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March 10, 2010

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

**RE: Comments and Recommendations of the Office of Energy Security Energy
Facility Permitting Staff
Docket No. IP-6839/WS-10-119**

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 Glen Oak Wind Farm, LLC for a Large Wind Energy Conversion System (LWECS) Site Permit for the 44 MW Glen Oak Wind Farm in Steele County.

The OES EFP staff is also providing you with:

- A. Project Area Map.

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

Sincerely,

Ingrid Bjorklund
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. IP6839/WS-10-119

Meeting Date: March 18, 2010.....Agenda Item # 10

Company: Oak Glen Wind Farm, LLC

Docket No: **IP6839/WS-10-119**

In the Matter of the Application of Oak Glen Wind Farm, LLC, for a Site Permit for a 44 MW Large Wind Energy Conversion System Project in Steele County

Issue(s): Should the Commission accept the application as complete and appoint a public advisor?

EFP Staff: Larry Hartman.....651-296-5089

RELEVANT DOCUMENTS

Oak Glen Wind Farm, LLC, Site Permit Application Initial Filing.....February 5, 2010
 Supplemental Information to the ApplicationMarch 10, 2010

The enclosed materials are work papers of the Office of Energy Security (OES) Energy Facility Permitting (EFP) staff. They are intended for use by the Minnesota Public Utilities Commission (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. Citizens with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

DOCUMENTS ATTACHED

1. Site Map

See eDocket filings (10-119) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=25858> for project related documents.

STATEMENT OF THE ISSUES

Should the Commission accept, conditionally accept, or reject the site permit application? If the application is accepted or conditionally accepted, should the Commission appoint a public advisor?

Should the Commission determine that a certificate of need is not required?

INTRODUCTION AND BACKGROUND

Oak Glen Wind Farm, LLC (Applicant or Oak Glen) submitted a site permit application to construct the proposed 44 (MW) Oak Glen Wind Farm in Steele County. Oak Glen is a wholly owned subsidiary of Minnesota Municipal Power Agency (MMPA). Avant Energy, Inc., serves as the agent for MMPA and will oversee and administer all aspects the project, including design, construction, and operation and maintenance.

Project Location

The proposed Oak Glen Wind Farm will be located in Steele County in the township of Blooming Prairie. The project area is located 3 miles northwest of the city of Blooming Prairie near U.S. Highway 218 and encompasses 3,215 acres. The Applicant has wind rights for approximately 3,070 acres, which the Applicant believes is sufficient to provide flexibility in the micro-siting process.

Project Description

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

- A wind turbine layout consisting of either 29 General Electric 1.5 MW wind turbine generators mounted on 80 meter (262.5 foot) towers and a rotor diameter of 82.5 meters (270 feet) or 24 Vestas 1.8 MW wind turbine generators mounted on 80 meter (262.5 foot) towers and a rotor diameter of 90 meters (295 feet);
- Gravel access roads; and
- Electrical collection system, one substation, one transmission line, one permanent meteorological tower.

The Applicant's goal is to complete the construction of the project and achieve commercial operation by December 31, 2010.

REGULATORY PROCESS

Pursuant to the Minnesota Wind Siting Act (Minnesota Statutes Chapter 216F) a site permit from the Commission is required to construct a LWECS, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. The rules to implement the permitting requirements for LWECS are found in Minnesota Rules Chapter 7854. The applicant filed an application with the Commission for a LWECS site permit on February 5, 2010.

Certificate of Need

A certificate of need from the Commission for a large electric power generating plant is not required because the project does not exceed 50 MW in size. Minn. Stat. § 216B.2421.

Site Permit Application Contents

The required contents of a site permit application are specified in Minnesota Rules, part 7854.0500. These information requirements include, but are not limited to, applicant background information, CN compliance, compliance with state policy, proposed site maps, wind characteristics, 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 Rules, part 7854.0600. 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 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, each city council and each township board in each county where the LWECS is proposed to be located. This notice is also posted on eDockets and on the Commission's energy facility permitting web page. In practice this notice is developed by the Applicant with assistance from OES staff to ensure the notice meets the requirements and intent of Minnesota Rules, part 7854.0600.

As a part of the notice requirements of Minnesota Rules, part 7854.0600, 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) within which the LWECS is proposed to be located, 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 a copy of the application to anyone requesting a copy. The Applicant is responsible for maintaining the application distribution list. In practice, EFP staff also distributes or has the Applicant distribute copies of the application accompanied by a cover memorandum, requesting comments on the application or the project, to technical representatives from state agencies (Pollution Control Agency, Department of Natural Resources, Department of Transportation, Department of Employment and Economic Development, Board of Water and Soil Resources, Department of Agriculture, and Department of Health) that may have permitting or review authority over the project.

