

**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben
Valerie Means
Matthew Schuerger
John Tuma
Joseph Sullivan

Chair
Commissioner
Commissioner
Commissioner
Commissioner

**In the Matter of the Site Permit Amendment
Application for Repowering the Fenton
Wind Project in Murray and Nobles
Counties**

MPUC Docket No. IP-6499/WS-05-1707

**FENTON POWER PARTNERS I, LLC
REPLY COMMENTS**

INTRODUCTION

Fenton Power Partners I, LLC (“Fenton”) submits these reply comments in response to the Department of Commerce, Energy Environmental Review and Analysis (“EERA”) Staff’s Comments and Recommendations, which were the only comments filed in this matter.¹ Fenton appreciates EERA’s review and largely agrees with its recommendations. In these reply comments, Fenton will (1) address EERA’s proposed additional revisions to the large wind energy conversion system (“LWECS”) Site Permit issued to Fenton on March 8, 2019 (the “2019 Amended Site Permit”) by the Minnesota Public Utilities Commission (“Commission”); (2) respond to EERA’s comments regarding Fenton’s operations-related compliance filings, specifically Fenton’s Avian and Bat Protection Plan (“ABPP”) and Decommissioning Plan; and (3) provide additional clarification regarding the construction-related permit sections that will

¹ EERA Comments (August 31, 2020) (eDocket No. [20208-166322-01](#)) and replacement Exhibit 1 (September 1, 2020) (eDocket No. [20209-166368-01](#)).

not apply to the Fenton Wind Project (“Project”) because construction of the Retrofit Project will not occur.

DISCUSSION

I. PROPOSED AMENDMENTS TO THE 2019 AMENDED SITE PERMIT.

EERA recommended approval of Fenton’s proposed revised site permit language and supporting rationale presented in Table 1 and illustrated in Exhibit 1 to Fenton’s Notice Regarding Retrofit Construction and Request for Amendment of Site Permit. EERA also proposed additional revisions to a number of permit sections as discussed in EERA’s comments and recommendations and illustrated in EERA’s revised Exhibit 1.² With the exception of EERA’s proposed revised Section 7.5.1 (Operational Phase Fatality Monitoring) discussed below, Fenton has no objection to EERA’s proposed revisions.

EERA’s revised Exhibit 1 does not include all of the changes EERA discussed in its comments, and these reply comments discuss a further change to Section 7.5.1 (Operational Phase Fatality Monitoring). To assist the Commission, **Attachment A** included with this filing is a redline showing Fenton’s and EERA’s cumulative proposed amendments to the 2019 Amended Site Permit as discussed in Fenton’s initial filing, EERA’s comments and these reply comments. **Attachment A** also includes minor clarifications and cleans up certain cross-references.

² See EERA Comments (August 31, 2020) (eDocket No. [20208-166322-01](#)) and replacement Exhibit 1 (September 1, 2020) (eDocket No. [20209-166368-01](#)).

A. Minor Modifications Proposed by EERA.

In its comments and recommendations,³ EERA proposed changes to the following permit sections in order to eliminate minor language differences, update section references, and update site permit condition language to conform with other recent large wind energy conversion systems (“LWECS”) site permits issued by the Commission:

- Section 4.12 (Aviation);
- Section 5.2.1 (Field Representative);
- Section 5.2.2 (Site Manager);
- Section 5.2.7 (Wetlands);
- Section 5.2.12 (Public Roads);
- Section 5.2.19 (Drain Tile);
- Section 5.5.2 (Other Permits and Regulations);
- Section 7.1 (Biological and Natural Resources);
- Section 10.2 (Site Plan); and
- Section 10.6 (Project Energy Production).

Fenton does not object to EERA’s proposed minor modifications to the above permit sections. However, Fenton notes that many of these minor modifications will have no effect on the Project, because the modifications concern pre-construction and construction-related requirements, which are inapplicable to the Project because construction of the Retrofit Project will not occur.

B. Other Modifications Proposed by EERA.

EERA also proposed “more significant” modifications to the following permit sections:

- Section 7.5.1 (Operational Phase Fatality Monitoring) (new language);
- Section 7.5.2 (Avian and Bat Protection Plan);⁴
- Section 7.5.3 (Quarterly Incident Reports);⁵

³ EERA’s proposed amendments to these sections are shown on EERA’s Exhibit 1, filed on September 1, 2020 (eDocket No. [20209-166368-01](#)).

