

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

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**IN THE MATTER OF THE  
APPLICATION BY CROCKER WIND  
FARM, LLC FOR A PERMIT OF A  
WIND ENERGY FACILITY AND A 345  
KV TRANSMISSION LINE IN CLARK  
COUNTY, SOUTH DAKOTA, FOR  
CROCKER WIND FARM**

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\*      **STAFF'S FOURTH SET OF DATA  
REQUESTS TO CROCKER WIND  
FARM, LLC**

**EL17-028**

Below, please find Staff's Fourth Set of Data Requests to Crocker Wind Farm, LLC. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement. In addition, please specify the responder when answering each interrogatory. Should any response have subparts answered by more than one individual, identify the respondent by subpart.

- 4-1) Refer to SDCL 49-41B-5.2 regarding the notification of area landowners by mail. Specifically, "The applicant shall notify, in writing, the owner of record of any land that is located within one-half mile of the proposed site where the facility is to be constructed. For purposes of this section, the owner of record is limited to the owner designated to receive the property tax bill sent by the county treasurer. The notice shall be mailed by certified mail. The notice shall contain a description of the nature and location of the facility. Any notification required by this section shall state the date, time, and location of the public hearing and shall be made no later than thirty days prior to the date of the public hearing."**
- a) **Provide a proof of mailing that the public hearing notice was mailed via certified mail to the individuals within one-half mile of the proposed site no later than 30 days prior to the date of the public hearing.**
- b) **Provide a list of the individuals provided the mailed notice.**
- c) **Confirm or deny that all individuals provide in 4-1b received the mailing via certified return receipts.**
- d) **Provide a copy of the letter sent to landowners.**

Brett Koenecke: See docket filing made Sept. 13, 2017.

- 4-2) Refer to the Company's response Staff Data Request 2-32.**

- a) ARSD 20:10:22:33.02(1) requires the Applicant to provide the “distance between the wind turbines.” Explain how the Applicant can provide the distance between the wind turbines without providing a layout of their intended or proposed location.

Michael Morris: Turbines are sited to balance the wake interference between them with the amount of facilities required to construct them (i.e. turbines can be spread out more and reduce wake losses, but that would require longer roads or collection). Generally, the industry standard is to site turbines so they are 3 rotor diameters apart in non-prevailing wind directions and 8 rotor diameters apart in prevailing wind directions. Regardless of industry standard practice, Crocker will observe the Clark County Ordinance which requires a minimum of 3 rotor diameters spacing.

- b) Provide the codified laws or administrative rules that support the Applicant’s request for the Commission to approve four turbine layouts in accordance with 49-41B-22, rather than evaluate and approve one potential layout.

Brett Koenecke: Chapter 49-41B and rules promulgated thereunder allow the commission to evaluate and approve any number of layouts. The commission routinely allows permittees to provide post-permit, preconstruction changes to permit locations. See permits for Buffalo Ridge, Crow Wind, Keystone and Dakota Access.

- c) Refer to staff data request 4-2b. Should there be a maximum number of potential layouts considered by the Commission in a single application? Explain.

Brett Koenecke: No. The commission considers the effects of a facility on the applicant and the named entities in 49-41B-22. The considerations drive the layout, rather than the layout driving the considerations.

#### **4-3) Refer to Page 8-1 of the Application.**

- a) The Applicant states, “The Project Area was selected ..... and low environmental impacts resulting from siting the Project in the Project Area compared with other potentially developable projects in the region.” Provide a list of the potentially developable project areas and provide all work papers that support the analytical comparison performed.

Brett Koenecke: There is no list. There are no work papers. The statement demonstrates the observations and judgments of several employees and agents of the company.

- b) The Applicant states “Crocker also conducted due diligence on environmental factors, which indicated no environmental fatal flaws were present.” Provide the Applicant’s definition of environmental fatal flaws.

Brett Koenecke: Fatal flaws in this context would be conditions which made construction and operation illegal or economically impracticable.

**4-4) Refer to Attachment 4-4A to Staff Data Request 4-4.**

- a) Did the Applicant receive the attached correspondence from the South Dakota Game, Fish, and Parks?**

Melissa Schmit: Yes, the attached letter was received and mistakenly omitted from the Application. Crocker has been actively engaged with the SDGFP and additional correspondence (both written and meetings) has occurred with this agency throughout project development. Attachment 4-4A does not require any change of material information.

