

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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SERVICE DATE: June 24, 2011

DOCKET NO. IP-6858/WS-11-195

In the Matter of the Site Permit Application of Shell Rock Wind Farm, LLC for a Large Wind Energy Conversion System in Freeborn County

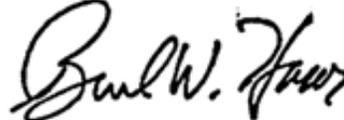
The above entitled matter has been considered by the Commission and the following disposition made:

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

**Approved the proposed attached draft site permit for distribution and public comment. Authorized EFP staff to implement the public participation process outlined in Minnesota Rule 7854.0900.**

The Commission agrees with and adopts the recommendations of the Department of Commerce 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 DEPARTMENT OF COMMERCE  
ENERGY FACILITY PERMITTING STAFF**

DOCKET NO. IP-6858/WS-11-195

Meeting Date: June 16, 2011.....Agenda Item # 1

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Company: **Shell Rock Wind Farm, LLC**

Docket No. **IP-6858/WS-11-195**

**In the Matter of the Site Permit Application of Shell Rock Wind Farm, LLC  
for a Large Wind Energy Conversion System in Freeborn County.**

Issue(s): Should the Public Utilities Commission issue a draft site permit for public comment?

OES Staff: Ingrid E. Bjorklund .....651-297-7039

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**Relevant Documents**

Shell Rock Wind Farm, LLC, Site Permit Application.....March 15, 2011  
Public Comments ..... May 31, 2011

The enclosed materials are the work papers of the Department of Commerce (DOC) 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. Shell Rock Wind Farm Location Map
2. Constraint Map for the GE 1.5 MW Turbine
3. Constraint Map for the Vestas 1.8 MW Turbine
4. Proposed Draft Site Permit

See eDocket filings (11-195) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the Commission website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=31974> for project related documents.

## 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

Shell Rock Wind Farm, LLC (Applicant or Shell Rock Wind) submitted a site permit application to construct the proposed 44 megawatt (MW) Shell Rock Wind Farm (Project) in Freeborn County. Shell Rock Wind is a wholly owned subsidiary of Minnesota Municipal Power Agency (MMPA). Avant Energy, Inc. is an agent for MMPA. In its role as agent, Avant Energy is responsible for the development and operation of the Project.

### *Project Location*

The proposed site is comprised of approximately 7,433 acres in the township of Pickerel Lake, located approximately three miles west of Albert Lea. The Applicant represents having site control of approximately 6,593 acres within the Project area. Depending upon final design, the Applicant anticipates the Project will permanently impact 15 acres.

### *Project Description*

The Applicant proposes to install 24 to 29 wind turbine generators, depending on what turbines are ultimately selected, mounted on towers 262.5 feet in height (80 meters). Turbines under consideration are General Electric 1.5 xle turbines, which have a rotor diameter of 271 feet (82.5 meters) and total height of 397 feet (121 meters), and Vestas V90 1.8 MW turbines, which have a rotor diameter of 295 feet (90 meters) and total height of 410.1 feet (125 meters). The proposed Project would also require the following associated facilities as identified in the permit application:

- pad mounted step-up transformers;
- electric feeder and collector lines;
- Supervisory Control and Data Acquisition (SCADA) communication lines;
- access roads;
- permanent meteorological tower; and
- substation.

The Applicant does not have plans to construct an operations and maintenance building within the Project boundary. The Project would interconnect with the electrical grid at the existing ITC

Midwest overhead 69 kV transmission line running along 200<sup>th</sup> street. The proposed Project substation would be located adjacent to the 69 kV transmission line on the north side of 200<sup>th</sup> Street between 690<sup>th</sup> Avenue and 700<sup>th</sup> Avenue. The Project substation may be permitted by Freeborn County. The Applicant's goal is to achieve commercial operation by December 31, 2012.

### **Regulatory Process and Procedures**

A site permit from the Commission is required to construct a LWECS, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. The Minnesota Wind Siting Act is found at Minnesota Statutes chapter 216F. The rules to implement the permitting requirements for LWECS are in Minnesota Rules chapter 7854. 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.

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

Shell Rock Wind notes in its application that a certificate of need from the Commission for a large electric power generating plant is not required because the Project is less than 50 MW in size and, therefore, does not meet the definition of large energy facility in Minnesota Statutes section 216B.2421. In an order dated April 15, 2011, the Commission determined no Certificate of Need is required for the Project based on the information in the record at that time.

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

The Applicant filed a site permit application for the Project with the Commission on March 15, 2011. The Commission accepted the site permit application as complete on April 15, 2011.

#### ***Public Comments***

An EFP notice of site permit application acceptance was issued on April 27, 2011. As part of the notice of site permit application acceptance, EFP staff solicited public comments on issues that should be considered in developing a Draft Site Permit for the Project. The EFP notice of application acceptance and the site permit application was distributed to landowners and local, state and federal government agencies. The notice appeared in *Albert Lea Tribune* on April 27, 2011, and *The Alden Advance* on April 28, 2011. Public comments on issues to be considered in developing a Draft Site Permit were taken until May 13, 2011. EFP received one comment from the public, two comments from state agencies, and one comment from a federal agency.

#### ***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 Draft Site Permit may be issued or denied. On April 15, 2011, the Commission granted a variance to Minnesota Rule 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. However, issuing a Draft Site Permit does not authorize the Applicant to construct an LWECS. The Commission may change, amend, or modify the Draft Site Permit in any respect before final issuance or may deny the site permit at a later date.

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

If the Commission makes a preliminary determination that a Draft Site Permit may be issued, the 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 will be held near the Project location. 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 Draft Site Permit comments and must include the issues to be addressed in a contested case hearing and the reasons a hearing is required to resolve these issues.

### ***Freeborn 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, Freeborn County notified the Commission in writing on June 9, 2008, that the Freeborn County Board of Commissioners assumed permitting responsibility for projects under 25 MW. Certain standards adopted by ordinance by Freeborn County are more stringent than the Commission's General Permit Standards as set forth 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**

EFP staff received four comments on issues that should be considered in developing a Draft Site Permit for the Project as part of the comment period associated with the notice of site permit application acceptance that ended on May 13, 2011. Comments received were from the U.S. Fish and Wildlife, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, and from an individual who lives in the Project area. The comments, and EFP staff responses, are summarized by issue below.

