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December 15, 2014

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: **In the Matter of the Sibley Wind Substation, LLC's Large Wind Energy Conversion System Site Permit**
(Docket No. IP-6666/WS-08-208)

Dear Dr. Haar:

Attached are the comments and recommendations of the Department of Commerce Energy Environmental Review and Analysis staff for the issue:

Whether or not Sibley Wind Substation, LLC has materially violated a Minnesota Statute, Rule or the terms and conditions of its Large Wind Energy Conversion System (LWECS) Site Permit?

The Sibley Wind Substation, LLC representative in EERA staff's records is:

Wayne Hesse
Sibley Wind Substation, LLC
1756 County Highway 7
Tyler, MN 56178

Energy Environmental Review and Analysis staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink that reads "Suzanne Steinhauer". The signature is written in a cursive style.

Suzanne Lamb Steinhauer
Energy Environmental Review and Analysis

Attachment

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS

DOCKET NO. IP6666/WS-08-208

Date.....December 15, 2014
EERA Staff: Suzanne Steinhauer(651)539-1843

In the Matter of the Sibley Wind Substation, LLC's Large Wind Energy Conversion System Site Permit

Issues Addressed: Whether or not Sibley Wind Substation, LLC has materially violated a Minnesota Statute, Rule or the terms and conditions of its Large Wind Energy Conversion System (LWECS) Site Permit.

Additional documents and information can be found on
<http://mn.gov/commerce/energyfacilities/Docket.html?id=19541> or on eDockets
<http://www.edockets.state.mn.us/EFilin/search.jsp> (08-208).

This document can be made available in alternative formats; i.e. large print or audio tape by calling (651) 539-1530.

Introduction and Background

The Minnesota Public Utilities Commission (Commission) issued a site permit to Sibley Wind Substation, LLC (SWS) to construct a 20 Megawatt Large Wind Energy Conversion System (LWECS) in Sibley County on September 23, 2008. On October 12, 2011, the Commission amended the site permit in response to a petition from SWS to extend both the time in which to obtain a Power Purchase Agreement (PPA) or some other enforceable mechanism for sale of the electricity and the deadline to begin construction. Construction of the Project commenced in October 2013.

Since construction began, the Commission has received several complaints, allegations of violations and requests for hearing.

On November 21, 2014, the Commission issued a *Notice of Comment Period on Alleged Violations of Site Permit*. The notice requested comments on whether SWS has materially violated a Minnesota Statute, Rule or the terms and conditions of its LWECS Site Permit. The notice further directed that comments alleging violations provide:

- 1) The specific Statute, Rule or permit term alleged to be violated;
- 2) Details about the alleged violation; and
- 3) Whether remedies to address the violation are available or whether the LWECS site permit should be revoked.

Thirty-six comments were received by the close of comment period on December 3, 2014. The majority of the comments filed were short letters of support for the project.

On December 3, 2014, Representative Glenn Gruenhagen and others filed comments (eDocket ID: [201412-105150-01](#)) alleging numerous violations of Statute, Rules and terms of the site permit:

- Misrepresentation of Community Based Energy Development (C-BED) status;
- Ownership transfer of the Permit;
- Failure to commence continuous construction;
- Changes to the Project without Commission approval;
- Failure to comply with county and township requirements;
- Failure to meet statutory permit update and submittal requirements

Also on December 3, 2014, Barbara Wenniger filed the response to a Freedom of Information Act (FOIA) request made to the United States Fish and Wildlife Service (USFWS) (eDocket ID: [201412-105126-01](#)). Ms. Wenniger also filed comments on December 1, 2014 (eDocket ID: [201412-105057-01](#)), indicating the presence of eagle nests within 10 miles of the Project. Neither filing alleged specific violations. The filings appear to have been filed to provide the Commission with background information related to the USFWS review of the Project and the presence of eagles within 10 miles of the Project.

On December 2, 2014, Mary Hartman filed comments related to the lack of data on potential wildlife impacts, particularly related to avian and bat impacts, for the Project. Ms. Hartman's filing does not allege specific violations of Statute, Rules or the terms of the permit. The filing does, however, recommend the permit be amended to require development of a "Bird and Bat Conservation Survey" and "Acoustical Bat Monitoring Protocols."

