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THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

=====

IN THE MATTER OF THE APPLICATION EL18-003
BY DAKOTA RANGE I, LLC AND
DAKOTA RANGE II, LLC FOR A PERMIT
OF A WIND ENERGY FACILITY IN
GRANT COUNTY AND CODINGTON COUNTY,
SOUTH DAKOTA, FOR THE DAKOTA
RANGE WIND PROJECT

=====

Transcript of Proceedings
July 10, 2018
1:30 p.m.

=====

BEFORE THE PUBLIC UTILITIES COMMISSION,
KRISTIE FIEGEN, CHAIRWOMAN
GARY HANSON, VICE CHAIRMAN
CHRIS NELSON, COMMISSIONER

COMMISSION STAFF
Karen Cremer
Greg Rislov
Jon Thurber
Darren Kearney
Joy Lashley

APPEARANCES

Mollie Smith,
appearing on behalf of Dakota Range.

Kristen Edwards and Amanda Reiss,
appearing on behalf of Public Utilities Commission
Staff.

Teresa Kaaz,
appearing pro se.

Kristi Mogen,
appearing pro se.

Reported By Cheri McComsey Wittler, RPR, CRR
Precision Reporting, 213 S. Main, Onida, South Dakota

1 The following transcript of proceedings was
2 held in the above-entitled matter at the South Dakota
3 State Capitol Building, 500 East Capitol Avenue, Pierre,
4 South Dakota, on the 10th day of July, 2018, commencing
5 at 1:30 p.m.

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1 CHAIRWOMAN FIEGEN: South Dakota Public
2 Utilities Commission meeting is called to order.

3 This is an agenda item of an Ad Hoc Commission
4 meeting. It is July 10, 2018, at 1:30 Central Daylight
5 Time. We are again in Room 414 in the Capitol Building
6 in Pierre, South Dakota. This afternoon all three
7 Commissioners are in the Meeting Room 414, and we have
8 brought Commissioner Hanson out of quarantine since this
9 morning.

10 We have one docket in front of us. It's an
11 electric Docket, EL18-003, In the Matter of the
12 Application of Dakota Range I, LLC and Dakota Range II,
13 LLC for a Permit of the Wind Energy Facility in Grant and
14 Codington Counties in South Dakota for the Dakota Range
15 Wind Project.

16 The question before the Commission this
17 afternoon is shall the Commission grant, deny, or grant
18 with conditions a permit for the construction of a wind
19 energy facility to Dakota Range pursuant to South Dakota
20 Codified Law 49-41B-25? Or how shall the Commission
21 proceed?

22 In our last order that we signed we are going to
23 allow oral arguments for five minutes for each party.
24 And, Dakota Range, if you would like to go first, we have
25 you first. Or you can certainly go last. Whatever your

1 choice is.

2 MS. SMITH: I would go last, if that's all
3 right.

4 CHAIRWOMAN FIEGEN: Okay. So Ms. Kaaz, and then
5 we'll go to Ms. Mogen and then Staff and Dakota Range.

6 So this is an opportunity for your final
7 comments, oral arguments, for five minutes. And I guess
8 we don't even have a timer, but I do have one on my
9 phone.

10 MS. KAAZ: I've practiced some.

11 CHAIRWOMAN FIEGEN: You've practiced some.
12 Well, also there may be a tiny bit of leeway.

13 Okay. Go ahead.

14 MS. KAAZ: Good afternoon, Commissioners. Thank
15 you in advance for allowing me my five minutes. No one
16 can object at this time to what I have to say or try to
17 sway my mind today. I take this responsibility
18 wholeheartedly.

19 I have tried with all my knowledge to show all
20 of you, my Commissioners, the facts as they will affect
21 me. When residents purchased their property in Codington
22 and Grant Counties, as well as every place in
23 South Dakota, they all had rules and regulations to
24 follow. They have followed them. When permits were
25 applied for to do improvements there were also rules and

1 regulations to follow. Those rules were also followed.

2 Then came the wind industry, presenting
3 themselves, Apex, as good neighbors only to those they
4 chose. Apex has proven in countless places throughout
5 the U.S., Canada, and even the world that the
6 environment, social and economics conditions of the
7 inhabitants or expected inhabitants does not matter.
8 Codrington and Grant Counties will be changed forever.

9 It will no longer be the beautiful rolling hills
10 and endless fields of pasture, hay, and farmland anymore.
11 It will be littered by 500-foot turbines, transmission
12 lines, access roads, flashing red lights polluting the
13 night's sky for up to 50 miles away. The towers and
14 everything that follows them will change our region for
15 as long as most of us will live and the next two
16 generations, if not longer.

