



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET NO. IP-6866/WS-11-831

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In the Matter of the Application for a Large Wind Energy Conversion System Site Permit for the 40 MW Getty Wind Project in Stearns County

Issues Addressed: The following are the Department of Commerce, Energy Facility Permitting (EFP) staff's comments on issuance of a site permit for the proposed Getty Wind Project.

Documents Attached:

1. Project Location Maps
2. Proposed Findings of Fact, Conclusions of Law, and Order
3. Exhibit List
4. Proposed Site Permit with Turbine Layout Maps

Additional documents and information can be found on eDockets:

<https://www.edockets.state.mn.us/EFiling/search.jsp> (11-831) and on the Department's energy facility permitting website: <http://mn.gov/commerce/energyfacilities/Docket.html?Id=32297> .

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Introduction and Background

On October 11, 2011, Getty Wind Company, LLC (Getty) filed a site permit application with the Public Utilities Commission for the 40 MW Getty Wind Project (Project).¹

Project Location

¹ Getty Wind Company, LLC, Application for a LWECs site Permit for the Getty Wind Project, October 11, 2011, eDockets ID: [201110-67223-01](https://www.edockets.state.mn.us/EFiling/search.jsp) – 07 [herein after Site Permit Application]

Getty proposes to locate the Project in an agricultural area south and southwest of the city of Sauk Centre. As shown in Figure 1 attached, Getty has identified a site of approximately 7,600 acres located in Sections 29-33 of Sauk Centre Township (T126N, R34W) and Sections 4 - 9, and 16 - 21 of Getty Township (T125N, R34W) in Stearns County.² The topography in the project area is characterized with low rolling hills in an area comprised mostly of cropland with scattered pockets of uncultivated lands, wetlands, and wooded lands.

The Project is adjacent to, and immediately east of the Black Oak Wind Farm being developed by Black Oak Wind, LLC (see Figure 2, attached). The Commission is reviewing the site permit application for the Black Oak Wind Farm under Commission Docket IP6853/WS-10-1240). The Padua Wildlife Management Area (WMA) is located adjacent to the Project. Four additional WMAs are located within five miles of the Project. The Trisko and Kenna Waterfowl Production Areas (WPAs) are adjacent to the Project; 14 additional WPAs are located within five miles of the Project.³

Project Description

Getty is considering three turbine models ranging between 1.5 and 3.0 MW for the Project. In their most recent filings on the project layout, dated June 22, 2012, Getty Wind provided updated maps showing preliminary turbine locations and associated facilities; The most recent layouts provided by Getty Wind show 21 REpower MM100 1.8 MW turbines, representing an installed capacity of 37.8 MW, and two alternate locations; 23 Goldwind 87/1500 1.5 MW turbines, representing an installed capacity of 34.5 MW, and four alternate locations; and 13 Vestas V112 3.0 MW turbines, representing an installed capacity of 39 MW, and two alternate locations.⁴ The height of the proposed turbines would be 80 to 100 meters (262 or 328 feet), with rotor diameters of 87 to 112 meters (285 to 368 feet) for a total height of between 423 and 492 feet with a blade fully extended.⁵

The project will also include an underground automated supervisory control and data acquisition system (SCADA) for real-time monitoring and control of turbine operations. Up to two (2) permanent free standing 80 meter meteorological towers will be used as part of the communication system.⁶ Other components of the project include a concrete and steel foundation for each tower, step-up transformers (either pad-mounted or internal), all weather class 5 roads of gravel or similar material, an operation and maintenance (O&M) building, and an underground energy collection system, a project substation, and a 69 kV transmission line connecting the project substation to Xcel Energy's Black Oak Switching Station.⁷

Each turbine is interconnected through an underground electrical collection system at 34.5 kV. All of the proposed feeder lines would connect to the proposed project substation. Depending upon whether the Getty and Black Oak projects are constructed together or separately, separate substations may be constructed for each project, or the projects may jointly construct one

² Site Permit Application, at p. 4

³ Ibid., at pp. 28 - 29

⁴ Black Oak & Getty, Hearing Testimony of Patric Smith with Schedules, June 26, 2012, eDockets ID: [20126-75957-02](#) [herein after Smith Direct Testimony] , at Schedules 1 - 6

