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August 18, 2009

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
127 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

**RE: Comments and Recommendation of the Office of Energy Security Energy  
Facility Permitting Staff  
Docket No. IP 6819, 6820/WS-09-722**

Dear Dr. Haar:

Attached are the Comments and Recommendation of the Office of Energy Security Energy Facility Permitting Staff in the following matter:

In the Matter of the Application of Sparks Energy, LLC, and Medin Renewable Energy, LLC, for an up to 11 MW Large Wind Energy Conversion System in Dakota County

The OES EFP staff is also providing you with:

- A. Proposed Draft Site Permit

Staff is available to answer any questions the Commission may have.

Sincerely,

Suzanne Lamb Steinhauer  
OES EFP Staff

Attachment

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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 6819, 6820/WS-09-722

Meeting Date: August 25, 2009

Agenda Item # \_\_\_\_\_

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Company: Sparks Energy, LLC  
Medin Renewable Energy, LLC

Docket No. IP 6819, 6820/WS-09-722

**In the Matter of the Application of Sparks Energy, LLC, and Medin Renewable Energy, LLC, for an up to 11 MW Large Wind Energy Conversion System in Dakota County**

Issue(s): Should the Commission authorize distribution of a draft site permit for public comment?

OES Staff: Suzanne Lamb Steinhauer.....651-296-2888

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**Relevant Documents**

LWECS Site Permit Application.....July 6, 2009  
Comments on Greenvale Wind Farm LWECS Site Permit Application.....August 18, 2009

The enclosed materials are work papers of the Department of Commerce Office of Energy Security Energy Facility Permitting (OES EFP) Staff. 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**

1. Proposed Draft Site Permit

(See eDocket filings (09-722) or the PUC Facilities Permitting website <http://energyfacilities.puc.state.mn.us/Docket.html?Id=24613>)

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## **Statement of the Issues**

Should the Public Utilities Commission (Commission) make a preliminary determination on whether a site permit may be issued or denied and authorize a draft Large Wind Energy Conversion System (LWECS) site permit for distribution and public comment?

## **Introduction and Background**

Sparks Energy, LLC, and Medin Renewable Energy, LLC, (Applicants) have submitted a site permit application for a proposed 11 megawatt (MW) wind farm in Dakota County. Sparks Energy, LLC and Medin Renewable Energy, LLC, are Minnesota-based limited liability corporations.

The Applicants propose to locate the Greenvale Wind Farm (Project) within a Project area of approximately 837 acres, located approximately six miles north of the city of Northfield (see attached map). Depending upon final design, the Applicants anticipate that the Project would occupy approximately 16.5 acres.

The proposed Project would consist of up to 11 turbines, along with associated turbine access roads and underground electric collector lines. The Applicants propose to use an existing barn to house an operations and maintenance facility for the Project.

The Project will not interconnect to the transmission system, but will, instead, be connected to the Dakota Electric distribution system through an underground 12.5 kV feeder line.

## **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.

## ***Certificate of Need***

A Certificate of Need (CN) from the Commission for a large electric power generating plant is not required because the Project does not exceed 50 MW in size.

### ***Site Permit Application and Acceptance***

Sparks Energy, LLC, and Medin Renewable Energy, LLC, filed an application for an LWECS site permit with the Commission on July 6, 2009. The Commission accepted the application as complete in its order dated August 4, 2009.

### ***Summary of Public Comments***

A Notice of Application Acceptance was published and distributed on August 3, 2009. Public comments were accepted through August 17, 2009. OES EFP staff received written comments from Carol Overland, Kathy Dahl, and the Minnesota Department of Natural Resources. These comments, and OES EFP staff responses, are summarized below under the heading **OES EFP Staff Analysis and Comments**.

### ***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.”

Issuing a draft site permit does not authorize a person to construct a 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. OES EFP staff will bring this matter back to the Commission for final action upon the conclusion of the public participation process.

### ***Public Participation Process***

If the Commission makes a preliminary determination that the draft site permit may be issued, the OES EFP staff will implement the public participation process identified in Minnesota Rule 7836.0900. The public will be notified that a draft site permit has been issued, a public comment period will be established, and a public information meeting will be held near the project location. OES EFP staff will work with the public, local governmental units, and state agencies to identify issues, impacts and potential mitigation measures prior to bringing this matter back to the Commission for a final permit decision.

Minnesota Rule 7836.0900, Subpart 5, provides the opportunity for any person to request that a contested case hearing be held on the proposed LWECS project. The request must be filed within the time period established for submitting comments on the draft site permit and must include the issues to be addressed in a contested case hearing and the reasons a hearing is required to resolve these issues.

### **OES EFP Staff Analysis and Comments**

**Carol Overland** submitted a comment noting the omission of two airports in the LWECS site permit application; one in Lakeville and a private landing strip serving a residential subdivision located in Webster.

