

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of EcoHarmony  
West Wind, LLC for a Site Permit for a  
280-Megawatt Wind Farm in Fillmore County

ISSUE DATE: April 22, 2013

DOCKET NO. IP-6688/WS-08-973

ORDER AMENDING SITE PERMIT

**PROCEDURAL HISTORY**

On February 3, 2010, the Commission issued a site permit to EcoHarmony West Wind, LLC for the construction of a 280-megawatt wind farm in Fillmore County.

Among other things, the site permit requires EcoHarmony to either obtain a power purchase agreement—or other legally enforceable mechanism for selling the project's electricity—within two years of the date the permit was issued or advise the Commission of the reason for its failure to do so.<sup>1</sup> It imposes the same requirement for beginning construction of the wind farm.<sup>2</sup>

On February 2, 2012, EcoHarmony filed a petition to amend the site permit to extend by two years the deadlines for obtaining a power purchase agreement and beginning construction. EcoHarmony stated that a dispute with the Midwest Independent Transmission System Operator (MISO) over the terms of the company's generator interconnection agreement, as well as delays due to interconnection group restudies, had prevented the company from determining overall project costs, committing to a delivery date for the project's energy, finalizing project financing, and securing a power purchase agreement.

On April 20, 2012, the Minnesota Department of Commerce (the Department) informed the Commission that issues had arisen regarding the project's potential impact on birds and bats. The Commission delayed considering EcoHarmony's petition for several months while the company worked with the Department, the Minnesota Department of Natural Resources (DNR), and the U.S. Fish and Wildlife Service (USFWS) on project changes to address environmental issues.

On November 2, 2012, EcoHarmony filed a project update. EcoHarmony now proposes to observe specific setbacks from eagles' nests, bat hibernacula, and other sensitive environmental features in and near the project area. The setbacks will reduce the wind farm's size from 171 to 58 potential turbine sites, decreasing the total project capacity from 280 megawatts to 116 megawatts.

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<sup>1</sup> Site Permit § III.J.4.

<sup>2</sup> *Id.*, § III.K.2.

The Department filed comments recommending several amendments to make the site permit consistent with other recently issued wind farm permits. EcoHarmony agreed with all of these recommendations. The Department took no position on the merits of EcoHarmony's request to extend the permit deadlines.

The DNR filed comments proposing amendments to permit provisions dealing with public lands, native prairie protection, location of feeder lines, avian and bat protection planning, and post-construction avian and bat fatality monitoring. EcoHarmony did not object to the DNR's proposed amendments.

On March 21, 2013, the matter came before the Commission.

## **FINDINGS AND CONCLUSIONS**

Under Minnesota Rules part 7854.1300, "[t]he commission may amend a site permit for an LWECs [Large Wind Energy Conversion System] at any time if the commission has good cause to do so." The Commission finds good cause in this case to amend the permit to (a) extend the time frames for securing a power purchase agreement and beginning construction and (b) update specific permit conditions to reflect ongoing experience with wind farm siting.

### **I. Extending Timelines**

The Commission finds that there is good cause to extend the original two-year period within which the company was required to obtain a power purchase agreement and begin construction of the wind farm.

EcoHarmony's failure to execute a contract and begin construction within the two-year time frame was due to circumstances beyond its control, not to any lack of diligence or other factor that would call into question the project's fundamental viability. After it filed the amendment petition in February 2012, EcoHarmony's interconnection dispute was resolved favorably. The company now has an enforceable generator interconnection agreement and expects the remaining settlement issues to be resolved within 60 days of the Commission meeting. Further, EcoHarmony's parent company, Gamesa Energy USA, LLC, is a leading wind farm developer with the financial resources and technical and managerial expertise to bring the project to fruition.

EcoHarmony has made steady progress toward that goal, fully cooperating with the DNR and USFWS to address site-specific environmental concerns arising from the area's unique topography and wildlife profile. That collaborative process is now nearly complete. The company has reduced the project's turbine count by approximately 60 percent to avoid sensitive environmental features, and a review of the DNR's Natural Heritage Information System database confirmed that no new rare features had been cataloged in the project area since the DNR last checked the database in July 2008.

Finally, the project continues to enjoy the support of local landowners planning to host the turbines, EcoHarmony holds the land and wind rights required to complete the project, and no party or local resident has objected to the proposed extension. In short, the project appears well positioned to make a solid and immediate contribution to meeting the renewable energy goals set by the Minnesota Legislature.

## II. Updating Permit Conditions

The Commission also finds good cause to amend the permit conditions identified by the Department and the DNR. It is reasonable to update the company’s permit to incorporate the benefits of ongoing experience with wind farm siting. The following table summarizes the most significant amendments proposed by the two agencies:

| <b>Topic</b>  | <b>Old section</b> | <b>New section</b> | <b>Summary of amendment</b>  |
|---|--------------------|--------------------|--|
| Public Lands  | III.C.4            | 4.5                | Adds “state parks” to list of lands where project facilities may not be located  |
| Native Prairie                                      | III.C.6            | 4.7                | Requires permittee to prepare prairie protection and management plan if native prairie is identified in biological and natural resource inventories                              |
| Electrical Feeder Lines                             | III.E.8            | 4.15               | Requires permittee to coordinate with DNR on need for and location of bird diverters if any feeder lines are located overhead  |
| Preconstruction Meeting                             | III.A.3            | 5.6                | Adds more detailed requirements, including filing a summary with the Commission 14 days after the meeting  |
| Pre-operation Meeting                               | III.K.12           | 5.7                | Adds more detailed requirements, including filing a summary with the Commission 14 days after the meeting  |
| Biological and Natural Resource Inventories         | III.D.1            | 6.1                | Adds more detailed requirements, including filing inventory results 30 days before preconstruction meeting   |
| Shadow Flicker                                      | III.M.3            | 6.2                | Requires permittee to file shadow flicker data 14 days before preconstruction meeting  |
| Noise Study   | III.M.2            | 6.6                | Adds deadlines for filing study proposal and results   |
| Avian and Bat Protection                            | N/A                | 6.7                | Requires permittee to prepare avian and bat protection plan in consultation with DNR before construction; during operation, permittee must file annual report by January 15      |
| Project Energy Production                           | III.H.1            | 6.8                | Adds “operational status” to list of energy production information permittee must file with Commission; removes requirement that the information filed must be considered public |
| Wind Resource Use                                   | III.H.2            | 6.9                | Simplifies wind-resource-use reporting; requires permittee to file annual report during project operation  |
| Notification to the Commission                      | N/A                | 8.4                | Requires permittee to file date when operation will begin, date when construction was completed, identity of power buyer, and duration of purchase agreement                     |
| Post-Construction Avian and Bat Fatality Monitoring | N/A                | 13.2               | Requires permittee to design and implement post-construction avian and bat fatality survey and sets filing requirements  |

In addition, the Commission finds good cause to amend the newly added avian and bat protection provisions of Section 6.7.1 to provide additional procedural safeguards. Lands within and adjacent to the EcoHarmony site—including areas of karst topography<sup>3</sup> and the nearby Forestville/Mystery Cave State Park—provide habitat for eagles, bats, loggerhead shrike, and other threatened and endangered species. Because of the sensitive environmental nature of the EcoHarmony site, the Commission will require that the company complete its final avian and bat protection plan in consultation with the USFWS and the Department, as well as the DNR. And the Commission will further require that the plan include the following items:

- eagle fatality estimates using USFWS modeling protocols and any other models the permittee deems appropriate;
- an estimate of the impact to eagles for the project as proposed; and
- specific mitigation measures for eagles, bats, and other species deemed appropriate.