⁴ In addition to substantive revisions, EERA has proposed renumbering this section to Section 7.5.2. This language was in Section 7.5.1 of the 2019 Amended Site Permit.

- Section 7.5.4 (Immediate Incident Reports); and
- Section 11.1 (Decommissioning Plan).

Fenton has no objection to EERA's proposed modifications to Section 7.5.2 (Avian and Bat Protection Plan) and Section 11.1 (Decommissioning Plan), but notes that the proposed revised language regarding the pre-construction meeting will not apply to the Project because no construction of the Retrofit Project will occur and thus no pre-construction meeting will be held. Additionally, Fenton has no objection to EERA's proposed modifications to Section 7.5.3 (Quarterly Incident Reports) and Section 7.5.4 (Immediate Incident Reports).

Following receipt of EERA's comments, Fenton reached out to EERA to discuss EERA's proposed new language in Section 7.5.1 (Operational Phase Fatality Monitoring) that would require Fenton to conduct a minimum of two full years of avian and bat fatality monitoring. Based on that discussion, Fenton understands that the language requiring two years of post-construction monitoring was an error; EERA's revised Section 7.5.1 should have included one year of post-construction monitoring, consistent with Fenton's ABPP. As set forth in Fenton's ABPP, the Project has been operating since 2007 without high bird or bat mortality incidents.⁶ Due to the Project's operational history as a low risk site, one year of monitoring is appropriate in this case. Additionally, Fenton's ABPP identifies an adaptive management plan that will be followed throughout the life of the Project. The adaptive management plan outlines what steps will be taken if there is greater impact than expected following the first year of monitoring. Accordingly, one year of post-construction monitoring data, together with compiled regional

⁵ EERA's only proposed change is to renumber Section 7.5.3 (Quarterly Incident Reports) (which is Section 7.5.2 in the 2019 Amended Site Permit).

⁶ For additional information on the Project's operational history with respect to avian and bat mortality, see section 8.20.4 of Fenton's October 1, 2018 Application for an Amendment to Site Permit related to the Retrofit Project (eDocket No. [201810-146750-02](#)).

data, provides sufficient data to assess the impacts of the Project on birds and bats. In the event that the observed mortality rates are determined to be significantly higher than those reported for other similar regional wind energy projects, Fenton will evaluate changes in facility operations that are likely to further avoid or minimize Project effects to listed bird and/or bat species, consistent with the ABPP. **Attachment A** includes this change to Section 7.5.1.

II. OPERATIONS-RELATED COMPLIANCE FILINGS.

EERA recommended that the Commission approve the following of Fenton's operations-related compliance filings made with its August 5, 2020 filing:

- Exhibit 2: Section 3.1 (Turbine Layout) (eDocket No. [20208-165621-04](#));
- Exhibit 3: Section 5.1 (Notification Letter) (eDocket No. [20208-165621-05](#));
- Exhibit 4: Section 5.2.2 (Site Manager) (eDocket No. [20208-165621-06](#));
- Exhibit 5: Section 7.5.1 (Avian and Bat Protection Plan) (eDocket No. [20208-165621-07](#));
- Exhibit 6: Section 7.5.2 (Quarterly Incident Report) (eDocket No. [20208-165621-08](#));
- Exhibit 7: Section 10.8 (Emergency Response Plan) (eDocket No. [20208-165621-09](#)); and
- Exhibit 9: Section 14 (Transfer of Permit) (eDocket No. [20208-165622-01](#)).

Fenton appreciates EERA's comments on Fenton's ABPP and Decommissioning Plan, filed as Exhibits 5 and 8, respectively, to Fenton's August 5, 2020 Notice Regarding Retrofit Construction and Request for Amendment of Site Permit. Fenton will revise the ABPP and Decommissioning Plan to incorporate and address EERA's comments. Fenton proposes to provide the revised ABPP and Decommissioning Plan within 30 days after the Commission's order on this matter.