*OES EFP Response:* The Airlake Airport, located approximately ten miles north of the Project in Lakeville is noted in the application.

The Sky Harbor Residential Airpark is located approximately 13 miles west of the Project, in Webster. The record will reflect this correction.

**Kathy Dahl** noted the presence of several avian species in wetlands near her home and wanted to know whether impacts to these species have been studied.

*OES EFP Response:* See OES EFP response to DNR comments below.

**The Minnesota Department of Natural Resources (DNR)** made several recommendations related to setbacks and surveys for the Project. The DNR recommends that all turbines be set back a minimum of five rotor diameters from the Chub Lake Wildlife Management Area (WMA), which abuts the northern border of the Project area. In addition to the WMA setback, the DNR also recommends a setback of 1,000 feet from the edge of the Chub Creek Marsh wetland complex.

In addition to the proposed setbacks, the DNR letter recommends bird and bat surveys of Conservation Reserve Program (CRP) areas, the Chub Lake WMA, and other areas that may contain sensitive resources. The DNR recommends these surveys to better determine appropriate setbacks.

The DNR letter also expresses concerns with locating turbines in what may be a flyway corridor along Chub Creek, and recommends that no turbines be placed between the Chub Creek Marsh wetland complex and the Chub Creek WMA to avoid avian impacts.

The DNR also noted that other permits and approvals, such as the Utility Crossing License, wetland approvals, or Section 404 permit for work in waters of the United States may be required and that these permits may contain recommendations for Best Management Practices.

*OES EFP Response:* Under the General Permit Standards adopted by the Commission in 2007, wind turbines and associated facilities are precluded from being located in WMAs (Draft Permit at III.C.4). Wind turbines must also be set back at least five rotor diameters on the prevailing wind access and three rotor diameters on the non-prevailing wind access from areas where the permittee does not hold wind rights (Draft Site Permit at III.C.1). WMAs are included in the areas from which setbacks are required.

The Applicants state, at page 22 of their LWECS site permit application, that no wind turbine will be placed within 300 feet of the normal high water mark of Chub Creek, in accordance with Dakota County shoreland regulation. The Commission considered wetland setbacks in its consideration of General Permit Standards (E, G-999/M-07-1102). In that docket the DNR initially recommended a 1,000 foot setback between turbines and all wetlands, streams, rivers and lakes listed in the state Public Waters Inventory and those listed on the National Wetlands Inventory. The DNR subsequently submitted a letter deferring action on wetland setbacks in order to allow time to further explore the range of issues associated with such setbacks. In its order, the Commission retained its practice of prohibiting placement of turbines in wetlands (Draft Permit at III.C.5), but requiring no setback from wetlands, pending further record development on this issue.

As a requirement of the first permit issued for a Large Wind Energy Conversion System in 1995, Northern States Power Company (NSP) was required to conduct an avian study to determine the effect of the turbines on avian mortality. An additional two-year study was required to determine the effect of the turbines on bats. Wind developers were required to compensate Northern States for these studies; allowing the financial burden to be split among potentially affected parties, rather than borne by one party. Since that permit, surveys have not been a requirement of any individual permit.

Pursuant to Minnesota Statute 216F.07, the LWECS site permit preempts all zoning, building, and land use rules, regulations and ordinances adopted by regional, county, local, and special purpose governments. However, nothing in the permit would release the permittee from any obligation not specifically preempted by law (draft site permit at III.J.3). Additional permits, such as a Utility Crossing License, wetland permits, driveway permits, overweight highway permits, or National Pollutant Discharge Elimination System permits would still be required for the Project. The Application, at pages 34 – 36, identifies permits required for the Project.

Since the adoption of General Permit Standards, EFP and DNR staff have discussed LWECS layout on a Project specific basis. OES EFP staff believes that further information on the basis for DNR’s recommendations and an exploration of the range of issues associated with such setbacks and surveys for this Project, as well as for future projects, [are necessary before any recommendations can be made on the appropriateness of these additional setbacks, exclusion areas, and surveys.](#)

OES EFP staff used the information in the application and experience with other LWECS projects as a guide for evaluating whether a draft site permit may be issued for the project or should be denied, pursuant to Minnesota Rules 7836.0800, Subpart 1. OES EFP staff finds that the available information is sufficient to conclude that it is appropriate to make a preliminary determination that a site permit may be issued for the project. The applicant has agreed to provide EFP staff with any additional information. OES EFP staff has prepared a draft site permit identifying the permittee, the proposed LWECS, and proposed permit conditions. The proposed draft site permit is attached to these Comments and Recommendations. Commission approval of the draft site permit will allow for distribution of the draft site permit and initiation of the public review process, which includes a formal public comment period.

