

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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SERVICE DATE: March 28, 2011

DOCKET NO. IP-6838/WS-10-425

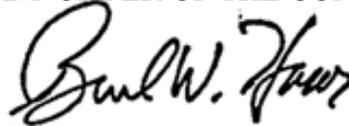
In the Matter of the Application of Prairie Rose Wind, LLC for a Large Wind Energy Conversion System Site Permit for the 200 MW Prairie Rose Wind Farm in Rock and Pipestone Counties

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

**Approved the proposed amended draft site permit for the Prairie Rose Wind Project for notice and public comment. Authorized EFP staff to implement the public participation process found in Minnesota Rule 7854.0900, excluding the requirement to hold an additional public meeting.**

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



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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-6843/WS-10-425

Meeting Date: March 25, 2011 ..... Agenda Item #  2

Company: **Prairie Rose Wind, LLC**

Docket No. **IP-6843/WS-10-425**

**In the Matter of the Application of Prairie Rose Wind, LLC for a Large Wind Energy Conversion System Site Permit for the 200 MW Prairie Rose Wind Farm in Rock and Pipestone Counties.**

Issue(s): Should the Commission amend and re-issue the draft site permit per the February 11, 2011 request of the Applicant?

EFP Staff: David E. Birkholz .....651-296-2878

**Relevant Documents**

Prairie Rose Wind Farm Site Permit Application.....May 13, 2010  
Commission Order Issuing a Draft Site Permit .....October 28, 2010  
Request for Change in Project Size ..... February 11, 2011

The enclosed materials are the work papers of the Office of Energy Security 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.

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## Documents Attached

1. Proposed Amended Draft Site Permit with Attached Maps

See eDocket filings (10-425) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=28286> for project related documents.

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## Statement of the Issues

Should the Public Utilities Commission (Commission) amend and re-issue a Draft Permit to Prairie Rose Wind, LLC (Applicant) for a Large Wind Energy Conversion System (LWECS) for the 200 megawatt (MW) Prairie Rose Wind Farm (Project) in Rock and Pipestone counties?

## Introduction and Background

Prairie Rose Wind, LLC has submitted a size change request to 200 MW from its original site permit application to construct a proposed 101 MW Prairie Rose Wind Farm in Rock and Pipestone counties. Prairie Rose Wind, LLC is a wholly owned subsidiary of Geronimo Wind Energy.

### *Project Location*

The proposed site is located west of Hardwick and south and east of Jasper in Rock and Pipestone counties. The project is proposed to be constructed in Denver, Rose Dell and Spring Water townships in Rock County and Elmer and Eden townships in Pipestone County (see attached maps). The Project Boundary encompasses approximately 35,335 acres, of which approximately 14,000 acres are under site control.

### *Project Description*

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

1. A wind turbine layout consisting of up to 124 (updated from 67) turbines, depending on turbine specifications; the size change application describes the possible use of General Electric 1.6 MW or Vestas 1.8 MW (updated from General Electric 1.5 MW, Vestas 1.8 MW or Siemens 2.3 MW) wind turbines;
2. Associated facilities, including gravel access roads, an electrical collection system, permanent meteorological towers, one step-up substation, a Sonic (SODAR) or Light (LIDAR) Detection and Ranging unit and an O&M building.

The project has an associated 24-mile 115 kV transmission system, with up to 7 miles in Minnesota, which would connect to the Split Rock Substation near Brandon, South Dakota (see IP-6838/TL-10-134). An application for an HVTL route permit was filed on March 10, 2011.

The Applicant's goal is to complete the construction of the project and achieve commercial operation between the third calendar quarter of 2011 and the first calendar quarter of 2012.

## **Regulatory Process and Procedures**

Commission review of an LWECS application entails two separate processes: the Certificate of Need (CN) and the site permit. Pursuant to Minn. Rule 7854.0500, subp. 2A, the Commission shall not issue a site permit for which a CN is required until the CN has been issued by the Commission. The following provides an overview of the CN and site permit processes to date.

### ***Certificate of Need Process***

A CN is required for the Prairie Rose Wind Farm because, as a 200 MW LWECS, it qualifies as a "large energy facility" as defined by Minnesota Statutes section 216B.2421, subdivision 2(1). The Applicant applied for a CN (IP-6838/CN-10-80) on May 13, 2010. The Commission accepted written comments on the merits of the proposed project, particularly whether there are any contested issues of fact with respect to the representations made in the Application. Initial comments were accepted through Friday, September 17, 2010, and replies were accepted through Friday, October 15, 2010.

As part of the CN process, public notices were issued and EFP staff conducted a public scoping and information meeting in Jasper on July 27, 2010. A Scoping Decision was issued by the OES Director on August 20, 2010. Staff released an Environmental Report (ER) evaluating the human and environmental impacts of the proposed project on November 15, 2011. A public hearing for the CN was held by the Office of Administrative Hearings in Jasper on December 28, 2010.

### ***Site Permit Process***

A site permit from the Commission is required to construct an LWECS, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirements for LWECS are in Minn. Rule 7854. Prairie Rose Wind, LLC filed a site permit application for the wind farm with the Commission on May 13, 2010. The Commission issued a Draft Permit with its October 28, 2010, Order. A public meeting on the Draft Permit was held in conjunction with the CN public hearing on December 28, 2010.

### ***Request for Size Change***

On February 11, 2011, the Applicant requested a change in project size from 101 MW to 200 MW, siting "recent changes in market conditions and available turbine technology have created opportunities for Prairie Rose to expand its current project to up to 200 MW in the 2011-2012 timeframe."

The proposed change requires some alterations to the general project as described by Prairie Rose in its Site Permit and CN applications. The size change request addresses a number of these changes and the impact of the changes on the environmental analysis in the original applications.

## **EFP Staff Analysis**

The current Statute and Rule guiding the siting of LWECS doesn't offer clear guidelines on how to address a significant change in project size, in this case doubling the nameplate capacity of the Project, especially at this point in the review process.

### ***Certificate of Need Process***

The issues surrounding potential impacts of the size change request on the status of the CN review process are being addressed in separate comments by PUC staff. EFP Staff doesn't make comments on those issues except in relation to the Environmental Report prepared by EFP for the companion docket (CN-10-80). EFP has reviewed the ER and anticipates submitting an addendum, especially in respect to possible impacts on the review of alternatives due to the larger project size.

### ***Site Permit Process***

As noted, a Draft Site Permit had previously been issued in this docket. A comment period closed on January 28, 2011. However, the Commission has not yet moved to issue a Site Permit. As pointed out in Minn. Rule 7854.0800 subp. 2, the Commission may change, amend or modify the draft site permit in any respect before final issuance; or may even deny the site permit at a later date. In this it seems clear the Commission has authority to make these changes in the site permit. However, a change of this magnitude may not be fully anticipated under that rule. Therefore, rather than issuing an amended site permit, the Applicant and EFP staff request the Commission send out an amended draft site permit for further public comment.

**Public Notice.** Public participation in the LWECS site permitting process is guided by Minn. Rule 7854.0900. The Commission provides notice of the availability of the draft site permit. The notice includes:

- 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 rule requires a minimum of 30 days after publication of the notice of draft site permit availability in the *EQB Monitor* for any interested person to submit comments on the draft site permit. The first available date for publication would be April 4, 2011. Therefore, a public comment period would need to be held open at least through May 6, 2011.

**Public Meeting.** EFP anticipates all these notice ingredients are appropriate for notification of an amended draft site permit, except notice of a public information meeting. A 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. Secondly, 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 had opportunity to review the LWECS application and draft site permit. Thirdly, 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.

In this case, EFP has already held two public meetings in the area, an ER scoping meeting and a separate meeting, held in conjunction with the CN public hearing, to discuss the draft permit. At these meetings, EFP provided an overview of the Commission's role in the review and approval of LWECS and responded to individual questions and comments about the regulatory process. Likewise, members of the public were afforded an opportunity to offer comments on the application and draft site permit. A handful of comments were received at the former meeting and addressed in the ER and the draft site permit. Public comments at the latter meeting generally focused on the associated transmission facilities, which are being addressed in a separate docket.

