BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Michael Rucker
CWS Wind Farm, LLC
4845 Pearl East Circle, Suite 200
Boulder, CO 80302

SERVICE DATE: February 6, 2012

DOCKET NO. IP-6871/WS-11-863

In the Matter of the Application of CWS Wind Farm, LLC for a Large Wind Energy Conversion System Site Permit for the 30.75 MW Community Wind South Project in Nobles 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 draft site permit for the Community Wind South Project for distribution and public comment. Authorized EFP staff to implement the public participation process found in Minnesota Rules 7854.0900.

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

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-6871/WS-11-863

Meeting Date: February 2, 2012 ..... Agenda Item # ____

Company: **CWS Wind Farm, LLC (formerly Community Wind South, LLC)**

Docket No. **IP-6871/WS-11-863**

In the Matter of the Application of CWS Wind Farm, LLC for a Large Wind Energy Conversion System Site Permit for the 30.75 MW Community Wind South Project in Nobles County.

Issue(s): Should the Public Utilities Commission issue a Draft Site Permit?

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

Relevant Documents

Minnesota Department of Transportation Comments..... December 30, 2011
Minnesota Department of Natural Resources Comments..... December 30, 2011
Robert J. Schreiber (Public Comment) ..... December 21, 2011
Community Wind South Site Permit Application .....October 17, 2011

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The enclosed materials are the work papers of the 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.

Documents Attached

1. Figure 1 — Project Vicinity
2. Figure 2 — Site Map
3. Figure 3 — Map of Existing Wind Turbines in Project Vicinity
4. Draft Site Permit with Preliminary Turbine Locations Map

See eDocket filings (11-863) at https://www.edockets.state.mn.us/EFiling/search.jsp, or the PUC website at: http://www.energyfacilities.puc.state.mn.us/Docket.html?Id=32306 for project related documents.

Statement of the Issues

Should the Public Utilities Commission (Commission) issue a Draft Site Permit to CWS Wind Farm, LLC (Applicant or CWS) for a Large Wind Energy Conversion System (LWECS) for the 30.75 megawatt (MW) Community Wind South Project (CWS Project or Project) in Nobles County?

Introduction and Background

The applicant, Community Wind South, LLC, has now identified CWS Wind Farm, LLC as the Permittee for the proposed 30.75 MW Community Wind South Project in Nobles County. CWS Wind Farm, LLC is a Delaware Limited Liability Company formed in 2011.

By way of background, Community Wind South, LLC (CWS, LLC) was formed to develop approximately 30 MW of the required locally owned wind energy generation facilities as defined in an Order of the Commission. See Order Granting Certificate of Need Subject to Conditions, MPUC Docket No. E002/CN-01-1958, [March 11, 2003]. Subsequently, CWS, LLC created three ownership entities, Zephyr Wind, LLC (Zephyr), Moriah Wind, LLC (Moriah) and Chinook Wind, LLC (Chinook), each of which will own 10 MW of the overall generating facility. In addition, CWS, LLC created Summit Transmission, LLC (Summit) as the entity that will design, install and operate the necessary transmission and interconnection facilities between each of the turbine transformers and the interconnection point at the NSP Nobles Substation.

Project Location
The Project is in central Nobles County, approximately two miles south of the community of Wilmont and approximately 10 miles northwest of the city of Worthington (See Figure 1 in the Commissioner's packet). The project site includes lands in the townships of Summit Lake (sections 17-20 and 30) and Larkin (13, 23-24). CWS Wind Farm, LLC currently has approximately 3,080 acres under lease for the Project. CWS Wind Farm, LLC has secured 23 leases with 36 landowners within the site boundary (See Figure 2 in the Commissioner's packet).

Project Description
The CWS Project expects to use 15 REpower 2.05 MW turbines (model MM92) yielding a total nameplate capacity of 30.75 MW. The hub height of the turbines is expected to be 100 meters (328 feet), with a rotor diameter of 92.5 meters (303.5 feet).

The Project's associated facilities will include:

- gravel access roads (approximately 3.5 miles);
- 34.5 kV underground electrical collector lines to collect power from each of the turbines and deliver it to the collector yard;
- a collector yard and metering equipment;
- 34.5 kV underground feeder lines to deliver power from the collector yard to the NSP Nobles Substation;
- one permanent meteorological tower; and
- installation of a Supervisory, Control And Data Acquisition (SCADA) system for communication purposes.

Each of the three wind generation LLC's (Chinook, Moriah and Zephyr) have a power purchase agreement with Northern States Company for the Project. As proposed, the Project expects to achieve initial synchronization by August 1, 2012, and commercial operation by October 1, 2012.

Regulatory Process and Procedures

Pursuant to the Minnesota Wind Siting Act, Minnesota Statutes chapter 216F, a site permit from the Commission is required to construct a LWECS, which is any combination of a wind charger, windmill, or wind turbine and associated facilities with a combined nameplate capacity of five MW or more that converts wind energy to electric energy. The rules to implement the permitting requirement for LWECS are found in Minnesota Rules 7854.0100 to 7854.1500. Under Minnesota Rule 7854.1000, subpart 2, the Commission has 180 days to reach a final permit decision from the date an application is accepted.

Site Permit Application Decision
The applicant filed an application with the Commission for a LWECS site permit on October 17, 2011. The Commission, in its Order issued November 14, 2011, accepted the application as complete and found that, based on the information in the record; a certificate of need is not required.

Public Comments
An EFP notice of site permit application acceptance was issued on November 18, 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 Applicant, on November 28, 2011, provided a copy of the notice of application acceptance and a copy of the application to landowners, local, state and federal governmental agencies. The Applicant also published a copy of the Notice of Application Acceptance in the *Worthington Daily Globe* newspaper on November 26, 2011. Public comments on issues to be considered in developing a Draft Site permit were taken until December 30, 2011.

EFP staff received two written comments from state agencies, the Minnesota Departments of Transportation (MnDOT) and the Department of Natural Resources (DNR), and one written comment from the public (Robert J. Schreiber, Reading, Minn.). See EFP Staff Analysis and

Comments section for discussion. The comments received are addressed under "EFP Staff Analysis and Comments".

Preliminary Determination on Draft Site Permit
Pursuant to Minnesota Rule 7854.0800, the Commission has 45 days after the acceptance of the application to make a preliminary determination on whether a site permit may be issued or denied. On November 14, 2011, the Commission granted a variance to Minnesota Rule, part 7854.0800 to extend the period for the Commission to make a preliminary determination on whether a permit may be issued or denied.

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

Public Participation Process
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 or hearing 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 comments on the draft site permit and must include the issues to be addressed in a contested case hearing and the reasons a hearing is required to resolve these issues.