⁵ Site Permit Application, at p. 10

⁶ Black Oak and Getty, Black Oak and Getty Post Hearing Comments and Revised ABPP, July 10, 2012, eDocket ID: [20127-76674-09](#) [herein after Black Oak & Getty Post-Hearing Comments]

⁷ Site Permit Application, at pp. 11 - 13

substation.⁸ If the Project Substation is constructed by Getty, either separately or to serve both the Getty and Black Oak projects, Getty Wind anticipates the substation will be located in Section 7 of Black Oak Township (see Site Permit Maps, shown in Attachments 1a – 1c of the proposed site permit), pending biological, archaeological, and soil surveys. The Project will interconnect with the electrical grid at Xcel Energy's Black Oak Switching Station, located approximately three and one-half miles east of the Project's eastern boundary.⁹ The interconnection will be in accordance with Midwest System Operator Standards and consistent with the Large Generator Interconnection Agreement. Getty and/or Black Oak will seek a permit from Stearns County for the 69 kV transmission line between the Project Substation and the Black Oak Switching Station and for the O&M facility.¹⁰

Getty anticipates a net capacity factor of between 39 and 44 percent at the 100 meter hub height and projects an average annual output from of between 136,000 and 154,000 MWh per year with the 1.8 MW turbines, somewhat less if either the 1.5 MW or 2.0 MW turbines are used.¹¹

Getty anticipates that a contract for the power will be negotiated sometime in late 2012 and that construction of the Project will begin in mid-2013, with commercial operation expected by the end of 2013.¹² Getty estimates the total cost of the project to be between \$68 and \$76 million with ongoing operating and administrative costs of approximately \$1.3 to \$1.5 million annually.

Regulatory Process and Procedures

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

Certificate of Need Process

A CN is required for any "large energy facility" as defined by Minnesota Statutes section 216B.2421, subdivision 2(1).

Getty, together with Black Oak Wind, LLC, jointly submitted a petition for a Certificate of Need for the Black Oak Wind Farm and the Getty Wind Project, on October 11, 2011.¹³

On December 15, 2011, the Commission issued an order authorizing an informal review process for its consideration of the need for the project. A public hearing on the Black Oak Wind Farm and Getty Wind Project projects was held in Sauk Centre on June 26, 2012;¹⁴ the hearing was noticed to include opportunity for public comments on both the Black Oak and Getty site

⁸ Black Oak & Getty Post-Hearing Comments, at response 7

⁹ Site Permit Application, at p. 10

¹⁰ Site Permit Application, at p. 11

¹¹ Site Permit Application, at p.pp. 67-68

¹² Smith Direct Testimony, at p.12

¹³ Black Oak Wind, LLC and Getty Wind Company, LLC, *Joint Application for Certificate of Need for the Black Oak and Getty Wind Projects*, October 11, 2011, eDocket ID: [201110-67221-03](#)

¹⁴ Transcript of Public Hearing held June 26, 2012, July 11, 1012, eDocket ID: [20127-76685-01](#) (Exhibit 22)

permits.¹⁵ The period for written comments closed on July 10, 2012, and Administrative Law Judge Bruce H. Johnson issued a Summary of Public Testimony on August 8, 2012.¹⁶

A site permit may not be issued until the Commission determines the need for the facility.

Site Permit Process

A site permit from the Commission is required to construct an LWECS, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. This requirement became law in 1995. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirements for LWECS are in Minn. Rule 7854.

On October 11, 2011, Getty Wind Company, LLC (Getty), filed a site permit application with the Public Utilities Commission for the 40 MW Getty Wind Project (Project).¹⁷

Following a public comment period on the site permit application, the Commission issued a draft site permit for the project in its order of February 23, 2012.¹⁸ Following notice, a public meeting on the Draft Site Permit was held in on March 20, 2012. Five comments were received by the close of the public comment period on April 22, 2012.¹⁹

As noted above, comments on the Black Oak and Getty Site Permits were also accepted during the comment period for the CN public hearing ending July 10, 2012, and are included in the ALJ's Summary of Public Testimony.