Since the external project boundary has not been altered in the size change request, no new members of the public would experience an impact from the project that were not already noticed earlier as being within the project boundary. No individuals would be disadvantaged in their participation rights by not adding an additional meeting to the process. Additional comments from the public would of course be solicited on an amended draft permit.

**Contested Case Hearing.** As described in Minn. Rule 7854.0900 subp. 5, anyone may request a contested case hearing during the comment period on a draft site permit. The rule states, "The commission shall order a contested case hearing if the commission finds that the person requesting the contested case hearing has raised a material issue of fact and that holding a hearing would aid the PUC in making a final determination on the permit application." In the original draft permit comment period, no request for a contested case hearing was filed. No new "material issue of fact" is anticipated in the size change request. However, additional comments or concerns from the public could be forthcoming through the process..

### ***Agency Comments***

Staff does not anticipate agencies making additional comments, although they will have the opportunity to do so. Only Mn/DOT and DNR made comments on the original draft permit. The DNR earlier recommended a Tier III<sup>1</sup> survey based on the Tiers I and II reviews of the site and provided a recommended approach for surveys for upland sandpiper, short-eared owl and burrowing owls. The Applicant conducted and reported on that survey, finding no evidence of

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<sup>1</sup> The USFWS Wind Turbine Guidelines Advisory Committee recommendations to evaluate potential impacts to wildlife:

Tier I: Preliminary evaluation or screening of sites

Tier II: Site characterization

Tier III: Field studies to document site wildlife conditions and predict project impacts

the endangered species in the area. DNR and the Applicants have continued working on protocols for further surveys for burrowing owls. In an update letter, DNR states:

“Recent revisions to the Prairie Rose Wind Project include changing the project size from 101 megawatts to 200 megawatts. It appears that survey methods are designed in a manner that increases survey effort in proportion to this project size increase. All newly planned disturbance areas should be surveyed in the same manner and in addition to previously planned disturbance areas. The DNR will further review the project for other environmental effects possibly resulting from the increase in project size.” (Schrenzel, 3/11/11)

### ***Additional Issues***

EFP notes that the Applicant, in its updated preliminary turbine layouts, has located four (4) turbines closer than the required buffer distance from the southern project boundary in Section 9 of Springwater Township. The Applicant controls wind rights outside the boundary sufficient to provide the necessary buffer to avoid encroaching nonparticipating properties in this area. The draft permit has been amended to include a special condition to provide for this variance in Section 13.3.

The draft permit has also been amended to include updated information on the proposed and alternative step-up substation location. The information is noted in the project description and on the attached maps.

### **EFP Staff Comments**

EFP staff originally used the information in the site permit application, MNDNR, Mn/DOT and other comment letters, and experience with other LWECS projects as a guide for evaluating whether a draft site permit should be issued for the project or should be denied, pursuant to Minnesota Rules 7854.0800, Subpart 1. EFP Staff considered the available information was sufficient to make a preliminary determination that a site permit may be issued for the project, and the original Commission Order made that determination. Staff recommends that decision stand and no further decision need be made that a site permit may be issued.

EFP staff, as noted earlier, does not make a recommendation regarding the size change request being reviewed in the CN Process. EFP Staff comments address recommended actions should the Commission choose to proceed with review of an increased project size.

EFP staff has prepared an amended draft site permit identifying the permittee, the proposed LWECS and proposed permit conditions, and identifying the size change. The proposed amended draft site permit is attached to these Comments and Recommendations. Commission approval of the amended draft site permit would allow for distribution of the amended draft site permit and initiation of the public review process, which includes a notice and formal public comment period.

## **Commission Decision Options**

### **A. Approve an Amended Draft Site Permit for notice and public comment.**

1. Approve the proposed amended draft site permit for the Prairie Rose Wind Project for notice and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7854.0900.
2. Approve the proposed amended draft site permit for the Prairie Rose Wind Project for notice and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7854.0900, excluding the requirement to hold an additional public meeting.
3. Further amend or modify the proposed draft site permit for the Prairie Rose Wind Project for notice and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7854.0900.
4. Further amend or modify the proposed draft site permit for the Prairie Rose Wind Project for notice and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7854.0900, excluding the requirement to hold an additional public meeting.

### **B. If a final decision is not forthcoming in the CN docket regarding Commission acceptance of the proposed change in project size, suspend discussion on issuing a revised draft permit.**

### **C. Deny the request to amend the draft site permit.**

### **D. Make another decision deemed more appropriate.**

**EFP Staff Recommendation:** Staff recommends option **A2**.

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**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**LARGE WIND ENERGY CONVERSION SYSTEM  
SITE PERMIT FOR THE PRAIRIE ROSE WIND FARM**

**IN  
ROCK AND PIPESTONE COUNTIES MINNESOTA**

**ISSUED TO  
PRAIRIE ROSE WIND, LLC**

**PUC DOCKET NO. IP-6843/TL-10-425**

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

Prairie Rose Wind, LLC

Prairie Rose Wind, LLC is authorized to construct and operate up to a ~~101~~200 Megawatt Large Wind Energy Conversion System on the site identified in this site permit and in compliance with the conditions contained in this permit.

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

Approved and adopted this \_\_\_\_\_ day of [month] 2010

BY ORDER OF THE COMMISSION

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BURL W. HAAR  
Executive Secretary

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## SITE PERMIT

This Site Permit for a Large Wind Energy Conversion System (LWECS) authorizes Prairie Rose Wind Energy, LLC (Permittee) to construct and operate the Prairie Rose Wind Farm (Project), a ~~101-200~~ Megawatt (MW) nameplate capacity LWECS and associated facilities in Rock and Pipestone counties, on a site of approximately 35,335 acres in accordance with the conditions contained in this permit.

### SECTION 1 PROJECT DESCRIPTION

The up to ~~101-200~~ MW nameplate capacity LWECS Project authorized to be constructed in this permit will be developed and constructed by the Permittee. The Project will consist of ~~up to 67~~ from 110 to 124 turbines, the number dependent on final selection of the GE 1.6 MW (82.5 m Rotor Diameter) or the Vestas ~~V90-V100~~ 1.8 MW (~~90-100~~ Meter Rotor Diameter) turbine.

Associated facilities include access roads, electrical collection system, step-up substation, transmission line, O&M building, and meteorological towers and other weather data collection systems. Turbines are interconnected by communication and underground 34.5 kV electrical power collection facilities within the wind farm that will deliver wind-generated power to the collection substation. Power will ultimately be transported via a new 115 kV line to the Split Rock substation near Brandon, South Dakota.

### SECTION 2 DESIGNATED SITE

#### 2.1 PROJECT BOUNDARY

The Project boundary is shown on the maps at **Attachment 1**.

County	Township Name	Township	Range	Sections
Rock	Denver	104N	45W	2-10, 15-22, 27-34
Rock	Rose Dell	104N	46W	1-2, 11-16, 21-28, 33-36
Rock	Springwater	103N	46W	1-4, 9-12
Pipestone	Elmer	105N	45W	20, 29-34
Pipestone	Eden	105N	46W	36

#### 2.2 TURBINE LAYOUT

Preliminary wind turbine and associated facility layouts are shown on maps at Attachment 1. Each preliminary layout represents the approximate location of wind turbines and associated facilities (e.g., the setup substation will be located along County Road 7 in Rose Dell Township at one of the two locations indicated on the “Associated Facilities” maps in Attachment 1) within the Project boundary and identifies a layout that minimizes the overall potential human and environmental impacts, which were evaluated in the permitting process. The final layout depicting the location of each wind turbine and associated facility shall be located within the Project boundary. The Project boundary serves to provide the Permittee with the flexibility to do minor adjustments to the preliminary layout to accommodate landowner requests, unforeseen

conditions encountered during the detailed engineering and design process, and federal and state agency requirements. Any modification of the location of a wind turbine and associated facility to a preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 5.1. The Permittee shall submit the final site layout in the site plan pursuant to Section 5.1.

### **SECTION 3 APPLICATION COMPLIANCE**

The Permittee shall comply with those practices set forth in its Site Permit Application, dated May 2010, and the record of this proceeding unless this Permit establishes a different requirement in which case this Permit shall prevail.

