BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Patrick Smith
Geronimo Wind Energy, LLC
7650 Edinborough Way, Suite 7250
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SERVICE DATE: March 11, 2011

DOCKET NO. IP-6853/WS-10-1240

In the Matter of the Site Permit Application for a 42 Megawatt Large Wind Energy Conversion System (LWECS) in Stearns County, Minnesota

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

Made a preliminary determination that a draft site permit may be issued.

Approved the proposed draft site permit for distribution and public comment.

Authorized EFP staff to implement the public participation process outlined in Minnesota Rules 7854.0900.

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. IP6853/WS-10-1240

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Meeting Date: March 8, 2011 .....Agenda Item # __

Company: Black Oak Wind, LLC

Docket No. IP6853/WS-10-1240

In the Matter of the Site Permit Application for a 42 Megawatt (MW) Large Wind Energy Conversion System (LWECS) in Stearns County, Minnesota.

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

OES Staff: Suzanne Steinhauer.....(651) 296-2888

Relevant Documents

LWECS Site Permit Application ..... January 14, 2011
Public and Agency Comments on LWECS Site Permit Application ..... February 11, 2011
Black Oak Wind, LLC, Letter to Commission ..... February 14, 2011
USFWS Comments on LWECS Site Permit Application..... February 18, 2011
HDR Memo on Avian Study Comparison ..... February 18, 2011

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.

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DOCUMENTS ATTACHED

1. Proposed Draft Site Permit
2. Project Location
3. Project Constraint Map – GE 1.6 xle turbines
4. Project Constraint Map – Vestas V90 turbines
5. Project Constraint Map – Vestas V112 turbines

Relevant documents and additional information can be found on eDockets (10-1240) or the Commission's Energy Facilities Permitting website at: http://energyfacilities.puc.state.mn.us/Docket.html?Id=30578 .

Statement of the Issues

Should the Commission make a preliminary determination to issue a draft Large Wind Energy Conversion System (LWECS) site permit for distribution and public comment?

Introduction and Background

Black Oak Wind, LLC (Black Oak Wind or Applicant) submitted a site permit application to construct a 42 MW Black Oak Wind Farm (Project) in Stearns County. Black Oak Wind, LLC, a wholly owned subsidiary of Geronimo Wind Energy, LLC, will develop, design, construct, own, and operate the Black Oak Wind Farm (Project). Black Oak Wind will construct and own all equipment up to the point of interconnection with the grid.

Project Location
The proposed site is comprised of 7,064 acres of agricultural land in Ashley and Raymond townships Stearns County, located approximately five miles southwest of Sauk Center. Black Oak Wind, in its LWECS application, states that approximately 6,565 acres are under site control. Depending upon the turbine model selected and final layout, approximately 13.5 to 20 acres would be converted to turbines and associated infrastructure.

Project Description
Black Oak Wind is considering three turbine models; depending upon the actual turbine model selected the Project may be comprised of 26 General Electric 1.6 xle 1.6 MW turbines, 23 Vestas V90 1.8 MW turbine, or 14 Vestas V112 3.0 MW turbine. Depending upon turbine models selected, towers would range from 262 to 328 feet (80 to 100 meters), with rotor diameters of 270 to 367 feet (82.5 to 112 meters), for a total height of 397 to 492 feet (121 to 150 meters). The project would also require the following associated facilities as identified in the permit application:

- Pad mount transformers, depending upon the turbine model selected
- Electric feeder and collection lines
- Supervisory Control and Data Acquisition (SCADA) communication lines

- A project substation
- Access roads
- Two permanent meteorological towers with potential for a SODAR or LIDAR unit
- An operations and maintenance facility.

The Project would interconnect with the electrical grid at Great River Energy's Black Oak Substation. The applicant intends to seek a permit from Stearns County for a Project Substation and a 69 kV transmission line to connect the Project Substation with GRE's Black Oak Substation. Black Oak Wind anticipates that the Project will begin commercial operation in late 2012.

Regulatory Process and Procedures

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 a wind charger, windmill, or wind turbine and associated facilities with a combined nameplate capacity of five MW or more that converts wind energy to electric energy. The rules to implement the permitting requirement for LWECS are found in Minnesota Rules 7854.0100 to 7854.1500. Under Minnesota Rule 7854.1000, subpart 2, the Commission has 180 days to reach a final permit decision from the date an application is accepted.

Site Permit Application Decision
The applicant filed an application with the Commission for a LWECS site permit on December 6, 2010. The Commission, in its Order issued January 14, 2011, accepted the application as complete and found that, based on the information in the record, a certificate of need is not required. As a condition of the application acceptance, the applicant updated information on local ordinances applicable to wind facilities and corrected the labeling on some maps. An amended LWECS site permit application, containing the updated information, was filed on January 14, 2011.

Public Comment s
An OES EFP notice of site permit application acceptance was issued on January 19, 2011. As part of the notice of site permit application acceptance, the OES EFP staff solicited public comments on issues that should be considered in developing a Draft Site Permit for the Project. The Applicant distributed the OES EFP notice of application acceptance and the site permit application to landowners, local, state, and federal governmental agencies. The Applicant also published a copy of the Notice of Application Acceptance in the *Sauk Centre Herald* on January 25, 2011. Public comments on issues to be considered in developing a Draft Site Permit were taken until February 11, 2011.

Preliminary Determination on Draft Site Permit
Pursuant to Minnesota Rule 7854.0800 the Commission has 45 days after application acceptance to make a preliminary determination on whether a site permit may be issued or denied. If the preliminary determination is to issue a permit, the Commission shall prepare a draft site permit for the project. On January 14, 2011, the Commission granted a variance to Minnesota Rule,

part 7854.0800 to extend the period for the Commission to make a preliminary determination on whether a permit may be issued or denied for an unspecified, but reasonable period of time.

If the preliminary determination is to issue a permit, the Commission shall prepare a Draft Site Permit for the Project. Issuing a draft site permit does not authorize the Applicant to construct a LWECS. The Commission may change, amend or modify the draft site permit in any respect before final issuance or may deny the site permit at a later date.

Public Participation Process
If the Commission makes a preliminary determination that a Draft Site Permit may be issued, the OES EFP staff will implement the public participation process identified in Minnesota Rule 7854.0900. The public will be notified that a Draft Site Permit has been issued, a public comment period will be established, and a public information meeting or hearing will be held near the Project location. OES EFP staff will work with the public, local governmental units, state agencies and the Applicant to identify issues, impacts, and potential mitigation measures prior to bringing this matter back to the Commission for a final permit decision upon conclusion of the LWECS site permit process.

Minnesota Rule 7854.0900, subpart 5, provides the opportunity for any person to request that a contested case hearing be held on the proposed LWECS project. The request must be filed within the time period established for submitting comments on the draft site permit and must include the issues to be addressed in a contested case hearing and the reasons a hearing is required to resolve these issues.

Stearns County Ordinance
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. Pursuant to Minnesota Statutes section 216F.08, Stearns County notified the Commission in writing on December 10, 2009, that the Stearns County Board of Commissioners assumed permitting responsibility for projects under 25 megawatts. The Stearns County Board amended its ordinance governing Wind Energy Conversion Systems on December 21, 2010. Certain standards adopted by ordinance by Sterns County are more stringent than the Commission's General Permit Standards as set forth the in Docket No. E, G-999/M-07-1102. Minnesota Statutes section 216F.081 states that the Commission shall consider and apply those more stringent standards unless the Commission finds good cause not to apply the standards.

EFP Staff Analysis and Comments

Following the Notice of Application Acceptance, OES EFP staff received comments from the Minnesota Department of Transportation (MnDOT), the Minnesota Pollution Control Agency (PCA), the Minnesota Department of Natural Resources (DNR), and landowners Paul and Carolyn Reitsma. A memo from the Applicants addressing avian studies and a comment letter from the United States Fish and Wildlife Service (USFWS) was received after the comment period closed on February 11, 2011. Additionally, on February 14, 2011, Black Oak Wind filed

a letter notifying the Commission of an error in calculating the nameplate capacity of the Project. The comments, and EFP staff responses, are summarized by issue:

Project Size
In a letter to the Commission dated February 14, 2011, Black Oak Wind informed the Commission of a calculation error in its application related to the nameplate capacity of the Project. As a result of this error, the size of the Project should be 42 MW, not the 40 MW stated in the application. Black Oak Wind provided notice of this error to landowners and local units of government on February 15, 2011.

