

February 12, 2020

Via eDockets

Mr. Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

RE: **Draft Site Permit Comments and Recommendations**
Walleye Wind Project
Docket No. IP 7026/WS-20-269

Mr. Seuffert:

Energy Environmental Review and Analysis staff provides the attached comments and recommendations regarding the Commission's determination on whether to issue a Draft Site Permit for the Walleye Wind Project.

EERA staff recommends the Commission issue a Draft Site Permit (DSP) to Walleye Wind, LLC for the Walleye Wind Project and has prepared a preliminary DSP for the Commission's consideration. The preliminary DSP attached to these Comments and Recommendations identifies the Permittee, the proposed LWECs, and additional proposed permit conditions. Commission approval of a DSP will initiate a formal public comment period and a Public Hearing.

I am available to answer any questions the commission might have.

Sincerely,

/s/ Suzanne Lamb Steinhauer

Suzanne Lamb Steinhauer, Environmental Review Manager
Energy Environmental Review and Analysis

cc: Mike Kaluzniak, Public Utilities Commission
Bret Eknes, Public Utilities Commission
Louise Miltich, Energy Environmental Review and Analysis

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS
COMMENTS AND RECOMMENDATIONS ON
DRAFT SITE PERMIT

Walleye Wind Project
Docket No. IP7026/WS-20-384

Date: February 12, 2021

Staff: Suzanne Steinhauer | suzanne.steinhauer@state.mn.us | 651-539-1843

Issues Addressed: *These comments and recommendations address whether the Commission should issue a Draft Site Permit (DSP) for the Walleye Wind Project and what conditions are necessary in the DSP should the Commission determine to issue one for the project.*

Documents Attached: *Preliminary Draft Site Permit with Map of Proposed and Alternate Turbine Locations*

Additional documents and information, including the route permit application, can be found on eDockets by searching “20” for year and “384” for number: <https://www.edockets.state.mn.us/EFiling/search.jsp> or the EERA webpage: <https://mn.gov/eera/web/project/13893/>.

This document can be made available in alternative formats, that is, large print or audio, by calling (651) 539-1530 (voice).

On July 9, 2020, Walleye Wind, LLC (Walleye Wind or Applicant, a wholly-owned subsidiary of NextEra Energy Resources, LLC, based in Juno Beach, Florida) filed two separate applications in support of its proposed Walleye Wind Project (the Project) to be located in Rock County:

- a certificate of need application for the wind farm,¹ and
- a large wind energy conversion system (LWECS) site permit application.²

Following a comment period, the Commission determined the applications were complete and established certain review procedures in its October 20, 2020 Order.³

¹ Walleye Wind, LLC, *Application for a Certificate of Need*, July 9, 2020. eDocket ID: [20207-164773-01](#), [20207-164773-02](#)

² Walleye Wind, LLC, *Application for a Large Wind Energy Conversion System Site Permit*. July 9, 2020. eDocket ID: [20207-164776-01](#), -02, -03, -04, -05, -06, -07, 08, -09, [20207-164777-01](#), -02, -03, -04, -05, -06 (trade secret), -07, -08, -09, -10 (trade secret), [20207-164778-01](#), -02, -03 (trade secret), -04 (trade secret), -05

³ Commission, *Order Accepting Applications as Complete, Establishing Review Procedures, and Granting Variances*, October 20, 2020, eDocket ID: [202010-167530-01](#)

On November 4, 2020, Walleye Wind filed amended certificate of need⁴ and site permit⁵ applications. The project, as described in the amended application is substantially the same as that described in the original application. The most notable changes are changes to the proposed layout that result in the slight reduction in nameplate capacity from the original 110.8 MW to 109.2 MW, modifications to total length of access roads and underground collector lines, and a removal of one of the turbine models under consideration.

Project Description

Walleye Wind proposes to construct up to 40 wind turbines and associated facilities including underground electric collector lines, a new collector substation, and operations and maintenance facility, one permanent meteorological tower, and gravel access roads. The proposed site, shown in Attachment 1, is approximately 49 square miles (31,000 acres) located in Rock County (Beaver Creek, Luverne, Martin, and Springwater townships).⁶ The project as currently proposed includes:

- A wind turbine layout consisting of
 - 28 GE 2.82 MW turbine: 114-meter (m) (374 ft) hub height, 127.2 m (417 ft) rotor diameter (RD), total height (ground to tip of fully extended blade) of 178.1 m (584.3 ft)
 - 8 GE 2.82 MW turbine: 89 m (292 ft) hub height, 127.2 m (417 ft) RD, total height of 152.1 m (499 ft)
 - 4 GE 2.32 MW turbine: 80 m (263 ft) hub height, 116.5 m (382 ft) RD, total height of 138.3 m (453.7ft)⁷
- Approximately 12 miles gravel access roads
- Approximately 37 miles of underground electrical collection system and communication lines
- One permanent meteorological tower
- An Aircraft Detection Lighting System (ADLS) or Lighting Intensity Dimming Solution (LIDS) system
- A new Walleye Wind Substation to serve the project
- A new 161 kV generation tie line of approximately 500 feet connecting the project's substation with Xcel Energy's existing Rock County Substation
- A temporary staging/laydown construction area
- An operations and maintenance (O&M) building

Walleye states that, as of December 2020, it has approximately 80 percent of the land required for construction and operation of the proposed project,⁸ a substantial increase from the 40 percent represented in the July 2020 application. Easement negotiations are ongoing, and Walleye Wind states it anticipates having sufficient signed land rights by March 1, 2021.⁹ Walleye Wind anticipates commencing

⁴ Walleye Wind, *Amended Certificate of Need Application*, November 4, 2020. eDocket ID: [202011-168044-01](#), [202011-168044-02](#), [202011-168044-03](#)

⁵ Walleye Wind, *Amended Site Permit Application*, November 4, 2020, eDocket ID: [202011-168046-01](#), -02, -03, -04, -05, -06

⁶ Amended Site Permit Application, at p. 6

⁷ Walleye Wind, *Informational Filing*, January 29, 2021. eDocket ID: [20211-170488-02](#). In addition to the 40 primary locations identified in the filing, there are 5 alternate locations proposed, 4 GE 2.82 MW models with a 114-meter hub height and 1 GE 2.32 model with an 80-meter hub height.

⁸ Walleye Wind, *Interconnection and Land Rights Status*, December 21, 2020, eDocket ID: [202012-169202-01](#)

⁹ Walleye Wind, *Interconnection and Land Rights Status*, December 21, 2020, eDocket ID: [202012-169202-01](#)

construction of the project during the third quarter of 2021, with an anticipated commercial operation date (COD) of December 31, 2021.¹⁰

Regulatory Process

A site permit from the Commission is required to construct an LWECS, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. This requirement became law in 1995. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirements for LWECS are in Minn. Rule 7854.

Application and Acceptance

Application acceptance is guided by Minnesota Rule 7854.0600. The Commission may elect to accept, conditionally accept, or reject the Application. On October 20, 2020, the Commission accepted the applications as complete, authorizing joint proceedings, and varying certain administrative rules.¹¹

Certificate of Need

Minnesota Statute 216B.243, subd. 2 states that no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission. The Project is over 50 MW, which meets the definition of a large energy facility. As noted above, Walleye Wind filed a certificate of need application on July 9, 2020, and the Commission accepted the CN Application as complete on October 20, 2020. The full record of the certificate of need proceedings can be found in eDocket CN-20-269.

Statute and rule require that an Environmental Report (ER) be prepared in CN dockets. The Department of Commerce's Energy Environmental Review and Analysis (EERA) staff is responsible for preparing the ER. The ER will be prepared per Minnesota Rule 7849.1100-2100 and is part of the record the Commission will consider in its decision on issuance of a CN for the Project. The Department issued its ER Scoping Decision on February 4, 2021.¹²

Preliminary Determination on a Draft Site Permit

Minnesota Rule 7854.0800 states,

Within 45 days after acceptance of the application by the Commission, the Commission shall make a preliminary determination whether a permit may be issued or should be denied. If the preliminary determination is to issue a permit, the Commission shall prepare a draft site permit for the project. The draft site permit must identify the permittee, the proposed LWECS, and proposed permit conditions.

Issuing a draft site permit (DSP) does not confer an authority to construct an LWECS. The Commission may change, amend, or modify the draft site permit in any respect before final issuance or may deny the site permit at a later date.

