

PROPOSED PERMIT CONDITIONS

1. Applicant will obtain all governmental permits which reasonably may be required by any township, county, state agency, or federal agency, or any other governmental unit for construction and operation activity of the Project prior to engaging in the particular activity covered by that permit. Copies of any permits obtained by Applicant shall be filed with the Commission.
2. Applicant shall construct, operate, and maintain the Project in a manner consistent with (1) descriptions in the Application, (2) Application supplements and corrections, (3) commitments made by the Applicant in responses to data requests, (4) the Final Decision and Order Granting Permit to Construct Facilities, and attached Permit Conditions, (5) applicable industry standards, (6) applicable permits issued by a federal, state, or local agency with jurisdiction over the Project, and (7) evidence presented by Applicant at the evidentiary hearing.
3. Applicant agrees that the Commission's complaint process as set forth in ARSD Chapter 20:10:01 shall be available to landowners and other persons sustaining or threatened with damage as the result of Applicant's failure to abide by the conditions of the Permit or otherwise having standing to seek enforcement of the conditions of the Permit. Participating landowners are free to use the complaint process free from retribution or consequence regardless of any private easement term to the contrary.
4. At least 14 days prior to commencement of construction, Applicant shall provide each participating and non-participating landowner in the Project Area, using the addresses designated to receive the property tax bill sent by the county treasurer, with the following information:
 - a) A copy of the Final Decision and Order Granting Permit to Construct Facilities with attached Permit Conditions;
 - b) Detailed safety information describing:
 - 1) Reasonable safety precautions for existing activities on or near the Project;
 - 2) Known activities or uses that are presently prohibited near the Project; and
 - 3) Other known potential dangers or limitations near the Project;
 - c) Construction/maintenance damage compensation plans and procedures (only to participating landowners);
 - d) The Commission's address, website, and phone number;
 - e) Contact person for Applicant, including name, e-mail address, and phone number.
5. In order to ensure compliance with the terms and conditions of this Permit pursuant to SDCL 49-41B-33, it is necessary for the enforcement of this Order that all employees,

contractors, and agents of Applicant involved in this Project be made aware of the terms and conditions of this Permit.

6. Except as otherwise provided in the Permit Conditions, Applicant shall comply with all mitigation measures set forth in the Application and Applicant's commitments in its responses to data requests, and Applicant exhibits and testimony at the evidentiary hearing. Material modifications to the mitigation measures shall be subject to prior approval of the Commission.
7. Applicant will negotiate road use agreements with Codington and Grant Counties and all affected townships, if required. Applicant will comply with such road use agreements. When using haul roads specified in applicable road use agreements, Applicant shall take appropriate action to mitigate wind-blown particles created throughout the construction process, including implementation of dust control measures such as road watering, covering of open haul trucks when transporting material subject to being windblown, and the removal of any soils or mud deposits by construction equipment when necessary.
8. In accordance with applicable road use agreements or applicable law, Applicant shall comply with the following conditions regarding road protection:
 - a) Applicant shall acquire all necessary permits authorizing the crossing of federal, state, county, and township roads.
 - b) Applicant shall coordinate road closures with federal, state, and local governments and emergency responders.
 - c) Applicant shall implement a regular program of road maintenance and repair through the active construction period to keep paved and gravel roads in an acceptable condition for residents and the public.
 - d) After construction, Applicant shall repair and restore deteriorated roads resulting from construction traffic or compensate governmental entities for their repair and restoration of deteriorated roads, such that the roads are returned to their preconstruction condition.
 - e) Within 180 days of completing construction and reclamation of the Project, Applicant shall submit documentation to the Commission identifying that the roads were repaired in accordance with this Condition 8 and to the satisfaction of affected townships and county. If the townships or county will not provide such documentation, then Applicant shall provide a report to the Commission on the outstanding road repair issues and how those issues have been or will be resolved.
 - f) Privately owned areas used as temporary roads or crane paths during construction will be restored to their preconstruction condition, except as otherwise requested or agreed to by the landowner.
 - g) Should Applicant need to widen any existing roadways during construction of the Project, Applicant shall return the roadways back to original width after completion of the Project, unless otherwise agreed upon with the federal, state, county, or township entities, or the landowner.

