

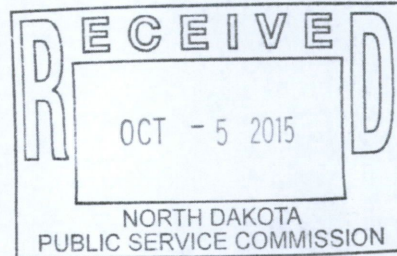
"VARIETY IN HUNTING AND FISHING"

## NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

October 1, 2015

Geri Schmaltz  
Administrative Officer  
ND Public Service Commission  
600 E. Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480



Dear Ms. Schmaltz:

This letter is in response to John Schuh's Sept. 4, 2015 correspondence on the 'Rolette Wind Power project'. That letter specifically asks if our Department has any concerns or recommendations regarding eagles in proximity to the proposed project.

As Rolette Power has agreed to coordinate with the United States Fish and Wildlife Service District Office in Bismarck concerning eagle nests in proximity to the project area, including any potential mitigation measure that may be needed, we have no additional recommendations on this matter.

Sincerely,

Greg Link  
Chief  
Conservation & Communications Division

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# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

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September 4, 2015

Director Terry Steinwand  
North Dakota Game and Fish Department  
100 N. Bismarck Expressway  
Bismarck, ND 58501-5095

Re: Rolette Wind Project

Dear Mr. Steinwand:

I am writing to you on behalf of the North Dakota Public Service Commission. As you may be aware, Rolette Power Development, LLC (Rolette Power), filed an application for a certificate of site compatibility for a wind energy facility known as the Rolette Wind Power project (Project). Some additional information has been received regarding eagles in the project area. The Commission would like to inquire as to whether there are any concerns regarding this project.

A letter from the United States Fish and Wildlife Service (USFWS) states that there was a documented bald eagle nest within the proposed project's study boundary and several other bald eagle nests in proximity to the proposed project area. The USFWS expressed that the proposed project could be classified as "Category 1 – High risk to eagles, potential to avoid or mitigate impacts is low" and recommended, due in part to "a documented eagle nest in the project area," that project developers not build in the area because the project would likely not meet the regulatory requirements to obtain an eagle take permit.

At the public hearing for the Project, Rolette Power agreed to provide additional documentation "regarding the presence or absence of eagle nests in proximity to the Project prior to the beginning of the Project." Rolette Power filed an affidavit with the following:

10. On July 14, 2015, KLJ consulted with Kevin Shelley with the USFWS regarding the USFWS's letter and the presence or absence of eagle nests within or in proximity to the Project's Study Area. Mr. Shelley directed KLJ to contact the NDGFD.

11. On July 16, 2015, I contacted Sandra Johnson with the NDGFD. On the same date, the NDGFD provided KLJ with eagle nest data, which indicates that a bald eagle nest is located within the Project's Study Area, and two bald eagle nests are located in proximity to the Project's Study Area. A map showing the approximate location of the three eagle nests, as well as the Project's Study Area and the Project Area, is attached hereto as Exhibit B.

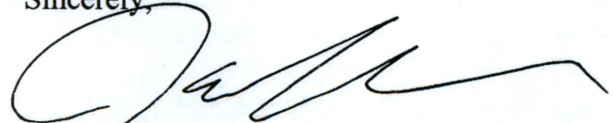
12. The July 16, 2015 eagle nest data provided by NDGFD was not included in the NDGFD eagle nest database to which KLJ has access via a license with the NDGFD.

13. Following receipt of the July 16, 2015 NDGFD eagle nest data, KLJ field-verified the location of the two eagle nests closes to the Project Area, both of which are active. One eagle nest is approximately 2.4 miles from the Project Area boundary, and the other eagle nest is approximately 4.5 miles from the Project Area boundary. No eagle nests are located within the Project Area.

Rolette Power further agreed to coordinate with the USFWS District Office in Bismarck concerning the eagle nests in proximity to the Project Area, including any potential mitigation measures that may be implemented.

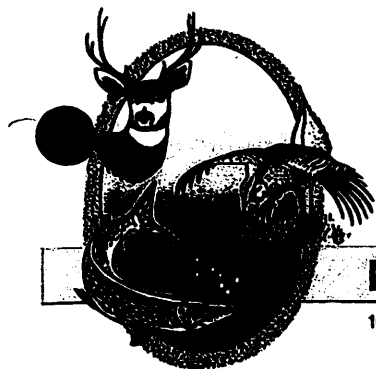
As previously stated, if the North Dakota Game and Fish Department has any concerns or recommendations regarding eagles in proximity to the proposed project, the Commission would welcome any feedback.