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

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

Wind turbine towers shall not be placed less than five (5) rotor diameters (RD) on the prevailing wind directions and three (3) RD on the non-prevailing wind directions from the perimeter of the lands where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

#### **4.2 RESIDENCES**

Wind turbine towers shall not be located closer than 1,000 feet from all residences or the distance required to comply with the noise standards pursuant to Minnesota Rule 7030.0040 established by the Minnesota Pollution Control Agency (PCA), whichever is greater.

#### **4.3 NOISE**

The wind turbine towers shall be placed such that the Permittee shall comply with noise standards established as of the date of this permit by the PCA at all times at all appropriate locations. The noise standards are found in Minnesota Rules chapter 7030. Turbine operation shall be modified or turbines shall be removed from service if necessary to comply with these noise standards. The Permittee or its contractor may install and operate turbines, as close as the minimum setback required in this permit, but in all cases shall comply with 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.

#### **4.4 ROADS**

Wind turbine and meteorological towers shall not be located closer than 250 feet from the edge of the nearest public road right-of-way.

#### **4.5 PUBLIC LANDS**

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in public lands, including Waterfowl Production Areas, Wildlife Management Areas, Scientific and Natural Areas, or in county parks and wind turbine towers shall also comply with the setbacks of Section 4.1.

#### **4.6 WETLANDS**

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be placed in public waters wetlands, as defined in Minnesota Statutes section 103G.005, subdivision 15a, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE).

#### **4.7 NATIVE PRAIRIE**

Wind turbines and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers, shall not be placed in native prairie, as defined in Minnesota Statutes section 84.02, subdivision 5, unless addressed in a prairie protection and management plan. The Permittee shall, with the guidance of the Commission and DNR prepare a prairie protection and management plan and submit it to the Commission and DNR Commissioner at least ten (10) working days prior to the pre-construction meeting if native prairie could be impacted. The plan shall address steps to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee and Commission. Wind turbines and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers shall not be located in areas enrolled in the Native Bank Program.

#### **4.8 SAND AND GRAVEL OPERATIONS**

Wind turbines and all associated facilities, including foundations, access roads, underground cable, and transformers shall not be located within active sand and gravel operations, unless otherwise negotiated with the landowner with notice given to the owner of the sand and gravel operation.

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

Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to 80 meters (262.5 feet) above grade measured at the hub.

#### **4.10 TURBINE SPACING**

The turbine towers shall be constructed within the site boundary as shown in Attachment 1. The turbine towers shall be spaced no closer than three (3) RD in the non-prevailing wind directions and five (5) RD on the prevailing wind directions. If required during final micro-siting of the

turbine towers to account for topographic conditions, up to 20 percent of the towers may be sited closer than the above spacing but the Permittee shall minimize the need to site the turbine towers closer.

#### **4.11 METEOROLOGICAL TOWERS**

Permanent towers for meteorological equipment shall be free standing. Permanent meteorological towers shall not be placed less than 250 feet from the edge of the nearest public road right-of-way and from the boundary of the Permittee's site control, or in compliance with the county ordinance regulating meteorological towers in the county the tower is built, whichever is more restrictive. Meteorological towers shall be placed on property the Permittee holds the wind or other development rights.

Meteorological towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the meteorological towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

#### **4.12 AVIATION**

The Permittee shall not place wind turbines or associated facilities in a location that could create an obstruction to navigable airspace of public and private airports (as defined in Minnesota Rule 8800.0100, subparts 24a and 24b) in Minnesota, adjacent states, or providences. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minnesota Rule 8800.1900, subpart 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (DOT), Department of Aviation, and FAA. The Permittee shall notify owners of all known airports within six (6) miles of the Project prior to construction.

#### **4.13 FOOTPRINT MINIMIZATION**

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

#### **4.14 COMMUNICATION CABLES**

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

#### **4.15 ELECTRICAL COLLECTOR AND FEEDER LINES**

Collector lines that carry electrical power from each individual transformer associated with a wind turbine to an internal project interconnection point shall be buried underground. Collector lines shall be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner(s).

Feeder lines that carry power from an internal project interconnection point to the Project substation or interconnection point on the electrical grid may be overhead or underground. Feeder line locations shall be negotiated with the affected landowner(s).

Any overhead feeder lines that parallel public roads shall be placed within the public rights-of-way or on private land immediately adjacent to public roads. Overhead feeder lines located within public rights-of-way shall obtain approval from the governmental unit responsible for the affected right-of-way.

Collector and feeder line locations shall be located in such a manner to minimize interference with agricultural operations, including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines in the site plan pursuant to Section 5.1.

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

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

The following administrative compliance procedures shall be executed in accordance with the Permit Compliance Filings at Attachments 3 and 4.

#### **5.1 SITE PLAN**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall submit to the Commission 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 Project if the Permittee intends to commence construction on certain parts of the Project before completing the site plan and engineering drawings for other parts of the Project. The Permittee shall document, through GIS mapping, compliance with the setbacks and site layout

restrictions required by this permit, including compliance with the noise standards pursuant to Minnesota Rules chapter 7030. In the event that previously unidentified environmental conditions are discovered during construction, 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 site. The Permittee shall notify the Commission of any turbines that are to be relocated before the turbine is constructed on the new site and demonstrate compliance with the setbacks and site layout restrictions required by this permit.

## **5.2 NOTICE TO LOCAL RESIDENTS**

Within ten (10) working days of approval of this permit, the Permittee shall 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, within ten (10) working days of permit approval, 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 thirty (30) days of approval of this permit, the Permittee shall send a copy of the permit to each landowner within the Project boundary. In no case shall the landowner receive this site permit and complaint procedure less than five (5) days prior to the start of construction on their property.

## **5.3 NOTICE OF PERMIT CONDITIONS**

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

## **5.4 FIELD REPRESENTATIVE**

At least ten (10) working days prior to the pre-construction meeting and continuously throughout construction, including site restoration, the Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during the construction phase of this Project. This person (or a designee) shall be accessible by telephone during normal working hours. This person's address, phone number, and emergency phone number shall be provided to the Commission, which may make the number available to local residents and officials and other interested persons. The Permittee may change the field representative by notification to the Commission.

## **5.5 SITE MANAGER**

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this permit during the commercial operation and decommissioning phases of this Project. The Permittee shall provide the Commission with the name, address, and phone number, and emergency phone number of the site manager prior to placing any turbine into commercial operation. This information shall be maintained current by informing the Commission of any changes, as they become effective.

## **5.6 PRE-CONSTRUCTION MEETING**

Prior to the start of any construction, the Permittee shall conduct a pre-construction meeting with the Field Representative and the State Permit Manager designated by the Commission to coordinate field monitoring of construction activities.

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

At least ten (10) working days prior to commercial operation, the Permittee shall conduct a pre-operation compliance meeting with the Site Manager and the State Permit Manager designated by the Commission to coordinate field monitoring of operation activities.

## **5.8 COMPLAINTS**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall submit to the Commission the company's procedures to be used to receive and respond to complaints. The Permittee shall report to the Commission all complaints received concerning any part of the Project in accordance with the procedures provided in Attachments 2 and 3 of this permit.

# **SECTION 6 SURVEYS AND REPORTING**

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

The Permittee, in consultation with DNR and other interested parties, shall conduct pre-construction desktop and field inventories of potentially impacted, if any, native prairies, wetlands, and any other biologically sensitive areas within the site and assess the presence of state threatened, endangered, or species of special concern or federally listed species. The results of any surveys shall be submitted to the Commission and DNR at least ten (10) working days prior to the pre-construction meeting to confirm compliance of conditions in this permit.

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

## **6.2 SHADOW FLICKER**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall provide data on shadow flicker impacts on each residence of non-participating landowners and participating landowners. Information shall include the results of modeling used, assumptions made, and the anticipated levels of impact from turbine shadow flicker on each residence. The Permittee shall provide documentation on its efforts to minimize shadow flicker impacts.

