

## Staff Briefing Papers

Meeting Date May 17, 2018 Agenda Item \* 3

Company Nobles 2 Power Partners, LLC

Docket No. **IP-6964/WS-17-597**

**In the Matter of** the Application of Nobles 2 Power Partners, LLC for a Site Permit for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County, Minnesota

Issues

1. Should the Commission issue a preliminary draft site permit for the Nobles 2 Wind Project?
2. Should the Commission refer the matter to the OAH for a contested case hearing?

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### Relevant Documents

### Date

Initial Filing – Application for a Site Permit (7 parts)	October 13, 2017
EERA Comments and Recommendations on Application Completeness	November 16, 2017
Revised Site Permit Application (2 parts)	December 1, 2017
Order Accepting Application, Establishing Procedural Framework and Varying Rules	January 4, 2018
Notice of Public Information Meeting and Environmental Report Comment Period	January 25, 2018
Notice Rescheduling Public Information and Environmental Report Scoping Meeting	February 12, 2018
Public Comment – Mankato Building Trades	March 20, 2018
Minnesota Department of Natural Resources Comments (2 parts)	March 20, 2018
Minnesota Department of Transportation Comments	March 20, 2018
Department of Commerce EERA Comments Received (3 parts)	March 22 & 27, 2018

## ✓ Relevant Documents

	<b>Date</b>
Department of Commerce EERA Comments and Recommendations on Draft Site Permit Issuance	April 16, 2018
OAH Scheduling Order	April 20, 2018

## Attached Document

Preliminary Draft Site Permit

### I. Statement of the Issues

Should the Commission issue a preliminary draft site permit for the Nobles 2 Wind Project? Should the Commission refer the matter to the Office of Administrative Hearings (OAH) for a contested case hearing?

### II. Proposed Project Overview

Nobles 2 Power Partners, LLC (Nobles 2 or applicant) has applied for a site permit the Public Utilities Commission for construction and operation of a Large Wind Energy Conversion System (LWECS). The proposed Nobles 2 Wind Farm would be up to 260 megawatts (MW) of capacity comprised of between 65 and 82 turbines located on approximately 42,547 acres of land northwest of the City of Worthington in Nobles County.

Selection of turbine models has not been finalized, but the application identifies the use of Vestas V136-3.6 MW turbines as the primary model for the project.<sup>1</sup> The preliminary layout for the project also incorporates 10 to 21 Vestas V110-2.0 MW turbines. Associated facilities for the project include gravel access roads, an underground electrical collection system and communication lines, temporary and permanent meteorological towers, a substation facility and an interconnection facility, an operations and maintenance building, and a temporary staging/laydown construction area.

The applicant has entered into a power purchase agreement (PPA) with Minnesota Power to provide renewable energy for its utility customers in northeastern Minnesota. If approved, Nobles 2 anticipates beginning construction in late 2018, and commencing operations in the 4th Quarter of 2019.

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<sup>1</sup> The application identifies the following turbine models under consideration for the project: Vestas V136-3.45 MW, V136-4.0 MW, and V136-4.2 MW.

### III. Procedural Background

On October 13, 2017, Nobles 2 filed a site permit application for the Nobles 2 Wind Farm Project. On the same day, the applicant filed an application for a certificate of need with the Commission<sup>2</sup>.

On November 16, 2017, EERA filed comments and recommendations on application completeness.

On December 7, 2017, Commission staff filed briefing papers on application acceptance which included a Generic Site Permit Template<sup>3</sup>.

On January 4, 2018, the Commission issued an Order accepting Application, Establishing Procedural Framework and Varying Time Limits.

On January 25, 2018, Commission and Department of Commerce Energy Environmental Review and Analysis staff (EERA) issued a public information and environmental report scoping meeting notice that established a comment period through March 2, 2018. On February 12, 2018, a notice rescheduling the public information and environmental scoping meeting was issued. The rescheduling notice also extended the comment period to March 20, 2018.

On February 28, 2018, Commission and EERA staff held the public information and environmental scoping meeting in the City of Wilmont in order to solicit comments on a draft site permit for the project and the scope of the Environmental Report being developed within the certificate of need review process.

On April 16, 2018, EERA staff filed comments and recommendations on the issuance of a draft site permit for the project and included a preliminary draft site permit (PDSP).

### IV. Statutes and Rules

#### Draft Site Permit Issuance

Minn. Rule 7854.0800 requires the Commission to make a preliminary determination on whether a site permit may be issued or should be denied within 45 days after acceptance of the application. The Commission varied this requirement in its January 4, 2018 order to allow for more time to hold a public meeting, develop a proposed draft site permit, schedule a meeting and obtain Commission approval to issue the draft site permit.