Sincerely,



John M. Schuh  
Special Assistant Attorney General  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480  
jschuh@nd.gov  
701.328.2421

Enclosure: ND Game and Fish Letter  
Map of Project Study Area  
Map of Project Area  
Rolette Power Affidavit



"VARIETY IN HUNTING AND FISHING"

## NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

May 30, 2013

Grady Wolf  
Project Manager  
KLJ  
PO Box 1157  
Bismarck, ND 58502-1157

Dear Mr. Wolf:

RE: Rolette Wind Energy Project  
Rolette County, North Dakota

The North Dakota Game and Fish Department has reviewed this project for wildlife concerns.

Our primary concern with wind power development is the disturbance of native prairie associated with construction of turbines, access roads, and other associated facilities. We ask that work within native prairie be avoided to the extent possible. This could include micro-siting turbines onto adjacent previously disturbed land, locating access roads on existing section line trails rather than across undisturbed native prairie, etc.

The National Wetland Inventory indicates various wetlands located within the proposed project area. We recommend that any unavoidable wetland impacts be replaced in kind, above-ground appurtenances not be placed in wetland areas, and no alterations be made to existing drainage patterns.

We also recommend that routine monitoring for avian and bat mortality be included as part of the facility maintenance plan for the life of the project. We would appreciate being kept informed as this project progresses, and if possible, we would like the GPS coordinates for each turbine after the site has been established.

