

June 8, 2018

Daniel P. Wolf, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: Supplemental Response to Public Comments
260 MW Nobles 2 Wind Project
Docket No. IP6964/WS-17-597 and CN-16-289


Dear Mr. Wolf:

Attached are supplemental comments of the Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) staff in the following matter:

The Application of Nobles 2 Power Partners, LLC for a Certificate of Need and a Large Wind Energy Conversation System Site Permit for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County

In its May 25, 2018, Order issuing a Draft Site Permit (DSP), the Commission requested that at least 10 days prior to the public hearing, EERA file as a supplemental filing “an evaluation and description of the disposition” of the public comments received concerning the DSP and the environmental report (ER). Our attached supplemental comments provide (in the form of a table) additional detail augmenting our earlier responses to the public comments on the ER scoping decision and on the draft site permit.

Sincerely,



David Birkholz, Environmental Review Manager
Energy Environmental Review and Analysis
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Evaluation and Description of the Disposition of Comments			
Comment	Addressed in DSP	Addressed in ER	EERA Response
MNDNR: Request to feather blades below the cut-in speed during certain periods to reduce potential bat fatalities	Section 7.5.4 “The Permittee shall operate all facility turbines so that all turbines are locked, or feathered, up to the manufacturer’s standard cut-in speed from one-half hour before sunset to one-half hour after sunrise of the following day, from April 1 to October 31 of each year of operation.”	Section 6.4.2 (Mitigation)	EERA recommended that the request, which has been incorporated in recent Commission LWECs site permits, be included in this draft permit as well.
MNDNR: Request to modify the language contained in the Bird and Bat Conservation Strategy portion of the application, including use of bird deterrent devices on meteorological tower guy wires	Section 4.11 “Permanent towers for meteorological equipment shall be free standing.”		EERA noted its general concurrence with DNR on edits to the BBCS, and noted that language in the BBCS will be finalized in discussions among the Applicant, EERA and DNR prior to the pre-construction meeting, as per usual practice. (DSP Section 7.5.1) EERA made no comment on guyed wires, as the Permit Template already includes language requiring free-standing met towers.
MNDNR: Request to include identification of additional Wildlife Management Area		Map 5 in the ER includes delineation of the Einck and Groth WMAs.	Note: The WMAs were included in the text of Site Application Section 8.8.1.

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MNDNR: Request to increase the wind access buffer set back an additional 200 feet from the edge of WMA boundaries to accommodate future repowering	Section 4.1 “Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.”	Section 6.5.2 in the ER verifies that at least a 3x5 Rotor Diameter setback will be maintained from all WMAs and WPAs to protect wildlife, including waterfowl.	EERA notes the “wind access buffer” is designed to protect wind development rights. MNDNR is requesting a larger buffer due to potential future repowering, but the buffer they are requesting is not technically a wind development buffer. There is currently no information in the record to support a specific setback from public lands.
MNDNR: Request to consider moving several turbines in order to lower the site risk to avian and bat species of the project from Moderate Risk to Low Risk		The ER contains additional, updated turbine layout options dependent on probable turbine sizes and configurations (Map 3c and Map 3d).	DNR considered the risk elevated not due to the site, but due to the large number of turbines, so the site will likely be “moderate.” Discussions with the Applicant continue.
MNDNR: Request to modify the Bird and Bat Conservation Strategy (BBCS) to require a minimum of two search days per week for fatality monitoring	TBD		EERA does not object to adding a special condition to the final permit, as has been done in previous cases, e.g., Stoneray, to require the permittee to adhere to fatality monitoring protocols designed for “moderate” risk sites.

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MNDNR: Advised that the agency would need to undertake additional review of the Great Blue Heron Rookery as part of its BBCS review			The DNR has already stated their intention on the record to “review the rookery location compared to the planned infrastructure layout and provide additional comments as necessary at a later date.” EERA notes the rookery is located 10 miles outside the project boundary.
MNDNR: Clarification on the ranking and avoidance of native prairies and large blocks of grassland habitat	Section 4.7 “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.”	Section 6.4.3	DNR made the desired clarification on native plant communities in its own comments. The ER additionally notes the preferred mitigation of avoidance of DNR-mapped native prairie, native plant communities and sites of biodiversity. The DSP (Section 7.5.1) also accounts for the fact that DNR and EERA will continue to communicate with the applicant to update the BBCS as necessary (the avoidance of grassland areas is specifically to avoid grassland avian species).

