

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF STEARNS

SEVENTH JUDICIAL DISTRICT

Northern States Power Company (d/b/a Xcel Energy) a Minnesota corporation, by its Board of Directors; Great River Energy, a Minnesota cooperative corporation, by its Board of Directors; ALLETE, Inc. (d/b/a Minnesota Power), a Minnesota corporation, by its Board of Directors; Western Minnesota Municipal Power Agency, a municipal corporation and political subdivision of the State of Minnesota, by its Board of Directors; and Otter Tail Power Company, a Minnesota corporation, by its Board of Directors,

Court File Nos. 73-CV-10-10828  
73-CV-10-9472

**ORDER ON MINIMUM  
COMPENSATION AND  
RELOCATION BENEFITS  
UNDER CHAPTER 117**

Petitioners,

v.

Roger A. Aleckson, *et al.*,

and

Victor E. Spears, *et al.*,

Respondents.

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The above-entitled matter came on for hearing before the Honorable Frank J. Kundrat, Judge of District Court, Stearns County, on April 20, 2011, based upon Motions for the Release of Funds. Petitioners appeared by their attorneys, Steven J. Quam and John Drawz, Fredrickson & Byron, P.A. Attorneys Igor S. Lenzner, Bradley V. Larson, and Michael Rajkowski appeared on behalf of Respondents.

During the course of the hearing, the parties asked the Court to rule on the applicability of minimum compensation and relocation benefits under Minnesota Statutes Chapter 117 to proceedings based on Minn. Stat. § 216E.12, subd. 4, commonly known as the "Buy-the-Farm

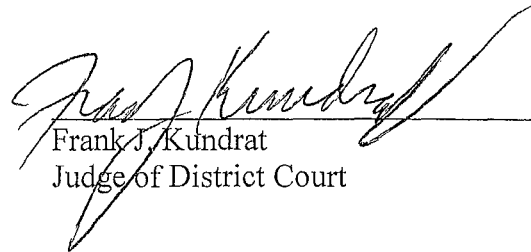
Statute." Based on the arguments and submissions of counsel, as well as all the files, records, and proceedings herein, the Court makes the following:

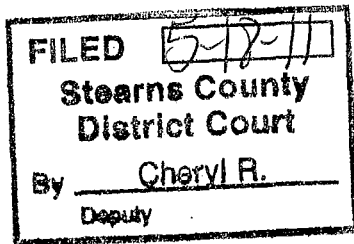
**ORDER**

1. Minimum compensation, pursuant to Minn. Stat. § 117.187, applies to proceedings under Minn. Stat. § 216E.12, subd. 4.
2. Relocation benefits, pursuant to Minn. Stat. § 117.52, applies to proceedings under Minn. Stat. § 216E.12, subd. 4.
3. The attached **MEMORANDUM** shall be made part of this Order as if fully set out herein.

IT IS SO ORDERED.

Date: May 18, 2011

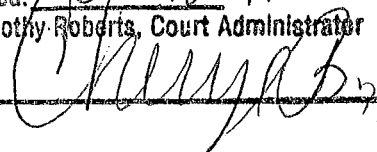
  
Frank J. Kundrat  
Judge of District Court



**JUDGMENT**

I hereby certify that the foregoing Order/Conclusions of Law constitutes that Judgment of the Court.

Dated: 5-18-11  
Timothy Roberts, Court Administrator

By:  Deputy

## MEMORANDUM

### I. BACKGROUND FACTS

On October 19, 2010 and December 1, 2010, Petitioners commenced these condemnation actions by filing their Petitions with the District Court Administrator. Petitioners have brought these actions to acquire easements across various parcels of land located in Stearns County. These easements, as well as others acquired by Petitioners through direct negotiation, are necessary for the construction, operation and maintenance of 345 kV High Voltage Transmission Lines (“HVTL”). The HVTL project extends for approximately 28 miles between Monticello and St. Cloud.

The relevant Respondents remaining in these actions are owners of the parcels Petitioners seek to acquire. Pursuant to Minn. Stat. § 216E.12, subd. 4, otherwise known as the “Buy-the-Farm” statute, these Respondents have exercised their option to require the utilities to condemn their entire fee interest in the properties. The issues currently before the Court are: (1) does Minn. Stat. § 117.187 regarding the payment of “minimum compensation” apply to homesteads where the owners have elected the “buy-the-farm” option under Minn. Stat. § 216E.12; and (2) are Petitioners required to pay relocation benefits and services under Minn. Stat. § 117.52 to homeowner/occupants who have elected the “buy-the-farm” option under Minn. Stat. § 216E.12?