Sincerely,

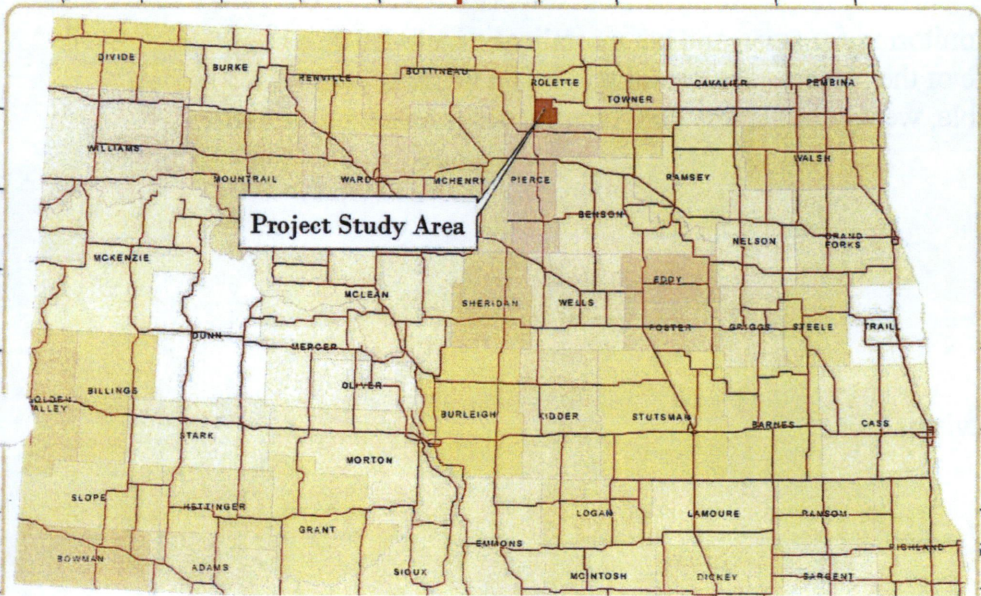
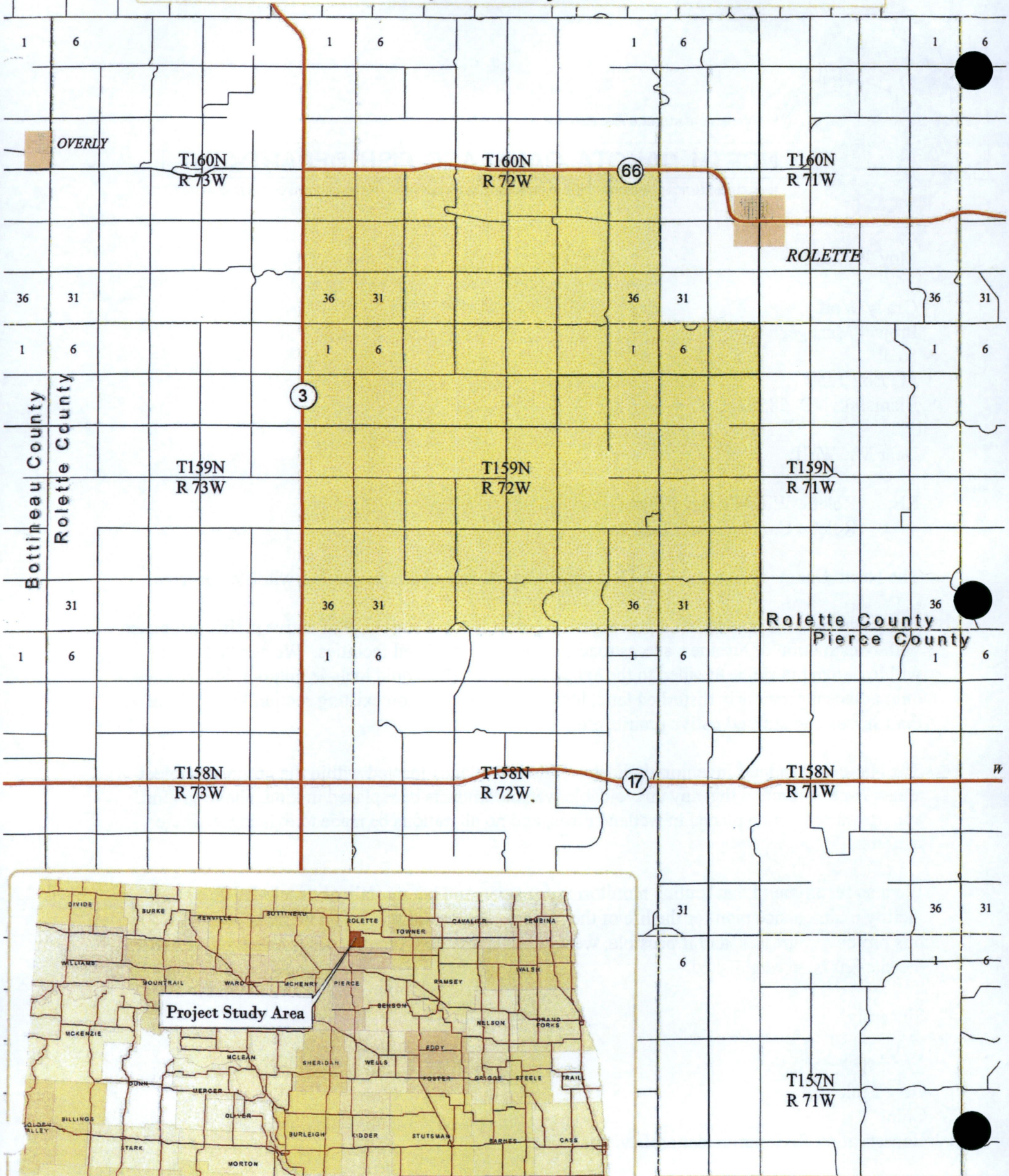
Greg Link  
Chief  
Conservation & Communication Division

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# Proposed Rolette Wind Energy Project