Standard for Permit Issuance

The test for issuing a site permit for an LWECS is to determine whether a project is compatible with environmental preservation, sustainable development, and the efficient use of resources. Pursuant to Minnesota Statute 216F.02, certain sections of Minnesota Statutes 216E (Minnesota Power Plant Siting Act) apply to siting LWECS, including 216E.03, subdivision 7 (considerations in designating sites and routes). Minnesota Statutes section 216F.04 (d) allows the Commission to place conditions in LWECS permits.

County Ordinance Standards for LWECS

Minnesota Statutes section 216F.08 authorizes counties to assume responsibility for processing permit applications for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. Pursuant to Minnesota Statutes section 216F.08, Stearns County assumed permitting responsibility for projects under 25 MW in December 2009.

Certain standards adopted by ordinance by Stearns 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. The

¹⁵ Revised Notice of Public Hearing, May 25, 2012, eDockets ID: [20125-75012-03](#)

¹⁶ Written Public Comments, August 14, 2012, eDockets ID: [20128-77850-01](#), [20127-76745-01](#), [20127-76745-04](#); OAH Summary of Public Testimony, August 8, 2012, eDockets ID: [20128-77666-01](#)

¹⁷ Site Permit Application

¹⁸ Commission Order Issuing Draft Site Permit for Public Review and Comment, February 23, 2012, eDockets ID: [20122-71812-01](#)

¹⁹ Written Comments on Draft Site Permit, eDockets ID: [20124-73344-01](#), [20126-75767-01](#), and [20122-71712-03](#)

Draft Site Permit issued for public comment identified these more stringent standards in Special Condition 13.1.

DOC EFP Staff Analysis and Comments

DOC EFP staff addresses oral and written comments below relating to the siting of the Project and LWECS site permit conditions. EFP staff comments do not address issues related to the Certificate of Need.

Wind Access Buffer Setback

In consideration of the statutory directive to site LWECS "in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources,"²⁰ LWECS site permits issued by the Commission and the Environmental Quality Board have long addressed the importance of wind rights and the free flow of wind by providing for a "wind access buffer," between a proposed project and areas where the applicant does not hold wind rights.

In its January 2008 Order adopting "General Wind Turbine Permit Setbacks and Standards for LWECS Facilities Permitted by Counties Pursuant to Minnesota Statute 216F.08," the Commission affirmed a long-standing Wind Access Buffer Setback of three rotor diameters on the secondary wind axes and five rotor diameters (RD) on the predominant axes.²¹ The Commission's found that,

"Therefore the Commission will maintain its current setbacks of three rotor diameters on the secondary wind axis and five rotor diameters on the predominant axis. This buffer setback has been shown to protect wind rights and future development options of adjacent rights owners."²²

Although the Commission's January 2008 Order established general permit standards for permitting of LWECS less than 25 MW, the 3 by 5 RD setback is typical of most permits issued by the Commission.

The most recent layouts provided for the Project were filed on June 22, 2012.²³ The proposed layouts appear to show the setback buffers for a number of the turbines near the western portion of the project overlap setback buffers for some turbines on the adjacent Black Oak Wind Farm.

In the July 10, 2012, comment letter to the ALJ, Black Oak and Getty acknowledge that certain of the turbines are within the 3 by 5 RD Wind Access Buffer between the Black Oak and Getty Projects and provide their justification for the spacing.

"The Applicants understand this question to refer to turbines G21 and G1 of the GW87 layout, G2 and G20 of the MM100 Layout, and G1 and G2 of the V112 Layout. All of

²⁰ MN Stat. 216F.03

²¹ Minnesota Public Utilities Commission "Order Establishing General Wind Permit Standards," January 15, 2008. eDocket ID: [4897855](#)

²² Ibid., at p. 4

²³ Smith Direct Testimony, at schedules 1 - 6

these turbines are located within the 3 x 5 RD setback buffer between the Black Oak and Getty project boundaries.

