

STATE OF SOUTH DAKOTA )  
 )  
 ) :SS  
COUNTY OF BON HOMME )

IN CIRCUIT COURT  
  
FIRST JUDICIAL CIRCUIT

GREGG and MARSHA HUBNER,

Appellants,

vs.

SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION; PREVAILING WIND  
PARK, LLC; SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION STAFF;  
PAUL AND LISA SCHOENFELDER;  
SHERMAN FUERNISS; KELLY  
PAZOUR; KAREN JENKINS; and  
CHARLES MIX COUNTY, SOUTH  
DAKOTA,

Appellees.

04CIV18-000084

NOTICE OF ENTRY OF ORDER  
DISMISSING APPEALS AND  
JUDGMENT OF AFFIRMANCE

TO: PARTIES OF RECORD INVOLVED IN THE ABOVE ACTION, AND THEIR  
ATTORNEYS OF RECORD

NOTICE IS HEREBY GIVEN that attached hereto is a copy of the Order  
Dismissing Appeals and Judgment of Affirmance in the above-entitled action, which was  
signed by the Honorable Cheryle Gering on the 2<sup>nd</sup> day of April, 2019, and filed in the  
office of the Clerk of the Circuit Court at Bon Homme County, Tyndall, South Dakota.

DATED: April 3, 2019

SCHOENBECK LAW, PC

By: /s/ Joe Erickson

Lee Schoenbeck

Joe Erickson

*Co-Counsel for Prevailing Wind  
Park, LLC*

P.O. Box 1325

Watertown, SD 57201

(605) 886-0010

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 3<sup>rd</sup> day of April, 2019, a true and correct copy of the foregoing *Notice of Entry of Order Dismissing Appeals and Judgment of Affirmance* was filed and served via the Odyssey File & Serve system, upon the following:

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*Attorneys for Sherman Fuerniss, Kelli Pazour, and Karen Jenkins*

and that on the 3<sup>rd</sup> day of April, 2019, a true and correct copy of the foregoing *Notice of Entry of Order Dismissing Appeals and Judgment of Affirmance* was served by U.S. First Class Mail, postage prepaid, upon the following:

Sara Clayton  
Charles Mix County Auditor  
Keith Mushitz, Chairperson  
Charles Mix County Commission  
P.O. Box 490  
Lake Andes, SD 57356

Paul M. Schoenfelder  
Lisa A. Schoenfelder  
40228 – 296<sup>th</sup> Street  
Wagner, SD 57380

/s/ Joe Erickson  
JOE ERICKSON

**FILED**

APR 02 2019

STATE OF SOUTH DAKOTA  
COUNTY OF BON HOMME

IN CIRCUIT COURT  
FIRST JUDICIAL CIRCUIT  
JSS *Heather Humphrey*  
Bon Homme County Clerk of Courts  
First Judicial Circuit Court of SD

GREGG AND MARSHA HUBNER,  
APPELLANTS,

04CIV18-000084

vs.

ORDER DISMISSING APPEALS AND  
JUDGMENT OF AFFIRMANCE

SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION;  
PREVAILING WIND PARK, LLC;  
SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION STAFF;  
PAUL AND LISA SCHOENFELDER;  
SHERMAN FUERNISS; KELLI  
PAZOUR; KAREN JENKINS; AND  
CHARLES MIX COUNTY, SOUTH  
DAKOTA,  
APPELLEES.

Sherman Fuerniss, Kelli Pazour, and Karen Jenkins filed a Notice of Withdrawal of Appeal on March 18, 2019. The court held oral argument at the Bon Homme County Courthouse on April 1, 2019 as to the appeal of Gregg and Marsha Hubner. At the April 1, 2019 hearing, the Hubners were personally present, as was their attorney Reece Almond, and representatives of Prevailing Wind Park, LLC were present, along with their attorneys Lisa Agromonti and Joseph Erickson. After hearing oral argument, the court made its oral ruling which is incorporated herein by reference. Based upon that oral ruling,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the appeals of Sherman Fuerniss, Kelli Pazour, Karen Jenkins, and Gregg and Marsha Hubner are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Public Utilities Commission's Final Decision and Order Granting Permit to Construct Facilities dated November 28, 2018 is affirmed.

Dated the 2<sup>nd</sup> day of April, 2019.

BY THE COURT:

ATTEST:  
Heather Humphrey  
Bon Homme County Clerk of Courts  
By: *Heather Humphrey*

*Cheryle Gering*  
Cheryle Gering  
Circuit Court Judge