OES EFP Staff Response: OES EFP staff notes the error and has corrected the size of the Project in the attached Draft Site Permit.

Wildlife Surveys & Information
In an e-mail to the Project's consultant, DNR staff state that the NHIS review letter dated December 22, 2008 (Application, Appendix E) remains valid. In its letter of February 10, 2011, DNR staff recommends that a preconstruction avian survey be performed for the Project with particular emphasis on areas that may pose a barrier to flight between the several high quality conservation lands that ring the site. The USFWS also recommended that site-specific avian studies be performed prior to construction. Both the DNR and USFWS acknowledged the quality of the Paynesville study, but questioned its relevance to the Black Oak Project. In its memo of February 18, 2011, HDR Engineering, the consultant for Black Oak Wind, LLC, stated its position that the surveys performed for the Paynesville Wind Farm, located approximately 17 miles southeast of the Project, can be applied generally to the Black Oak Wind Farm, and that additional wildlife study specific to the Black Oak Wind Farm due to similar habitat and land use types and number and types of public land in proximity to the project area. The Applicant considers additional wildlife study specific to the Black Oak Wind Farm (sometimes referred to as a Tier III study, documenting the site wildlife conditions and predicting project impacts) to be unnecessary. A portion, pages 8-12, of the *Avian Surveys for the Paynesville Wind Resource Area, Stearns County, Minnesota* report prepared for the Paynesville Wind Farm is excerpted in Appendix D of the Site Permit Application.

Both the DNR and USFWS letters expressed a preference for use of the Vestas F112 turbines, as they believe that fewer turbines would minimize wildlife impacts.

OES EFP Staff Response: OES EFP staff notes that the material in the application represents a current assessment of NHIS records. OES EFP staff also notes the preference of DNR and USFWS staff for the Vestas V 112 turbines.

The Applicant contends that information on avian and bat use from the Paynesville Wind Farm provides sufficient information to determine potential impacts to avian and bat species at the Black Oak Wind Farm. Comments from the DNR and USFWS requested additional information on avian and bat usage within the Black Oak Project be assessed to inform turbine placement in a manner that minimizes impacts to wildlife.

It is the practice of OES EFP staff to recommend that Tier III studies be submitted prior to a final site permit decision. Site specific studies provide information used by OES EFP staff to make recommendations to the Commission regarding whether certain areas within the site should be avoided and whether special permit conditions should be required for the Avian and Bat Protection Plan (e.g. additional information to address potential impacts to certain species or recommendations for post-construction monitoring) required by the site permit. OES EFP staff notes that the information provided in the wildlife surveys done for the Paynesville Wind Farm did provide useful information that was not available from review of existing breeding bird surveys, natural heritage records review, and other desktop surveys.

The Applicant has the burden of proof to demonstrate that the potential for impact to wildlife is minimized. At this point, OES EFP staff believes that, in the absence of both site specific information on the use of the site and of post-construction avian and bat fatality studies on similar sites, there is not sufficient information in the record at this time to assess the potential impacts from the Project on wildlife. .

OES EFP staff supports DNR and USFWS recommendations that the Applicant work with DNR and OES EFP staff to develop appropriate avian and bat survey protocols. OES EFP staff anticipates site-specific surveys characterizing avian and bat use of the site, including flight path analysis and concurrent point counts, a Raptor nest survey, and acoustic bat monitoring. The information obtained from the avian and bat surveys at the Paynesville Wind Farm site should be useful in developing survey protocols.

OES EFP staff does not believe that the absence of information at this point in the process is sufficient cause to delay the issuance of a draft site permit for public comment, but wishes to note for the record that additional information should be provided by the applicant prior to the final permit decision on the Project.

Transportation and Trails

The February 4, 2011, letter from MnDOT stated that, based on the information supplied in the application, the Project's impact to the transportation system appears to be limited to temporary activities associated with the construction process and the transport of materials to the construction site. The letter recommends that the site permit include language specifying that the Permittee obtain all relevant permits from road authorities relating to the transport of material and equipment related to the Project including oversize of overweight vehicles.

The DNR letter recommends avoidance of snowmobile trails where possible, and coordination with landowners and DNR to address possible safety concerns related to DNR-administered "Grant-in-Aid" trails.

<u>OES EFP Staff Response</u>: The Draft Site Permit, at Section 7.8, requires that the Permittee identify roads to be used during Project construction and notify appropriate state and local authorities prior to construction to ensure that appropriate arrangements are made with road authorities regarding use and damage. Further, Section 10.5 of the Draft Site Permit states that

Permittees shall be responsible for acquiring any other federal, state, or local permits or authorization required to construct and operate an LWECS.

The Draft Site Permit does not contain language specifically addressing snowmobile trails, although the issue has come up in other LWECS site permit dockets, issue has come up with other wind projects. Grant-in-Aid trails are located on private property and their location can vary from year to year, trails are typically managed by local snowmobile clubs. OES EFP staff supports DNR's recommendation to consult with local landowners and snowmobile clubs.

Ice throw has been addressed as an issue in other LWECS siting dockets. Information developed in the Lake Country docket states that studies indicate that turbine icing is infrequent in Minnesota, approximately 2.5 days per year according to the Minnesota Climate Center. There have been no documented impacts from ice throws from wind turbines; according to studies on the topic the majority of ice throws occur within the rotor diameter and are small, typically less than two ounces.

Location of Electric Cables/Stray Voltage
In a letter received February 10, 2011, Paul and Carolyn Reitsma expressed concern with the location of collector cables running diagonally through one of their fields and the potential for stray voltage from the cables.

OES EFP Staff Response: OES EFP staff notes the comments and will develop information in the record regarding potential for stray voltage. Any cabling required for the Projec touwl require voluntary easements from landowners. The Draft Site Permit, as Section 4.15, paragraph 2, directs that the location of feeder lines is to be negotiated with landowners.

Other Permits
The DNR letter requested additional information on possible wetland impacts and noted that a Work in Public Waters permit would be required from the DNR if any work within a public waters wetland is proposed. The DNR letter also requested additional information on the location of laydown areas to be considered in tints review of the Project, and potentially in any permit decisions.

The PCA letter addressed considerations that the PCA has related to the Construction Stormwater Permit that will be required for the Project. The PCA letter recommended the Applicant prioritize locations with the highest potential for impacts (based on potential for runoff and proximity to receiving waters) when designing treatment.

OES EFP Staff Response: The Draft Site Permit, at Section 10.5, requires the permittee to obtain all federal, state, and local permits required to construct and operate a LWECS. Section 10.5.1 of the Draft Site Permit identifies permits typically required by LWECS, including the DNR Work in Public Waters Permit, and the PCA Construction Stormwater Permit. The Construction Stormwater Permit issued by the PCA requires the Applicant to identify measures to minimize the potential for erosion and sedimentation from runoff resulting from construction on upland sites.

The Application, at pages 40-41, addresses potential impacts to wetlands. Because the turbines themselves are generally sited in areas of higher elevation in order to maximize the wind resource, impacts to wetlands for wind projects tend to be from the roads and cable installation. The Applicant states, at page 41, that a wetland delineation report will be performed once layout is finalized and prior to construction. The Draft Site Permit, at Section 4.6, requires the permittee to avoid placing project components in public water wetlands. Section 6.1 of the Draft Site Permit also requires the permittee to identify wetlands as part of the biological inventory and survey requirement. Specific mitigation would be addressed in any wetland permitting, once wetlands are identified and the layout is finalized.