III. CONSTRUCTION-RELATED COMPLIANCE REQUIREMENTS THAT WILL NOT APPLY.

As discussed in detail in Fenton's Notice Regarding Retrofit Construction and Request for Amendment of Site Permit and acknowledged in EERA's comments and recommendations,

the following sections of the 2019 Amended Site Permit (related to construction-related filings and requirements) will not apply to the Project because construction of the Retrofit Project will not occur:

- Section 4.7 (Native Prairie);
- Section 4.12 (Aviation);
- Section 5.2.1 (Field Representative);
- Section 5.2.6 (Soil Erosion and Sediment Control);
- Section 5.2.10 (Invasive Species);
- Section 5.2.12 (Public Roads);
- Section 5.2.21 (Restoration);
- Section 5.5.2 (Other Permits and Regulations);
- Section 6.1 (Labor Statistics Reporting);
- Section 7.2 (Shadow Flicker)⁷;
- Section 7.3 (Wake Loss)⁸;
- Section 7.4 (Noise Studies)⁹;
- Section 8.1 (Wind Rights);
- Section 10.1 (Pre-Construction Meeting);
- Section 10.2 (Site Plan);
- Section 10.3 (Status Reports);
- Section 10.4 (As-Builts); and
- Section 10.5 (GPS Data).

In addition, based on EERA's proposed minor modifications, Fenton would like to clarify that the revised language regarding the pre-construction meeting in the following section will also not apply to the Project because construction of the Retrofit Project will not occur:

- Section 7.1 (Biological and Natural Resource Inventories).

⁷ Fenton will comply with its ongoing obligation to address complaints, as needed.

⁸ Fenton will comply with the requirement to file any wake loss studies conducted as part of the annual report on project energy production required under Section 10.6 of the permit.

⁹ Fenton will continue to comply with Section 4.3 of the 2019 Amended Site Permit and the Minnesota State Noise Standards.

Fenton respectfully requests that the Commission include in its order the list of construction-related compliance filing permit sections that will not apply to the Project, including Section 7.1.

CONCLUSION

Fenton respectfully requests that the Commission find there is good cause to amend the 2019 Amended Site Permit as set forth in **Attachment A**. Additionally, Fenton requests that the Commission acknowledge and accept the list of construction-related permit sections set forth in Section III above that will not apply to the Project. Fenton will update its ABPP and Decommissioning Plan to reflect EERA's comments and proposes that the updated compliance filings be due within 30 days after the Commission's order. Fenton remains committed to operating the Project in a manner consistent with the applicable site permit requirements and appreciates the Commission's attention to this matter.

Dated: September 8, 2020

Respectfully submitted,

/s/ Christina K. Brusven

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STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

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

**IN
MURRAY AND NOBLES COUNTIES**

**ISSUED TO
FENTON POWER PARTNERS I, LLC**

PUC DOCKET NO. IP6499/WS-05-1707

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

FENTON POWER PARTNERS I, LLC

The Permittee is authorized by this site permit to construct and operate the 205.5~~221~~ Megawatt (nameplate capacity) Fenton Wind ~~Repowering~~-Project Large Wind Energy Conversion System and Associated Facilities. The Fenton Wind ~~Repowering~~-Project 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 replaces the versions issued in 2006, ~~and~~ 2008, and 2019. This site permit shall expire on December 31, 2036~~thirty (30) years from the date of this approval~~.

Approved and adopted this 8th day of March,
2019

BY ORDER OF THE COMMISSION

~~Daniel P. Wolf~~, Will Seuffert
Executive Secretary

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Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Site Permit Maps

1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Fenton Power Partners I, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854. This permit authorizes the Permittee to construct and operate the Fenton Wind ~~Repowering~~ Project (Project), a ~~205.5221~~ megawatt (MW) nameplate capacity Large Wind Energy Conversion System (LWECS) and associated facilities in Murray and Nobles Counties, Minnesota. 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 PROJECT DESCRIPTION

The ~~retrofitted~~ Project's total nameplate capacity is ~~205.5221~~ megawatts (MW). The ~~proposed~~ Project will consist of up to retrofit 136 of 137 General Electric (GE) 1.5 sle turbines. ~~The With the GE retrofit 1.5 sle wind package the turbines have a will be upgraded to 1.62 MW generators. These longer blades will increase the~~ rotor diameter ~~from of~~ 77 meters (252.6-foot). Turbines are interconnected by communication and electrical power collection facilities within the wind farm. These facilities will include transformers and underground collector lines, and feeder lines that will deliver wind-generated power to the new Fenton Substation located in Section 20 in Fenton Township in Murray County. ~~to 91 meters (298.5 feet) in diameter, and include upgraded gear boxes, and associated components. The previously permitted locations of turbines, access roads, collection lines, and other supporting infrastructure will remain the same, and the Retrofit will not result in a change to the facility boundaries. The proposed turbine array is illustrated on the attached project map.~~