## **Commission Decision Options**

### **Commission Decision Options**

#### **A. Preliminary Determination to issue a Draft Site Permit**

1. Make a preliminary determination that a draft site permit may be issued.
2. Make a preliminary determination that a draft site permit should be denied.
3. Make some other decision deemed more appropriate.

#### **B. Approve the proposed Draft Site Permit for distribution and public comment**

1. Approve the proposed Draft Site Permit for distribution and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rules 7836.0900.

2. Amend or modify the proposed draft site permit for the Greenvale Wind Project for distribution and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7836.0900.
3. Make some other decision deemed more appropriate.

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

**DRAFT**

**LARGE WIND ENERGY CONVERSION SYSTEM**

**SITE PERMIT**

**FOR**

**GREENVALE WIND FARM**

**IN**

**DAKOTA COUNTY**

**PUC DOCKET NO. IP 6819, 6820/WS-09-722**

In accordance with Minnesota Statutes Section 216F.04 this Site Permit is hereby issued to:

**SPARKS ENERGY, LLC**

**AND**

**MEDIN RENEWABLE ENERGY, LLC**

Sparks Energy, LLC, and Medin Renewable Energy, LLC, are authorized to construct and operate up to an 11 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 on:

Dated: \_\_\_\_\_

BY ORDER OF THE COMMISSION

\_\_\_\_\_  
BURL W. HAAR  
Executive Secretary

(S E A L)

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# **DRAFT PERMIT – FOR REVIEW AND COMMENT**

## **I. SITE PERMIT**

This Site Permit for a Large Wind Energy Conversion System (LWECS) authorizes Sparks Energy, LLC, and Medin Renewable Energy, LLC (hereinafter “Permittees”) to construct up to an 11 Megawatt (MW) LWECS and associated facilities in Dakota County, on a site of approximately 837 acres in accordance with the conditions contained in this Permit. The site boundary is shown on the map that is attached hereto as Attachment 2.

## **II. PROJECT DESCRIPTION**

The up to 11 MW LWECS authorized to be constructed in this Permit will be owned and operated by Sparks Energy, LLC, and Medin Renewable Energy, LLC. The Project would consist of up to 11 one megawatt wind turbine generators with a combined nominal nameplate capacity of no more than 11 MW. In addition to the turbines, the Project would include associated turbine access roads and underground electric collector lines. Operations and maintenance operations would be conducted in an existing facility within the Project’s site boundary.

The Project will not interconnect to the transmission system, but will, instead, be connected to the Dakota Electric distribution system through an underground 12.5 kV feeder line.

## **III. CONDITIONS**

The following conditions shall apply to site preparation, construction, cleanup, restoration, operation, maintenance, abandonment, decommissioning and all other phases of the LWECS. The PUC preserves all available remedies for violation of any of these Permit conditions, including revocation or modification of the Permit.

### **A. GENERAL CONSTRUCTION CONDITIONS**

#### **1. SITE PLAN**

Prior to commencing construction, the Permittee shall submit to the PUC a site plan for all turbines, roads, electrical equipment, collector and feeder lines and other associated facilities to be constructed and engineering drawings for site preparation, construction of the facilities, and a plan for restoration of the site due to construction. The Permittee may submit a site plan and engineering drawings for only a portion of the LWECS if the Permittee is prepared to commence construction on certain parts of the Project before completing the site plan and engineering drawings for other parts of the LWECS. In the event that previously unidentified environmental conditions are discovered during construction which 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 sites. The Permittee shall notify the PUC of any turbines that are to be relocated before the turbine is constructed on the new site.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **2. FIELD REPRESENTATIVE**

Prior to the start of construction and continuously throughout construction and site restoration, the Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this Permit. This person (or a designee) shall be accessible by telephone during normal business hours. This person's address, phone number and emergency phone number shall be provided to the PUC, who 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 PUC.

### **3. PRECONSTRUCTION MEETING**

Prior to the start of any construction, the Permittee shall conduct a preconstruction meeting with the person designated by the PUC to coordinate field monitoring of construction activities.

### **4. NOTICE OF PERMIT CONDITIONS**

The Permittee shall inform all employees, contractors, and other persons involved in the construction and ongoing operation of the LWECS of the terms and conditions of this Permit.

## **B. MITIGATION MEASURES**

### **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 LWECS.

### **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.

### **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.

### **4. LIVESTOCK PROTECTION**

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

### **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. When

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

### **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.

### **7. EQUIPMENT STORAGE**

The Permittee shall not locate temporary equipment staging areas on lands under its control unless negotiated with landowner. Temporary staging areas shall not be located in wetlands or native prairie.