This wind resource area is under wind lease and easement agreements and shared between the two projects via an agreement as part of Black Oak and Getty's joint development partnership. Because the wind leases and easements are shared, there should be no need for the Commission to vary the 3 x 5 RD wind access buffer. However, if the Commission believes approval is required, Black Oak and Getty believe such approval is justified based on the shared lease interests and the joint turbine siting activities undertaken to carefully consider the reciprocal impact of each Black Oak and Getty wind turbine."²⁴

Stearns County has established in its ordinances a Project Boundary requiring a setback of 5 RD from all parcels of land for which the Permittee has a wind easement for the Project unless the county finds the wake interference to be less than 5 RD. Stearns County filed comments on the LWECS Site Permit Applications stating that Getty Wind had demonstrated wake interference of less than 5 RD, and recommending a setback of 5 RD on the prevailing wind axis and 3 RD on the non-prevailing wind access.²⁵ Because the Stearns County recommendations were consistent with the 3 RD by 5 RD wind access buffer, the Draft Site Permit did not identify the 5RD setback as a more stringent setback.

EFP Response: The site permit, at section 4.1, establishes a 3 RD by 5 RD setback from lands where the permittee does not hold wind rights. Although Black Oak and Getty have stated in their July 10, 2012 Post-Hearing Comments that wind leases and easement agreements are shared between the two projects, neither has provided evidence of the extent of their wind rights within their separate sites or shared between projects. The permit, at section 10.1, requires the permittee to demonstrate that it has obtained wind rights necessary to construct and operate the Project. In this instance, a filing by Getty establishing the extent of its wind rights overlain with a turbine layout prior to the Commission's decision would be useful in clarifying the extent of the wind rights and ensuring that Getty is able to comply with this requirement.

Section 4.1 of the permit does allow the Commission to approve placement of turbines within the 3 RD by 5 RD Wind Access Buffer. As noted in Mr. Smith's direct testimony, Getty made modifications to earlier layouts in response to DNR's comments and avian risk assessment on an earlier layout.²⁶ EFP staff believes the Commission could find that the placement of turbines within the Wind Access Buffer is acceptable given Getty and Black Oak's agreement on the turbine placement and the overall lowering of the DNR's assessment to a moderate risk assessment for all proposed turbine layouts achieved by the layout modifications.

As noted in the Project Description above, Getty's most recent layouts include between two and four alternate turbine sites for each proposed layout. If Getty is unable to demonstrate sufficient wind rights to site the preferred turbine locations, it has the option of using one or more of the alternate turbines in a final layout. Alternatively, Getty could construct a project with fewer

²⁴ Black Oak & Getty Post-Hearing Comments, at response 4

²⁵ Public Comments received on Getty Wind Company, LLC's LWECS Site Permit Application for the 40 MW Getty Wind Project in Stearns County, January 18, 2012, eDockets ID: [20121-70416-01](#), at p. 19

²⁶ Smith Direct Testimony, at pp. 4 – 5

turbines than shown in the proposed layouts and still be in compliance with the site permit as proposed.

Avian and Bat Impacts and Mitigation

Bird and bat fatalities are known to occur with wind projects and would be expected to occur as a result of the Project. The joint Getty - Black Oak surveys of wildlife habitat and use of the adjacent sites emphasized avian species.

Getty and Black Oak jointly developed an Avian and Bat Protection Plan (ABPP). The intent of the ABPP, as stated in 6.7.1 of the proposed permit, is to address steps taken to identify, avoid, minimize and mitigate impacts to avian and bat species during both the construction and operations phase of the projects, including formal and informal monitoring, training, wildlife handling, documentation, and reporting protocols for each phase of the Project.²⁷ In response to comments received from EFP staff, DNR, and the United States Fish and Wildlife Service (USFWS), Black Oak and Getty submitted a Revised ABPP on July 10, 2012.²⁸

Based on results of the avian surveys conducted for the Project and the adjacent Black Oak Wind Farm, Getty revised the turbine layouts to avoid flyways identified in the field surveys. DNR reviewed the proposed turbine layouts submitted by and recommends post construction fatality monitoring consistent with the DNR draft avian and bat fatality protocols for moderate risk sites for all layouts under consideration.²⁹

Black Oak and Getty installed bat detectors in the spring of 2012 and, as part of the Getty site permitting process, have committed to reporting on the results of the preconstruction monitoring.