~~The proposed repowering will increase the project nameplate capacity by eight percent due to increased efficiencies; however, the Permittee will closely monitor the Project's energy output and cap delivery to maintain compliance with the new Generator Interconnection Agreement (GIA) with Midcontinent Independent System Operator, Inc. (MISO).~~

2.1 Associated Facilities

Associated facilities include underground collection and feeder lines, crane walk paths, access roads, permanent meteorological towers, up to five temporary meteorological towers, temporary staging/laydown construction area, nacelle assembly area, the O&M facility, and other associated facilities.

2.2 Project Location

The project is located in the following:

County	Township Name	Township	Range	Section
Murray	Moulton	105N	43W	10-19, 20-29, 33-34
Murray	Fenton	105N	42W	7, 17-22, 27-33
Nobles	Wilmont	104N	42W	4-8, 17-18

3 DESIGNATED SITE

The site designated by the Commission for the Fenton Wind ~~Repowering~~ Project is the site depicted on the official site permit maps attached to this permit. The estimated size of the Project Area is 38,500 acres (approximately 60.0 square miles) primarily on agricultural land.

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 10.23.

4 SETBACKS AND SITE LAYOUT RESTRICTIONS

4.1 Wind Access Buffer

Wind turbine towers shall not be placed less than five rotor diameters from the perimeter of the site on the north-south axis and 2 rotor diameters on the east-west axis where the Permittee does not hold the wind rights, without the approval of the PUC. Permittee acknowledges that properties within the project boundaries for which Permittee does not hold the wind rights will not be foreclosed from installing wind turbine generators on such property at a later date, even if such turbine generators cannot be installed on such property in compliance with the setbacks set forth in the first sentence of this section. ~~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 500 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 250 feet from the edge of the nearest public road right-of-way.

4.5 Public Lands

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in publicly-owned lands that have been designated for recreational or conservation purposes, including, but not limited to, Waterfowl Production Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in the event that the public entity owning those lands enters into a land lease and easement with the Permittee. Wind turbine 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 10.23 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 80 meters (263 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 ~~meeting prior to construction.~~ s anticipated construction start date, at least 14 days prior to the pre-construction meeting.

4.13 Footprint Minimization

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

5 GENERAL CONDITIONS

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

5.1 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 procedures¹. 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.

¹ Affected landowner for this provision means property landowner and adjacent landowner.

5.2 Construction and Operation Practices

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in [this permit](#). ~~the Site Permit Amendment Application, dated October 1, 2018, 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 [the pre-construction meeting](#). ~~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 [the pre-construction meeting](#). ~~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 [the pre-operation](#). ~~commercial operation of the~~ [for the](#) facility. The Permittee shall provide the site manager's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to 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.~~ the requirements of all applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers, Minnesota Department of Natural Resources, Minnesota Board of Water and Soil Resources and local units of government shall be met.

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

5.2.13 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

The Permittee has completed an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the project area. The assessment was 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.

~~Interference with the Minnesota Valley TV Improvement beam path and Fenton Turbine 47 is not authorized by this permit. To the extent issues arise with this beam path, any impact caused by the retrofit and extended blade length shall be mitigated by Fenton or as otherwise decided by the Commission.~~

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 [the](#) 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 10.23, if there are any changes that are not already on file with the Commission.

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.~~ with a detailed status update of all permits, authorizations, and approvals that have been applied for specific to the project. The detailed status update shall include the permitting agency or authority, the name of the permit, authorization, or approval being sought, contact person and contact information for the permitting agency or authority, brief description of why the permit, authorization, or approval is needed, application submittal date, and the date the permit, authorization, or approval was issued or is anticipated to be issued.

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

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

A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.

6 SPECIAL CONDITIONS

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

6.1 Labor Statistics Reporting

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The Report shall (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers, and (b) provide an account of 1) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. 290.01, subd. 7; 2) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and 3) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The Report may not include personally identifiable data.