17 To Apex we are just a speck on the map, a place
18 to put as many and as large of turbines as possible.
19 You, our Commissioners, are our leaders who are here to
20 make sure the rules are followed. Some of these rules
21 are outdated and should not be taken advantage of by
22 Apex.

23 Many more wind projects are slated to invade
24 Codrington and Grant Counties. You have the duty to make
25 sure this is done fairly to all residents, including

1 myself. These companies are only driven by one thing:
2 Money, which came from the South Dakota and U.S.
3 taxpayers.

4 By keeping information filed confidentially such
5 as good neighbor agreements, safety manuals, and leases
6 you as the Commissioners, are you willing to take full
7 responsibility that South Dakota Range I and II will not
8 cause harm to my residence or any other person living in
9 close proximity to the 500-foot turbines? With the
10 current setbacks are you willing to guarantee that our
11 safety will not -- will be protected? I live amongst the
12 turbines. I should have the right to view this
13 information.

14 Are you positive that you understand the
15 cumulative effects, what they will be, and this will not
16 change the development in Codington and Grant Counties
17 adversely? Will municipalities be able to grow?

18 Concerning property values, Mr. MaRous, hired by
19 Apex as an expert, has provided testimony in the
20 transcript of the hearing pages 173 to 75. He stated
21 that he viewed my two appraisals and they were done for
22 lending purposes. He shared this information publicly,
23 and it was put on the record.

24 The information he provided was in error. I am
25 requesting today that this testimony be stricken from the

1 record. I request that he show proof of reviewing my
2 appraisals and/or he admit that he did not review them.

3 I have received e-mail confirmation that my
4 appraisal was not shared by the appraiser and was told by
5 my lending agent without prior consent by myself or my
6 husband they did not share this information.

7 In his testimony he stated that it would not
8 affect home values, but the selling price of a home is
9 affected by the surrounding environment. An example
10 being beautiful tree lines and rolling hills uninvaded
11 during the sunset or sunrises, and now let's change this
12 to spinning turbines towering over the tree line or
13 turbines lining the rolling hills casting shadow flicker
14 up to 50 hours a year across property. Added noise
15 levels both inside and outside of a home not just
16 periodically but whenever the wind blows. Do you really
17 believe that this annoyance will not affect the selling
18 price of a property?

19 Offer myself, as many others, a property value
20 guarantee. If Apex is so sure that this project will not
21 affect my property, be a good neighbor and prove it.

22 As far as Brenna Gunderson committing to the
23 Dakota Range that they would only use three out of four
24 turbine locations around my property, why not remove them
25 all? Am I going to negotiate now with Apex choosing

1 which one to be removed? I have never agreed to that. I
2 want all of them gone that will trespass onto my property
3 with flicker and noise.

4 There is many errors that have been brought to
5 light in the maps that have been used for sound and
6 flicker studies. These need to be corrected and
7 double-checked for accuracy before approval. Prove to
8 Codington and Grant that their health, safety, and
9 welfare is more important than wind.

10 Make all the required studies be completed
11 correctly, fully, and verified. Make sure that Apex has
12 every possible scenario covered. At this time it is too
13 early to be asking for this Application to be approved
14 with or without stipulations.

15 I am requesting that this Docket EL18-003 be
16 denied.

17 CHAIRWOMAN FIEGEN: Thank you.

18 MS. KAAZ: Thank you.

19 CHAIRWOMAN FIEGEN: For the record, if you could
20 state your name.

21 MS. MOGEN: Good afternoon. Kristi Mogen.

22 Hi, Commissioners. It's kind of ironic one of
23 the first things I was going to talk about today was
24 recommended Condition No. 40, and I ended up being hurt
25 in an ice storm this morning at the hail on my property.

1 Recommended Condition No. 40, it says, When the
2 blades become imbalanced or create vibration due to ice
3 accumulation. When you're driving down the road at
4 55 miles an hour and your wheel is unbalanced we used to
5 have weights and they'd fly off and they'd go through
6 windshields and things like that. That's 55 miles an
7 hour and a little tire.

8 Now we're looking at 446 feet of spinning
9 wingspan on a 296-foot tower. It is just a little over
10 50 feet off the ground. The ice throw is going to go
11 quite a ways. And this has not been addressed, and this
12 is a safety issue to people living in the area. There
13 has not been enough information provided by Dakota Range
14 to prove that we will be safe living among the turbines
15 and ice throw.

16 The imbalance is going to make our lives
17 miserable. It's going to be noisy. I mean, we know what
18 a car sounds like. This is massive compared to that.
19 This is a 747 with an imbalanced wing.