9. Applicant shall provide signage that identifies road closures and disturbances resulting from the Project in accordance with the most recent editions of the Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
10. Applicant shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species in the Project Area that Applicant becomes aware of and that was not previously reported to the Commission.
11. Applicant agrees to avoid direct impacts to cultural resources that are unevaluated, eligible for, or listed in the National Register of Historic Places (NRHP). When a NRHP unevaluated, eligible, or listed resource cannot be avoided, Applicant shall notify the South Dakota State Historic Preservation Office (SHPO) and the Commission of the reasons that complete avoidance cannot be achieved in order to coordinate minimization and/or treatment measures.
12. Applicant agrees to develop an unanticipated discovery plan for cultural resources and comply with SDCL 34-27-25, 34-27-26, and 34-27-28 for the discovery of human remains.
13. Applicant shall file a Level III Archaeological survey of the remaining facilities (i.e. access roads, crane paths, collection lines, O&M facilities, concrete batch plant, and laydown areas) with the Commission and provide a copy of the survey to SHPO prior to commercial operation. The survey report may contain confidential information and all confidential portions of the survey report shall be filed as confidential and not for not for public disclosure. If any potential adverse impacts to NRHP unevaluated, listed, or eligible cultural resources are identified in the survey, Applicant shall file with the Commission a report describing the SHPO-approved planned measures to ameliorate those impacts.
14. Applicant shall provide the Stormwater Pollution Prevention Plan (SWPPP) to the Commission when Applicant has a final design for the Project. The SWPPP will outline the water and soil conservation practices that will be used during construction to prevent or minimize erosion and sedimentation and be in a form consistent with the South Dakota Department of Environment and Natural Resources guidelines. The SWPPP will be completed before submittal of an application for a National Pollutant Discharge Elimination System (NPDES) general permit for construction activities. All contractors to be engaged in ground disturbing activities will be given a copy of the SWPPP and the requirements will be reviewed with them prior to the start of construction.
15. Applicant shall repair and restore areas disturbed by the construction or maintenance of the Project. Except as otherwise agreed to by the landowner, restoration shall include the replacement of the original pre-construction topsoil or equivalent quality topsoil to its original elevation, contour, and compaction and re-establishment of original vegetation as close thereto as reasonably practical. In order to facilitate compliance with this Permit Condition, Applicant shall:
 - a) Strip the topsoil to the actual depth of the topsoil, or as otherwise agreed to by the landowner in writing (e-mail is sufficient), in all areas disturbed by the Project; however, with respect to access roads, Applicant may remove less than the actual depth of the topsoil to ensure roads remain low-profile and the contours align with the surrounding area;

- b) Store the topsoil separate from the subsoil in order to prevent mixing of the soil types;
 - c) All excess soils generated during the excavation of the turbine foundations shall remain on the same landowner's land, unless the landowner requests, and the landowner agrees otherwise; and
 - d) When revegetating non-cultivated grasslands, Applicant shall use a seed mix that is recommended by the Natural Resource Conservation Service (NRCS), or other land management agency, unless otherwise agreed upon with the landowner in writing.
16. Applicant shall work closely with landowners or land management agencies, such as the NRCS, to determine a plan to control noxious weeds and the Applicant shall implement the plan.
17. Applicant shall stage construction materials in a manner that minimizes the adverse impact to landowners and land users as agreed upon between Applicant and landowner or Applicant and the appropriate federal, state, and/or local government agency. All excess (non-permanent) construction materials and debris shall be removed upon completion of the Project, unless the landowner agrees otherwise.
18. In order to mitigate interference with agricultural operations during and after construction, Applicant shall locate all structures, to the extent feasible and prudent, to minimize adverse impacts and interferences with agricultural operations, shelterbelts, and other land uses or activities. Applicant shall take appropriate precautions to protect livestock and crops during construction. Applicant shall repair all fences and gates removed or damaged during construction or maintenance unless otherwise agreed upon with the landowner or designee. Applicant shall be responsible for the repair of private roads damaged when moving equipment or when obtaining access to the right-of-way.
19. Applicant shall bury the underground collector system at a minimum depth of 48 inches, or deeper if necessary, to ensure the current land use is not impacted.
20. Applicant shall repair or replace all property removed or damaged during all phases of construction, including but not limited to, all fences, gates, and utility, water supply, irrigation, or drainage systems. Applicant shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses. All repair, replacement and/or compensation described above shall be in accordance with the terms and conditions of written agreements between Applicant and affected landowners where such agreements exist.
21. Applicant shall, in the manner described in its written agreement with a landowner, indemnify and hold the landowner harmless for loss, damage, claim, or actions resulting from Applicant's use of the easement, including any damage resulting from any release, except to the extent such loss, damage claim, or action results from the negligence or willful misconduct of the landowner or his employees, agents, contractors, invitees, or other representatives.
22. Applicant may make turbine adjustments of 250 feet or less from the turbine locations identified at the time a Facility Permit is issued without prior Commission approval, so

long as the specified noise and shadow flicker thresholds are not exceeded, cultural resource impacts and documented habitats for listed species are avoided, and wetland impacts are avoided or are in compliance with applicable U.S. Army Corps of Engineers (USACE) regulations. Prior to implementing the turbine adjustment, Applicant will file in the docket an affidavit demonstrating compliance with the limitations set forth above. Any turbine adjustment that does not comply with the aforesaid limitations, or turbine model change, would be considered a “material change,” and Applicant shall file a request for approval of the “material change” prior to making the adjustment pursuant to the following approval process:

Applicant will file with the Commission and serve on the official Service List a request for approval of the adjustment that includes:

- An affidavit describing the proposed turbine adjustment, the reason for the adjustment, the reason the adjustment does not comply with one or more turbine flexibility limitations set forth above, and information regarding compliance with all other applicable requirements; and
 - A map showing both the approved location and the proposed adjustment (in different colors).
 - Once received, the information would be reviewed by Commission staff, and Commission staff will have 10 calendar days within which to request further Commission review.
 - If no further review is requested, Applicant may proceed with the adjustment.
 - If further review is requested, the Commission will issue a decision regarding Applicant’s request at its next available regularly scheduled Commission meeting, subject to notice requirements, after the request for further review is made by Commission staff.
23. Applicant may adjust access roads, the collector and communications systems, meteorological towers, Aircraft Detection Lighting System (ADLS) facilities, the operations and maintenance facility, the Project Substation, and temporary facilities, so long as they are located on land leased for the Project, cultural resources are avoided or mitigated in consultation with the SHPO; documented habitats for listed species are avoided; wetland impacts are avoided or are in compliance with applicable USACE regulations; and all other applicable regulations and requirements are met.
24. If the Project causes interference with radio, television, or any other licensed communication transmitting or receiving equipment, Applicant shall take all appropriate action to minimize any such interference and shall make a good faith effort to restore or provide reception levels equivalent to reception levels in the immediate areas just prior to construction of the Project. This mitigation requirement shall not apply to any dwellings or other structures built after completion of the Project.
25. Applicant will provide Global Positioning System (GPS) coordinates of structure locations to affected landowners at any time during the life of the Project. Coordinates will be provided in writing to landowners within 30 days of a request.
26. The Project, exclusive of all unrelated background noise, shall not generate a sound pressure level (10-minute equivalent continuous sound level, Leq) of more than 45 dBA as measured within 25 feet of any non-participating residence unless the owner of the residence has signed a waiver, or more than 50 dBA (10-minute equivalent continuous

- sound level, Leq) within 25 feet of any participating residence unless the owner of the residence has signed a waiver. The Project Owner shall, upon Commission formal request, conduct field surveys and provide monitoring data verifying compliance with specified noise level limits. If the measured wind turbine noise level exceeds a limit set forth above, then the Project Owner shall take whatever steps are necessary in accordance with prudent operating standards to rectify the situation.
27. Not less than 30 days prior to commencement of construction work in the field for the Project, Applicant will provide to Commission staff the following information:
- a) the most current preconstruction design, layout, and plans, including the turbine model selected;
 - b) a sound level analysis showing compliance with the applicable sound level requirements;
 - c) a shadow flicker analysis showing the anticipated shadow flicker levels will not exceed applicable requirements per year at any residence, absent a waiver agreement executed by the residence owner(s);
 - d) should Applicant decide at a later point to use a different turbine model, it shall provide the information required in parts a-c above. Applicant shall also demonstrate that in selecting locations for the other turbines, it considered how to reduce impacts on non-participating landowners; and
 - e) additional Project preconstruction information as Commission staff requests.
28. The Applicant agrees to use alternative turbine locations instead of the following primary turbine locations CR-16, CR19, CR-23, CR-60, CR-49, CR-67, and CR-68. If during construction at an alternative turbine, Applicant determines that the location is not suitable for a turbine due to geotechnical, cultural, environmental issues or other constructability issues, the Applicant shall file an affidavit with the Commission setting forth why the alternative turbine cannot be used and identifying which primary turbine will be used. If there is a dispute over the use of a primary turbine, the Applicant and PUC Staff shall meet and attempt to resolve the dispute within 10 business days of the filing of the affidavit. If the dispute cannot be resolved within 10 business days, the Applicant shall file a request for a material deviation with the Commission.
29. Within 90 days after the Project's commercial operation date, Applicant shall submit a report to the Commission that provides the following information:
- a) as-built location of structures and facilities, including drawings clearly showing compliance with the setbacks required by state and local governments set forth in Table 9-1 of the Application;
 - b) ArcGIS shapefiles of the final turbine and facility layout;
 - c) the status of remedial activities for road damage, landowner property damage, crop damage, environmental damage, or any other damage resulting from Project construction activities; and