Public Advisor

Minnesota Rules, part 7854.0700 states that upon acceptance of a site permit application, the Commission shall designate a staff person to act as the public advisor on the project. The Commission can authorize EFP 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 Rules, part 7854.0800 states that: “Within 45 days after acceptance of the application by the commission, the commission 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 commission 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 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

Public participation in the LWECS site permitting process is guided by Minnesota Rules, part 7854.0900. The Commission provides public notice of the availability of the draft site permit. 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 the EFP staff;
- The date on which the comment period terminates;
- A statement that during the comment period any person may submit written 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(s) and the *EQB Monitor*, and posted on eDockets and on the Commission's energy facilities permitting web page.

The public information meeting serves several functions. First, it provides 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 to respond to questions or comments about the regulatory review process. Second, it 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 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.

County Ordinance Standards for LWECS

Minnesota Statutes section 216F.08 authorizes counties to assume responsibility for processing permit applications for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. Steele County has not assumed such authority. However, in a letter dated February 1, 2010, Steele County states that "[Minn. Stat. § 216F.081] requires the [Commission] to consider counties [*sic*] standards when those standards are more stringent than the standards adopted by the [Commission]." Steele County adopted standards that apply to Commercial WECS with a capacity of equal or greater than 40 kilowatts, consists of four or more wind turbines, or contains wind turbines equal or greater than 200 feet in height as measured from the ground level to the top of the blade at its highest point. EFP staff will present further information on any standards that are more stringent than the Commission's General Permit Standards as set forth in Docket No. E,G-999/M-07-1102 in the draft site permit stage of the process.

The following standards adopted by ordinance by Steele County may be more stringent than the Commission's General Permit Standards:

- Zoning Ordinance 1527.04(1) requires a minimum of front yard setback from all road right-of-ways equal to the height of the tower as measured from the base to the top of the blade at its highest point; and
- Ordinance 1527.04(3) requires turbines to be a minimum of 750 feet from neighboring dwellings.

OES EFP STAFF ANALYSIS AND COMMENTS

The application has been reviewed by EFP staff pursuant to the requirements of Minnesota Rules Chapter 7854 (Wind Siting Rules). Staff finds that the Applicant's permit application does not provide all the necessary information required by Minnesota Rules, part 7854.0500. Specifically, the Applicant must provide the following:

- Response from the Minnesota Department of Natural Resources (MnDNR) and the U.S. Fish and Wildlife Service (USFWS); and
- Results from the natural heritage information system database.

Accepting the application as complete upon the submission of the supplemental data, identified above, in a format that all members of the public can access will allow staff to proceed with processing the application under Minnesota Rules Chapter 7854.

Staff finds that the Applicant's submittal of supplemental data on March 10, 2010, adequately addresses the above deficiencies. In addition, the Applicant provided evidence of the mitigative measures undertaken by the Applicant to address concerns of the MnDNR and USFWS. The Applicant also e-filed the pre-construction avian monitoring studies as requested by staff. As a result, staff recommends the initial application combined with the recently e-filed information be accepted as complete.

EFP staff is requesting the Commission direct the applicant to honor requests for additional information as necessary to facilitate the review process.

COMMISSION DECISION OPTIONS

A. Application Acceptance

1. Accept the application as complete with the condition that Oak Glen Wind Farm, LLC, will provide additional information as requested by the Commission and the Office of Energy Security Energy Facilities Permitting for the Oak Glen Wind Farm.
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, combined with the supplemental information, complete with the condition that Oak Glen Wind Farm, LLC, will also provide additional information as requested by the Commission and Office of Energy Security Energy Facilities Permitting for the Oak Glen Wind Farm.
4. Make another decision deemed more appropriate.