¹⁰ Amended Site Permit Application., at p. 139

¹¹ Commission, *Order Accepting Applications as Complete, Establishing Review Procedures, and Granting Variances*, October 20, 2020, eDocket ID: [202010-167530-01](#)

¹² Minnesota Department of Commerce, *Environmental Report Scoping Decision*, February 4, 2021, eDocket ID: [20212-170700-01](#)

Commission staff entered a sample site permit into the project record on December 31, 2020.¹³ The sample site permit does not confer any authority to construct an LWECS, but does provide the public and agencies with a better understanding of the types of conditions that may be included in a LWECS site permit.

Public Participation

The Commission's Order of October 20, 2020 waived the 45-day requirement of the rule to allow time for public comments and state and federal agencies input on the content of the Draft Site Permit.

Commission and EERA staff held a joint public information and ER scoping meeting on January 5, 2021. The purpose of the meeting was to:

- inform the public of the proposed project,
- provide an overview of the Commission's review of the proposed project,
- receive comments on issues and project alternatives to be considered in the ER to be prepared for the CN process, and
- receive comments potential impacts and mitigation measures for consideration in the development of the DSP.

Due to the current COVID-19 pandemic, the meeting was conducted remotely. Approximately 120 individual lines were connected to the audio portion of the meeting and 19 people made comments at the meeting.¹⁴ EERA staff received 24 written comments during the scoping period between December 18, 2020 and January 26, 2021.¹⁵ Subsequent to the scoping comment period, Walleye Wind provided a memo clarifying its intent to construct a 40-turbine project and clarifying the "primary" and "alternate" designations and turbine numbering.¹⁶ In addition to those comments received during the scoping period, the Commission received a number of comments on the project prior to issuing the notice requesting scoping comments.¹⁷

Comments received on the project expressed support for the economic impacts of the project as well as concerns about project impacts related to noise, aesthetics, communication signals, turbine lighting, transportation infrastructure, animal agriculture, human health, wildlife, and decommissioning at the end of the project's life. Individual commenters raised issues related to the siting of certain turbines and whether the turbines could be sited without landowner consent. Additionally, several South Dakota residents expressed their belief that project benefits would accrue to Minnesota, while South Dakota residents would incur negative impacts related to noise, degraded views, and property values.

¹³ Commission Staff, *Corrected Sample Draft Site Permit*, December 31, 2020, eDocket ID: [202012-169443-01](#)

¹⁴ *Summary of Public Comments Received at January 5, 2021, Public Information and Scoping Meeting*. January 22, 2021. eDocket ID: [20211-170142-02](#)

¹⁵ Compiled Public Scoping Comments, February 1, 2021, eDocket ID: [20212-170594-02](#); Other public scoping comments eDocket ID: [20211-169535-01](#), [202012-169227-01](#), Minnesota Department of Natural Resources Scoping Comments, January 26, 2021, eDocket ID: [20211-170291-01](#), [20211-170293-01](#); MnDOT Scoping Comments, January 26, 2021, eDocket ID [20211-170313-01](#); MPCA Scoping Comments, January 25, 2021, eDocket ID: [20211-170252-01](#);

¹⁶ Walleye Wind *Informational Filing* January 29, 2021, eDocket ID: [20211-170488-01](#) ...

¹⁷ Public comments received November 13, 2020 to December 17, 2020, eDocket ID: [202012-169126-01](#), [202012-168910-01](#), [202012-168903-02](#), [202011-168634-01](#), [202011-168634-02](#), [202011-168634-03](#), [202011-168637-01](#), [202011-168652-01](#), [202011-168574-01](#), [202011-168574-02](#), [202011-168574-03](#), [202011-168574-04](#), [202011-168574-05](#), [202011-168492-01](#), [202011-168399-01](#), [202011-168382-01](#), [202011-168337-01](#), [202011-168337-02](#), [202011-168337-03](#), [202011-168303-01](#), [202011-168303-02](#), [202011-168303-03](#), [202011-168303-04](#)

Minnesota Department of Transportation Comments

The Minnesota Department of Transportation (MnDOT) provided comments noting concerns with potential project impacts to public safety, proposed relocating a turbine access road to a less busy road, and clarifying permitting and review requirements for the proposed.

DNR Comments

Minnesota Department of Natural Resources (DNR) comments clarified that public waters permits will be required for the project, requested that Walleye coordinate with DNR and a local snowmobile club to minimize impacts to the Buffalo-Ridge snowmobile trail, recommended continued coordination to minimize impacts to Blanding's turtles, and provided information on best practices on erosion control and invasive species protection. DNR also supported the feathering requirement in Section 7.5.4 of the Sample Permit provided by Commission staff. DNR did not identify issues with any particular turbine locations.

Minnesota Pollution Control Agency

The Minnesota Pollution Control Agency provided comments clarifying noise standards and requirements for stormwater control during both the construction and operation stages of the permit.

Staff Comments and Recommendations

EERA staff recommends the Commission issue a DSP to Walleye Wind, LLC for the project and has prepared a preliminary DSP for the Commission's consideration. The preliminary DSP attached to these comments and recommendations identifies the Permittee, the proposed LWECs, and additional proposed permit conditions. Commission approval of a DSP will initiate a formal public comment period and a Public Hearing.

The maps attached to the preliminary DSP illustrate the proposed locations of the turbines, including 40 preferred locations and five (5) alternate locations. It is EERA staff's understanding that individual turbines may be removed or substituted with alternates as additional information becomes available and the process moves toward a final site permit decision.

EERA staff has taken public and agency comments into consideration during the development of the preliminary DSP. The majority of comments received during the public comment periods express opinions on the merits of the proposed project or reference potential impacts (e.g. property values, aesthetics, noise) that are more properly addressed in the ER being prepared for the Project and elsewhere in the docket. Several comments discuss issues that are already addressed and included in the generic template and are carried forward in the preliminary DSP, so have not been repeated here. EERA staff's comments here are limited to proposed changes to the sample permit provided by Commission staff or issues that, in EERA staff's judgement, are not ripe for inclusion in a draft site permit but merit discussion.

Modifications to Sample Permit

The proposed DSP included as an attachment to these comments shows a number of strikeouts and additions from the sample permit provided by Commission staff. Most of these changes are minor technical changes that add items specific to the project (e.g. permittee name, project location, turbine models), make minor corrections for clarity (e.g. replace "route" with "site"), or provide more clarity by tying required filings with certain milestones (e.g. replacing "prior to construction" with "14 days prior to the pre-construction meeting"). These changes are consistent with recently issued LWECs site permits.

For the Commission’s convenience, EERA staff provides the following table summarizing changes from the sample permit. All of the changes are consistent with the LWCS site permit issued for the Buffalo Ridge Wind Project in January 2021.¹⁸ EERA staff provides additional discussion of changes to sections 7.5 (Avian and Bat Protection and 11.1 (Decommissioning Plan) below.

Section Title	Section Number	Proposed Modification
Cover Page		updates with project-specific information
Site Permit	1	updates with project-specific information
Project Description	2	updates with project-specific information
Designated Site	3	updates with project-specific information
Wind Turbine Towers	4.9	updates with project-specific information
Aviation	4.12	links notification of airports to the preconstruction meeting
Access to property	5.2	adds the modifier “private” before property, to clarify that permission is needed to enter private property, not the 31,000-acre site; corrects “route” to “site”
Field Manager	5.3.1	links identification of field manager to the pre-construction meeting
Site Manager	5.3.2	links identification of site manager to the pre-operation meeting, rather than “prior to commercial operation.”
Soil Compaction	5.3.6	requires use of decompaction measures for soils disturbed during construction of the project
Wetlands and Water Resources	5.3.8	adds Board of Water and Soil Resources to the list of water quality requirements to be met.
Public Roads	5.3.13	adds examples of “satisfactory arrangements” the permittee shall make with state and local road authorities.
Pollution and Hazardous Waste	5.3.24	clarifies that the permittee is responsible for minimizing pollution and safely handling hazardous wastes through all aspects of construction, restoration, and operation of the facility.
FAA Lighting	5.3.28	requires permittee to implement FAA-approved mitigation measures to minimize impact from the turbine lights to nearby residents and travelers.
Other Permits and Regulations	5.6.2	requires that permittees provide a pre-construction status update on all permits, authorizations, and approvals required for the project.
Special Conditions	6.1	requires permittee to provide stormwater conservation districts and landowners an opportunity to review and comment on project plans to minimize potential impacts from stormwater related to project construction and operation.
Avian and Bat Protection	7.5.1	requires a minimum of two years of post-construction monitoring.
	7.52	references the draft Avian and Bat Protection Plan (ABPP) provided in the application and clarifies the ABPP revision process
	7.53	adds Department to distribution list for quarterly wildlife reports
	7.54	clarifies incident reporting requirements and distribution of reports
Complaint Procedures	9	links filing of complaint procedures to the pre-construction meeting
Site Plan	10.3	adds local environmental services and public works departments to the distribution list for site plans.
Project Energy Production	10.9	standardizes annual reporting of energy production