### ***Public Land Setbacks***

The U.S. Fish and Wildlife Service (USFWS) recommended a ½-mile setback from Waterfowl Production Areas (WPA), but preferred a one-mile setback if it is practical and feasible. USFWS also recommended a ¼-mile setback from land enrolled in the Conservation Reserve Program (CRP), Wetland Reserve Program, or similar programs. USFWS acknowledged that the Applicant adjusted its previous boundary to increase the distance from the surrounding WPAs. However, the USFWS remained concerned that there is an increased potential for avian movement through the current Project site due to numerous WPAs surrounding the site.

The Minnesota Department of Natural Resources (DNR) recommended appropriate buffers around wetlands with significant wildlife habitat value and conservation lands, such as those enrolled in the RIM-Wetland Reserve Program (RIM) and Conservation Reserve Enhancement Program (CREP).

EFP Staff Response: There are eight WPAs within 10 miles of the Project boundary. The Iowa, Chicago, & Eastern WPA is the closest to the Project at 0.5 miles from the boundary. Five other WPAs are within, or at, five miles of the Project boundary. In addition, there are 12 Wildlife Management Areas (WMA) within 10 miles of the Project boundary. There is one Scientific and Natural Area (SNA) located eight miles from the Project boundary. There is one state park approximately 7.5 miles from the Project boundary.

EFP staff notes that, according to the application, the Project site does not contain any RIM easements or Wetland Reserve Program easements. The location of CREP easements was not identified in the application and EFP staff will continue to work with the DNR regarding turbine placement with regard to conservation easements. The Applicant is also evaluating the location of land enrolled in CRP and plans to avoid those lands. There are 12 wetlands in the Project site totaling 11 acres. The largest wetland is six acres. Due to the isolated nature of the wetlands, the Applicant believes avoiding wetlands would not be an issue. EFP staff will continue to work with the DNR to determine if any of these wetlands have significant wildlife habitat value.

### ***Wildlife Surveys & Information***

The USFWS recommended that the Applicant conduct pre-construction surveys, prepared and reviewed by the USFWS, to determine bird and bat use of the area prior to proceeding with project design. The USFWS also recommended that a raptor nest survey be completed up to a two-mile radius outside the Project boundary prior to leaf-out conditions in the spring. Further, the USFWS stated that it generally recommends a minimum of three years of post-construction surveys to assess impacts to birds and bats; however, it could be less if pre-construction surveys indicate minimal avian movement and bat utilization, but in no case less than one year of post-construction surveys.

The DNR recommended consideration of post-construction fatality studies and coordination with wildlife agencies during the development of the Avian and Bat Protection Plan for the Project due to the Project's location within a region that includes a number of conservation lands.

The DNR expressed a preference for use of a turbine type that would minimize the number of wind turbines needed for the Project because fewer turbines would likely minimize wildlife impacts.

EFP Staff Response: Shell Rock Wind's initial project site was closer to state and federal conservation lands and was larger. Both DNR and USFWS recommended pre- and post-construction surveys due to a high risk of bird and bat fatalities associated with this initial site. The recommended pre-construction surveys include flight characteristic studies, raptor nest survey, and bat detection using Anabat detectors. The Applicant's Critical Issues Analysis and this early coordination with the DNR and USFWS led to a change in the project boundaries prior to submission of the site permit application.

After the Applicant adjusted its boundary, it requested feedback from the DNR and USFWS to determine if the agencies remained concerned that the site posed a high risk to wildlife. The DNR sent a revised comment letter on January 7, 2011, and noted that the revised site is located in an area with less potential impacts to wildlife and that it considers the site a low to moderate

risk for bird and bat fatalities. DNR also recommended at least one year of post-construction fatality monitoring, which is consistent with the Wind Advisory Committee Recommendations (WACR) by the USFWS Wind Turbine Guidelines Advisory Committee. The USFWS did not comment on the revised Project site prior to site permit application submission.

The USFWS letter dated May 13, 2011, is similar to its letter dated November 24, 2010, which assessed the site prior to the revised boundary. The November 24 letter is in Appendix B of the site permit application. In its May 13 letter, USFWS acknowledged that the new Project boundary has increased the distance to the surrounding WPAs, but remained concerned there is still an increased potential for avian movement through the Project site due to the presence of the WPAs.

The Natural Heritage Information System (NHIS) report also showed that the adjusted site has reduced the potential for impacts to rare flora and fauna. Prior to adjusting the site boundary, the NHIS report documented in the vicinity the loggerhead shrike in 1998, a state-listed threatened bird, and the common moorhen in 1955, a species of special concern. On February 25, 2011, DNR sent its revised NHIS data, which identified rare features within a one-mile radius of its adjusted Project site, but noted those records were either historical or not of concern. According to the application, there are also common bat and bird species known to exist in the area.

The Applicant discussed its approach to mitigating wildlife habitat impacts in section 8.19.5 of the application. This mitigation includes implementing a Wildlife Response Reporting System, which will include protocols for field technicians during routine maintenance operations to report and document avian mortalities, and an Avian and Bat Protection Plan, which will outline best management practices to minimize and reduce risks for birds, bats, and their habitats.

EFP staff believes the need for pre-construction surveys and post-construction surveys should be based on factors unique to each wind project. The tiered approach outlined in WACR for assessing impacts to wildlife, which is a risk-based evaluation, implements this concept. The tiered approach allows decisions to be made based on the information gathered at each tier, which provides an opportunity for developers and agencies to evaluate a site based on specific questions and associated data. The Critical Issues Analysis prepared by the Applicant on October 22, 2010, in addition to the site permit application, contain components of a tier two evaluation. The Applicant stated in section 8.21 of its application that it would conduct pre-construction surveys as determined necessary in coordination with agencies; the type and duration would be evaluated once all comments were received from wildlife agencies with regard to its revised Project site. EFP staff will continue to work with DNR, USFWS, and the Applicant during the permitting process to further develop tier two data in order to determine whether tier three (i.e., pre-construction studies) and tier four (i.e., post-construction studies) are needed or how they should be conducted.