## **6.3 ARCHAEOLOGICAL RESOURCES**

The Permittee shall work with the State Historic Preservation Office (SHPO) and the State Archaeologist. The Permittee shall carry out a Phase 1 or 1A Archaeology survey for all proposed turbine locations, access roads, junction boxes, and other areas of Project construction impact to determine whether additional archaeological work is necessary for any part of the

proposed Project. The Permittee shall contract with a qualified archaeologist to complete such surveys, and shall submit the results to the Commission, the SHPO, and the State Archaeologist at least ten (10) working days prior to the pre-construction meeting.

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

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

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

Prior to construction, construction workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If any archaeological sites are found during construction, the Permittee shall immediately stop work at the site and shall mark and preserve the site and notify the Commission and the SHPO about the discovery. The Commission and the SHPO shall have three (3) working days from the time the agency is notified to conduct an inspection of the site if either agency chooses to do so. On the fourth day after notification, the Permittee may begin work on the site unless the SHPO has directed that work shall cease. In such event, work shall not continue until the SHPO determines that construction can proceed.

#### **6.4 INTERFERENCE**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall submit a plan to the Commission for conducting an assessment of television signal reception and microwave signal patterns in the Project area. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television 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 Project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission regulations or other law. In the event the Project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

## **6.5 WAKE LOSS STUDIES**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall provide to the Commission the pre-construction micro-siting analysis leading to the final tower locations and an estimate of total Project wake losses. The Permittee shall provide to the Commission any operational wake loss studies conducted on this Project.

## **6.6 NOISE**

The Permittee shall submit a proposal to the Commission at least ten (10) working days prior to the pre-operation compliance meeting for the conduct of a post-construction noise study. Upon the approval of the Commission, the Permittee shall carryout the study. The study shall be designed to determine the operating LWECs noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds. The Permittee shall submit the study within eighteen (18) months after commercial operation.

## **6.7 AVIAN AND BAT PROTECTION PLAN**

The Permittee shall prepare an Avian and Bat Protection Plan and submit it to the Commission at least ten (10) working days prior to the pre-construction meeting. The plan shall address steps to be taken to identify and mitigate impacts to avian and bat species during the construction phase and the operation phase of the Project. The plan shall also include formal and informal monitoring, training, wildlife handling, documentation (e.g., photographs), and reporting protocols for each phase of the Project.

The Permittee shall submit quarterly avian and bat reports to the Commission. Quarterly reports are due by the 15<sup>th</sup> of each January, April, July, and October commencing the day following commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian and bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols.

In the event that five or more dead or injured non-protected avian or bat species or a single dead or injured migratory, state threatened, endangered, species of special concern, or federally listed species are discovered in the vicinity of the rotor swept area, the Commission, United States Fish and Wildlife Services (USFWS), and DNR shall be notified within twenty-four (24) hours.

## **6.8 PROJECT ENERGY PRODUCTION**

The Permittee shall submit a report no later than February 1<sup>st</sup> following each complete year of Project operation. The report shall include:

- (a) The rated nameplate capacity of the permitted Project;

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

This information shall be considered public and must be submitted electronically.

## **6.9 WIND RESOURCE USE**

The Permittee shall upon the request of the Commission report to the Commission on the monthly energy production of the Project and the average monthly wind speed collected at one permanent meteorological tower selected by the Commission during the preceding year or partial year of operation.

The provisions of Section 11.7 shall apply to the Commission's review of data provided pursuant to this section.

## **6.10 EXTRAORDINARY EVENTS**

Within twenty-four (24) hours of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to: fires, tower collapse, thrown blade, collector or feeder line failure, and injured LWECS worker or private person. The Permittee shall, within thirty (30) days of the occurrence, submit a report to the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

# **SECTION 7 CONSTRUCTION AND OPERATION PRACTICES**

## **7.1 SITE CLEARANCE**

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

## **7.2 TOPSOIL PROTECTION**

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

### **7.3 SOIL COMPACTION**

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the Project's life and shall confine compaction to as small an area as practicable.

### **7.4 LIVESTOCK PROTECTION**

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

### **7.5 FENCES**

The Permittee shall promptly replace or repair all fences and gates removed or damaged during all phases of the Project's life unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

### **7.6 DRAINAGE TILES**

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

### **7.7 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 as defined in Sections 4.6 and 4.7.

### **7.8 ROADS**

#### **7.8.1 PUBLIC ROADS**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall identify all state, county, or township roads that will be used for the Project and shall notify the Commission and the state, county, or township governing body having jurisdiction over the roads to determine if the governmental body needs to inspect the roads prior to use of these roads. Where practical, existing roadways shall be used for all activities associated with the Project. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assembled nacelles, and all other heavy components to and from the turbine sites.

The Permittee shall, prior to the use of such roads, make satisfactory arrangements with the appropriate state, county, or township governmental body having jurisdiction over roads to be used for construction of the Project for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and Project components. The Permittee shall notify the Commission of such arrangements upon request of the Commission.

## 7.8.2 TURBINE ACCESS ROADS

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

## 7.8.3 PRIVATE ROADS

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

## 7.9 CLEANUP

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

## 7.10 TREE REMOVAL

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

## 7.11 SOIL EROSION AND SEDIMENT CONTROL

The Permittee shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the Plan to the Commission at least ten (10) working days prior to the pre-construction meeting. This Plan may be the same as the Storm Water Pollution Prevention Plan (SWPPP) submitted to the PCA as part of the National Pollutant Discharge Elimination System (NPDES) permit application.

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

sedimentation control measures shall be implemented prior to construction and maintained throughout the Project's life.

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

## **7.12 RESTORATION**

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

## **7.13 HAZARDOUS WASTE**

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

## **7.14 APPLICATION OF HERBICIDES**

The Permittee shall restrict herbicide use to those herbicides and methods of application approved by the Minnesota Department of Agriculture and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. The Permittee shall contact the landowner or his designee to obtain approval for the use of herbicide prior to any application on their property. The landowner may request that there be no application of herbicides on any part of the site within the landowner's property. All herbicides shall be applied in a safe and cautious manner so as to not damage property, including crops, orchards, tree farms, or gardens. The Permittee shall also, at least ten (10) working days prior to the application, notify beekeepers with an active apiary within one mile of the proposed application site of the day the company intends to apply herbicide so that precautionary measures may be taken by the beekeeper.

## **7.15 PUBLIC SAFETY**

The Permittee shall provide educational materials to landowners within the site boundary and, upon request, to interested persons, about the Project and any restrictions or dangers associated with the Project. The Permittee shall also provide any necessary safety measures, such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minnesota Statutes section 216D.01, subdivision 11, to Gopher State One Call.

## **7.16 EMERGENCY RESPONSE**

The Permittee shall prepare an emergency response plan (fire protection and medical emergency plan) in consultation with the emergency responders having jurisdiction over the area prior to LWECS construction. The Permittee shall submit a copy of the plan to the Commission at least ten (10) working days prior to the pre-construction meeting and a revised plan, if any, at least ten (10) working days prior to the pre-operation compliance meeting. The Permittee shall also register the LWECS with the local governments' emergency 911 services.

## **7.17 TOWER IDENTIFICATION**

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

## **7.18 FEDERAL AVIATION ADMINISTRATION LIGHTING**

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

# **SECTION 8 FINAL CONSTRUCTION**

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

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

## **8.2 FINAL BOUNDARIES**

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

## **8.3 EXPANSION OF SITE BOUNDARIES**

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

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

### **9.1 DECOMMISSIONING PLAN**

At least ten (10) working days prior to the pre-operation compliance meeting, the Permittee shall submit to the Commission a Decommissioning Plan documenting the manner in which the Permittee anticipates decommissioning the Project in accordance with the requirements of Minnesota Rules 7854.0500, subpart 13. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the Project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

### **9.2 SITE RESTORATION**

Upon expiration of this permit, or upon earlier termination of operation of the Project, or any turbine within the Project, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment to a depth of four feet. To the extent feasible, the Permittee shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner(s) requesting that one or more roads, or portions thereof, be retained. Any agreement for removal 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 Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months after expiration.