Upon a preliminary determination to issue a site permit, the Commission must prepare a draft site permit for the project. A draft site permit does not authorize a person to construct an LWECS. The commission may change the draft site permit in any respect before final issuance or may deny the site permit. The draft site permit must identify the person(s) who will be the

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<sup>2</sup> Certificate of Need Application, e-Dockets Filing No. [IP6946/CN-16-289](#), October 13, 2017.

<sup>3</sup> Briefing Papers, e-Dockets Filing No. [201712-138001-01](#), December 7, 2017.

permittee, describe the proposed LWECS, and include proposed permit conditions. Minnesota Rule 7854.0900 requires that, upon issuance of a draft site permit, the Commission must hold at least one public meeting and provide for a minimum of 30 days after notice of the draft site permit to allow the public to provide written comments. This is the only public meeting or hearing required under rule and statute for a LWECS site permit application unless a contested case proceeding is authorized.

### **Contested Case Hearing**

Per Minn. R. 7854.0900, any person may request that a contested case hearing be held on an application for a LWECS site permit. A contested case hearing request must be filed within the time period established for submitting comments on the draft site permit. Any person requesting the hearing must identify the issue(s) to be addressed in the hearing and the reason(s) a hearing is required to resolve the issue(s). The Commission will order a contested case hearing if it finds the request has raised a material issue of fact and holding a hearing would aid the Commission in making a final determination on the site permit application. If the Commission directs the use of a contested case hearing, it must identify the issue(s) to be resolved and limit the scope and conduct of the hearing according to applicable law, due process, and fundamental fairness. Alternatively, the Commission may request the administrative law judge (ALJ) to identify the issues and scope of the hearing.

### **Timing of Final Decision**

Per Minn. R. 7854.1000, subp. 2, the Commission shall approve or deny a site permit for a LWECS within 180 days after acceptance of the application, unless the applicant agrees to an extension or the Commission extends the deadline for cause.

## **V. Comments on Draft Site Permit Issuance**

Commission and Department staff conducted a public information in the City of Wilmont on February 28, 2018. Approximately 50 members of the public were in attendance, five people provided oral comments and approximately 20 written comments were received during the comment period.

Issues and concerns brought forth during the public comment period included the following:

- MNDNR: Request to feather blades below the cut-in speed during certain periods to reduce potential bat fatalities (Section 7.5.4);
- MNDNR: Request to modify the language contained in the Bird and Bat Conservation Strategy portion of the application (Section 7.5.1) including use of bird deterrent devices on meteorological tower guy wires;
- MNDNR: Request to include identification of additional Wildlife Management Area;
- MNDNR: Request to increase the wind access buffer set back an additional 200 feet from the edge of WMA boundaries to accommodate future repowering;
- MNDNR: Request to consider moving several turbines in order to lower the site risk to avian and bat species of the project from Moderate Risk to Low Risk;
- MNDNR: Request to modify the Bird and Bat Conservation Strategy (BBCS) to

- require a minimum of two search days per week for fatality monitoring;
- MNDNR: Advised that the agency would need to undertake additional review of the Great Blue Heron Rookery as part of its BBCS review;
  - MNDNR: Clarification on the ranking and avoidance of native prairies and large blocks of grassland habitat (Section 6.1.2);
  - MNDOT: Request coordination to avoid impacts to roads (Section 5.2.12);
  - MNDOT: Request permit requirement to require the applicant to obtain all other required permits (Section 5.5.2);
  - MPCA: Request that the noise analyses for the project identify and consider L10 and L900 values, along with dB(C) measurements and calculations because it is unclear if these data were collected or recorded;
  - MPCA: Request that, if noise modeling does not incorporate traffic noise as ambient background noise for modeling purposes, the results must be reviewed and possibly remodeled to reflect MPCA's Guidance methodologies<sup>4</sup>;
  - MPCA: Request to discuss whether any portion of the project will drain into listed impaired surface waters (Section 8.17);
  - MPCA: Request to determine the amount of new impervious surfaces created by the project;
  - MPCA: Request for a 50-foot natural buffer around wetlands, water courses and other surface waters within the project site, unless the encroachment is unfeasible in which case redundant (double) down gradient sediment controls should be required to protect surface water resources;
  - Nobles County: Request to incorporate Nobles County's more stringent road setbacks for turbines and meteorological towers (Section 4.4);
  - Public Comments: Focused on ensuring internet and broadband service is not disrupted, as well as avoiding cell phone disruption or "dead" zones; breaking or damaging drain tiles; impacts to native plant communities; potential changes to storm water run-off; potential limitations on farming operations; and potential health concerns from noise and shadow flicker. Concerns were also expressed over blinking turbine warning lights; especially possibilities for substituting radar-controlled lighting. There was also a request that the Commission require use of aircraft-detection lighting systems – the DOC EERA noted Section 6.1 requires the project to comply with current Federal Aviation Administration (FAA) Advisory

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<sup>4</sup> [A Guide to Noise Control in Minnesota](https://www.pca.state.mn.us/sites/default/files/p-gen6-01.pdf), <https://www.pca.state.mn.us/sites/default/files/p-gen6-01.pdf>, Minnesota Pollution Control Agency, November 2015.