Nobles County Regulations
Nobles County has not assumed 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, and has not adopted ordinances standards for LWECS, pursuant to Minn. Stat. 216F.081. However, Nobles County Zoning Ordinance, section 729.4, has established setbacks for wind energy conversion systems (non-commercial and commercial) and meteorological towers. Certain standards adopted by ordinance by Nobles County are more stringent that the Commission's General Permit Standards as set forth in Docket No. E- G-999/M-07-1102.

EFP Staff Analysis and Comments

For the Community Wind South Project, EFP staff analysis and comments focus on three distinct topics for the Commission's consideration in making a preliminary determination on whether a site permit may be issued or denied. The three topics include a review and discussion of the comments (MnDOT, DNR and Robert J. Schreiber) received on the application; the Nobles County Wind Regulations, and wind access buffers for LWECS projects.

Comments on the Application

Minnesota Department of Transportation. The letter from MnDOT requests that compliance with MnDOT's Utility Accommodation Policy, and similar policies of other road authorities, should be included as a condition of the site permit.[1]

EFP Response: MnDOT's concern, as well as other federal and state agency permit and/or other requirements are addressed the Draft Site Permit at Section 10.5.1 [Compliance with Federal and State Agency Permits], that in part, reads as follows:

> 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 …. Mn/DOT (Utility Access Permit, Highway Access Permit, Oversize and Overweight Permit, Aeronautics Airspace Obstruction Permit and the Mn/DOT Utility Accommodation Policy).

MnDOT's concern regarding other road authorities is addressed in the draft site permit at Sections 10.5.2 [Compliance with County, City or Municipal Permits] and 7.8 [Roads].

Section 10.5.2, requires the Permittee to comply with all terms and conditions of permits or licenses issued by the counties, cities and municipalities affected by the Project that are not preempted by federal or state requirements.

Section 7.9 [Roads] of the draft site permit provides general guidance on public roads and directs the Permittee to make satisfactory arrangements with the appropriate state, county, or township governmental body having jurisdiction over the roads to be used. It is now common practice for a LWECS Permittee and a county to enter in to a "Development Agreement" that address road use, maintenance, repair, damages and ditches.

Unless the township road authorities have delegated their authority to the county highway engineer to act on their behalf, developers also enter into "road agreements" with the affected townships.

CWS anticipates obtaining all necessary road permits required by MnDOT, as well as Nobles County, and the townships of Larkin and Summit Lake. CWS has indicted that they will enter into development agreement with Nobles County and road agreements with the townships of Larkin and Summit. On January 23, 2012, EFP staff spoke with Steve Schnieder, Nobles County Public Works Office. Mr. Schnieder indicated that the development agreement between Nobles County and the Permittee will be very similar to the development agreement between Nobles County and enXco for the 201 MW Nobles Wind Project (Docket No. 09-584), subsequently sold to NSP as a turnkey project. Mr. Schnieder also indicated that the Permittee and the townships of Larkin and Summit Lake would enter into road agreements.

[1] MnDOT Comments, December 30, 2011 (eFiled December 30, 2011)

DNR. The comments provided by DNR note that "The project developers sited the project well and the content of their application indicates that they reviewed the DNR Wind Guidance and included suggested analyses in the Site Permit Application."[2] In its closing comments, DNR stated, "the DNR does not recommend surveys at this time."[3]

EFP Response: The Applicant discussed its approach to mitigating wildlife habitat impacts in section 8.19 of the site permit application and the results of its "Avian and Bat Assessment: Review of Potential Avian and Bat Mortality" in Appendix F of the application.

Comments from the DNR and the United States Fish and Wildlife Service (USFWS) have indicated that no occurrences of state or federally threatened or endangered species occur within the Project Area. Overall, the potential for impacts to rare or unique species within the Project Area is low. Turbine and access roads will be sited to avoid the wetlands, creeks and wooded areas. There are no documented communities of native prairie within the Project Area; therefore, impacts to native prairie are not anticipated. Because turbines and access roads will be sited to avoid wetlands and creeks, impacts to Topeka Shiner are not anticipated. Additionally, there are no Waterfowl Feeding and Resting Areas present within the Project Area.

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 by USFWS in its Wind Advisory Committee Recommendations (WCAR) 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 Avian and Bat Assessment in the site permit application (Appendix F) provided Tier 1, Tier 2 results and summarized field visit results by biologists in July 2011. Based on the results of this work and agency review, the Applicant states: "The DNR considers the Project to be low risk for impacts to birds or bats and, as such, does not recommend pre-construction surveys. As a result, no Tier 3 studies were completed."[4]

Since there were no special concerns coming out of Tier 1 and 2 results, coupled with DNR's comments, the proposed Draft Site Permit only requires provisions for a standard Avian and Bat Protection Plan (See Section 6.7). CWS Wind Farm will prepare an ABPP in consultation with DNR and EFP staff to insure that the ABPP complies with the requirements of Section 6.7. A standard ABPP addresses steps to be taken to identify and mitigate impacts to avian and bat species during the construction and operation phase of the Project. These would include formal and informal monitoring, training, wildlife handling, documentation (e.g., photographs), and reporting protocols for each phase of the Project. The ABPP submittal will be available in time to allow for agency review and comment prior to close of the public comment period on the draft site permit and finalized prior to a site permit decision by the Commission.

[2] Minnesota Department Natural Resources, December 30, 2011
[3] *Id;*
[4] Site Permit Application, Appendix F, page 3

Public Comments. EFP Staff received a written comment from Robert J. Schreiber (Reading, Minn.), stating:

> I am currently attempting to resolve conflicts with the existing towers on the west and south side of my property. When these towers were being planned I expressed a concern on several issues including the blade shadow in concern for our horses. I also believe these towers have negatively affected the property value of my property. The towers to the south of me create enough noise that they keep me awake a lot at nights and wake me from a sound sleep.
>
> It is because of these concerns I do not want any more towers erected to the east or north of my property. I am currently seeking legal resolution to the current towers. If additional towers are to be erected, I wish to be included in any and all meetings, correspondence, notices, plans, discussions and any pertinent information and data.[5]

EFP Response: Staff contacted the NSP Nobles Wind Project site manager, Nathan Svobda, to determine the nature of Mr. Schreiber's complaints. Mr. Svobda indicated that he was not familiar with any complaints filed by Mr. Schreiber. EFP staff has also reviewed the monthly compliance filings on eDockets (09-584) submitted by both enXco (the project developer) and NSP, the Project owner. This search revealed that Mr. Schreiber has not filed any formal complaints with enXco or NSP. However, EFP staff did find similar comments and concerns submitted by Mr. Schreiber during the comment period on the Draft Site Permit phase of the Nobles Wind Project (See Edockets 09-584, document id # 20099-42091-01, page 1 of 28, filed on September 14, 2009). EFP staff contacted Mr. Schreiber, by phone on January 23, 2012, and discussed with him his concerns. Mr. Schreiber indicated he has not contacted NSP, the owner of the Nobles Wind Project, to express his concerns about noise, primarily during nighttime low wind conditions, and shadow flicker. EFP staff has reviewed the project mailing list and Mr. Schreiber's name, address and email are now included. Therefore, he will receive future notices and mailings associated with this project.

