

THE LAW PRACTICE OF ARVID J. SWANSON, P.C.

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June 11, 2019

*Scan to all Persons on PUC E-Service List per Certificate of Service &
kristen.edwards@state.sd.us*

Kristen N. Edwards, Staff Attorney
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
Pierre, South Dakota

Re: File 6215-001. • *In re Docket EL19-003, Crowned Ridge Wind LLC
Codington & Grant Counties*

Dear Counsel:

I represent Timothy & Linda Lindgren of South Shore, South Dakota, as owners of the property legally described as:

**SOUTHWEST QUARTER (SW1/4) AND WEST HALF OF SOUTHEAST
QUARTER (W1/2, SE1/4) OF SECTION 2, TOWNSHIP 118 NORTH,
RANGE 51 WEST OF THE 5TH P.M., CODINGTON COUNTY, SOUTH
DAKOTA**

This property has been previously subject to a certain option agreement as noted in a "Memorandum of Leases and Easements," filed in the office of Register of Deeds, Codington County, on July 7, 2014. The term of the option is not clearly established in the referenced Memorandum, but the full terms of the underlying agreement are clear the effective date for the option is June 11, 2014; that it provides for a 3-year initial option term that expires the day prior to the third anniversary of the effective date (which was renewed according to its terms), and further providing for a 2-year option renewal term.

According to Exhibit A54, filed June 10, 2019 (yesterday), the Lindgren farm is color-keyed and shown as "under option but likely to expire/not resign" – it seems to be the only such property shown in pink. This exhibit should be further updated as of today, June 11.

By reference to the language in the unrecorded agreement, it is our interpretation – and we wish to so inform the South Dakota Public Utilities Commission accordingly - that the option regarding the above-described property actually expired on, and with the passage of, June 10, 2019, and further, that date came and went without an exercise of that option by the holder, this being Boulevard Associates, LLC of Juno Beach, FL ("Operator"). Consistent with the extended terms of the underlying agreement, no written notice of exercise was delivered to or received by my clients during the life of the option. That said, please be advised that the property of Timothy & Linda Lindgren will not be under lease by either Operator or Applicant Crowned Ridge Wind for siting of the turbines designated as CR-56 and CR-57.

Further, while the proposed “Leases and Easements” included a number of provisions that – *if the option had been timely exercised* – would have granted (for a term of 50 years) a broad list of rights and privileges as to the Lindgren property and in favor of Operator, all of those claimed or pursued rights are stillborn. The rights sought included a certain Section 5.2, entitled “Effects Easement” – pursuant to which:

Owner grants to Operator a non-exclusive easement for audio, visual, view, light, flicker, noise, shadow, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Wind Farm or activity located on Owner’s Property or on adjacent properties over and across the Owner’s Property (“Effects Easement”).

Now that Operator holds no rights whatsoever by way of easement or license upon and across the Lindgren farm, my clients do wish to further clearly state that *no* such taking of those very same rights by other means, including those that are approved by some order or permit issued by this Commission, will be waived, ignored or suffered. The rights covered by the so-called “Effects Easement” are exclusive to the fee owners of the land. The Lindgren family – who live on Section 2, as described above – are *not* willing to countenance any disturbance of or claim over their rights as fee owners of the above-referenced property – whether in the form of noise, shadow flicker or “other effects attributable to the Wind Farm or activity” of Operator.

This letter has been provided to all persons having a known interest in this docket, as listed in the accompanying certificate of service.

Very truly yours,
ARVID J. SWANSON P.C.



A.J. Swanson

- c: All persons listed in the PUC’s current Service List for EL19-003, as reflected in the Certificate of Service as is submitted herewith, including counsel for Applicant:

Miles Schumacher, Esq. (via Email Only)
LYNN JACKSON SHULTZ & LEBRUN, PC
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Timothy & Linda Lindgren

BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

In the Matter of the Application by)
CROWNED RIDGE WIND, LLC *for a*) Docket EL19-003
Permit of a Wind Energy Facility in)
Grant and Codington Counties)

CERTIFICATE OF SERVICE

A true copy of Letter, dated June 11, 2019, addressed to Kristen N. Edwards, Staff Attorney, South Dakota Public Utilities Commission (scan only), two (2) pages in length, having been submitted on behalf of Timothy & Linda Lindgren, and transmitted (the date below) by undersigned, as counsel for said persons upon the following now appearing on the Commission's Service List in this matter:

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Dated at Canton, South Dakota, this 11th day of June 2019.

Respectfully submitted,

A.J. Swanson
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/s/ A.J. Swanson
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Attorney for
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