7 SURVEYS AND REPORTING

7.1 Biological and Natural Resource Inventories

~~The Permittee shall file with the Commission any biological surveys or studies conducted on this project, including those not required under this permit.~~ The Permittee, in consultation with the Commission and the DNR, shall design and conduct pre- construction desktop and field inventories of existing wildlife management areas, scientific and natural areas, recreation areas,

native prairies and forests, wetlands, and any other biologically sensitive areas within the project site and assess the presence of state- or federally-listed or threatened species. The results of the inventories shall be filed with the Commission at least 30 days prior to the pre-construction meeting to confirm compliance of conditions in this permit. The Permittee shall file with the Commission, any biological surveys or studies conducted on this project, including those not required under this permit.

7.2 Shadow Flicker

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

Within 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the estimate of project wake losses. As part of the annual report on project energy production required under Section 10.68 of the permit the Permittee shall file with the Commission any operational wake loss studies conducted on this project during the calendar year preceding the report.

7.4 Noise Studies

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

7.5 Avian and Bat Protection

7.5.1 Operational Phase Fatality Monitoring

The Permittee shall utilize a qualified third party to conduct one full year of avian and bat fatality monitoring following the commencement of the operational phase of the project. Monitoring activities and results will be coordinated directly with MN DNR, USFWS, and the

Commission. Detailed monitoring protocols, agency coordination, and any avoidance and minimization measures will be detailed in the project’s ABPP.

~~7.5.17.5.2~~ 7.5.17.5.2 Avian and Bat Protection Plan

The Permittee shall comply with the provisions of the most recently filed and accepted version of the Avian and Bat Protection Plan (ABPP). The initial version of the ABPP submitted for this project as part of the Site Permit Application, as updated by the ~~on January 9, 2019~~ August 5, 2020 version of the ABPP, and all necessary revisions resulting that occur during the permit issuance process will be incorporated into a Permit Version. The Permit Version of the ABPP will be filed with the Commission 14 days before the pre-construction meeting, and revision will include any updates associated with the final construction plans and site plans. ~~from the annual audit of ABPP implementation.~~ 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 Department of Commerce – Energy Environmental Review and Analysis, Minnesota Department of Natural Resources and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

~~7.5.27.5.3~~ 7.5.27.5.3 Quarterly Incident Reports

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

~~7.5.37.5.4~~ 7.5.37.5.4 Immediate Incident Reports

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

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

~~7.5.4 Turbine Operation Curtailment Requirements~~

~~All operating turbines at the facility must be equipped and operated with software enabling adjustment of turbine cut-in speeds. The permittee shall operate all facility turbines so that all turbines are programmed to be locked or feathered at wind speeds up to the manufacturer's standard cut-in speed, from one-half hour before sunset to one-half hour after sunrise, from April 1 to October 31 of each year of operation through the life of the project.~~

8 AUTHORITY TO CONSTRUCT LWECs

8.1 Wind Rights

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

8.2 Power Purchase Agreement

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

Within 60-days of the expiration of the project's current power purchase agreement, Fenton shall file notice to the Commission of a new power purchase agreement or for some other enforceable mechanism for the sale of electricity generated by the project. If the Permittee does not obtain a power purchase agreement or have documentation regarding some other enforceable mechanism for sale of electricity, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with Minn. R. 7854.1300.

8.3 Failure to Commence Construction

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

9 COMPLAINT PROCEDURES

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 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 retrofit 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 Site Plan

At least 14 days prior to the pre-construction meeting, the Permittee shall provide the Commission, the Department and the Murray and Nobles 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, unless these documents are already on-file with these agencies. 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 Murray and Nobles 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~~14 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 Murray and Nobles 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 Murray and Nobles 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.

10.3 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.

10.4 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 unless the documents are already on file with the appropriate agencies.

10.5 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 ~~solar~~-wind energy generating system.

10.6 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.

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

10.7 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.

10.8 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. 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.

10.9 Extraordinary Events

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

11 DECOMMISSIONING, RESTORATION, AND ABANDONMENT

11.1 Decommissioning Plan

~~The Permittee shall submit a decommissioning plan to the Commission within 90 days of the site permit issuance 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 comply with the provisions of the most recently filed and accepted Decommissioning Plan. The initial version of the Decommissioning Plan was submitted for this project on September 16, 2013 and an updated Decommissioning Plan on August 5, 2020 as a part of the request for amendment of the Site Permit. The Permittee shall file an updated decommissioning plan, incorporating comments and information from the permit issuance process and any updates associated with the final construction plans, with the Commission 14

days before the preconstruction meeting. The decommissioning plan shall be updated every five years following the commercial operation date.