Circular AC 70 7460-IL CHG 1 Chapter 14 which outlines the requirements for aircraft detection lighting.<sup>2</sup>

In their April 16, 2018 comments, EERA considered comments received from several members of the public, the Minnesota Department of Natural Resources (MNDNR), and the Minnesota Department of Transportation (MNDOT). Staff does not provide the complete summary here, and refers the reader to that filing. DOC EERA included a preliminary draft site permit and highlighted areas in which it modified provisions in accordance with public comments.

Because of the nature of some of the issues identified, EERA committed to continued discussion with the applicant and MNDNR going forward in the permitting process. EERA indicated that several public comments reference items that will be addressed in more detail in the environmental report being completed for the project. Several comments discussed issues that are already addressed and included in the generic template and are carried forward in the preliminary draft site permit.

By way of examples, EERA does not concur with MDNR's recommendation on wind access buffers because the record does not suggest a future need that would support MDNR's recommendation to increase the wind access buffer an additional 200 feet of buffer from MDNR administered lands. Similarly, EERA noted that concerns from the public related to telecommunication or broadband interference are addressed by the permit condition to avoid and correct any problems that may occur (preliminary draft site permit at Section 15.2.16). In response to requests from Labor Representatives, EERA did not support a permit requirement to require the use of local skilled labor in part because of difficulties in establishing a tracking system. EERA also noted in response to MNDNR's comments that the BBCS is not a static document, instead it is designed to be amended as data is reviewed upon receipt of any incident reports (quarterly or immediate) or the annual audit reports. EERA declined to recommend

EERA noted that the preliminary draft site permit includes a requirement for an aircraft detection lighting system (ADLS) as a special condition in Section 6.1. ADLS is designed to mitigate the impact of nighttime lights by deploying a radar-based system around a wind farm, turning lights on only when low-flying aircraft are detected nearby. An FAA study found the system provides "a technology that offers a satisfactory level of safety for the flying public. At the same time, this technology reduces the impact of obstruction lights on nearby communities and migratory bird populations."<sup>5</sup>

Section 4.4 of the preliminary draft site permit recommended by EERA incorporates the setbacks identified in Nobles County zoning ordinance. EERA recommended the Commission issue a draft site permit for the project and noted that the permit may be updated based on additional data including additional information on final turbine model selection.

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<sup>5</sup> <http://www.airporttech.tc.faa.gov/Download/Airport-Safety-Papers-Publications-Detail/dt/Detail/ItemID/563/PERFORMANCE-ASSESSMENT-OF-THE-LAUFER-WIND-AIRCRAFT-DETECTION-SYSTEM-AS-AN-AIRCRAFT-DETECTION-LIGHTING>

## VI. Staff Analysis

Staff has reviewed the application, comments received, EERA's preliminary draft site permit and the record to date.

EERA prepared a preliminary draft site permit, identifying the Permittee, the proposed LWECs, and additional proposed permit conditions. EERA has indicated that several public comments reference items that will be addressed in more detail in the environmental report being completed for the Project. In several instances EERA's comments did not directly respond to, or identify the disposition of requests for specific requirements from state agencies in the preliminary draft site permit. While the decisions before the Commission at this time are essentially procedural in nature (whether to issue a draft site permit); staff believes it is in the public interest to provide a full accounting of substantive agency and public concerns raised. Staff recommends the Commission request a more granular response to the bullet point items in Section V above, either in the environmental report or as a separate filing (as Decision Option A.2 below). Staff emphasizes that the Commission's determination here does not weight the merits of any particular issue or concern.

Staff supports EERA's recommendations for including a requirement for an Aircraft Detection Lighting System for the project in the draft site permit because it may provide mitigation benefits to local residents. It is important that additional information be provided into the record for the Commission's consideration before such a system is approved and adopted.

Staff notes that no requests for a contested case hearing were received during the public comment period on the draft site permit. Staff recommends that the Commission take no action on a contested case hearing at this time.

## VII. Decision Options

### A. Draft Site Permit

1. Issue a draft site permit on the Nobles 2 Wind Farm Project, as set forth in the preliminary draft site permit provided by EERA in its April 16, 2018 comments and recommendations.
2. Request that EERA provide as part of its the environmental report an evaluation and description of the disposition of all bullet point items in Section V of staff briefing papers at least 10 days prior to the public hearing for the project.
3. Decline to issue a draft site permit on the Nobles 2 Wind Project.
4. Take some other action deemed appropriate.
5. Authorize Commission staff to modify the Draft Site Permit to correct typographic errors, improve consistency and incorporate suggestions made by the Commission

during oral argument on the matter.