20 While I appreciate a lot of the conditions that
21 the Staff has asked for, I am very concerned about the
22 Applicant's recommendations, permit conditions.

23 No. 4, "The Applicant shall provide each
24 landowner whose property the project is to be
25 constructed." These people that were here live 12 miles

1 away. It details safety information describing,
2 "Reasonable safety precautions for existing activities on
3 or near the project, known activities or uses that are
4 presently prohibited near the project." These were not
5 presented. They did not prove or tell us what is safe or
6 not safe during the hearing. It was their job.

7 Teresa Kaaz is going to live -- her property is
8 going to be 1,200 feet, but yet nobody's given her safety
9 information? Nobody's telling the public? Where are the
10 signs that are going to warn us about driving through
11 these areas with ice throw?

12 It's a real thing. There's comments in the
13 docket, three or four of them, about ice throw and
14 legitimate concerns. They have not proven it's safe.
15 They have not committed to using good technology. They
16 have not proven the safety of this and living among the
17 turbines.

18 I'm concerned about misrepresentation. If you
19 looked at my Brief, there was quite a few things that I
20 pointed out about misrepresentation. One of the things
21 that bothers me the most is in their Facts and
22 Findings -- I can go back if I have enough time on my
23 Brief, but I want to address their Facts and Findings
24 No. 67.

25 It says, "Ms. Mogen and Ms. Kaaz presented a

1 two-mile setback from nonparticipating land." We said,
2 all of us, including Mr. Kaaz, with a waiver. It wasn't
3 that we were being unreasonable. We were saying come to
4 our door, let us negotiate whether we feel this is safe
5 or not, and let us set the parameters whether we can live
6 in this or not.

7 We asked for property value guarantees. That's
8 nowhere in these conditions. That hurts the economics.
9 This has not been proven to be safe, or it could be a
10 detriment to our community.

11 Throughout my Brief I pointed out that they
12 misrepresented the size of the turbine during testimony.
13 The Epilepsy Foundation was a website, not a peer
14 reviewed report. How does a website prove that?

15 We have been knocked down as Intervenors of not
16 being knowledgeable and not using the correct type of
17 research or reports, and we have tried very hard to use
18 peer reviewed information or direct testimony.

19 A website doesn't cut it, and there is no peer
20 reviewed report about epilepsy and flicker. I have
21 looked and looked and looked. I have contacted the
22 Epilepsy Foundation. They have not proven their case
23 that these are safe to live in.

24 I ask that you deny this. Because if you allow
25 this at this point with the sloppiness of this

1 presentation that they gave in the hearing -- they did
2 not provide the letter from Xcel early enough. They
3 could have done that in the hearing. It did not allow
4 the board to review the purchase and sale agreement. You
5 are missing facts in this case that you need to approve
6 it. So I ask for a denial.

7 We will be living with this for 50 years, and
8 that's a long time. That will be long past I'm gone. My
9 daughter will have to deal with it. And it's not -- I do
10 not believe -- I testified to that earlier. It's not
11 safe for my family. And there are going to be other
12 families that are going to have to abandon homes too.

13 So I ask for a denial, please.

14 CHAIRWOMAN FIEGEN: Thank you.

15 Staff.

16 MS. REISS: Thank you. This is Amanda Reiss for
17 Staff.

18 Staff filed their comments in the final Brief as
19 well as our additional filing with a -- regarding the
20 confidential treatment of the conditions.

21 Staff would note that on Findings of Fact 34 we
22 do believe that that is repetitive and unnecessary. And
23 we would just rely on our comments previously filed
24 today.

25 Thank you.

1 CHAIRWOMAN FIEGEN: Dakota Range. I will give
2 you latitude up to 5 minutes and 40 seconds. That was
3 the longest five-minute speech today. So you'll get 40
4 extra seconds.

5 MS. SMITH: All right. Thank you, Chairman and
6 Commissioners. I hope I don't need all of that.

7 I would just say that we likewise --

8 CHAIRWOMAN FIEGEN: If you could identify
9 yourself.

10 MS. SMITH: Mollie Smith with Fredrikson &
11 Byron. I'm here on behalf of Dakota Range I and Dakota
12 Range II, LLC, the Applicant in this matter.

13 As Staff, we also addressed the majority of our
14 thoughts in briefing and through the Findings of Fact
15 and the conditions that have been proposed. We're happy
16 to address questions on that. We do have a couple of
17 points just to focus on issues that were not previously
18 raised.