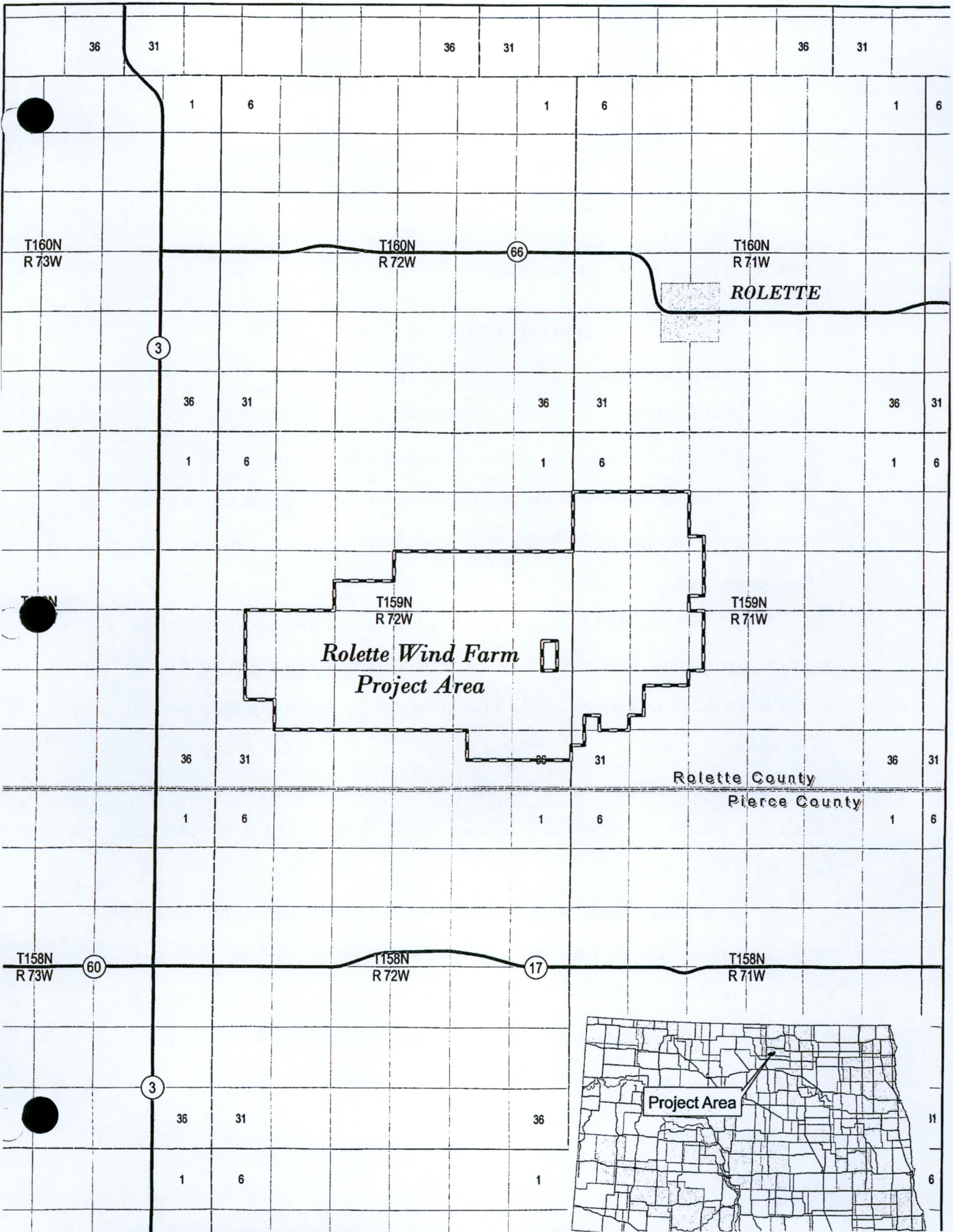
## Project Study Area

31



Proposed Project Study Area







5. In response to the consultation letter from KLJ, the USFWS sent a letter in which it indicated that, based on USFWS data, “there is a documented eagle nest within the proposed project’s study boundary and several other bald eagle nests in proximity to your proposed project area.” A copy of the USFWS’s letter is provided in Appendix E to the Application (*see* Hearing Exhibit No. 1).

6. A response to the consultation letter was also received from the NDGFD on May 30, 2013, and the letter made no reference to bald eagle nests within or in proximity to the Project’s Study Area. A copy of the NDGFD’s letter is provided in Appendix E to the Application (*see* Hearing Exhibit No. 1). KLJ sent a follow-up e-mail to the NDGFD on June 18, 2015, and did not receive a response to that e-mail (*see* paragraph 11 below for a discussion of further KLJ-initiated consultation with NDGFD). A copy of the e-mail to the NDGFD is attached hereto as Exhibit A.

7. As I testified at the public hearing, Rolette Power requested additional information from the USFWS regarding the presence or absence of an eagle nest within the Project’s Study Area at in-person meetings prior to the public hearing on the Application, but the USFWS did not provide any additional information.

8. The NDGFD maintains an eagle nest database, to which KLJ has access via a license with the NDGFD. During environmental review of the Project, KLJ reviewed the NDGFD eagle nest database, which did not identify any eagle nests within or in proximity to the Project’s Study Area. In addition, KLJ did not identify any eagle nests within the Project Area during field surveys.