### **8. ROADS**

#### **(a) Public Roads**

Prior to commencement of construction, the Permittee shall identify all state, county or township roads that will be used for the LWECS Project and shall notify the PUC 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 LWECS. 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 with the appropriate state, county or township governmental body having jurisdiction over roads to be used for construction of the LWECS for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and LWECS components. The Permittee shall notify the PUC of such arrangements upon request of the PUC.

#### **(b) Turbine Access Roads**

The Permittee shall construct the smallest 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 5 gravel or similar material. Access roads shall not be constructed across streams and drainage ways without required permits and approvals from DNR, FWS and/or USACOE. 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. Access roads shall also be constructed in accordance with all necessary township, county or state road requirements and permits.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **(c) 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.

### **9. SOIL EROSION AND SEDIMENT CONTROL**

The Permittee shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the Plan to the PUC. This Plan may be the same as the Storm Water Pollution Prevention Plan (SWPP) submitted to the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permit application. A goal of the Soil Erosion and Sediment Control Plan is to minimize soil erosion, to revegetate non-cropland and range areas disturbed by construction with wildlife conservation species, and, wherever possible, to plant appropriate native species in cooperation with landowners.

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 installed prior to construction and maintained throughout the Project's life.

### **10. 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.

### **11. 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 PUC and the approval of the affected landowner.

### **12. RESTORATION**

The Permittee shall, as soon as practical following construction of each turbine, considering the weather and preferences of the landowner, restore the area affected by any LWECs activities to the condition that existed immediately before construction began, to the extent possible. The

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

time period may be no longer than eight months after completion of construction of the turbine, unless otherwise negotiated with the landowner. Restoration shall be compatible with the safe operation, maintenance, and inspection of the LWECS.

### **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.

### **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 crops, orchards, tree farms, or gardens. The Permittee shall also, at least ten 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.

### **15. PUBLIC SAFETY**

The Permittee shall provide educational materials to landowners within the site boundaries and, upon request, to interested persons, about the Project and any restrictions or dangers associated with the LWECS 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 Statute 216D.01, Subdivision 11, to Gopher State One Call.

### **16. FIRE PROTECTION**

The Permittee shall prepare a fire protection and medical emergency plan in consultation with the fire department having jurisdiction over the area prior to LWECS construction. The Permittee shall submit a copy of the plan to the PUC upon request. The Permittee shall also register the LWECS with the local governments' emergency 911 services.

### **17. TOWER IDENTIFICATION**

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

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **C. SETBACKS**

#### **1. WIND ACCESS BUFFER**

Wind turbine towers shall not be placed less than 5 rotor diameters (RD) on the prevailing wind directions and 3 RD on the non-prevailing wind directions from the perimeter of the lands where the Permittee does not hold the wind rights, without the approval of the PUC.

#### **2. RESIDENCES**

Wind turbine towers shall not be located closer than 500 feet from the nearest residence, or the distance required to comply with the noise standards for Noise Area Classification 1, established by the MPCA (paragraph III.E.3), whichever is greater.

#### **3. 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. WILDLIFE MANAGEMENT AREAS**

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in Waterfowl Production Areas, State Wildlife Management Areas or Scientific and Natural Areas or in county parks.

#### **5. 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, subp. 15a. However, electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to DNR, United States Fish and Wildlife Service (FWS) and/or United States Army Corps of Engineers (USACE) permits and approvals.

#### **6. NATIVE PRAIRIE**

Upon request of the PUC, the Permittee shall, with the advice of the DNR and any others selected by the Permittee, prepare a prairie protection and management plan and submit it to the PUC and DNR Commissioner 60 days prior to the start of Project construction. The plan shall address steps to be taken to identify native prairie within the Project area, measure to avoid impacts to native prairie, and measures to mitigate for impacts if unavoidable. Wind turbines and all associated facilities, including foundations, access roads, underground cable and transformers, shall not be placed in native prairie unless addressed in the prairie protection and management plan. Unavoidable impacts to native prairie shall be mitigated by restoration or

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

management of other native prairie areas that are in degraded condition, or by conveyance of conservation easements, or by other means agreed to by the Permittee and PUC.

### **7. 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.

### **D. PRECONSTRUCTION SURVEYS**

#### **1. BIOLOGICAL PRESERVATION SURVEY**

The Permittee, in consultation with DNR and other interested parties, shall conduct a pre-construction inventory of existing wildlife management areas, scientific and natural areas, recreation areas, native prairies and forests, wetlands, and any other biologically sensitive areas within the site and assess the presence of state- or federally-listed or threatened species. The results of the survey shall be submitted to the PUC and DNR prior to the commencement of construction.

