

## Staff Briefing Papers

Meeting Date August 26, 2021 Agenda Item 1\*


Company Walleye Wind, LLC

Docket No. IP7206/CN-20-269 and WS-20-384

In the Matter of the Application of Walleye Wind, LLC for a Certificate of Need and Site Permit for a 109.7 MW Large Wind Energy Conversion System in Rock County, Minnesota

- Issues:
- Should the Commission accept the environmental report and the record created in this matter as adequately addressing the issues identified in the environmental report scoping decision?
  - Should the Commission adopt the administrative law judge’s Findings of Fact, Conclusions of Law, and Recommendation?
  - Should the Commission grant a certificate of need for the 109.7-megawatt Walleye Wind large wind energy conversion system?
  - Should the Commission issue a site permit for the 109.7-megawatt Walleye Wind large wind energy conversion system?

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 <b>Relevant Documents</b>	<b>Date</b>
Application for a Certificate of Need (Docket No. 20-269)	July 9, 2020
Application for a Site Permit Application (24 parts in Docket No. 20-384)	July 9, 2020
Order Accepting Applications as Complete, Establishing Review Procedures and Granting Variances	October 20, 2020
Revised Application for a Certificate of Need (3 parts in Docket No. 20-269)	November 4, 2020
Revised Site Permit Amendment Application (9 parts in Docket No. 20-384)	November 4, 2020
Notice of Comment Period on Revised Site Permit Application	November 19, 2020
DOC EERA Comments and Recommendations on Amended	December 9, 2020

Certificate of Need and Site Permit Applications	
Notice of Public Information and Environmental Report Scoping Meeting	December 18, 2020
Revised Sample Draft LWECS Site Permit (in Docket. No. 20-384)	December 31, 2020
DOC EERA Environmental Report Scoping Decision (in Docket. No. 20-269)	February 4, 2021
DOC EERA Comments and Recommendations on Draft Site Permit including Preliminary DSP (in Docket No. 20-384)	February 12, 2021
DOC EERA Comments on ALJ Report Process	March 3, 2021
OAH First Prehearing Order	March 18, 2021
Order Issuing Draft Site Permit and Requesting ALJ Report (in Docket No. 20-384)	March 24, 2021
DOC EERA Environmental Report (14 parts) (in Docket 20-269)	March 31, 2021
Revised Notice of Draft Site Permit Availability, Joint Public Hearings and Comment Period	April 5, 2021
Walleye Wind Site Maps Compliance Filing	April 13, 2021
DOC EERA Corrected Environmental Report (4 parts in Docket. No. 20-269)	April 22, 2021
Walleye Wind Compliance Filing -Landowner Letter and Maps	April 23, 2021
EQB Monitor Notice of Joint Public Hearings, Draft Site Permit Availability and Public Comment Periods	April 27, 2021
Walleye Wind Reply Comments (3 parts)	June 2, 2021
DOC EERA Reply Comments (2 parts)	June 16, 2021
DOC DER Comments on the Merits of the CN Application (Docket No. 20-269)	June 17, 2021
Walleye Wind Reply Comments	June 18, 2021
OAH ALJ Report Findings of Fact, Conclusions of Law and Recommendations (2 parts)	July 16, 2021
DOC EERA Exceptions to ALJ's Report	July 30, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

## I. Statement of the Issues

Should the Commission accept the environmental report and the record created in this matter as adequately addressing the issues identified in the environmental report scoping decision?

Should the Commission adopt the administrative law judge's Findings of Fact, Conclusions of Law, and Recommendation?

Should the Commission grant a certificate of need for the 109.7-megawatt Walleye Wind large wind energy conversion system?

Should the Commission issue a site permit for the 109.7-megawatt Walleye Wind large wind energy conversion system?

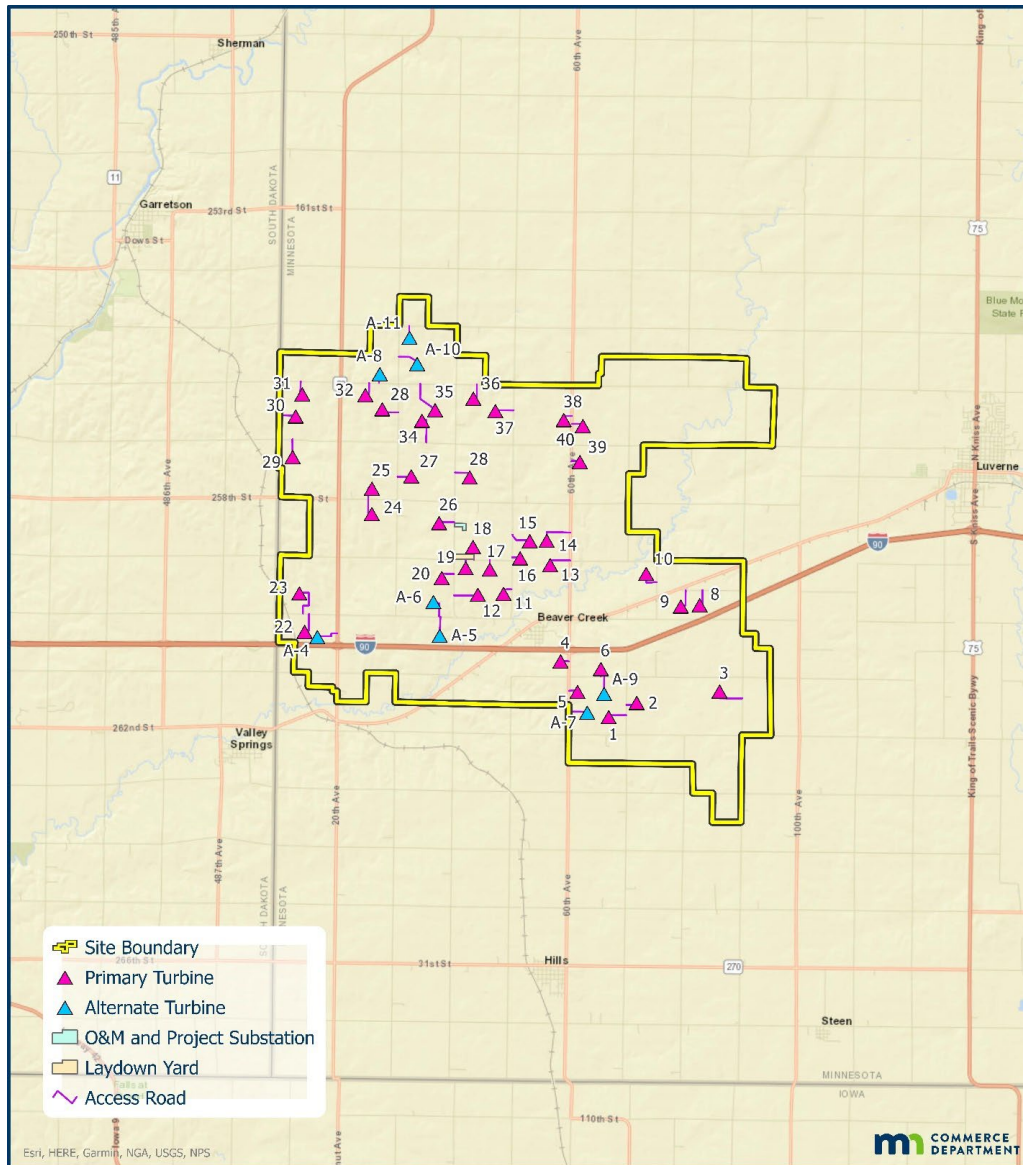
## II. Project Description

Walleye Wind, LLC (a wholly owned subsidiary of NextEra Energy Resources, LLC) has proposed to construct and operate an up to 109.7-megawatt (MW) Large Wind Energy Conversion System (LWECS) in Rock County. The project would include construction of up to 40 wind turbines with nameplate capacities of between 2.32 and 2.82 MW each. Associated facilities would include collection lines, a collector substation, an operations and maintenance facility, a construction laydown yard, crane paths, gravel access roads, a meteorological tower, and a generation tie line of less than 500 feet connecting the collector substation to the existing Xcel Energy Rock County Substation.

The project area encompasses approximately 31,000 acres in Martin, Luverne, Beaver Creek and Springwater Townships. Within the project boundary, the LWECS and associated facilities will be located on lands for which Walleye Wind has obtained wind rights and/or property easements. Upon completion, the project components would occupy approximately 49 acres of land converted to wind turbines and associated facilities.

Walleye Wind, LLC (Walleye Wind or the applicant) has entered into a 30-year power purchase agreement (PPA) with Minnesota Municipal Power Agency (MMPA) for the entire output of the project. The Project, as a generator of wind energy, qualifies as an "eligible energy technology" for the purposes of the Minnesota Renewable Energy Standard (RES), as set forth in Minn. Stat. § 216B.1691, and, therefore, will serve as a significant renewable generation addition to assist MMPA in meeting and exceeding its RES requirements, in addition to its own voluntary renewable energy goals.