OES EFP staff will look to develop the record further on Black Oak Wind's best management practices and anticipated mitigation to minimize impacts on wetlands and potential for stormwater runoff, while recognizing that the mitigation will be developed more fully in the permits issued by DNR and PCA.

Stearns County Ordinance
Black Oak Wind amended its application to incorporate the setback requirements adopted by the Stearns County Commission in the amended zoning ordinance adopted on December 21, 2010. The Applicant states on page 12 of the site permit application that it will voluntarily meet the county's more stringent setback requirements where "feasible and reasonable."

OES EFP Staff Response: For the most part, the revisions to the Stearns County Ordinance reflected the Commissions General Permit standards set forth in Docket No. E-G-999/M-07-1102. Standards in the Stearns County Ordinance that are more stringent than the Commission's General Permit Standards, and are applicable to the Project, are incorporated in the Special Conditions identified in Section 13 of the Draft Site Permit. The Project is located in land zoned as A-160, or agricultural with one home per 160 acres, for which WECS are subject to a conditional use permit under county ordinance. Stearns County prohibits WECS in certain land use classifications. The site does contain only one land use classification, shoreland overlay district, where WECS are prohibited. This prohibition is noted as a special condition. The Stearns County Ordinance distinguishes participating and non-participating residences in determining setbacks from occupied structures and requires a setback of 1,000 feet from non-participating landowners and 500 feet from participating landowners. The Applicant has stated on page 15 of their application that turbines will be set back at least 1,000 feet from homes, unless other arrangements are made with specific residents. This commitment is noted in Section 4.2 of the Draft Site Permit.

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OES EFP staff used the information in the application and experience with other LWECS projects as a guide for evaluating whether a draft site permit may be issued for the project or should be denied, pursuant to Minnesota Rules 7854.0800, subpart 1. OES EFP staff finds that the available information is sufficient to conclude that it is appropriate to make a preliminary determination that a draft site permit may be issued for the project. The applicant has agreed to

provide staff with any additional information. A draft site permit has been prepared by OES EFP staff identifying the permittee and describing the proposed LWECS project and proposed permit conditions. The draft site permit is attached to these comments and recommendations. Commission approval of the draft site permit will allow for distribution and initiation of the public review process which includes a formal public comment period.

Commission Decision Options

A. Preliminary Determination to Issue a Draft Site Permit

1. Make a preliminary determination that a draft site permit may be issued.

2. Make a preliminary determination that a draft site permit should be denied.

3. Make some other decision deemed more appropriate.

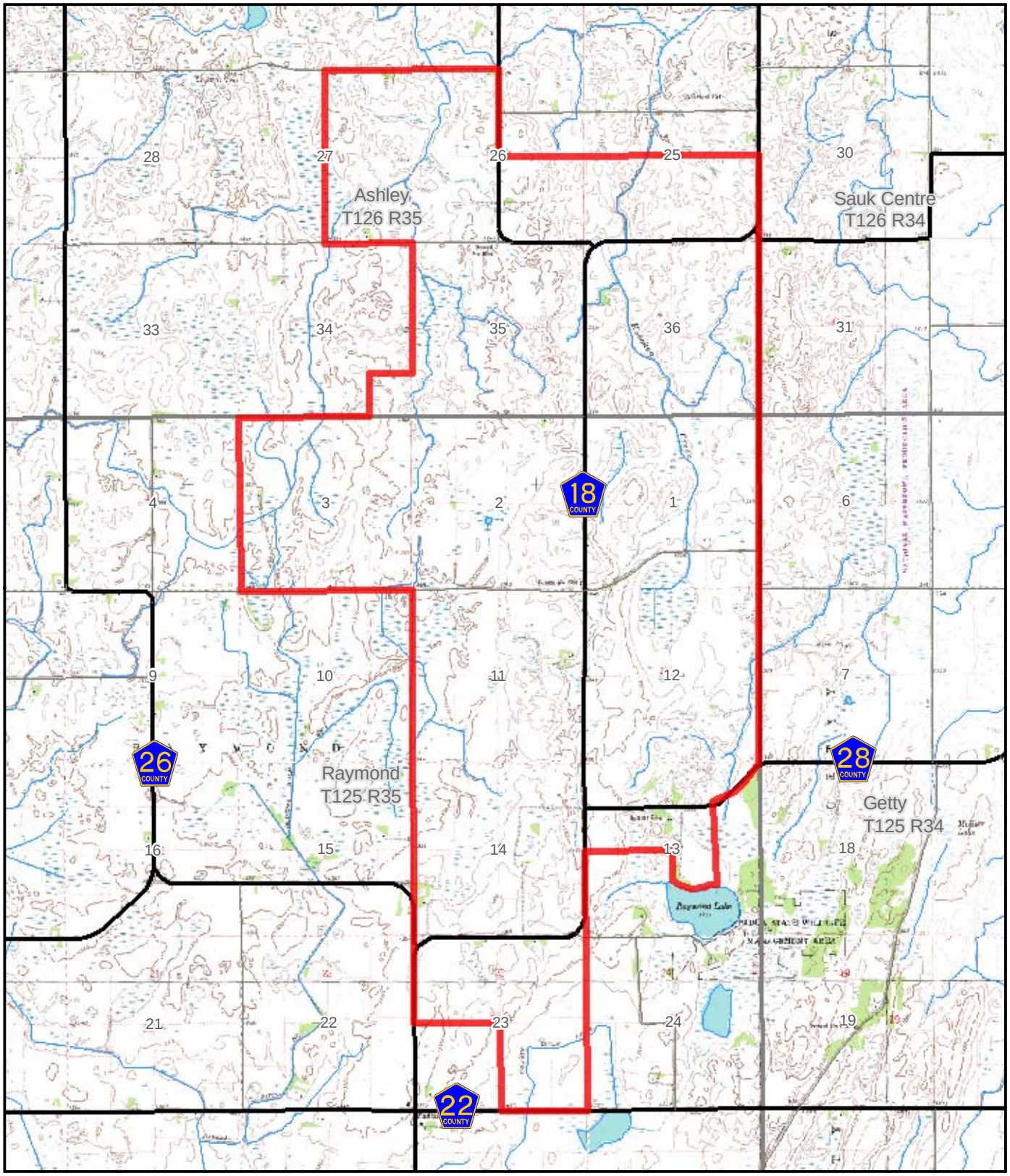
B. Approve the Proposed Draft Site Permit for Distribution and Public Comment

1. Approve the proposed draft site permit for distribution and public comment. Authorize EFP staff to implement the public participation process outlined in Minnesota Rules 7854.0900.

2. Amend or modify the proposed draft site permit for distribution and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rule 7854.0900.

3. Make some other decision deemed more appropriate.

Energy Facility Permitting Staff Recommendation: Options A1 and B1.



GERONIMO WIND ENERGY

HDR

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Project Boundary
24k Streams
Cities
Townships