- b) Has the Applicant received any other responses to requests for information on the project from federal, state, and local agencies that were not included in Appendix G to the Application? If yes, provide.**

Melissa Schmit: No, not at this time.

**4-5) Identify the Applicant's witness regarding property value impacts, and provide the curriculum vitae.**

Brett Koenecke: Our witness is Mark Thayer and his CV will be attached to his pre-filed testimony as commonly and usually done.

**4-6) Provide curriculum vitae for anyone the Applicant intends to call as a witness.**

Brett Koenecke: For those witnesses who have a CV, we will do so when testimony is filed.

**4-7) Referring to Crocker's response to Staff DR 2-7, would Crocker agree that the energy produced from the Crocker wind farm would need to be purchased by an electric utility with retail sales in South Dakota and that utility would need to retire RECs associated with the wind energy produced by Crocker wind farm in order to claim that the energy from Crocker could contribute to South Dakota's Renewable, Recycled, and Conserved Energy Objective?**

Melissa Schmit: Crocker does not presume to make a determination as to the adequacy of a resource to meet the SD Renewable Energy Objective. Crocker would leave that evaluation to the Commissions review of a particular proposal and the facts involved in that proposal.

- 4-8) Referring to Crocker's response to Staff DR2-10, would Crocker agree that another potentially developable project site that contains more cultivated croplands and fewer undisturbed grasslands would result in lower environmental impacts as it relates to the USFWS's concerns addressed in Appendix G?**
- a) If not, please explain Crocker's rationale for this answer beyond just stating the Environmental Assessment process that will take place.**
  - b) If yes, please explain how the statement made in section 8.1 of the Application regarding the environmental impacts are lower for the selected project area when compared to other potentially developable projects in the region is accurate.**

Melissa Schmit: The question is subjective and Crocker doesn't want to make a determination as to what is otherwise speculative. Crocker's site is the best site available to it such that it minimizes the environmental impacts while meeting other constraints such as transmission, wind resource, and available land.

- 4-9) Referring to Section 9.1 of the Application, under the bullet labeled "Environmental Considerations," it is stated that "[b]efore selecting the Project Area Crocker assessed multiple sites in the region from environmental and cultural perspectives" and that "Crocker selected the Project Area in part because it offered relatively low environmental impacts."**
- a) Please identify each of the assessed multiple sites in the region (also known as alternative sites).**
  - b) Please provide a summary of each of the alternative sites.**
  - c) Please include an explanation as to why each of the alternative sites were not ultimately chosen for the Crocker wind farm.**
  - d) Please provide a summary of the potential environmental and cultural impacts of those alternative sites, which then helped form the conclusion that the proposed Project Area has relatively low environmental impacts.**

Melissa Schmit: Please see Crocker's discussion in 4-11 for a response that satisfies these questions.

- 4-10) Referring to section 9.0 of the Application, Crocker's response to Staff DR2-11, and Crocker's Response to Staff 1-6, please provide how the criteria were measured and weighed. See ARSD 20:10:22:12(1).**

Melissa Schmit: Identifying an area with interested landowners, high wind resource, and nearby interconnection was initially evaluated. A regional environmental analysis was conducted concurrently and all criteria were evaluated as a whole to determine if a project was physically and economically possible.

- 4-11) Does the Application include a description of alternative sites considered for the transmission line pursuant to ARSD 20:10:22:12? If yes, please identify where in the application this information is provided. If no, please provide the required information and ensure that all the information required by ARSD 20:10:22:12 is included.**

Melissa Schmit: The application includes an analysis done consistent with the USFWS Land Based Wind Energy Guidelines (WEGs) which guides an evaluation of the landscape. This landscape level analysis creates an alternative in the sense that the site could be located anywhere within the area. Once we identify an area we begin to identify willing landowners who's participation further narrows our site. In this sense there is a full alternatives analysis that allows the wind project to still meet its other needs. The concept of discreet alternate sites does not suit the siting of wind farms (and their associate generation tie transmission lines) as well since they are typically linked to a specific interconnection point. The regional analysis as a substitute for discrete site alternatives was developed in the WEGs was done through extensive consultation and coordination between industry and the USFWS as well as state and regional (including Environmental NGOs) partners.