- d) a summary of known landowner complaints and Applicant's plan for resolving those complaints.
30. Applicant shall seek input from local emergency response personnel to properly and effectively coordinate an emergency response plan consistent with local resources and response abilities. Upon completion of construction, a Project operation emergency response plan shall be provided to Commission staff to make available to the general public on the Commission's website.
31. Prior to the construction of the Project, Applicant will notify public safety agencies by providing a schedule and the location of work to be performed within their jurisdiction. The agencies contacted will include the South Dakota Department of Public Safety, the sheriffs of Codington County and Grant County, and the Codington County and Grant County Offices of Emergency Management.
32. Applicant agrees to undertake a minimum of two years of independently-conducted post-construction avian and bat mortality monitoring for the Project, and to provide a copy of the report and all further reports to the USFWS, SDGFP, and the Commission.
33. Applicant shall file a Bird and Bat Conservation Strategy (BBCS) prior to beginning construction of the Project. The BBCS shall be implemented during construction and operation of the Project.
34. At least 30 days prior to commencement of construction, Applicant shall submit the identity and qualifications of a public liaison officer to the Commission for approval to facilitate the exchange of information between Applicant, including its contractors, landowners, local communities, and residents, and to facilitate prompt resolution of complaints and problems that may develop for landowners, local communities, and residents as a result of the Project. Applicant shall file with the Commission its proposed public liaison officer's credentials for approval by the Commission prior to the commencement of construction. After the public liaison officer has been approved by the Commission, the public liaison officer may not be removed by Applicant without the approval of the Commission. The public liaison officer shall be afforded immediate access to Applicant's on-site project manager, its executive project manager, and to the contractors' on-site managers and shall be available at all times to Commission staff via mobile phone to respond to complaints and concerns communicated to the Commission staff by concerned landowners and others. Within 10 working days of when Applicant's public liaison officer has been appointed and approved, Applicant shall provide contact information for him/her to all landowners in the Project Area and to law enforcement agencies and local governments in the vicinity of the Project. The public liaison officer's contact information shall be provided to landowners in each subsequent written communication with them. If the Commission determines that the public liaison officer has not been adequately performing the duties set forth for the position in this Order, the Commission may, upon notice to Applicant and the public liaison officer, take action to remove the public liaison officer. The public liaison's services shall terminate 90 days after the Project commences commercial operations, unless the appointment is extended by order of the Commission.
35. If the Project is decommissioned, Applicant will follow Section 21 of the Application and the decommissioning plan laid out in Appendix L of the Application. The Commission shall be notified prior to any decommissioning action.

36. Applicant shall utilize an Aircraft Detection Lighting System if approved by the Federal Aviation Administration.
37. The terms and conditions of the Permit shall be made a uniform condition of construction and operation, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular condition should not be applied to the property in question and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis, which evaluation shall be completed within 60 days unless exigent circumstances require action sooner.
38. Applicant shall provide a copy of the Commission's Final Decision and Order Granting Permit to Construct Facilities; Notice of Entry and attached Permit Conditions in this docket to the affected county, townships, and municipalities in the Project Area.
39. Shadow flicker at residences shall not exceed 30 hours per year unless the owner of the residence has signed a waiver.
40. Applicant will use two methods to detect icing conditions on turbine blades: (1) sensors that will detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site permanent meteorological towers, on-site anemometers, and other relevant meteorological sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbine(s) in icing conditions (per the sensors) or Applicant will manually shut down turbine(s) if icing conditions are identified (using meteorological data). Turbines will not return to normal operation until the control systems no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern. Applicant will pay for any documented damage caused by ice thrown from a turbine.
41. For purposes of this Project and the commitments herein, "residences," "business(es)," "structures," "schools," "churches," "cemeteries," and "public buildings" shall include only those that are in existence and in use as of the date of the Commission's order issuing a permit.
42. Turbines shall be set back at least 1.1 times the tip height, with a minimum set back distance of 500 feet, from any surrounding property line. However, if the owner of the wind turbine tower has a written agreement with an adjacent land owner allowing the placement of the tower closer to the property line, the tower may be placed closer to the property line shared with that adjacent land owner.
43. The Applicant shall implement the avoidance, minimization and mitigation measures identified as follows for Traditional Cultural Properties (TCPs):
 - i) Implement standard avoidance or resource protection practices (e.g., barrier fencing, contractor training) for TCPs, where feasible, in collaboration with the Sisseton-Wahpeton Oyate, Yankton Sioux, Rosebud Sioux and Spirit Lake Tribal Historic Preservation Officers (THPOs) and the Applicant;

- ii) Make reasonable efforts to identify participating landowners who may be willing to work with the tribes on site preservation, accessibility and protection of TCPs on their property;
- iii) Conduct site revisits prior to construction;
- iv) Help facilitate post-construction site revisits for tribes with the landowners; and
- v) Identify and implement education/interpretation opportunities regarding tribal resource preservation and/or Native American perspectives which may include sensitivity training when needed.