

BEFORE THE Minnesota Public Utilities Commission

**In the Matter of the Site Permit Amendment for the Big Bend Wind Project
DOCKET NO. IP-7013/WS-19-619**

PETITION FOR RECONSIDERATION

To the Honorable Commissioners:

Pursuant to Minnesota Statute 216B.27 and applicable Commission rules, petitioner respectfully requests reconsideration of the recently approved permit amendment for the Big Bend Wind Project. Reconsideration is necessary because the approval relies upon outdated environmental analysis and fails to account for substantial, material changes in existing conditions. These changes directly affect wildlife protection, noise impacts, and visual impacts. When combined with the prior setback waivers, the approval fails to adequately balance the rights and interests of affected property owners against those of the permittee and certain state agencies.

I. Reliance on Outdated Environmental Review

The approved amendment is based on environmental review data that no longer reflects current site conditions.

A. Outdated Wildlife Studies

Wildlife analyses relied upon in support of the amendment date back to 2017. This is most apparent when viewing the previous field studies regarding bald eagle.

The project's earlier environmental documentation acknowledges that bald eagle populations in the area have continued to grow, making surveys of this age unreliable. These studies also recognized that eagles are sensitive to disturbances caused by large-scale wind turbines and are likely to abandon those areas once operation begins.

With no updated field surveys or current population assessments the Commission's reliance on nearly decade-old wildlife data fails to account for:

- Increased eagle presence in the region;
- Changes in nesting or foraging patterns; and
- The cumulative effect of relocated turbines constituted in a smaller area.

This omission doesn't properly address the likelihood of bald eagle fatalities and the disruption of current nesting areas and migration patterns.

B. Substantial Loss of Tree Cover

Since completion of the original environmental review, the project area has lost a large portion of its tree cover due to Emerald Ash Borer infestation. The resulting reduction in tree cover materially alters:

1. **Noise propagation characteristics** – Tree cover serves as a natural buffer that absorbs and diffuses sound. Its loss increases the distance and clarity with which turbine noise travels. While the ISO 9613-2 noise modeling included no attenuation due to forest cover, it continues to use a Ground Factor of 0.5 which becomes even less appropriate given this drastic change in ground conditions. In addition, while the ISO 9613-2 noise modeling is commonly used for wind turbines, it has been shown to underestimate wind turbine noise levels by 5 decibels or more. These known modeling deficiencies, combined with turbines that are larger than those where the same modeling failed, produces results that cannot be relied upon.

2. **Visual screening** – Mature tree stands previously mitigated the visual impact of industrial-scale turbines to residents. Their loss significantly increases the prominence and dominance of turbines on the landscape.

EIP staff makes the claim that because the Jeffers Petroglyphs has a “long history of significant ceremonial and spiritual purposes” it is in need of a seven mile buffer from turbines. At the same time, regarding homeowners, they claim that “viewing a wind turbine during typical everyday activities is not considered to cause human or environmental harm or damage.” Not only is EIP staff unqualified to make this claim, they ignore the fact that for many property owners our homes and property are our primary place of worship.

Despite these changed conditions and the mistaken claims made by EIP staff, no updated modeling or visual simulations were required before approving the amendment. The Commission’s decision therefore rests on modeling that does not reflect present-day environmental realities and a false idea that the visual effect of industrial-scale turbines causes no harm to property owners.

II. Prior Setback Waiver and Disparate Impacts

This amendment cannot be considered in isolation. An earlier amendment granted waivers allowing turbines to be constructed closer to private properties than was promised in the initial permit.

That waiver resulted in turbines being moved:

- Farther from the Jeffers Petroglyphs to minimize visual impacts to that historic site; and
- Closer to private property owners, infringing on their wind rights and increasing visual and noise impacts on other residents.

While protection of cultural resources is important, the practical effect of the setback waiver was to shift impacts away from a state-recognized historic site and onto nearby landowners. The cumulative pattern of amendments has benefited the permittee (through greater siting flexibility) and the interests of State-level institutions, while correspondingly increasing burdens on affected landowners.

III. Failure to Balance Competing Interests

The Commission is obligated to ensure that site permits reflect a balanced consideration of:

- Environmental protection,
- Cultural and historic preservation,
- Renewable energy development, and
- The rights, health, and property interests of local residents.

In this case, the record reflects a consistent pattern in which amendments and waivers have:

- Relaxed setback protections for residents and landowners;
- Increased both visual and noise impacts for residents;
- Relied on outdated environmental and wildlife data;
- Failed to account for material changes in site conditions; and
- Shifted project impacts away from state-protected resources and toward private property owners.

This does not constitute a balanced approach. Rather, it reflects a progressive accommodation of the developer and aligned state agencies at the expense of rural landowners whose properties and quality of life are directly affected.

IV. Request for Relief

For the foregoing reasons, Petitioner respectfully requests that the Commission:

1. Grant reconsideration of the approved permit amendment;
2. Require an updated environmental review addressing current tree cover conditions and their effect on noise and visual impacts;
3. Require updated wildlife studies, including current bald eagle population and habitat assessments;
4. Reevaluate noise modeling assumptions in light of known ISO 9613-2 limitations and current ground conditions, requiring the permittee to meet or exceed those projections with post-construction monitoring; and
5. Reassess setback determinations to ensure that the rights and protections afforded to landowners are not subordinated to project convenience or institutional interests.

Absent such reconsideration, the Commission's approval rests on outdated data and an incomplete balancing of interests, undermining both the integrity of the permitting process and the statutory protections afforded to Minnesota property owners.

Respectfully submitted,

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