- 4-12) Pursuant to ARSD 20:10:22:35(3), please provide “the proposed transmission site and major alternatives as depicted on overhead photographs and land use culture maps.” {emphasis added}. If no other alternative routes were considered for the transmission line, please provide a discussion as to why alternative routes were not considered for the transmission line.**

Brett Koenecke: Alternative routes were not considered as the Applicant does not have power of eminent domain and requires willing landowners to host transmission. Further, generally speaking the lowest impacts from transmission are found in direct routing.

- 4-13) Referring to Crocker’s response to Staff DR2-12, would Crocker agree that utilizing Westwood Professional Services to identify areas of slope instability and not siting facilities in those areas eliminates the risk of slope instability on the project?**

Melissa Schmit: Crocker does agree that having a certified professional engineer reviewing slope stability allows us to identify areas that may be instable and avoid them with the project design.

- 4-14) Referring to Crocker’s response to Staff DR2-13, does Crocker agree that ARSD 20:10:22:15(1) requires the applicant to provide “[a] map drawn to scale of the plant, wind energy, or transmission site showing surface water drainage patterns before and anticipated after construction of the facility?” {Emphasis Added}**

- a) If yes, please provide a map of the project site showing surface water drainage patterns with a notation on the map indicating the post construction drainage patterns will not change.**
- b) If no, please explain why a map showing surface water drainage patterns is not required to be provided pursuant to ARSD 20:10:22:15(1).**

Melissa Schmit: A map is in development and will be provided once completed.

- 4-15) Referring to Crocker's response to Staff DR2-14, is it Crocker's position that the maps provided in Figures 7a-7d of the Application identify planned water uses for recreation, fish, and wildlife and that there are no other planned water uses by communities or agriculture in the project area?**

Melissa Schmit: Crocker is not aware of any other waters meeting these criteria.

- 4-16) Referring to figures 7a-7d of the Application, please explain why the Reid Lake State Waterfowl Refuge was not included on those figures and provide updated maps that include the refuge.**

Melissa Schmit: The Reid Lake State Waterfowl Refuge was not included on the figures because digital data was unavailable. The refuge is not included in the GIS data published by South Dakota, USGS Protected Areas Database, or referenced in agency correspondence. After a significant search, the boundary was located in the South Dakota Hunting Atlas and the attached figures include the refuge based on digitizing the boundary from the atlas.

- 4-17) Referring to Crocker's response to Staff DR2-15, would Crocker agree that the statement made in section 13.2.1 of the application (the statement being "it is expected that the majority of the turbines will be sited in plowed crop fields that are typically planted in row crops") is not accurate for the proposed project?**
- a) If yes, please explain why the statement was included in the application.**
  - b) If no, please explain why the statement is accurate given Crocker's response to Staff DR2-15.**

Melissa Schmit: This statement appears to be a relic of a previous document. Per the table 13-1 in the application the site is approximately 15% tilled crops. Crocker was able to keep approximately 18% of its disturbance in the tilled fields. Table 13-7 provides an accurate accounting of the site's disturbances with regards to land cover.

- 4-18) Referring to Crocker's response to Staff DR2-35, would Crocker agree that ARSD 20:10:22:13 requires "the environmental effects shall be calculated to reveal and assess demonstrated or suspected hazards to the health and welfare of human, plant and animal communities which may be cumulative or synergistic consequences of siting the proposed facility in combination with any operating energy conversion facilities, existing or under construction?"**
- a) If yes, please explain where the assessment of cumulative or synergistic impacts as described in the rule is included in the application. If not included in the application, please include in the response to this question.**
  - b) If no, please explain why this information does not need to be included in the Application.**

Melissa Schmit: These cumulative impacts are provided throughout the application, particularly discussed in the sections covering the impacts associated with the project.

- 4-19) Referring to the transmission line drawings in Appendix J, is it correct that the transmission line will be a single circuit?**

Melissa Schmit: Yes.

- 4-20) Referring to Section 20.1.4 of the Application and ARSD 20:10:22:11, please provide a confidential version of Figures 10a-d that identify the cultural resources and places of historical significance within the project area.**

Melissa Schmit: See attached.

- 4-21) Please provide the GIS shapefiles for each preliminary project layout and the project boundary.**

Melissa Schmit: See attached.

Dated this 22<sup>nd</sup> day of September, 2017.



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Melissa Schmit