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 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 PERMIT AMENDMENT

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

14 TRANSFER OF PERMIT

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

Within 90 days of the site permit issuance, the Permittee shall file a notice describing its ownership structure, identifying, as applicable:

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

The Permittee shall immediately notify the Commission of:

- (a) a change in owner(s) of the majority* financial or governance interests in the Permittee;

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

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

The Permittee shall notify the Commission of:

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

15 REVOCATION OR SUSPENSION OF PERMIT

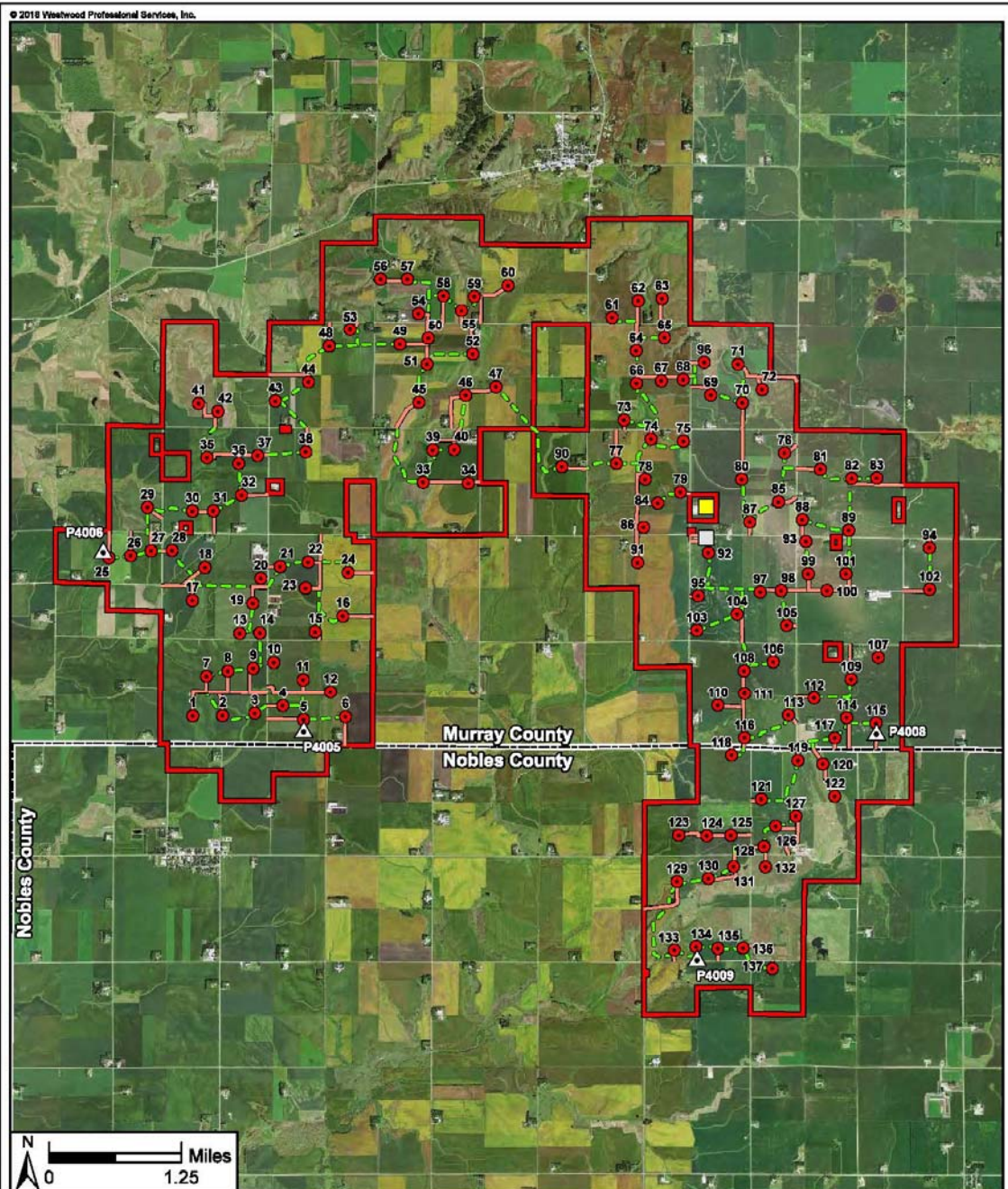
The Commission may take action to suspend or revoke this permit upon the grounds that:

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

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

16 EXPIRATION DATE

This permit shall expire on December 31, 2036 ~~30 years after the date this permit was approved and adopted.~~



Map Document: N00011824000189Site Permi Map\FW_PermitMap2_TurbineLayout\shibb_100018.mxd 3/10/2018 5:42:50 PM radevits

Date Source(s): Westwood (2018); MNGeo WMB Imagery Summer 2015 (Accessed 2017).