Finally, the Commission observes that EcoHarmony's ownership has changed since the Commission issued the site permit in February 2010. At that time, EcoHarmony West Wind, LLC was a wholly owned subsidiary of the Morse Group. By February 2012, Gamesa had purchased EcoHarmony.

All indications are that Gamesa is a well-financed company with the ability and expertise to move the project forward. However, it is important that the Commission be fully advised of who has ultimate control of the project. The Commission will therefore require EcoHarmony to make a compliance filing outlining the ownership structure of the wind facility and its owners. And for the same reason, the Commission finds good cause to include a condition in the site permit requiring EcoHarmony to notify the Commission of any change in its ownership.

### **ORDER**

1. The Commission amends the site permit issued in this docket to EcoHarmony West Wind, LLC to allow the company an additional two years to obtain a power purchase agreement and begin construction of the wind farm.
2. The Commission incorporates the Department's and the DNR's permit language amendments, as set forth in the attached Amended Site Permit.
3. The Commission amends Section 6.7.1 of the Amended Site Permit to require that EcoHarmony complete its final avian and bat protection plan in consultation with the USFWS, the DNR, and the Department. The plan shall include, but not be limited to, the following items:
  - a. eagle fatality estimates using USFWS modeling protocols and any other models the permittee deems appropriate;
  - b. an estimate of the impact to eagles for the project as proposed; and
  - c. specific mitigation measures for eagles, bats, and other species deemed appropriate.

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<sup>3</sup> Karst topography is characterized by springs, sinkholes, underground streams, and caves.

4. The Commission amends Section 11.5 of the Amended Site Permit to insert the following language:

The Permittee shall notify the Commission of

- (a) the sale of a parent entity or a majority interest of 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 of the Permittee.
5. EcoHarmony shall make a compliance filing outlining the current and complete ownership structure of the wind facility and its owners.
  6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



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**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**AMENDED SITE PERMIT  
LARGE WIND ENERGY CONVERSION SYSTEM**

**IN FILLMORE COUNTY**

**ISSUED TO**

**ECOHARMONY WEST WIND, LLC**

**PUC DOCKET NO. IP-6688/WS-08-973**

In accordance with Minnesota Statutes section 216F.04 this site permit is hereby issued to:

EcoHarmony West Wind, LLC

The Permittee is authorized to construct and operate up to a 116 Megawatt Large Wind Energy Conversion System on the site identified in this site permit and in compliance with the conditions contained in this Permit.

This Permit shall expire thirty (30) years from the date of approval of this amended permit.

Approved and adopted this 22<sup>nd</sup> day of April 2013

BY ORDER OF THE COMMISSION

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BURL W. HAAR  
Executive Secretary

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## **SITE PERMIT**

This **SITE PERMIT** for a Large Wind Energy Conversion System (LWECS) authorizes EcoHarmony Wind West, LLC (Permittee) to construct and operate the EcoHarmony West Wind Project (Project), an up to 116 Megawatt (MW) nameplate capacity LWECS and associated facilities in Fillmore County, on a site of approximately 49,500 acres in accordance with the conditions contained in this permit.

### **SECTION 1 PROJECT DESCRIPTION**

The up to 116 MW nameplate capacity LWECS authorized to be constructed in this permit will be developed and constructed by the Permittee. The Project will consist of up to 58 Gamesa 2.0 MW G97-90T wind turbine generators. The G97-90T turbine has a 318-foot (97 meter) rotor diameter and sits atop a tower 295 feet (90 meters) in height. Associated facilities will include wind turbine access roads, underground electrical collection system comprised of 34.5 kV collector and feeder lines, a Supervisory Control and Data Acquisition System (SCADA) for monitoring the Project, a Project substation, up to two permanent meteorological towers and an Operations and Maintenance (O&M) building. Power will be delivered from the EcoHarmony West Project substation to a new EcoHarmony switching station that will tie into an ITC owned 161 kV transmission line southeast of Harmony. The Permittee will seek local permitting for an Operations and Maintenance building.

### **SECTION 2 DESIGNATED SITE**

#### **2.1 PROJECT BOUNDARY**

The Project boundary is shown on the map at Attachment 1. The Project is located in Fillmore County in the townships of Harmony, Bristol, York, Preston, Carimona, and Forestville. The project boundary encompasses approximately 49,500 acres.

| <b>Township Name</b> | <b>Sections</b>   | <b>Township</b> | <b>Range</b> |
|----------------------|---|-----------------|--------------|
| Harmony              | 5,6,7,8,10,13,14,15,16,17,19,20,21,22,23,24,25,26,27,28,29,34,35,36 | T101N           | R10W         |
| Bristol              | All sections  | T101N           | R11W         |
| York                 | 1,2,11,12,13,14,23,24,25,26,36                                      | T101N           | R12W         |
| Preston              | 31,32   | T102N           | R10W         |
| Carimona             | 27,28,29,30,31,32,33,34,35,36                                       | T102N           | R11W         |
| Forestville          | 35,36   | T102N           | R12W         |

## **2.2 TURBINE LAYOUT**

The Revised Turbine Layout and Associated Facilities layout is shown in Attachment 1. The Revised Turbine layout represents the approximate location of wind turbines and associated facilities within the Project boundary and identifies a layout that minimizes the overall potential human and environmental impacts, which were evaluated in the permitting process and permit amendment review process. The final layout depicting the location of each wind turbine and associated facilities shall be located within the Project boundary. The Project boundary serves to provide the Permittee with the flexibility to do minor adjustments to the layout to accommodate landowner requests, unforeseen conditions encountered during the detailed engineering and design process, and federal and state agency requirements. Any modification of the location of a wind turbine and associated facility 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 5.1. The Permittee shall submit the final site layout in the site plan pursuant to Section 5.1.

### **SECTION 3 APPLICATION COMPLIANCE**

The Permittee shall comply with those practices set forth in its site permit application, dated January 9, 2009, supplemental filings submitted on November 2, 2012, and the record of this proceeding unless this amended permit establishes a different requirement in which case this amended permit shall control. Attachment 4 provides a summary of compliance filings required under this amended permit, which is provided solely for the convenience of the Permittee.