9. At the June 29, 2015 public hearing on Rolette Power’s Application, the North Dakota Public Service Commission (“Commission”) requested additional information regarding

the eagle nest reference in the USFWS's letter, and Rolette Power agreed to provide such information as a condition to an order granting a Certificate of Site Compatibility for the Project. As such, Rolette Power's proposed Findings of Fact, Conclusions of Law and Order filed with the Commission on July 20, 2015, included the following as Order Paragraph No. 16 on page 11: "Rolette Power will submit additional documentation to the Commission regarding the presence or absence of eagle nests in proximity to the Project prior to beginning construction of the Project."

10. On July 14, 2015, KLJ consulted with Kevin Shelley with the USFWS regarding the USFWS's letter and the presence or absence of eagle nests within or in proximity to the Project's Study Area. Mr. Shelley directed KLJ to contact the NDGFD.

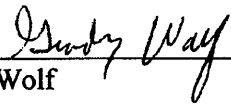
11. On July 16, 2015, I contacted Sandra Johnson with the NDGFD. On the same date, the NDGFD provided KLJ with eagle nest data, which indicates that a bald eagle nest is located within the Project's Study Area, and two bald eagle nests are located in proximity to the Project's Study Area. A map showing the approximate location of the three eagle nests, as well as the Project's Study Area and the Project Area, is attached hereto as Exhibit B.

12. The July 16, 2015 eagle nest data provided by the NDGFD was not included in the NDGFD eagle nest database to which KLJ has access via a license with the NDGFD.

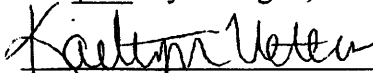
13. Following receipt of the July 16, 2015 NDGFD eagle nest data, KLJ field-verified the location of the two eagle nests closest to the Project Area, both of which are active. One eagle nest is approximately 2.4 miles from the Project Area boundary, and the other eagle nest is approximately 4.5 miles from the Project Area boundary. No eagle nests are located within the Project Area.

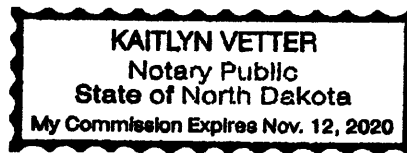
14. Rolette Power has been in contact with the USWFS District Office in Bismarck and will coordinate with that office regarding next steps concerning the eagle nests in proximity to the Project Area, including any potential mitigation measures that may be implemented. Since the eagle nests are located outside of the Project Area, Rolette Power has no plans to alter the Project layout from what was proposed at the June 29, 2015 public hearing due to the presence of the nests.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Grady Wolf

Subscribed and sworn to before me  
this 19<sup>th</sup> day of August, 2015.

  
\_\_\_\_\_  
Notary Public



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**From:** Alex Nisbet <Alex.Nisbet@kljeng.com>  
**Sent:** Thursday, June 18, 2015 9:14 AM  
**To:** 'glink@nd.gov'  
**Subject:** Rolette Wind Power Project  
**Attachments:** PSC\_REV\_Project\_Location.pdf

Greg,

On behalf of Rolette Power Development LLC., KLJ sent NDGF a scoping letter for the proposed project approximately two years ago. A hearing with the PSC will be held on June 29th and we are reaching out to all agencies that provided us with responses to the original scoping package. I have provided a brief description of the project below and attached a project location map. We are reaching out to your agency to ensure that interested parties are informed of the proposed project and are given the opportunity to provide additional comments.

Rolette Power Development, LLC is submitting an application for a Certificate of Site Compatibility to the North Dakota Public Service Commission to construct the Rolette Wind Power Project. The project would encompass an approximately 14,720 acre project area and would be located approximately three miles south of the City of Rolette, in Rolette County, North Dakota. The project would generate approximately 100 megawatts (MW) of electricity and would result in the construction of up to 59 wind turbines, depending on capacity of the turbines that are placed.

Please let me know if your agency has any issues or concerns with the proposed project. Thank you for your time.