- Legend**
- GE 1.62 Turbine
 - Existing Access Road
 - - - Proposed Crane Path
 - ▭ Project Boundary
 - - - County Boundary
 - ▭ Substation
 - O&M Station
 - ▲ Met Tower

Westwood
 Toll Free (888) 937-5150 westwoodpsi.com
 Westwood Professional Services, Inc.

Fenton Wind Project

Murray & Nobles Counties, Minnesota

GE 1.62 Turbine Layout

ATTACHMENT 1

Complaint Handling Procedures for Permitted Energy Facilities

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

A. Purpose

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site 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 route 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. 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](#) [Will Seuffert](#), Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at:
<https://www.edockets.state.mn.us/EFiling/home.jsp>

If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received. Monthly reports shall be considered public information.

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 be filed to the site permit contact on file or to the Commission's Consumer Affairs Office at 1-800-657-3782 (voice messages are acceptable) or 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. This information shall be maintained current by informing the Commission of any changes as they become effective.

ATTACHMENT 2

Compliance Filing Procedures for Permitted Energy Facilities

**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 [Will Seuffert](#)~~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~~[Will Seuffert](#), 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.

PERMIT COMPLIANCE FILINGS²

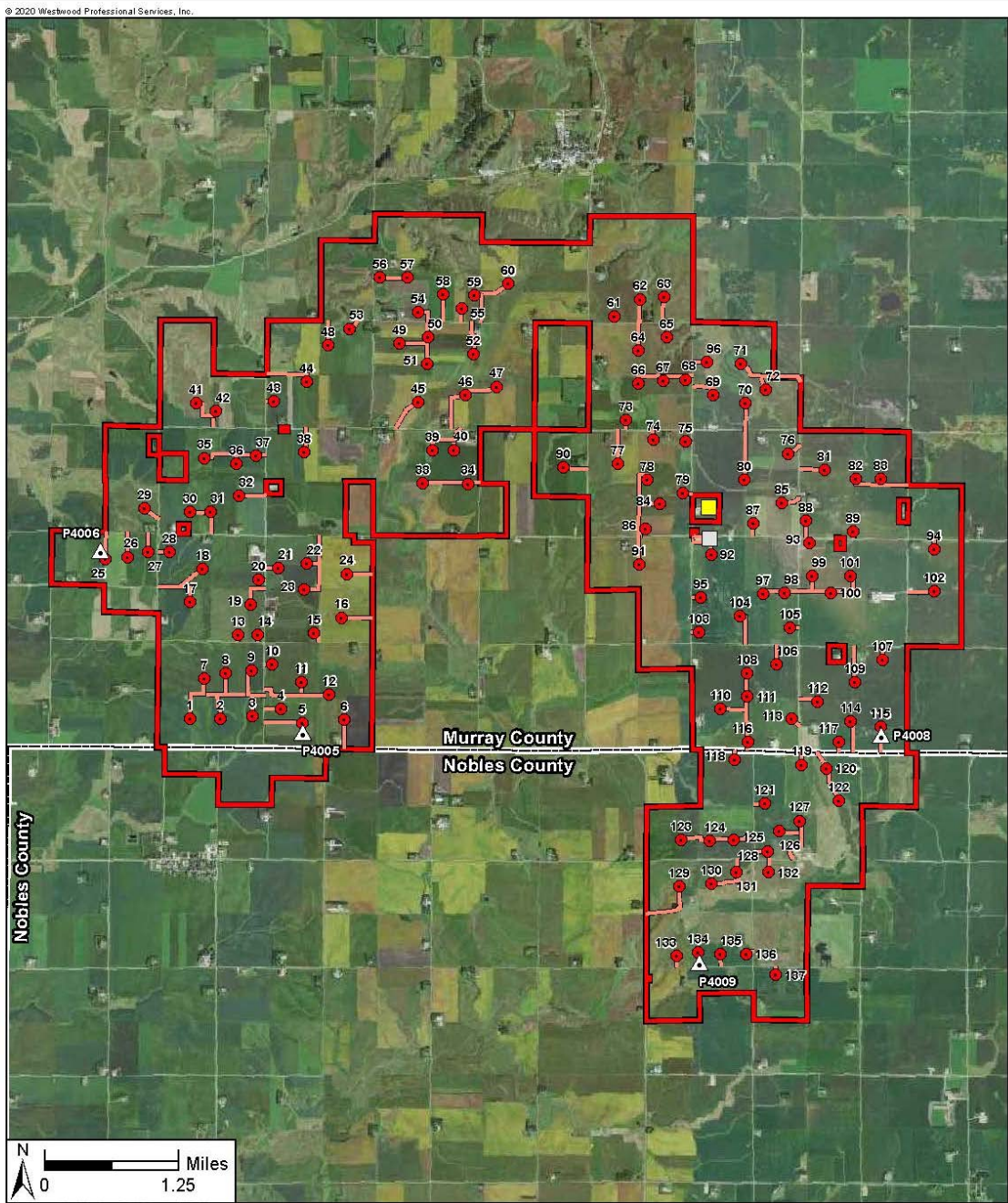
PERMITTEE: FENTON POWER PARTNERS I, LLC
 PERMIT TYPE: LARGE WIND ENERGY CONVERSION SYSTEM
 PROJECT LOCATION: MURRAY AND NOBLES COUNTIES
 PUC DOCKET NUMBER: PT6499/WS-05-1707