Section 13.2 of the Draft Site Permit contains a special condition requiring the permittee to conduct one year of post-construction avian and bat fatality surveys. However, data gathered during the permitting process may lead to refinement of post-construction surveys or obviate the need for the surveys. Section 6.7 of the Draft Site Permit requires the permittee to prepare an Avian and Bat Protection Plan in consultation with the Commission and DNR. EFP staff will work with the DNR to develop an Avian and Bat Protection Plan that incorporates the Applicant's mitigation methods to reduce wildlife habitat impacts and develop survey plans and

protocols to conduct post-construction avian and bat fatality surveys per sections 6.7 and 13.2 of the Draft Site Permit.

### ***Transportation***

The Minnesota Department of Transportation (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/overweight vehicles. MNDOT also recommends that the permit include language specifying that the Permittee must obtain all relevant permits or authorization from road authorities relating to any electric cables and/or feeder lines that may be proposed to be placed in a public road right-of-way.

EFP Staff Response: 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 permittee shall be responsible for acquiring any other federal, state, or local permits or authorization required to construct and operate an LWECs.

### ***Shadow Flicker***

David Steele is concerned that shadow flicker will adversely affect his family's health in addition to his wife's photography business. His wife uses natural light for her photography, and is concerned she may have to move her business elsewhere.

EFP Response: Section 6.2 of the Draft Site Permit requires the Applicant to provide shadow flicker data for each resident, which will be considered during the micro-siting process. The Applicant will also be required to provide documentation on its efforts to minimize shadow flicker impacts.

### ***Freeborn County Ordinance***

Steel Rock Wind preliminary turbine layouts incorporate the setback requirements adopted by the Freeborn County Commission. The Applicant states in section 8.2.1.2 of its site permit application that the Project will "be designed to meet or exceed the minimum setback requirements identified by the local ordinance, to the degree they are intended for, and applicable to, commercial scale wind projects over 25 MW in size." Section 8.2.1.2 provides a discussion on how the Application will meet the county standards. Freeborn County did not submit comments.

EFP Staff Response: Many of the standards in the Freeborn County Wind Energy Ordinance (Article 14) are similar to those reflected in the Commission's General Permit standards set forth in Docket No. E-G-999/M-07-1102. However, some standards adopted by Freeborn County are more stringent than the Commission's General Permit Standards and are incorporated in the Special Conditions identified in Section 13 of the Draft Site Permit. According to the Applicant, the Project is located in land zoned as Agricultural Zoning District (A) in Pickerel Lake Township. Freeborn County's land use ordinance (Article 6) allows wind turbines over 200 feet

in height as a conditional use in the “A” Agricultural District. The Applicant has designed its project to meet the setbacks set forth in the Freeborn County Wind Energy Ordinance. Other requirements in the Freeborn County Wind Energy Ordinance, such as liability insurance, have been incorporated into Section 13 as well.

\*\*\*\*\*

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. 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 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**

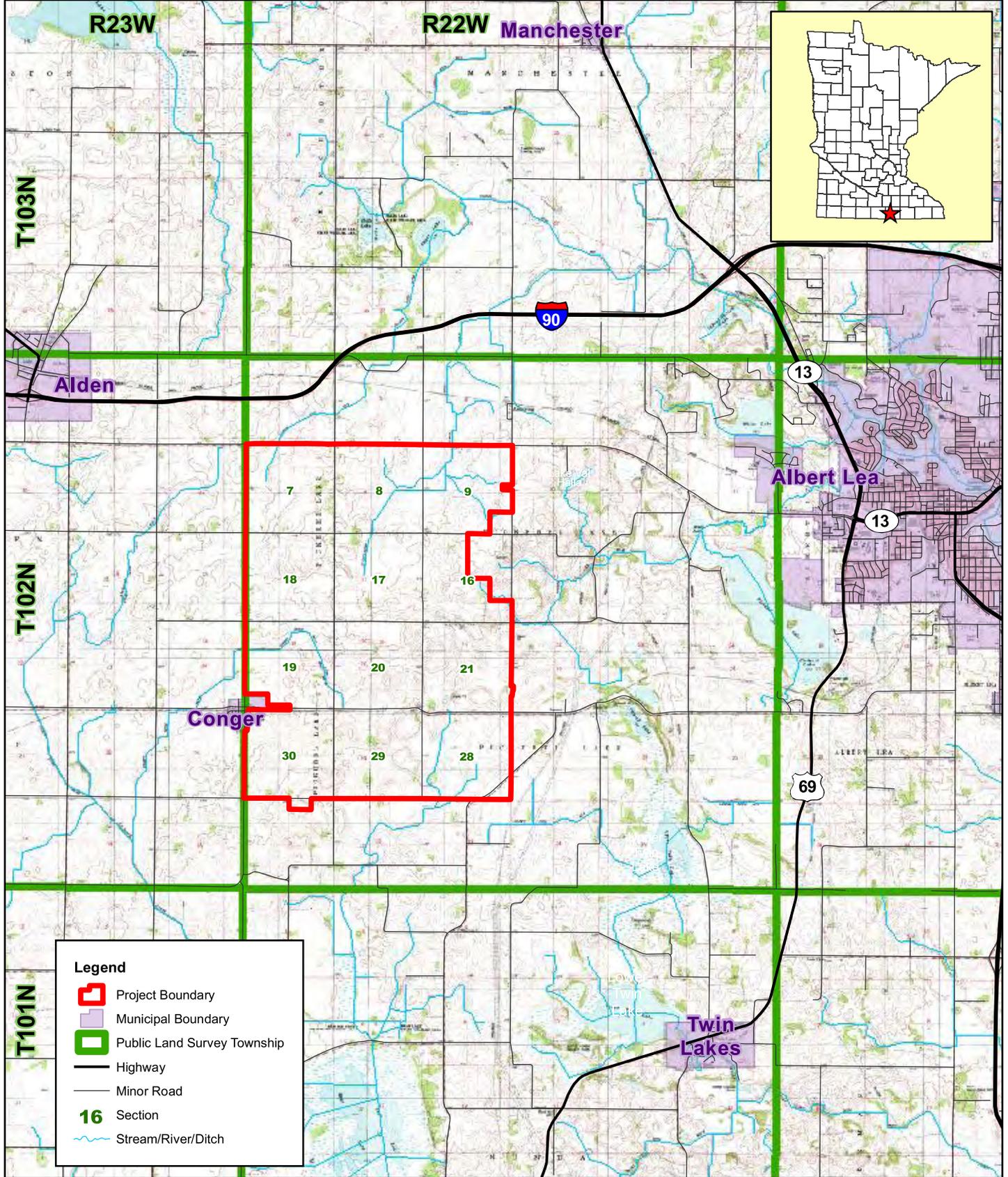
#### **A. Preliminary Determination to Issue a Draft Site Permit**

