

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

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June 12, 2019

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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 in my letter of June 11, 2019. My clients have previously been subject to a certain Memorandum of Leases and Easements, dated June 11, 2014, an instrument that, under Sections 11.4 and 11.6, inhibited the Lindgrens, as Owners, from taking any action adverse to the interests of Operator (this being Boulevard Associates, LLC of Juno Beach, FL). We believe those constraints no longer pertain as of June 11, 2019, but it is now too late to intervene in this Docket EL19-003.

As pointed out in my June 11, 2019 letter, the June 11, 2014 instrument also included Section 5.2, "Effects Easement," with this language:

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").

Applicant, as a deemed assignee of Operator, no longer has *any* contractual basis upon which to inflict the "effects" of wind turbine presence or operation upon the Lindgrens and their property.

But, Applicant continues to demand of this Commission that it be permitted to dispose of such deleterious dung upon the Lindgren property (and residence) simply because Applicant thinks it is fitting and proper to do so. For example, prior to June 11, 2019, the Lindgren residence was projected to receive about 27 hours annually of shadow flicker. CR-56 and CR-57 are eliminated, of course, but it is our interpretation of the mapping that CR-50, to the northwest on property of another, was the principal source of the shadow flicker "effect."

Under Exhibit A55 (revised June 8, 2019), the two eliminations of the two sites are noted, while CR-50 is described as "moved" - but in what direction and how far can't be determined

(by us). I've not located any updated mapping to show the continued "shadow flicker" effect that CR-50 will now cast upon the Lindgren farm or their residence. I just want to be clear on this point – *no amount of shadow flicker will be acceptable to my clients*, so before Crowned Ridge Wind places and builds CR-50 (or any other turbine, for that matter), it would be best if that "effect" was eliminated. Otherwise, Crowned Ridge Wind acts at its own peril.

Crowned Ridge Wind cannot take, nor will it be permitted to steal, the property rights that it does not otherwise possess by purchase or easement. Neither depth nor breadth of "agreed stipulations" with Commission staff (Exhibit A61) actually improves Applicant's legal standing. Just as Codington County's exercise of zoning power does not include power to confer an "easement" upon Crowned Ridge Wind for the casting of "shadow flicker" for any duration or period of time, this Commission is vested with no legal authority to take land rights from the Lindgren family (as non-participants), and to confer those rights and privileges upon Crowned Ridge Wind. These are rights and privileges that belong to the fee owner *exclusively*, absent a contract to the contrary. Crowned Ridge Wind – as to the Lindgren farm – has no such contract. Those fully occupied in the on-going submission of this case, EL19-003, would do well to remember that essential point.

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:

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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 12, 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 12th day of June 2019.

Respectfully submitted,



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