Nobles County Wind Regulations

Nobles County Zoning Ordinance (729) covers Wind Energy Conversion System Regulations. This ordinance at part 729.4 establishes setbacks for wind turbines and meteorological towers. Setback requirements are different for non-commercial and commercial turbines. Greater setbacks are required for commercial turbines. The Nobles County regulations do not apply to LWECS.

Based on information in its application, it appears that CWS has also designed the project to meet or exceed the setback requirements adopted by Nobles County for commercial turbines in its wind energy conversion system regulations (section 729.4 Setbacks). On January 21, 2012, EFP staff spoke with Wayne Smith, Environmental Services Director for Nobles County,

[5] Letter from Robert J. Schreiber, 26586 200th Street, Reading, MN 56165

regarding their setbacks for wind facilities. Mr. Smith acknowledged that the Applicant has met with the county regarding setbacks and that the project design complies with the county setback requirements.

Several of the requirements in the Nobles County Wind Energy Conversion System Regulations are similar to those reflected in the Commission's General Permit standards set forth in Docket No. E-G-999/M-07-1102. However, the standards adopted by Nobles County for commercial turbines and meteorological tower setbacks to property lines, road rights-of-way, and wetlands (USFWS Types III, IV and V) are more stringent than the Commission's. Since the project as proposed is intended to comply with these setbacks, they are incorporated as Special Conditions in Section 13.1 of the Draft Site Permit.

EFP staff will continue to consult with representatives of Nobles County during the Draft Site Permit comment period.

Wind Access Buffers

As noted in its site permit application and as illustrated in Figure 3 (See Commissioner's packet), the CWS Project is a "project within a project." Although this is a somewhat unusual circumstance with respect to turbine siting for a LWECS project, it provides an opportunity to explain in more detail the "why and how" of the wind access buffer requirement in site permits (See Section 4.1). As shown in Figure 3, the CWS Project will be surrounded on three sides (west, south, and east) by the existing NSP 201 MW Nobles Wind Farm (Docket 09-584), comprised of 134 GE 1.5 MW wind turbines and associated facilities that deliver power to the NSP Nobles Substation. During the Commission's proceedings on the Nobles Wind Farm, the location of the CWS Project was considered. because the free flow of wind is necessary for development of wind energy facilities.

Minnesota, unlike many other states, has defined wind and solar easements rights in statute. A wind easement [See Minn. Stat. section 500.30 Subd. 1a.] is:

> a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds.

This legislation recognizes that landowners have the rights to develop the wind resource that flows across their land, and the rights of landowner(s) to convey those rights to others. It also recognizes that the free flow of wind is necessary for wind turbines to effectively convert kinetic energy into mechanical.

The necessity of unencumbered wind flow is also recognized Minnesota's Wind Siting Statute at 216F.03 [Siting of LWECS] where:

> The legislature declares it to be the policy of the state to site LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

Site permits have addressed the importance of wind rights and the free flow of wind by providing for a "wind access buffer." The proposed EFP site permit addresses this in two separate, but distinct sections of the proposed site permit. First, is the "Wind Access Buffer" [See Section 4.1] that states:

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

Second, is "Turbine Spacing" [See Section 4.10] that states:

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

By way of background, LWECS projects incur energy production losses in a variety of ways, i.e., turbine availability, electrical line losses, icing, soiled blades, and wake losses, in conjunction with several other factors. However, of the losses incurred, wake loss is often the most significant factor. Energy looses attributable to wake losses (turbulence) is normally between 4 to 7 percent for a given project. Besides energy losses, high wake losses also increase wear and tear on the turbine and most likely increase operations and maintenance costs.

To maximize energy production, wind turbines are sited to have good exposure to winds from all directions with emphasis on exposure to the prevailing southerly (summer) and northern (winter) wind directions common to most of Minnesota. The turbine spacing, according to CWS's application, maximizes use of the available wind and minimizes wake and array losses within the topographical context of the site. The turbines are typically oriented west to east, and generally perpendicular to the prevailing southerly and northwest winds.

Turbine placement, aside from other resource features where setbacks or wind access buffers are required, will be designed to provide sufficient spacing between the turbines to minimize internal wake losses. Given the prevalence for southerly and northerly winds, turbine spacing is widest (6 RD) in the north-south direction.

To protect the energy production potential of a wind project, developers must secure appropriate buffers to insure free flow of wind for their turbines. In this instance, CWS Wind Farm sought assurances from NSP, the owner of the Nobles Wind Farm, that the proposed CWS turbine locations do not interfere with the existing turbine locations in the Nobles Project that surround the CWS project on three sides (west, south and east).

Appendix I, of the CWS site permit application contains a September 27, 2011, letter sent from CWS to Nathan Svoboda, Plant Manager for the Grand Meadow and Nobles Wind Farms confirming this assurance. Mr. Svoboda reviewed, signed and returned this letter to CWS on September 29, 2011.

The buffer setback requirement of five by three RD for each of the two projects provides for a combined setback of 10 by six RD between the two projects, thereby reducing or limiting the potential for wake loss from one project to affect the energy production and performance of the other project.

If the two projects were located closer to one another, the prevailing northerly (winter) winds beneficial to CWS Project energy production may affect downwind turbine performance and energy production in the adjacent Nobles Project. However, the reverse would be true, because the summer (southerly) winds, while beneficial to the Nobles Project would adversely affect turbine performance and energy production in the CWS Project. This example demonstrates the necessity of including a wind access buffer in Commission site permits (See Section 4.1). This requirement also acknowledges the recognition of wind rights as provided for in Minn. Stat, Chapter 500.30 and the policy statement of 216F.03 addressing orderly development, sustainable development and efficient use of resources

* * * * *

EFP staff has used the information in the site permit application, comments received from the Minnesota Department of Transportation, Minnesota Department of Natural Resources, Robert Schreiber, and experience with other LWECS projects as a guide for evaluating whether a draft site permit may be issued for this project or should be denied, pursuant to Minnesota Rules 7854.0800, Subpart 1. EFP staff considers the available information sufficient to make a preliminary determination that a site permit may be issued for the project. The Applicant will continue to provide additional necessary information as requested by the EFP staff.

EFP staff has prepared a draft site permit identifying the permittee, the proposed LWECS, 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 of the draft site permit and initiation of the public review process, which includes a formal public comment period and a public meeting in Nobles County.

