

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

Nancy Lange
Dan Lipschultz
Matt Schuerger
Katie Sieben
John Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Palmer's
Creek Wind Farm, LLC for a Large Wind
Energy Conversion System Site Permit for
the 44.6 MW Palmer's Creek Wind Project
in Chippewa County, Minnesota

PUC IP-6979/WS-17-265
OAH 82-2500-34501

**DOC EERA'S EXCEPTIONS TO
ADMINISTRATIVE LAW
JUDGE'S REPORT**

I. INTRODUCTION

The Department of Commerce, Energy Environmental Review and Analysis (DOC-EERA), respectfully submits the following exceptions to the Summary of Public Testimony, Findings of Fact, Conclusions of Law, and Recommendation (Report) issued by Administrative Law Judge Barbara J. Case (ALJ) for the proposed Palmer's Creek Wind Farm 44.6 MW Large Energy Conversion System (LWECS) in Chippewa County, Minnesota (Project). Overall, the 53-page Report provides a comprehensive analysis of the record evidence. DOC-EERA offers the following comments to clarify certain points in the Report and to support approval of the ALJ's recommendation to issue a Site Permit to Palmer's Creek Wind Farm, LLC (Applicant).

Specifically, DOC-EERA recommends that the Minnesota Public Utilities Commission (Commission) approve an LWECS Site Permit for the 44.6 MW Palmer's Creek Wind Farm incorporating the recommendations provided below.

II. PROPOSED MODIFICATIONS TO ALJ REPORT

DOC-EERA respectfully suggests the following changes to the ALJ's Report.

CONCLUSIONS OF LAW

Conclusions of Law (Conclusions) 8, 9, and 10 reference the Applicant's proposed turbines WTG-5, WTG-9, WTG-10, and WTG-12, and recommend relocation or removal of these four turbines. DOC-EERA recommends revisions to Conclusions 8, 9, and 10, based on the Minnesota Department of Natural Resources (MDNR) Letter submitted on August 8, 2017, which is referenced in the ALJ Report, FOFs #241, 244, 245, 246, and 250. The ALJ Report identifies a number of recommendations and statements from the August 8, 2017 MDNR Letter. However, the ALJ Report does not include MDNR's recommendation (Page 3, Item 8), essentially stating that if the Applicant's current turbine layout is used, the Avian Bat Protection Plan (ABPP) needs to specify that WTG-1, WTG-2, WTG-5, WTG-9, WTG-10, and WTG-12 be included in monitoring. EERA recommends the addition of the phrase, "the inclusion in operational phase fatality monitoring" be added to Conclusions 8, 9, and 10. Below is specified language to be considered for addition (indicated in blue) to Conclusions 8, 9, and 10.

8. The Project, with the Draft Site Permit conditions revised as set forth above and **the inclusion in operational phase fatality monitoring**, relocation or removal of turbines WTG-5, WTG-9, WTG-10 and WTG 12, satisfies the site permit criteria for a LWECs contained in Minn. Stat. § 216F.03 and meets all other applicable legal requirements.

9. The Project, with the permit conditions discussed above and **the inclusion in operational phase fatality monitoring**, relocation or removal of turbines WTG-5, WTG-9, WTG-10 and WTG 12, is compatible with environmental preservation, sustainable development, and the efficient use of resources.

10. The Project, with the permit conditions discussed above and **the inclusion in operational phase fatality monitoring**, relocation or removal of turbines WTG-5, WTG-9, WTG-10 and WTG 12, does not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act and the Minnesota Environmental Policy Act.

FOF 31 in the ALJ Report references the September 29, 2017 reply to comments letter filed by DOC-EERA. FOF 31 does not include the substantive information provided by the DOC-EERA reply to comments letter. DOC-EERA indicated in the September 29, 2017 letter that we agreed with the MDNR's designation of Palmer's Creek Wind Farm as a high risk site, and that the ABPP be updated to reflect the high risk designation and be submitted at least two weeks prior to the

Commission's Hearing on the final decision on site permit issuance. The high risk designation of the project site is based on the proposed locations of turbines WTG-5, WTG-9, WTG-10, and WTG-12, and DOC-EERA expects the Applicant's revised ABPP would include additional detail on the operational phase fatality monitoring, as will be required should the Commission issue a site permit.

DOC-EERA notes that FOF 256 in the ALJ Report references the discussion of turbines WTG-5, WTG-9, WTG-10, and WTG-12, and the Project's consistency with environmental preservation, sustainable development, and the efficient use of resources. DOC-EERA feels that the phrase, "or if MNDNR's assessment and related concerns are otherwise adequately addressed." included in FOF 256 would appropriately describe the suggested DOC-EERA addition for Conclusions 8, 9, and 10.

EERA staff appreciates the opportunity to submit these exceptions.

Dated: November 22, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Exceptions to ALJ's Report**

Docket No. IP6979/WS-17-265

Dated this 22nd day of November 2017

/s/Sharon Ferguson

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