#### **2. ARCHAEOLOGICAL RESOURCES**

The Permittee shall work with the State Historic Preservation Office (SHPO) at the Minnesota Historical Society and the State Archaeologist to determine whether an archaeological survey is recommended for any part of the proposed Project. The Permittee will contract with a qualified archaeologist to complete such surveys, and will submit the results to the PUC, the SHPO and the State Archaeologist.

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 PUC 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 PUC of such discovery. The Permittee shall not excavate at such locations until so authorized by the PUC 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 MHS as soon as possible to coordinate section 106 (36 C.F.R 800) review.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

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 PUC and the MHS about the discovery. The PUC and the MHS 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 MHS has directed that work shall cease. In such event, work shall not continue until the MHS determines that construction can proceed.

### **3. ELECTROMAGNETIC INTERFERENCE**

Prior to beginning construction, the Permittee shall submit a plan to the PUC for conducting an assessment of television signal reception and microwave signal patterns in the Project area prior to commencement of construction of the Project. 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 reception or microwave patterns in the event residents should complain about such disruption or interference after the turbines are placed in operation. The assessment shall be completed prior to installation of the turbines. 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 LWECs and associated facilities so as to cause microwave, television, radio, telecommunications or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event the LWECs and its associated facilities or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

### **E. SITE LAYOUT RESTRICTIONS**

#### **1. WIND TURBINE TOWERS**

Structures for wind turbines shall be self-supporting tubular towers. The towers may be between 60 meters (197 feet) and 80 meters (262 feet) above grade measured at the hub.

#### **2. METEOROLOGICAL TOWERS**

No permanent meteorological towers are authorized to be constructed for the Project by this Permit.

#### **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 Minnesota Pollution Control Agency at all times at all appropriate locations. The noise standards are found in Minnesota Rules Chapter 7030. Turbines shall be moved or modified or removed from service if necessary to comply with

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

this condition. 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 PCA 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. FEDERAL AVIATION ADMINISTRATION**

Towers shall be marked as required by the Federal Aviation Administration (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.

### **5. TURBINE SPACING**

The turbine towers shall be constructed within the site boundaries as shown in Attachment 2. The turbine towers shall be spaced no closer than 3 RD in the non-prevailing wind directions and 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.

### **6. FOOTPRINT MINIMIZATION**

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

### **7. ELECTRICAL CABLES**

The Permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and cables shall also be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.

### **8. FEEDER LINES**

The Permittee shall place underground 12.5 kV electric lines, known as feeders, within public rights-of-way or on private land immediately adjacent to public rights-of-way if a public right-of-way exists, except as necessary to avoid or minimize human, agricultural, or environmental impacts. A change in feeder line locations may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the Permittee shall place the feeder in accordance with easements negotiated with the affected landowner. In all cases, the Permittee shall avoid routing feeder lines in locations which may interfere with agricultural

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

operations. Notwithstanding any of the requirements in paragraph III.D. to conduct surveys before any construction can commence, the Permittee may begin immediately upon issuance of this permit to construct the 12.5 kV feeder lines that will be required as part of this Project. The Permittee shall submit the site plan and engineering drawings required under paragraph III.A.1. for the feeder lines before commencing construction.

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, IEEE 519, and IEEE 367, provided the telephone service provider(s) have complied with any obligations imposed on it pursuant to these standards. Upon request by the PUC, the Permittee shall report to the PUC on compliance with these standards.

### **F. STUDIES**

#### **1. WAKE LOSS STUDIES**

The Permittee shall provide to the PUC with the site plan required by paragraph III.A.1., the preconstruction micro siting analysis leading to the final tower locations and an estimate of total Project wake losses. The Permittee shall provide to the PUC any operational wake loss studies conducted on this Project.

#### **2. NOISE**

On request of the PUC, the Permittee shall submit a proposal to the PUC for the conduct of a noise study. Upon the approval of the PUC the Permittee shall carryout the study. The study shall be designed to determine the noise levels at various distances from the turbines at various wind directions and speeds.

### **G. DECOMMISSIONING/RESTORATION/ABANDONMENT**

#### **1. DECOMMISSIONING PLAN**

Prior to commencement of construction, the Permittee shall submit to the PUC a Decommissioning Plan describing the manner in which the Permittee anticipates decommissioning the Project in accordance with the requirements of Minnesota Rules part 7836.0500, subp.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 PUC may at any time request the Permittee to file a report with the PUC describing how the Permittee is fulfilling this obligation.

#### **2. SITE RESTORATION**

Upon expiration of this Permit, or upon earlier termination of operation of the LWECs, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible the Permittee shall restore and reclaim

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth 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 shall be submitted to the PUC prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months after expiration.

### **3. ABANDONED TURBINES**

The Permittee shall advise the PUC of any turbines that are abandoned prior to termination of operation of the LWECs. The PUC may require the Permittee to decommission any abandoned turbine.