### **SECTION 4 SETBACKS AND SITE LAYOUT RESTRICTIONS**

#### **4.1 WIND ACCESS BUFFER**

Wind turbine towers shall not be placed less than five (5) rotor diameters (RD) on the prevailing wind directions and three (3) RD 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**

In no case shall a wind turbine be located closer than 1,000 feet from all residences or the distance required to comply with the noise standards pursuant to Minnesota Rule 7030.0040 established by the Minnesota Pollution Control Agency (MPCA), whichever is greater.

#### **4.3 NOISE**

The wind turbine towers shall be placed such that the Permittee shall comply with noise standards established as of the date of this permit by the MPCA at all times 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 MPCA 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 turbine 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 public lands, including Waterfowl Production Areas, Wildlife Management Areas, Scientific and Natural Areas, state parks, or county parks, and 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 defined in Minnesota Statutes section 103G.005, subdivision 15a, 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 (DNR) and the United States Army Corps of Engineers (USACE), and local units of government as implementers of the Minnesota Wetlands Conservation Act.

#### **4.7 NATIVE PRAIRIE**

The Permittee shall, in consultation with the Commission and DNR, prepare a Prairie Protection and Management Plan and submit it to the Commission and DNR at least thirty (30) days prior to the pre-construction meeting if native prairie, as defined in Minnesota Statutes section 84.02, subdivision 5, is identified in any biological and natural resource inventories conducted pursuant to Section 6.1. The plan shall address steps taken to avoid impacts to native prairie and mitigation for 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 and Commission. Wind turbines and associated facilities, including foundations, access roads, collector and feeder lines, underground cable, and transformers, shall not be placed in native prairie 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 Minnesota Statutes section 216E.01, shall not impact native prairie unless addressed in a Prairie Protection and Management Plan.

#### **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 with notice given to the owner of the sand and gravel operation.

#### **4.9 WIND TURBINE TOWERS**

Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to 90 meters (295 feet) above grade measured at hub height.

#### **4.10 TURBINE SPACING**

The turbine towers shall be constructed within the site boundary as shown in Attachment 1. The turbine towers shall be spaced no closer than three (3) RD in the non-prevailing wind directions and five (5) RD 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 (FAA). There shall be no lights on the meteorological towers other than what is required by the FAA. 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 licensed private airports (as defined in Minnesota Rule 8800.0100, subparts 24a and 24b) in Minnesota, adjacent states, or provinces. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minnesota Rule 8800.1900, subpart 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (DOT), Department of Aviation, and the FAA. The Permittee shall notify owners of all known airports within six (6) miles of the Project prior to construction.

#### **4.13 FOOTPRINT MINIMIZATION**

The Permittee shall design and construct the LWECS so as to minimize the amount of land that is impacted by the LWECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, step-up 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(s).

#### **4.14 COMMUNICATION CABLES**

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

#### **4.15 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(s).

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(s).

If it is determined that feeder lines will be overhead, the Permittee shall coordinate with the DNR on the need for and location of bird diverters. Any overhead 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 5.1.

The Permittee must fulfill, comply with, and satisfy all Institute of Electrical and Electronics Engineers, Inc. (IEEE) standards applicable to this Project including, but not limited to, IEEE 776 [Recommended Practice for Inductive Coordination of Electric Supply and Communication Lines], IEEE 519 [Harmonic Specifications], IEEE 367 [Recommended Practice for Determining the Electric Power Station Ground Potential Rise and Induced Voltage from a Power Fault], and IEEE 820 [Standard Telephone Loop Performance Characteristics] provided the telephone service provider(s) have complied with any obligations imposed on it pursuant to these standards. Upon request by the Commission, the Permittee shall report to the Commission on compliance with these standards.

### **SECTION 5 ADMINISTRATIVE COMPLIANCE PROCEDURES**

The following administrative compliance procedures require filings with the Commission. Filings with the Commission must be made by electronic filing (eFiling) in accordance with the Permit Compliance Filings requirements of Attachments 3 and 4.

## **5.1 SITE PLAN**

At least fourteen (14) days prior to the pre-construction meeting, the Permittee shall submit to the Commission:

- (a) a site plan for all turbines, roads, electrical equipment, collector and feeder lines, and other associated facilities to be constructed;
- (b) engineering drawings for site preparation, construction of the facilities; and
- (c) a plan for restoration of the site due to construction.

Construction is defined under Minnesota Statutes section 216E.01. 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 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. In the event that previously unidentified 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. The Permittee shall notify the Commission of any turbines that are to be relocated before the turbine is constructed on the new site and demonstrate compliance with the setbacks and site layout restrictions required by this permit.

## **5.2 NOTICE TO LOCAL RESIDENTS**

Within fourteen (14) days of permit issuance, the Permittee shall send a printed copy of the permit to the office of the auditor of each county in which the site is located and to the clerk of each city and township within the site boundaries. If applicable, the Permittee shall, within fourteen (14) days of permit issuance, send a printed copy of this permit to each regional development commission, local fire district, soil and water conservation district, watershed district, and watershed management district office with jurisdiction in the county where the site is located. Within thirty (30) days of approval of this amended permit, the Permittee shall send a copy of the permit to each landowner within the Project boundary. In no case shall the landowner receive this site permit and complaint procedure, developed pursuant to Section 5.8, less than five (5) days prior to the start of construction on their property.

## **5.3 NOTICE OF PERMIT CONDITIONS**

Prior to the start of construction, the Permittee shall inform all employees, contractors, and other persons involved in the construction and ongoing operation of the Project of the terms and conditions of this permit.

## **5.4 FIELD REPRESENTATIVE**

At least fourteen (14) days prior to the pre-construction meeting and continuously throughout construction, including site restoration, the Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during the construction

phase of this Project. This person (or a designee) shall be accessible by telephone during normal working hours. This person's address, phone number, and emergency phone number shall be filed with the Commission, which may make the number available to local residents and officials and other interested persons. The Permittee may change the field representative by notification to the Commission by eFiling.

## **5.5 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 this Project. The Permittee shall provide the Commission with the name, address, and phone number, and emergency phone number of the site manager prior to placing any turbine into commercial operation. This information shall be maintained current by informing the Commission of any changes by eFiling, as they become effective.

## **5.6 PRE-CONSTRUCTION MEETING**

Prior to the start of any construction, representatives of the Permittee, the Field Representative, and the Department of Commerce State Permit Manager for this project shall participate in a pre-construction meeting to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. The Permittee shall file with the Commission within fourteen (14) days following the pre-construction meeting a summary of the topics reviewed and discussed and a list of attendees.