## Proposed Walleye Wind Project



*Environmental Report - Walleye Wind Project, DOC EERA, March 2021*

### III. PROCEDURAL HISTORY

On July 9, 2020, Walleye Wind, LLC (Walleye Wind or applicant) filed an application with the Minnesota Public Utilities Commission (Commission) for a Certificate of Need (CN) for an approximately 110.8-megawatt (MW) large wind energy conversions system (LWECS) in Rock County, Minnesota (project). On the same day, Walleye Wind filed a site permit application for the LWECS project.

The Commission issued its Order Accepting Applications as Complete, Establishing Review

Procedures and Granting Variances on October 20, 2020. The order found that the CN application contained all the required information upon filings made in response to comments from the Department of Commerce Division of Energy Resources (DOC DER)<sup>1</sup>. The Commission adopted recommendations from Department of Commerce Energy Environmental Review and Analysis (Department or DOC EERA)<sup>2</sup> and DOC DER to evaluate the CN application using the Commission's informal (comment and reply) review process. The Commission also found the site permit application complete.

Among other procedural items, the order referred the CN and site permit applications to the Office of Administrative Hearings for joint public hearings; authorized combined environmental review of the applications; and requested the Department of Commerce Energy Environmental Review and Analysis (Department or DOC EERA) prepare an environmental report. The Commission also directed the applicant to file status reports on wind rights and interconnection 14 days prior to the public information meeting and the Commission's consideration of whether to issue a draft site permit.

On November 4, 2020, Walleye Wind filed permit amendment applications in both the CN and site permit dockets. The amended applications modified the project's proposed wind turbine technology and project layout, including changes in alternative and primary turbine designations of the project layout, changing operational power capacity at several turbines. The changes also include removal of several turbine locations and shifting certain turbine locations to address landowner concerns. The proposed project as amended includes construction and operation of a maximum of 40 wind turbines with nameplate capacities between 2.32 and 2.82 MW each. Associated facilities would include 34.5 kV collection lines, a collector substation, an operations and maintenance facility, a construction laydown yard, crane paths, gravel access roads, a meteorological tower, and a 500-foot 161-kV generation tie line connecting to Xcel Energy's Rock County Substation. As a result of these changes, the project's total power capacity decreased to 109.7 MW. The amended application also included an increase of 2 miles of 34.5 kilovolt (kV) trenched underground collector lines. The amount of access roads would increase 0.4 miles for a total of 12.0 miles.

On November 19, 2020, the Commission issued a Notice of Comment Period in the site permit docket requesting comments on whether the site permit application amendment was complete and whether it necessitated additional review process. Initial comments were received through December 9, 2020 and reply comments were accepted through December 16, 2020. Comments were received from the Laborers Union International North America – Minnesota & North Dakota<sup>3</sup> (LIUNA) stating that the amended site permit application amendment contained the necessary information for continued site permit review and additional processes were unnecessary.

On December 9, 2020, DOC EERA filed its comments and recommendations on the amended

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<sup>1</sup> *Reply Comments*, DOC DER, e-Dockets No. [20208-165663-01](#), August 7, 2020.

<sup>2</sup> *Comments on Application Acceptance*, DOC EERA, e-Dockets No. [20207-165478-01](#), July 31, 2020.

<sup>3</sup> *Comments*, LIUNA, e-Dockets, No. [202012-168903-01](#), December 9, 2020.

applications. DOC EERA indicated it the amended applications provided the required information, and the public information and scoping process should proceed without additional review processes. DOC EERA staff also recommended the Commission request a full Administrative Law Judge (ALJ) report including findings of fact, conclusions of law and recommendations from the Minnesota Office of Administrative Hearings.

On December 18, 2020, the Commission filed its Notice of Public Information and Environmental Report Scoping Meeting. The notice also established a comment period through January 26, 2021 on the scope of the environmental report and the potential impacts and/or mitigations measures of the project.

On December 21, 2020, Walleye Wind made a compliance filing on the interconnection and land rights status in the site permit docket as required by the Commission's October 20, 2020 order<sup>4</sup>. The filing also indicated the application removed one turbine (Turbine 2) from that of the November 4, 2020 Application Amendment.

On December 31, 2020, a Sample Draft LWECS Site Permit was filed to the site permit docket.

On January 5, 2021, DOC EERA and Commission staff conducted a Public Information and Environmental Report Scoping Meeting remotely. Approximately 120 individual lines were connected to the audio portion of the meeting and 19 people provided comments at the meeting. DOC EERA staff received 24 written comments during the scoping period between December 18, 2020 and January 26, 2021. DOC EERA also considered nine public comments on the project received between November 13, 2020 and November 18, 2020.

On January 22, 2021, DOC EERA filed a Record of Public Comments from the Public Information and Scoping Meeting. Comments from the Minnesota Department of Natural Resources (DNR)<sup>5</sup>, Minnesota Pollution Control Agency (MPCA)<sup>6</sup>, and Minnesota Department of Transportation (MnDOT)<sup>7</sup> also provided comments.

On January 29, 2021, Walleye Wind submitted an informational filing to clarify it was proposing to construct 40 primary turbine locations and 5 alternate turbine locations for the project. The applicant noted in the filing that it did not indicate any changes to the wind turbine array layout from its December 21, 2020 filing, but the applicant had renumbered the turbines to clarify which locations were primary designations and which were alternates<sup>8</sup>.

On February 4, 2021, DOC EERA filed its Environmental Report (ER) Scoping Decision in the CN

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<sup>4</sup> *Compliance Filing – Interconnection and Land Rights Status*, e-Dockets No. [202012-169202-02](#), December 21, 2020.

<sup>5</sup> DNR Comments, e-Dockets Nos. [20211-170291-01](#) and [20211-170293-01](#), January 26, 2021.

<sup>6</sup> MPCA Comments, e-Dockets No. [20211-170252-01](#), January 26, 2021.

<sup>7</sup> MnDOT Comments, e-Dockets No. [20211-170313-01](#), January 27, 2021.

<sup>8</sup> Informational Filing, Walleye Wind, LLC, e-Dockets No. [20211-170488-01](#), January 29, 2021.

docket. DOC-EERA's scoping decision identified the issues to be addressed in the environmental report, including impacts on air quality, water resources, soil and hazardous wastes, natural resources, human and social environment, associated electrical facilities and existing infrastructure, fuel availability, and agriculture. The Scoping Decision reviewed the written and oral comments received, set forth the matters to be addressed in the ER. DOC EERA indicted the ER would provide a high-level environmental analysis of the proposed project and system alternatives, and a review of environmental impacts associated with proposed project and project alternatives as part of a larger Commission review of the CN application. DOC EERA also included three "eligible energy technologies" alternatives that support Minnesota's renewable energy objectives for consideration in the ER. For alternatives, the ER specifically identified: (1) a generic 109.7 MW wind generation project sited elsewhere in Minnesota; (2) a 109.2 MW solar farm; and (3) a "no-build" option.

On February 12, 2021, DOC EERA filed Comments and Recommendations on the draft site permit and proposed a preliminary draft site permit incorporating additional site permit changes consistent with the Commission's Buffalo Ridge Wind Project Site Permit issued in January 2021.<sup>9</sup>

On March 18, 2021, Administrative Law Judge James Mortenson issued a Scheduling Order setting forth the procedural schedule for the review of Walleye Wind's applications. The order set April 13, 2021, as the date for the Commission to publish notice of the availability of the environmental report, and draft site permit, and the notice of public hearing in the EQB Monitor. The order set May 4, 2021 as the date for public hearings.

On March 24, 2021, the Commission issued an Order Issuing Draft Site Permit And Requesting A ALJ Report Including findings of fact, conclusions of law and recommendations.

On March 31, 2021, the Environmental Report was filed by DOC EERA in the CN docket. The ER provided an overview of the Project and its potential environmental impacts as compared to the project alternatives identified in the ER Scoping Decision.

On April 5, 2021, the Commission issued a Revised Notice of Draft Site Permit Availability, Joint Public Hearings and Comment Period for the project. The notice established a public comment period for both dockets through May 29, 2021.

On April 13, 2021, Walleye Wind filed combined site map(s) identifying each proposed and alternative turbine location by number, identifying receptor locations by number, and indicating the locations of roads, government-unit boundaries, and other major landmarks, for easy use by the public as required by the Commission's March 24, 2021 Order. The applicant indicated that the site maps were provided to potentially affected landowners in advance of the May 4, 2021 Public

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<sup>9</sup> *Order Granting Certificate of Need and Issuing Site Permit*, January 5, 2021, eDocket ID: [20211-169557-01](#)

Hearings.<sup>10</sup>

On April 22, 2021, DOC EERA filed corrected maps for portions of the ER.

On April 26, 2021, the applicant filed an affidavit of publication of the notice of joint public hearings in the April 15, 2021 *Garretson Gazette*, a newspaper published in South Dakota.

On May 4, 2021, ALJ James Mortenson conducted two public hearings on the matter remotely.