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 the draft site permit should be denied.
3. Make another decision deemed more appropriate.

B. Approve the proposed Draft Site Permit for distribution and public comment

1. Approve the proposed draft site permit for the Community Wind South Project for distribution and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rules 7854.0900.
2. Amend or modify the proposed draft site permit for the Community Wind South Project for distribution and public comment. Authorize EFP staff to implement the public participation process found in Minnesota Rules 7854.0900.
3. Make another decision deemed more appropriate.

EFP Staff Recommendation: Option A1 and B1.

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FIGURE 1

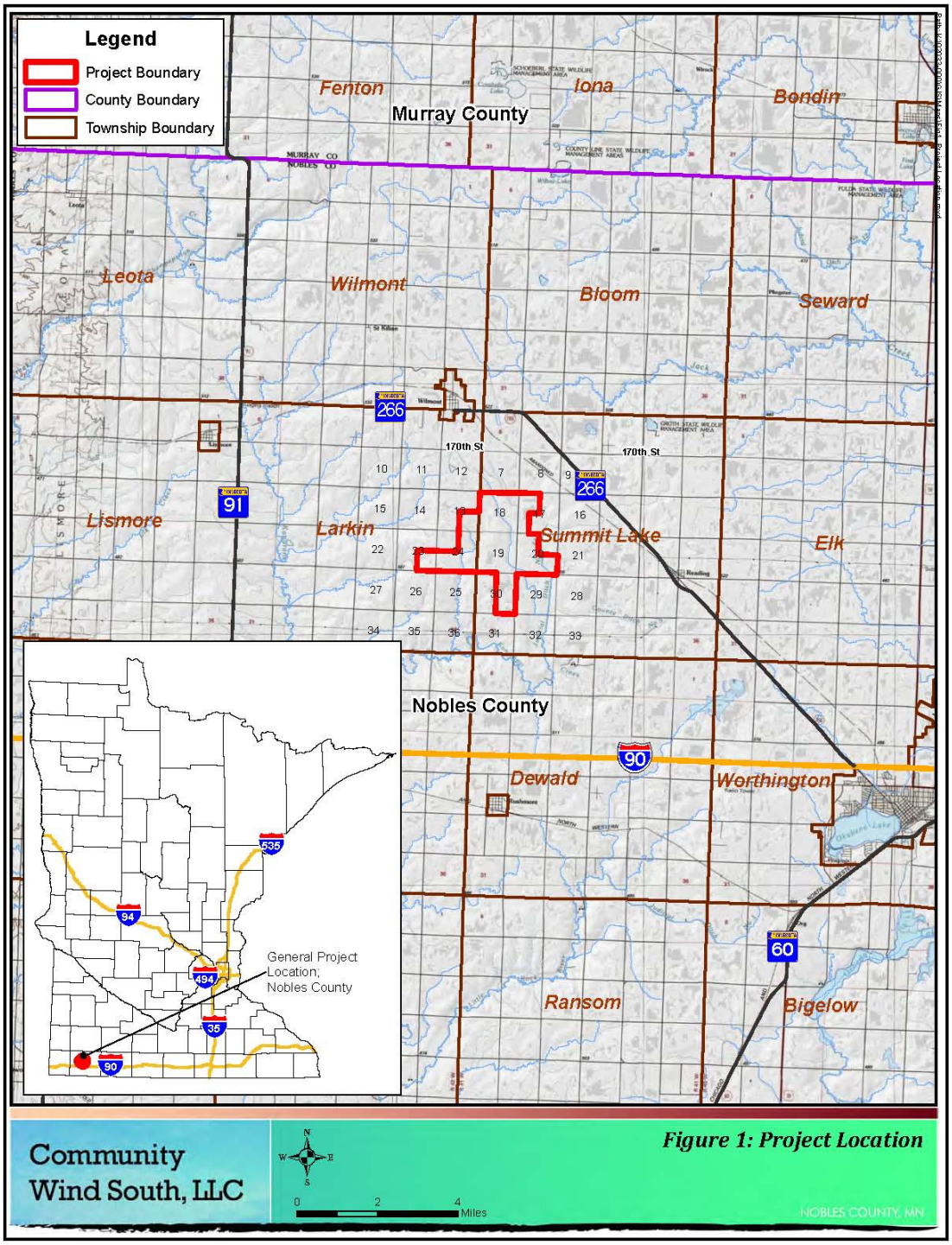

Legend
Project Boundary
County Boundary
Township Boundary
Fenton
Iona
Bondin
Murray County
Leota
Wilmont
Bloom
Seward
Lismore
Larkin
Summit Lake
Elk
Nobles County
Dewald
Worthington
Ransom
Bigelow
170th St
266
91
90
60
494
535
94
35
General Project Location; Nobles County
Community Wind South, LLC
Figure 1: Project Location
0 2 4 Miles
NOBLES COUNTY, MN