¹⁸ Commission, *Order Granting Certificate of Need and Issuing Site Permit*, January 5, 2021, eDocket ID: [20211-169557-01](#)

Decommissioning	11.1	references the draft decommissioning report provided in the application and clarifies the decommissioning report revision process
Change in Ownership	14	clarifies the timeframe by which permittee must notify the Commission of its ownership structure

Avian and Bat Impacts

Consistent with recently issued permits, EERA recommends several modifications to Section 7.5 of the permit, dealing with avian and bat protection. The proposed changes

- require at least two years of post-construction monitoring (Section 7.5.1),
- clarify the ABPP revision process from the draft provided in the July 9, 2020 application, through changes made during the permitting process, and ongoing modifications based on annual audits of ABPP practices (Section 7.5.2),
- add the Department to the review list for quarterly incident reports (section 7.5.3), and
- clarify reporting expectations for immediate reports on bird or bat fatalities or injuries by differentiating thresholds for a single turbine location (5 birds or bats within 5 days) from the entire project (20 birds or bats within 5 days) (Section 7.5.4).

These changes are consistent with other recently issued permits. Although DNR did not note these discrepancies with recent permits in its comments, EERA staff has confirmed that DNR supports these recommendations.¹⁹

7.5.1 Operational Phase Fatality Monitoring

The Permittee shall utilize a qualified third party to conduct a minimum of two full years of avian and bat fatality monitoring following the commencement of the operational phase of the project. Monitoring activities and results will be coordinated directly with MN DNR, USFWS, and the Commission. Detailed monitoring protocols, agency coordination, and any avoidance and minimization measures will be detailed in the project's ABPP.

7.5.2 Avian and Bat Protection Plan

The Permittee shall comply with the provisions of the Avian and Bat Protection Plan (ABPP) submitted for this project as part of the July 9, 2020 site permit application, and all necessary revisions resulting from the annual audit of ABPP implementation. The first annual audit and revision that occur during the permit issuance process will be incorporated into a Permit Version. The Permit Version of the ABPP will be filed with the Commission 14 days before the pre-construction meeting and revisions should shall include any updates associated with final construction plans and site plans.

The ABPP must address 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 ABPP shall

¹⁹ Steinhauer-Warzecha personal communication, February 11, 2021.

also include formal and incidental post-construction fatality monitoring, training, wildlife handling, documentation (e.g., photographs), and reporting protocols for each phase of the project.

The Permittee shall, by the 15th of March following each complete or partial calendar year of operation, file with the Commission an annual report detailing findings of its annual audit of ABPP practices. The annual report shall include summarized and raw data of bird and bat fatalities and injuries and shall include bird and bat fatality estimates for the project using agreed upon estimators from the prior calendar year. The annual report shall also identify any deficiencies or recommended changes in the operation of the project or in the ABPP to reduce avian and bat fatalities and shall provide a schedule for implementing the corrective or modified actions. The Permittee shall provide a copy of the report to the Minnesota Department of Natural Resources, the Minnesota Department of Commerce, and ~~to~~ the U.S. Fish and Wildlife Service (FWS) at the time of filing with the Commission.

7.5.3 Quarterly Incident Reports

The Permittee shall submit quarterly avian and bat reports to the Commission. Quarterly reports are due by the 15th of January, April, July, and October commencing the day following commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian and bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols. If a dead or injured avian or bat species is found, the report shall describe the potential cause of the occurrence (if known) and the steps taken to address future occurrences. The Permittee shall provide a copy of the report to the DNR, the Department of Commerce, and to the FWS at the time of filing with the Commission.

7.5.4 Immediate Incident Reports

The Permittee shall notify the Commission, the Department of Commerce, the FWS, and the DNR within 24 hours of the discovery of any of the following:

- (a) five or more dead or injured birds or bats at an individual turbine location within a five-day reporting period;
- (b) twenty or more dead or injured birds or bats, across the entire facility, within a five-day reporting period
- (c) one or more dead or injured state threatened, endangered, or species of special concern;
- (d) one or more dead or injured federally listed species, including species proposed for listing; or
- (e) one or more dead or injured bald or golden eagle(s).

In the event that one of the four discoveries listed above should be made, the Permittee must file with the Commission within seven days, a compliance report identifying the details of what was discovered, the turbine where the discovery was made, a detailed log of agencies and individuals contacted, and current plans being undertaken to address the issue.

Decommissioning

Consistent with its recommendations to the Commission in Docket 17-123 (Solar and Wind Decommissioning Working Group) and in recent wind siting dockets, EERA staff recommends that an updated decommissioning plan be filed as a pre-construction document, not delayed until prior to the operation of the facility. Walleye Wind has provided a draft decommissioning plan as Appendix J to its July 9, 2020 site permit application.²⁰ It's EERA staff's expectation that the plan filed with the pre-construction filings should incorporate public and agency comments as well as updated project information (e.g. number and type of turbines, miles of access roads, length of cabling) into the draft plan provide in the application. EERA proposes changes to the first paragraph of this section to incorporate a reference to the draft decommissioning plan and clarify the timing of the revised plan.

11.1 Decommissioning Plan

The Permittee shall ~~submit a~~ comply with the provisions of the most recently filed and accepted decommissioning plan. The initial version of the decommissioning plan was submitted for this project as Appendix J of the July 9, 2020 site permit application. The Permittee shall file an updated decommissioning plan incorporating comments and information from the permit issuance process and any updates associated with the final construction plans, with to the Commission at least fourteen 14 days prior to the ~~pre-operation~~ pre-construction meeting. ~~and provide updates to the~~ The decommissioning plan shall be updated every five years thereafter following the commercial operation date.

The decommissioning plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration of the project in accordance with the requirements of Minn. R. 7854.0500, subp. 13. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all project components, which shall include labor and equipment. The plan shall identify cost estimates for the removal of turbines, turbine foundations, underground collection cables, access roads, crane pads, substations, and other project components. The plan may also include anticipated costs for the replacement of turbines or repowering the project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the project at the appropriate time. The Commission may at any time

²⁰ Walleye Wind, Site Permit Application - Appendix J: Decommissioning Plan. July 9, 2020. eDocket ID: [20207-164778-05](#)

request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

Other Issues

Shadow Flicker

MnDOT has raised questions about potential shadow flicker impacts on travelers. While the application addresses the shadow flicker impacts to residences, impacts to travelers is not addressed. EERA staff will evaluate potential impacts and mitigation strategies in the ER prepared for the project. Once the issue is better understood, changes to the site permit may be advisable to minimize impacts, but EERA staff is unable to recommend specific changes to the DSP at this time.

Consistency with Local Zoning

Rock County regulates wind energy conversion systems under five (5) MW under Section 27 of the Rock County Zoning Ordinance (herein after, *Renewable Energy Ordinance*).²¹

Minnesota Statute 216F.081 authorizes counties to adopt more stringent standards for LWECs than those authorized by the Commission. The statute also directs the Commission to consider more stringent county standards in its consideration of whether to issue a permit for a LWECs and to apply those standards unless the Commission finds good cause not to apply the standards.

The proposed DSP meets or exceeds most setback standards in the *Renewable Energy Ordinance*, with the following exceptions:

- **Roads:** Commission-issued permits require a setback of 250 feet from public roads, while the county requires a setback of 1.1 times the tower height (base of turbine to tip of highest point of the turbine, typically the rotor tip when fully extended). For the proposed project, 1.1 times the total height would result in a setback of between 499 and 642 feet depending upon the turbine model.
- **Wind Access Buffer:** Commission-issued permits require a setback of five (5) rotor diameters (RD) on the prevailing wind access and three (3) RD on the non-prevailing wind directions from land where the Permittee does not hold wind rights. Rock County setback requirements are similar, but specify that the 5 RD setback applies to the north-south access, and the 3 RD setback applies to the east-west access.
- **Internal spacing:** Commission-issued permits generally require a setback of 5 RD on the prevailing wind access and 3 RD on the non-prevailing wind access between turbines within the project. The general permit standards explicitly provide for up to 20 percent of the towers to be sited more closely, but encourage that the Permittee to minimize the need to site the turbine towers closer. Rock County require a setback of 3 RD on east-west axis and 5 RD on north-south axis; there is no explicit provision for variances to this requirement.