### II. LAW AND ANALYSIS

#### A. Minimum Compensation

Minnesota Statutes Chapter 216E, known as the Minnesota Power Plant Siting Act, gives public utilities such as Petitioners, the power to condemn property in eminent domain proceedings. The specific eminent domain and condemnation powers of utilities at issue here are found in Minn. Stat. § 216E.12. Pursuant to Chapter 216E, Petitioners have obtained a permit

for the construction of high-voltage transmission lines and have begun the process of acquiring easements across the necessary property. Respondents, as owners of the properties subject to Petitioners' easements, made a "buy-the-farm" election under Minn. Stat. § 216E.12, subd. 4 to have Petitioners condemn a fee interest in their entire properties.

Petitioners now argue that when a property owner makes a "buy-the-farm" election under Minn. Stat. § 216E.12, subd. 4, the public utility acquiring the fee interest in the subject property does not have to pay minimum compensation or relocation benefits to that person. For the reasons set forth herein, the Court does not agree with Petitioner's argument, as the plain language of the applicable statutes dictates otherwise.

A critical starting point in this statutory analysis is that in proceedings for the acquisition of property for the "construction of a route or a site, the proceedings shall be conducted in the manner proscribed in chapter 117, **except** as otherwise specifically provided in this section." Minn. Stat. § 216E.12, subd. 2 (emphasis added). Upon review of Minnesota Statutes Chapter 216E, the Court finds that the legislature did not see fit to except minimum compensation under Minn. Stat. § 117.187 or relocation benefits under Minn. Stat. § 117.52 from Chapter 216E proceedings.

Under Minnesota Statutes Chapter 117, the legislature has provided that "[n]otwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, all condemning authorities, including home rule charter cities and all other political subdivisions of the state, must exercise the power of eminent domain in accordance with the provisions of this chapter, including all procedures, definitions, remedies, and limitations." Minn. Stat. § 117.012, subd 1. The case law on statutory construction provides that "a statute is to be construed, whenever reasonably possible, in such a way to avoid

irreconcilable differences and conflicts with another statute.” *Miller v. Colortyme, Inc.*, 518 N.W.2d 544, 551 (Minn. 1994). In this case, the Court finds that Minn. Stat. § 216E.12 and Minn. Stat. § 117.187 are not in conflict with each other. Additionally, “[c]ourts should be extremely cautious in reading an exception into a statute.” *United States v. City Nat’l Bank of Duluth*, 31 F.Supp. 530, 535 (D. Minn. 1939).

Another important factor in this analysis is that the Minnesota Constitution provides that “[p]rivate property shall not be taken, destroyed or damaged for public use without just compensation.” Minn. Const. art. I, § 13. *See also* U.S. Const. amend. V. In this case, Respondents’ properties are being taken by Petitioners for public utility use under the governmentally delegated power of eminent domain. In such cases, the question is whether “justice and fairness require that the economic injuries caused by public action be compensated” by the entity causing the taking. *Wensmann Realty, Inc. v. City of Eagan*, 734 N.W.2d 623, 632 (Minn. 2007). The Courts have generally ruled in favor of the property owners when presented with such question. *See, e.g., DeCook v. Rochester Int’l Airport Joint Zoning Bd.*, \_\_\_ N.W.2d \_\_\_, 2011 WL 1135459 (Minn.); *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982). Based on the foregoing analysis, the Court finds that Respondents who have made a “buy-the-farm” election under Minn. Stat. § 216E.12, subd. 4 are also entitled to minimum compensation under Minn. Stat. § 117.187.

*B. Relocation Assistance*

The same analysis and reasoning that applied to the issue of minimum compensation as set forth above, applies with equal force to the issue of relocation assistance under Minn. Stat. § 117.52. The legislature did not except relocation benefits from the statutory scheme created under Minnesota Statutes Chapter 216E, nor were eminent domain proceedings involving

HVTLs excepted from Minnesota Statutes Chapter 117. In further support of the conclusion that minimum compensation and relocation benefits are available to Respondents who made a “buy-the-farm” election, the legislature has mandated that these two statutes are applicable in cases where the use of eminent domain authority is exercised by a public service corporation for the purpose of constructing “a high-voltage transmission line of 100 kilovolts or more.” Minn. Stat. § 117.189(1).

III. CONCLUSION

The plain language of Minnesota Statutes Chapters 117 and 216E provide that public utilities who exercise the power of eminent domain for the construction of HVTLs must abide by the procedures and remedies in Chapter 117. Under Minnesota Statutes Chapter 117, regardless of whether a private property owner has made an election under Minn. Stat. § 216E.12, subd. 4, the property owner is entitled to minimum compensation under Minn. Stat. § 117.187 and relocation benefits under Minn. Stat. § 117.52. In this case, Petitioners shall provide these benefits to Respondents who have made a “buy-the-farm” election, pursuant to Minn. Stat. § 216E.12, subd. 4.

F. J. K.

A handwritten signature in black ink, appearing to be the initials 'FJK' with a stylized flourish.