**B. Consideration of a Contested Case Hearing**

1. Refer the site permit application for the Nobles 2 Wind Project to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes Chapter 14.
2. Decline to refer the site permit application to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes, Chapter 14 at this time.

**Staff Recommendation: A.1, A.2, A.5 and B.2.**



**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**SITE PERMIT FOR A  
LARGE WIND ENERGY CONVERSION SYSTEM**

**IN  
NOBLES COUNTY**

**ISSUED TO  
NOBLES 2 WIND PROJECT**

**PUC DOCKET NO. IP6964/WS-17-597**

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

**Nobles 2 Power Partners, LLC**

The Permittee is authorized by this site permit to construct and operate an up to 260 MW nameplate capacity Large Wind Energy Conversion System in Nobles County, Minnesota. The Large Wind Energy Conversion System and associated facilities shall be built within the site identified in this permit and as portrayed on the official 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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Daniel P. Wolf,  
Executive Secretary

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**ATTACHMENTS**

Official Site Permit Maps

Attachment A - Complaint Procedures for Permitted Energy Facilities

Attachment B - Compliance Filing Procedures for Permitted Energy Facilities

## **1.0 SITE PERMIT**

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Nobles 2 Power Partners, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854. This permit authorizes the Permittee to construct and operate the Nobles Wind Project (Project), a 260 megawatt (MW) nameplate capacity Large Wind Energy Conversion System (LWECS) and associated facilities in Nobles County. The LWECS and associated facilities shall be built within the site identified in this permit and as identified in the attached official site permit map(s), 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.

## **2.0 PROJECT DESCRIPTION**

The Nobles 2 Wind Project, when fully constructed and operational, will have a nameplate capacity up to 260 MW in Nobles County. The Project will consist of up to 82 wind turbines in a combination of models that will include at least 10 Vestas V110-2.0 MW (80 meter hub height) turbines. The remainder will be Vestas V136-3.6 MW (82 meter hub height) turbines, as identified in the Permittee's Site Permit Application.

The project area includes approximately 42,547 acres of land of which the Project currently holds leases on 30,356 acres, an amount sufficient to support the Project. Upon completion, the Project will permanently convert approximately 115.5 acres of land to wind turbines and associated facilities approved by this site permit.

### **2.1 Associated Facilities**

Associated facilities include underground electrical collection and fiber optic communications lines, a project substation and interconnection switchyard, an Operations and Maintenance (O&M) building, up to six permanent meteorological tower(s), and approximately 21 miles of gravel access roads.

The Project will interconnect with the grid by tying into the Xcel Nobles-Fenton 115 kV transmission line, in close proximity to the project substation.

## 2.2 Project Location

The project is located in the following:

County	Township Name	Township	Range	Section
Nobles	Leota	104N	43W	13, 24-26, 33-36
Nobles	Wilmont	104N	42W	2-4, 9-35
Nobles	Bloom	104N	41W	2-11, 15-16, 19-22, 28-35
Nobles	Lismore	103N	43W	1-3
Nobles	Larkin	103N	42W	2-6
Nobles	Summit Lake	103N	41W	2-6

## 3.0 DESIGNATED SITE

The site designated by the Commission for the Nobles 2 Wind Project is the site depicted on the official site permit maps attached to this permit. Within the site permit boundary, the Project and associated facilities shall be located on lands for which the permittee has obtained wind rights. Wind rights or easements have been obtained by the Permittee and include approximately 30,356 acres of land under easement or with participation agreements.

### 3.1 Turbine Layout

The preliminary wind turbine and associated facility layouts are shown on the official 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.

#### **4.0 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, 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 Minnesota Pollution Control Agency 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 Minnesota Pollution Control Agency 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 one times the height (reduced for minimum maintenance roads or a road with an Average Daily Traffic County of less than 10) from the edge of the nearest public road right-of-way.

##### **4.5 Public Lands**

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in publicly-owned lands that have been designated for recreational or conservation purposes, including, but not limited to, Waterfowl Production Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in 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 and the United States Army Corps of Engineers, 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 Minnesota Department of Natural Resources 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 Minnesota Department of Natural Resources, and the Commission.

#### **4.8 Sand and Gravel Operations**

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



#### **4.9 Wind Turbine Towers**

Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to 82 meters (269 feet) above grade measured at hub height.