### **9.3 ABANDONED TURBINES**

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

## **SECTION 10 AUTHORITY TO CONSTRUCT LWECS**

### **10.1 WIND RIGHTS**

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall demonstrate that it has obtained the wind rights and any other rights necessary to construct and operate the Project within the boundaries of the LWECS authorized by this permit.

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

## **10.2 POWER PURCHASE AGREEMENT**

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 Commission of the reason for not having such power purchase agreement or enforceable mechanism. In such event, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

## **10.3 FAILURE TO COMMENCE CONSTRUCTION**

If the Permittee has not completed the pre-construction surveys required under Section 5 and commenced construction of the LWECS within two years of the issuance of this permit, the Permittee must advise the Commission of the reason construction has not commenced. In such event, the Commission shall make a determination as whether this permit should be amended or revoked. No revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

## **10.4 PREEMPTION OF OTHER LAWS**

Pursuant to Minnesota Statutes section 216F.07, this site permit shall be the only site approval required for the location of this Project, and this permit shall supersede and preempt all zoning, building, and land use rules, regulations, and ordinances adopted by regional, county, local, and special purpose governments. Nothing in this permit shall release the Permittee from any obligation imposed by law that is not superseded or preempted by law.

## **10.5 OTHER PERMITS**

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

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

The Permittee shall comply with all terms and conditions of permits or licenses issued by Federal, State, or Tribal authorities including, but not limited to, the requirements of the PCA (Section 401 Water Quality Certification, National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) stormwater permit for construction activity, and other site specific discharge approvals), DNR (License to Cross Public Lands and Water, Public Water Works Permit, and state protected species consultation), SHPO (Section 106 Historic

Consultation Act), FAA determinations, and DOT (Utility Access Permit, Highway Access Permit, Oversize and Overweight Permit, and Aeronautics Airspace Obstruction Permit).

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

The Permittee shall comply with all terms and conditions of permits or licenses issued by the counties, cities, and municipalities affected by the Project that do not conflict or are not pre-empted by federal or state permits and regulations.

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

#### **11.1 PERIODIC REVIEW**

The Commission shall initiate a review of this permit and the applicable conditions at least once every five (5) years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this permit. No modification may be made except in accordance with applicable statutes and rules.

#### **11.2 MODIFICATION OF CONDITIONS**

After notice and opportunity for hearing, this permit may be modified or amended for cause including but not limited to the following:

- (a) Violation of any condition in this permit;
- (b) Endangerment of human health or the environment by operation of the facility; or
- (c) Existence of other grounds established by rule.

#### **11.3 REVOCATION OR SUSPENSION OF PERMIT**

The Commission may take action to suspend or revoke this permit upon the grounds that:

- (a) A false statement was knowingly made in the application or in accompanying statements or studies required of the Permittee, and a true statement would have warranted a change in the Commission's findings;
- (b) There has been a failure to comply with material conditions of this permit, or there has been a failure to maintain health and safety standards; or
- (c) There has been a material violation of a provision of an applicable statute, rule, or an order of the Commission.

In the event the Commission determines that it is appropriate to consider revocation or suspension of this permit, the Commission shall proceed in accordance with the requirements of Minnesota Rule 7854.1300 to determine the appropriate action. Upon a finding of any of the above, the Commission may require the Permittee to undertake corrective measures in lieu of having this permit suspended or revoked.

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

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

#### **11.5 TRANSFER OF PERMIT**

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

#### **11.6 RIGHT OF ENTRY**

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

- (a) To enter upon the facilities easement of the site property for the purpose of obtaining information, examining records, and conducting surveys or investigations;
- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations;
- (c) To sample and monitor upon the facilities easement of the property; and
- (d) To examine and copy any documents pertaining to compliance with the conditions of this permit.

#### **11.7 PROPRIETARY INFORMATION**

Certain information required to be submitted to the Commission 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 by the Commission. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

**SECTION 12  
EXPIRATION DATE**

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

**SECTION 13  
SPECIAL CONDITIONS**

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

**13.1 NATIVE PRAIRIE AND ROCK OUTCROPPINGS**

The Permittee shall avoid all native prairie and rock outcroppings by siting project infrastructure in upland cropped areas, and in particular shall avoid all “Sites of Biodiversity Significance” ranked “Outstanding,” “High,” or “Medium”, and to the extent practicable, sites ranked as “Low” or “Below”.

**13.2 ENDANGERED SPECIES**

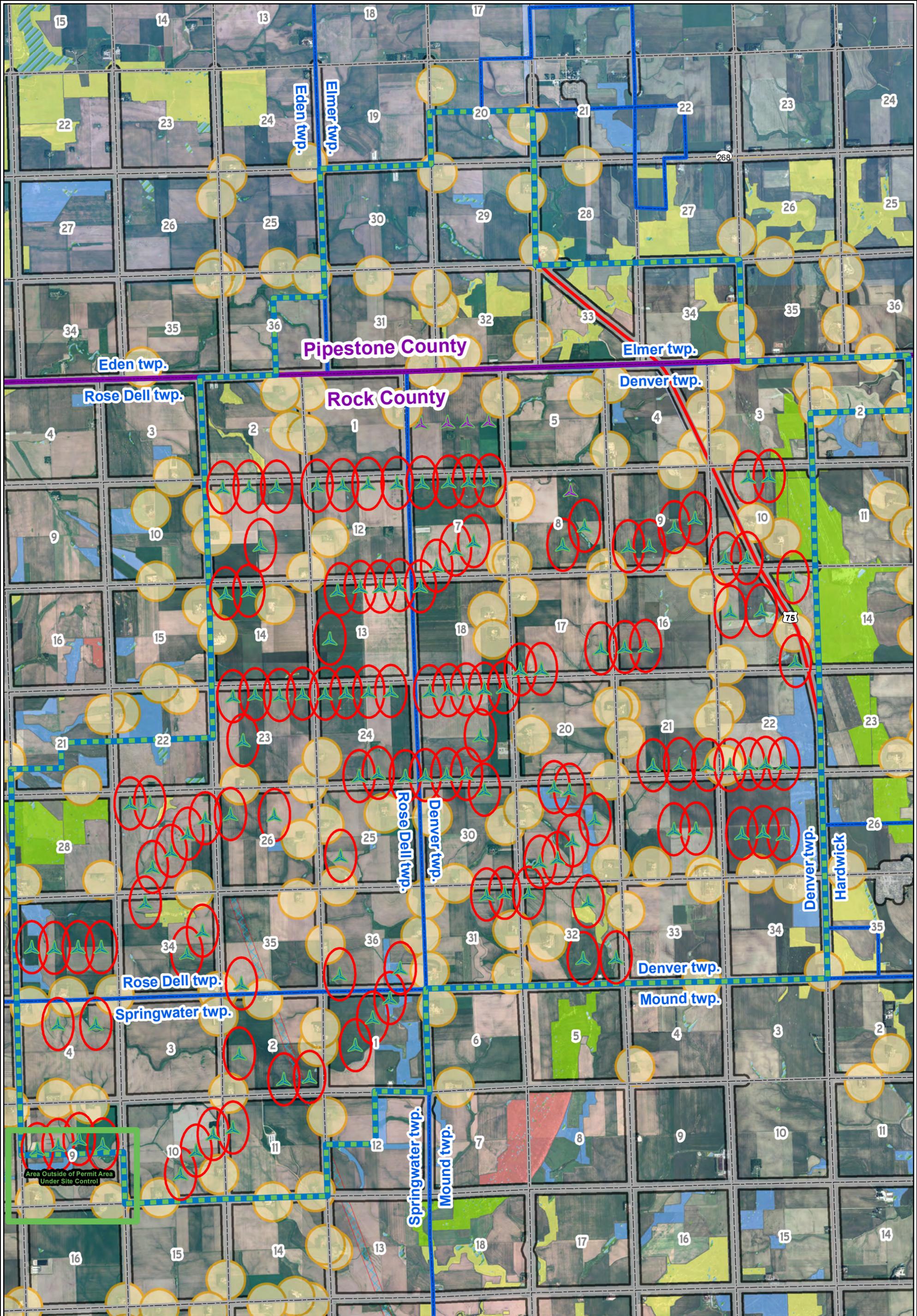
The Permittee shall follow the fact sheets of recommendations for avoiding and minimizing impacts for Blanding’s turtles and Topeka shiners. The summary of recommendations for avoiding and minimizing impacts to these populations, including the attached colored photocopies of the Blanding’s turtles, shall be made available to all contractors and its employees. Attachment 5 contains the fact sheets recommendations.

