

## **Attachment B. Intra-Service Section 7 Biological Evaluation**

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**Intra-Service Section 7 Biological Evaluation Form**  
Region 3

Originating Person: Tom Cooper Date Submitted: November 14, 2019

Telephone Number: 612-713-5338

For assistance with section 7 reviews, go to Region 3's Section 7 Technical Assistance website:  
<http://www.fws.gov/midwest/endangered/section7/s7process/>

**I. Service Program and Geographic Area or Station Name:**

Division of Migratory Birds, Regional Office, Unified Region 3.

**II. Location:** Location of the project including County, State and TSR (township, section & range):

Mower and Dodge counties, Minnesota. Townships 105N 17W, 105N 16W, 104N 17W, 104N 16W, 103N 17W, 103N 16W, 103N 15W, 102N 15W. Approximate center of the two projects combined is 43.716040 degrees latitude and -92.701043 degrees longitude.

**III. Species/Critical Habitat:** List federally-listed, proposed, and candidate species or designated or proposed critical habitat that may occur within the action area:

SPECIES	CRITICAL HABITAT	LISTING STATUS
Northern long-eared bat ( <i>Myotis septentrionalis</i> )	No	Threatened
Prairie bush-clover ( <i>Lespedeza leptostachya</i> )	No	Threatened

**IV. Project Description:** Describe the proposed project or action, including all conservation elements. If referencing other documents, prepare an executive summary. Include map and photos of site, if possible. (Attach additional pages as needed):

**Proposed Action:**

The proposed action is issuance of a federal eagle take permit (with associated conditions) to Xcel Energy, currently operating the Pleasant Valley (PVWF) and Grand Meadows Wind Farms (GMWF) (the Wind Farms).

We propose to issue a 5-year permit (grandfathered in under the 2009 Eagle Regulations) to take up to 6 bald eagles with associated conditions (detailed below). We have generated a draft Environmental Assessment (dEA) to analyze the impact of issuance of an eagle take permit on the human environment.

A more detailed description of the Proposed Action can be found in Section 2.1 of the dEA we prepared for the Project

*Project Description:* The Wind Farms are located approximately 10 miles east-northeast of Austin in Dodge and Mower County, Minnesota. GMWF has a capacity of 100.5 MW of wind energy and PVWF has a capacity of 200 MW of wind energy. The GMWF footprint (turbines and a 1-kilometer buffer) contains approximately 13,080 acres of land, while the PVWF footprint contains approximately 31,175 acres of land (Figure 1). The Wind Farms are located adjacent to one another, with Interstate 90 running between the two facilities. All of the Wind Farm facilities are located on privately owned land. Commercial operation of GMWF began in December 2008 whereas PVWF began commercial operation in November 2015.