## **5.7 PRE-OPERATION COMPLIANCE MEETING**

Prior to commercial operation, representatives of the Permittee, the Site Manager and the Department of Commerce State Permit Manager shall participate in a pre-operation compliance meeting to review compliance reporting requirements. The Permittee shall file with the Commission within fourteen (14) days following the pre-operation meeting a summary of the topics reviewed and discussed and a list of attendees.

## **5.8 COMPLAINTS**

At least fourteen (14) days prior to the pre-construction meeting, the Permittee shall file with the Commission the company's procedures to be used to receive and respond to complaints. The Permittee shall report to the Commission all complaints received concerning any part of the Project in accordance with the procedures provided in Attachments 2 and 3 of this permit.

# **SECTION 6 SURVEYS AND REPORTING**

## **6.1 BIOLOGICAL AND NATURAL RESOURCE INVENTORIES**

The Permittee, in consultation with the DNR and other interested parties, shall design and conduct pre-construction desktop and field inventories of potentially impacted native prairies, wetlands, and any other biologically sensitive areas within the site, and assess the presence of state threatened, endangered, or species of special concern or federally listed species. The results of

these inventories shall be filed at least thirty (30) days prior to the pre-construction meeting to confirm compliance of conditions in this permit.

The Permittee shall file any biological surveys or studies conducted on this Project, including those not required under this permit.

## **6.2 SHADOW FLICKER**

At least fourteen (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 subject to exposure from turbine shadow flicker. 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 minimize shadow flicker exposure. The results of any modeling shall be filed with the Commission at least fourteen (14) days prior to the pre-construction meeting to confirm compliance with conditions in this permit.

## **6.3 ARCHAEOLOGICAL RESOURCES**

The Permittee shall work with the State Historic Preservation Office (SHPO) and the State Archaeologist. The Permittee shall carry out a Phase 1 or 1A Archaeology survey for all proposed turbine locations, access roads, junction boxes, and other areas of Project construction impact to determine whether additional archaeological work is necessary for any part of the proposed Project. The Permittee shall contract with a qualified archaeologist to complete such surveys, and shall file the results with the Commission, the SHPO, and the State Archaeologist at least fourteen (14) days prior to the pre-construction meeting.

The SHPO and the State Archaeologist will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by the Commission in consultation with SHPO and the State Archaeologist. In addition, the Permittee shall mark and preserve any previously unrecorded archaeological sites that are found during construction and shall promptly notify the SHPO, the State Archaeologist, and the Commission of such discovery. The Permittee shall not excavate at such locations until so authorized by the Commission in consultation with the SHPO and the State Archaeologist.

If human remains are encountered during construction, the Permittee shall immediately halt construction at that location and promptly notify local law enforcement authorities and the State Archaeologist. Construction at the human remains location shall not proceed until authorized by local law enforcement authorities or the State Archaeologist.

If any federal funding, permit, or license is involved or required, the Permittee shall notify the SHPO as soon as possible in the planning process to coordinate section 106 (36 C.F.R. part 800) review.

Prior to construction, 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 any archaeological sites are found during construction, the Permittee shall immediately stop work at the site and shall mark and preserve the site and notify the Commission, SHPO, and State Archaeologist about the

discovery. The Commission and SHPO shall have three working days from the time the agency is notified to conduct an inspection of the site if either agency shall choose to do so. On the fourth day after notification, the Permittee may begin work on the site unless the SHPO has directed that work shall cease. In such event, work shall not continue until the SHPO determines that construction can proceed.

## **6.4 INTERFERENCE**

At least fourteen (14) days prior to the pre-construction meeting, the Permittee shall submit to the Commission the results of an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the Project area. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television or radio reception, microwave patterns, or telecommunications in the event residents should complain about such disruption or interference after the turbines are placed in operation. The Permittee shall be responsible for alleviating any disruption or interference of these services caused by the turbines or any associated facilities.

The Permittee shall not operate the Project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission regulations or other law. In the event the Project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

## **6.5 WAKE LOSS STUDIES**

At least fourteen (14) days prior to the pre-construction meeting, the Permittee shall file the pre-construction micro-siting analysis leading to the final tower locations and an estimate of total Project wake losses. As part of the annual report on project energy production required under Section 6.8 of the permit the Permittee shall file with the Commission any operational wake loss studies conducted on this Project during the calendar year preceding the report.

## **6.6 NOISE**

The Permittee shall file a proposal with the Commission at least fourteen (14) days prior to the pre-operation compliance meeting for the conduct of a post-construction noise study. Upon the approval of the Commission, the Permittee shall carry out the study. The study shall be designed 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 shall file the study within eighteen (18) months after commercial operation.

## **6.7 AVIAN AND BAT PROTECTION**

### **6.7.1 AVIAN AND BAT PROTECTION PLAN**

The Permittee shall, in consultation with the United States Fish and Wildlife Service (USFWS), the DNR, and the Department of Commerce, prepare an Avian and Bat Protection Plan and file it at least thirty (30) days prior to the pre-construction meeting. The plan shall 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 plan shall also include formal and informal monitoring,

training, wildlife handling, documentation (e.g., photographs), and reporting protocols for each phase of the Project.

The plan shall also include, but not be limited to, the following items:

- (a) eagle fatality estimates using USFWS modeling protocols and any other models the permittee deems appropriate;
- (b) an estimate of the impact to eagles for the project as proposed; and
- (c) specific mitigation measures for eagles, bats, and other species deemed appropriate.

The Permittee shall, by January 15 following each complete or partial calendar year of operation, file with the Commission an annual report detailing findings of its ABPP monitoring. 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 multiple 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 notice of the report to DNR and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

#### **6.7.2 QUARTERLY INCIDENT REPORTS**

The Permittee shall file quarterly avian and bat reports. Quarterly reports are due by the 15<sup>th</sup> of each 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 and the steps taken to avoid future occurrences. The Permittee shall provide notice of the report to DNR and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

#### **6.7.3 IMMEDIATE INCIDENT REPORTS**

The Permittee shall notify the Commission, USFWS, and DNR within twenty-four (24) hours of the discovery of any of the following within the vicinity of the rotor swept area:

- (a) five or more dead or injured non-protected avian or bat species within a reporting period;
- (b) one or more dead or injured migratory avian or bat species;
- (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; or
- (e) one or more bald eagles.

## **6.8 PROJECT ENERGY PRODUCTION**

The Permittee shall by February 1<sup>st</sup> following each complete or partial year of Project operation file a report with the Commission including:

- (a) The installed nameplate capacity of the permitted Project;
- (b) The total monthly energy generated by the Project in MW hours;
- (c) The monthly capacity factor of the Project;
- (d) Yearly energy production and capacity factor for the Project;
- (e) The operational status of the Project and any major outages, major repairs, or turbine performance improvements occurring in the previous year; and
- (f) Any other information reasonably requested by the Commission.

This information shall be filed electronically.