On May 11, 2021, upon request of DOC DER, ALJ James Mortenson issued an order extending the comment period for DOC DER until June 21, 2021 and the applicant's reply comments to DOC DER's comments until June 28, 2021.<sup>11</sup>

On May 20, 2021, DOC EERA filed comments recommending changes to the applicant's draft decommissioning plan. DOC EERA also recommended modified language to Section 7.2 of the draft site permit requiring Walleye Wind to prepare and implement a Shadow Flicker Monitoring Plan for the project.

On June 2, 2021, Walleye Wind filed post-hearing responses to comments received along with its proposed findings of fact, conclusions of law, and recommendations.

On June 16, 2020, DOC EERA filed its reply comments to Walleye Wind's proposed findings of fact, conclusions of law and recommendations.

On June 17, 2021, DOC DER filed its comments on the certificate of need application and recommended that the Commission consider the impacts identified in the environmental report, and grant the certificate of need for the project, provided the impacts identified are acceptable.

On July 16, 2021, Administrative Law Judge James Mortenson filed Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report).

On July 30, 2021, DOC EERA filed exceptions to the ALJ Report.

#### **IV. STATUTES AND RULES**

##### **A. Certificate of Need**

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<sup>10</sup> The applicant subsequently filed an affidavit of mailing the Project Maps in both dockets and noting that it had included a master list to allow landowners to identify their property in relation to the project, e-Dockets Nos. [20214-173290-01](#) and [20214-173289-01](#), April 23, 2021.

<sup>11</sup> Judge Mortenson also issued an order denying a second request for an extension for public comments on May 21, 2021 (e-Dockets No. [20215-174406-01](#)).



Minn. Stat. § 216B.243, subd. 2, provides that no large energy facility may be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission. The Walleye Wind project is defined as a large energy facility under Minn. Stat. § 216B.2421, subd. 2(1), because it is an electric power generating plant with a capacity of 50 megawatts or more with transmission lines interconnecting it to the transmission system and, therefore, requires a certificate of need from the Commission.

In assessing the need for a proposed large energy facility, the Commission must consider the factors listed under each of the criteria set forth in Minn. Stat. § 216B.243, subd. 3, and Minn.R. 7849.0120.

### **B. Site Permit**

Minn. Stat. § 216F.04, provides that no person may construct a large wind energy conversion system (LWECS) without the issuance of a site permit by the Commission. The Walleye Wind Project is defined as a LWECS under Minn. Stat. § 216F.01, subd. 2, because it is a wind energy conversion system with nameplate capacity of 5 megawatts or more, and therefore, requires a site permit from the Commission.

In deciding whether to issue a site permit for a LWECS, the Commission must determine that the project is compatible with environmental preservation, sustainable development, and the efficient use of resources (see Minn. Stat. § 216F.03 and Minn. R. 7854.1000, subp. 3).

### **C. Environmental Report**

Minn. R. 7849.1000 to 7849.2100, establishes the requirements concerning preparation of an environmental report for a large energy facility requiring a certificate of need. The environmental report is a document that describes the human and environmental impacts of a proposed large energy facility and alternatives to the project and methods to mitigate anticipated adverse impacts. At the time the Commission makes a final decision on the certificate of need application it must determine whether the environmental report and the record in the matter address the issues identified in the environmental report scoping decision.

## **V. COMMENTS RECEIVED**

### **A. Comments on the January 2, 2021 Public Information and Environmental Report Scoping Meeting<sup>12</sup>**

Comments expressing general support for the project were received from Laborers Union Local 563 (Celem Ozuna, Dan McGowan, Julie Kindt, Tara Kroger, Corey Krueger and Brian Rockers), LIUNA

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<sup>12</sup> Comments are grouped thematically, for a complete summary of individual comments, refer to ALJ Report Findings of Fact Numbers 72-79.

(Lucas Franco), Operating Engineers Local 49 (Nathan Runke), and Luverne Area Chambe (Jane Lanphere) primarily based on job creation and positive economic impacts of the project. Members of the general public speaking in support of the project include Jim Nichols, Gary Overgaard, Peter Bakken and Gary Papik.

Two members of the public from South Dakota (Bruce Carlson and Debbie Willard) expressed concerns about health and safety impacts due to the proximity of the project

### **B. Written Comments Received in Response to the December 18, 2020 Notice**

MnDOT noted that the applicant was responsive to several requests regarding concerns related to interstate, county state aid and trunk highway right-of-way, as well as concerns related to shadow flicker on Interstate I-90 in its February 24, 2021 reply comments<sup>13</sup>.

DNR provided comments on potential impacts upon public waters; the Buffalo-Ridge Snowmobile Trail; dewatering; turbine feathering; Blanding's Turtles; and erosion control and invasive species prevention best practices.<sup>14</sup>

MPCA noted that it did not have concerns with potential sound impacts from the project and noted that the applicant is required to obtain a Stormwater Pollution Prevention Plan (SWPPP) from the MPCA.

Several members of the public, including several from South Dakota<sup>15</sup> expressed numerous concerns regarding potential negative human and environmental impacts of the project including shadow flicker, sound, quality of life, property values and wildlife. Some commenters asserted that residents of South Dakota were not offered an equal voice in the project's approval process.

Several members of the public near the proposed project expressed support for the project based on its positive impacts to the community.<sup>16</sup>

### **C. DOC EERA Comments on the Draft Site Permit**

In its February 12, 2021 comments, DOC EERA provided several comments and recommended changes to the sample permit, most of which were technical in nature and/or consistent with recent LWECs site permits issued by the Commission. The proposed changes were adopted by the Commission and included in the March 24, 2021 Order issuing the draft site permit.

### **D. Comments Received During the Public Hearing Comment Period**

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<sup>13</sup> Response to the Minnesota Department of Transportation, e-Dockets No. [20212-171310-02](#) February 24, 2021.

<sup>14</sup> The applicant addressed these concerns in its March 2, 2021 Reply Comments.

<sup>15</sup> ALJ Report Findings of Fact Numbers 84-98, and 102.

<sup>16</sup> Ibid, Findings of Fact 99-101.

Administrative Law Judge James Mortenson administered two public hearings on May 4, 2021. Following the public hearing, the comment period remained open until May 20, 2021 at 4:30 PM. Speakers at the public hearings included those in support of the project, opponents of the project, and those with concerns with the project.<sup>17</sup>

During the public hearing public comment period, numerous proponents for the project expressed support for the project and noted its benefits.<sup>18</sup> Supporters cited opportunities for employment (including the applicant's commitment to use local labor), the need for renewable energy, increases to the local tax base and the local economy.

Numerous opponents to the project also identified concerns and in some cases opposition to the project<sup>19</sup>.

#### **E. Department of Commerce DER Comments and Analysis on the CN Application**

On June 17, 2021, DOC DER filled comments on the merits of the CN. DOC DER noted that the project's cost aspects are relatively straightforward; but the project's benefits are not easily quantifiable as they involve an analysis of avoided costs, direct and indirect economic benefits and qualitative benefits. DOC DER noted that the capital expenditure cost of the project is estimated to be \$150 million, and that additional operating and maintenance costs are estimated to be \$1.75 million for the first year and \$1.9 million over the following 29 years. DOC DER concludes that the cost of the proposed Project and the cost of energy to be supplied by the proposed Project are less than the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives.

DOC DER recommended that the Commission determine that the application has shown that:

- the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the Applicant, to the Applicant's customers, or to the people of Minnesota and neighboring states;
- a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record; and
- the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other states and federal agencies and local governments.

DOC DER concluded that the Commission should grant a CN for the project, assuming that, after consideration of the Environmental Report, the Commission determines that the proposed facility

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<sup>17</sup> Ibid, Findings of Fact, 105 and 106.

<sup>18</sup> ALJ Report, Findings of Fact 105 and 108.

<sup>19</sup> Ibid, Findings of Fact 106 and 109.

“will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.”

## VI. Walleye Wind Reply Comments

In its June 2, 2021 Reply Comments, Walleye Wind provided responses to agency and public comments received during the public hearing comment period<sup>20</sup>. The applicant also cited portions of the draft site permit and provided its interpretation of that language in response to concerns raised during the comment period.

In response to DOC EERA, the applicant agreed to provide additional information and make the requested revisions to its decommissioning plan and submit it prior to the pre-construction meeting per Section 11 of the draft site permit. Regarding DOC EERA’s requested modifications to Section 7.2 (Shadow Flicker) of the draft site permit, the applicant agreed to the proposed revisions with the addition of the following language: *“In the event that Walleye Wind and a non-participant landowner with modelled expected shadow-flicker of 30 hours or more a year reach a mutual agreement on the mitigation of the shadow-flicker, Walleye Wind is not required to implement a Shadow Flicker Management Plan for that non-participant. Walleye Wind will notify the Commission of any such mutual agreement on the mitigation of shadow flicker.”* Walleye Wind state that the provision would address the DOC EERA’s concerns with potential impacts on non-participating landowners and allows Walleye Wind to address any concerns directly with the landowner.

In response to DNR’s May 20, 2021 comments, Walleye Wind agreed to DNR’s request for a permit condition that requires avoiding stream crossings during the Topeka shiner spawning season, mid-May through mid-August, if streamflow is present and proposed the following language: *“The Permittee shall not conduct any stream crossing activities from mid-May through Mid-August, if streamflow is present in the stream”*.