Figure 4-1
Project Location Map

Black Oak Wind Farm
Stearns County, MN

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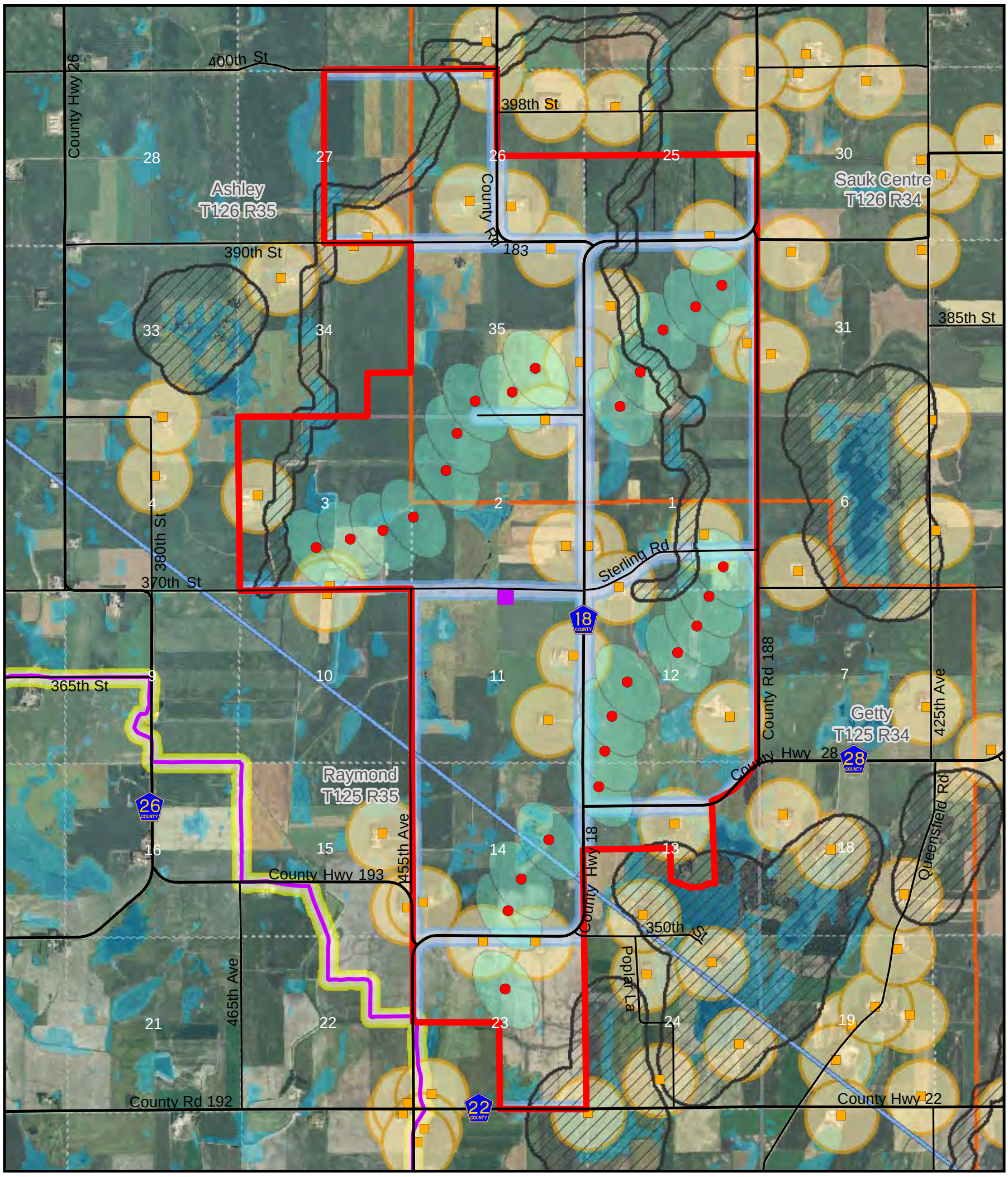

GERONIMO WIND ENERGY

HDR

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0 0.5 1 Miles

Project Boundary
Proposed Turbine (GE 1.6xle)
House Locations
Existing 500 kV DC Transmission Line
Stearns County Snowmobile Trails
Substation (Proposed)

Setbacks
Microwave Beam Path
House Setback (1000ft)
Road Setback (250ft)
Trails (250ft)
3x5 Wind Access Buffer
Shoreland Overlay District

Figure 8-1
Setback Requirements
GE 1.6xle

Black Oak Wind Farm
Stearns County, MN

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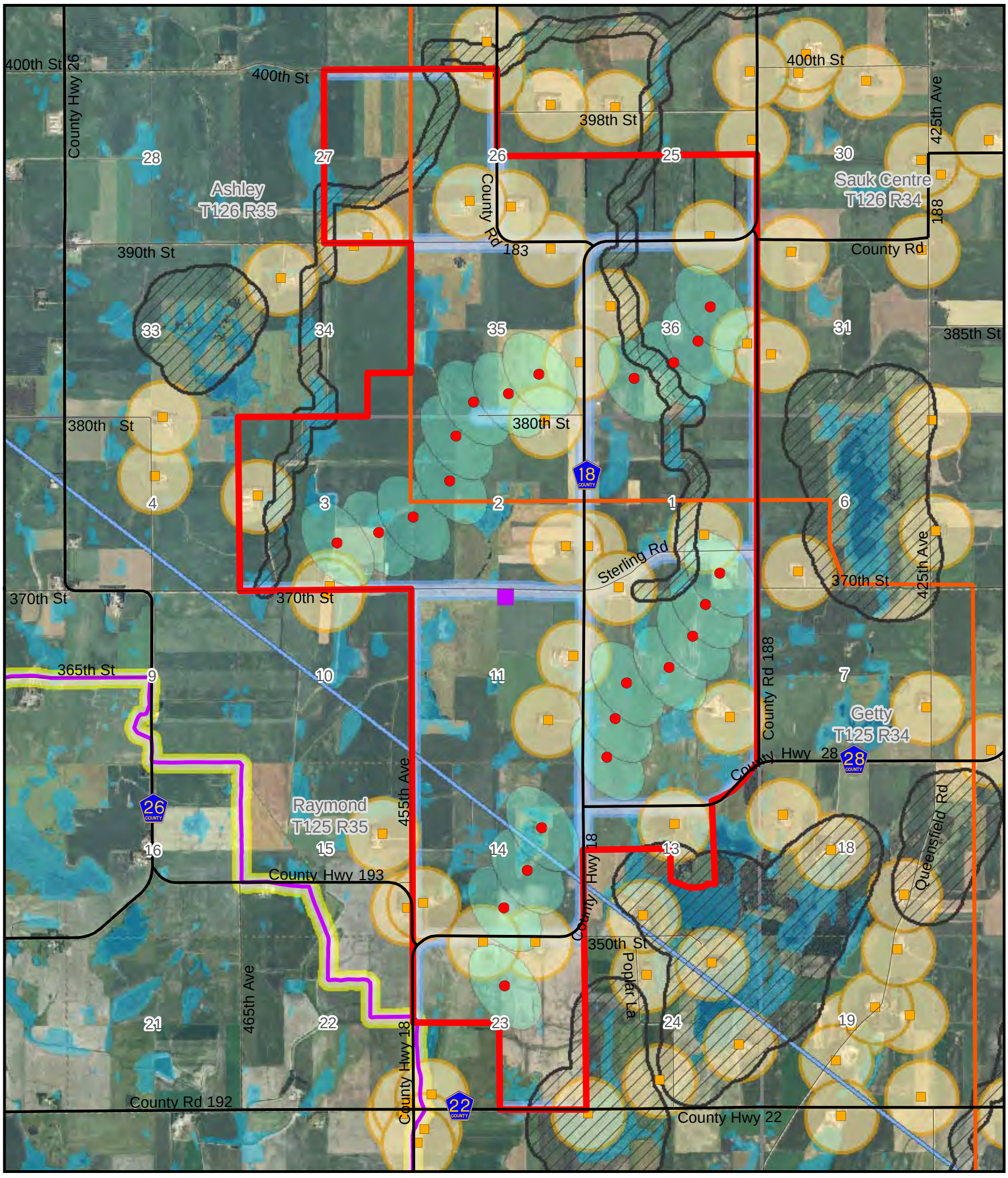

GERONIMO WIND ENERGY

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0 0.5 1 Miles

Project Boundary
Proposed Turbine (Vestas V90)
House Locations
Existing 500 kV DC Transmission Line
Stearns County Snowmobile Trails
Substation (Proposed)

Setbacks
Microwave Beam Path
House Setback (1000ft)
Road Setback (250ft)
Trails (250ft)
3x5 Wind Access Buffer
Shoreland Overlay District