## **6.9 WIND RESOURCE USE**

The Permittee shall, by February 1st following each complete or partial calendar year of operation, file with the Commission the average monthly and average annual wind speed collected at one permanent meteorological tower during the preceding year or partial year of operation.

This information shall be filed electronically.

## **6.10 EXTRAORDINARY EVENTS**

Within twenty-four (24) hours 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, collector or feeder line failure, and injured LWECs worker or private person. The Permittee shall, within thirty (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.

# **SECTION 7 CONSTRUCTION AND OPERATION PRACTICES**

## **7.1 SITE CLEARANCE**

The Permittee shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the Project.

## **7.2 TOPSOIL PROTECTION**

The Permittee shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner(s).

### **7.3 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.

### **7.4 LIVESTOCK PROTECTION**

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

### **7.5 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(s). When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

### **7.6 DRAINAGE TILES**

The Permittee shall take into account the location of drainage tiles during Project layout and construction. The Permittee shall promptly repair or replace all drainage tiles broken or damaged during all phases of the Project's life unless otherwise negotiated with the affected landowner(s).

### **7.7 EQUIPMENT STORAGE**

The Permittee shall not locate temporary equipment staging areas on lands under its control unless negotiated with affected landowner(s). Temporary staging areas shall not be located in wetlands or native prairie as defined in Sections 4.6 and 4.7.

### **7.8 ROADS**

#### **7.8.1 PUBLIC ROADS**

At least fourteen (14) 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 by development and/or road development agreements 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 will be subject to extra wear and tear due to transportation of equipment and Project components. Upon request of the Commission, the Permittee shall notify the Commission of such arrangements.

## **7.8.2 TURBINE ACCESS ROADS**

The Permittee shall construct the least number of turbine access roads it can. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class five gravel or similar material. Access roads shall not be constructed across streams and drainage ways without required permits and approvals from the DNR, USFWS, and/or USACE. When access roads are constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed. The access or intersection points with public roadways shall be located in accordance with all necessary townships, county or state road requirements and permits. The access roads shall be constructed in accordance with all necessary township, county, or state road requirements and permits.

## **7.8.3 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(s).

## **7.9 CLEANUP**

The Permittee shall remove all waste and scrap that is the product of construction, operation, restoration, and maintenance from the site and properly dispose of it upon completion of each task. Personal litter, bottles, and paper deposited by site personnel shall be removed on a daily basis.

## **7.10 TREE REMOVAL**

The Permittee shall minimize the removal of trees and the Permittee shall not remove groves of trees or shelter belts without notification to the Commission and the approval of the affected landowner(s).

## **7.11 SOIL EROSION AND SEDIMENT CONTROL**

The Permittee shall develop a Soil Erosion and Sediment Control Plan and submit the Plan to the Commission at least fourteen (14) days prior to the pre-construction meeting. This Plan may be the same as the Storm Water Pollution Prevention Plan (SWPPP) submitted to the PCA as part of the National Pollutant Discharge Elimination System (NPDES) permit application.

The Soil Erosion and Sediment Control Plan shall address what types of erosion control measures will be implemented during each Project phase and shall at a minimum identify: plans for grading, construction, and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary Project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, and stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material. Erosion and sedimentation control measures shall be implemented prior to construction and maintained throughout the Project's life.

The Permittee shall develop an invasive species prevention plan to prevent the introduction of invasive species on lands disturbed by project construction activities. This requirement may be included as an element of the Soil Erosion and Sediment Control Plan.

#### **7.12 RESTORATION**

The Permittee shall, as soon as practical following construction of each turbine, considering the weather and preferences of the affected landowner(s), restore the area affected by any Project activities to the condition that existed immediately before construction began, to the extent possible. The time period may be no longer than twelve (12) months after completion of construction of the turbine, unless otherwise negotiated with the affected landowner(s). Restoration shall be compatible with the safe operation, maintenance, and inspection of the Project.

#### **7.13 HAZARDOUS WASTE**

The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean-up, and disposal of hazardous wastes generated during any phase of the Project's life.

#### **7.14 APPLICATION OF HERBICIDES**

The Permittee shall restrict herbicide use to those herbicides and methods of application approved by the Minnesota Department of Agriculture and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. The Permittee shall contact the landowner or his designee to obtain approval for the use of herbicide prior to any application on their property. The landowner may request that there be no application of herbicides on any part of the site within the landowner's property. All herbicides shall be applied in a safe and cautious manner so as to not damage property, including crops, orchards, tree farms, or gardens. The Permittee shall also, at least fourteen (14) days prior to the application, notify beekeepers with an active apiary within one mile of the proposed application site of the day the company intends to apply herbicide so that precautionary measures may be taken by the beekeeper.

#### **7.15 PUBLIC SAFETY**

The Permittee shall provide educational materials to landowners within the site boundary 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 Minnesota Statutes section 216D.01, subdivision 11, to Gopher State One Call.

#### **7.16 EMERGENCY RESPONSE**

The Permittee shall prepare an emergency response plan (fire protection and medical emergency plan) in consultation with the emergency responders having jurisdiction over the area prior to Project construction. The Permittee shall submit a copy of the plan to the Commission at least fourteen (14) days prior to the pre-construction meeting and a revised plan, if any, at least

fourteen (14) days prior to the pre-operation compliance meeting. The Permittee shall also register the Project with the local governments' emergency 911 services.

### **7.17 TOWER IDENTIFICATION**

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

### **7.18 FEDERAL AVIATION ADMINISTRATION LIGHTING**

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

## **SECTION 8 FINAL CONSTRUCTION**

### **8.1 AS-BUILT PLANS AND SPECIFICATIONS**

Within sixty (60) days after completion of construction, the Permittee shall file with the Commission a copy of the as-built plans and specifications. The Permittee must also file this data in a GIS compatible format so that the Commission can place it into the Minnesota Geospatial Information Office's geographic data clearinghouse located in the Department of Administration.

### **8.2 FINAL BOUNDARIES**

After completion of construction, the Commission shall determine the need to adjust the final boundaries of the site required for this Project. If done, this permit may be modified, after notice and opportunity for public hearing, to represent the actual site required by the Permittee to operate the Project authorized by this permit.

### **8.3 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.

### **8.4 NOTIFICATION TO THE COMMISSION**

At least three (3) day before the Project is to commence commercial operation, the Permittee shall file the date on which the Project will commence commercial operation, the date on which construction was completed, who the power is being sold to and the length of the PPA.

**SECTION 9  
DECOMMISSIONING, RESTORATION, AND ABANDONMENT**

**9.1 DECOMMISSIONING PLAN**

At least fourteen (14) days prior to the pre-operation compliance meeting, the Permittee shall submit to the Commission a Decommissioning Plan documenting the manner in which the Permittee anticipates decommissioning the Project in accordance with the requirements of Minnesota Rules 7854.0500, subpart 13. 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.