#### **4.10 Turbine Spacing**

The turbine towers shall be constructed within the site boundary as shown in the official 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 during final micro-siting of the turbine towers to account for topographic conditions, 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. There shall be no lights on the meteorological towers other than what is required by the Federal Aviation Administration. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

#### **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 public and private 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, Department of Aviation, and the Federal Aviation Administration. The Permittee shall notify owners of all known airports within six miles of the project prior to construction.

#### **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.

### **5.0 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 Notification**

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

#### **5.2 Construction and Operation Practices**

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the Nobles 2 Power Partners, LLC “Application to the Minnesota Public Utilities Commission Site Permit for a Large Wind Energy Conversion System,” October 13, 2017, and the record of the proceedings, unless this permit establishes a different requirement, in which case this permit shall prevail.

##### **5.2.1 Field Representative**

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

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

#### 5.2.2 Site Manager

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

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the site manager 14 days prior to commercial operation of 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 commercial operation of the facility. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons.

#### 5.2.3 Employee Training and Education of Permit Terms and Conditions

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

#### 5.2.4 Topsoil Protection

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

#### 5.2.5 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.

### 5.2.6 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency Construction Stormwater Program.

If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the Minnesota Pollution Control Agency as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater Permit from the Minnesota Pollution Control Agency 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.

### 5.2.7 Wetlands

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 all applicable wetland permits. Restoration of the wetlands will be performed by the Permittee in accordance with the requirements of applicable state and federal permits or laws and landowner agreements.

### 5.2.8 Vegetation Management

The Permittee shall disturb or clear the project site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the project. The Permittee shall minimize the number of trees to be removed in selecting the site layout specifically preserving to

the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation, to the extent that such actions do not violate sound engineering principles.

#### 5.2.9 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, Minnesota Department of Natural Resources, and the U.S. Environmental Protection Agency. 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.

#### 5.2.10 Invasive Species

The Permittee shall employ best management practices to avoid the potential 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.

#### 5.2.11 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.

#### 5.2.12 Public Roads

At least 14 days prior to the pre-construction meeting, the Permittee shall identify all state, county, or township roads that will be used for the project and shall notify the Commission and the state, county, or township governing body having jurisdiction over the roads to determine if the governmental body needs to inspect the roads prior to use of these roads. Where practical, existing roadways shall be used for all activities associated with the project. Where practical, all-

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

The Permittee shall prior to the use of such roads, make satisfactory arrangements with the appropriate state, county, or township governmental body having jurisdiction over roads to be used for construction of the 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.

#### 5.2.13 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.

#### 5.2.14 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.

#### 5.2.15 Archaeological and Historic Resources

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

#### 5.2.16 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 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.

#### 5.2.17 Livestock Protection

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

#### 5.2.18 Fences

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

#### 5.2.19 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.

#### 5.2.20 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.

#### 5.2.21 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 completion of the 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.

#### 5.2.22 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.

#### 5.2.23 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 and restoration of the site.

#### 5.2.24 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.

#### 5.2.25 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.

#### 5.2.26 Tower Identification

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

#### 5.2.27 Federal Aviation Administration Lighting

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

### 5.3 Communication Cables

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

### 5.4 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.

## **5.5 Other Requirements**

### **5.5.1 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. standards, the National Electric Safety Code, and North American Electric Reliability Corporation requirements. The Permittee shall report to the Commission on compliance with these standards upon request.

### **5.5.2 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 permit application. At least 14 days prior to the preconstruction meeting, the Permittee shall submit a filing demonstrating that it has obtained such permits. The Permittee shall provide a copy of any such permit 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.

## **6.0 SPECIAL CONDITIONS**

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

### **6.1 Obstruction Marking and Lighting**

The Permittee shall install an Aircraft Detection Lighting System (ADLS) to mitigate the aesthetic and visual effects of the FAA's aviation lighting requirements.

## **7.0 SURVEYS AND REPORTING**

### **7.1 Biological and Natural Resource Inventories**

The Permittee, in consultation with the Commission and the Department of Natural Resources, 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 results of any modeling shall be filed with the Commission at least 14 days prior to the pre-construction meeting to confirm compliance with conditions of this permit.

## **7.3 Wake Loss Studies**

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

## **7.4 Noise Studies**

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

## 7.5 Avian and Bat Protection

### 7.5.1 Avian and Bat Protection Plan

The Permittee shall comply with the provisions of the Avian and Bat Protection Plan (ABPP) submitted for this project [*The Bird and Bat Conservation Strategy (BBCS) included as Appendix G in the Site Permit Application*], and revisions resulting from the annual audit of ABPP implementation. The first annual audit and revision will be filed with the Commission 14 days before the preconstruction meeting and revisions should include any updates associated with final construction 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 and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

### 7.5.2 Quarterly Incident Reports

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

### 7.5.3 Immediate Incident Reports

The Permittee shall notify the Commission, U.S. Fish and Wildlife Service, and the Minnesota Department of Natural Resources within 24 hours of the discovery of any of the following:

- (a) five or more dead or injured birds or bats within a five day reporting period;
- (b) one or more dead or injured state threatened, endangered, or species of special concern;
- (c) one or more dead or injured federally listed species, including species proposed for listing; or
- (d) 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.