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
3	5.1	Notification of permit and complaint procedures	Within 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	Construction or Stormwater Permits	In accordance with the 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
10	5.2.21	Site Restoration	60 days after completion of restoration
11	5.2.25	Public Safety/Education Materials	Upon Request
12	5.5.2	Filings Regarding Other Required Permits	14 days prior to pre-construction meeting
13	6.0	Special Conditions: Labor Statistics Reporting	60-days following completion of construction
14	7.1	Biological and Natural Resource Inventories	Upon completion
15	7.2	Shadow Flicker Data	14 days prior to pre-construction meeting

² 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
16	7.3	Wake Loss Studies	14 days prior to pre-construction meeting and with annual report
17	7.4	Post-Construction Noise Methodology	14 days prior to pre-construction meeting
18	7.4	Post-Construction Noise Study	Within 18 months of commercial operation
19	7.5.1	Annual Report – Avian and Bat Plan	15th of March each year or partial year
20	7.5.2	Quarterly Incident Reports	15th of January, April, July and October
21	7.5.3	Immediate Incident Reports	Within 24 hours of discovery and a report within 7 days
22	8.1	Demonstration of Wind Rights	14 days prior to pre-construction meeting
23	8.2	Power Purchase Agreement Notification	Within 60-days of the expiration of the PPA
26	10.0	Complaint Procedures	Prior to start of construction
27	10.1	Pre-Construction Meeting Summary	Within 14 days following the meeting
28	10.3	Site Plan	14 days prior to pre-construction meeting
29	10.4	Status Reports	Monthly
30	10.6	As-Builts	Within 90 days of completion of construction
31	10.7	GPS Data	Within 90 days of completion of construction
32	10.8	Project Energy Production	February 1st of each year
33	10.9	Wind Resource Use	February 1st of each year
34	10.1	Emergency Response Plan	14 days prior to pre-construction meeting
35	10.11	Extraordinary Event	Within 24 hours of discovery
39	11.1	Decommissioning Plan	Within 90 days of site permit issuance
40	14	Ownership Structure	Within 90 days of Site Permit Issuance

ATTACHMENT 3
Official Site Maps



Map Document: N:\0011824\0016\Site Permits\Map\FW_TurbineLayout\Exhibit_200730.mxd 7/30/2020 10:43:28 AM

Data Source(s): Westwood (2020); Esri World Imagery (Accessed 2020).



- Legend**
- GE 1.5 Turbine
 - Existing Access Road
 - Project Boundary
 - County Boundary
 - Substation
 - O&M Station
 - Met Tower

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Fenton Wind Project
 Murray & Nobles Counties, Minnesota
GE 1.5 MW Turbine Layout
 July 31, 2020
 Map 1