EFP Response: EFP staff believes the revised ABPP provides both necessary background for understanding potential avian and bat impacts and as a framework for avoiding, minimizing, and mitigating potential impacts that are important for the Commission's decision. Issues raised in the USFWS and DNR comments have either been incorporated into the Revised ABPP or in sections 6.7, 13.2, 13.3, and 13.4 of the proposed site permit as discussed below.

It has been the Commission's practice for the past few years to require preparation of an ABPP for wind projects. Historically, the ABPP was provided after the issuance of the permit, but before construction. In the case of the Getty Project, Getty and Black Oak provided a Draft ABPP on January 17, 2012. Because of the timing of the Draft ABPP and the desire for an opportunity for public and agency comments on the Draft ABPP prior to the Commission's final permit decision on the Project, the Draft ABPP was provided for public comment as Attachment 5 to the Draft Site Permit. The Draft Site Permit, at section 6.7, required Getty to comply with the provisions of the ABPP as detailed in Attachment 5.

Although the Revised ABPP is very useful, the document, as it stands, provides the perspective of the Applicants much like a site or route permit application and not necessarily the position of the Commission. For this reason, EFP staff recommends that the revised ABPP not be included

²⁷ Draft Avian and Bat Protection Plan, January 17, 2012, eDockets ID: [20121-70380-01](#)

²⁸ Revised Avian and Bat Protection Plan, July 10, 2012, eDockets ID: [20127-76674-03](#)

²⁹ DNR Comments on Turbine Layouts for Black Oak and Getty Wind Projects in Stearns County, June 24, 2012, eDockets ID: [20128-78117-01](#).

as an attachment to the proposed site permit. EFP staff believes that the opportunity for agencies and the public to comment on the ABPP was beneficial in identifying potential avian impacts and developing mitigation strategies. Going forward, EFP staff would recommend that the Commission not accept any new LWECS site permit applications as complete unless a Draft ABPP is included in the application, allowing for comment on a proposed ABPP during the application review period.

EFP staff proposes a number of changes to Section 6.7 of the permit to (1) remove reference to the ABPP as an attachment to the proposed permit, while requiring Getty to comply with the provisions of the ABPP filed on July 10, 2012, and (2) characterize the ABPP document as one component of an ongoing compliance system, rather than a static document. The proposed changes separate the required compliance filings:

6.7.1 ABPP: The proposed permit requires annual audits of the ABPP as recommended by the DNR in their comments and incorporated by Black Oak and Getty in the Revised ABPP. As proposed the audit would summarize bird and bat fatalities and injuries reported over the previous year and provide estimates of overall bird and bat injuries at the site. The audit would identify any deficiencies or recommended changes in operation to the Project along with a proposed schedule for implementing any changes. The audit provides a mechanism to identify issues related to avian impacts over the potentially 30 year lifetime of the Project.

6.7.2 Quarterly Incident Reports: The proposed permit continues the requirement for filing quarterly incident reports and, requires Getty to provide copies of these reports to USFWS and DNR at the time the reports are filed with the Commission.

6.7.2 Immediate Incident Reports: Pursuant to comments from the USFWS the proposed permit requires reporting within 24 hours of any dead or injured bald eagle, regardless of its listing status.

The proposed permit also includes three special conditions related to avian and bat species:

Section 13.2 Overhead Collector Lines

The proposed changes specify feeder lines, rather than collector lines. The permit, at section 4.15 requires collector lines carrying power from individual turbines to an interconnection point, be buried. Section 4.15 allows feeder lines carrying power from an internal project interconnection point to be either overhead or underground. In response to DNR comments, the proposed permit also requires Getty to provide location and spacing of proposed bird flight diverters to DNR and the Commission prior to the preconstruction meeting. Because the proposed 69 kV transmission line is not being permitted as part of the project, the special condition does not address transmission lines.