Walleye Wind expressed appreciation to LIUNA’s support of the project and others who had submitted supportive written comment including the Superintendent of Luverne Public Schools and the Executive Director of the Worthington Minnesota Area Chamber of Commerce.

In response to a citizens’ group called the Walleye Neighbors, the applicant did not supportive of any of their proposed draft site permit changes. The applicant cited record evidence that addressed or responded to each of the concerns raised by Walleye Neighbors. The applicant affirmed its commitments to remediate impacts of the project and reiterated for the need of the project. In responses to concerns regarding notification of residents of South Dakota, Walleye Wind noted its distribution of notice of the public hearing to South Dakota residents and the April 15, 2021 publication of the public hearing notice in the Garretson Gazette, a newspaper published in South Dakota.

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<sup>20</sup> Ibid, Findings of Fact 111–139.

Finally, the applicant requested the maximum generating capacity of the project should be clarified to be 109.7 MW, instead of 109.2 MW. The applicant agreed that the Project could be constructed with a capacity of 109.7 MW but noted the potential for an additional .5 MW in capacity due to changes from primary turbine site to an alternate turbine site and use of specific modes of noise reduction operation to address project noise.

## **VII. DOC EERA Reply Comments**

In its June 16, 2021 reply comments, the Minnesota Attorney General's Office, on behalf of DOC EERA identified several technical revisions and substantive changes to the applicant's proposed findings of fact, conclusions of law and recommendations.

## **VIII. Administrative Law Judge Report**

The Commission referred the CN and site permit dockets to the Office of Administrative Hearings for assignment of an ALJ to conduct public hearings. The ALJ was requested to conduct the public hearing process, and to apply the certificate of need and siting criteria established in statute and rule and preparing a report containing findings of fact, conclusions of law, and a recommendation on the merits of the proposed project and on the conditions and provisions of a certificate of need and site permit.

In addition to providing a summary of the comments and replies received, the ALJ Report provided recommendations on the proposed site permit conditions.<sup>21</sup> The report identified and analyzed the operative criteria in the record for issuance of the both the certificate of need and site permit<sup>22</sup>. Judge Mortenson concluded that the Commission should grant the certificate of need and issue a site permit for the up to 109.7 MW Walleye Wind Project with the conditions as set forth in the report.<sup>23</sup>

## **IX. DOC EERA Exceptions to ALJ Report**

In its July 30, 2021 exceptions to the ALJ Report, DOC EERA identified technical correction to Findings 151 deleting a reference to another Commission docket and Finding 182 clarifying that a statement was made by the applicant.

## **VII. Staff Comments**

Based on information in the applicant's certificate of need and site permit applications, the analysis provided in the environmental report, responses from Walleye Wind, recommendations from DOC EERA, DOC DER, the ALJ Report, and other evidence in the record; staff provides the following

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<sup>21</sup> Ibid, Findings of Fact 307-335.

<sup>22</sup> Ibid, Findings of Fact 148-306, pages 36-72.

<sup>23</sup> Ibid, Recommendation, page 82.

discussion and recommendations.

### Environmental Report

Staff has reviewed the Environmental Report and agrees with the DOC DER, the ALJ and applicant that DOC EERA conducted an appropriate environmental analysis of the project for purposes of the certificate of need, and the ER satisfies the requirements in Minn. R. 7849.1200. The ER did not identify any unique or significant environmental impacts from the construction and operation of the project which could not be properly mitigated. The report also discussed potential impacts of the proposed project, a similar sized LWECS facility in another location, a 109.7 MW solar farm alternative, and the no- build alternative.

### ALJ Report

Staff agrees with DOC EERA that the Commission should adopt the ALJ Report incorporating DOC EERA's recommended changes identified in its exceptions because it reflects the record as a whole and enhances site permit.

Staff recommends the Commission consider the appropriate nameplate capacity of the project for purposes of the site permit if one is approved. In its original application, Walleye Wind proposed a project nameplate capacity of 110.8 MW. In its November 4, 2020 amended applications, Walleye Wind changed the project's nameplate capacity to 109.2 MW but noted the capacity would be 109.7 MW if noise reduction operation turbines are not required.<sup>24</sup> The ALJ Report recommends the Commission issue a CN and site permit for a project with a "up to 109.7 MW" in capacity. Staff recommends that the Commission adopt a 109.7 MW nameplate capacity because it is supported in the record as developed.

Staff recommends the Commission grant Walleye Wind the certificate of need for the project and issue the enclosed proposed site permit with the appropriate terms and conditions.

Staff has included DOC EERA's Special Permit Condition in the proposed site permit directing that Walleye Wind shall not conduct any stream crossing activities from mid-May through Mid-August when if streamflow is present.

## VIII. Decision Options

### A. Environmental Report

1. Determine that the Environmental Report and the record created in this matter address the issues identified in the Scoping Decision.

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<sup>24</sup> In its June 6, 2021 reply comments, the applicant noted its commitment to use NRO, as required, to comply with MPCA's sound requirements; and that its post construction sound study would verify compliance with MPCA's sound requirements.



2. Determine that the Environmental Report and the record created in this matter do not address the issues identified in the Scoping Decision and direct the DOC-EERA to prepare a supplement to the report that addresses the identified deficiencies.
3. Take some other action deemed more appropriate.

**B. ALJ Report**

1. Approve and adopt the ALJ Report.
2. Approve and adopt the ALJ Report as modified by the DOC EERA to Findings 151 and 182.
3. Approve and adopt the ALJ Report identifying any necessary amendments to ensure consistency with the final decision.
4. Take some other action deemed more appropriate.

**C. Certificate of Need**

1. Grant a certificate of need for the proposed 109.7-megawatt Walleye Wind Farm.
2. Deny the certificate of need for the proposed 109.7-megawatt Walleye Wind Farm.
3. Take Some other action deemed appropriate.

**D. Site Permit**

1. Issue a site permit for the 109.7-megawatt Walleye Wind large wind energy conversion system with the additional conditions recommended in the ALJ Report and identify any further site permit conditions as deemed appropriate.
2. Do not issue a site permit.
3. Take some other action deemed appropriate.

**E. Administrative**

1. Authorize Commission staff to modify the ALJ Report and the proposed site and route permits to correct typographic and formatting errors, improve consistency, and ensure agreement with the Commission's final order in the matter.

**Staff Recommendation: A1, B2, C.1, D.1 and E.1**

**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

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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](mailto: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

## **PROPOSED SITE PERMIT**

Walleye Wind Project, Docket No. IP 7026/WS-20-384

### **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.

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### 2.2 Project Location

The project is located in the following:

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

### 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

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Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in 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.

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**4.9 Wind Turbine Towers**

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.

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

**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 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 private property or conducting maintenance within the 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 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 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 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 persons 14 days prior to

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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.

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### **5.3.10 Application of Pesticides**

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,

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all-weather roads shall be used to deliver cement, turbines, towers, assembled nacelles, and all other heavy components to and from the turbine sites.

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,

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mitigation must include an effort to minimize project impacts on the resource consistent with SHPO and State Archaeologist requirements.

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.

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### **5.3.20 Drainage Tiles**

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.



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### **5.3.25 Damages**

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.

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### **5.5 Electrical Collector and Feeder Lines**

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.

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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.

#### **6.2 Document Signatures Required**

All compliance documents submitted must include the name and contact information of the person responsible for all representations made in their contents.

#### **6.3 Topeka Shiner**

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The Permittee shall not conduct any stream crossing activities from mid-May through Mid-August, if streamflow is present in the stream.

## **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 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 Permittee shall prepare a Shadow Flicker Management Plan detailing the results of any shadow flicker modeling, assumptions made, levels of exposure prior to implementation of planned minimization and mitigation efforts, planned minimization and mitigation efforts, and planned communication and follow up with resident. The Shadow Flicker Management Plan shall be filed with the Commission at least 14 days prior to the preconstruction meeting to confirm compliance with conditions of this permit.

Should shadow flicker modeling identify any residence of a non-participating landowner that will experience in 30 hours, or more, of shadow flicker per year, the Permittee must specifically identify these residences in the Shadow Flicker Management Plan. If through minimization and mitigation efforts identified in the Shadow Flicker Management Plan the Permittee is not able to reduce anticipated shadow flicker exposure at a nonparticipating landowner's residence to less than 30 hours per year a shadow flicker detection systems will be utilized during project operations to monitor shadow flicker exposure at the residence. The Shadow Flicker

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Management Plan will detail the placement and use of any shadow flicker detection systems, how the monitoring data will be used to inform turbine operations, and a detailed plan of when and how turbine operations will be adjusted to mitigate shadow flicker exposure exceeding 30 hours per year at any one receptor. The results of any shadow flicker monitoring and mitigation implementation shall be reported by the Permittee in the Annual Project Energy Production Report identified in Section 10.9 of this Permit.

Commission staff and EERA staff will be responsible for the review and approval of the Shadow Flicker Management Plan. The Commission may require the Permittee to conduct shadow flicker monitoring at any time during the life 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**

#### **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,

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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 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 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 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

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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 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 LWES**

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### **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.