²¹ *Rock County Zoning Ordinance*,

[https://go.boarddocs.com/mn/rcmn/Board.nsf/files/B4QJLX4BB554/\\$file/FINAL%202018%20Zoning%20Ordinance%20w%20Table%20of%20Contents%20180917.pdf](https://go.boarddocs.com/mn/rcmn/Board.nsf/files/B4QJLX4BB554/$file/FINAL%202018%20Zoning%20Ordinance%20w%20Table%20of%20Contents%20180917.pdf), see *Renewable Energy Ordinance* at pp. 104-122, specifically *Subdivision 8, Setbacks for Wind Turbines*.

In its letter of July 6, 2020, the Rock County Board of Commissioners clarified that it is not the county's intent for the *Renewable Energy Ordinance* to be applied to projects permitted by the Commission and therefore does not believe the setbacks outlined in the Renewable Energy Ordinance are applicable to the Walleye Wind Project.²²

Based on the county's letter, EERA staff has not included changes in the DSP. If the Commission wishes to include these more stringent requirements in the DSP to further develop the record before its final permit decision, EERA suggests the Commission consider modifications to the DSP similar to the following:

4.1 Wind Access Buffer

Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, or in compliance with the county ordinance in the county the tower is built, whichever is more restrictive, without the approval of the Commission. This section does not apply to public roads and trails.

4.4 Roads

Wind turbines and meteorological towers shall not be located closer than ~~250 feet~~ 1.1 times the total height from base to top of fully extended rotor tip from the edge of the nearest public road right-of-way.

4.10 Turbine Spacing

The turbine towers shall be constructed within the site boundary as shown on the site maps. The turbine towers shall be spaced no closer than three rotor diameters in the non-prevailing wind directions and five rotor diameters on the prevailing wind directions. ~~If required, up to 20 percent of the towers may be sited closer than the above spacing, but the Permittee shall minimize the need to site the turbine towers closer.~~

Recommendation to Issue a Draft Site Permit

EERA recommends the Commission issue a Draft Site Permit for the Walleye Wind Project and submits the attached preliminary Draft Site Permit for consideration. The preliminary DSP includes a map of anticipated turbine placements and access roads. This map may be updated based on additional data entered into the record following issuance of the Draft Site Permit, including additional information on final turbine type selection. Final permit conditions will also be open for discussion through the hearing by the Commission on issuing a final Site Permit.

Following its earlier recommendations, EERA staff recommends the Commission request a full ALJ report including findings and recommendations, when it refers the matter to the OAH.

²² Rock County Board of Commissioners. Letter to Mike Weich. July 6, 2020. Walleye Wind Site Permit Application, Appendix A: Agency Correspondence, at pp. 77-78. eDocket ID: [20207-164777-01](#)

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR A
LARGE WIND ENERGY CONVERSION SYSTEM

IN
ROCK COUNTY

ISSUED TO
WALLEYE WIND, LLC

PUC DOCKET NO. IP 7026/WS 20-384

In accordance with the requirements of Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854 this site permit is hereby issued to:

Walleye Wind, LLC

The Permittee is authorized by this site permit to construct and operate a Large Wind Energy Conversion System of up to 109.2 megawatts (MW), consisting of up to 40 turbines. The Large Wind Energy Conversion System and associated facilities shall be built within the site identified in this permit and as portrayed on the site maps and in compliance with the conditions specified in this permit.

This site permit shall expire thirty (30) years from the date of this approval.

Approved and adopted this ____ day of _____

BY ORDER OF THE COMMISSION

Will Seuffert,
Executive Secretary

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

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ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Site Maps

PRELIMINARY DRAFT SITE PERMIT

PRELIMINARY DRAFT SITE PERMIT

Walleye Wind, Docket No. IP 7026/WS-20-269

1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Walleye Wind, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854. This permit authorizes the Permittee to construct and operate the Walleye Wind Project, a 109.2 megawatt (MW) nameplate capacity Large Wind Energy Conversion System (LWECS) and associated facilities in Rock County. The LWECS and associated facilities shall be built within the site identified in this permit and as identified in the attached site maps, hereby incorporated into this document.

1.1 Preemption

Pursuant to Minn. Stat. § 216F.07, this permit shall be the sole site approval required for the location, construction, and operation of this project and this permit shall supersede and preempt all zoning, building, and land use rules, regulations, and ordinances adopted by regional, county, local, and special purpose governments.

2 PROJECT DESCRIPTION

The Walleye Wind Project will be an up to 109.2 MW nameplate capacity LWECS in Rock County, Minnesota. The LWECS will consist of up to 36 GE 2.82 MW wind turbines and four (4) GE 2.32 MW wind turbines. The project also includes up to four alternate turbine locations for the GE 2.82 model and one alternate turbine location for the GE 2.32 model that can be used should any of the primary turbine locations be determined not adequate for construction or operation.

All of the turbines will utilize low-noise trailing edge (LNTE) serrations on the turbine blades to reduce sound impacts. LNTE serrations will be the same color as the turbine blades and cover approximately 20-30 percent of the trailing edge of the outboard blade length.

2.1 Associated Facilities

Associated facilities include the following: a project substation, a permanent meteorological tower and associated weather collection data systems, underground collection and feeder lines, permanent all-weather gravel access roads, and an operation and maintenance (O&M) facility.

2.2 Project Location

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The project is located in the following:

<u>County Name</u>	<u>Township Name</u>	<u>Township</u>	<u>Range</u>	<u>Sections</u>
<u>Rock</u>	<u>Martin</u>	<u>101N</u>	<u>46W</u>	<u>1-3, 12</u>
<u>Rock</u>	<u>Luverne</u>	<u>102N</u>	<u>45W</u>	<u>6, 30-31</u>
<u>Rock</u>	<u>Beaver Creek</u>	<u>102N</u>	<u>46W</u>	<u>1-11, 14-36</u>
<u>Rock</u>	<u>Beaver Creek</u>	<u>102N</u>	<u>47W</u>	<u>1-2, 11-14, 23-26, 35-36</u>
<u>Rock</u>	<u>Springwater</u>	<u>103N</u>	<u>46W</u>	<u>30-32, 34-36</u>
<u>Rock</u>	<u>Springwater</u>	<u>103N</u>	<u>47W</u>	<u>35-36</u>

3 DESIGNATED SITE

The site designated by the Commission for the Walleye Wind Project is the site depicted on the site maps attached to this permit. The project area encompasses approximately 31,000 acres. Upon completion, the project will occupy no more than 49 acres of land converted to wind turbines and associated facilities approved by this permit. Within the project boundary, the LWECS and associated facilities shall be located on lands for which the Permittee has obtained wind rights.

3.1 Turbine Layout

The preliminary wind turbine and associated facility layouts are shown on the site maps attached to this permit. The preliminary layout represents the approximate location of wind turbines and associated facilities within the project boundary and identifies a layout that seeks to minimize the overall potential human and environmental impacts of the project, which were evaluated in the permitting process.

The final layout depicting the location of each wind turbine and associated facility shall be located within the project boundary. The project boundary serves to provide the Permittee with the flexibility to make minor adjustments to the preliminary layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the location of a wind turbine and associated facility depicted in the preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 10.3.

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4 SETBACKS AND SITE LAYOUT RESTRICTIONS

4.1 Wind Access Buffer

Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

4.2 Residences

Wind turbine towers shall not be located closer than 1,000 feet from all residences or the distance required to comply with the noise standards pursuant to Minn. R. 7030.0040, established by the Minnesota Pollution Control Agency (MPCA), whichever is greater.

4.3 Noise

The wind turbine towers shall be placed such that the Permittee shall, at all times, comply with noise standards established by the MPCA as of the date of this permit and at all appropriate locations. The noise standards are found in Minnesota Rules Chapter 7030. Turbine operation shall be modified, or turbines shall be removed from service if necessary to comply with these noise standards. The Permittee or its contractor may install and operate turbines as close as the minimum setback required in this permit, but in all cases shall comply with MPCA noise standards. The Permittee shall be required to comply with this condition with respect to all homes or other receptors in place as of the time of construction, but not with respect to such receptors built after construction of the towers.

4.4 Roads

Wind turbines and meteorological towers shall not be located closer than 250 feet from the edge of the nearest public road right-of-way.

