

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd
J. Dennis O'Brien
Phyllis Reha
Thomas Pugh
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Adam M. Sokolski
Heartland Wind, LLC
c/o Iberdrola Renewables
1125 NW Couch Street, Suite 700
Portland, OR 97209

SERVICE DATE: June 29, 2009

DOCKET NO. IP-6728/WS-09-553

In the Matter of the Heartland Application for a Large Wind Energy Conversion System (LWECS) Site Permit for the Elm Creek II Wind Project (Project) in Jackson and Martin Counties

The above entitled matter has been considered by the Commission and the following disposition made:

Accepted the Heartland Application for the Elm Creek II Wind Project 150 Megawatt Large Wind Energy Conversion System as complete, with the condition that Heartland Wind, LLC, will provide additional information as requested by the Commission and the Office of Energy Security for the Elm Creek II Wind Project.

Authorized the Minnesota Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project.

The Commission agrees with and adopts the recommendations of the Office of Energy Security which are attached and hereby incorporated in the Order.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(S E A L)

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS AND RECOMMENDATIONS OF THE
MINNESOTA OFFICE OF ENERGY SECURITY
ENERGY FACILITY PERMITTING STAFF**

DOCKET NO. IP-6728/WS-09-553

Meeting Date: June 25, 2009

Agenda Item # 2

Company: **Heartland Wind, LLC (Heartland or Applicant)**

Docket No. **IP-6728/WS-09-553**

In the Matter of the Heartland Application for a Large Wind Energy Conversion System (LWECS) Site Permit for the Elm Creek II Wind Project (Project) in Jackson and Martin Counties.

Issue(s): Should the Public Utilities Commission (Commission) accept the Heartland application for a Large Wind Energy Conversion System site permit as complete?

OES Staff: David E. Birkholz.....651-296-2878
Matthew A. Langan.....651-296-2096

Relevant Documents

Elm Creek II Wind Project LWECS Site Permit Application May 19, 2009

The enclosed materials are the work papers of the Office of Energy Security (OES) Energy Facility Permitting Staff (EFP). They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

This document can be made available in alternative formats, i.e., large print or audio tape by calling (651) 201-2202 (Voice) or 1-800-627-3529 (TTY relay service).

Documents Attached

Proposed Site Map

See eDocket filings (09-553) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=20051> for project related documents.

Statement of the Issues

Should the Commission accept the Heartland Wind Project Site Permit Application for a Large Wind Energy Conversion System site permit as complete? If the Application is accepted, should the Commission assign a Public Advisor?

Introduction and Background

Heartland Wind, LLC, has submitted a site permit application for the proposed 150 megawatt (MW) Project in Jackson and Martin counties. Heartland is a wholly-owned subsidiary of Iberdrola Renewables, Inc. (Iberdrola). Iberdrola's U.S. Headquarters are in Portland, Oregon, and its global headquarters are in Valencia, Spain. Heartland Wind, LLC, will transfer the ownership of the Elm Creek II Wind Project to a project specific, Iberdrola Renewables subsidiary Limited Liability Company prior to, during, or after construction of the Project, which will construct, own and operate the Project pending appropriate Commission approvals.

Project Location

The Elm Creek II Wind Project is located in Jackson and Martin counties, Minnesota. The Project boundary encompasses approximately 30,339 acres. As of the date of this application, the Applicant had obtained lease and easement agreements with landowners for approximately 10,000 acres. The Project is located northeast of the city of Jackson, within Enterprise and Wisconsin townships, Jackson County, and Cedar, Elm Creek and Jay townships, Martin County.

Project Description

The Project for which a permit is being requested includes the following associated facilities:

1. A wind turbine layout consisting of up to 100 wind turbine generators. The number of turbines required to develop 150 MW will depend on Heartland's selection of generator model. The various options include 1.5 MW GE turbines (100 turbines total), 2.0 MW Gamesa turbines (75 turbines), 2.4 MW Mitsubishi turbines (63 turbines), or 3.0 MW Vestas turbines (50 turbines.)
2. Approximately 17 miles of new access roads;
3. Approximately 25 miles of underground electrical collection system;
4. Expansion of the Trimont Wind Electrical Substation near County Road 103/20th Avenue and County Road 29 in Martin County;
5. An expanded or new Operations and Maintenance building located in Section 19 of Cedar Township, Martin County;

6. Two meteorological towers;
7. One Sonic Detection and Ranging (SODAR) unit; and
8. Approximately 10.4 miles of overhead 34.5kV collector lines which will deliver energy to the expanded Trimont Wind Substation. This substation connects to the Lakefield Generation Substation via an existing 345kV transmission line.