FIGURE 2

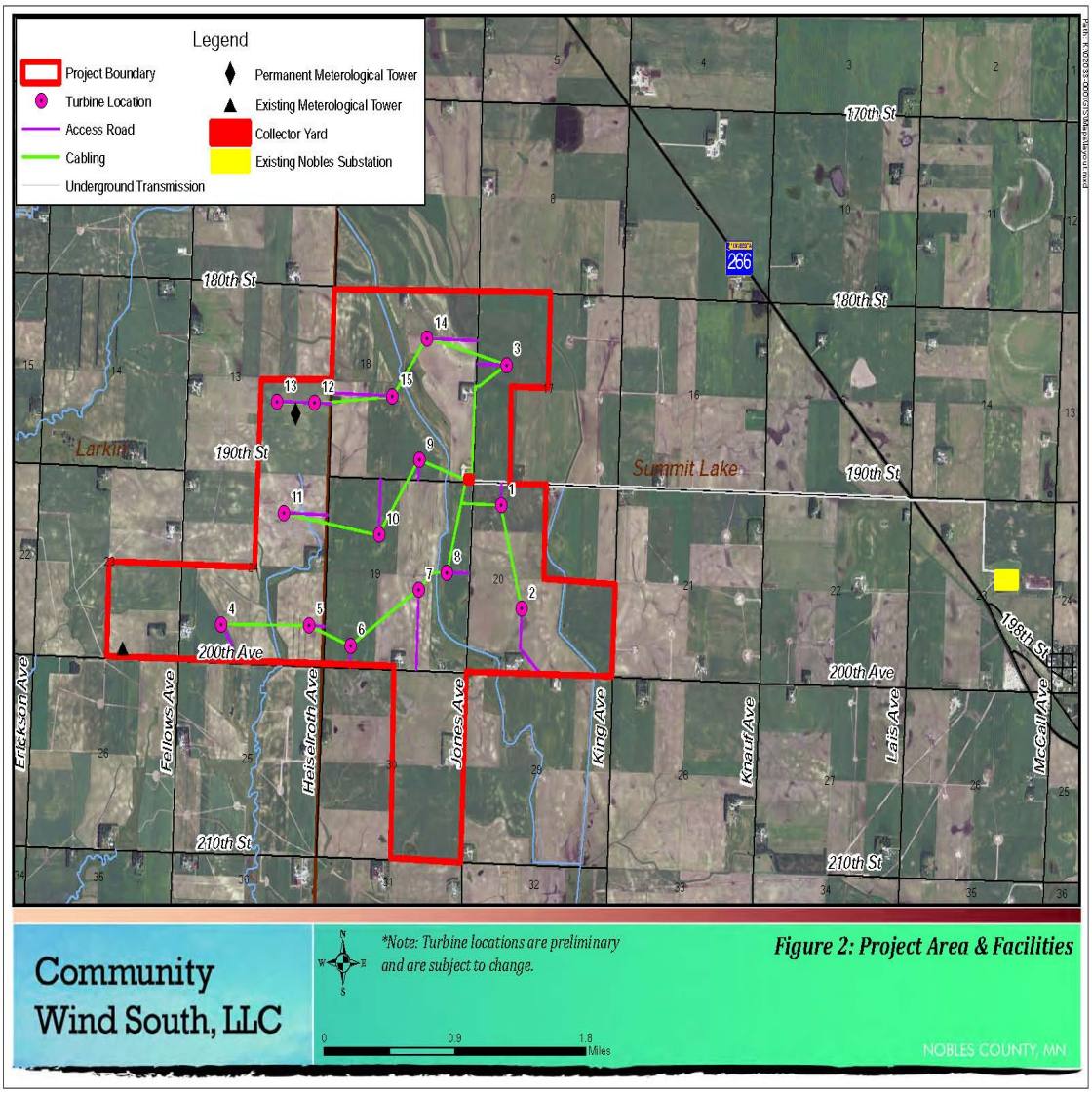
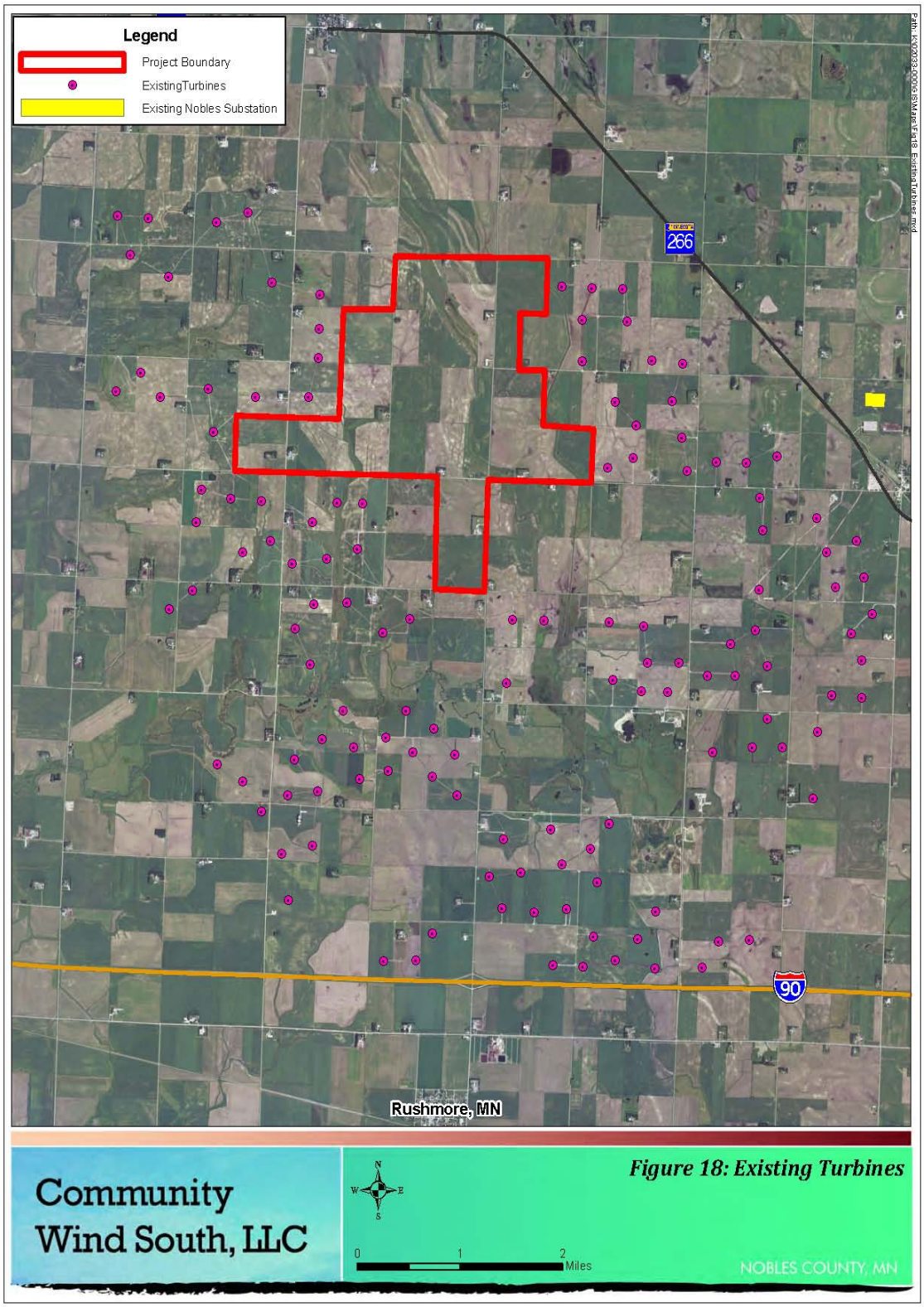

Legend
Project Boundary
Turbine Location
Access Road
Cabling
Underground Transmission
Permanent Meterological Tower
Existing Meterological Tower
Collector Yard
Existing Nobles Substation
170th St
180th St
190th St
200th Ave
210th St
198th St
Larkin
Summit Lake
Erickson Ave
Fellows Ave
Heiselroth Ave
Jones Ave
King Ave
Knauf Ave
Lats Ave
McCall Ave
266
Community Wind South, LLC
*Note: Turbine locations are preliminary and are subject to change.
Figure 2: Project Area & Facilities
0
0.9
1.8
Miles
NOBLES COUNTY, MN