4.5 Public Lands

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in publicly-owned lands that have been designated for recreational or conservation purposes, including, but not limited to, Waterfowl Production Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in

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the event that the public entity owning those lands enters into a land lease and easement with the Permittee. Wind turbines towers shall also comply with the setbacks of Section 4.1.

4.6 Wetlands

Wind turbines and associated facilities including foundations, access roads, underground cable and transformers, shall not be placed in public waters wetlands, as shown on the public water inventory maps prescribed by Minnesota Statutes Chapter 103G, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE), and local units of government as implementers of the Minnesota Wetlands Conservation Act.

4.7 Native Prairie

Wind turbines and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers shall not be placed in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and shall not be located in areas enrolled in the Native Prairie Bank Program. Construction activities, as defined in Minn. Stat. § 216E.01, shall not impact native prairie unless addressed in a Prairie Protection and Management Plan.

The Permittee shall prepare a Prairie Protection and Management Plan in consultation with the DNR if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the site boundaries. The Permittee shall file the plan 30 days prior to submitting the site plan required by Section 10.3 of this permit. The plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the DNR, and the Commission.

4.8 Sand and Gravel Operations

Wind turbines and all associated facilities, including foundations, access roads, underground cable, and transformers shall not be located within active sand and gravel operations, unless otherwise negotiated with the landowner.

4.9 Wind Turbine Towers

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Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to 114 meters (374 feet) above grade measured at hub height. The wind turbine specifications in the table below were provided in the Permittee’s November 4, 2020, amended site permit application.

Design Feature	<u>GE 2.82 114 M</u>	<u>GE 2.82 89 M</u>	<u>GE 3.32 80 M</u>
Capacity	<u>2.82 MW</u>	<u>2.82 MW</u>	<u>2.32 MW</u>
Total Height (ground to fully extended blade tip)	<u>178.1 meters</u> <u>(584 feet)</u>	<u>152.1 meters</u> <u>(499 feet)</u>	<u>138.3 meters</u> <u>(454 feet)</u>
Hub Height	<u>114 meters</u> <u>(374 feet)</u>	<u>89 meters</u> <u>(292 feet)</u>	<u>80 meters (263</u> <u>feet)</u>
Rotor Diameter	<u>127.2 m</u> <u>(417 ft)</u>	<u>127.2 m</u> <u>(417 feet)</u>	<u>116.5 m</u> <u>(382 feet)</u>

4.10 Turbine Spacing

The turbine towers shall be constructed within the site boundary as shown on the site maps. The turbine towers shall be spaced no closer than three rotor diameters in the non-prevailing wind directions and five rotor diameters on the prevailing wind directions. If required, up to 20 percent of the towers may be sited closer than the above spacing, but the Permittee shall minimize the need to site the turbine towers closer.

4.11 Meteorological Towers

Permanent towers for meteorological equipment shall be free standing. Permanent meteorological towers shall not be placed less than 250 feet from the edge of the nearest public road right-of-way and from the boundary of the Permittee’s site control, or in compliance with the county ordinance regulating meteorological towers in the county the tower is built, whichever is more restrictive. Meteorological towers shall be placed on property the Permittee holds the wind or other development rights.

Meteorological towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the meteorological towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

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4.12 Aviation

The Permittee shall not place wind turbines or associated facilities in a location that could create an obstruction to navigable airspace of private and public airports (as defined in Minn. R. 8800.0100, subp. 24(a) and 24(b)) in Minnesota, adjacent states, or provinces. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minn. R. 8800.1900, subp. 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (MnDOT), Department of Aviation, and the FAA. The Permittee shall notify owners of all known airports within six miles of the project ~~prior to construction~~ of the project's anticipated construction start date at least 14 days prior to the pre-construction meeting.

4.13 Footprint Minimization

The Permittee shall design and construct the LWECs so as to minimize the amount of land that is impacted by the LWECs. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall, to the greatest extent feasible, be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.

5 GENERAL CONDITIONS

The Permittee shall comply with the following conditions during construction and operation of the LWECs and associated facilities over the life of this permit.

5.1 Permit Distribution

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted site.

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5.2 Access to Property

The Permittee shall contact landowners prior to entering ~~the~~ private property or conducting maintenance within the ~~route-site~~, unless otherwise negotiated with the affected landowner.

5.3 Construction and Operation Practices

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the November 4, 2020, site permit application, and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

5.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to ~~commencing construction~~ the pre-construction meeting. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to ~~commencing construction~~ the pre-construction meeting. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

5.3.2 Site Manager

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this permit during the commercial operation and decommissioning phases of the project. This person shall be accessible by telephone or other means during normal business hours for the life of this permit.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the site manager 14 days prior to ~~commercial operation of~~ pre-operation meeting for the facility. The Permittee shall provide the site manager's contact information to affected landowners, residents, local government units and other interested

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persons 14 days prior to ~~commercial operation of~~ the pre-operation meeting for the facility. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

5.3.3 Employee Training and Education of Permit Terms and Conditions

The Permittee shall inform and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the LWECS of the terms and conditions of this permit.

5.3.4 Public Services and Public Utilities

During construction, the Permittee shall minimize any disruption to public services and public utilities. To the extent disruptions to public services or public utilities occur these will be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate mitigation measures if not already considered as part of this permit.

5.3.5 Topsoil Protection

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands unless otherwise negotiated with the affected landowner.

5.3.6 Soil Compaction

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable. Soil decompaction measures shall be utilized on all lands utilized for project construction and travelled on by cranes, heavy equipment, and heavy trucks; even when soil compaction minimization measures are used.

5.3.7 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the MPCA Construction Stormwater Program. If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant

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Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

5.3.8 Wetlands and Water Resources

Construction in wetland areas shall occur during frozen ground conditions to minimize impacts, to the extent feasible. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and managed in accordance with all applicable wetland permits. Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers, Minnesota Department of Natural Resources, Minnesota Board of Soil and Water Resources, and local units of government shall be met.

5.3.9 Vegetation Removal

The Permittee shall disturb or clear vegetation on the project site only to the extent necessary to assure suitable access for construction, and for safe operation and maintenance of the project. The Permittee shall minimize the number of trees removed in selecting the site layout specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and other vegetation, to the extent that such actions do not violate sound engineering principles.

5.3.10 Application of Pesticides

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The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture (MDA), DNR, and the U.S. Environmental Protection Agency (EPA). Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days prior to such application.

5.3.11 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission 14 days prior to the pre-construction meeting.

5.3.12 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil, the Permittee shall select site appropriate seed certified to be free of noxious weeds. The Permittee shall consult with landowners on the selection and use of seed for replanting. To the extent possible, the Permittee shall use native seed mixes.

5.3.13 Public Roads

At least 14 days prior to the pre-construction meeting, the Permittee shall identify all state, county, or township roads that will be used for the project and shall notify the Commission and the state, county, or township governing body having jurisdiction over the roads to determine if the governmental body needs to inspect the roads prior to use of these roads. Where practical, existing roadways shall be used for all activities associated with the project. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assembled nacelles, and all other heavy components to and from the turbine sites.

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The Permittee shall, prior to the use of such roads, make satisfactory arrangements (approved permits, written authorizations, road use agreements, development agreements, etc.) with the appropriate state, county, or township governmental body having jurisdiction over roads to be used for construction of the project, for maintenance and repair of roads that may be subject to increased impacts due to transportation of equipment and project components. The Permittee shall notify the Commission of such arrangements upon request.

5.3.14 Turbine Access Roads

The Permittee shall construct the least number of turbine access roads necessary to safely and efficiently operate the project and satisfy landowner requests. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. Access roads shall not be constructed across streams and drainage ditches without required permits and approvals. When access roads are constructed across streams, drainage ways, or drainage ditches, the access roads shall be designed and constructed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed. Any access roads that are constructed across streams or drainage ditches shall be designed and constructed in a manner that maintains existing fish passage. Access roads that are constructed across grassed waterways, which provide drainage for surface waters that are ephemeral in nature, are not required to maintain or provide fish passage. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

5.3.15 Private Roads

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

5.3.16 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the facility. In the event that a resource is encountered, the Permittee shall consult with the State Historic Preservation Office (SHPO) and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with SHPO and State Archaeologist requirements.

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Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction at such location and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement and the State Archaeologist.

5.3.17 Interference

At least 14 days prior to the pre-construction meeting, the Permittee shall submit to the Commission an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the project area. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television or radio reception, microwave patterns, or telecommunications in the event residents should complain about such disruption or interference after the turbines are placed in operation. The Permittee shall be responsible for alleviating any disruption or interference of these services caused by the turbines or any associated facilities.