## **H. REPORTING**

### **1. PROJECT ENERGY PRODUCTION**

The Permittee shall, by July 15 of each year, report to the PUC on the monthly energy production of the Project and the average monthly wind speed collected at one permanent meteorological tower selected by the PUC during the preceding year or partial year of operation. The report shall include copies of any project production reports filed with the Midwest Independent System Operator (MISO), Midwest Area Power Pool (MAPP), the Federal Energy Regulatory Commission (FERC), or any other public regulatory agency. The Permittee shall describe the operational status and availability of the Project and any major outages, major repairs, or turbine performance improvements occurring in the previous year.

### **2. WIND RESOURCE USE**

Beginning the first full quarter following the commercial operation of the wind farm, the Permittee shall file a quarterly report (due January 15, April 15, July 15, and October 15) with the PUC with the following average hourly data for each hour of commercial operation in printed format or electronic format capable of computerized analysis as specified by the PUC. That data entails:

- (a) The power output of each turbine;
- (b) The wind speed and direction measured at all monitored heights at any temporary and permanent meteorological towers, connected to the SCADA system, owned or operated by the Permittee, in or within three miles of the Project site boundary; and
- (c) Temperature and any other meteorological parameters recorded at one permanent meteorological tower selected by the PUC.

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After two years of commercial operation, the PUC may reduce or eliminate the requirements of this condition. The provisions of paragraph III.K.5. shall apply to the PUC's review of this data.

### **3. EXTRAORDINARY EVENTS**

Within 24 hours of an occurrence, the Permittee shall notify the PUC of any extraordinary event. Extraordinary events include but shall not be limited to: fires, tower collapse, thrown blade, collector or feeder line failure, injured LWECS worker or private person, kills of migratory, threatened or endangered species, or discovery of a large number dead birds or bats of any variety on site. In the event of avian mortality the DNR shall also be notified within 24 hours. The Permittee shall, within 30 days of the occurrence, submit a report to the PUC describing the cause of the occurrence and the steps taken to avoid future occurrences.

### **4. COMPLAINTS**

Prior to the start of construction, the Permittee shall submit to the PUC the company's procedures to be used to receive and respond to complaints. The Permittee shall report to the PUC all complaints received concerning any part of the LWECS in accordance with the procedures provided in Attachment 1 of this Permit.

## **I. FINAL CONSTRUCTION**

### **1. AS-BUILT PLANS AND SPECIFICATIONS**

Within 60 days after completion of construction, the Permittee shall submit to the PUC a copy of the as-built plans and specifications. The Permittee must also submit this data in a geographic information system (GIS) compatible format so that the PUC can place it into the Land Management Information Center's geographic data clearinghouse located in the Office of Geographic and Demographic Analysis.

### **2. FINAL BOUNDARIES**

After completion of construction, the PUC 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.

### **3. EXPANSION OF SITE BOUNDARIES**

No expansion of the site boundaries described in this Permit shall be authorized without the approval of the PUC. The Permittee may submit to the PUC a request for a change in the boundaries of the site for the LWECS. The PUC will respond to the requested change in accordance with applicable statutes and rules.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **J. AUTHORITY TO CONSTRUCT LWECS**

#### **1. WIND RIGHTS.**

The Permittee shall advise the PUC of the obtaining of exclusive wind rights within the boundaries of the LWECS authorized by this Permit within 30 days of receiving such wind rights. The Permittee shall submit documentation of such exclusive wind rights if requested by the PUC.

#### **2. OTHER PERMIT APPLICATIONS.**

Nothing in this Permit shall be construed to preclude any other person from seeking a site permit to construct a large wind energy conversion system in any area within the boundaries of the Project covered by this Permit if the Permittee does not hold exclusive wind rights for such areas.

#### **3. PREEMPTION OF OTHER LAWS**

Pursuant to Minnesota Statute 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.

#### **4. POWER PURCHASE AGREEMENT**

This Permit does not authorize construction of the Project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project within two years of the issuance of this Permit, the Permittee must advise the PUC of the reason for not having such power purchase agreement or enforceable mechanism. In such event, the PUC 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 Statute 216F.05 and Minnesota Rule 7836.1300.

### **K. MISCELLANEOUS**

#### **1. PERIODIC REVIEW**

The PUC shall initiate a review of this Permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the PUC, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of the Permit. No modification may be made except in accordance with applicable statutes and rules.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **2. FAILURE TO COMMENCE CONSTRUCTION**

If the Permittee has not completed the pre-construction surveys required in paragraph III.D. and commenced construction of the LWECS within two years of the issuance of this Permit, the Permittee must advise the PUC of the reason construction has not commenced. In such event, the PUC may determine 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 Statute 216F.05 and Minnesota Rule 7836.1300.