Figure 8-2
Setback Requirements
Vestas V90

Black Oak Wind Farm
Stearns County, MN

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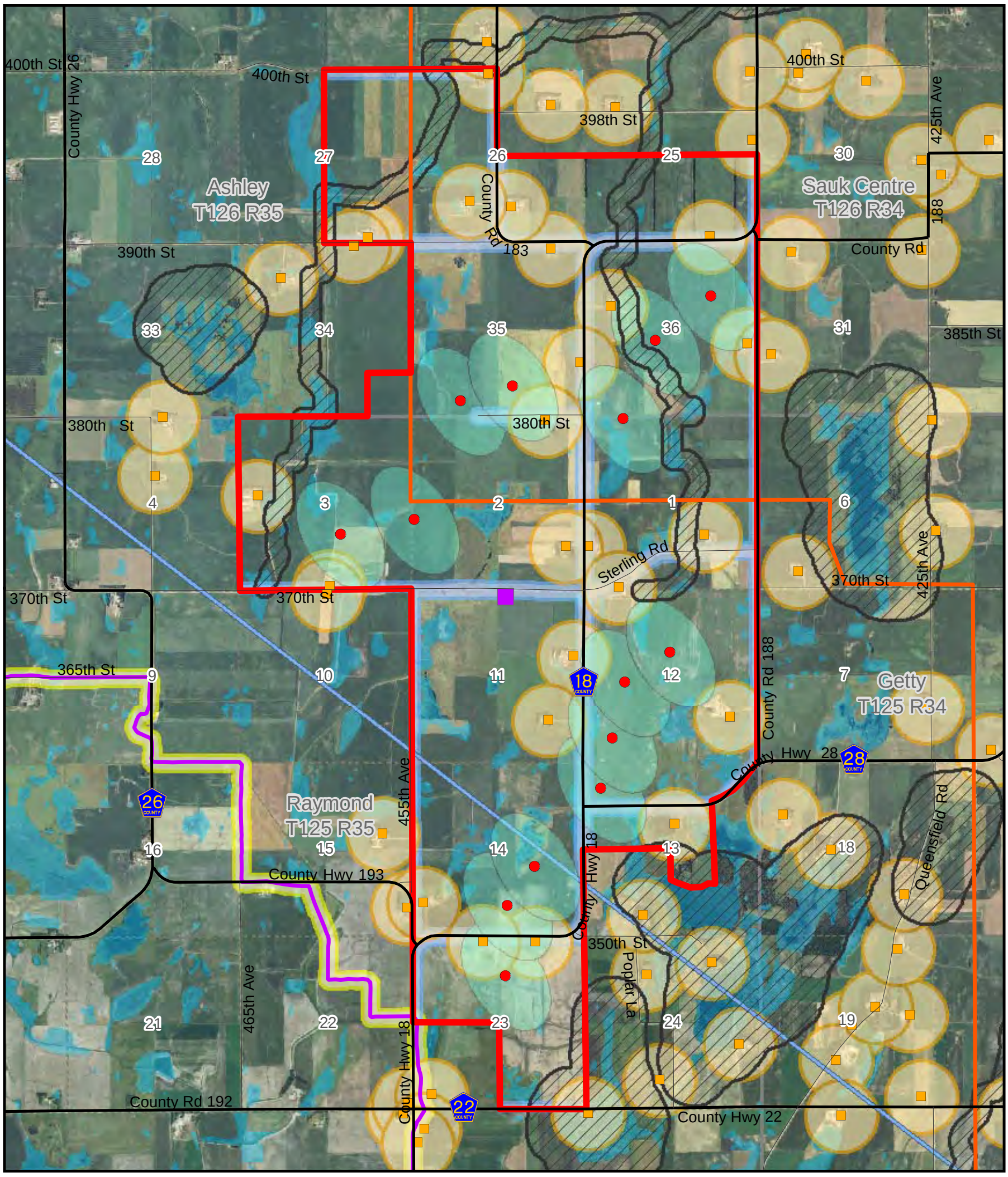

GERONIMO WIND ENERGY

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0 0.5 1 Miles

Project Boundary
Proposed Turbine (Vestas V112)
House Locations
Existing 500 kV DC Transmission Line
Stearns County Snowmobile Trails
Substation (Proposed)

Setbacks
Microwave Beam Path
House Setback (1000ft)
Road Setback (250ft)
Trails (250ft)
3x5 Wind Access Buffer
Shoreland Overlay District

Figure 8-3
Setback Requirements
Vestas V112

Black Oak Wind Farm
Stearns County, MN

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STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR A

LARGE WIND ENERGY CONVERSION SYSTEM

IN STEARNS COUNTY, MINNESOTA

ISSUED TO

BLACK OAK WIND, LLC

PUC DOCKET NO. IP-6853/WS-10-1240

DRAFT

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

Black Oak Wind, LLC

Black Oak Wind, LLC, is authorized to construct and operate the Black Oak Wind Farm, an up to 42 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 _____, 2011
BY ORDER OF THE COMMISSION

_____
BURL W. HAAR
Executive Secretary

(S E A L)

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SITE PERMIT

This **SITE PERMIT** for a Large Wind Energy Conversion System (LWECS) authorizes Black Oak Wind, LLC, (Permittee) to construct the Black Oak Wind Farm (Project), a 42 Megawatt (MW) nameplate capacity LWECS and associated facilities in Stearns County, on a site of approximately 7,100 acres in accordance with the conditions contained in this Permit.

SECTION 1
PROJECT DESCRIPTION

The up to 42 MW nameplate capacity LWECS authorized to be constructed in this Permit (Black Oak Wind Farm) will be developed and constructed by the Permittee. The Project will consist of up to 26 1.6 Megawatt (MW) wind turbine generators, up to 23 1.8 MW wind turbine generators, or up to 14 3.0 MW wind turbine generators mounted on towers with a height of 269 to 328 feet (82 to 100 meters) towers having a combined nominal nameplate capacity of approximately 42 MW. The rotor diameter is 270 to 367 feet (82.5 - 112 meters). Associated facilities will include wind turbine access roads, communications cables, electrical collector and feeder lines, an operations and maintenance facility, and two meteorological towers. Depending upon the turbine model selected, transformers will either be pad mounted or within the nacelle. Turbines are interconnected by communication and underground electrical power collection facilities within the wind farm that will deliver wind-generated power to the Project substation. Power will ultimately be delivered from the Project substation to the grid at the Black Oak Substation owned by Great River Energy. The Project Substation and the transmission line delivering the power from the Project Substation to Great River Energy's Black Oak Substation will be permitted through Stearns County.

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SECTION 2
DESIGNATED SITE

2.1 PROJECT BOUNDARY

The Project boundary and anticipated project layout are shown on the maps attached hereto as Attachments 1a, 1b, and 1c.

Within the site permit boundary, the Black Oak Wind Farm and associated facilities shall be located on lands for which the Permittee has obtained wind rights in Ashley Township (sections 25-27, 34-36) and Raymond Township (Sections 1-3, 11-14, 23) in Stearns County.

2.2 TURBINE LAYOUT

Three preliminary wind turbine and associated facility layouts are shown on maps at Attachments 1a, 1b, and 1c. Each preliminary layout represents the approximate location of wind turbines and associated facilities within the Project boundary and identifies a layout that minimizes the overall potential human and environmental impacts of the Project, 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 depicted in the preliminary layout shall be done in such a manner as to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 5.1. The Permittee shall submit the final site layout in the site plan pursuant to Section 5.1.

SECTION 3
APPLICATION COMPLIANCE

The Permittee shall comply with those practices set forth in its Site Permit Application, dated January 14, 2011, and the record of this proceeding unless this Permit establishes a different requirement in which case this Permit shall prevail.

Attachment 4 contains a summary of compliance filings, which is provided solely for the convenience of the Permittee. If this permit conflicts or is not consistent with Attachment 4, the conditions in this permit will control.

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 any residence unless a waiver has been signed by the property owner(s), 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. In no case shall wind turbine towers be located closer than 500 feet from any residence.

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.

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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 county parks. 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), United States Fish and Wildlife Service (FWS), and/or 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, in consultation with the Commission and DNR, prepare a Prairie Protection and Management Plan and submit it to the Commission and DNR at least ten (10) working days prior to the pre-construction meeting if native prairie is identified in any biological and natural resource inventories conducted pursuant to Section 6.1. The plan shall address steps taken to avoid impacts to native prairie and mitigation for unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or 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 Prairie 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 100 meters (328 feet) above grade measured at the hub.