Section 13.3 Site Specific Bat Study: The site-specific bat study identified in section 13.3 of the proposed site permit is currently underway and results will be submitted by December 15, 2012, as required by this section of the proposed permit. In July 2012 the United States Geological Survey (USGS) has released a report summarizing current literature on the

interaction between bats and wind energy.³⁰ The USGS report highlighted the need for more study regarding impacts to bats from wind projects. Based on the conclusions of the USGS bat study, it appears that the interaction between bats and wind turbines is complex and the science is not developed to the point where preconstruction data on bat activity and species present at a site can be used to inform a layout that would minimize impacts to bats. Although information on bat activity and species within the site does not directly inform turbine and infrastructure siting, EFP staff recommends that this permit condition remain, and the information be used to develop a baseline knowledge of the site that may be useful in developing survey design as part of the post-construction monitoring.

13.4 Post-Construction Fatality Monitoring: Pursuant to DNR comments on post-construction fatality monitoring, the proposed site requires Getty to design and execute post-construction monitoring consistent with DNR recommendations.

Review of Biological Inventories

DNR staff requested a period of at least 30 days to review biological surveys required under Section 6.1.

EFP Response: The proposed site permit, at Section 6.1, changes this time period to 30 rather than 14 days. This 30 day review period is consistent with that in the Draft Site Permit for the Black Oak Project.

Site Restoration

DNR staff noted that allowing up to 12 months for restoration of sites allows for the introduction of invasive species and requests that the time period be addressed in the Invasive Species Prevention Plan required under Section 7.11 of the Site Permit.

EFP Response: EFP staff notes DNR staff's concern with the possible length of time, but believes that the permit language allows necessary flexibility for Getty and the landowner to negotiate a complete restoration of disturbed land, and not solely re-vegetation in a mutually agreeable timeframe. EFP staff anticipates that a more detailed timeline for re-vegetation would be included in the Soil Erosion and Sediment Control Plan required under Sections 7.11 of the Site Permit.

Landowner Participation

Applicants state that they have approximately 5,000 acres within the project area under site control. One written comment alleged that wind rights may have been obtained under duress and that signed easements may not have been properly executed with the required witness.³¹

EFP Response: The Permit, at Section 10.1 requires Getty to demonstrate it has obtained wind rights necessary to construct and operate the Project prior to construction.

³⁰ Ellison, L.E. 2012. *Bats and Wind Energy-A Literature Synthesis and Annotated Bibliography*: U.S. Geological Survey Open-File Report 2012-1110. 57 p., <http://pubs.usgs.gov/of/2012/1110/OF12-1110.pdf>

³¹ Public Hearing Written Comments, August 14, 2012, eDockets ID: [20128-77851-01](https://www.puc.state.tx.us/edockets/2012/20128-77851-01), see Wiener comments

Setbacks

One commenter questioned why the proposed permit does not require setbacks as stringent as the permit issued by the Commission in the Goodhue Wind Project. Stearns County Ordinance sets forth different requirements than Goodhue County.³²

EFP Response: As discussed above, Stearns County assumed permitting for Projects less than 25 MW in December 2009. Certain standards adopted by ordinance in Stearns County are more stringent than the Commission's General Permit Standards. The Draft Site Permit issued for public comment identified these more stringent standards in permit condition 13.1.

Other Comments

Issues of need for the Project and other Project alternatives are subject of the Certificate of Need before the Commission. Wind resources are addressed in Findings 32 – 35; wind rights and agreements are discussed in Findings 33 – 40 and in the Site Permit at section 10.1; impacts to property values are addressed in Findings 51 – 52; aesthetic impacts are addressed in Findings 62 – 64; stray voltage is addressed in Finding 72; impacts to the local economy are addressed in Findings 90 and 91; wildlife impacts are addressed in the Site Permit at sections 6.1, 6.7, 13.2, 13.3, and 13.4 and in Findings 100 – 110; groundwater impacts are addressed in Finding 121; impacts to surface water and wetlands are addressed in the Site Permit at sections 4.6, 6.1, 7.11, and 10.5.1 and at Findings 122 – 124. The Site Permit, at section 10.2 requires a power purchase agreement or other enforceable mechanism. Getty anticipates a contract for sale of the power in late 2012, as noted in Finding 30.