The Applicant's goal is to complete the construction of the Project and achieve a commercial operation date in autumn 2010.

Regulatory Process and Procedures

A site permit from the Commission is required to construct a Large Wind Energy Conversion System, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. This requirement became law in 1995. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirements for LWECs are in Minnesota Rules Chapter 7836. Heartland filed an application with the Commission for a site permit on May 19, 2009.

Certificate of Need

A Certificate of Need (CN) from the Commission for a large electric power generating plant is also required because the Project exceeds 50 MW in size. On June 8, 2009, Heartland filed an Application for a CN from the Commission. [See PUC Docket Number IP-6728/CN-09-471.]

Site Permit Application Contents

The required contents of a site permit application are specified in Minnesota Rule 7836.0500. These information requirements include but are not limited to applicant background information, certificate of need compliance, compliance with state policy, proposed site maps, wind characteristics, other turbine locations, discussion of wind rights, project design, associated facilities, environmental impacts, project construction, project operation, costs, schedules, energy projections and decommissioning and restoration.

Application Acceptance

Application acceptance is guided by Minnesota Rule 7836.0600. The Commission may elect to accept, conditionally accept, or reject the application. If the Commission conditionally accepts or rejects an application, the Commission must advise the Applicant of the deficiencies in the application and the manner in which the deficiencies can be addressed.

Within 15 days of the LWECs site permit application acceptance, the Applicant is required to provide notice of application acceptance. In addition to publishing this notice in a newspaper of general circulation in each county, the notice is distributed to the county board, and each city council and each township board in each county where the LWECs is proposed to be located. This notice is also published in the *EQB Monitor*, eDockets, and on the PUC's energy facility permitting web page. In practice, this notice is developed by the Applicant with assistance from OES staff to ensure that the notice meets the requirements and intent of Minnesota Rule 7836.0600.

As part of the notice requirements of Minnesota Rule 7836.0600, the Applicant must provide a copy of the accepted application to each landowner within the site. The Applicant is also required to distribute the accepted application to the Minnesota Historical Society, the regional development commission(s), the auditor of each county and the clerk of each city and township in which the LWECS is proposed to be located. The auditors and clerks are to retain the application and make it available for public inspection on request. In practice, the Applicant also provides the application to anyone requesting a copy. The Applicant is responsible for maintaining the application distribution list. In practice, EFP staff also distributes copies of the application along with a cover memo requesting comments on the application or the Project to technical representatives from state agencies (MN Pollution Control Agency, MN Department of Natural Resources, MN Department of Transportation, MN Department of Employment and Economic Development, MN Board of Water and Soil Resources) that may have permitting or review authority over the Project.

Public Advisor

Minnesota Rule 7836.0700 states: "Upon acceptance of an application for a site permit, the PUC shall designate a staff person to act as the public advisor on the project." The Commission can authorize OES to name a staff member from the EFP staff as the public advisor or assign a Commission staff member.

Preliminary Determination on Draft Site Permit

Minnesota Rule 7836.0800 states that: "Within 45 days after acceptance of the application by the PUC, the PUC shall make a preliminary determination whether a permit may be issued or should be denied. If the preliminary determination is to issue a permit, the PUC shall prepare a draft site permit for the project. The draft site permit must identify the permittee, the proposed LWECS, and proposed permit conditions."

OES EFP staff anticipates requesting commission consideration of draft site permit issuance at a later date, within 45 days of application acceptance. Issuing a draft site permit does not confer an authority to construct an LWECS. The Commission may change, amend or modify the draft site permit in any respect before final issuance or may deny the site permit at a later date.

Public Participation Process

Minnesota Rule 7836.0900 describes the public notice and participation process required to be conducted for LWECS site permits. The notice is required to include:

- Applicant's contact information;
- a brief description of the proposed project, including a proposed site map;
- locations where the application and draft site permit are available for review and information on how to obtain a copy of the application and site permit;
- the role of the public advisor, and how the public advisor may be contacted to obtain more information about the process or the Project;
- time and place of the public information meeting held by OES staff;
- the dates on which the comment period commences and terminates;
- a statement that during the comment period any person may submit comments to the Commission on the draft site permit; and
- a statement that a person may request a contested case hearing on the matter.