Regulatory Process and Procedures

Siting of Large Wind Energy Conversion Systems is governed by Minnesota Statutes, Chapter 216F. Minnesota Statutes 216F.03 states:

The legislature declares it to be the policy of the state to site LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

Minnesota Rule, part 7854.1000, subpart 1, directs the Commission to make a final site permit decision based on the record that has been compiled in the matter. Minnesota Rule, part 7854.1000, subpart 3, requires that the Commission determine that:

...the project is compatible with environmental preservation, sustainable development, and the efficient use of resources, and the applicant has complied with this chapter.

Minnesota Rule, part 7854.1300, subpart 2, states that:

The Commission may amend a site permit for an LWECS at any time if the commission has good cause to do so.

Minnesota Rule, part 7854.1300, subpart 3, states that:

The Commission may revoke a site permit for an LWECS at any time if the commission determines that any of the following has occurred:

- A. The applicant knowingly made a false statement in the application of in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the commission's findings;*
- B. The applicant has failed to comply with a material condition or term of the permit;*
- C. The permitted LWECS endangers human health or the environment and the danger cannot be resolved by modifications of the permit or LWECS; or*
- D. The permittee has violated other laws that reflect an inability of the permittee to comply with the permit.*

EERA Staff Analysis and Comments

Department of Commerce Energy Environmental Review and Analysis (EERA) staff offers the following comments to highlight information that may be helpful to the Commission as it considers the alleged violations and potential remedies. Because the December 3, 2014, filing by Representative Gruenhagen et al (eDocket ID: [201412-105150-01](#)) is the only filing alleging specific violations, those comments are referred to hereinafter as "the filing."

Misrepresentation of C-BED status

Minnesota Statute 216B.1612 establishes a C-BED (community-based energy development) tariff to optimize local, regional and state benefits from renewable energy development and to facilitate widespread development of community-based renewable energy projects throughout Minnesota.

The filing, at pages 1 through 3, alleges that SWS has misrepresented the Project's C-BED status.

EERA Staff Response: The Commission considers C-Bed status relative to such issues as approval of power purchase agreements. EERA staff takes no position on whether the Project qualifies as a C-BED Project.

For the purposes of the Permit, however, EERA staff does not believe that whether or not a project qualifies as a C-Bed project is relevant to the decision on whether to issue a permit.

EERA staff notes that the term “CBED” appears once, in Finding 11 describing the permittee, in the Commission’s September 28, 2008, Order issuing a permit for the Project (eDocket ID: [5518770](#)):

The Project is a Community Based Energy (CBED) project under the Minn. Stat. 216B.1612. The Applicant does not own any other wind facilities in Minnesota; however, several of its principals have developed or have ownership interests in other wind projects in Lincoln County, which were permitted by the county. The Applicant will sell the entire output of the Project.

There is no reference to the C-BED status in the Commission’s decision issuing a permit amendment in 2011.

Ownership Transfer of the Permit

The filing alleges that SWS has violated Section III.K .6 of the permit by transferring ownership of the Project.

Section III.K.6 states:

The Permittee may not transfer this Permit without the approval of the PUC. If the Permittee desires to transfer this Permit, the holder shall advise the PUC in writing of such desire. The Permittee shall provide the PUC with such information about the transfer as the PUC requires to reach a decision. The PUC may impose additional conditions on any new Permittee as part of the approval of the transfer.

EERA Staff Response: Sibley Wind Substation, LLC, a Limited Liability Company registered with the Minnesota Secretary of State, is the permittee for the project and has been identified as the Project owner since the LWECS site permit application was filed in 2007. The ownership of Sibley Wind Substation, LLC, however, appears to have changed over the course of the Project.

As described on page 1 of the LWECS site permit application filed with the Commission on April 24, 2008 (eDocket ID: [5141491](#)):

Sibley Wind Substation LLC (SWS) or “Applicant LLC” submits this application for a Site Permit to construct a large wind energy conversion system (LWECS). The project site is located in Sibley County west of the town of Winthrop, Minnesota. The project will consist of 20 megawatts of LEWCS and associated facilities. These 20 megawatts will be owned in equal interests by 10 Minnesota residents.