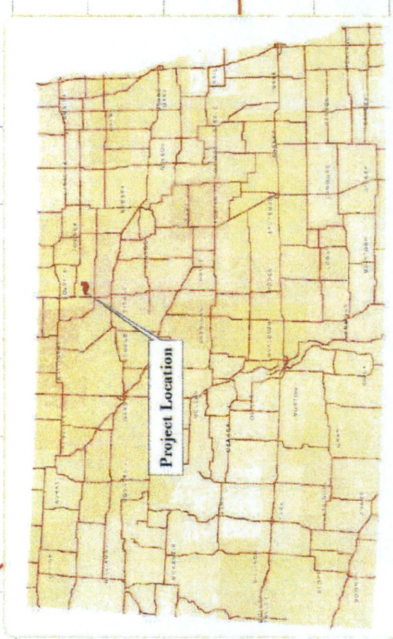
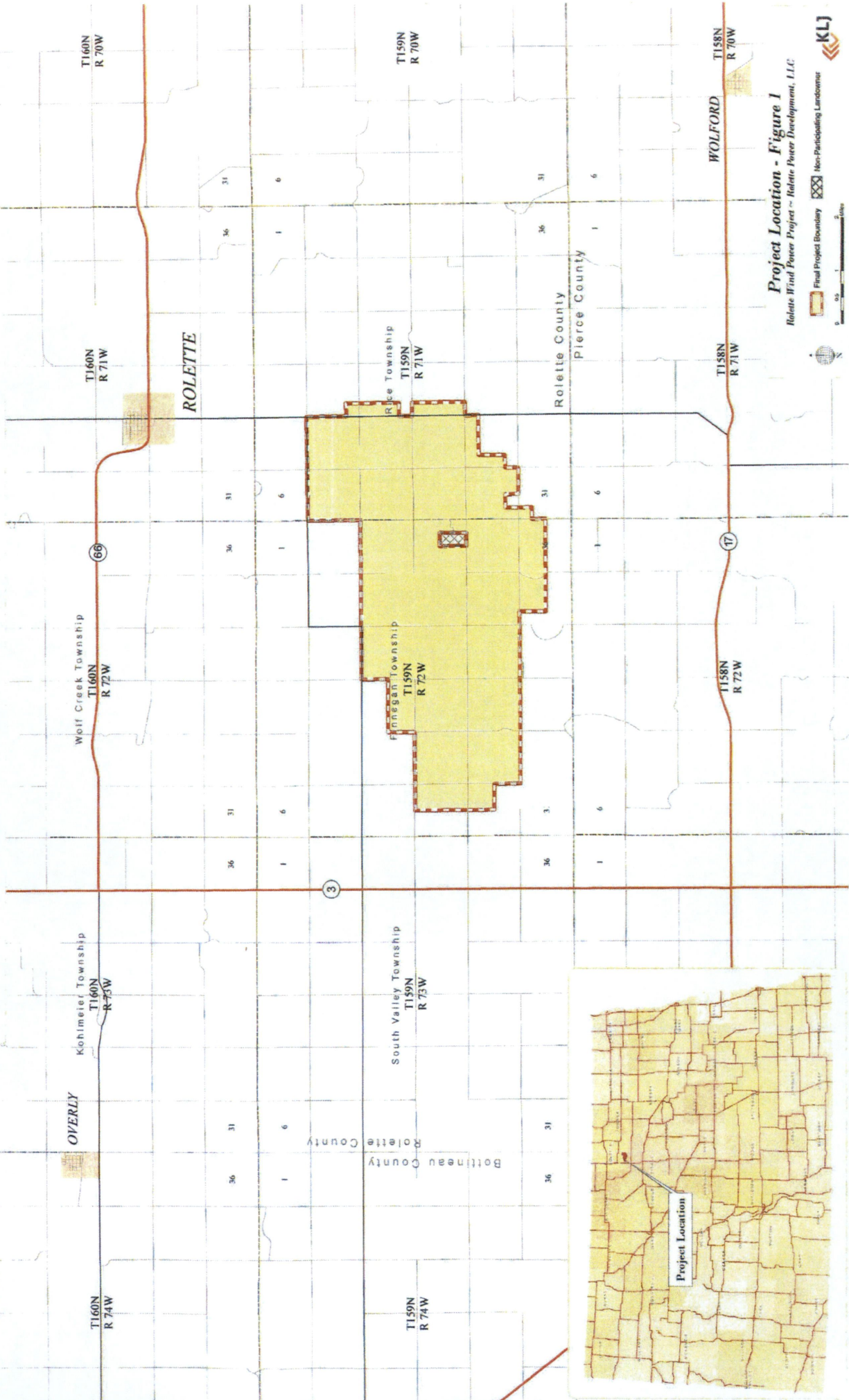
Alex Nisbet