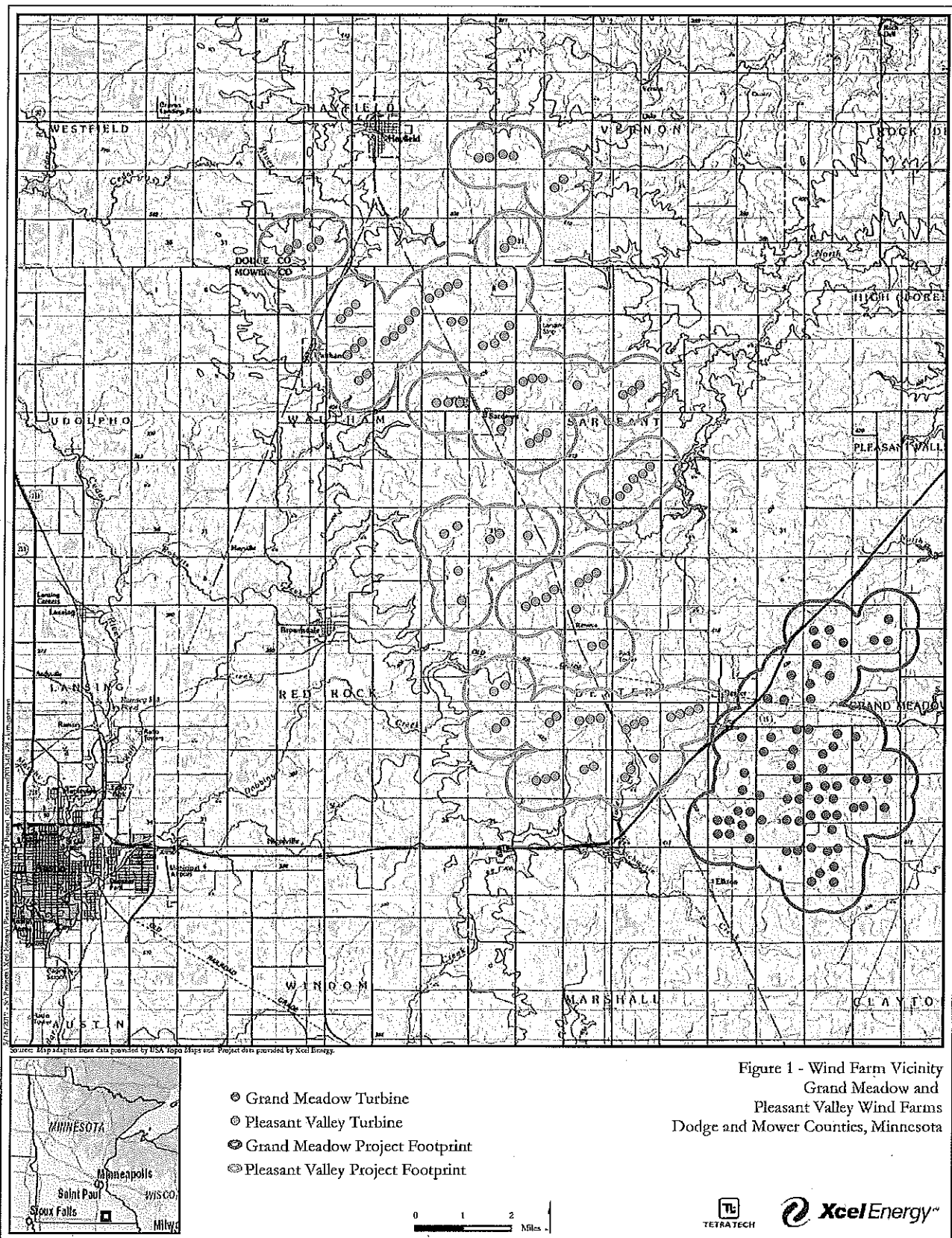


Figure 1. Footprint of the Wind Farms

*Detailed Description of Proposed Action:* Xcel Energy has requested a 5-year eagle take permit for up to 6 bald eagles (total) with associated conditions. Issuance of this permit constitutes a federal action, triggering the intra-service Section 7 consultation. Xcel will implement avoidance and minimization measures (listed below) and will implement adaptive management as triggered. Following proposed permit issuance, systematic fatality monitoring for eagles will be conducted using the study design described in the Eagle Conservation Plan (ECP) for the purpose of demonstrating compliance with permitted eagle take values. Systematic monitoring will be performed for the first 2 years after permit issuance, and additional monitoring may be performed, if warranted. Incidental monitoring performed by operations staff will be conducted over the life of the Wind Farms' operation.