The Permittee shall not operate the project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission (FCC) regulations or other law. In the event the project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

5.3.18 Livestock Protection

The Permittee shall take precautions to protect livestock during all phases of the project's life.

5.3.19 Fences

The Permittee shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

5.3.20 Drainage Tiles

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The Permittee shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of project's life unless otherwise negotiated with affected landowner.

5.3.21 Equipment Storage

The Permittee shall not locate temporary equipment staging areas on lands under its control unless negotiated with affected landowner. Temporary equipment staging areas shall not be located in wetlands or native prairie as defined in Sections 4.6 and 4.7.

5.3.22 Restoration

The Permittee shall, as soon as practical following construction of each turbine, restore the areas affected by construction to the condition that existed immediately before construction began, to the extent possible. The time period to complete restoration may be no longer than 12 months after the completion of construction, unless otherwise negotiated with the affected landowner. Restoration shall be compatible with the safe operation, maintenance and inspection of the project. Within 60 days after completion of all restoration activities, the Permittee shall advise the Commission in writing of the completion of such activities.

5.3.23 Cleanup

All waste and scrap that is the product of construction shall be removed from the site and all premises on which construction activities were conducted and properly disposed of upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

5.3.24 Pollution and Hazardous Waste

All appropriate precautions to protect against pollution of the environment shall be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction, site restoration, and operation of the facility.

5.3.25 Damages

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The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

5.3.26 Public Safety

The Permittee shall provide educational materials to landowners adjacent to the site and, upon request, to interested persons about the project and any restrictions or dangers associated with the project. The Permittee shall also provide any necessary safety measures such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minn. Stat. § 216D.01, subd. 11, to Gopher State One Call following the completion of construction at the site.

5.3.27 Tower Identification

All turbine towers shall be marked with a visible identification number.

5.3.28 Federal Aviation Administration Lighting

Towers shall be marked as required by the FAA. There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

The Permittee shall install and employ an FAA-approved lighting mitigation system. Such a system shall use aircraft detection (aircraft detection lighting system, ADLS), dimming (light intensity dimming solution, LIDS) or other FAA-approved mitigation method. The Permittee shall describe the lighting mitigation system used for the project in its site plan.

5.4 Communication Cables

The Permittee shall place all communication and supervisory control and data acquisition cables underground and within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

5.5 Electrical Collector and Feeder Lines

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Collector lines that carry electrical power from each individual transformer associated with a wind turbine to an internal project interconnection point shall be buried underground. Collector lines shall be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

Feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid may be overhead or underground. Feeder line locations shall be negotiated with the affected landowner. Any overhead or underground feeder lines that parallel public roads shall be placed within the public rights-of-way or on private land immediately adjacent to public roads. If overhead feeder lines are located within public rights-of-way, the Permittee shall obtain approval from the governmental unit responsible for the affected right-of-way.

Collector and feeder line locations shall be located in such a manner as to minimize interference with agricultural operations including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines in the site plan pursuant to Section 10.3.

5.6 Other Requirements

5.6.1 Safety Codes and Design Requirements

The LWECs and associated facilities shall be designed to meet or exceed all relevant local and state codes, Institute of Electrical and Electronics Engineers, Inc. (IEEE) standards, the National Electric Safety Code (NESC), and North American Electric Reliability Corporation (NERC) requirements. The Permittee shall report to the Commission on compliance with these standards upon request.

5.6.2 Other Permits and Regulations

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the site permit application. ~~The Permittee shall submit a copy of such permits to the Commission upon request.~~

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At least 14 days prior to the pre-construction meeting, the Permittee shall submit a filing with a detailed status update of all permits, authorizations, and approvals that have been applied for specific to the project. The detailed status update shall include the permitting agency or authority, the name of the permit, authorization, or approval being sought, contact person and contact information for the permitting agency or authority, brief description of why the permit, authorization, or approval is needed, application submittal date, and the date the permit, authorization, or approval was issued or is anticipated to be issued.

The Permittee shall demonstrate that it has obtained all necessary permits, authorizations, and approvals by filing an affidavit stating as such, prior to commencing project construction. The Permittee shall provide a copy of any such permits, authorizations, and approvals upon Commission request.

The Permittee shall comply with all terms and conditions of permits or licenses issued by the counties, cities, and municipalities affected by the project that do not conflict with or are not preempted by federal or state permits and regulations.

6 SPECIAL CONDITIONS

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

6.1 Soil and Water Conservation District (SWCD) and Landowner Review of Plans

The Permittee shall provide the local SWCD and participating landowners with the opportunity to review and comment on detailed access road, and all other infrastructure plans and designs in order to minimize the potential to pond and/or divert water creating gully erosion or the potential to cause damage or failure to existing conservation practices, such as terrace(s), sediment control basin(s) or diversion(s) prior to finalization and installation. The Permittee shall file documentation that condition 6.1 of this permit has been complied with at least 14 days prior to the pre-construction meeting.

7 SURVEYS AND REPORTING

7.1 Biological and Natural Resource Inventories

The Permittee, in consultation with the Commission and the DNR, shall design and conduct pre-construction desktop and field inventories of existing wildlife management areas, scientific and natural areas, recreation areas, native prairies and forests, wetlands, and any other biologically sensitive areas within the project site and assess the presence of state- or federally-listed or

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threatened species. The results of the inventories shall be filed with the Commission at least 30 days prior to the pre-construction meeting to confirm compliance of conditions in this permit. The Permittee shall file with the Commission, any biological surveys or studies conducted on this project, including those not required under this permit.

7.2 Shadow Flicker

At least 14 days prior to the pre-construction meeting, the Permittee shall provide data on shadow flicker for each residence of non-participating landowners and participating landowners within and outside of the project boundary potentially subject to turbine shadow flicker exposure. Information shall include the results of modeling used, assumptions made, and the anticipated levels of exposure from turbine shadow flicker for each residence. The Permittee shall provide documentation on its efforts to avoid, minimize and mitigate shadow flicker exposure. The results of any modeling shall be filed with the Commission at least 14 days prior to the pre-construction meeting to confirm compliance with conditions of this permit.

7.3 Wake Loss Studies

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the pre-construction micro-siting analysis leading to the final tower locations and an estimate of total project wake losses. As part of the annual report on project energy production required under Section 10.8 of the permit the Permittee shall file with the Commission any operational wake loss studies conducted on this project during the calendar year preceding the report.

7.4 Noise Studies

The Permittee shall file a proposed methodology for the conduct of a post-construction noise study at least 14 days prior to the pre-construction meeting. The Permittee shall develop the post-construction noise study methodology in consultation with the Department of Commerce. The study must incorporate the Department of Commerce Noise Study Protocol to determine the operating LWECS noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds. The Permittee must conduct the post-construction noise study and file with the Commission the completed post-construction noise study within 18 months of commencing commercial operation.

7.5 Avian and Bat Protection

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7.5.1 Operational Phase Fatality Monitoring

The Permittee shall utilize a qualified third party to conduct a minimum of two full years of avian and bat fatality monitoring following the commencement of the operational phase of the project. Monitoring activities and results will be coordinated directly with MN DNR, USFWS, and the Commission. Detailed monitoring protocols, agency coordination, and any avoidance and minimization measures will be detailed in the project's ABPP.

7.5.2 Avian and Bat Protection Plan

The Permittee shall comply with the provisions of the Avian and Bat Protection Plan (ABPP) submitted for this project as part of the July 9, 2020 site permit application, and all necessary revisions resulting from the annual audit of ABPP implementation. The first annual audit and revision that occur during the permit issuance process will be incorporated into a Permit Version. The Permit Version of the ABPP will be filed with the Commission 14 days before the pre-construction meeting and revisions should shall include any updates associated with final construction plans and site plans.

The ABPP must address 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 ABPP shall also include formal and incidental post-construction fatality monitoring, training, wildlife handling, documentation (*e.g.*, photographs), and reporting protocols for each phase of the project.

The Permittee shall, by the 15th of March following each complete or partial calendar year of operation, file with the Commission an annual report detailing findings of its annual audit of ABPP practices. The annual report shall include summarized and raw data of bird and bat fatalities and injuries and shall include bird and bat fatality estimates for the project using agreed upon estimators from the prior calendar year. The annual report shall also identify any deficiencies or recommended changes in the operation of the project or in the ABPP to reduce avian and bat fatalities and shall provide a schedule for implementing the corrective or modified actions. The Permittee shall provide a copy of the report to the Minnesota Department of Natural Resources, the Department of Commerce, and ~~to~~ the U.S. Fish and Wildlife Service (FWS) at the time of filing with the Commission.