### **3. 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 facility; or
- (c) Existence of other grounds established by rule.

### **4. REVOCATION OR SUSPENSION OF THE PERMIT**

The PUC 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 PUC'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 PUC.

In the event the PUC shall determine that it is appropriate to consider revocation or suspension of this Permit, the PUC shall proceed in accordance with the requirements of Minnesota Statute 216F.05 to determine the appropriate action. Upon a finding of any of the above, the PUC may require the Permittee to undertake corrective measures in lieu of having the Permit suspended or revoked.

### **5. PROPRIETARY INFORMATION**

Certain information required to be submitted to the PUC under this Permit, including energy production and wake loss data, 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

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

by the PUC. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

### **6. TRANSFER OF PERMIT**

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

### **7. 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 PUC upon request.

### **8. SITE MANAGER**

The Permittee shall designate a site manager who shall be the contact person for the PUC to contact with questions about the LWECs. The Permittee shall provide the PUC with the name, address, and phone numbers of the site manager prior to placing any turbine into operation. This information shall be maintained current by informing the PUC of any changes, as they become effective.

### **9. NOTICE TO LOCAL RESIDENTS**

The Permittee shall, within ten working days of receipt of this Permit, send a 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 also, within 10 working days of issuance, send a 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 30 days of issuance of this Permit, the Permittee shall send a copy of the Permit to each affected landowner within the site. In no case shall the affected landowner receive the site permit and complaint procedure, developed pursuant to condition III.H.4 of this permit, less than five days prior to the start of construction on their property.

### **10. RIGHT OF ENTRY**

The Permittee shall allow representatives of the PUC to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the site property for the purpose of obtaining information, examining records, and conducting surveys or investigations.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

(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. MORE STRINGENT RULES**

The PUC's issuance of this Site Permit does not prevent the future adoption by the PUC of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

### **12. PERMIT COMPLIANCE MEETING**

Prior to the start of commercial operation, the Permittee shall conduct a permit compliance meeting with the person designated by the PUC to coordinate permit compliance activities.

#### **L. EXPIRATION DATE**

This Permit shall expire on \_\_\_\_\_.

#### **M. 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. No special conditions have been identified.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

### **ATTACHMENT 1: COMPLAINT REPORT AND HANDLING PROCEDURES**

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

**1. Purpose**

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

**2. Scope**

This reporting plan encompasses complaint report procedures and frequency.

**3. Applicability**

The procedures shall be used for all complaints received by the Permittee.

**4. Definitions**

**Complaint** - A statement presented by a person expressing dissatisfaction, resentment, or discontent as a direct result of the LWECS and associated facilities. Complaints do not include requests, inquiries, questions or general comments.

**Substantial Complaint** - Written complaints alleging a violation of a specific Site Permit condition that, if substantiated, could result in Permit modification or suspension pursuant to the applicable regulations.

**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.

**5. Responsibilities**

Everyone involved with any phase of the LWECS is responsible to ensure expeditious and equitable resolution of all complaints. It is therefore necessary to establish a uniform method for documenting and handling complaints related to this LWECS Project. The following procedures will satisfy this requirement:

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

- A. The Permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - 1. Name of the Permittee and Project.
  - 2. Name of complainant, address and phone number.
  - 3. Precise property description or tract numbers (where applicable).
  - 4. Nature of complaint.
  - 5. Response given.
  - 6. Name of person receiving complaint and date of receipt.
  - 7. Name of person reporting complaint to the PUC and phone number.
  - 8. Final disposition and date.
  
- B. The Permittee shall assign an individual to summarize complaints for transmittal to the PUC.

### **6. Requirements**

The Permittee shall report all complaints to the PUC according to the following schedule:

Immediate Reports - All substantial complaints shall be reported to the PUC the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to Wind Permit Compliance at the following: [DOC.energypermitcompliance@state.mn.us](mailto:DOC.energypermitcompliance@state.mn.us), or 1-800-657-3794. Voice messages are acceptable.

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 sent to Dr. Burl W. Haar, Executive Secretary, Minnesota Public Utilities Commission, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, MN, 55101-2147. A copy of each complaint shall be sent to Wind Permit Compliance, Minnesota Department of Commerce, 85 7<sup>th</sup> Place East, Suite 500, St. Paul, MN 55101-2198.

### **7. Complaints Received by the PUC**

Copies of complaints received directly by the PUC from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the Permittee.