Other Proposed Changes in Proposed Permit

In addition to the changes in permit language noted above, (sections 6.1, 6.7, 13.2, 13.3, and 13.4 of the proposed permit), EFP staff proposes some additional changes in permit language between the Draft Site Permit and the Proposed Permit. New language is noted in the attached permit by underline and strikeout. Some changes are grammatical and to provide small changes (e.g. use of "Project" rather than "LWECS") consistent with the proposed Black Oak site permit and are not described further. Changes proposed to provide consistency with permits and permit amendments recently issued by the Commission, and with the structure of the permit are detailed below:

Section 3, Application Compliance: The proposed language is consistent with more recently issued permits to ensure that, should there be a conflict between the compliance filings detailed in Attachment 4 to the Permit, the conditions of the Permit shall prevail.

Section 5.2, Notice to Local Residents: The proposed language clarifies that the Permittee shall provide a printed copy of the permit to local governments and landowners and that the complaint procedure provided to landowners within the Project Boundary is that required in Section 5.8 of the permit. These changes are consistent with the language in the Draft Site Permit for the Black Oak Wind Farm.

Section 6.2 Shadow Flicker: The proposed language changes "impact" to "exposure," and clarifies that the Permittee shall file these surveys with the Commission prior to the pre-

³² Ibid., see Mueller Comments; Commission Order issuing LWECS Site Permit for Goodhue Wind Project, August 24, 2011, eDockets ID: [20118-65631-01](#)

construction meeting. These changes are consistent with the language adopted by the Commission in its amendment to the Morgan Wind Project (Docket No. IP-6723/WS-09-360).³³

Section 6.4 Interference: The proposed changes clarify that pre-construction assessments of interference potential include radio signals and telecommunications. These changes are consistent with the language in the Draft Site Permit for the Black Oak Wind Farm.

Section 6.8 Project Energy Production

This section contains minor technical changes consistent with the language adopted by the Commission in its amendment to the Morgan Wind Project.³⁴

Section 6.9 Wind Resource Use

The proposed permit contains technical changes to this section and clarifies that the information is considered public, consistent with the language adopted by the Commission in its amendment to the Morgan Wind Project.³⁵

Section 10.3 Failure to Commence Construction

The proposed permit removes reference to Section 5 of the permit. Preconstruction studies are identified in Section 6 of the permit. However, because Section 6 also identifies several additional reports required prior to operation, and ongoing through operation, the proposed language does not reference this section specifically.

Section 13.1 Application of County Standards

The proposed permit includes a statement that a recorded fall zone easement acceptable to the county may be allowed in lieu of the setback from property lines. This change is consistent with the language in the Draft Site Permit distributed for the Getty Project.

Section 13.5 Project Substation

The proposed permit adds a special condition clarifying that the location of the Project Substation complies with the setback requirements in the Stearns County Land Use and Zoning Ordinance.

Proposed Findings of Fact and LWECS Site Permit

EFP staff has prepared (1) proposed findings of fact, conclusions of law, and order, and (2) a proposed LWECS site permit (attached). The proposed findings address the procedural aspects the process followed, describe the Project, and address the environmental and other considerations of the Project, incorporating some findings that were previously made for other LWECS projects. The site considerations addressed in the proposed findings (such as human settlement, public, health and safety, noise, recreational resources, community beliefs, effects on land based economies, archaeological and historical resources, wildlife, and surface water) track the factors described in the Commission's rules for other types of power plants that are pertinent to wind projects. The proposed permit includes measures to ensure that the Project is constructed safely and that impacts from construction and operation of the Project are minimized or mitigated.

³³ PUC, *Order Amending Site Permit*, July 26, 2012, eDocket ID: [20127-77265-01](#)

³⁴ Ibid.

³⁵ Ibid.

EFP Staff Recommendations

Department EFP staff recommends that the Commission:

1. Approve and adopt the proposed findings of fact, conclusions of law, and order, thereby
 - a. Designating a site for the up to 40 MW Getty Wind Project LWECS in Stearns County
 - b. Issuing a site permit, with appropriate conditions, to Getty Wind Company, LLC, for the up to 40 MW Getty Wind Project LWECS in Stearns County.