In its filing of September 9, 2013, (eDocket ID: [20139-91122-01](#)) SWS described the ownership of Sibley Wind Substation LLC, as follows:

The Project is owned by Sibley Wind Substation, LLC, a Minnesota limited liability company in good standing. Sibley Wind Substation, LLC, is in turn owned by Wesco Sibley, SPV, LLC,

which is also a Minnesota limited liability company in good standing. That entity is owned by Wesco Wind, LLC, which is in turn owned by Star Distributed Energy, LLC. Wesco Wind, LLC and Star Distributed Energy, LLC are Indiana limited liability companies.

EERA staff does not believe that there is a material violation of the terms of the permit, as the permittee has not changed. EERA staff notes, however, that more recent permits require that permittees notify the Commission of changes in ownership structure of the permittee's owners and parent entities. The following language is taken from Section 11.5 of the permit issued for the Odell Wind Farm ((eDocket ID: [20147-101580-01](#)) in July 2014:

The Permittee may not transfer this permit without the approval of the Commission. If the Permittee desires to transfer this permit, the holder shall advise the Commission in writing of such desire. The Permittee shall provide the Commission with such information about the transfer as the Commission requires in order to reach a decision. The Commission may impose additional conditions on any new Permittee as part of the approval of the transfer.

Within 20 days after the date of the notice provided in Section 8.4, the Permittee shall file a notice describing its ownership structure, identifying, as applicable:

- a) the owner(s) of the financial and governance interests of the Permittee;*
- b) the owner(s) of the majority financial and governance interests of the Permittee's owners; and*
- c) the Permittee's ultimate parent entity (meaning the entity which is not controlled by any other entity).*

The Permittee shall notify the Commission of:

- (a) A change in owner(s) of the majority* financial or governance interests in the Permittee;*
- (b) A change in owner(s) of the majority* interest financial or governance interests of the Permittee's owners, or,*
- (c) A sale which changes the parent entity of the Permittee.*

** When there are only co-equal 50/50 percent interests, any change shall be considered a change in majority interest.*

The Commission may wish to require SWS to update the Commission on any changes in ownership structure that may occur in the future.

Failure to Commence Continuous Construction

The filing alleges that SWS has performed no significant construction to date and that progress on the project does not meet the definition of "Construction" in Minnesota Rules 7854.0100, where construction is defined as

"Construction" means to begin or cause to begin as part of a continuous program the placemen, assembly, or installation of facilities or equipment or to conduct significant site preparation work for installation of facilities or equipment. Entering into binding power purchase contracts or obtaining wind easements from property owners or gathering wind data is not construction."

SWS maintains that it commenced construction on the Project on October 11, 2013.

EERA Staff Response: Beginning in late spring or summer of 2014, EERA staff began receiving inquiries from citizens requesting information on the status of the construction of the Project. On October 9, 2014, EERA staff sent a request to SWS (eDocket ID: [201410-103720-01](#)) requesting that SWS provide the Commission with, at minimum:

1. An update on the construction status and anticipated timeline of construction going forward;
2. An updated in-service date;
3. The status of any avian surveys being conducted for the Sibley Wind Project; and
4. The status of permits that SWS has with the County.

In its October 15, 2014, response to EERA staff's request (eDocket ID: [201410-103889-01](#)) SWS acknowledged that there has been no progress on construction since late November 2013. In that filing, SWS maintained that it halted construction activities in order to complete wildlife studies in response to citizen concerns regarding avian activity in the project area and that it anticipates that construction will re-commence in May 2015.

EERA staff takes no position as to whether there is a material violation of Minnesota Rule 7854.0100. To date, EERA staff's interpretation of construction has focused on ensuring that construction is not begun before preconstruction documents required by the permit are filed and the preconstruction meeting required by the permit is held. To EERA staff's knowledge, the question of what level of effort over what period of time is necessary to ensure compliance with Minnesota Statute, Rule, or permit terms, has not been an issue previously before the Commission.

EERA staff notes that Section 5.1 (Site Plan) in the permit issued for the Odell Wind Farm in July 2014 (eDocket ID: [20147-101580-01](#)) clarifies that construction is defined in Minnesota Statutes 216E.01, subdivision 3. The statutory definition of construction is:

"Construction" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Changes to Project not Approved by Commission

The filing, at pages 14-15, alleges that, according to Attachment A of SWS's October 15, 2014, filing (eDocket ID: [201410-103889-01](#)), SWS has made changes to the access road to Turbine 6 without approval by the Commission.

