



January 10, 2018

Charlie Homberg  
Big Blue Wind Farm, LLC  
501 W. Hwy 212  
Granite Falls, MN 56241

Michael Rutledge  
Fagen Engineering, LLC  
501 W. Hwy 212  
Granite Falls, MN 56241

**RE: Request for Response to Alleged Site Permit Violations and to Show Cause**  
Big Blue Wind Farm, LLC, Docket No. IP-6851/WS-10-1238

Dear Mr. Homberg and Rutledge,  
Staff has reviewed the Big Blue Wind Farm record and at this time, requires information as described below. This letter is not an exhaustive evaluation of the Big Blue record and staff continues to review additional allegations of site permit violations not addressed herein.

**Noise Protocol**

Staff has reviewed the record in relation to several of the previous allegations of site permit violations and the recent DOC EERA comments. Per a DOC EERA August 1, 2013 Compliance Review letter, it appears that a draft noise protocol may have been submitted to the DOC EERA sometime in 2012; the letter indicated that a review would be filed on the record and the matter brought before the Commission. Staff has not located the referenced noise protocol in the record or the subsequent review.

In July 2017, Commission staff issued an information request to Big Blue to obtain any noise monitoring data collected onsite. On July 7, 2017, Big Blue filed noise monitoring results collected in late June to early July of 2017 (July 2017 Noise Monitoring Report).<sup>1</sup>

DOC EERA reviewed the report and concluded on October 31, 2017 that Big Blue is in potential violation of the terms and conditions of the permit. Per the DOC EERA's comments:

While the [July 2017 Noise Monitoring] report indicates it is meant to satisfy Section 6.6 requirements of the Big Blue Wind Farm, LLC Site Permit issued on August 17, 2011, EERA staff does not believe that the submittal is consistent with the requirements of the permit. Section 6.6 of the Big Blue Wind Farm, LLC Site Permit requires that: "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

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<sup>1</sup>[July 2017 Noise Monitoring Report](#)

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.” Big Blue Wind Farm LLC’s Noise Monitoring Report submittal does not appear to have been based on a protocol submitted to the Commission at least 10 working days prior to the preoperational compliance meeting, no such protocol appears to have been approved by the Commission, and monitoring was not conducted within 18 months of commercial operation.

In addition to the question of compliance in regard to the requirements to submit a pre-construction noise monitoring protocol, DOC EERA also questioned whether the monitoring results (filed in the July 2017 Noise Monitoring Report) indicated an exceedance of the Minnesota Pollution Control Agency’s noise standards in Chapter 7030 (and therefore a potential violation of Site Permit Condition 4.3). DOC EERA recommended the following:

- The Permittee should select a contractor to perform the noise study and submit the selected contractor’s qualifications for review and approval by EERA and Commission staff.
- The Permittee’s contractor should prepare and the Permittee should submit a protocol for noise monitoring consistent with Appendix A of the LWECS Noise Study Protocol and Report for EERA and commission staff review and approval.
- The protocol should include a monitoring site on Mr. Moore’s property. To the extent that exceedances of noise limits could have been a factor in Mr. Moore’s complaints, including a monitor on this property would provide a better understanding of whether the corrective action to-date has appropriately addressed issues at this property.
- Monitoring should be conducted following approval of the protocol.
- If noise exceedances are identified that are attributable to Big Blue Wind Farm turbines, corrective action should be tailored to specific turbines or time periods that are found to be problematic based on the results of the monitoring.

**Staff requests that Big Blue summarize by January 31, 2018 any actions taken to date in relation to compliance with Site Permit Conditions noted above, the recommendation made by the DOC EERA, and should show cause why a violation of a site permit condition has not occurred. A violation of a site permit condition is potential grounds for revocation or suspension of the site permit in accordance with Site Permit Condition 11.3 and Minn. Rule 7854.1300.**

**Revised 2014 Annual Report**

Upon review of the record, staff became aware that the DOC EERA requested in a letter dated April 15, 2015, revisions to the 2014 Avian and Bat Monitoring Annual Report. DOC EERA noted that it expected a revised Report to be filed by June 15, 2015.<sup>2</sup> Staff has not located a revised Report on file. Staff requests that Big Blue document any actions taken to date on this issue. If a revised Report has been filed the Doc. ID number, and what agreements (if any) have been made with the DOC EERA staff.

**Staff requests that Big Blue summarize by February 7, 2018 any actions taken to date in relation to compliance with the items noted above, if a revised Report has been filed to provide the Document ID number, whether any further correspondence or agreements have occurred with the DOC EERA, and show cause why a violation of a site permit condition has not occurred. A violation of a site permit condition is grounds for revocation or suspension of the site permit in accordance with Site Permit Condition 11.3 and Minn. Rule 7854.1300.**

**11.3 REVOCATION OR SUSPENSION OF PERMIT**

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

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

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

Sincerely,

/s/ Tricia DeBleeckere, Commission Staff  
*Equal Opportunity Employer*

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<sup>2</sup> DOC EERA [Comments](#) on the 2014 Annual Report