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4.10 TURBINE SPACING

The turbine towers shall be constructed within the site boundary as shown in Attachments 1A, 1B and 1C. 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 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 provinces. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minnesota Rule 8800.1900, subpart 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (DOT) Department of Aviation, and FAA. The Permittee shall notifiy 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, 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).

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4.15 ELECTRICAL COLLECTOR AND FEEDER LINES

Collector and feeder lines comprise the electrical collection system. 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. If overhead feeder lines are located within public rights-of-way, the Permittee shall obtain approval from the governmental unit responsible for the affected right-of-way.

Collector and feeder line locations shall be located in such a manner as to minimize interference with agricultural operations including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shield 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], and 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.

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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) a site plan for all turbines, roads, electrical equipment, collector and feeder lines, and other associated facilities to be constructed;

(b) engineering drawings for site preparation and construction of the facilities; and

(c) 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 the 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 a turbine. 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 the permit.

5.2 NOTICE TO LOCAL RESIDENTS

Within ten (10) working days of approval of this Permit, the Permittee shall send a printed copy of the permit to the office of the auditor of each county in which the site is located and to the clerk of each city and township within the site boundaries. If applicable, the Permittee shall, within ten (10) working days of permit approval, send a printed copy of this permit to each regional development commission, local fire district, soil and water conservation district, watershed district, and watershed management district office with jurisdiction in the counties where the site is located. Within thirty (30) days of issuance of this permit, the Permittee shall send a printed copy of the permit to each landowner within the Project boundary. In no case shall the affected landowner receive the site permit and complaint procedure, developed pursuant to Section 5.8, less than five (5) days prior to the start of construction on their property.

5.3 NOTICE OF PERMIT CONDITIONS

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

5.4 FIELD REPRESENTATIVE

At least ten (10) working days prior to the start of construction 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

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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 and 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 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 LWECS in accordance with the procedures provided in Attachments 2 and 3 of this Permit.

SECTION 6
SURVEYS AND REPORTING

6.1 BIOLOGICAL INVENTORY/SURVEY

The Permittee, in consultation with DNR and Commission, shall design and 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 or threatened species. The results shall be submitted to the Commission and DNR at least thirty (30) days prior to the pre-construction meeting to confirm compliance of conditions of 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. Section 11.7 may apply to data provided pursuant to this section.

6.2 SHADOW FLICKER

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

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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 I or IA 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 will 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. 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 800) review.

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

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6.4 INTERFERENCE

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall submit to the Commission the results of an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the Project area. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television or radio reception, microwave patterns, or telecommunications in the event residents should complain about such disruption or interference after the turbines are placed in operation. The Permittee shall be responsible for alleviating any disruption or interference of these services caused by the turbines or any associated facilities.

The Permittee shall not operate the Project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications

Commission regulations or other law. In the event the Project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

6.5 WAKE LOSS STUDIES

At least 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 carry out the study. The study shall be designed to determine the operating LWECS noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds. The Permittee shall submit the study within eighteen (18) months after commercial operation.

6.7 AVIAN AND BAT PROTECTION PLAN

The Permittee, in consultation with the Commission and DNR, 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 operation phase of the Project. The plan shall also address 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 15th 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 or bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols.

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

(a) five or more dead or injured non-protected avian or bat species within a reporting period;

(b) one or more dead or injured migratory avian or bat species;

(c) one or more dead or injured state threatened, endangered, or species of special concern; or

(d) one or more dead or injured federally listed species.

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6.8 PROJECT ENERGY PRODUCTION

The Permittee shall submit a report no later than February 1st 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 will 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. Section 11.7 shall apply to 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 Project.

7.2 TOPSOIL PROTECTION

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

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7.3 SOIL COMPACTION

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

7.4 LIVESTOCK PROTECTION

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

7.5 FENCES

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

7.6 DRAINAGE TILES

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

7.7 EQUIPMENT STORAGE

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

7.8 ROADS

7.8.1 PUBLIC ROADS

At least 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. Upon request of the Commission, the Permittee shall notify the Commission of such arrangements.

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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 located and constructed in accordance with all necessary township, county or state road requirements and permits.

7.8.3 PRIVATE ROADS

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

7.9 CLEANUP

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

7.10 TREE REMOVAL

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

7.11 SOIL EROSION AND SEDIMENT CONTROL

The Permittee shall develop a Soil Erosion and Sediment Control Plan and submit the Plan to the Commission at least 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 revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary Project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, and stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material. Erosion and sedimentation control measures shall be installed prior to construction and maintained throughout the Project's life.

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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.

7.8 RESTORATION

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

7.13 HAZARDOUS WASTE

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

7.14 APPLICATION OF HERBICIDES

The Permittee shall restrict herbicide use to those herbicides and methods of application approved by the Minnesota Department of Agriculture and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. The Permittee shall contact the landowner or his designee to obtain approval for the use of herbicide prior to any application on their property. The landowner may request that there be no application of herbicides on any part of the site within the landowner's property. All herbicides shall be applied in a safe and cautious manner so as to not damage property, including crops, orchards, tree farms, or gardens. The Permittee shall also, at least 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 boundaries and, upon request, to interested persons about the Project and any restrictions or dangers associated with the Project. The Permittee shall also provide any necessary safety measures, such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minnesota Statutes section 216D.01, subdivision 11, to Gopher State One Call.

7.16 EMERGENCY RESPONSE

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

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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/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 part 7854.0500, subp.13. The Permittee shall ensure that it carries out its

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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 no removal shall be recorded with the county and shall show the locations of all such foundations. All such agreements between the Permittee and the affected landowner(s) shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.

9.3 ABANDONED TURBINES

The Permittee shall advise the Commission 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 with the Project, to service.

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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 permit to construct a WECS in any area within the boundaries of the Project covered by this Permit if the Permittee does not hold exclusive wind rights for such areas.

10.2 POWER PURCHASE AGREEMENT

In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project at the time this permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This permit does not authorize construction of the Project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for

sale of the electricity to be generated by the Project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project within two years of the issuance of this Permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission shall determine whether this Permit should be amended or revoked. No amendment or revocation of this Permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

10.3 FAILURE TO COMMENCE CONSTRUCTION

If the Permittee has not completed the pre-construction surveys required under this permit and commenced construction of the Project 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 to whether this Permit should be amended or revoked. No revocation of this Permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

10.4 PREEMPTION OF OTHER LAWS

Pursuant to Minnesota Statute 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 with or are not preempted by federal or state permits and regulations.

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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 the Permit. No modification may be made except in accordance with applicable statutes and rules.

11.2 MODIFICATION OF CONDITIONS

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

(a) Violation of any condition in this permit;

(b) Endangerment of human health or the environment by operation of the Project: or

(c) Existence of other grounds established by rule.

11.3 REVOCATION OR SUSPENSION OF THE 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 shall determine 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 the 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.

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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.

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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 APPLICATION OF COUNTY STANDARDS

The Permittee shall site all wind turbines and associated facilities consistent with the wind energy ordinances adopted by Stearns County. Stearns County has adopted more stringent standards than those identified in Section 4 of this permit for the following features:

(a) Property Lines: Turbines shall have a setback of 1.1 times the total height, (as measured from the tip of the blade when the blade is extended perpendicular to the tower) from property lines. A recorded fall zone easement acceptable to Stearns County may be allowed in lieu of this setback, provided all other setbacks are met;

(b) Occupied Structure – Participating Property Owner: Turbines shall be set back at least 500 feet and sufficient distance to meet the state noise standard, from occupied structures of participating property owners;

(c) Occupied Structure – Non-Participating Property Owner: Turbines shall be set back at least 1,000 feet and sufficient distance to meet the state noise standard from occupied structures of non-participating property owners;

(d) Project Boundary: Turbines shall be set back a distance of 5 rotor diameters from all parcels of land for which the Permittee has a wind easement for this Project, unless the Stearns County Board finds that the wake interference is less than 5 rotor diameters;

(e) Shadow Flicker Modeling: Permittee shall incorporate assumptions identified in Stearns County Ordinance when modeling for shadow flicker; and

(f) Shoreland Overlay District: Turbines shall not be placed within areas designated by Stearns County as a "Shoreland Overlay District."