## **9 COMPLAINT PROCEDURES**

Fourteen (14) days prior to the pre-construction meeting, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The



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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**

At least 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

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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**

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**

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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**

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;

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- (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 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**

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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 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 the Commission at least fourteen 14 days prior to the pre-construction meeting. The decommissioning plan shall be updated every five years 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 request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

### **11.2 Site Restoration**

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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**

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**

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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.
- (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.

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### **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.

Within 14 days 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



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- (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:

- (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;

**PROPOSED SITE PERMIT**

Walleye Wind Project, Docket No. IP 7026/WS-20-384

- (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.

PROPOSED SITE PERMIT

PROPOSED PERMIT

**ATTACHMENT 1**

Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

**B. Scope**

This document describes complaint reporting procedures and frequency.

**C. Applicability**

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

**D. Definitions**

**Complaint:** A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

**Substantial Complaint:** A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

**Unresolved Complaint:** A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

**Person:** An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

## **E. Complaint Documentation and Processing**

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all complaint submittals. The name and contact information for the representative shall be kept current in eDockets.
2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
  - a. name, address, phone number, and email address;
  - b. initial date of the complaint;
  - c. tract, parcel number, or address of the complaint;
  - d. a summary of the complaint; and
  - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - a. docket number and project name;
  - b. name of complainant, address, phone number and email address;
  - c. precise description of property or parcel number;
  - d. name of permittee representative receiving complaint and date of receipt;
  - e. nature of complaint and the applicable permit condition(s);
  - f. summary of activities undertaken to resolve the complaint; and
  - g. a statement on the final disposition of the complaint.

## **F. Reporting Requirements**

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

**Immediate Reports:** All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email

subject line should read “PUC EFP Complaint” and include the appropriate project docket number.

**Monthly Reports:** During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of one year following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

#### **G. Complaints Received by the Commission**

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

#### **H. Commission Process for Unresolved Complaints**

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate persons if it determines that the

complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

**I. Permittee Contacts for Complaints and Complaint Reporting**

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or [publicadvisor.puc@state.mn.us](mailto:publicadvisor.puc@state.mn.us). The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

PROPOSED PERMIT

**ATTACHMENT 2: PERMIT COMPLIANCE FILINGS<sup>1</sup>**

PERMITTEE: WALLEYE WIND, LLC  
 PERMIT TYPE: LWECS Site Permit  
 PROJECT LOCATION: ROCK COUNTY  
 PUC DOCKET NUMBER: IP7026/WS-20-384

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	4.7	Prairie Protection and Management Plan	30 days prior to submitting the site plan
	4.12	Notification to Airports	14 days prior to pre-construction meeting
	5.1	Notification of Permit and Complaint Procedures	30 days after permit issuance
	5.3.1	Field Representative	14 days prior to commencing construction
	5.3.2	Site Manager	14 days prior to commercial operation
	5.3.10	Application of Pesticides	Notice 14 days prior to pesticide application
	5.3.11	Invasive Species Prevention Plan	14 days prior to pre-construction meeting
	5.3.13	Identification of Roads	14 days prior to pre-construction meeting
	5.3.17	Assessment of Television and Radio Signal Reception, Microwave Signal Patterns, and Telecommunications	14 days prior to pre-construction meeting

<sup>1</sup> This compilation of permit compliance filings is provided for the convenience of the permittee and the Commission. It is not a substitute for the permit. The language of the permit controls.



Filing Number	Permit Section	Description of Compliance Filing	Due Date
	5.3.22	Site Restoration Report	60 days after completion of all restoration activities
	5.3.26	Public Safety and Education Materials	Upon request
	5.3.28	FAA Lighting	Submit with site plan
	5.5	Engineered Drawings of Collector and Feeder Lines	Submit with site plan
	5.6.2	Other Required Permits	14 days prior to pre-construction meeting
	6.1	SWCD and Landowner Plan Review	14 days prior to pre-construction meeting
	7.1	Biological and Natural Resource Inventories	30 days prior to pre-construction meeting
	7.2	Shadow Flicker Data	14 days prior to pre-construction meeting
	7.3	Wake Loss Studies	14 days prior to pre-construction meeting and as part of annual report
	7.4	Post-construction Noise Study Methodology	14 days prior to pre-construction meeting
	7.4	Post-construction Noise Study	18 months of commencing commercial operation
	7.5.1	Permit version of ABPP	14 days prior to pre-construction meeting

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	7.5.1	ABPP Annual Report	March 15th each year or partial year
	7.5.2	Quarterly Avian and Bat Incident Reports	15th of January, April, July, and October commencing the day following commercial operation
	7.5.3	Immediate Avian and Bat Incident Reports	24 hours of the discovery and a compliance report within seven days
	8.1	Demonstration of Wind Rights	14 days prior to pre-construction meeting
	8.2	Proof of Power Purchase Agreement	Prior to construction or notification to Commission if not obtained within two years of permit issuance
	8.3	Failure to Construct	Notification to Commission if construction has not commenced within two years of permit issuance
	9	Complaint Procedures	14 days prior to pre-construction meeting
	10.1	Pre-construction Meeting Summary	14 days following meeting
	10.2	Pre-operation Meeting Summary	14 days following meeting
	10.3	Site Plan	14 days prior to pre-construction meeting
	10.4	Construction Status Reports	Monthly through restoration

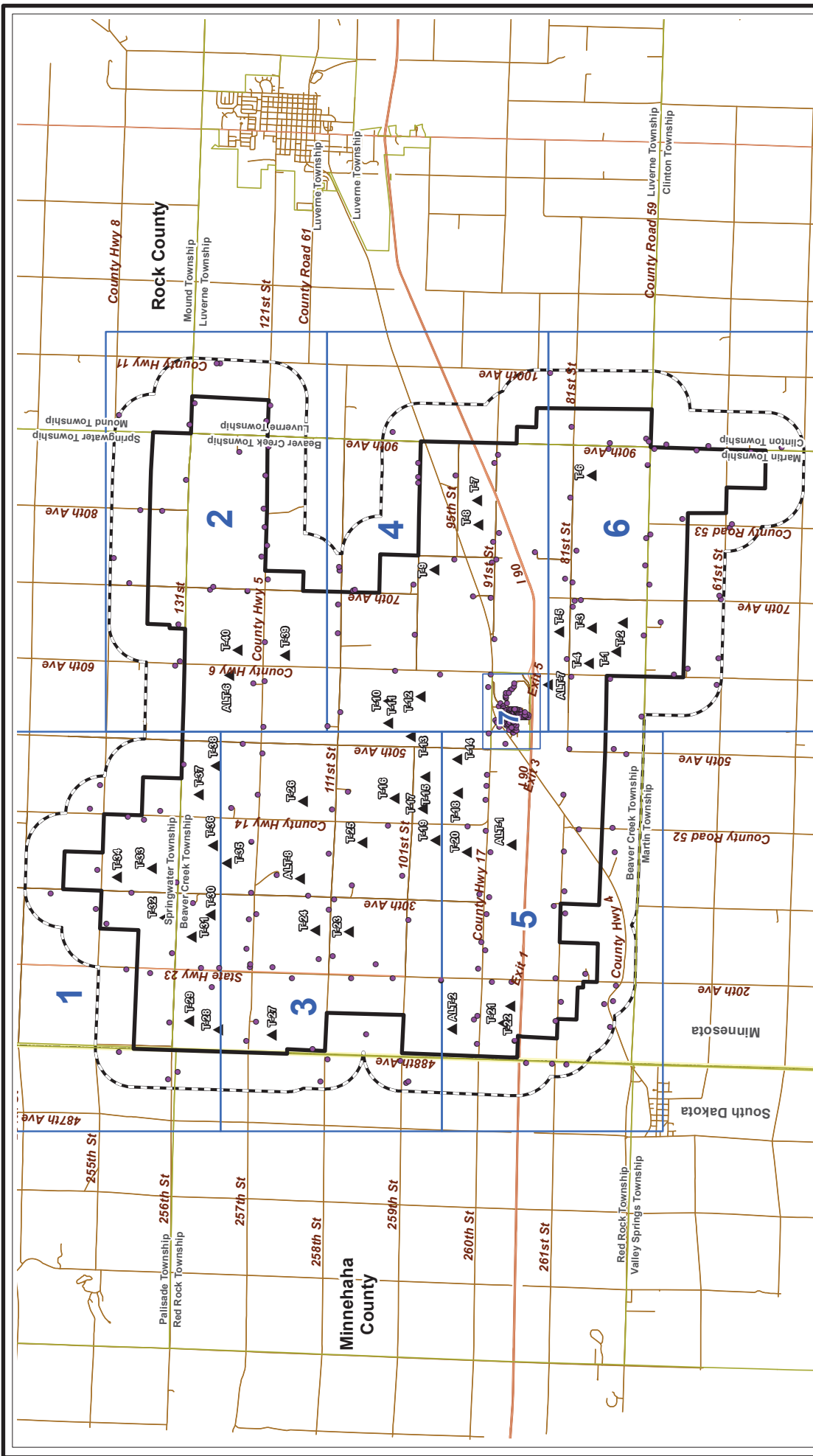
Filing Number	Permit Section	Description of Compliance Filing	Due Date
	10.5	Labor Statistic Reporting	Quarterly within 45 days of the end of each quarter
	10.6	In-Service date	Three days prior to commercial operation
	10.7	As-Builts	90 days after construction is complete
	10.8	GPS Data	90 days after construction is complete
	10.9	Project Energy Production	February 1st each year or partial year
	10.10	Wind Resource	February 1st each year or partial year
	10.11	Emergency Response Plan	14 days prior to pre-construction meeting and revisions 14 days prior to pre-operation meeting
	10.12	Extraordinary Events	24 hours of the discovery or occurrence
	11.1	Decommissioning Plan	14 days prior to pre-construction meeting and updated every five years
	11.2	Site Restoration	Within 18 months after expiration of this permit or upon earlier termination of operation or decommissioning of any turbine within the project
	11.3	Abandoned Turbines	Per occurrence