Figure 1: Getty Wind Project Site

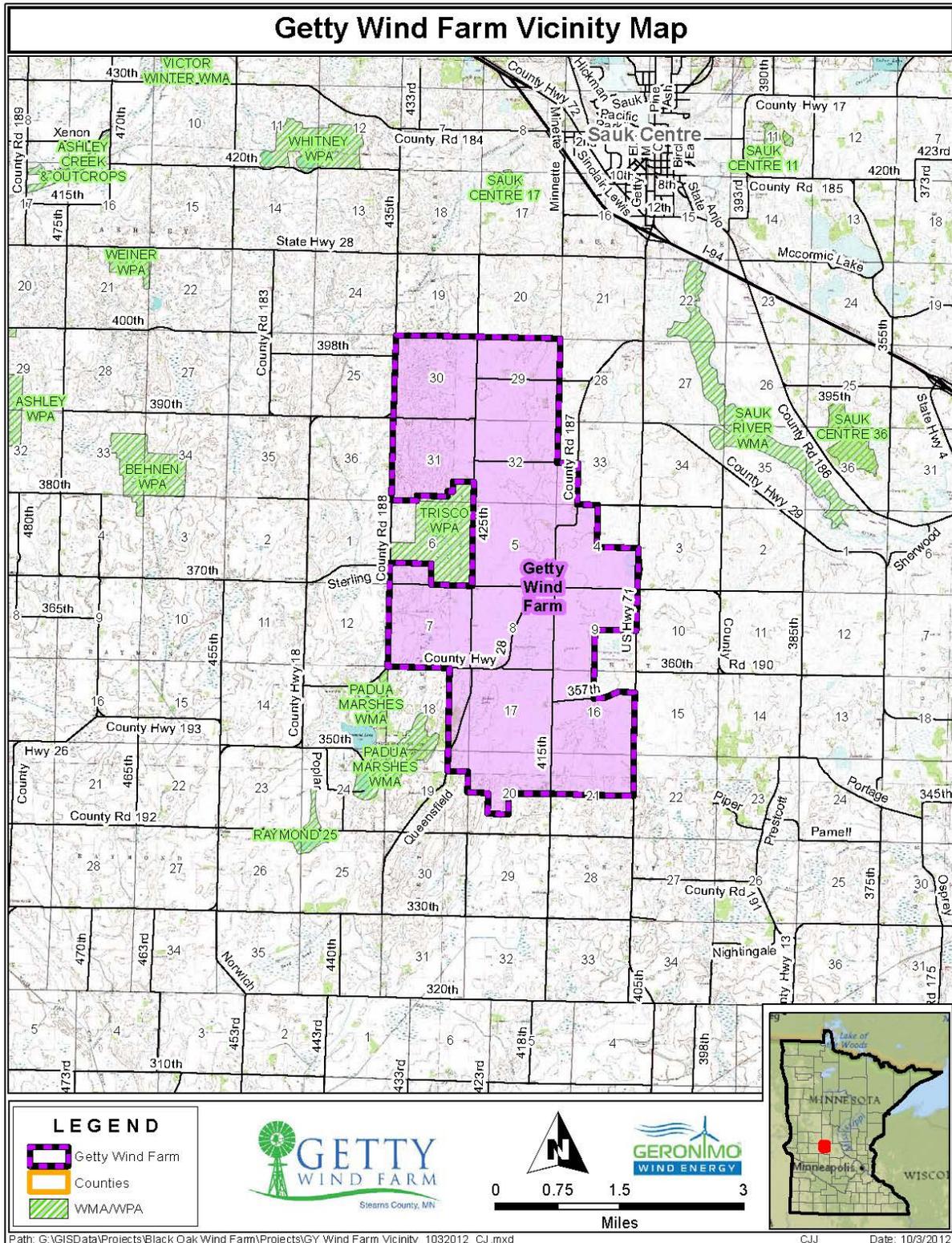


Figure 2: Black Oak & Getty Wind Projects Vicinity