### 7.5.4 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.

## **8.0 AUTHORITY TO CONSTRUCT LWECS**

### **8.1 Wind Rights**

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

## **8.2 Power Purchase Agreement**

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

## **8.3 Failure to Commence Construction**

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

## **9.0 COMPLAINT PROCEDURES**

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

## **10.0 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. Attachment B to this permit contains a summary of compliance filings, which is provided solely for the convenience of the Permittee. If this permit conflicts, or is not consistent with Attachment B, the conditions in this permit will control.

### **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 Nobles County Environmental Office with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations of all turbines and other structures to be constructed including all electrical equipment, collector and feeder lines, pollution control equipment, fencing, roads, and other associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the site boundary and layout in relation to that approved by this permit. The Permittee shall document, through GIS mapping, compliance with the setbacks and site layout restrictions required by this permit, including compliance with the noise standards pursuant to Minnesota Rules Chapter 7030. At the same time, the Permittee shall notify affected landowners and city and town clerks that the site plan is on file with the Commission and the Nobles County Environmental 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 Nobles County Environmental 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 Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Nobles County Environmental 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 site restoration.

#### **10.5 Notification to the Commission**

At least three days before the project is to commence commercial operation, the Permittee shall file with the Commission the date on which the project will commence commercial operation and the date on which construction was completed.

#### **10.6 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.

#### **10.7 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 large wind energy conversion system.



## **10.8 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;
- (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.

This information shall be considered public and must be filed electronically.

## **10.9 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.

## **10.10 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.

### **10.11 Extraordinary Events**

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

## **11.0 DECOMMISSIONING, RESTORATION, AND ABANDONMENT**

### **11.1 Decommissioning Plan**

The Permittee shall submit a decommissioning plan to the Commission at least fourteen 14 days prior to the pre-operation meeting, and provide updates to the plan every five years thereafter. The 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**

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 its pre-project topography and topsoil quality. 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 developed and submitted to the Commission outlining the steps and schedule for returning the project, or any turbine within the project, to service.

## **12.0 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**

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 Commission's 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**

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

- (a) to enter upon the facilities easement of the site 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; and
- (d) to examine and copy any documents pertaining to compliance with the conditions of this permit.

### **12.7 Proprietary Information**

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

### **13.0 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.

#### **14.0 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 20 days after the date of the notice provided in Section 10.5, the Permittee shall file a notice describing its ownership structure, identifying, as applicable:

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

The Permittee shall immediately notify the Commission of:

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

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

The Permittee shall notify the Commission of:

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

#### **15.0 REVOCATION OR SUSPENSION OF PERMIT**

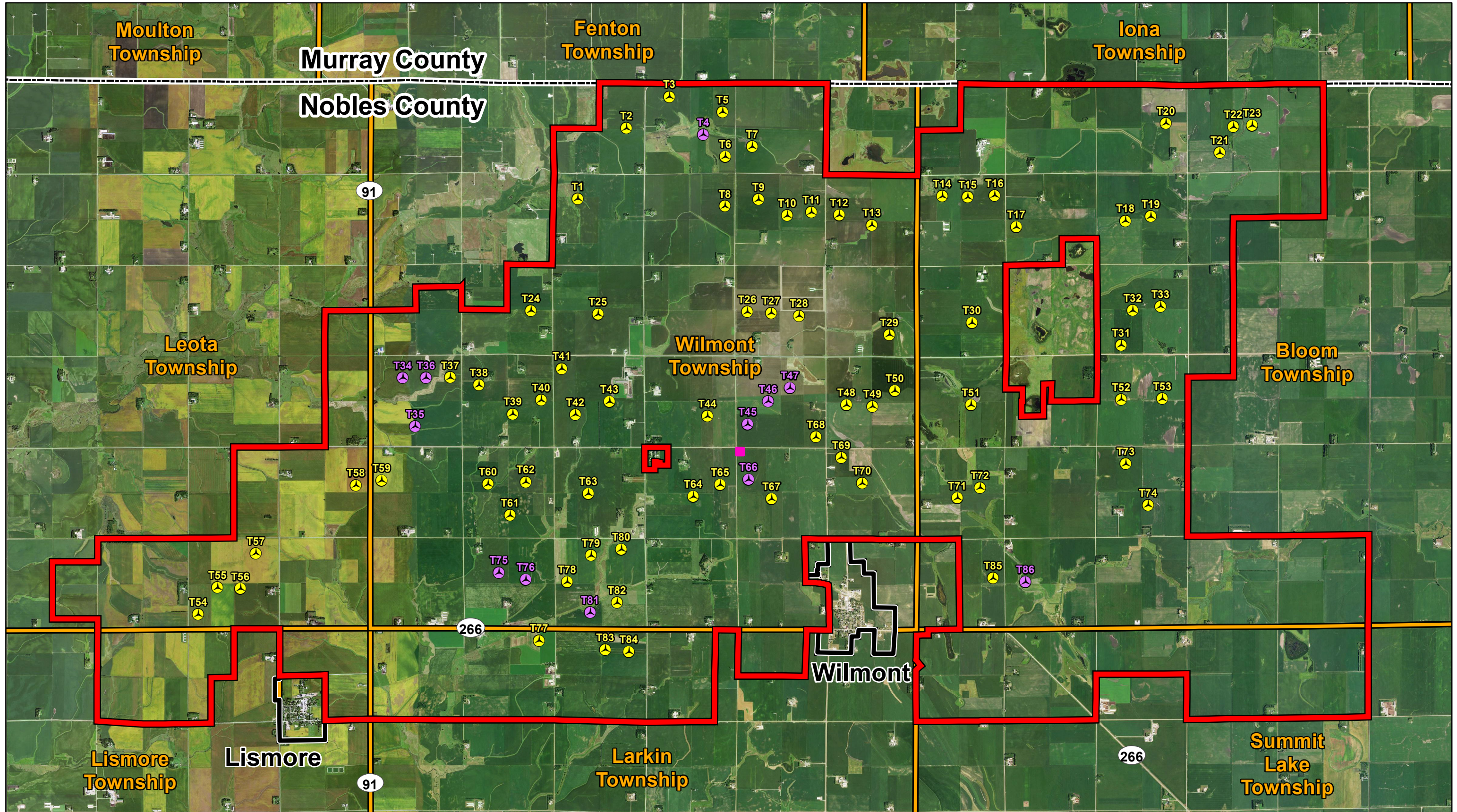
The Commission may take action to suspend or revoke this permit upon the grounds that:

- (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;
- (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.

#### **16.0 EXPIRATION DATE**

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

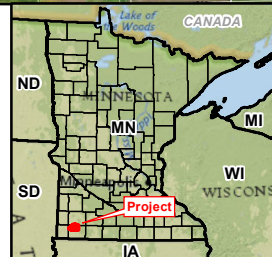


Data Source(s): Westwood (2018); Minnesota NAIP Imagery (Accessed 2018); ESRI (2012); Census Bureau (2015). Data and map are approximate.

Note: Project up to 260MW.

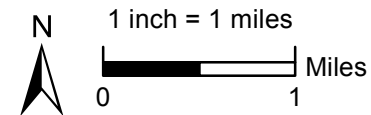
**NOBLES 2 POWER PARTNERS, LLC**

**Westwood**  
Multi-Disciplined  
Surveying & Engineering



**Legend**

- Project Boundary
- Township Boundary
- Municipal Boundary
- County Boundary
- Proposed Substation
- ▲ Proposed Turbine
- ▲ Proposed Turbine Alternate



**Nobles 2 Wind Project**

Nobles County, Minnesota

Project Boundary and  
Turbine Layout

**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 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 preparation, cleanup or restoration or other site and associated facilities 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 an individual to summarize complaints for the Commission. This person's name, phone number and email address shall accompany all complaint submittals.
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. date of complaint;
  - c. tract or parcel number; and
  - d. whether the complaint relates to a permit matter or a compliance issue.
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. activities undertaken to resolve the complaint; and
  - g. 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. 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 Consumer Affairs Office at 1-800-657-3782 (voice messages are acceptable) or [consumer.puc@state.mn.us](mailto:consumer.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 and restoration, 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 Daniel P. Wolf, 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.

**G. Complaints Received by the Commission**

Complaints received directly by the Commission from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the permittee.

**H. Commission Process for Unresolved Complaints**

Commission staff shall perform an initial evaluation of unresolved complaints submitted to the Commission. Complaints raising substantial permit issues shall be processed and resolved by the Commission. Staff shall notify the permittee and appropriate persons if it determines that the complaint is a substantial complaint. With respect to such complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the staff notification. The complaint will be presented to the Commission for a decision as soon as practicable.

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

Complaints may filed by mail or email to:

Scott P. Seier, Project Manager  
Nobles 2 Power Partners, LLC  
14302 FNB Parkway  
Omaha, NE 68154-5212  
(402) 691-9510  
sseier@tenaska.com

This information shall be maintained current by informing the Commission of any changes as they become effective.

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLIANCE FILING PROCEDURE FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of submitting information required by Commission energy facility permits.