7.5.3 Quarterly Incident Reports

The Permittee shall submit quarterly avian and bat reports to the Commission. Quarterly reports are due by the 15th of January, April, July, and October commencing the day following

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commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian and bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols. If a dead or injured avian or bat species is found, the report shall describe the potential cause of the occurrence (if known) and the steps taken to address future occurrences. The Permittee shall provide a copy of the report to the DNR, the Department of Commerce, and to the FWS at the time of filing with the Commission.

7.5.4 Immediate Incident Reports

The Permittee shall notify the Commission, the Department of Commerce, the FWS, and the DNR within 24 hours of the discovery of any of the following:

- (a) five or more dead or injured birds or bats at an individual turbine location within a five day reporting period;
- (b) twenty or more dead or injured birds or bats, across the entire facility, within a five day reporting period
- (c) one or more dead or injured state threatened, endangered, or species of special concern;
- (d) one or more dead or injured federally listed species, including species proposed for listing; or
- (e) one or more dead or injured bald or golden eagle(s).

In the event that one of the four discoveries listed above should be made, the Permittee must file with the Commission within seven days, a compliance report identifying the details of what was discovered, the turbine where the discovery was made, a detailed log of agencies and individuals contacted, and current plans being undertaken to address the issue.

7.5.5 Turbine Operational Curtailment

The Permittee shall operate all facility turbines so that all turbines are locked or feathered up to the manufacturer's standard cut-in speed from one-half hour before sunset to one-half hour after sunrise of the following day from April 1 to October 31 of each year of operation. All

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operating turbines at the facility must be equipped with operational software that is capable of allowing for adjustment of turbine cut-in speeds.

8 AUTHORITY TO CONSTRUCT LWECs

8.1 Wind Rights

At least 14 days prior to the pre-construction meeting, the Permittee shall demonstrate that it has obtained the wind rights and any other rights necessary to construct and operate the project within the boundaries authorized by this permit. Nothing in this permit shall be construed to preclude any other person from seeking a permit to construct a wind energy conversion system in any area within the boundaries of the project covered by this permit if the Permittee does not hold exclusive wind rights for such areas.

8.2 Power Purchase Agreement

In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project at the time this permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This permit does not authorize construction of the project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with Minn. R. 7854.1300.

8.3 Failure to Commence Construction

If the Permittee has not completed the pre-construction surveys required under this permit and commenced construction of the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason construction has not commenced. In such event, the Commission shall make a determination as to whether this permit should be amended or revoked. No revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minn. R. 7854.1300.

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9 COMPLAINT PROCEDURES

~~Prior~~ Fourteen (14) days prior to the start of construction pre-construction meeting, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

10 COMPLIANCE REQUIREMENTS

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

10.1 Pre-Construction Meeting

Prior to the start of any construction, the Permittee shall participate in a pre-construction meeting with the Department of Commerce and Commission staff to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. Within 14 days following the pre-construction meeting, the Permittee shall file with the Commission, a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the construction start date.

10.2 Pre-Operation Meeting

At least 14 days prior to commercial operation of the facility, the Permittee shall participate in a pre-operation meeting with the Department of Commerce and Commission staff to coordinate field monitoring of operation activities for the project. Within 14 days following the pre-operation meeting, the Permittee shall file with the Commission, a summary of the topics reviewed and discussed and a list of attendees.

10.3 Site Plan

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At least ~~30~~ 14 days prior to the pre-construction meeting, the Permittee shall provide the Commission, the Department, and the Rock County Land Management Office and the Rock County Department of Public Works with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations of all turbines and other structures to be constructed including all electrical equipment, collector and feeder lines, pollution control equipment, fencing, roads, and other associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the site boundary and layout in relation to that approved by this permit. The Permittee shall document, through GIS mapping, compliance with the setbacks and site layout restrictions required by this permit, including compliance with the noise standards pursuant to Minnesota Rules Chapter 7030. At the same time, the Permittee shall notify affected landowners and city and town clerks that the site plan is on file with the Commission and the Rock County Land Management Office. The Permittee may submit a site plan and engineering drawings for only a portion of the project if the Permittee intends to commence construction on certain parts of the project before completing the site plan and engineering drawings for other parts of the project.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes to its site plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission, the Department, the Rock County Land Management Office, city and town clerks, and the affected landowners at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

In the event that previously unidentified human and environmental conditions are discovered during construction that 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 site. Under these circumstances, the Permittee shall notify the Commission, the Department, the MPCA, the DNR, the Rock County Land Management Office, city and town clerks, and the affected landowners of any turbines that are to be relocated, and provide the previously unidentified environmental conditions and how the movement of the turbine mitigates the human and environmental impact at least five days before implementing the changes. No changes shall be made that would be in violation of any terms of this permit.

10.4 Status Reports

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The Permittee shall file status reports with the Commission on progress regarding site construction. The Permittee need not report more frequently than monthly. Reports shall begin with the commencement of site construction and continue until completion of restoration. Reports shall describe construction activities and progress and activities undertaken in compliance with this permit. Reports shall include text and photographs.

10.5 Labor Statistic Reporting

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The reports shall (a) detail the Permittee’s efforts and the site contractor’s efforts to hire Minnesota workers, and (b) provide an account of: (i) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. § 290.01, subd. 7; (ii) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and (iii) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

10.6 In-Service Date

At least three days before the facility is to be placed into service, the Permittee shall notify the Commission of the date on which the facility will be placed into service and the date on which construction was completed.

10.7 As-Builts

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

10.8 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (*e.g.*, ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the LWECs.

10.9 Project Energy Production

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The Permittee shall, by February 1st following each complete or partial year of project operation, file a report with the Commission on the monthly energy production of the project including:

- (a) the installed nameplate capacity of the permitted project;
- (b) the total monthly energy generated by the project in MW hours;
- (c) the monthly capacity factor of the project;
- (d) yearly energy production and capacity factor for the project;
- (e) the operational status of the project and any major outages, major repairs, or turbine performance improvements occurring in the previous year; and
- (f) any other information reasonably requested by the Commission.

The permittee shall file this information in a format recommended in the Department's guidance on energy production reporting. This information shall be considered public and must be filed electronically.

10.10 Wind Resource Use

The Permittee shall, by February 1st following each complete or partial calendar year of operation, file with the Commission the average monthly and average annual wind speed collected at one permanent meteorological tower during the preceding year or partial year of operation. This information shall be considered public and must be filed electronically.

10.11 Emergency Response

The Permittee shall prepare an Emergency Response Plan in consultation with the emergency responders having jurisdiction over the facility prior to project construction. The Permittee shall submit a copy of the plan, along with any comments from emergency responders, to the Commission at least 14 days prior to the pre-construction meeting and a revised plan, if any, at least 14 days prior to the pre-operation meeting. The Permittee shall provide as a compliance filing confirmation that the Emergency Response Plan was provided to the emergency responders and Public Safety Answering Points (PSAP) with jurisdiction over the facility prior to

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commencement of construction. The Permittee shall obtain and register the facility address or other location indicators acceptable to the emergency responders and PSAP having jurisdiction over the facility.

10.12 Extraordinary Events

Within 24 hours of discovery of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to: fires, tower collapse, thrown blade, acts of sabotage, collector or feeder line failure, and injured worker or private person. The Permittee shall, within 30 days of the occurrence, file a report with the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

11 DECOMMISSIONING, RESTORATION, AND ABANDONMENT

11.1 Decommissioning Plan

The Permittee shall ~~submit a~~ comply with the provisions of the most recently filed and accepted Decommissioning Plan. The initial version of the decommissioning plan was submitted for this project as Appendix J of the July 9, 2020 site permit application. The Permittee shall file an updated decommissioning plan incorporating comments and information from the permit issuance process and any updates associated with the final construction plans, with ~~to~~ the Commission at least fourteen 14 days prior to the ~~pre-operation~~ pre-construction meeting. ~~and provide updates to the~~ The decommissioning plan shall be updated every five years thereafter following the commercial operation date.