**13.3 CONTROLLED BUFFER AREA OUTSIDE PROJECT BOUNDARY**

The Permittee is allowed to use area under its control outside the project boundary in Section 9 of Springwater Township as Wind Access Buffer for the location of five (5) turbines along the southern project boundary in that section.

**ATTACHMENT 1: SITE PERMIT MAPS**

DRAFT



**PRAIRIE ROSE WIND FARM**  
**200MW PRELIMINARY TURBINE LOCATIONS**  
**GE - 82.5 METER RD - 1.6MW**

**Map Date:**  
 3/1/2011  
 0 0.25 0.5  
 Miles

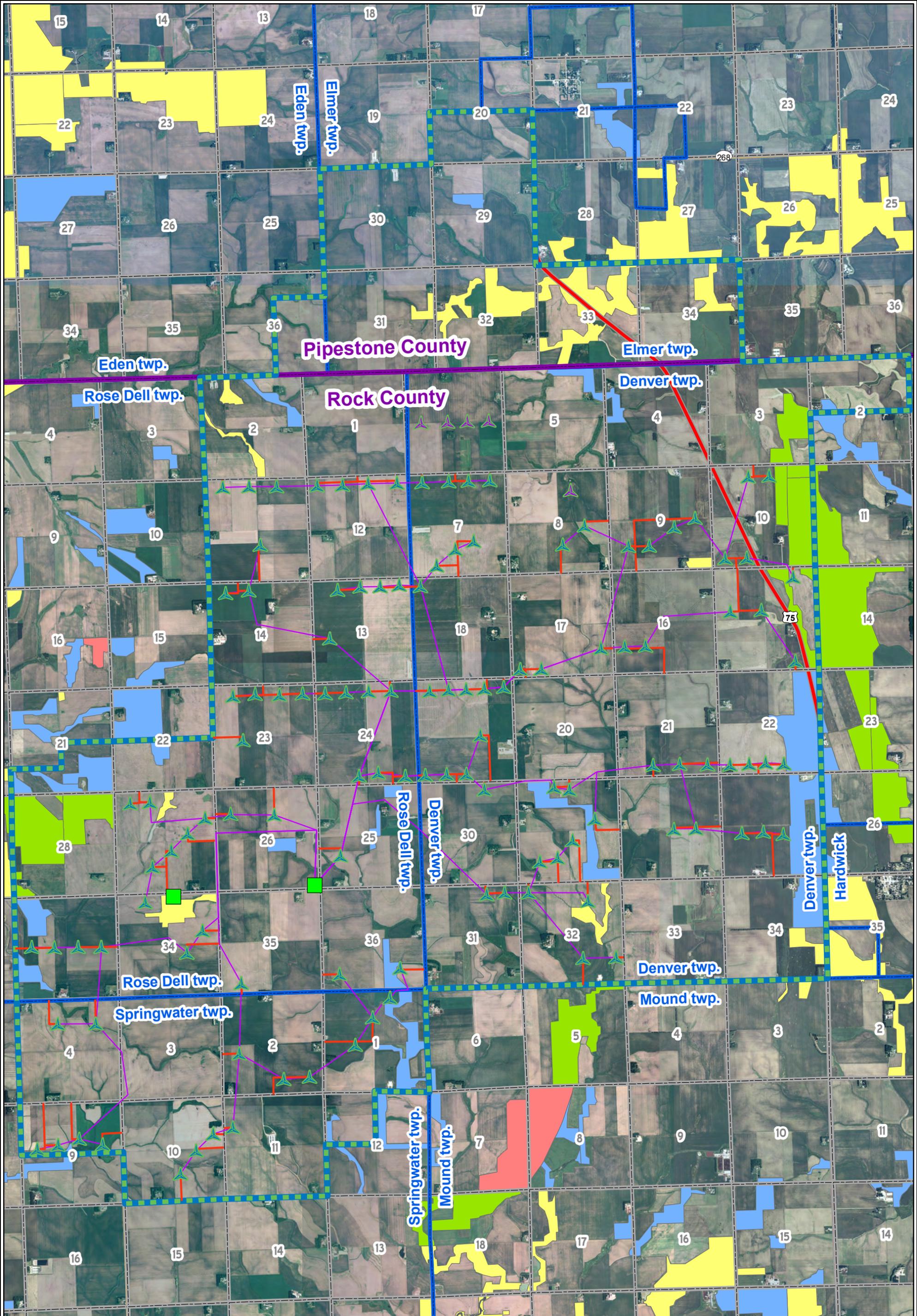
- Proposed Turbine Locations
- Proposed Alternative Turbine Locations
- Project Boundary
- Section Lines
- Municipal Civil Divisions
- County Boundaries

**CONSTRAINTS LEGEND**

- Wind Access Buffer
- Home Setback (1000ft)
- Road Setback (250ft)
- Microwave Beam Path
- Wetlands
- Existing Transmission Setback (330ft)