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	14	Ownership Structure	14 days prior to commercial operation
	Complaint Reporting	Monthly Complaint Reports	See Site Permit Attachment 1
	Complaint Reporting	Immediate Complaint Reports	By the following day throughout the life of the permit

PROPOSED PERMIT

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**ATTACHMENT 3**  
Site Maps

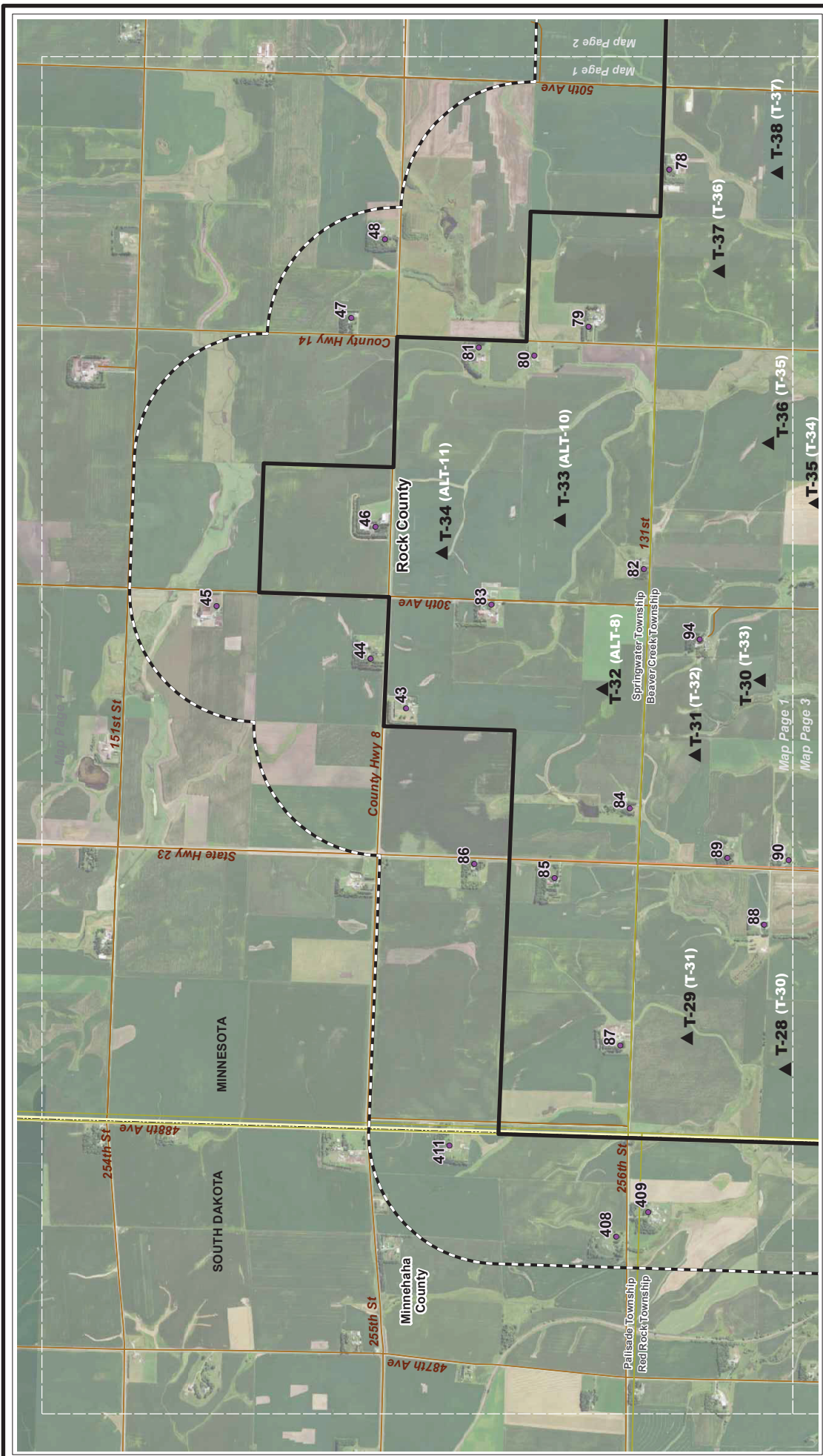


**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS OVERVIEW**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
 Sources: NADP 2019 Imagery; ECT, 2021.

**Legend:**  
 Site Boundary (431,085 Ac.)  
 Project Boundary Buffer (0.50 Mile)  
 State/County Boundary  
 Township Boundary  
 County Boundary  
 Proposed Turbine  
 Receptor

**ECT Environmental Consulting & Technology, Inc.**

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**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 1 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
Sources: NADP 2019 Imagery; ECT, 2021.

**Legend:**

- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary
- Proposed Turbine
- Receptor
- Township

**January 2021 Numbering**  
(November 2020 Numbering)

**ECT Environmental Consulting & Technology, Inc.**

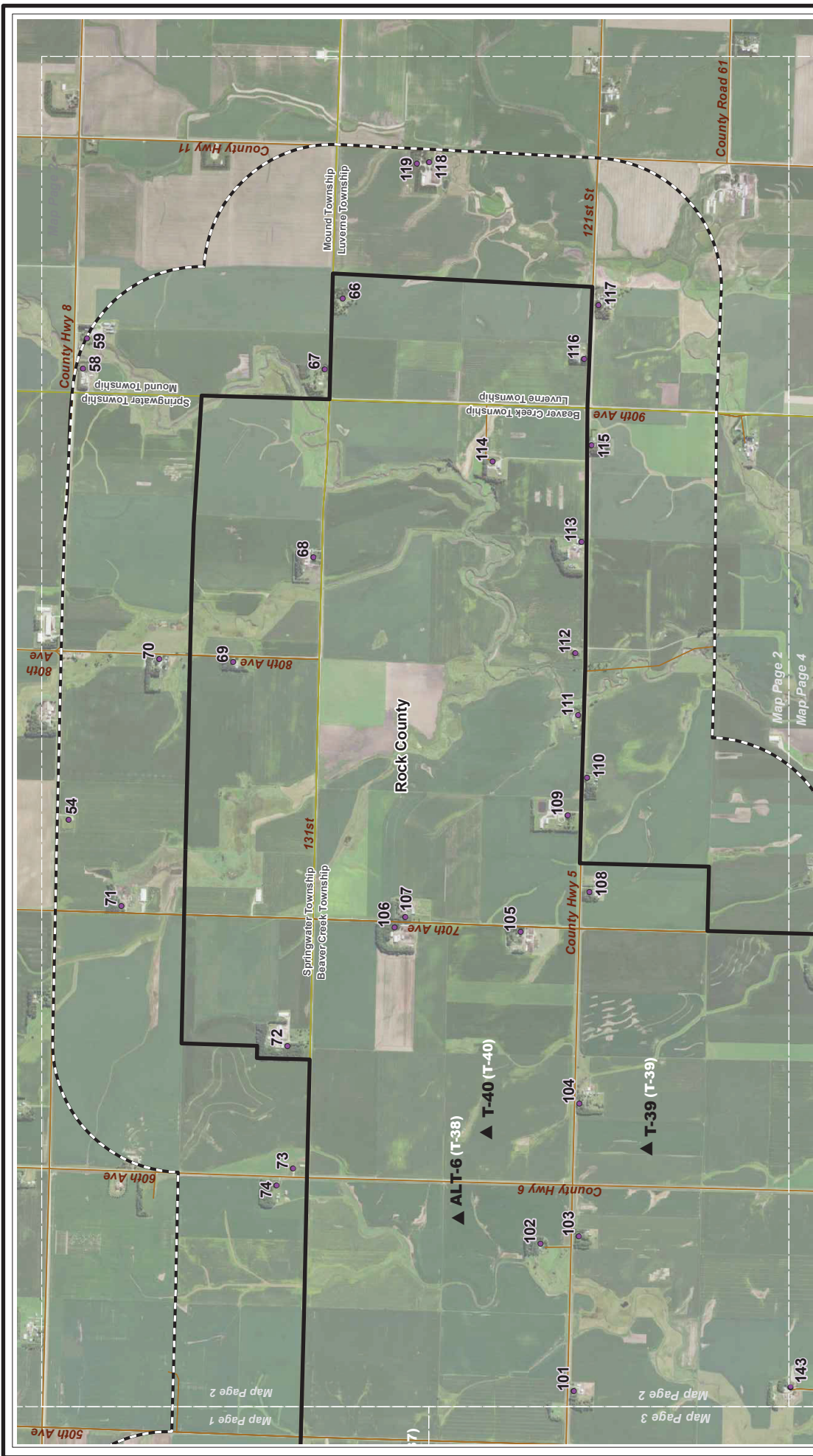
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Map Page 1  
 Map Page 3

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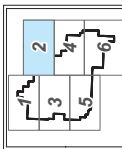
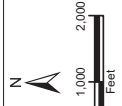


**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 2 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
Sources: NMAP 2019 Imagery; ECT, 2021.