EERA Staff Response: After reviewing Attachment A of SWS's October 15, 2014, filing, it does appear that the access to Turbine 6, although still off of 581st Avenue, has moved north several hundred feet from the approach along the 1/8 section line represented in page 2 of the Revised Site Plan Overview filed by SWS on August 23, 2013 (eDocket ID: [20138-90546-03](#)).

Section III.A.1 of the Permit requires that the Permittee notify the Commission of any **turbines** (emphasis added) that are to be relocated prior to construction, but does not address relocation of roads or other elements of the project.

1. SITE PLAN

Prior to commencing construction, the Permittee shall submit to the PUC or Commission a site plan for all turbines, roads, electrical equipment, collector and feeder lines and other associated facilities to be constructed and engineering drawings for site preparation, construction of the facilities, and a plan for restoration of the site due to construction. The Permittee may submit a site plan and engineering drawings for only a portion of the LWECS if the Permittee is prepared to commence construction on certain parts of the Project before completing the site plan and engineering drawings for other parts of the LWECS. In the event that previously unidentified environmental conditions are discovered during construction which by law or pursuant to conditions outlined in this Permit would preclude the use of that site as a turbine site, the Permittee shall have the right to move or relocate turbine sites. The Permittee shall notify the PUC of any turbines that are to be relocated before the turbine is constructed on the new site.

As the permit does not address relocation of project elements other than turbines, EERA staff does not believe that there is a violation of the site permit.

Failure Obtain, Maintain or Comply with Necessary Local, State and Federal Permits

The filing, at pages 15 through 19, alleges that SWS is in violation of a number of permit terms due to the both lack of permits from local, state and federal authorities and a failure to maintain or comply with various construction permits it has from Sibley County.

Turbine Access Roads (Section III.B.8.(b))

The filing, at page 15, alleges that SWS is in violation of Section III.8 (b) of the permit because it has not demonstrated that it is in possession permits and approvals from other agencies required to cross streams or drainage ways.

This section of the permit requires that any turbine access roads constructed streams or drainage ways receive required permits and approvals from DNR, FWS and or USACOE prior to construction of the facilities.

EERA Staff Response: There is nothing in the record indicating that approvals have been obtained for water crossings. However, EERA staff does not see anything unusual about the absence of such approvals at this time, given the Project's construction status. In EERA staff's experience such approvals for energy projects (both wind and transmission lines) are sought by a permittee as construction proceeds, but in a manner that allows for review of the proposed crossings by the agency charged with review.

EERA staff does not believe that the lack of stream crossing approvals at this time constitutes a violation of the site permit and does not suggest any remedy.

Public Roads (Section III.B.8.(a))

The filing, at pages 15 and 16, alleges that SWS is in violation of Section III.B.8 (a) of the permit because it does not have an agreement with Cornish Township for use of township roads.

This section of the permit requires that the permittee to identify public roads that will be used for the project and notify the PUC and the state, county or township governing body having jurisdiction over the roads to determine if the road authority needs to inspect the roads prior to use. This section also requires, in relevant part:

The Permittee shall, prior to the use of such roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over roads to be used for construction of the LWECS for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and LWECS components. The Permittee shall notify the PUC of such arrangements upon request of the PUC.

EERA Staff Response: To EERA staff's knowledge SWS does not have an agreement with Cornish Township for use of township roads. SWS proposes to construct the project without using township roads (eDocket ID: [20138-90546-03](#), at pp. 3 and 5, and eDocket ID: [20139-91763-01](#), Attachment 1). The issue of the status of SWS's road agreements with Cornish Township is longstanding. This topic was discussed at the Project's preconstruction meeting (eDocket ID; [20139-91337-01](#)) and summarized in EERA staff's September 16, 2013, comments to the Commission on preconstruction filings (eDocket ID: [20139-91346-01](#)) as follows:

As also noted in the summary of the preconstruction meeting, Sibley Wind and Cornish Township are also in dispute about whether the Construction Agreement between Sibley Wind and the County applies to township roads. Sibley Wind signed a Construction Agreement with the County in April, 2013 (eDocket ID: [20137-89762-05](#)). Included as Appendix D to the agreement is a resolution from Cornish Township dated March 12, 2012, approving the Sibley County Engineer to act on the township's behalf in negotiation and execution of a Construction Agreement with Sibley Wind.