**9.2 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. 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(s) requesting that one or more roads, or portions thereof, be retained. Any agreement for removal of foundation to a depth of less than four (4) feet or for no removal shall be recorded with the county and shall show the locations of all such foundations. All such agreements between the Permittee and the affected landowner(s) shall be filed with the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.

**9.3 ABANDONED TURBINES**

The Permittee shall advise the Commission by a filing of any turbines that are abandoned prior to termination of operation of the Project. A Project, or any turbine within the Project, shall be considered abandoned after one (1) year without energy production and the land restored pursuant to Section 9.2 unless a plan is developed and filed outlining the steps and schedule for returning the Project, or any turbine within the Project, to service.

**SECTION 10  
AUTHORITY TO CONSTRUCT LWECS**

**10.1 WIND RIGHTS**

At least fourteen (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 of the LWECS authorized by this permit.

Nothing in this permit shall be construed to preclude any other person from seeking a permit to construct a WECS 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.

## **10.2 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 file notice with 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 amended 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 applicable statutes and rules, including Minnesota Rule 7854.1300.

## **10.3 FAILURE TO COMMENCE CONSTRUCTION**

If the Permittee has not completed the pre-construction surveys required under this permit and commenced construction as defined in Minnesota Statutes section 216E.01, of the Project within two years of the issuance of this amended 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 Minnesota Rule 7854.1300.

## **10.4 PREEMPTION OF OTHER LAWS**

Pursuant to Minnesota Statutes section 216F.07, this site permit shall be the only site approval required for the location 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. Nothing in this permit shall release the Permittee from any obligation imposed by law that is not superseded or preempted by law.

## **10.5 OTHER PERMITS**

The Permittee shall be responsible for acquiring any other federal, state, or local permits or authorizations that may be required to construct and operate a LWECs within the authorized site. The Permittee shall submit a copy of such permits and authorizations to the Commission upon request.

### **10.5.1 COMPLIANCE WITH FEDERAL AND STATE AGENCY PERMITS**

The Permittee shall comply with all terms and conditions of permits or licenses issued by Federal, State, or Tribal authorities including but not limited to the requirements of the PCA (Section 401 Water Quality Certification, National Pollutant Discharge Elimination System (NPDES)/State

Disposal System (SDS) stormwater permit for construction activity, and other site specific discharge approvals), DNR (License to Cross Public Lands and Water, Public Water Works Permit, and state protected species consultation), SHPO (Section 106 Historic Consultation Act), FAA determinations, and DOT (Utility Access Permit, Highway Access Permit, Oversize and Overweight Permit, and Aeronautics Airspace Obstruction Permit and the MN/DOT Utility Accommodation Policy).

## **10.5.2 COMPLIANCE WITH COUNTY, CITY, OR MUNICIPAL PERMITS**

The Permittee shall comply with all terms and conditions of permits, authorizations, 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. These authorizations include, but are not limited to, compliance with Minnesota's Wetland Conservation Act.

## **SECTION 11 COMMISSION POST-ISSUANCE AUTHORITIES**

### **11.1 PERIODIC REVIEW**

The Commission shall initiate a review of this permit and the applicable conditions at least once every five (5) 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.

### **11.2 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.

### **11.3 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; or

- (c) There has been a material violation of a provision of an applicable statute, rule, or an order of the Commission.

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 Minnesota Rule 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.

#### **11.4 MORE STRINGENT RULES**

The Commission's issuance of this site 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.

#### **11.5 TRANSFER OF PERMIT AND CHANGE IN OWNERSHIP**

The Permittee may not transfer this permit without the approval of the Commission. If the Permittee desires to transfer this permit, the holder shall advise the Commission in writing of such desire. The Permittee shall provide the Commission with such information about the transfer as the Commission requires to reach a decision. The Commission may impose additional conditions on any new Permittee as part of the approval of the transfer.

The Permittee shall notify the Commission of

- (a) the sale of a parent entity or a majority interest of 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 of the Permittee.

#### **11.6 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.

## **11.7 PROPRIETARY INFORMATION**

Certain information required to be filed under this permit, may constitute trade secret information or other type of proprietary information under the Data Practices Act or other law and is not to be made available by the Commission. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

## **SECTION 12 EXPIRATION DATE**

This permit shall expire thirty (30) years after the date this amended permit was approved and adopted.

## **SECTION 13 SPECIAL CONDITIONS**

Special conditions shall take precedence over any of the other conditions of this Permit if there should be a conflict between the two.

### **13.1. GEOTECHNICAL INVESTIGATION**

In order to minimize and avoid project impacts on karst within the project area the Permittee shall perform a geotechnical investigation at each of the wind turbine sites which will consist of a minimum of three phases that shall include, but not be limited to: (1) a geophysical investigation (electrical resistivity) to explore for voids in the bedrock; (2) followed by soil/bedrock borings to check the results of the electrical resistivity survey; (3) followed by a series of electric cone penetrometer (CPT) soundings if the potential for loose zones in the soil overburdens are suspected.

The evaluation process will be designed to eliminate the selection of potential turbine sites that may be susceptible to sinkhole formation. In addition to the site evaluation, a system to monitor potential ground subsidence at turbine sites shall be incorporated into project construction plans.

The results of the geotechnical investigation shall be submitted to the Commission 30 days prior to any pre-construction meeting.

Adoption of this special condition is based on facts associated with this docket and provides no precedent or prediction regarding information to be requested on geotechnical information that the Commission may deem appropriate and reasonable to require in future dockets.

### **13.2 AVIAN AND BAT POST-CONSTRUCTION FATALITY MONITORING**

The Permittee shall, in consultation with the Department of Commerce, USFWS and DNR, design and implement a post construction avian and bat fatality-survey consistent for a site considered to be of high risk to wildlife. The survey design shall be filed with the Commission no later than (90) days prior to commercial operation of the Project. The survey shall be conducted for a minimum of two field season(s) starting March 15 and ending on November 15 after the