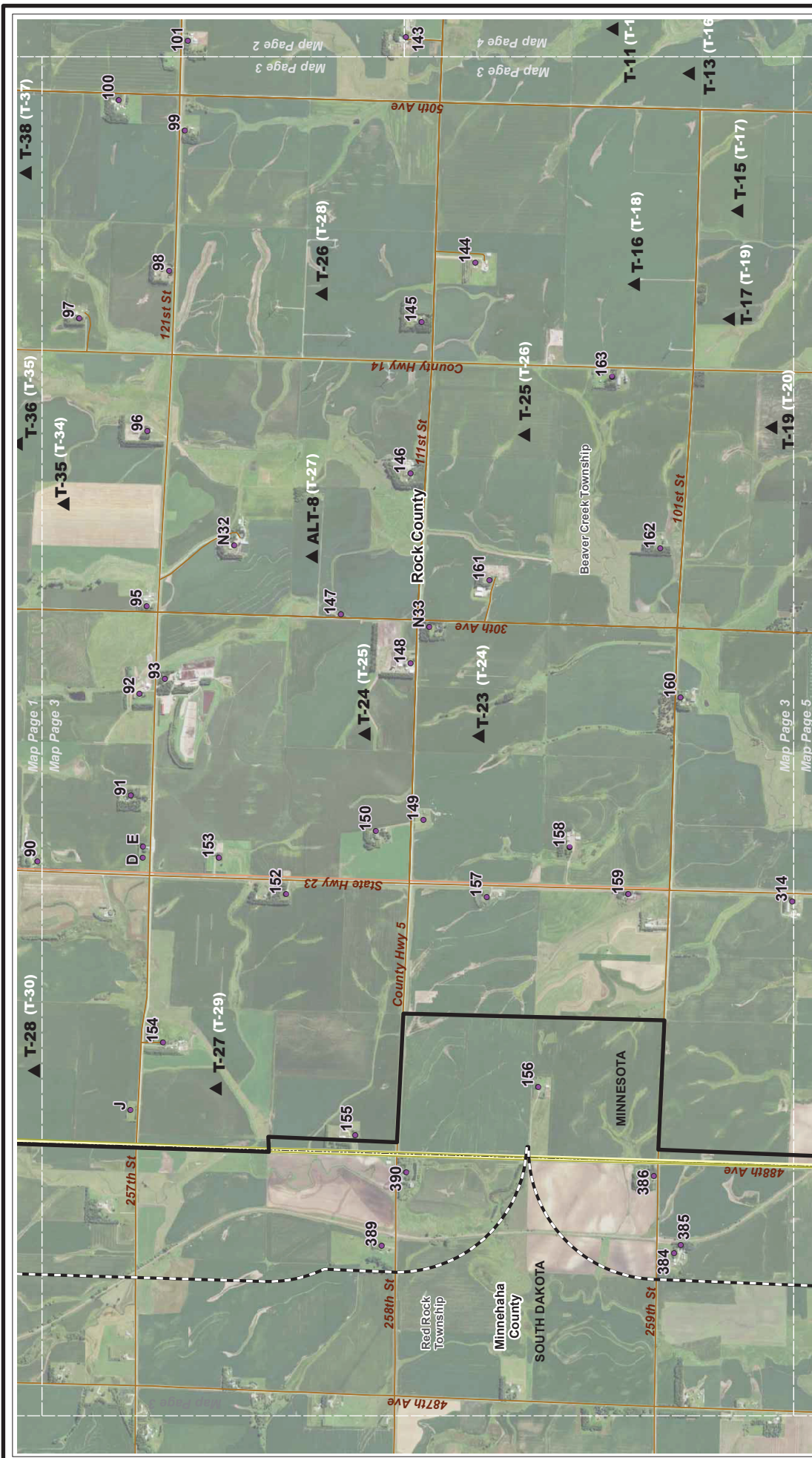
**Legend:**  
 Site Boundary (±31.095 Ac.)  
 Project Boundary Buffer (0.50 Mile)  
 State/County Boundary

Receptor  
 Township

Proposed Turbine  
**January 2021 Numbering**  
 (November 2020 Numbering)







**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 3 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
 Sources: NAIP 2018 Imagery; ECT, 2021.

**Legend:**

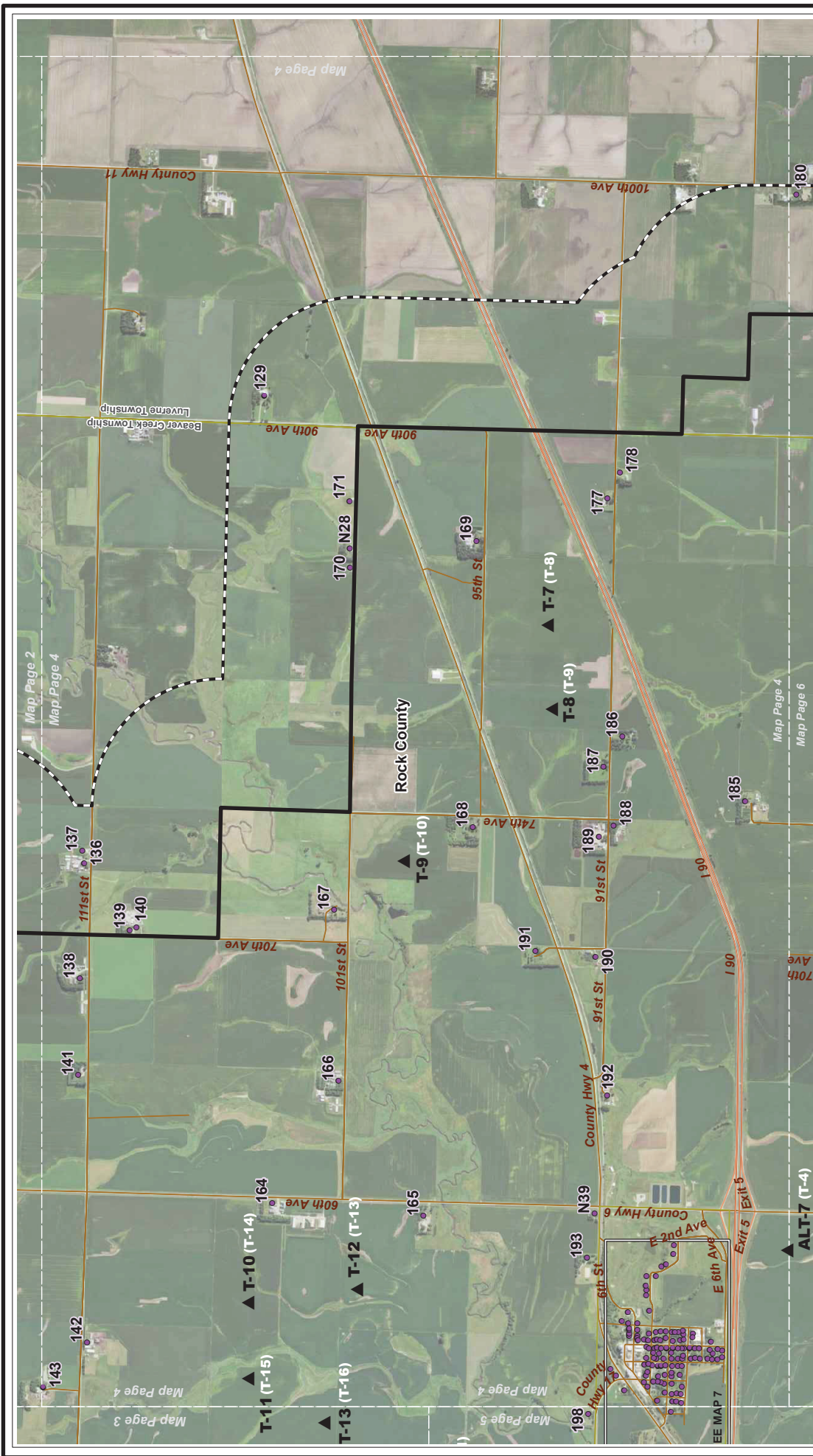
- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary
- Proposed Turbine
- Receptor
- Township

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Inset map showing the project location within a larger regional context.





