the same response each
 25 time.

1 So then I received some information that
2 somebody said she worked for the school. So I
3 called the Groton School to see if I could find her
4 there and they did not know who she was and she did
5 not work for the public school system.

6 And the final effort I made to contact her is,
7 is I sent a copy of the Settlement Stipulation with
8 my memo, and that was sent on May 27. We just
9 received the card back in the office that it was
10 signed for so the person did receive notice.

11 As far as the other landowners, a lot of them
12 were at the public meeting, and I did not have much
13 follow-up with any of the other landowners. I did
14 talk with one gentleman and at this time I can't
15 remember who he was but he gave me some of the
16 information regarding this person. And that was
17 the only contact I had with other landowners.

18 COMMISSIONER JOHNSON: Thank you.

19 VICE CHAIRMAN SAHR: Thank you. Any
20 other questions from Commissioners? I'd just like
21 to say that I think staff did an excellent job
22 trying to get ahold of this landowner, and it makes
23 me feel much more comfortable that she's had the
24 opportunity to receive information multiple times.

25 She signed for the information. She's had,

1 conditions of the Stipulation Basin Electric has
2 satisfied each of the factors set forth in
3 SDCL 49-41B-22 and that Basin Electric's
4 application for a siting permit for an energy
5 permit facility near Groton should be approved
6 subject to the terms and conditions of the
7 Stipulation.

8 CHAIRMAN HANSON: I will second.

9 COMMISSIONER JOHNSON: I'll be happy
10 to concur, you know, largely in part because the
11 public comment received by this Commission has been
12 overwhelmingly in favor of the project. The public
13 hearing people were very excited about the project
14 and in particular, Mayor, I would echo the
15 Vice Chairman's comments. I thought the Local
16 Review Committee was very helpful and I'm happy to
17 concur.

18 VICE CHAIRMAN SAHR: Thank you.

19 Good luck with the project.
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1 you know, what we say in the legal world, the
2 opportunity to be heard and she, you know, hasn't
3 given us her input.

4 We had a well publicized meeting, well
5 attended meeting. We've had the Local Review
6 Committee actively involved. So I feel very
7 comfortable that there has been an opportunity to
8 be heard in this matter and thank staff in
9 particular for the extra effort in trying to
10 contact the landowner and, you know, with the type
11 of materials that she's received, I think at this
12 point in time we can feel comfortable that she
13 certainly has had a chance to review this and to
14 realize what sort of a facility is going to go in
15 nearby.

16 And I think also the substantial research done
17 by staff and by Basin on the sound standards, I
18 also appreciate that. And it gives me a much
19 higher comfort level.

20 Do we have any other comments or questions
21 from Commissioners?

22 Hearing and seeing none, then I have a Motion.
23 I move that the Commission approve the Stipulation
24 between Basin Electric Cooperative and staff, that
25 the Commission find that with the terms and

1 STATE OF SOUTH DAKOTA)
2 :SS CERTIFICATE
3 COUNTY OF HUGHES)
4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter and Notary Public in and for the
7 State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 1st day of
11 June 2005, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Pierre, South Dakota this 13th day
14 of June 2005.
15
16

17 
18 Cheri McComsey Wittler,
19 Notary Public and
20 Registered Professional Reporter
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