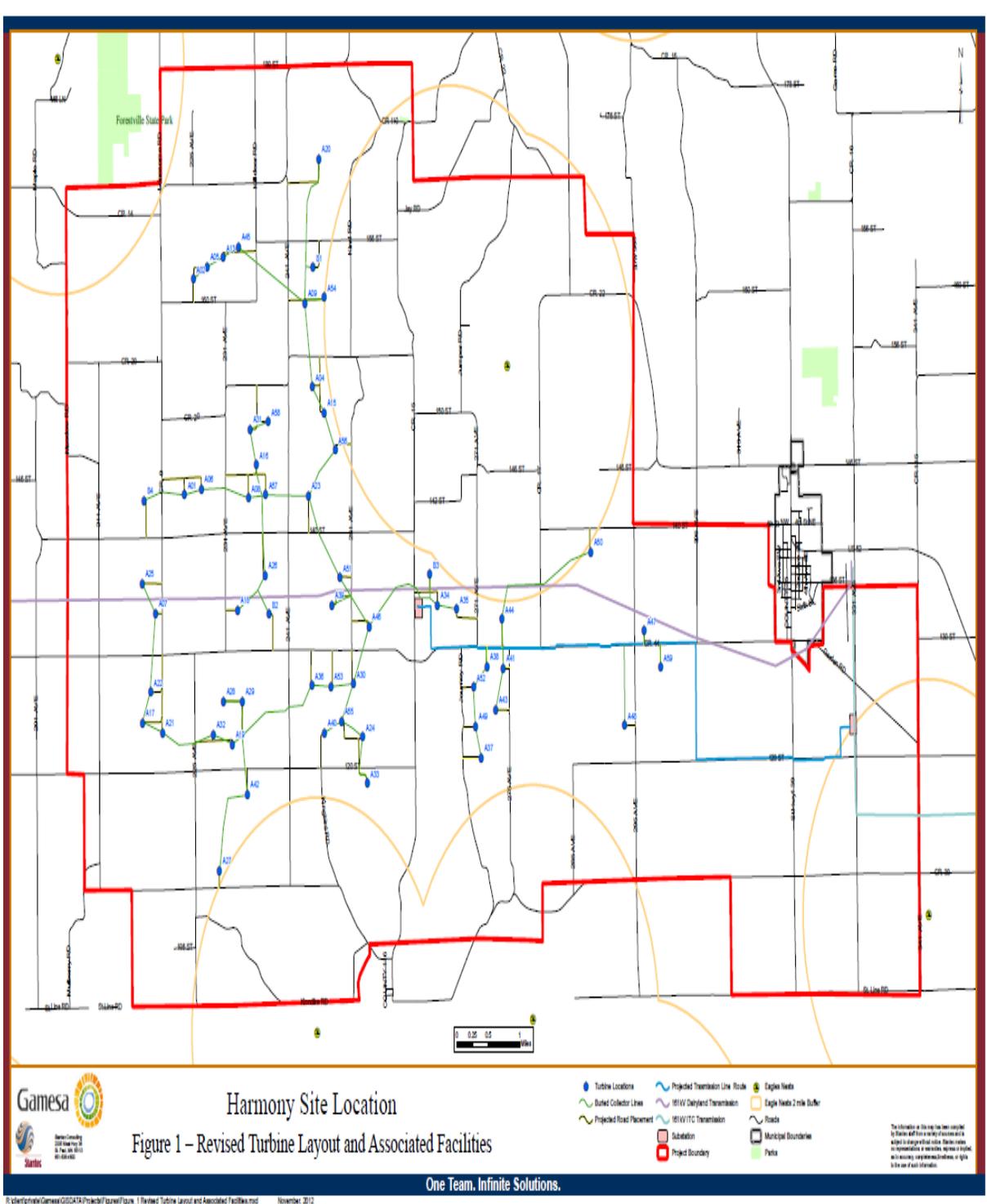
commencement of commercial operation, unless a reduction in monitoring effort can be justified for the second year.

At a minimum, fatality monitoring must include the following:

- (a) Twenty percent of the turbines will be searched (minimum 10 and maximum 25).
- (b) 160 meter square search plot centered on the base of the turbine (80 m in each direction from the turbine base).
- (c) Four search days per week.
- (d) 100 searcher efficiency trials.
- (e) 50 carcass removal trials.
- (f) Minimum search time of 1-2 hours per turbine.
- (g) Any fatality to federal or state-listed species, or a bald eagle, must be reported within 24 hours.

Because bald eagles are known to use the project area, the Permittee shall consult with the United States Fish and Wildlife Service to determine appropriate survey adjustments or survey modifications including extending the monitoring period from November 15 to March 15.

Monitoring results shall be filed with the Commission, DNR and USFWS at least quarterly. Results shall be filed in an Excel spreadsheet and include summarized and raw data. Results shall also be included in the annual reports required pursuant to Section 6.7.1 which shall identify any recommended changes in operations to reduce avian and bat fatalities. Based on those results, the Commission may modify conditions in this amended permit pursuant to Section 11.2.



**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES FOR  
LARGE WIND ENERGY CONVERSION SYSTEMS**

**A. Purpose:**

To establish a uniform and timely method of reporting complaints received by the Permittee concerning Permit conditions for site preparation, construction, cleanup and restoration, operation, and resolution of such complaints.

**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 Commission under Minn. Rule 7829.1500 or 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 LWECS and associated facilities site permit conditions. Complaints do not include requests, inquiries, questions, or general comments.

Substantial Complaint: A written Complaint alleging a violation of a specific Site 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(s), remains to both or one of the parties unresolved or unsatisfactorily resolved.

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 e-mail 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 of Complainant, address, phone number, and e-mail address.
  - b. Date of complaint
  - c. Tract or parcel number
  - d. Whether the complaint relates to (1) a Site Permit matter, (2) an LW ECS and associated facility issue, or (3) 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, phone number and e-mail address.
  - c. Precise property description or parcel number.
  - d. Name of Permittee representative receiving Complaint and date of receipt.
  - e. Nature of Complaint and the applicable Site Permit conditions(s).
  - f. Activities undertaken to resolve the Complaint.
  - g. Final disposition of the Complaint.

**F. Reporting Requirements:**

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 or [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us). Voice messages are acceptable. E-mail Subject Line should read "EFP Complaint" with Docket Number.

Monthly Reports: By the 15th of each month, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be Filed to Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, using the Commission's eDocket system.

If no Complaints were received during the preceding month, the permittee shall submit (eFile) a summary indicating that no complaints were received.

Permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit.

**G. Complaints Received by the Commission or the Department of Commerce:**

Complaints received directly by the Commission or the Department of Commerce 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:**

Initial Screening: Commission staff shall perform an initial evaluation of unresolved Complaints submitted to the Commission. Complaints raising substantial LWECs Site Permit issues shall be processed and resolved by the Commission. Staff shall notify Permittee and appropriate person(s) 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 Contact for Complaints:**

Permittee will eFile the Project's Complaint Contact information within 14 days of the Order granting a site permit and will include the Project's Complaint Contact information in the mailing to landowners and local governments.

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

**1. Purpose**

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

**2. Scope and Applicability**

This procedure encompasses all compliance filings required by permit.

**3. Definitions**

Compliance Filing – A sending (filing) of information to the Commission, where the information is required by a Commission site or route permit.