B. Public Advisor

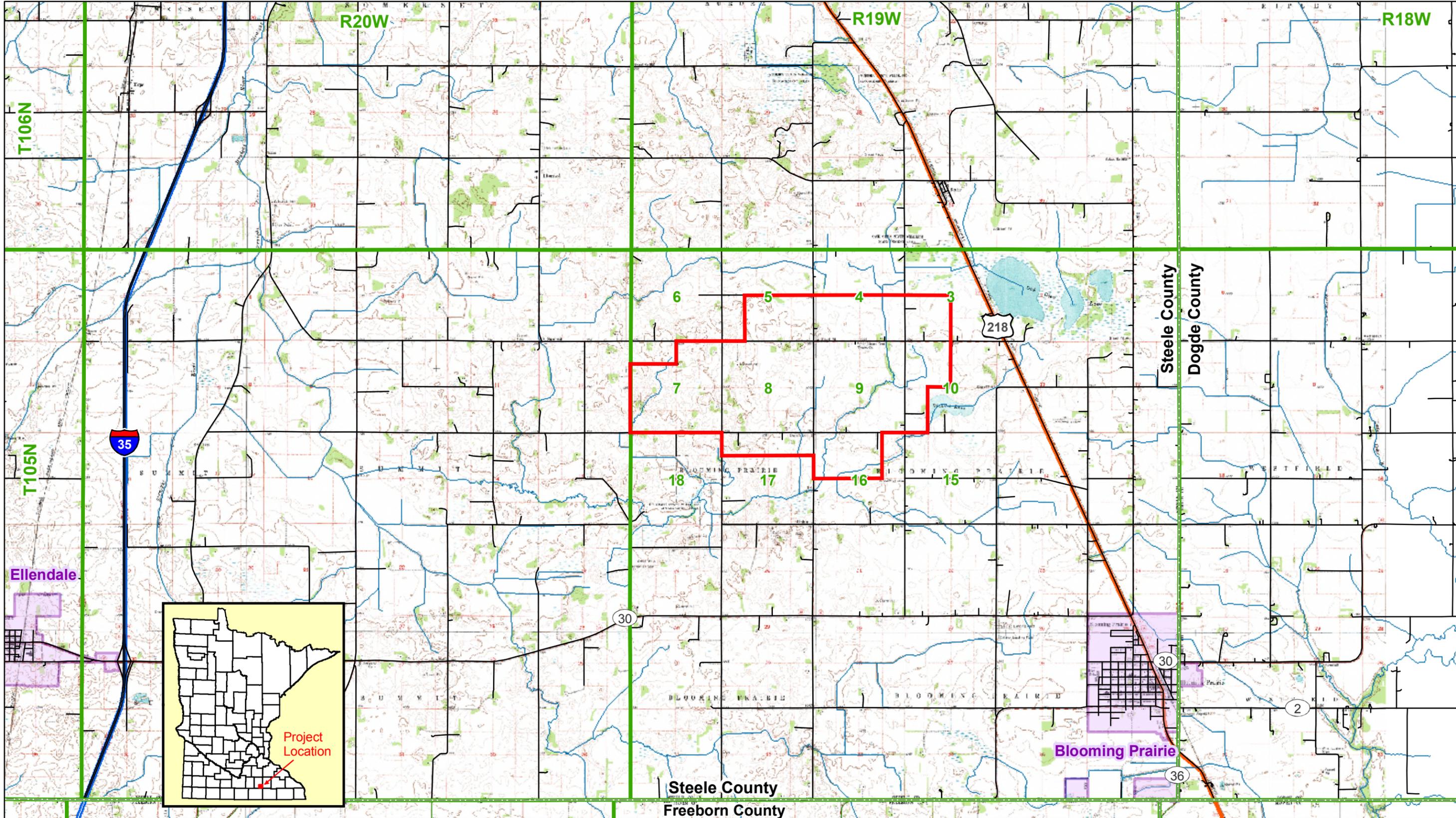
1. Authorize the Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project.

2. Appoint a Commission staff person as public advisor.
3. Make another decision deemed more appropriate.

C. Certificate of Need

1. Find that a certificate of need is not required.
2. Make no findings regarding the certificate of need.
3. Make some other decision deemed more appropriate.

Energy Facility Permitting Staff Recommendation: Staff Recommends Options A3, B1, and C1.



Data Source(s): Steele County and Dodge County Roads from U.S. Department of Commerce, U.S. Census Bureau, Geography Division (2009); Municipality Boundaries from Mn/DOT (2003); Project Boundary from Avant (2009); County Boundaries from Mn/DOT BaseMap - County (2003); PLS Township and Ranges from Minnesota DNR - Minerals Division (unknown date); Civil Township from Mn/DOT (2003); National Hydrography Dataset from USGS (downloaded 2008); U.S. Department of Agriculture, Natural Resources Conservation Service DRG (2002); and Westwood (2009).

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- Legend**
- Project Boundary
 - County Boundary
 - Municipality
 - Township/Range
 - Interstate
 - Highway
 - County Road
 - Stream/River/Ditch

Oak Glen Wind Farm

Steele County, Minnesota

Project Location Map