**B. Scope and Applicability**

This procedure encompasses all known compliance filings required by permit.

**C. Definitions**

**Compliance Filing:** A filing of information to the Commission, where the information is required by a Commission site or route permit.

**D. Responsibilities**

1. The permittee shall file all compliance filings with Daniel P. Wolf, Executive Secretary, Public Utilities Commission, through the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>

General instructions are provided on the eDockets website. Permittees must register on the website to file documents.

2. All filings must have a cover sheet that includes:
  - a. Date
  - b. Name of submitter/permittee
  - c. Type of permit (site or route)
  - d. Project location
  - e. Project docket number
  - f. Permit section under which the filing is made
  - g. Short description of the filing

3. Filings that are graphic intensive (e.g., maps, engineered drawings) must, in addition to being electronically filed, be submitted as paper copies and on CD. Paper copies and CDs should be sent to: 1) Daniel P. Wolf, Executive Secretary, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, MN 55101-2147, and 2) Department of Commerce, Energy Environmental Review and Analysis, 85 7th Place East, Suite 500, St. Paul, MN 55101-2198.

The Commission may request a paper copy of any electronically filed document.

PRELIMINARY DSP

**PERMIT COMPLIANCE FILINGS<sup>1</sup>**

PERMITTEE:

PERMIT TYPE:

PROJECT LOCATION:

PUC DOCKET NUMBER:

Filing Number	Permit Section	Description of Compliance Filing	Due Date
1	4.7	Prairie Protection and Management Plan	30 days prior to submitting Site Plan, as deemed necessary
2	4.12	Notification to Airports	Prior to project construction
3	5.1	Notification of Permit and Complaint Procedures	30 days of permit issuance
4	5.2.1	Field Representative	14 days prior to commencing construction
5	5.2.2	Site Manager	14 days prior to commercial operation
6	5.2.6	National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater Permit	In accordance with Minnesota Pollution Control Agency
7	5.2.9	Notification of Pesticide Application	14 days prior to application
8	5.2.10	Invasive Species Protection Plan	14 days prior to pre-construction meeting
9	5.2.12	Identification of Roads	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
10	5.2.16	Assessment of Television and Radio Signal Reception, Microwave Signal Patterns, and Telecommunications	14 days prior to pre-construction meeting
11	5.2.21	Site Restoration	60 days after completion of restoration
12	5.2.25	Public Safety/Education Materials	Upon request
13	5.4	Engineered Drawings of Collector and Feeder Lines	Submit with the Site Plan
14	5.5.2	Filing Regarding Other Required Permits	14 days prior to pre-construction meeting
15	7.1	Biological and Natural Resource Inventories	30 days prior to pre-construction meeting
16	7.2	Shadow Flicker Data	14 days prior to pre-construction meeting
17	7.3	Wake Loss Studies	14 days prior to pre-construction meeting and annual wake loss with annual report
18	7.4	Post-Construction Noise Methodology	14 days prior to pre-construction meeting
19	7.4	Post-Construction Noise Study	18 months of commercial operation
20	7.5.1	First Annual Audit and Revision of Avian and Bat Protection Plan	14 days prior to pre-construction meeting
21	7.5.1	Annual Report - Avian and Bat Protection Plan	15th of March each year or partial year

Filing Number	Permit Section	Description of Compliance Filing	Due Date
22	7.5.2	Quarterly Incident Reports	15th of January, April, July, and October the day following commercial operation
23	7.5.3	Immediate Incident Reports	24 hours of discovery and a report within 7 days
24	8.1	Demonstration of Wind Rights	14 days prior to pre-construction meeting
25	8.2	Power Purchase Agreement	If not obtained within two years issuance of permit
26	8.3	Failure to Construct	If within two years issuance of permit
27	10.0	Complaint Procedures	Prior to start of construction
28	10.1	Pre-Construction Meeting Summary	14 days following meeting
29	10.2	Pre-Operation Meeting Summary	14 days following meeting
30	10.3	Site Plan	14 days prior to pre-construction meeting
31	10.4	Construction Status Reports	Monthly
32	10.5	Commercial Operation	3 days prior to commercial operation
33	10.6	As-Builts	90 days after completion of construction

Filing Number	Permit Section	Description of Compliance Filing	Due Date
34	10.7	GPS Data	90 days after completion of construction
35	10.8	Project Energy Production	February 1st following each complete or partial year of project operation
36	10.9	Wind Resource Use	February 1st following each complete or partial year of project operation
37	10.10	Emergency Response Plan	14 days prior to pre-construction meeting and revisions 14 days prior to pre-operation meeting
38	10.11	Extraordinary Event	Within 24 hours of discovery
39	11.1	Decommissioning Plan	14 days prior to pre-operation meeting
40	14.0	Notice of Ownership	14 days after operation