**4. Responsibilities**

A) The permittee shall eFile all compliance filings with Dr. Burl Haar, Executive Secretary, Public Utilities Commission, through the Department of Commerce (DOC) eDocket system. The system is located on the DOC website:  
<https://www.edockets.state.mn.us/EFiling/home.jsp>

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

B.) All filings must have a cover sheet that includes:

- 1) Date
- 2) Name of submitter / permittee
- 3) Type of Permit (Site or Route)
- 4) Project Location
- 5) Project Docket Number
- 6) Permit Section Under Which the Filing is Made
- 7) Short Description of the Filing

C.) Filings that are graphic intensive (e.g., maps, plan and profile) must, in addition to being eFiled, be submitted as paper copies and on CD. Copies and CDs should be sent to: 1) Dr. Burl W. Haar, Executive Secretary, Minnesota Public Utilities Commission, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, MN, 55101-2147, and 2) Department of Commerce, Energy Facility Permitting, 85 7<sup>th</sup> Place East, Suite 500, St. Paul, MN, 55101-2198. Additionally, the Commission may request a paper copy of any eFiled document.

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

|                           |                                |
|---------------------------|--------------------------------|
| PERMITTEE:                | EcoHarmony Wind West Wind, LLC |
| PERMIT TYPE:              | LWECS Site Permit              |
| PROJECT LOCATION:         | Fillmore County                |
| COMMISSION DOCKET NUMBER: | IP-6688/WS-08-973              |

**PRE-CONSTRUCTION MEETING**

| <b>Filing Number</b> | <b>Permit Section</b> | <b>Description</b>                        | <b>Due Date</b>  | <b>Notes</b>  |
|----------------------|-----------------------|---|--|---|
| <b>1</b>             | 4.7                   | Native Prairie Protection Plan            | 30 days prior to pre-construction meeting, if required.  | Develop in consultation with Commission and DNR               |
| <b>2</b>             | 5.1                   | Site Plan                                 | 14 days prior to pre-construction meeting.   |   |
| <b>3</b>             | 5.4                   | Field Representative                      | 14 days prior to pre-construction meeting.   |   |
| <b>4</b>             | 5.8                   | Complaint Reporting Procedures            | 14 days prior to pre-construction meeting and complaint submittals on the 15 <sup>th</sup> of each month or within 24 hours. |   |
| <b>5</b>             | 6.1                   | Biological & Natural Resource Inventories | 30 days prior to pre-construction Meeting.   | Results may trigger need for a Native Prairie Protection Plan |
| <b>6</b>             | 6.2                   | Shadow Flicker Analysis                   | 14 days prior to pre-construction meeting.   |   |
| <b>7</b>             | 6.3                   | Archaeological Resources                  | 14 days prior to pre-construction meeting and as recommended by the State Historic Preservation Office.                      |   |

<sup>1</sup> This compilation of permit compliance filings is provided for the convenience of the permittee and the Commission. However, it is not a substitute for the permit; the language of the permit controls.

**PERMIT COMPLIANCE FILINGS****PRE-CONSTRUCTION MEETING**

| <b>Filing Number</b> | <b>Condition</b> | <b>Description</b>                     | <b>Due Date</b>   | <b>Notes</b>                                    |
|----------------------|------------------|--|---|---|
| <b>8</b>             | 6.4              | Interference                           | 14 days prior to pre-construction meeting.  |   |
| <b>9</b>             | 6.5              | Wake Loss                              | 14 days prior to pre-construction meeting and may be included with site plan or operation studies if performed. |   |
| <b>10</b>            | 6.7              | Avian and Bat Protection Plan          | 30 days prior to pre-construction meeting.  | Develop in consultation with Commission and DNR |
| <b>11</b>            | 7.8              | Roads                                  | 14 days prior to pre-construction meeting.  |   |
| <b>12</b>            | 7.11             | Soil Erosion and Sediment Control Plan | 14 days prior to pre-construction meeting.  |   |
| <b>13</b>            | 7.16             | Emergency Response                     | 14 days prior to pre-construction meeting. Must register in 911 Program.  |   |
| <b>14</b>            | 10.1             | Wind Rights                            | 14 days prior to pre-construction meeting.  |   |
| <b>15</b>            | 13.1             | Geotechnical Investigation             | 30 days prior to pre-construction meeting   |   |

**PRE-OPERATION COMPLIANCE MEETING**

| <b>Filing Number</b> | <b>Permit Section</b> | <b>Description</b>               | <b>Due Date</b>                         | <b>Notes</b> |
|----------------------|-----------------------|----------------------------------|---|--------------|
| <b>16</b>            | 5.7                   | Pre-operation compliance meeting | Prior to commercial pre-operation.      |              |
| <b>17</b>            | 6.6                   | Noise Study Protocol             | 14 days prior to pre-operation meeting. |              |
| <b>18</b>            | 9.1 & 9.3             | Decommissioning Plan             | 14 days prior to pre-operation meeting. |              |

**OTHER REQUIREMENTS**

| <b>Filing Number</b> | <b>Permit Section</b> | <b>Description</b>                          | <b>Due Date</b>  | <b>Notes</b>                             |
|----------------------|-----------------------|---|--|--|
| <b>19</b>            | 5.2                   | Notice to Landowners and Governmental Units | Within 14 days of permit approval to local units of government and within 30 days to landowners. |  |
| <b>20</b>            | 5.5                   | Site Manager                                | 14 days prior to prior to commercial operation.  | Update contact information as necessary. |
| <b>21</b>            | 6.6                   | Noise Study Results                         | Within 18 months of Commercial Operation, if required.   |  |
| <b>22</b>            | 6.7.1                 | Annual Audit Report of ABPP                 | By March 15 <sup>th</sup> following each complete or partial year of operation.                  |  |
| <b>23</b>            | 6.7.2                 | Quarterly Incident Reports                  | By 15 <sup>th</sup> January, April, July, and October.   |  |
| <b>24</b>            | 6.7.3                 | Immediate Incident Report                   | Within 24 hours of discovery.  |  |
| <b>25</b>            | 6.8                   | Project Energy Production                   | Due 2/1 each year.   |  |

|           |      |  |  |   |
|-----------|------|--|--|---|
| <b>26</b> | 6.9  | Wind Resource Use                        | February 1 <sup>st</sup> following each partial or complete year of operation. |   |
| <b>27</b> | 6.10 | Extraordinary Events                     | Within 24 hours and report on occurrence of event within 30 days.              |   |
| <b>28</b> | 8.1  | As Built                                 | Within 60 days of completion of construction.                                  |   |
| <b>29</b> | 8.4  | Notification of Commercial Operation     | At least 3 days prior to commencement of commercial operation.                 |   |
| <b>30</b> | 10.2 | PPA or Enforceable Mechanism             | Within two years of permit issuance.   | If no PPA or other enforceable mechanism at time of permit issuance |
| <b>31</b> | 10.3 | Failure to Start Construction            | Within 2 years of permit issuance.   |   |
| <b>32</b> | 13.2 | Avian & Bat Post Construction Monitoring | Quarterly for two years  |   |