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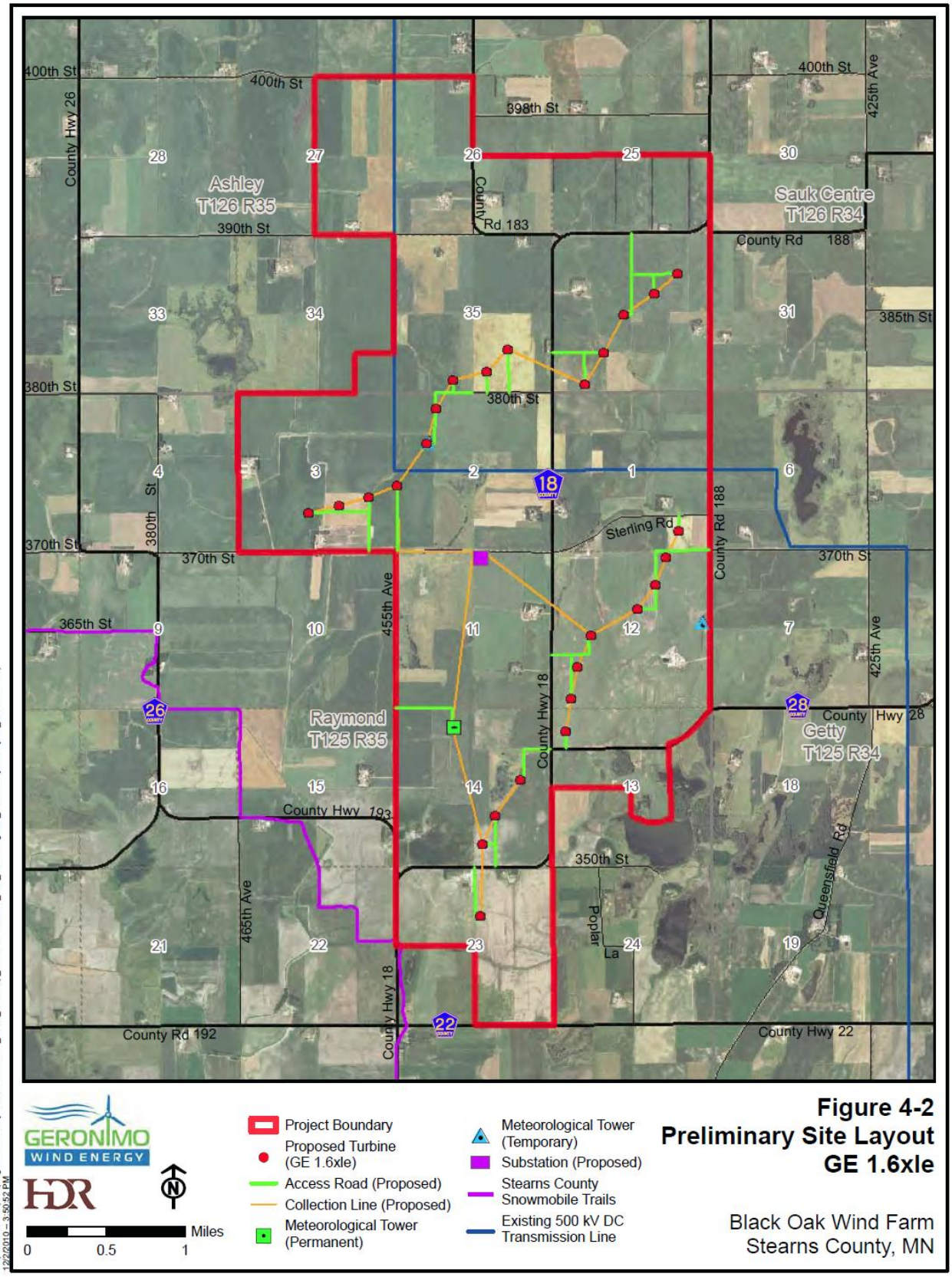