The decommissioning plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration of the project in accordance with the requirements of Minn. R. 7854.0500, subp. 13. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all project components, which shall include labor and equipment. The plan shall identify cost estimates for the removal of turbines, turbine foundations, underground collection cables, access roads, crane pads, substations, and other project components. The plan may also include anticipated costs for the replacement of turbines or repowering the project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its

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requirements to properly decommission the project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

11.2 Site Restoration

Upon expiration of this permit, or upon earlier termination of operation of the project, or any turbine within the project, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment to a depth of four feet. Any agreement for removal to a lesser depth or no removal shall be recorded with the county and shall show the locations of all such foundations. To the extent feasible, the Permittee shall restore and reclaim the site to pre-project conditions, including topography and topsoil conditions. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. All such agreements between the Permittee and the affected landowner shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months of termination.

11.3 Abandoned Turbines

The Permittee shall advise the Commission of any turbines that are abandoned prior to termination of operation of the project. The project, or any turbine within the project, shall be considered abandoned after one year without energy production and the land restored pursuant to Section 11.2 unless a plan is submitted to and approved by the Commission outlining the steps and schedule for returning the project, or any turbine within the project, to service.

12 COMMISSION AUTHORITY AFTER PERMIT ISSUANCE

12.1 Final Boundaries

After completion of construction, the Commission shall determine the need to adjust the final boundaries of the site required for this project in accordance with Minn. R. 7854.1300, subp. 1.

12.2 Expansion of Site Boundaries

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No expansion of the site boundaries described in this permit shall be authorized without the approval of the Commission. The Permittee may submit to the Commission a request for a change in the boundaries of the site for the project. The Commission will respond to the requested change in accordance with applicable statutes and rules.

12.3 Periodic Review

The Commission shall initiate a review of this permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this permit. No modification may be made except in accordance with applicable statutes and rules.

12.4 Modification of Conditions

After notice and opportunity for hearing, this permit may be modified or amended for cause, including but not limited to the following:

- (a) violation of any condition in this permit;
- (b) endangerment of human health or the environment by operation of the project; or
- (c) existence of other grounds established by rule.

12.5 More Stringent Rules

The issuance of this permit does not prevent the future adoption by the Commission of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

12.6 Right of Entry

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.

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- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- (c) To sample and monitor upon the facilities easement of the property.
- (d) To examine and copy any documents pertaining to compliance with the conditions of this permit.

12.7 Proprietary Information

Certain information required to be filed with the Commission under this permit may constitute trade secret information or other type of proprietary information under the Data Practices Act or other law. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

13 PERMIT AMENDMENT

This permit may be amended at any time by the Commission in accordance with Minn. R. 7854.1300, subp. 2. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

14 TRANSFER OF PERMIT

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with such information as the Commission shall require to determine whether the new permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new permittee, and interested persons such process as is required. The Commission may impose additional conditions on any new permittee as part of the approval of the transfer.

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Within ~~2014~~ days ~~after the date of the notice provided in Section 10.5~~ of the commercial operation date 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 immediately 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* 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 Permittee shall notify the Commission of:

- (a) the sale of a parent entity or a majority interest in the Permittee;
- (b) the sale of a majority interest of the Permittee's owners or majority interest of the owners; or
- (c) a sale which changes the entity with ultimate control over the Permittee.

15 REVOCATION OR SUSPENSION OF PERMIT

The Commission may take action to suspend or revoke this permit upon the grounds that:

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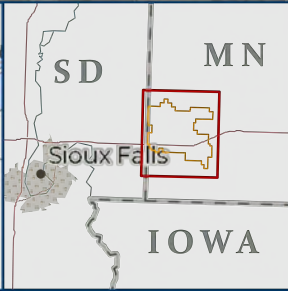
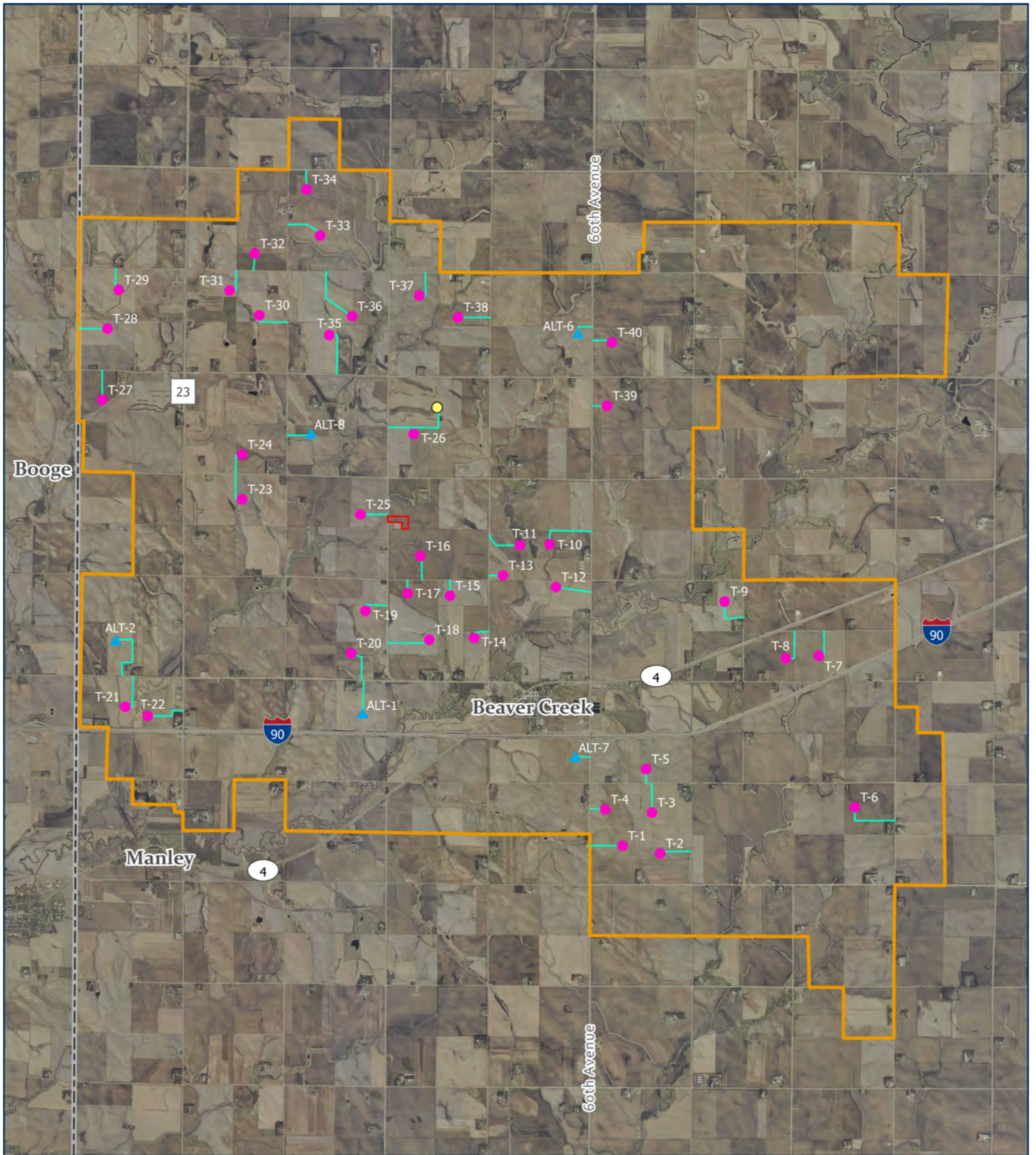
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- (a) a false statement was knowingly made in the application or in accompanying statements or studies required of the Permittee, and a true statement would have warranted a change in the Commission’s findings;
- (b) there has been a failure to comply with material conditions of this permit, or there has been a failure to maintain health and safety standards;
- (c) there has been a material violation of a provision of an applicable statute, rule, or an order of the Commission; or
- (d) the Permittee has filed a petition with the Commission requesting that the permit be revoked or terminated.

In the event the Commission determines that it is appropriate to consider revocation or suspension of this permit, the Commission shall proceed in accordance with the requirements of Minn. R. 7854.1300 to determine the appropriate action. Upon a finding of any of the above, the Commission may require the Permittee to undertake corrective measures in lieu of having this permit suspended or revoked.

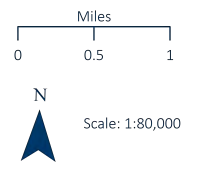
16 EXPIRATION DATE

This permit shall expire 30 years after the date this permit was approved and adopted.



Walleye Wind: DSP Overview Map

- Primary Turbine Locations
- ▲ Alternate Turbine Locations
- ADLS Tower
- Access Road
- O&M Building and Substation Location
- Site Boundary



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