The Wind Farms would be operated in accordance with the measures required by other agencies and jurisdictions, which includes implementation of the Project-specific Avian and Bat Protection Plan (ABPP) in accordance with the final Site Permits for large wind energy conversion systems issued by the Minnesota Public Utilities Commission. As part of proposed permit conditions, the Wind Farms will implement avoidance and minimization measures designed to reduce risk to eagles. These measures can be found in , Section 10.1 (Best Management Practices) and Section 10.4 (Adaptive Management) of the Applicant's ECP and Sections 2.1, 4.2.1.2 of our dEA. As described in Sections 10.2, 10.3, 11.0 of the Project-specific ECP and Section 5 of our dEA, the Applicant would monitor eagle fatalities at the Project using independent, third-party monitors in specified years that report directly to the Service over the five-year tenure of the permit. In the years when third-party monitoring is not conducted during the permit term, operations and maintenance staff would visit each turbine regularly; during visits, the staff would inspect roads, pads, and any other cleared area in the immediate vicinity of turbines.

The Applicant will implement a step-wise adaptive management schedule, as described in Sections 10.1 and 10.3.2 of the Applicant's ECP and Table 6 of our dEA, which has been designed to ensure the Project stays within permit compliance (take of up to 6 bald eagles over the 5-year permit term). If take of bald eagles is higher than estimated, implementation of the adaptive management plan could result in additional monitoring, operational adjustments, and/or the conservation commitments described in Sections 10.1 and 10.3 of the applicant's ECP and Section 4.1.2.1 of our dEA.

The permitted take for the Project does not exceed the Mississippi Flyway eagle management unit threshold or greater than 5% of the Local Area Population, and therefore compensatory (off-setting) mitigation would not be required.

## **V. Determination of Effects:**

**A. Description of Effects:** Describe how the action(s) will affect the species and critical habitats listed in item III, including how Part IV conservation elements benefit or avoid adverse effects. Your rationale for the Section 7 determinations made below (VB.) should be fully described here.

A detailed summary of potential impacts to bats can be found in Sections 1.4.2, 3.3 of our dEA. Two federally listed species have potential to occur within the counties where the Wind Farms are located; the northern long-eared bat (*Myotis septentrionalis*), and prairie bush-clover (*Lespedeza leptostachya*). Neither species were observed during pre-construction surveys or have been observed during post-construction monitoring.

We determine that impact from permit issuance will have no impact to prairie bush clover, and may affect, but are not likely to adversely affect to the northern long-eared bat.

### Northern Long-eared Bat

Northern long-eared bats hibernate in caves and abandoned mines, usually from mid-October to March or April. The closest known hibernation site is Mystery Cave. This hibernation site is near Preston, Minnesota, 27 miles from the southern boundary of the Wind Farms. Acoustic surveys for bats were conducted at the Wind Farms in 2010 and 2011. High frequency calls consistent with eastern red bat, tricolored bat, little brown bat, or northern long-eared bats were recorded during these surveys (Pleasant Valley Wind, LLC 2014). Northern long-eared bats are difficult to confirm acoustically. However, no northern long-eared bats have been identified during standardized carcass searches or incidentally at the operating Wind Farms to date<sup>1</sup>. These reports are available at the MN Department of Commerce e-dockets, Docket# IP-6828/WS-09-1197 (Pleasant Valley) and IP-6646/WS-07-839 (Grand Meadow).<sup>2</sup> Additionally, the MN Department of Commerce undertook a bat fatality study on multiple wind facilities (2013), including Grand Meadow; no northern long-eared bat fatalities were documented<sup>3</sup>. No maternity colonies or hibernacula for any bat species are known to occur within ten miles of the boundary of the Wind Farms.

Take of northern long-eared bats through injury or fatality through collision with turbine blades or barotrauma is possible, although take is not prohibited per Section 4d rule for this species (USFWS 2016). However, the federal action we are analyzing is the proposed issuance of an eagle take permit, not the actual operation of the wind facility. The Wind Farms are operational, and would continue to operate even if the permit were not issued. The application for an eagle take permit is voluntary, and not required under a prosecution or settlement agreement. There are no proposed permit conditions that would result in habitat alternation, and any modifications to turbine operation for the purposes of minimizing risk to eagles may further reduce potential collision risk to bats. Adaptive management as part of permit conditions may include turbine curtailment, however, this would likely occur during daylight hours, and would have a neutral to minimally beneficial impact on bats.