Cornish Township stated that the township has revoked the delegation of authority to the County for negotiation and execution of a construction agreement with Sibley Wind. The township maintains that, as a result of the revocation, Sibley Wind does not have the ability to use township roads without an agreement between Sibley Wind and Cornish Township. If Sibley Wind intends to use township roads without such an agreement, Cornish Township believes Sibley Wind would be in violation of Section III.B.8 (a) of the Site Permit.

Sibley Wind's position regarding the use of roads in the Project area is that it has a signed agreement with the County that was negotiated in good faith and predicated on the township's delegation of authority for the Construction Agreement.

Sibley Wind has stated that it would be able to construct the Project without using township roads, although this would result in higher costs for the Project related to changes in turbine access roads and electric cabling. Changes in project layout, including roads and cabling, would also need to be e-filed with the Commission. EERA staff has asked Sibley Wind to file a status report on their plans regarding road usage.

Following the preconstruction meeting, SWS provided an update on the status of its plans regarding road usage on September 26, 2013 (eDocket ID: [20139-91763-01](#)). Attachment 1 of SWS's September 26, 2013 filing identified an alternate access plan that would avoid use of Cornish Township Roads.

If, as presented in its filings with the Commission, SWS plans to avoid using Cornish Township roads, then EERA staff does not believe there is a material violation of Section III.B.8 (b) of the permit.

Failure to Maintain or Comply with Sibley County Permits

The filing, at pages 17 through 19, alleges that SWS has failed to maintain or comply with various permits issued for the Project by Sibley County.

EERA Staff Response: It is unclear from the filing what Statute, Rule, or permit term is alleged to have been violated. Section III.K.7 of the Permit states:

The Permittee shall be responsible for acquiring any other federal, state, or local permits or authorizations that may be required to construct and operate a LWECS within the authorized site. The Permittee shall submit a copy of such permits and authorizations to the PUC upon request

Typically, local governments issue permits or approvals for LWECS related to driveway permits, overweight loads and feeder lines. There is no response from the County on the status or violations of permits obtained by SWS.

Given the delay in construction activities, the status of local permits at this time does not appear to constitute a material violation of the Permit. The Commission may wish to request that SWS provide the Commission with an update on the status of Permits with Sibley County and copies of these permits.

Failure to Comply with Cornish Township Environmental Review Rules

The filing, at pages 19 through 20, alleges that SWS has never attempted to comply with the Cornish Township Environmental Review Ordinance. As stated in the filing, Cornish Township ordinances require an environmental review for any action requiring a governmental approval with the potential to create significant environmental effects. In particular, environmental review is required before any party undertakes an action involving use of Township roads by heavy, overweight and oversized loads.

EERA Staff Response: Minnesota Statute 216F.07 establishes preeminence of an LWECS site permit over local regulations and ordinances:

The site permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances adopted by regional, county, local, and special purpose governments

EERA staff is not aware of other cases where local governments require environmental review for elements related to construction of an LWECS. On the face, Minnesota Rule

[7854.0500](#), Subp.7, appears to prohibit local environmental review for Projects permitted under Statute 216F in the following statement:

The analysis of the environmental impacts required by this subpart satisfies the environmental review requirements of chapter 4410, parts 7849.1000 to 7849.2100 and Minnesota Statutes, chapter 116D. No environmental assessment worksheet or environmental impact statement shall be required on a proposed LWECS project.

Regardless of the Township's authority to require environmental review, the trigger for environmental review appears to be predicated on actions requiring governmental approval. It appears that the Township approval in this case would be related to use of township roads. SWS, according to its filings with the Commission, does not intend to use township roads.

EERA staff does not believe there is a material violation of the terms of the permit. If the Commission believes that it is necessary to determine whether the Township has authority to require environmental review, the Commission may wish to seek guidance from the Environmental Quality Board.