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 Rule 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.



**Legend**

- Project Boundary
- Municipal Boundary
- Public Land Survey Township
- Highway
- Minor Road
- Section
- Stream/River/Ditch

Data Source(s): USGS Topographic Map (2002); Mn/DOT Roads, Municipalities, Railroads and Townships (2006, 2010); USGS/EPA National Hydrography Dataset (2009); USFWS statewide wetlands (1979, 2009); MMPA (2011); Westwood (2011).

# Shell Rock Wind Farm

Freeborn County, Minnesota

## Project Location Map

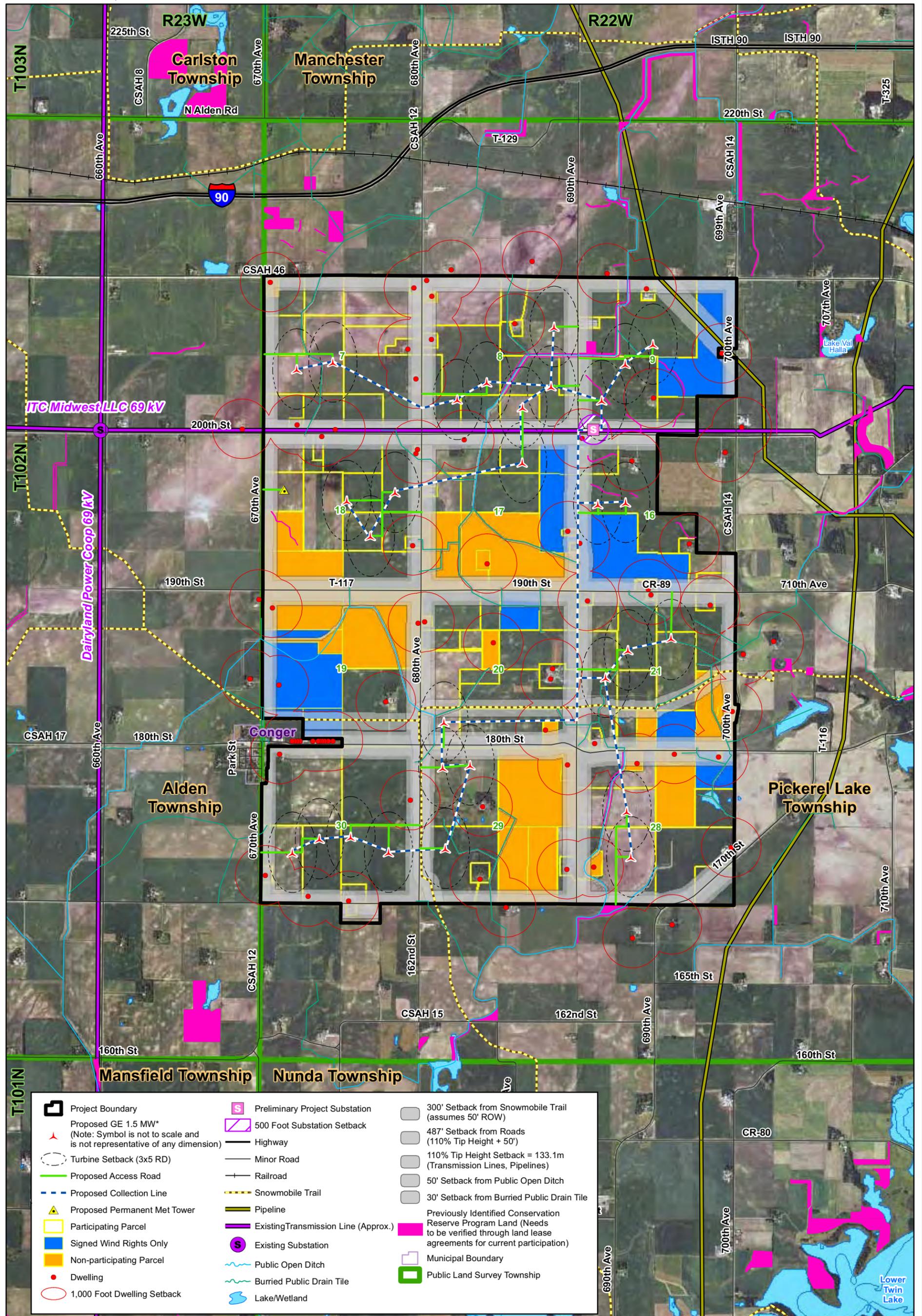
Map 1b



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Map Document: (P:\2010\1239\gis\puc11-03-04\20101239proj01A\_Ext1b.mxd) 3/4/2011 9:57:48 AM



Data Source(s): USGS Digital Elevation Model 10m (2010); Mn/DOT Roads, Municipalities, Railroads and Townships (2006, 2010); USGS/EPA National Hydrography Dataset (2009); USFWS statewide wetlands (1979, 2009); ditches and road setbacks from Freeborn County (2011); MMPA (2011); Westwood (2011).

\*Note: Potential primary structures have not been evaluated for occupancy.