We determine proposed action may affect, but is not likely to adversely affect the northern long-eared bat.

### Prairie Bush-clover

No prairie bush-clover plants have been identified within the footprint of the Wind Farms, however, species-specific surveys were not conducted for this species because neither suitable habitats nor historic records were present in the Wind Farm footprints.

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<sup>1</sup> Pleasant Valley PCMM Compliance Report, 2016-2017:

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={20D7F65D-0000-CB18-B1D9-4BA60721047B}&documentTitle=20178-134856-01> Accessed October 23, 2019

<sup>2</sup>

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showeDocketsSearch&showEdocket=true> Accessed October 23, 2019

<sup>3</sup>

<https://mn.gov/eera/web/project-file?legacyPath=/opt/documents/MNDOC.%20Bat%20Fatality%20Study%20Year%201.%205.23.14.pdf> Accessed October 23, 2019

Proposed issuance of this permit does not permit ground-disturbance activities, as the Wind Farm is operational. Avoidance and minimization measures in proposed permit conditions include restricting vehicle to established roads. Permit holder will search (on foot) for eagle remains in areas surrounding the turbines, however, these activities are conducted in majority agricultural habitats. No suitable habitat for prairie bush-clover plants was identified during pre-construction desktop analyses.

Therefore, the likelihood that individual prairie bush-clover plants would be present and exposed to any harmful effects associated with the proposed action is low (no suitable habitat, agricultural areas, no ground disturbance, foot traffic only).

We determine the proposed action will have no effect on prairie bush clover.

#### Literature Cited

Pleasant Valley Wind, LLC. 2014. Pleasant Valley Wind Energy Project Bird and Bat Conservation Strategy. April 2014. 254 pp.

USFWS (U.S. Fish and Wildlife Service). 2016. Endangered and Threatened Wildlife and Plants; 4(d) Rule for the Northern Long-Eared bat. Federal Register Vol. 81, No. 9. January 14, 2016.  
<https://www.govinfo.gov/content/pkg/FR-2016-01-14/pdf/2016-00617.pdf>



**B. Determination:** Determine the anticipated effects of the proposed project on species and critical habitats listed in item III. Check all applicable boxes and list the species (or attach a list) associated with each determination. **For assistance with making appropriate Section 7 determinations, go to Region 3's Section 7 Technical Assistance website:**

**<http://www.fws.gov/midwest/endangered/section7/s7process/>**

**Determination**

*No Effect:* This determination is appropriate when the proposed project will not directly or indirectly affect (neither negatively nor beneficially) individuals of listed/proposed/candidate species or designated/proposed critical habitat of such species.

No concurrence from ESFO required.

prairie bush-clover  
(*Lespedeza leptostachya*)

*May Affect but Not Likely to Adversely Affect:* This determination is appropriate when the proposed project is likely to cause insignificant, discountable, or wholly beneficial effects to individuals and designated critical habitat. Concurrence from ESFO required.

northern long-eared bat  
(*Myotis septentrionalis*)

*May Affect and Likely to Adversely Affect:* This determination is appropriate when the proposed project is likely to adversely impact individuals of listed species or designated critical habitat of such species. Concurrence from ESFO required.

*Not Likely to Jeopardize candidate or proposed species/critical habitat:* This determination is appropriate when the proposed project is not expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. Concurrence from ESFO required.

*Likely to Jeopardize candidate or proposed species/critical habitat:* This determination is appropriate when the proposed project is reasonably expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. Concurrence from ESFO required.

Signature



[Supervisor at originating station]

Date

11/12/19

**Reviewing Ecological Services Office Evaluation** (check all that apply):

A. Concurrence X

**Nonconcurrency** \_\_\_\_\_

B. Formal consultation required \_\_\_\_\_  
List species or critical habitat unit

C. Conference required \_\_\_\_\_  
List species or critical habitat unit

Name of Reviewing ES Office \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_