**MCBS Sites of Biodiversity Significance**

- Outstanding
- High
- Moderate
- Below



**PRAIRIE ROSE WIND FARM**  
**ASSOCIATED FACILITIES VS. MCBS**  
**GE - 82.5 METER RD - 1.6MW**

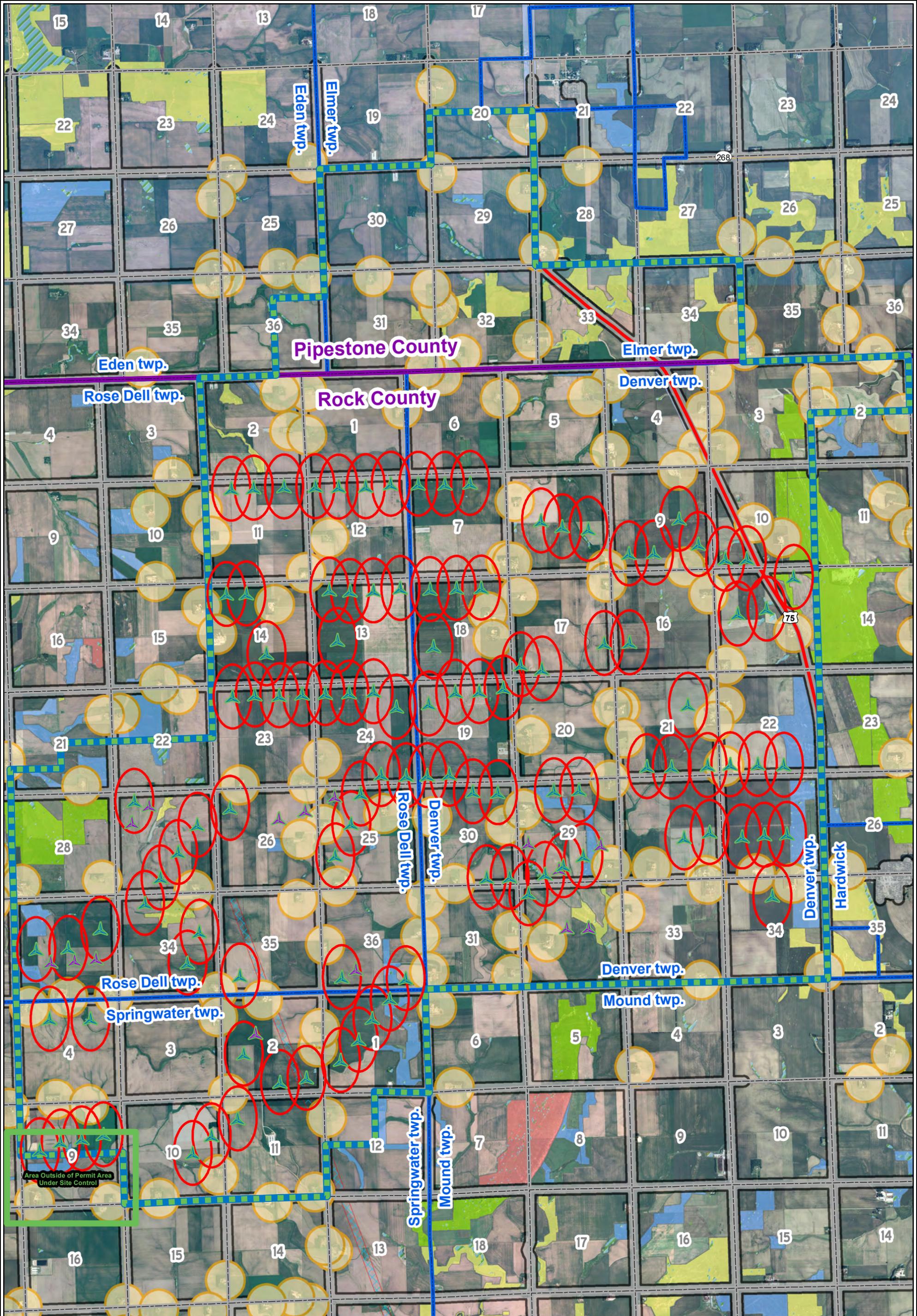


**MCBS Sites of Biodiversity Significance**

- Outstanding
- High
- Moderate
- Below

**Map Date:**  
3/1/2011

0 0.25 0.5  
Miles



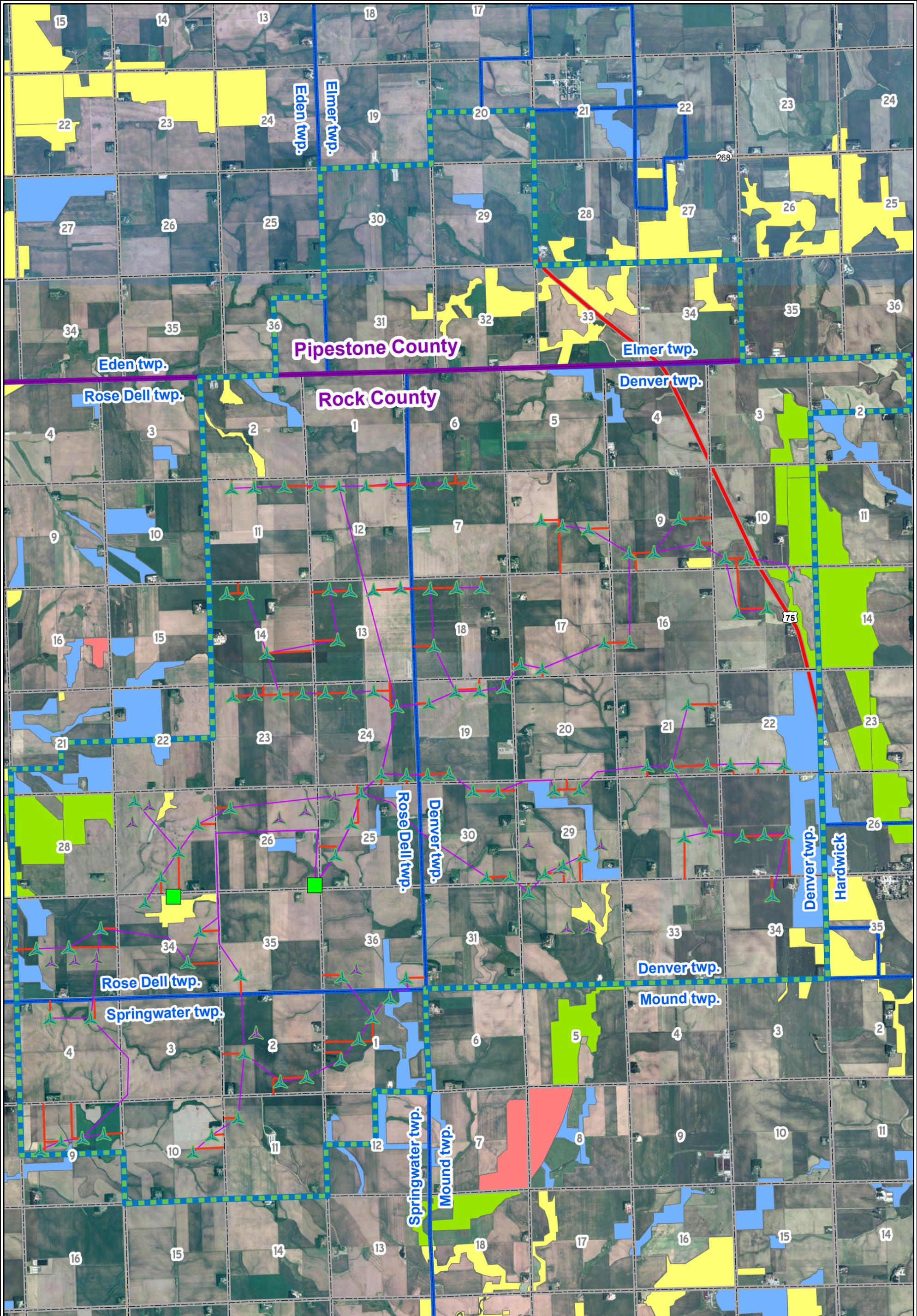
**PRAIRIE ROSE WIND FARM**  
**200MW PRELIMINARY TURBINE LOCATIONS**  
**VESTAS V100 - 100 METER RD - 1.8 MW**

**Map Date:**  
 3/1/2011  
 0 0.25 0.5  
 Miles

**CONSTRAINTS LEGEND**

- Wind Access Buffer
- Home Setback (1000ft)
- Road Setback (250ft)
- Microwave Beam Path
- Wetlands
- Existing Transmission Setback (330ft)
- MCBS Sites of Biodiversity Significance
- Outstanding
- High
- Moderate
- Below

Proposed Turbine Locations  
 Proposed Alternative Turbine Locations  
 Project Boundary  
 Section Lines  
 Municipal Civil Divisions  
 County Boundaries



**PRAIRIE ROSE WIND FARM**  
**ASSOCIATED FACILITIES VS. MCBS**  
**VESTAS V100 - 100 METER RD - 1.8MW**

**MCBS Sites of Biodiversity Significance**

- Outstanding
- High
- Moderate
- Below

**Map Date:**  
3/1/2011

0 0.25 0.5  
Miles



▲ Proposed Turbine Locations  
 ▲ Proposed Alternative Turbine Locations  
 ■ Proposed Substation Alternatives  
 — Access Roads  
 — Collector  
   Project Boundary  
   Section Lines  
   Municipal Civil Divisions  
   County Boundaries

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

**A. Purpose:**

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

**B. Scope:**

This document describes Complaint reporting procedures and frequency.

**C. Applicability:**

The procedures shall be used for all complaints received by the Permittee and all complaints received by the Commission under Minn. Rule 7829.1500 or 7829.1700 relevant to this Permit.

**D. Definitions:**

Complaint: A verbal or written statement presented to the Permittee by a person expressing dissatisfaction or concern regarding site preparation, cleanup or restoration or other LWECs and associated facilities site permit conditions. Complaints do not include requests, inquiries, questions, or general comments.

Substantial Complaint: A written Complaint alleging a violation of a specific Site Permit condition that, if substantiated, could result in Permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A Complaint which, despite the good faith efforts of the permittee and a person(s), remains to both or one of the parties unresolved or unsatisfactorily resolved.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

**E. Complaint Documentation and Processing:**

1. The Permittee shall document all Complaints by maintaining a record of all applicable information concerning the Complaint, including the following:

- a. Name of complainant, address, phone number, and e-mail address.
  - b. Precise property description or parcel number.
  - c. Name of Permittee representative receiving Complaint and date of receipt.
  - d. Nature of Complaint and the applicable Site Permit conditions(s).
  - e. Activities undertaken to resolve the Complaint.
  - f. Final disposition of the Complaint.
2. The Permittee shall designate an individual to summarize complaints for the Commission. This person's name, phone number and e-mail address shall accompany all complaint submittals.
  3. A Person presenting the Complaint should to the extent possible, include the following information in their communications:
    - a. Name, address, phone number, and e-mail address.
    - b. Date
    - c. Tract or parcel
    - d. Whether the complaint relates to (1) a Site Permit matter, (2) an LW ECS and associated facility issue, or (3) a compliance issue.