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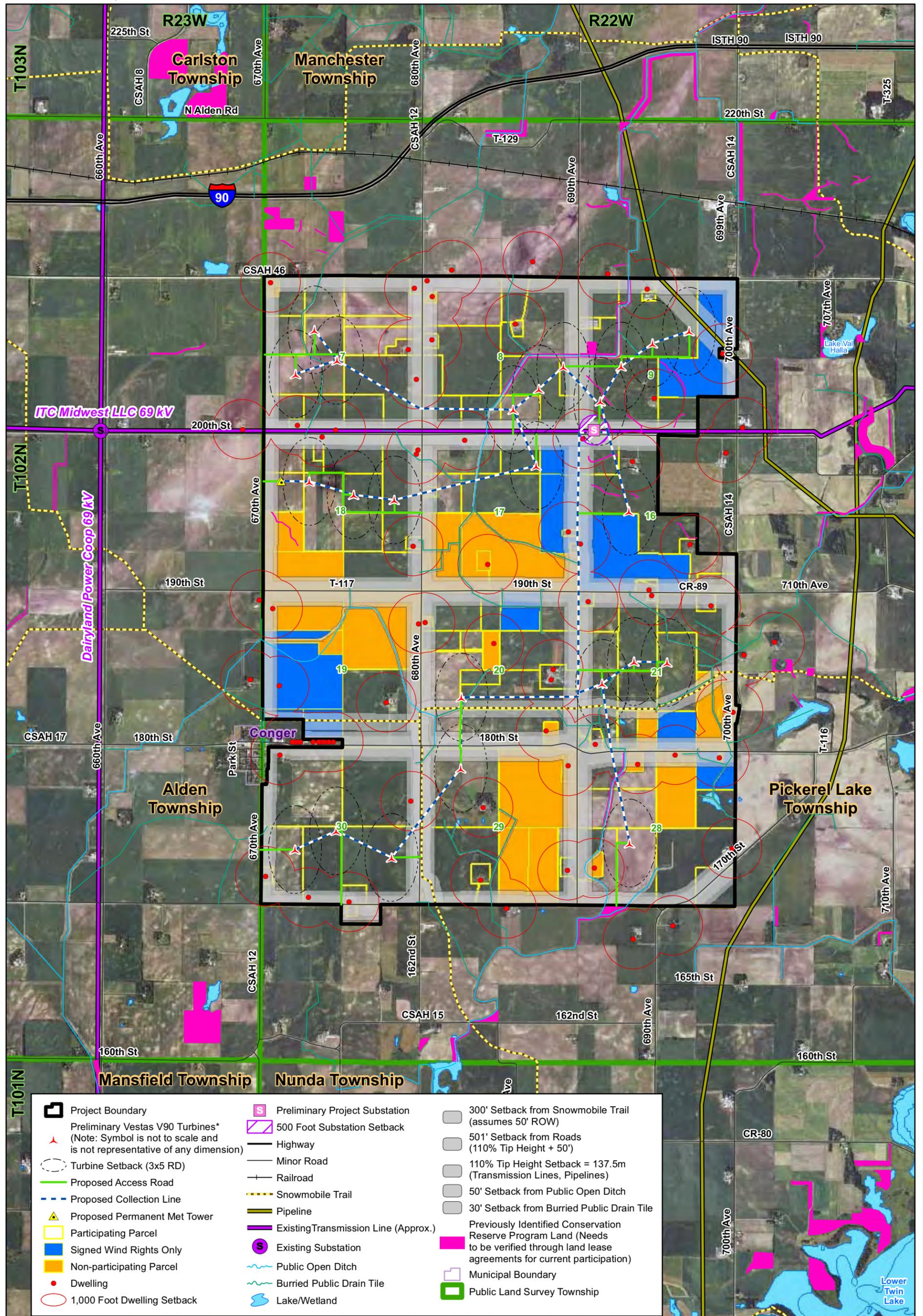


# Shell Rock Wind Farm

Freeborn County, Minnesota

GE 1.5 MW Preliminary  
 Site Layout and Setbacks

Map 3b-1



Data Source(s): USGS Digital Elevation Model 10m (2010); Mn/DOT Roads, Municipalities, Railroads and Townships (2006, 2010); USGS/EPA National Hydrography Dataset (2009); USFWS statewide wetlands (1979, 2009); ditches and road setbacks from Freeborn County (2011); MMPA (2011); Westwood (2011).

\*Note: Potential primary structures have not been evaluated for occupancy.

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# Shell Rock Wind Farm

Freeborn County, Minnesota

Vestas V90 1.8 MW Preliminary  
 Site Layout and Setbacks

Map 3b-2



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## **CORRECTED DRAFT SITE PERMIT AND REVISED COMMISSION DECISION OPTIONS**

### **MINNESOTA PUBLIC UTILITIES COMMISSION FINAL PERMIT DECISION**

**In the Matter of the Site Permit Application of Shell Rock Wind Farm, LLC for a Large  
Wind Energy Conversion System in Freeborn County**

**Docket No. IP-6858/WS-11-195**

**June 16, 2011**

Energy Facility Permitting staff provides the following corrected Draft Site Permit and revised Commission Decision Options to staff's comment and recommendations and proposed Draft Site Permit filed to eDockets on June 9, 2011 (Doc. Id. 20116-63375-01). The attached Draft Site Permit corrects several minor errors, such as the applicant's name on the permit's attachments.

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#### **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 attached draft site permit for distribution and public comment. Authorize EFP staff to implement the public participation process outlined in Minnesota Rule 7854.0900.

2. Amend or modify the proposed attached 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.

**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**SITE PERMIT FOR A  
LARGE WIND ENERGY CONVERSION SYSTEM**

**IN FREEBORN COUNTY**

**ISSUED TO  
SHELL ROCK WIND FARM, LLC**

**PUC DOCKET NO. IP-6858/WS-11-195**

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

Shell Rock Wind Farm, LLC

Shell Rock Wind Farm, LLC is authorized to construct and operate up to a 44 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] 2011

BY ORDER OF THE COMMISSION

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BURL W. HAAR  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0391 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

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## **SITE PERMIT**

This **SITE PERMIT** for a Large Wind Energy Conversion System (LWECS) authorizes Shell Rock Wind Farm, LLC (Permittee) to construct and operate the Shell Rock Wind Farm (Project), up to a 44 Megawatt (MW) nameplate capacity LWECS and associated facilities in Freeborn County, on a site of approximately 7,433 acres in accordance with the conditions contained in this permit.