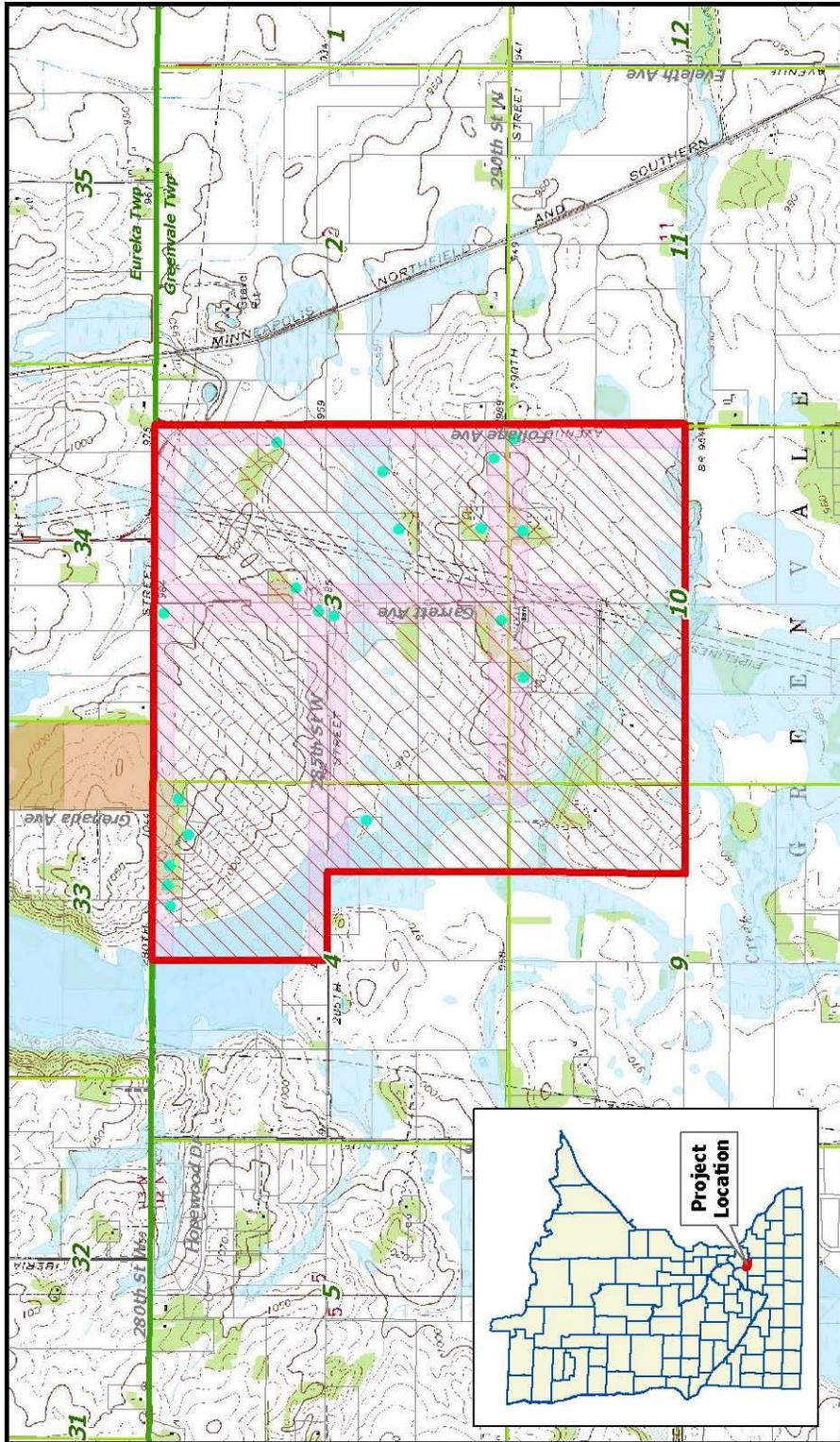
**Unresolved Complaints:** - The Permittee shall submit all unresolved complaints to the PUC for resolution by the PUC, where appropriate, no later than 45 days after the date of the submission.

## **DRAFT PERMIT – FOR REVIEW AND COMMENT**

**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 the Complainant 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. Staff shall present Briefing Papers to the Commission, which shall resolve the Complaint within twenty days of submission of the Briefing Papers.

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ATTACHMENT 2: SITE PERMIT MAP



2108 Dakota County Area

**EXHIBIT 2**



**Bonestroo**

7/20/2009

Study Area = 1,265 Acres

**MEDIN RENEWABLE ENERGY LLC**  
**SPARKS ENERGY, LLC**  
**GREENVALE WIND FARM**  
*Dakota County, Minnesota*



0 1,000 2,000 4,000  
Feet

Data Provide By: Bonestroo, MN/DNR, USGS, Dakota County  
 I:\4820\482009010\GIS\Projects\Map2.mxd

**Legend**

 Home Location	 Townships
 Study Area	 Sections
 250' ROW Buffer	 WMA Boundary
 County Boundary	 Wetland & Waterbody
	 PMV Watercourse
	 300' Chubb Creek Buffer