Figure 4-2
Preliminary Site Layout
GE 1.6xle

Black Oak Wind Farm
Stearns County, MN

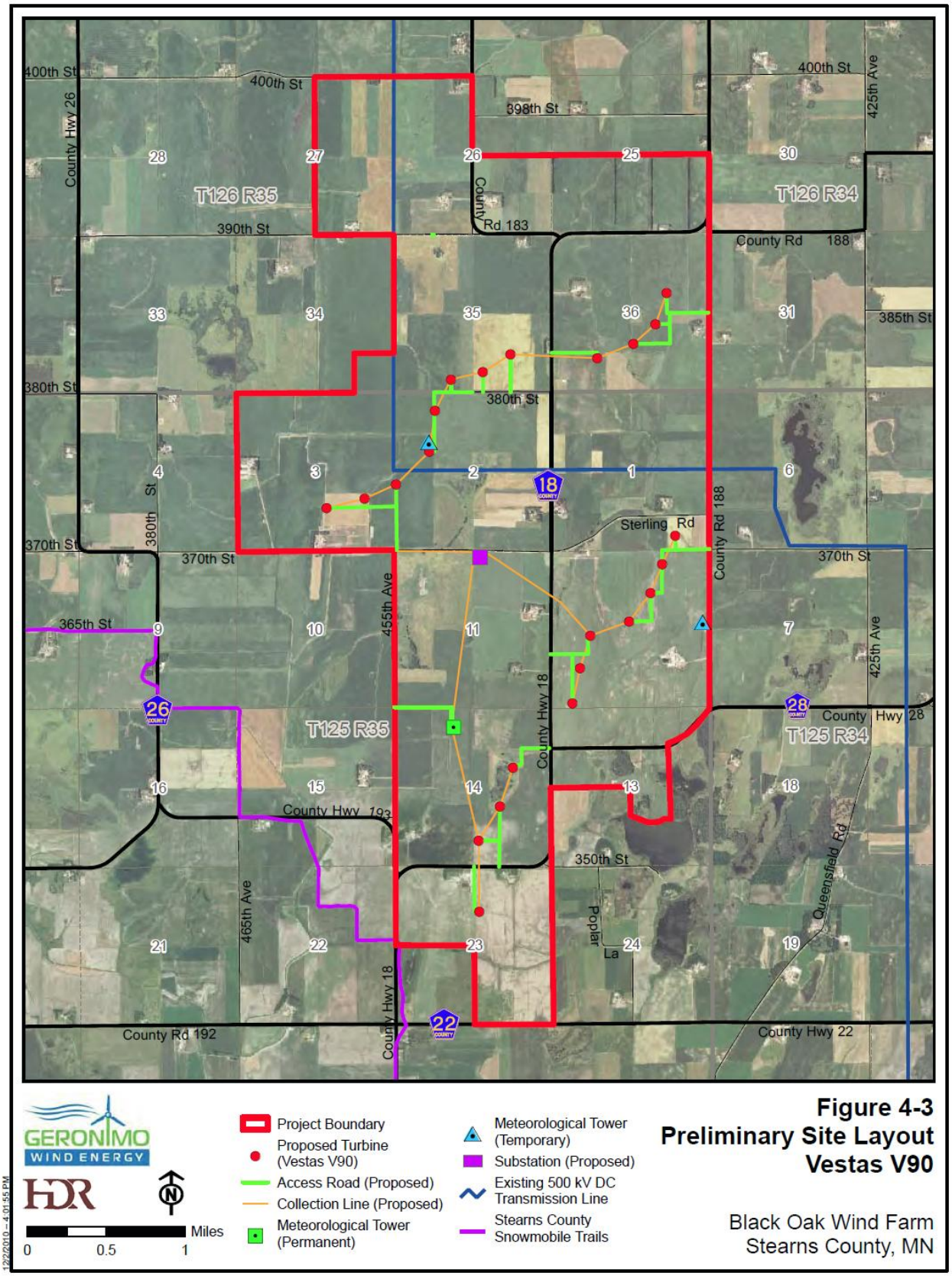
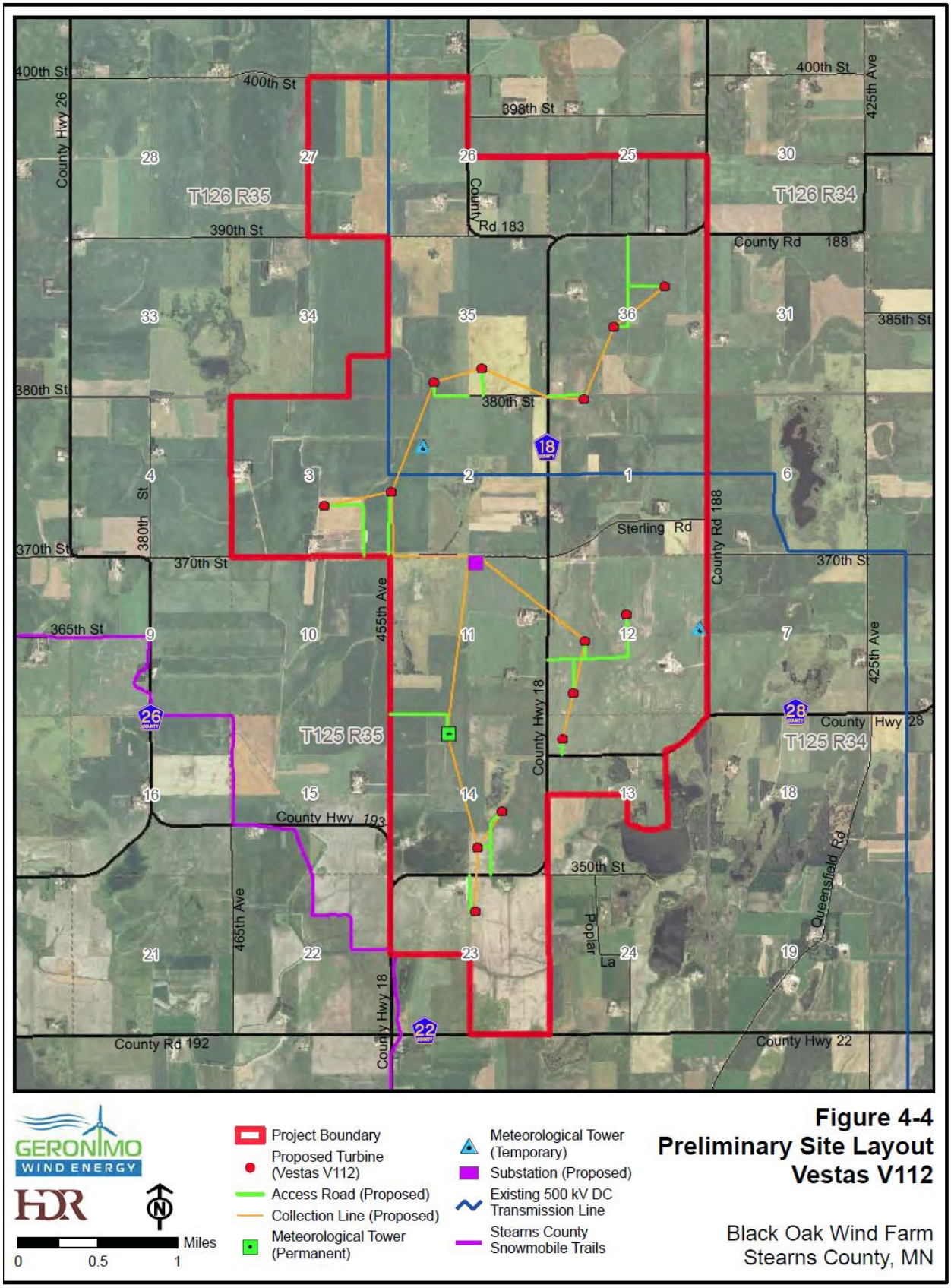


Figure 4-3
Preliminary Site Layout
Vestas V90

Black Oak Wind Farm
Stearns County, MN

Attachment 1b – Vestas V112 Preliminary Layout



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.

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:

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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 substantial to 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) a LWECS 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. 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 eFiled 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.

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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 the address elow:

Patrick Smith
Black Oak Wind, LLC
7650 Edinborough Way, Suite 7250
Edina, MN 55435

Tel: 952-988-9000

eMail: patrick@geronimowind.com

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ATTACHMENT 3

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 filing of required information to the Commission pursuant to a 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 7th Place East, Suite 350, St. Paul, MN, 55101-2147, and 2) Department of Commerce, Energy Facility Permitting, 85 7th Place East, Suite 500, St. Paul, MN, 55101-2198. Additionally, the Commission may request a paper copy of any eFiled document.

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PERMIT COMPLIANCE FILINGS[1]

PERMITTEE: Black Oak Wind, LLC
PERMIT TYPE: LWECS Site Permit
PROJECT LOCATION: Stearns County
COMMISSION DOCKET NUMBER: IP-6853/WS-10-1240

PRE-CONSTRUCTION MEETING

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
4.7	Native Prairie Protection Plan	10 working days prior to pre-construction meeting, if required.	Develop in consultation with Commission and DNR.		
5.1	Site Plan	10 working days prior to pre-construction meeting.			
5.4	Field Representative	10 working days prior to pre-construction meeting.			
5.8	Complaint Reporting Procedures	10 working days prior to pre-construction meeting.			
6.1	Biological & Natural Resource Inventories	30 days prior to pre-construction Meeting.	Results may trigger need for a Native Prairie Protection Plan.		
6.2	Shadow Flicker Analysis	10 working days prior to pre-construction meeting.			
6.3	Archaeological Resources	10 working days prior to pre-construction meeting and as recommended by the State Historic Preservation Office.			
6.4	Interference	10 working days prior to pre-construction Meeting.			
6.5	Wake Loss	10 working days prior to pre-construction meeting.			

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[1] 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

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
6.7	Avian and Bat Protection Plan	10 days prior to pre-construction meeting.	Develop in consultation with Commission and DNR.		
7.8	Road Identification	10 working days prior to pre-construction meeting.			
7.11	Soil Erosion & Sediment Control Plan	10 working days prior to pre-construction.	May be the same as NPDES SWPPP.		
7.16	Emergency Response	10 working days prior to pre-construction meeting. Must register in 911 Program.			
10.1	Wind Rights	10 working days prior to pre-construction meeting.			

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PRE-OPERATION COMPLIANCE MEETING

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
5.7	Pre-operation compliance meeting	10 working days prior to commercial operation.			
6.6	Noise Study Protocol	10 working days prior to pre-operation meeting.			
9.1 & 9.3	Decommission-ing Plan	10 working days prior to commercial operation.			

OTHER REQUIREMENTS

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
5.2	Notice to Landowners & Government Units	Within 30 working days of permit issuance.			
5.5	Site Manager	10 working days prior to prior to commercial operation.	Update contact information as necessary.		
5.8	Complaints	Complaint submittals on the 15th of each month or within 24 hours.	Must eFile report even if no complaints.		
6.6	Noise Study Results	Within 18 months of Commercial Operation.			
6.7	Avian and Bat Reporting Requirements	Quarterly reports due and within 24 hours of discovery of certain species.			
6.8	Project Energy Production	Due 2/1 each year.			
6.9	Wind Resource Use	Upon request of the Commission.			
6.10	Extraordinary Events	Within 24 hours and report on occurrence of event within 30 days.			
8.1	As Builts	Within 60 days of completion of construction.			
10.2	PPA or Enforceable Mechanism	Within 2 years of permit issuance.	If no PPA or other enforceable mechanism at time of permit issuance.		
10.3	Failure to Start Construction	Within 2 years of permit issuance.			

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