### **SECTION 1 PROJECT DESCRIPTION**

The up to 44 MW nameplate capacity LWECS authorized to be constructed in this permit will be developed and constructed by the Permittee. The Project will consist of up to 29 General Electric (GE) 1.5 MW wind turbine generators on 262.5 foot (80 meter) towers with a rotor diameter of 271 feet (82.5 meters) or up to 24 Vestas 1.8 MW wind turbine generators on 262.5 foot (80 meter) towers with a rotor diameter of 295 feet (90 meters) having a combined nominal nameplate capacity of approximately 44 MW. Associated facilities will include pad mounted step-up transformers for each wind turbine, access roads, an electrical collection system, feeder and collector lines, Supervisory Control and Data Acquisition (SCADA) communication lines, one permanent meteorological tower, and a Project substation. Power will ultimately be delivered to the existing ITC Midwest overhead 69 kV transmission line.

### **SECTION 2 DESIGNATED SITE**

#### **2.1 PROJECT BOUNDARY**

The Project boundary is shown on the map at Attachment 1. The Project is located in Freeborn County in the Pickerel Lake Township (sections 7-9, 16-21, 28-30).

#### **2.2 TURBINE LAYOUT**

Two preliminary wind turbine and associated facility layouts are shown on maps at Attachments 1A and 1B. 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, 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 a 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 March 15, 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 required under this permit. Attachment 4 is provided solely for the convenience of the Permittee and shall not be construed as a substitute for the conditions contained in this permit.

**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 property 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**

In accordance with the Permittee's site permit application and the Freeborn County Wind Energy Ordinance, wind turbine towers shall not be located closer than 1,000 feet from 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 residences 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 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**

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, as defined in Minnesota Statutes section 84.02, subdivision 5, 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 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 placed in native prairie unless addressed in a Prairie Protection and Management Plan. Construction activities, as defined in Minnesota Statutes section 216E.01, shall not impact native prairie unless addressed in a Prairie Protection and Management Plan. 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 80 meters (262 feet).

#### **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 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 the 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 and feeder lines comprise the electrical collection system. In accordance with the Permittee's site permit application, collector and feeder lines shall be buried. If 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. 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) 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, construction of the facilities; and
- (c) a plan for restoration of the site due to construction.

Construction is defined under Minnesota Statutes section 216E.01. 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 that 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 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 county where the site is located. Within thirty (30) days of approval 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 landowner receive this 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 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 the Commission and DNR, shall design and conduct pre-construction desktop and field inventories to identify potentially impacted 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 thirty (30) 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. 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 shadow flicker for 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. 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, 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.

#### **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 shall, in consultation with the Commission and DNR, 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. If a dead or injured avian or bat species is found, the report shall describe the potential cause of the occurrence and the steps taken to avoid future occurrences.

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.

## **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. 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).

## **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.

#### **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(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 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 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 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 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 ten (10) working days prior to the pre-operation compliance meeting. The Permittee shall also register the Project 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 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 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 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 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 with 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 Project; 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 and Commission procedures.

**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 other permit conditions if there should be a conflict between the two.

**13.1 APPLICATION OF COUNTY STANDARDS**

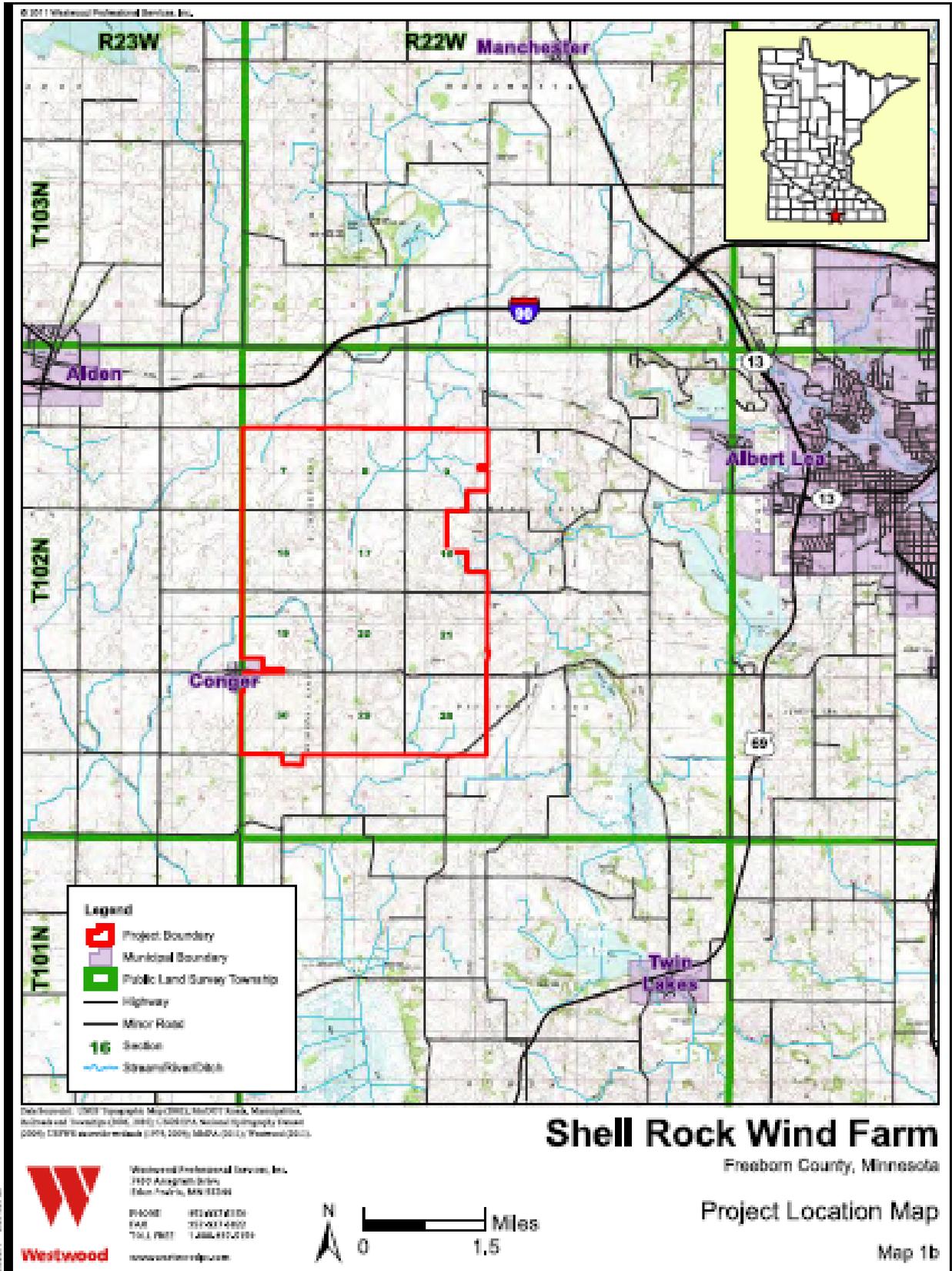
The Permittee shall site all wind turbines and associated facilities consistent with the Freeborn County Wind Energy Ordinance adopted by Freeborn County. Freeborn County has adopted more stringent standards than those identified in this permit for the following features:

- (a) Property Lines: Turbines shall have a setback of 1.0 times the total height of the turbine. The affected adjacent property owner may waive the setback.
- (b) Residences: Turbines over 200 feet in height shall be no closer than 1,000 feet from the nearest residence.
- (c) Municipality: Turbines over 200 feet in height shall be no closer than ½ mile of any municipality excluding Albert Lea. A waiver by resolution may reduce the setback to 1.1 times the tower height from the nearest residence within that municipality.
- (d) Public Rights-of-Way: Turbines shall be at least 1.1 times the tower height from public roads, transmission lines, and communication towers;
- (e) Drainage Tile/Ditches: Turbines shall be at least 30 feet from the center line of any buried public drain tile or 50 feet from the top edge of an open public ditch;
- (f) Liability Insurance: Permittee shall maintain a current general liability policy covering bodily injury and property damage with a minimum coverage of \$300,000; and
- (g) Decommissioning Plan: At a minimum, the decommissioning plan shall include provisions for the removal of all structures, debris and cabling within 180 days after turbine abandonment. Soil and vegetation shall be restored within 270 days after turbine abandonment.

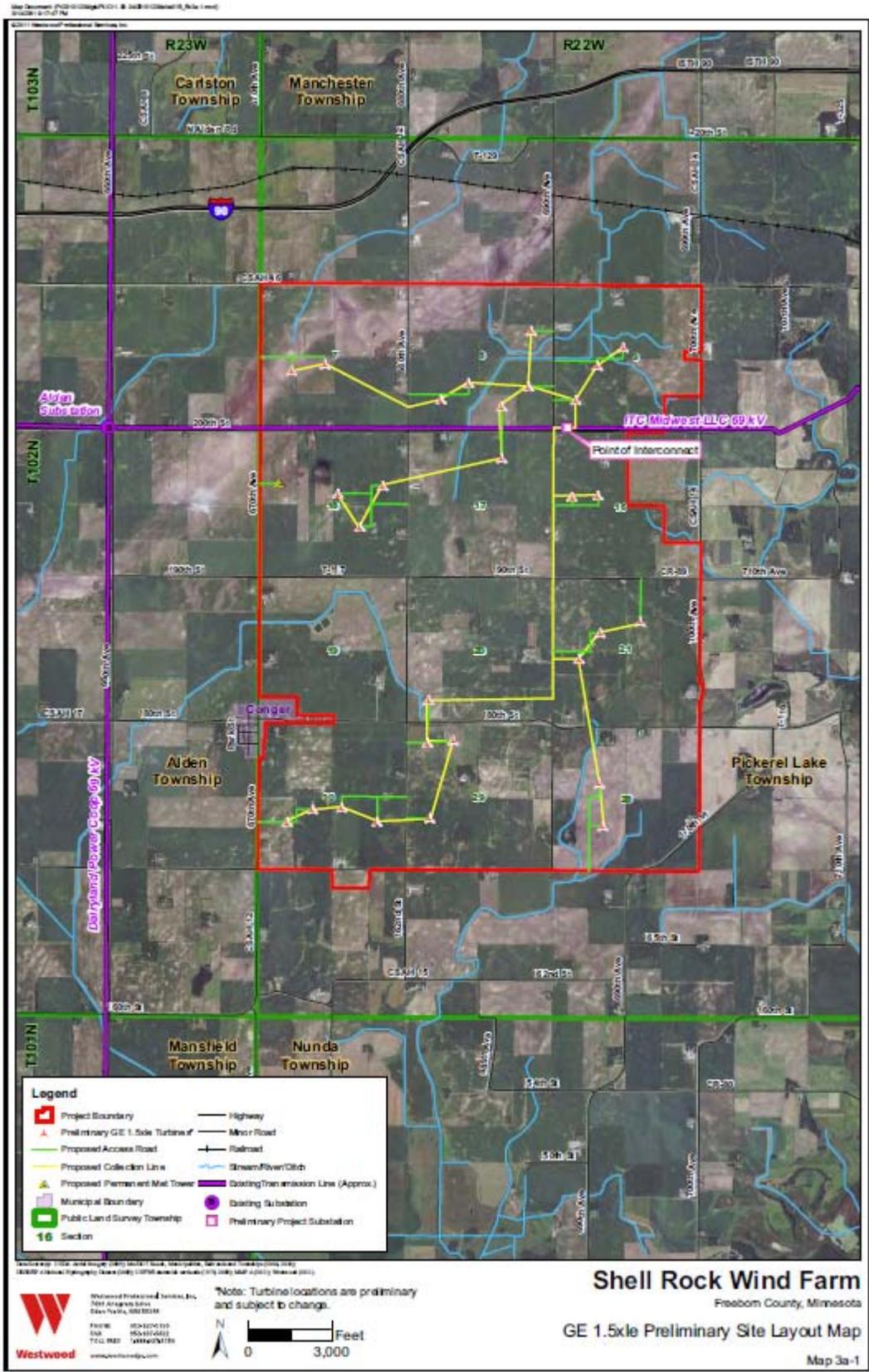
**13.2 AVIAN AND BAT PROTECTION PLAN SPECIAL PROVISION**

The Avian and Bat Protection Plan in Section 6.7 shall include survey plans and protocols to conduct post-construction avian and bat fatality surveys. The post-construction avian and bat fatality surveys shall be conducted for a minimum of one year. The results of the post-construction avian and bat surveys shall be submitted to the Commission. Based on those results, the Commission may modify conditions in this permit pursuant to Section 11.2.