FIGURE 3


Legend
Project Boundary
ExistingTurbines
Existing Nobles Substation
266
90
Rushmore, MN
Community
Wind South, LLC
Figure 18: Existing Turbines
N
W
E
S
0
1
2
Miles
NOBLES COUNTY, MN

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR A
LARGE WIND ENERGY CONVERSION SYSTEM

IN
NOBLES COUNTY MINNESOTA

ISSUED TO
CWS WIND FARM, LLC

PUC DOCKET NO. IP-6851/WS-11-863

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

CWS Wind Farm, LLC

CWS Wind Farm, LLC is authorized to construct and operate up to a 30.75 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 February 2012

BY ORDER OF THE COMMISSION

_____

BURL W. HAAR
Executive Secretary

(S E A L)

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SITE PERMIT

This Site Permit for a Large Wind Energy Conversion System (LWECS) authorizes CWS Wind Farm, LLC (Permittee) to construct and operate the Community Wind South Project (Project), a 30.75 Megawatt (MW) nameplate capacity LWECS and associated facilities in Nobles County, on a site of approximately 3,080 acres in accordance with the conditions contained in this permit.

SECTION 1
PROJECT DESCRIPTION

The up to 30.75 MW nameplate capacity LWECS Project authorized to be constructed in this permit will be developed and constructed by the Permittee. The Community Wind South Project will consist of up to 15 REpower 2.05 MW turbines (model MM92) with a hub height of up to 328 feet (100 meters) and a rotor diameter of 303.5 feet (92.5 meters). The Permittee may modify the turbine selection with the Minnesota Public Utilities Commission's (Commission) approval. Associated facilities include pad mounted transformers at the base of each turbine, compacted gravel engineered access roads, a 34.5 kilovolt (kV) underground three (3) phase electrical collection system, a fiber optic cable for transmittal of supervisory control and data acquisition (SCADA) information, a fenced-in collector yard, and one (1) permanent meteorological tower. From the collection yard power will be sent by underground cable for approximately 19, 908 feet by two sets of underground 34.5 kV cables to the existing Nobles County Substation owned by Northern States Power.

SECTION 2
DESIGNATED SITE

2.1 PROJECT BOUNDARY

The Project boundary is shown on the map at **Attachment 1**. The Project is located in Nobles County in the following townships and sections:

Township Name	Sections	Township	Range
Summit Lake	17, 18, 19, 20 and 30	T103N	R41W
Larkin	13, 23 and 24	T103N	R42W

2.2 TURBINE LAYOUT

Preliminary wind turbine and associated facility layouts are shown on the map at Attachment 1. The 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

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human and environmental impacts, which were evaluated in the permitting process. The final layout depicting the location of each wind turbine and associated facility shall be located within the Project boundary. The Project boundary serves to provide the Permittee with the flexibility to do minor adjustments to the preliminary layout to accommodate landowner requests, unforeseen conditions encountered during the detailed engineering and design process, and federal and state agency requirements. Any modification of the location of a wind turbine and associated facility to a preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 5.1. The Permittee shall submit the final site layout in the site plan pursuant to Section 5.1.

SECTION 3
APPLICATION COMPLIANCE

The Permittee shall comply with those practices set forth in its Site Permit Application, dated October 17, 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 prevailing wind directions and three (3) RD on non-prevailing wind directions from the perimeter of the lands where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

4.2 RESIDENCES

Wind turbine towers shall not be located closer than 1,200 feet (366 meters) from all residences or the distance required to comply with the noise standards pursuant to Minnesota Rule 7030.0040 established by the Minnesota Pollution Control Agency (PCA), whichever is greater.

4.3 NOISE

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

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The Permittee shall be required to comply with this condition with respect to all homes or other receptors in place as of the time of construction, but not with respect to such receptors built after construction of the towers.

4.4 ROADS

Wind turbine and meteorological towers shall not be located closer than 250 feet or as specified by special conditions in this permit at Section 13.1 [Nobles County Setback Regulations], whichever is more stringent, from the edge of the nearest public road right-of-way or from public trails.

4.5 PUBLIC LANDS

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

4.6 WETLANDS

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be placed in public waters wetlands, as defined in Minnesota Statutes section 103G.005, subdivision 15a, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE). See Special Condition (Section 13.1) for additional wetland setback requirements.

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 to avoid impacts to native prairie and mitigation to unavoidable impacts of 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 and shall not be located in areas enrolled in the Native Prairie Bank Program. Construction activities, as defined in Minnesota Statutes section 216E.01 Subd. 3, shall not impact native prairie unless addressed in a Prairie Protection and Management Plan.

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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 328 feet (100 meters).

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 five (5) RD on prevailing wind directions and three (3) RD in non-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 self-supporting. 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 where 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 licensed private airports (as defined in Minnesota Rule 8800.0100, subparts 24a and 24b) in Minnesota, adjacent states, or providences. The Permittee shall apply the minimum obstruction clearance for licensed private airports pursuant to Minnesota Rule 8800.1900, subpart 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (DOT), Department of Aviation, and FAA. The Permittee shall notify owners of all known airports within six (6) miles of the Project prior to construction.

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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 and associated facilities. 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 located within the foundation footprint for each turbine tower or inside the tower unless otherwise negotiated with the affected landowner(s).

4.14 COMMUNICATION CABLES

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

4.15 ELECTRICAL COLLECTOR AND FEEDER LINES

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

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

Any feeder lines that parallel public roads shall be placed within the public rights-of-way or on private land immediately adjacent to public roads. If 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 to minimize interference with agricultural operations, including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines in the site plan pursuant to Section 5.1.

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

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SECTION 5
ADMINISTRATIVE COMPLIANCE PROCEDURES

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

5.1 SITE PLAN

At least ten (10) working days prior to the pre-construction meeting, the Permittee shall submit to the Commission:

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

(b) engineering drawings for site preparation, 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 Subd. 3. 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 PERMIT DISTRIBUTION TO LOCAL GOVERNMENTS & RESIDENTS

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

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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 by eFiling.

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 by eFiling, 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.

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SECTION 6
SURVEYS AND REPORTING

6.1 BIOLOGICAL AND NATURAL RESOURCE INVENTORIES

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

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

6.2 SHADOW FLICKER

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

6.3 ARCHAEOLOGICAL RESOURCES

The Permittee shall work with the State Historic Preservation Office (SHPO) and the State Archaeologist. The Permittee shall carry out a Phase 1 or 1A Archaeology survey for all proposed turbine locations, access roads, junction boxes, and other areas of Project construction impact to determine whether additional archaeological work is necessary for any part of the proposed Project. The Permittee shall contract with a qualified archaeologist to complete such surveys, and shall submit the results to the Commission, the SHPO, and the State Archaeologist at least ten (10) working days prior to the pre-construction meeting.