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MNDOT: Request coordination to avoid impacts to roads			In order to obtain the necessary road permits, the Permittee will necessarily have to consult with MNDOT.
MNDOT: Request permit requirement to require the applicant to obtain all other required permits	Section 5.5.2 "Other Permits" addresses the need for the applicant to acquire all necessary permits, which includes state and local road agreements.	Section 8	For MNDOT, the ER includes the required utility access permits; any highway permits; aviation clearance from the Office of Aeronautics; and all necessary oversize or overweight permits.
MPCA: Request that the noise analyses for the project identify and consider L10 and L90 values, along with dB(C) measurements and calculations because it is unclear if these data were collected or recorded			<p>The Applicant is in the process of calculating this information based on the data collected during the noise monitoring study. This analysis will be entered into the record prior to the public hearing.</p> <p>EERA notes these parameters are generally identified and considered in post-construction monitoring protocols.</p>

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MPCA: Request that, if noise modeling does not incorporate traffic noise as ambient background noise for modeling purposes, the results must be reviewed and possibly remodeled to reflect MPCA’s Guidance methodologies			According to the Applicant, the treatment of traffic noise will be further explained in forthcoming information. Nobles 2 plans to include the information in pre-filed testimony.
MPCA: Request to discuss whether any portion of the project will drain into listed impaired surface waters (Section 8.17);	Section 5.2.6 “The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency Construction Stormwater Program.”	Section 6.2.5 (Mitigation)	Jack Creek North Branch is an impaired water within the north half of the project area. The Permittee would be required to address this issue in the Stormwater Pollution Prevention Plan (SWPPP) submitted to MPCA as part of the NPDES stormwater permit.
MPCA: Request to determine the amount of new impervious surfaces created by the project		Section 6.4.3 Construction would result in the disturbance of approximately 115 acres of vegetation (Table 13). This includes approximately 111 acres of cultivated crops, three acres of disturbed/developed, less than one acre of grassland, and one acre of wetland.	The Applicant has stated the Project’s impervious surface quantities are anticipated to be equal to the permanent disturbance areas.

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MPCA: Request for a 50-foot natural buffer around wetlands, water courses and other surface waters within the project site, unless the encroachment is unfeasible in which case redundant (double) down gradient sediment controls should be required to protect surface water resources			This would be addressed in the SWPPP where applicable.
Nobles County: Request to incorporate Nobles County's more stringent road setbacks for turbines and meteorological towers (Section 4.4)	Section 4.11 "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."		The deference to the county WECS ordinance (1 times the height) for turbines can be added to Section 4.4 of the Site Permit if the Commission chooses. The Applicant's site layouts have already incorporated this restriction in their design.

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Public Comments: Focused on ensuring internet and broadband service is not disrupted	Section 5.2.16 “The Permittee shall not operate the project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of FCC Commission regulations or other law.”	Section 6.7.4 notes Nobles 2 has authorized Comsearch to prepare a study of the local wireless broadband internet service to determine whether wireless broadband internet service could be impacted.	Lismore Telephone (LCTC) already submitted into the record that the western half of the project area is served by cable broadband, and that LCTC is installing a repeater tower east of Lismore to improve wireless broadband. The Comsearch report will be filed as soon as it is available.
as well as avoiding cell phone disruption or “dead” zones			The Applicant will file additional information from Comsearch on cellular providers in the area, and designs to avoid degradation.
breaking or damaging drain tiles	Section 5.2.19 “The Permittee shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of project’s life unless otherwise negotiated with affected landowner.”		
impacts to native plant communities	Section 4.7 Native Prairie	Section 6.4.3 discusses native plant communities, potential impacts, and extensive mitigative measures.	DSP 5.2.11 also requires the use of native seed mix during restoration.

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potential changes to storm water run-off	Section 5.2.6		The NDPES will include the development of a SWPPP.
potential limitations on farming operations		Section 6.9 includes mitigations for crop farming and livestock farming.	EERA and the Commission have consistently viewed wind turbines and farming as compatible use activities.
potential health concerns from noise and shadow flicker	Section 7.2 Shadow Flicker Section 4.3 Noise	Section 6.5.3 describes the effects and mitigations for shadow flicker. Section 6.5.5 describes the effects and mitigations for turbine noise.	The Commission has not set a standard for shadow flicker based on any health concerns. Noise setbacks are established in the permit condition based on MPCA regulations.
concerns over blinking turbine warning lights especially possibilities for substituting radar-controlled lighting (Circular AC 70 7460-IL CHG 1 Chapter 14 which outlines the requirements for aircraft detection lighting)	Section 6.1 “The Permittee shall install an Aircraft Detection Lighting System (ADLS) to mitigate the aesthetic and visual effects of the FAA’s aviation lighting requirements.”	Section 6.5.4 addresses aircraft detection systems as a mitigative alternative to standard turbine and facility lighting.	Radar-controlled lighting is a currently available technology, although no such systems are currently operational on any Minnesota wind projects. EERA introduced a special condition in the Site Permit in order to elicit discussion.
consideration of hiring local workforce for the proposed project	EERA did not recommend a local hiring requirement as a permit condition, as the Commission had rejected one in the Stoneray project in favor of an order to report on “efforts to hire Minnesota workers.”		EERA recommends that the record be further developed related to efforts to hire local workers and reporting on the residency of the labor used during the construction of this project.

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
Supplemental Comments**

Docket No. IP6964/WS-17-597 and IP6964/CN-16-289

Dated this 8th day of June 2018

/s/Sharon Ferguson

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