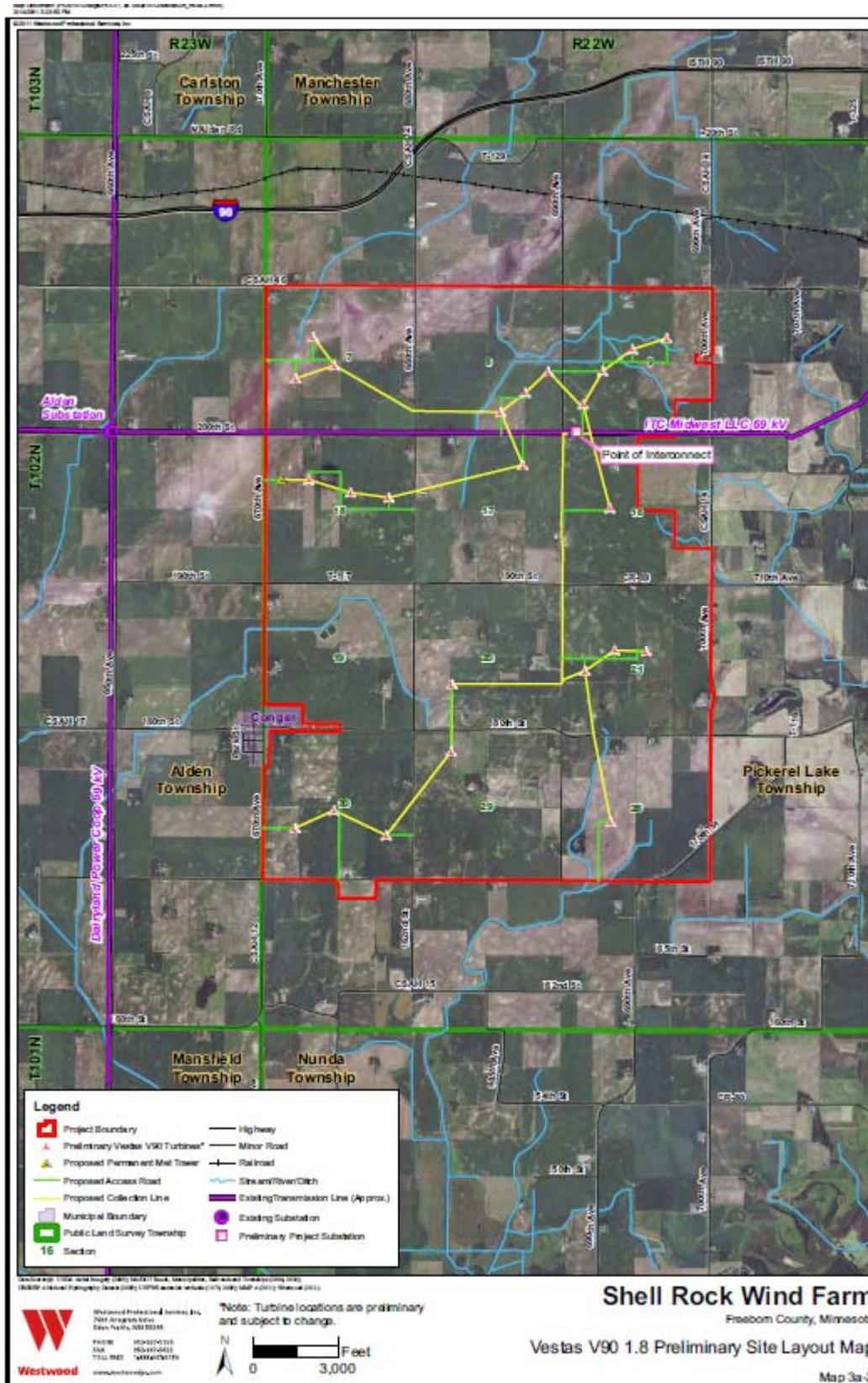
Attachment 1  
Project Boundary Map



# Attachment 1A GE Turbine Layout



# Attachment 1B Vestas Turbine 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 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 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](mailto: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.

**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 (10) 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 below:

Shell Rock Wind Farm  
Avant Energy, Inc.  
200 South Sixth Street, Suite 300  
Minneapolis, MN 55402

**Tel:** 612-349-6868

**Email:** [bruce.freeman@avantenergy.com](mailto:bruce.freeman@avantenergy.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 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 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.

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

**PERMITTEE:** Shell Rock Wind Farm, LLC  
**PERMIT TYPE:** LWECS Site Permit  
**PROJECT LOCATION:** Freeborn County  
**COMMISSION DOCKET NUMBER:** IP-6858/WS-11-195

**PRE-CONSTRUCTION MEETING**

<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>	<b>eDocket Doc. ID</b>	<b>Date Filed</b>
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.			

<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**

<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>	<b>eDocket Doc. ID</b>	<b>Date Filed</b>
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.			

**PRE-OPERATION COMPLIANCE MEETING**

<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>	<b>eDocket Doc. ID</b>	<b>Date Filed</b>
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	Decommissioning Plan	10 working days prior to commercial operation.			

**OTHER REQUIREMENTS**

<b>Permit Section</b>	<b>Description</b>	<b>Due Date</b>	<b>Notes</b>	<b>eDocket Doc. ID</b>	<b>Date Filed</b>
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 15 <sup>th</sup> 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.			