Notice of draft site permit availability is sent to all persons or agencies who received a copy of the accepted application, published in local newspaper, the *EQB Monitor*, and posted on eDockets, and on the Commission's energy facility permitting web page.

In cases where the commission elects to issue a draft site permit when the LWECS site permit application is accepted, the notice requirements of application acceptance (Minn. Rule 7836.0600, described above in *Application Acceptance*) can be and are typically combined with the notice requirements of 7836.0900.

The public information meeting serves several functions. First, it provides OES EFP staff with the opportunity to provide an overview of the commission's role in the review and approval of LWECS and associated facilities, and respond to questions or comments about the regulatory review process. Second, it also provides the Applicant with an opportunity to present an overview of its proposed LWECS project. Prior to the public meeting, interested persons and governmental agencies would have received the LWECS application and draft site permit. Third, the public meeting provides the public with an opportunity to ask questions of the Applicant and EFP staff and offer comments on the application and draft site permit, which serve as the environmental documents for the project.

The rule requires a minimum of 30 days (commencing with the notice of the draft site permit availability in the *EQB Monitor*) for any interested person to submit comments on either the site permit application or the draft site permit. The rule also contemplates that the Commission may wish to extend the public comment period to afford the public adequate time to review the application and other pertinent information in order to formulate complete comments on the draft site permit and the Project.

In addition, because a Certificate of Need is required for this Project, the Environmental Report (ER) preparation and public participation requirements found in Minnesota Rule 7849.7050 would be relevant. Upon completion of the environmental report, OES publishes notice in the *EQB Monitor* of the availability of the environmental report and mails notice of the availability of the document to those persons who have requested to be notified. OES provides a copy of the document to the PUC and to any other public agency with authority to permit or approve the proposed project. OES posts the environmental report on the agency's Web page.

OES EFP Staff Analysis and Comments

The Application has been reviewed by EFP staff pursuant to the requirements of Minnesota Rules Chapter 7836 (Wind Siting Rules). The Application provides all of the information required by Minnesota Rule 7836.0500 in a format that all members of the public can access. Acceptance of the Application will allow staff to initiate the public review and participation process.

OES EFP staff intends to combine portions of the site permit public participation process with portions of the environmental review process in the CN proceeding for the Project, as has been done in several recent cases. That may include combining notices, public information and environmental review scoping meetings, and comment periods to provide the public consolidated opportunities to participate in the site permit and need proceedings for the Project.

The Applicant has agreed to honor requests for additional information as necessary to facilitate the review process.