**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 4 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
 Sources: NADP 2019 Imagery; ECT, 2021.

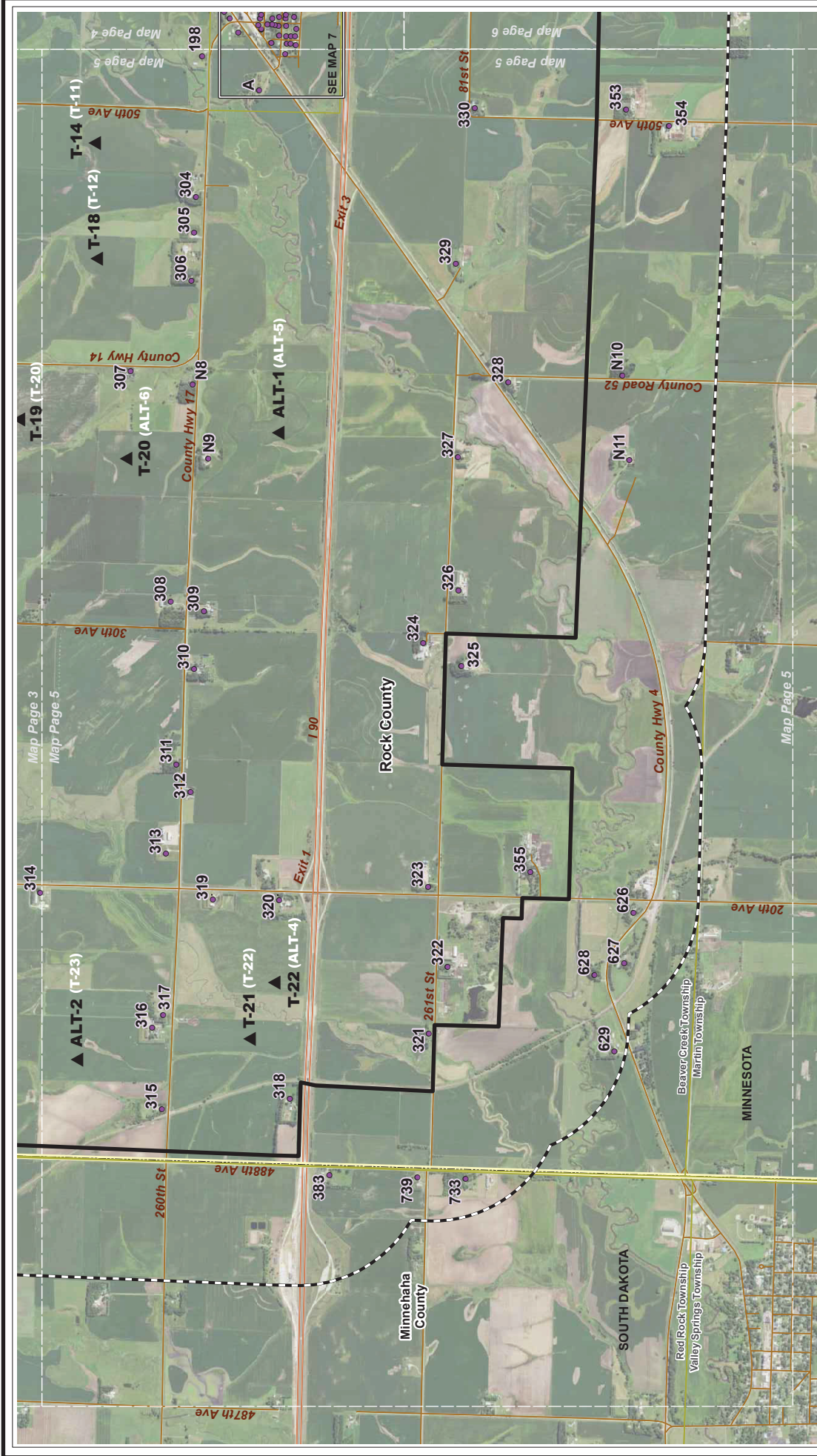
**Legend:**

- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary
- Proposed Turbine
- Receptor
- Township

**January 2021 Numbering**  
**November 2020 Numbering**

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ECT Environmental Consulting & Technology, Inc.



**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 5 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
Sources: NAIP 2018 Imagery; ECT, 2021.

**Legend:**

- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary
- Proposed Turbine
- Receptor
- Township

**▲ January 2021 Numbering**  
**● November 2020 Numbering**

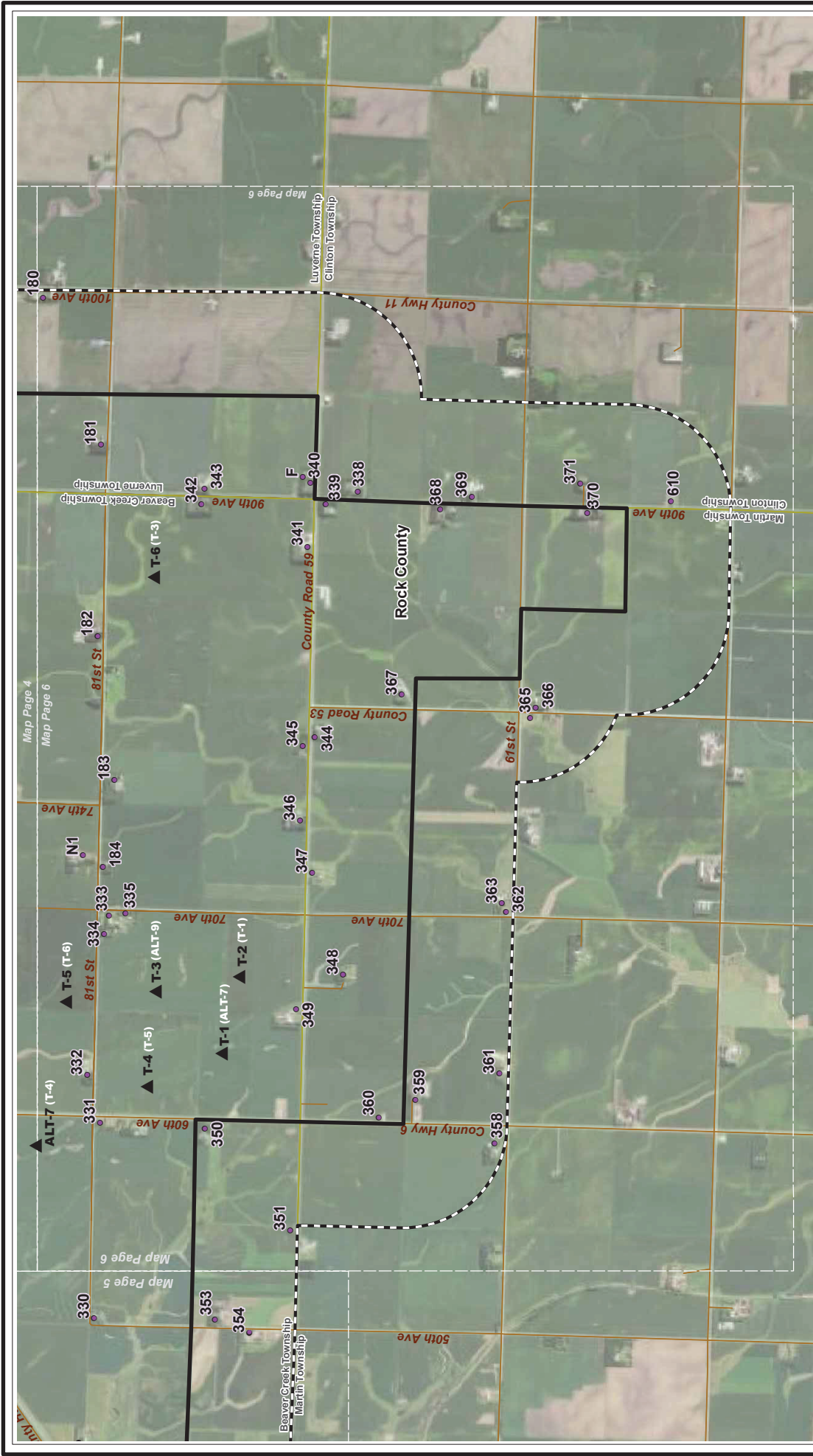
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**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 6 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
 Sources: NMAP 2019 Imagery; ECT, 2021.

**Legend:**

- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary
- Proposed Turbine
- Receptor
- Township

**January 2021 Numbering**  
**November 2020 Numbering**

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**ATTACHMENT A**  
**PROPOSED TURBINES AND RECEPTORS MAP - 7 OF 7**  
**WALLEYE WIND PROJECT**  
**WALLEYE WIND, LLC**  
 Sources: NAIP 2019 Imagery; ECT, 2021.

**Legend:**

- Site Boundary (±31.095 Ac.)
- Project Boundary Buffer (0.50 Mile)
- State/County Boundary

- Receptor
- Township

- Proposed Turbine
- January 2021 Numbering**  
 (November 2020 Numbering)