Failure to Meet Statutory Permit Update and Environmental Submittal Requirements

The filing, at pages 20 through 31, alleges that the Commission, in its 2011 decision to amend the site permit, failed to require SWS to update its previous submittals to meet environmental review standards contained in Minnesota Statute 216F.

EERA Staff Response: The filing does not specify what portion of Minnesota Statute 216F was violated. Minnesota Statute 216F provides very general guidance that environmental impacts be considered in the Commission's decision on whether to issue a site permit. The statute does not identify "environmental review standards," but does require that rules adopted by the Commission address, among other factors:

- *criteria used by the Commission in designating LWECS sites consider the impact of LWECS on humans and the environment (subpart 1); and*
- *requirements for environmental review (subpart 4).*

Rules implementing the permitting requirements outlined in Minnesota Statutes 216F are found in Minnesota Rules Chapter 7854. Consistent with Minnesota Rule Part 7854.0500, Subpart 7, there is no separate environmental review document for wind projects. Instead, environmental review for wind projects is based on the application and the record. Although the filing refers to SWS's "failure to update its permit application," EERA staff notes that there is no requirement that a permit application be updated.

The filing, as well as a number of citizen filings over the past year, contains numerous photographs documenting the presence of birds, including eagles and waterfowl in the project vicinity. Avian activity at or near an LWECS is not unique to the Project and the presence of activity does not preclude construction and operation of an LWECS. According to SWS's October 15, 2014, filing (eDocket ID: [201410-103889-01](#)), consultants have

been engaged to survey the project area for avian activity, with an anticipated report due in December 2014.

What is different about this permit is that it does not require the development of an Avian and Bat Protection Plan (ABPP), as has been the practice with permits issued by the Commission since 2010. An ABPP addresses steps to be taken to identify and mitigate impacts to avian and bat species during the construction phase and the operation phase of the Project.

The Commission may wish to require that SWS prepare an ABPP for the Project to ensure consistency with more recently issued permits.

The filing, at pages 24 through 31, alleges that the Project does not meet required wetland setbacks. Section III.C.5 of the permit addresses project layout with respect to wetlands:

Wind turbines and associated facilities including foundations, access roads, underground cable and transformers, shall not be placed in public waters wetlands, as defined in Minnesota Statutes section 103G.005, subp. 15a. However, electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to DNR, United States Fish and Wildlife Service (FWS) and/or United States Army Corps of Engineers (USACE) permits and approvals.

A Wetland Evaluation was prepared for the Project in 2011 (eDocket ID: [201112-69606-05](#)). The Sibley Soil and Water Conservation District concurred with the wetland evaluation and found in a letter dated April 12, 2012 (eDocket ID: [20135-87132-02](#)).

Commerce EERA Conclusions

EERA staff makes no recommendation on whether the Commission finds that the project is in violation of Minnesota Statute or Rule with respect to Construction Status. EERA staff does not believe that the Project's C-BED status is relevant to the LWECS permit issued by the Commission.

EERA staff does not believe that the record supports allegations that SWS has materially violated the terms of the Permit with respect to:

- permit transfer;
- changes to project without Commission approval;
- failure to obtain, maintain or comply with necessary local, state and federal permits;
- failure to comply with Cornish Township environmental review rules; or
- failure to meet statutory permit update and environmental submittal requirements.

EERA staff believes that much of the confusion over what is required for the Project to comply with the LWECS Site permit stems from the relative age of the permit. With the exception of the 2011 amendment, which was issued as an adjunct to be used in combination with the 2008 permit, the permit has not been updated since 2008. Permits and permit amendments issued by the Commission more recently are, in general, more descriptive about what the Commission finds is necessary to comply with the permit and

ensure that an LWECS is constructed and operated in a manner consistent with environmental preservation, sustainable development, and the efficient use of resources.

In order to better align the requirements of the permit for the Sibley Wind Project with more recently issued permits, EERA staff suggests that the Commission consider directing SWS to:

- Inform the Commission of any changes in project ownership going forward;
- Develop an ABBPP to document the work done to date and identify procedures to mitigate potential impacts to avian and bat species during construction and operation of the Project;
- Provide the Commission with an update of the status of Project permits with Sibley County; and
- Provide regular construction status reports, perhaps on a monthly basis.