Commission Decision Options

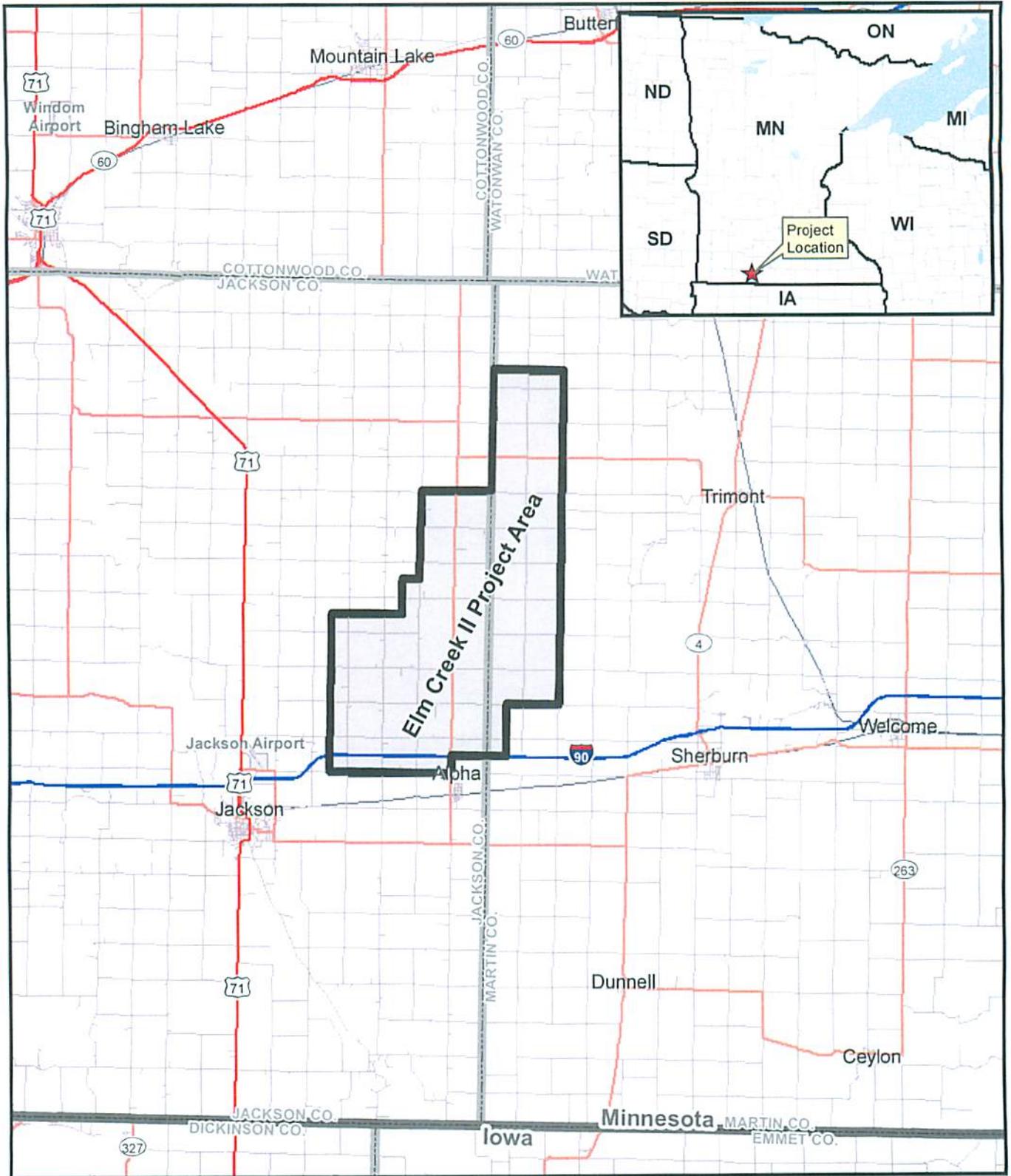
A. Application Acceptance

1. Accept the Heartland Application for the Elm Creek II Wind Project 150 Megawatt Large Wind Energy Conversion System as complete, with the condition that Heartland Wind, LLC, will provide additional information as requested by the Commission and the Office of Energy Security for the Elm Creek II Wind Project.
2. Reject the Application as incomplete and issue an order indicating the specific deficiencies to be remedied before the Application can be accepted.
3. Find the Application complete upon the submission of supplementary information.
4. Make another decision deemed more appropriate.

B. Public Advisor

1. Authorize the Minnesota Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project.
2. Appoint a Commission staff person as public advisor.
3. Make another decision deemed more appropriate.

DOC EFP Staff Recommendation: Staff recommends option A1 and B1.



Legend

-  Project Area
-  Interstate Highway
-  US/State Highway
-  County Highway
-  Local Roads
-  State Line
-  County Line



Figure 1-1
Project Vicinity Map
 Elm Creek II Wind Project
 Jackson & Martin Counties, MN

Modify Date: 5/14/2009

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Robin Benson, being first duly sworn, deposes and says:

That on the 29th day of June, 2009 she served the attached
ORDER.

MNPUC Docket Number: IP-6728/WS-09-553

- XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid
- XX By personal service
- XX By inter-office mail

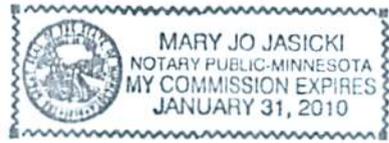
to all persons at the addresses indicated below or on the attached list:

Bret Eknes
Docketing - OES
Julia Anderson - OAG
John Lindell- OAG

Robin Benson

Subscribed and sworn to before me,
a notary public, this 29th day of
June, 2009

Mary Jo Jasicki
Notary Public



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09-553

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