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

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

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

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

6.4 INTERFERENCE

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

The Permittee shall not operate the Project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission regulations or other law. In the event the Project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

6.5 WAKE LOSS STUDIES

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

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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 prepare an Avian and Bat Protection Plan in consultation with the Commission and the DNR 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, avoid, minimize 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 15th of each January, April, July, and October commencing the day following commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian 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, U.S. Fish and Wildlife Service, and DNR within twenty-four (24) hours of the discovery of any of the following:

(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 1st following each complete year of Project operation. The report shall include:

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(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 by eFiling.

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 LWECS.

7.2 TOPSOIL PROTECTION

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

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7.3 SOIL COMPACTION

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

7.4 LIVESTOCK PROTECTION

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

7.5 FENCES

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

7.6 DRAINAGE TILES

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

7.7 EQUIPMENT STORAGE

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

7.8 ROADS

7.8.1 PUBLIC ROADS

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

The Permittee shall, prior to the use of such roads, make satisfactory arrangements by development and/or road agreements 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

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of equipment and Project components. The Permittee shall notify the Commission of such arrangements upon request of the Commission.

7.8.2 TURBINE ACCESS ROADS

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

7.8.3 PRIVATE ROADS

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

7.9 CLEANUP

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

7.10 TREE REMOVAL

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

7.11 SOIL EROSION AND SEDIMENT CONTROL

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

The Soil Erosion and Sediment Control Plan shall address what types of erosion control measures will be implemented during each Project phase and shall at a minimum identify: plans for grading, construction, and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary Project activities; and measures to minimize the area of surface disturbance.

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Other practices shall include containing excavated material, protecting exposed soil, and stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material. Erosion and sedimentation control measures shall be implemented prior to construction and maintained throughout the Project's life.

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

7.12 RESTORATION

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

7.13 HAZARDOUS WASTE

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

7.14 APPLICATION OF HERBICIDES

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

7.15 PUBLIC SAFETY

The Permittee shall provide educational materials to landowners within the site boundary and, upon request, to interested persons, about the Project and any restrictions or dangers associated with the Project. The Permittee shall also provide any necessary safety measures, such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit

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the location of all underground facilities, as defined in Minnesota Statutes section 216D.01, subdivision 11, to Gopher State One Call.

7.16 EMERGENCY RESPONSE

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

7.17 TOWER IDENTIFICATION

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

7.18 FEDERAL AVIATION ADMINISTRATION LIGHTING

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

SECTION 8
FINAL CONSTRUCTION

8.1 AS-BUILT PLANS AND SPECIFICATIONS

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

8.2 FINAL BOUNDARIES

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

8.3 EXPANSION OF SITE BOUNDARIES

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

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SECTION 9
DECOMMISSIONING, RESTORATION, AND ABANDONMENT

9.1 DECOMMISSIONING PLAN

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

9.2 SITE RESTORATION

Upon expiration of this permit, or upon earlier termination of operation of the Project, or any turbine within the Project, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment to a depth of four feet. To the extent feasible, the Permittee shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner(s) requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the county and shall show the locations of all such foundations. All such agreements between the Permittee and the affected landowner shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months after expiration, or upon earlier termination of the Project, or any turbine within the Project.

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.

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

10.2 POWER PURCHASE AGREEMENT

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 power purchase agreement or enforceable mechanism. In such event, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

10.3 FAILURE TO COMMENCE CONSTRUCTION

If the Permittee has not completed the pre-construction surveys required under Section 5 and commenced construction, as defined in Minnesota Statutes section 216E.01, of the LWECS within two years of the issuance of this permit, the Permittee must advise the Commission of the reason construction has not commenced. In such event, the Commission shall make a determination as whether this permit should be amended or revoked. No revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minnesota Rule 7854.1300.

10.4 PREEMPTION OF OTHER LAWS

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

10.5 OTHER PERMITS

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

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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, Aeronautics Airspace Obstruction Permit, and the Mn/DOT Utility Accommodation Policy).

10.5.2 COMPLIANCE WITH COUNTY, CITY OR MUNICIPAL PERMITS

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

SECTION 11
COMMISSION POST-ISSUANCE AUTHORITIES

11.1 PERIODIC REVIEW

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

11.2 MODIFICATION OF CONDITIONS

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

(a) Violation of any condition in this permit;

(b) Endangerment of human health or the environment by operation of the facility; or

(c) Existence of other grounds established by rule.

11.3 REVOCATION OR SUSPENSION OF PERMIT

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

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(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;

(d) To sample and monitor upon the facilities easement of the property; and

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(e) To examine and copy any documents pertaining to compliance with the conditions of this permit.

11.7 PROPRIETARY INFORMATION

Certain information required to be submitted to the Commission under this permit, including energy production and wake loss data, may constitute trade secret information or other type of proprietary information under the Data Practices Act or other law and is not to be made available by the Commission. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

SECTION 12
EXPIRATION DATE

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

SECTION 13
SPECIAL CONDITIONS

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

13.1 APPLICATION OF NOBLES COUNTY SETBACK REGULATIONS

The Permittee shall site all wind turbines and associated facilities in accordance with applicable Nobles County Wind Energy Conversion System Regulations, (Section 729.4 Setbacks for Wind Turbines (Commercial) and Meteorological Towers:

Resource	Wind Turbines – Commercial WECS	Meteorological Towers
Property Lines	1.25 times the total height	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height
Road Rights-of-Way* [*The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.]	1 times the height, may be reduced for minimum maintenance roads or a road with an Average Daily Traffic Count of less than 10. (Or equivalent to centerline).	The fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.* *Total height means from the base of the turbine to the tip of the blade at its highest point.
Wetlands, USFWS Types III, IV, and V	600 feet	600 feet

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ATTACHMENT 1: SITE PERMIT MAP