**F. Reporting Requirements:**

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

**Immediate Reports:** All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to Wind Permit Compliance, 1-800-657-3794, or by e-mail to: [DOC.energypermitcompliance@state.mn.us](mailto:DOC.energypermitcompliance@state.mn.us), or. 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 Filed to Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, using the Minnesota Department of Commerce eDocket system (see eFiling instructions attached to this permit).

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

**G. Complaints Received by the Commission or OES:**

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

**H. Commission Process for Unresolved Complaints:**

**Initial Screening:** Commission staff shall perform an initial evaluation of unresolved Complaints submitted to the Commission. Complaints raising substantial LWECS Site Permit issues shall be processed and resolved by the Commission. Staff shall notify Permittee and appropriate person(s) if it determines that the Complaint is a Substantial Complaint. With respect to such Complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the Staff notification. Staff shall present Briefing Papers to the Commission, which shall resolve the Complaint within twenty days of submission of the Briefing Papers.

**I. Permittee Contacts for Complaints:**

**Mailing Address:** Complaints filed by mail shall be sent to one of the addresses below:

Patrick Smith  
Director of Environmental Planning  
7650 Edinborough Way, Suite 725  
Edina, MN 55435

**Tel:** 952-988-9000

**email:** Patrick@geronimowind.com

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

**1. Purpose**

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

**2. Scope and Applicability**

This procedure encompasses all compliance filings required by permit.

**3. Definitions**

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

**4. Responsibilities**

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

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

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

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

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

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

**PERMITTEE:** Prairie Rose Wind Farm, LLC  
**PERMIT TYPE:** LWECS Site Permit  
**PROJECT LOCATION:** Rock County and Pipestone County  
**COMMISSION DOCKET NUMBER:** IP-6843/WS-10-425

**PRE-CONSTRUCTION MEETING**

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

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

**PRE-CONSTRUCTION MEETING (Cont.)**

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

**PRE-OPERATION COMPLIANCE MEETING**

<b>Filing Number</b>	<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>
<b>15</b>	5.7	Pre-operation compliance meeting	Ten working days prior to commercial operation	
<b>16</b>	6.6	Noise Study Protocol	Ten working days prior to pre-operation meeting	
<b>17</b>	9.1 & 9.3	Decommissioning Plan	Ten working days prior to commercial operation	

**OTHER REQUIREMENTS**

<b>Filing Number</b>	<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>
<b>18</b>	5.2	Notice to Landowners and Governmental Units	Within 10 working days of permit approval	
<b>19</b>	5.5	Site Manager	Ten working days prior to prior to commercial operation	
<b>20</b>	6.6	Noise Study Results	Within 18 months of Commercial Operation, if required	
<b>21</b>	6.7	Avian and Bat Reporting Requirements	Quarterly Requirements	
<b>22</b>	6.8	Project Energy Production	Due 2/1 each year or quarterly	
<b>23</b>	6.9	Wind Resource Use	Upon request of the Commission	
<b>24</b>	6.10	Extraordinary Events	Within 24 hours and report on occurrence of event within 30 days	
<b>25</b>	8.1	As Builts	Within 60 days of completion of construction	
<b>26</b>	10.3	Failure to Start Construction	Within 2 years of permit issuance	

# ATTACHMENT 5

## Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners (*Notropis topeka*) in Minnesota

U.S. Fish and Wildlife Service  
Twin Cities Field Office  
(612) 725-3548

### **Background**

Topeka shiner (*Notropis topeka*) occurs throughout the Big Sioux and Rock River Watersheds in five counties in southwestern Minnesota (Figure 1). The U.S. Fish and Wildlife Service (Service) listed Topeka shiner as an endangered species in 1998 and designated critical habitat<sup>1</sup> for it in 2004. The Endangered Species Act (ESA) prohibits the taking<sup>3</sup> of this species.

### **Endangered Species Act Requirements for Actions in Topeka Shiner Habitat**

#### Federal Agency Actions

Federal agencies or their designated non-federal representatives must consult with the Service on any action that they fund, authorize, or carry out that may affect Topeka shiner or its critical habitat. If an agency proposes to implement an action that is likely to result in adverse effects to Topeka shiner, it must undergo formal consultation with the Service. If the agency determines that an action may affect Topeka shiners, but that those effects are not likely to be adverse, it may avoid formal consultation by receiving written concurrence on this determination from the Service.

#### Private or Local (Non-federal) Actions

Private landowners, corporations, state or local governments, and other non-federal entities or individuals who wish to conduct activities that might incidentally harm (or "take") Topeka shiners must first obtain an incidental take permit from the U.S. Fish and Wildlife Service (Service). To determine whether an action may require an incidental take permit, coordinate with the Service when planning actions that may affect streams or off-channel habitats in the Rock River or Big Sioux River watersheds in Minnesota. Contact the Service's Twin Cities Field Office (612/725-3548) for further information or see the following website for information regarding Endangered Species permits -- <http://endangered.fws.gov/permits/index.html?#forms>.

### **Project Recommendations**

The following recommendations are provided to help design actions that would avoid or minimize adverse effects to Topeka shiner. These recommendations may not address every way in which proposed actions may affect this species and may not preclude the need for formal consultation for federal actions or for an incidental take permit for non-federal actions. Therefore, we highly recommend that you coordinate early in the planning process with the Service's Twin Cities Field Office (612/725-3548) when contemplating any action that may affect streams or associated off-channel habitats (oxbows, abandoned channels, etc.) in the Big Sioux River or Rock River watersheds in Minnesota (Fig. 1).

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<sup>2</sup> See 69 Federal Register 44,736 (July 27, 2004) or <http://www.fws.gov/midwest/endangered/fishes/index.html> for further information about Topeka shiner critical habitat. 1 Revised 5/12/2005 USFWS Ecological Services

<sup>3</sup> The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

1. Ensure that contractors and subcontractors understand all permit provisions that are necessary to avoid or minimize adverse effects to Topeka shiners.
2. Do not dewater stream reaches or temporarily divert streams for construction.
3. Do not conduct in-stream work before August 15 to avoid disrupting Topeka shiner spawning.
4. Follow all applicable requirements and best management practices for stormwater and erosion control – for example, requirements contained within stormwater permits from Minnesota Pollution Control Agency (MPCA). Useful resources for designing effective stormwater and erosion control include the MPCA Stormwater Best Management Practices Manual (see <http://www.pca.state.mn.us/water/pubs/sw-bmpmanual.html>) and the Minnesota Department of Transportation Erosion Control Handbook for Local Roads (see <http://www.lrrb.gen.mn.us/PDF/200308.pdf>). Other resources are available at <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html#factsheets>. General suggestions for minimizing effects of erosion on Topeka shiners are shown below.
5. Minimize removal of riparian (streamside) vegetation; such removal should occur sequentially as needed over the length of the project.
6. Mulch areas of disturbed soils and reseed promptly.
7. Implement appropriate erosion and sediment prevention measures to the maximum extent practicable. Inspect devices frequently to ensure that they are effective and in good
8. Leave existing features, such as bridge abutments, retaining walls, and riprap, in place as much as is feasible.
9. Ensure that erosion prevention measures are in place and in adequate condition when leaving work site.
10. Design and install instream structures (e.g., box culverts) in a manner that will not impair passage of Topeka shiners and other fish species after construction is completed.
11. Do not operate motorized vehicles instream. Excavation, culvert placement, etc. should be conducted from streambanks outside of standing or flowing water.
12. Backfill placed in the stream shall consist of rock or granular material free of fines, silts, and mud. Machinery parts (i.e., backhoe buckets, etc.) shall be cleaned of all such material and free of grease, oil, etc. before their instream use.
13. Prevent materials and debris from falling into the water during construction. If materials or debris fall into the water or into riparian areas retrieve them promptly by hand or with equipment working from the banks.
14. If the project is modified, or if field conditions change, the applicant or agency representative should contact U.S. Fish and Wildlife Service before proceeding.