

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

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**IN THE MATTER OF THE  
APPLICATION OF DEUEL HARVEST  
WIND ENERGY LLC FOR A PERMIT  
OF A WIND ENERGY FACILITY AND  
A 345-KV TRANSMISSION LINE IN  
DEUEL COUNTY**

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Intervenor Heath Stone  
Post Hearing Brief  
EL18-053

I, Heath Stone, Intervenor, hereby submit this post-evidentiary hearing brief concerning the application of Deuel Harvest Wind Energy LLC for a permit to construct a Wind Energy Facility and a 345-KV Transmission Line in Deuel County, SD.

Introduction

Deuel Harvest Wind Energy LLC is seeking a permit from the Commission to build a wind farm in Deuel County, SD. As the applicant, Deuel Harvest Wind Energy LLC has the burden of proof to establish its proposed project satisfies the provisions of SDCL 49-41 B-22. Intervenor do not have the burden of proof to show the proposed project does not satisfy SDCL 49-41 B-22. Neither does the PUC Staff. Therefore, if there remains a question as to whether the proposed project complies with SDCL 49-41 B-22, the permit application must be denied.

Findings

During the evidentiary hearing, many issues were brought to the attention of the South Dakota Public Utilities Commission (SDPUC). These issues derived from an application that was rushed to be finished and submitted to the (SDPUC). Many errors occurred throughout the application that has raised concerns about how surveys were conducted and to what extent. The wildlife surveys conducted prove to be bare minimum and with the utmost disrespect to wildlife. Turbines have been located near complexes of wetlands severely hindering the productivity of those wetlands to the wildlife that utilize these unique ecosystems. Turbines have also been place on native prairie and other grasslands.

The best examples of the applicants rush and inaccurate information provided to the SDPUC surrounds the eagle nest that is located North of Lake Alice. The first discrepancy is the applicants failure to acknowledge the nest during the two years of raptor surveys and to even further disregard and do no further due diligence when the United State Fish and Wildlife Service (USFWS) told the applicant there may possibly be a eagle nest at this location. If the applicant has already shown disregard from the federal government providing important information, what kind of other information will the applicant disregard. Does this portray a good business practice, it does not. It shows a shady organization that will ignore anything to protect their bottom line. What was the applicant protecting? The applicant set a 2 mile nest buffer for eagles nest outside of the project area but when the eagle nest located in the project was brought forth at the SDPUC public input hearing, they retracted on the 2 mile set back to eagles nest because it would now have a huge impact on their bottom line eliminating turbines and causing the applicant to reorganize the turbine layout.

In the applicant's application, the company had setbacks from Lake Alice one mile, Lake Francis, Lone Tree and Rush Lake a half mile and public land 1,320 ft. When the turbines were placed in the layout, numerous turbines fell within these setbacks. When the company was called out on the miss placed turbines that company did not adhere to their own setbacks, they decided to just reconfigure the numbers, again to protect their bottom line, not to protect the natural features of Deuel County that residents of the county hold in high regard.

The applicant has failed to comply with the local county ordinances. Again, the application is with error due to the way the Deuel County Ordinance reads in regards to the setback from Lake Alice, the Deuel County Ordinance reads, Distance from the Lake Park District located at Lake Cochrane 3 miles, Lake Alice 2 miles and 1 mile from the Lake Park District at Bullhead Lake. As the ordinance reads, the applicant as already violated the county ordinance by having turbines within 2 miles of the shores of Lake Alice. This disregard for the county ordinance should not be tolerated and the applicant should be held to the 2 mile set back from Lake Alice, the ordinary high water mark. Again, this shows the inadequacies the applicant has shown throughout the process.

Sound issues are a huge concern for the county though many residents have not been vocal about this issue. There are many reasons to this factor, however, the DBA a many residents are .1DBA away from the maximum DBA allowed in the ordinance. Two non participants will have a 44.9 DBA at their residence and multiple participants will be at 49.9 DBA. Again, the company is not looking out for the welfare of the county residences and will do whatever it takes to push the envelope to the point of violation to again, maximize their profits at any cost.

The applicant did not respect South Dakota Pheasant Hunts business. The closest tower will be approximately 600 feet from the property line, while two other towers will be within 1600 feet. These towers will directly affect our business deterring clients from returning to our operation, which will greatly affect our income and bottom line. A new company coming into the county should be cognizant of other businesses to not adversely affect them. Again, as stated before, this shows a blatant disrespect to the county as a whole that this company thinks they can come in, toss their money around and set up shop running over anyone in its path.

#### Conclusion

The issues described above show how inadequate the applicant was throughout the process of this application. They rushed to apply for a permit in order to push the project through and complete project to take advantage of the tax credit to maximize their profits while leaving the county residences to be adversely effected. I respectfully request that the Public Utilities Commission deny the permit for the Deuel Harvest Wind Energy, LLC project.

Heath Stone

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May 6, 2019