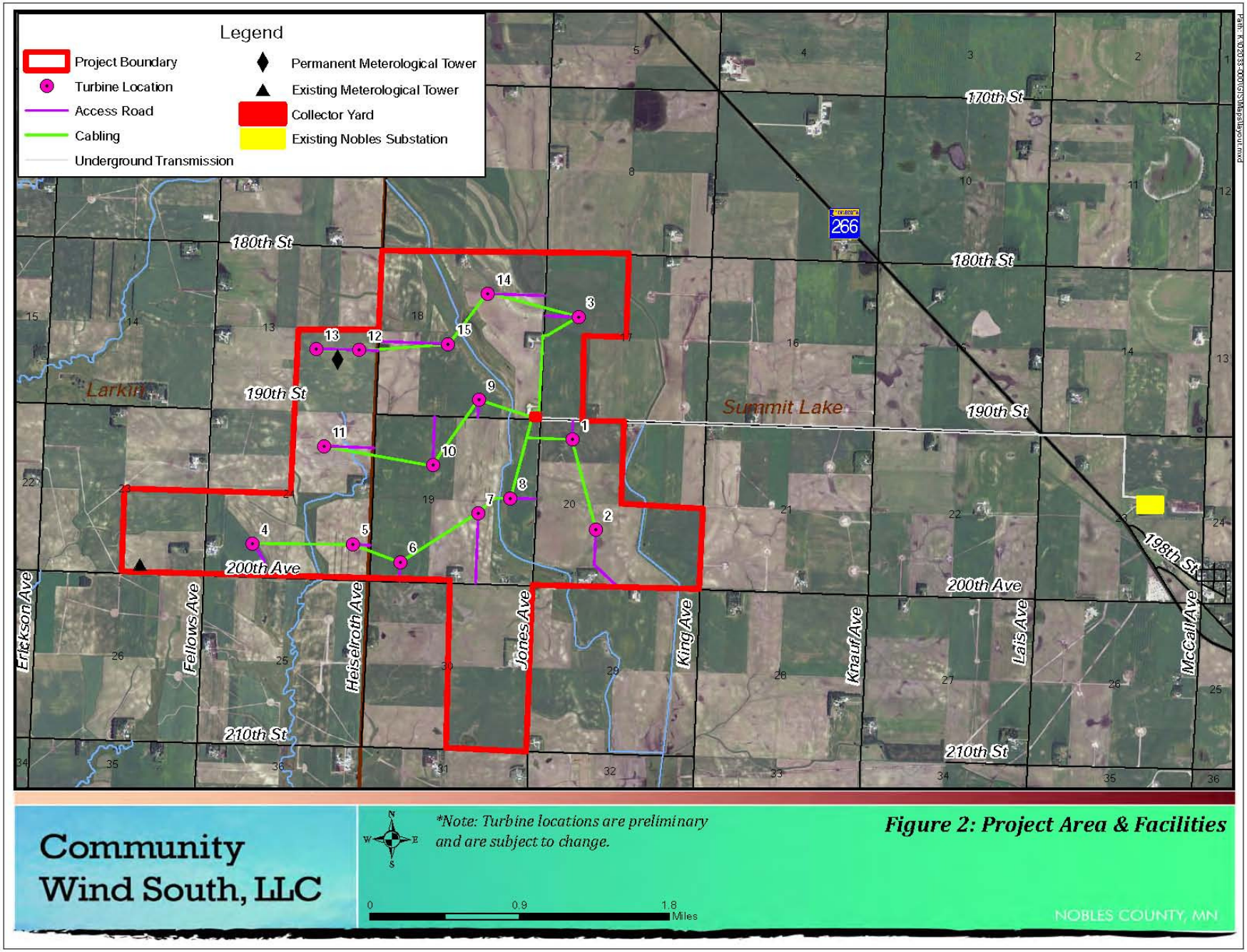

Figure 2: Project Area & Facilities

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:

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a. Name of complainant, address, phone number, and e-mail address.
b. Precise property description or parcel number.
c. Name of Permittee representative receiving Complaint and date of receipt.
d. Nature of Complaint and the applicable Site Permit conditions(s).
e. Activities undertaken to resolve the Complaint.
f. Final disposition of the Complaint.

2. The Permittee shall designate an individual to summarize complaints for the Commission. This person's name, phone number and e-mail address shall accompany all complaint submittals.

3. A Person presenting the Complaint should to the extent possible, include the following information in their communications:

   a. Name, address, phone number, and e-mail address.
   b. Date
   c. Tract or parcel
   d. Whether the complaint relates to (1) a Site Permit matter, (2) an LWECS and associated facility issue, or (3) a compliance issue.

F. Reporting Requirements:

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

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to Wind Permit Compliance, 1-800-657-3794, or by e-mail to: DOC.energypermitcompliance@state.mn.us, Voice messages are acceptable.

Monthly Reports: By the 15th of each month, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be Filed to Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, using the Minnesota Department of Commerce eDocket system (see eFiling instructions attached to this permit).

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

G. Complaints Received by the Commission or OES:

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

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H. Commission Process for Unresolved Complaints:

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

I. Permittee Contact for Complaints:

Mailing Address: Complaints filed by mail shall be sent to the address below:

CWS Wind Farm, LLC
Pearl East Circle, Suite 200
Boulder, CO 80302

Tel: (303) 953-5180
Fax: (303) 953-5185

email: rucker@juui.com

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MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLIANCE FILING PROCEDURE
FOR PERMITTED ENERGY FACILITIES

1. Purpose

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

2. Scope and Applicability

This procedure encompasses all compliance filings required by permit.

3. Definitions

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

4. Responsibilities

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

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

B) All filings must have a cover sheet that includes:
1) Date
2) Name of submitter / permittee
3) Type of Permit (Site or Route)
4) Project Location
5) Project Docket Number
6) Permit Section Under Which the Filing is Made
7) Short Description of the Filing

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

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PERMIT COMPLIANCE FILINGS[1]

PERMITTEE: Community Wind South, LLC
PERMIT TYPE: LWECS Site Permit
PROJECT LOCATION: Nobles County
COMMISSION DOCKET: IP-6851/WS-11-863

PRE-CONSTRUCTION MEETING

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

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[1] This compilation of permit compliance filings is provided for the convenience of the Permittee and the Commission. However, it is not a substitute for the permit; the language of the permit controls.

PRE-CONSTRUCTION MEETING (Cont.)

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
6.7	Avian and Bat Protection Plan	10 working 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

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

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OTHER REQUIREMENTS

Permit Section	Description	Due Date	Notes	eDocket Doc. ID	Date Filed
5.2	Notice to Government Units & Landowners	Government Units (within 10 working days of permit issuance). Landowners (within 30 days, but no less than 5 days prior to construction on their property).			
5.5	Site Manager	10 working days prior to prior to commercial operation.	Update contact information as necessary.		
5.8	Complaints	Complaint submittals on the 15th of each month or within 24 hours.	Must eFile report even if no complaints.		
6.6	Noise Study Results	Within 18 months of Commercial Operation.			
6.7	Avian and Bat Reporting Requirements	Quarterly reports due and within 24 hours of discovery of certain species.			
6.8	Project Energy Production	Due 2/1 each year.			
6.9	Wind Resource Use	Upon request of the Commission.			
6.10	Extraordinary Events	Within 24 hours and report on occurrence of event within 30 days.			
8.1	As Builts	Within 60 days of completion of construction.			
10.2	PPA or Enforceable Mechanism	Within 2 years of permit issuance.	If no PPA or other enforceable mechanism at time of permit issuance.		
10.3	Failure to Start Construction	Within 2 years of permit issuance.			

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