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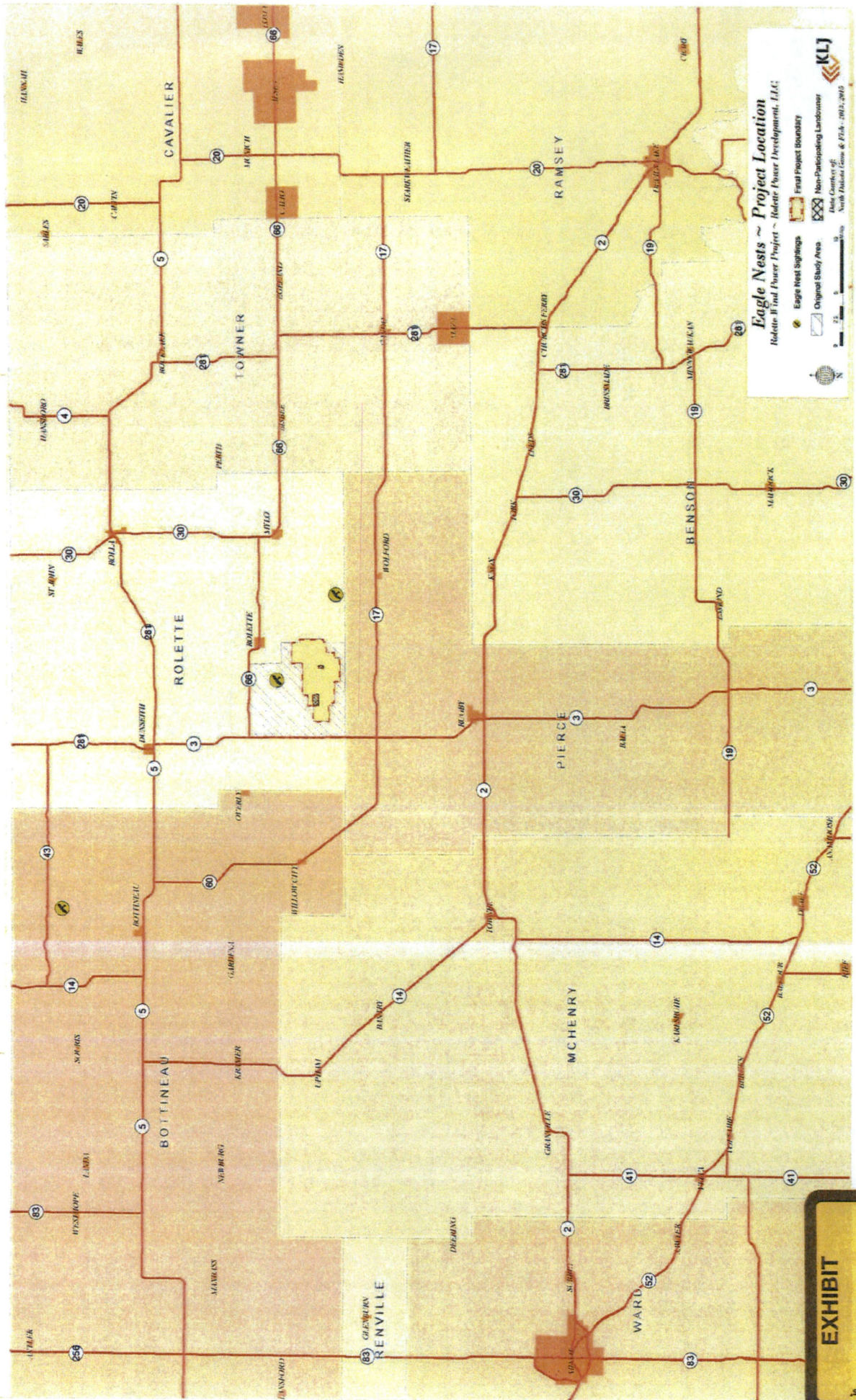
# Project Location



**Project Location - Figure 1**  
Rolette Wind Power Project - Rolette Power Development, LLC

Final Project Boundary  
Non-Participating Landowner  
KLJ  
Kohler Land & Survey, Inc.

# Eagle Nests ~ Project Location



**EXHIBIT**  
**B**