19 The first was there were references in both
20 Ms. Kaaz and Ms. Mogen's Briefs to Mr. MaRous reviewing
21 Ms. Kaaz's appraisals. Those appraisals were provided by
22 Ms. Kaaz in response to data requests on June 7, 2018.
23 That's how we have -- had copies of them. They were
24 provided to Mr. MaRous to review. If you need
25 documentation, we're happy to provide it, but they were

1 not solicited from a third party.

2 The second is there were some questions in
3 Ms. Mogen's -- or some comments in Ms. Mogen's Brief
4 about potentially missed homes. And so although that is
5 outside of the record, we -- Dakota Range wanted to
6 ensure that everyone was identified. So we did look
7 through those.

8 We can confirm just -- there was a question
9 about participation. David Loren [phonetic] is a
10 participant. He may have been shown at one time as not a
11 participant because he wasn't always a participant. His
12 status changed over time.

13 Ruth Meyer Trust is a nonparticipant. There was
14 reference to a missing receptor near turbine 31. We did
15 confirm there is only one residence there. There are two
16 mail boxes, but they have one residence.

17 The next one was a statement about a missing
18 receptor near turbines 2, 3, and 4. There is -- there
19 are two trailer homes 40 feet apart side by side. Two
20 brothers live there. There is a dot there representing
21 those mobile homes. They are approximately over 3,000
22 feet away from a turbine there. So that dot is
23 sufficient to identify those receptors.

24 Lonnie Qualy [phonetic] -- I believe I'm saying
25 his last name right -- his residence is not on the map

1 but he is outside of the project area to the north and he
2 is approximately a mile from the closest turbine, over
3 5,280 feet. So while we certainly could add him to the
4 list, he is not within the area that would be affected as
5 far as shadow flicker, noise, setbacks, so he is on the
6 list.

7 I think there were a couple of issues that were
8 just brought up in the last piece. I just want to make
9 sure that we are covering all of those. We would say
10 that there isn't support in the record for a property
11 value guarantee. That has been determined also in the
12 Crocker Docket as well. But the testimony does not
13 support a property value guarantee, and that's noted in
14 the Findings as well.

15 And we have one item that is not technically an
16 issue with the briefing but we believe we should raise it
17 with the Commission at this time because we have
18 identified one location where notice was not provided to
19 the resident and we have an explanation for how it
20 occurred.

21 James Waldren is the person. His home is shown
22 on the maps, but originally his parcel was owned by a
23 gentleman named Prinz [phonetic] and Prinz subdivided and
24 sold a portion of the property, the majority of the
25 property, to the Brennans. Brennans did receive notice.

1 And Mr. Waldren purchased a nine-acre parcel.
2 And it was identified during wetland delineations that
3 that parcel had been carved out so it was noted in the
4 records that that should be removed as what is identified
5 as the Brennan's lease. They're a leased landowner.

6 And so that was done so, but in doing so the
7 participant status was left blank. And what that did is
8 when the mailing was pulled it was pulled pulling all
9 participants/nonparticipants in this broader area, and
10 that person was not pulled into the records.

11 Our land agent had talked to the Waldren family
12 about a year ago to see if they wanted to participate in
13 the project. The Waldren family owns another parcel.
14 The Waldren -- the father and some brothers live on that
15 parcel. They did receive a notice. They also -- later
16 David Lau also spoke with -- more recently he spoke with
17 James Waldren. He actually talked to him this morning,
18 and James Waldren would be willing to provide
19 documentation that he has -- he's aware of the project.
20 He's known about it. He's gotten mailings.

21 Actually the mailings were directed to Prinz,
22 but then somebody had marked it out at the post office
23 and put Waldren's name. It just didn't get updated all
24 the way back.

25 So we believe given the intent of the statute is

1 substantial compliance with the notice requirements, in
2 this case we do know the landowner is aware of the
3 project. We can provide documentation if necessary.

4 There were a published notice that was provided.
5 We think it would not serve the intent of the statute to
6 invalidate the notice for everyone else that received
7 notice because of one mistake. It would also lead to
8 Applicants not self-reporting or not attempting to ensure
9 they've identified everyone, and we believe that that's
10 in the best to ensure that everyone is notified.

11 This was identified by Mr. Lau as we were just
12 looking at this. This isn't something that -- we were
13 pinning all of this down this morning. We just realized
14 that this had occurred.

15 So I can make further arguments of this. And I
16 would have informed Staff had I known before this morning
17 and had the facts so we could address it. So I will
18 leave it to the Commission how you would prefer to
19 address that issue.

20 CHAIRWOMAN FIEGEN: Thank you.

21 We will now go to Commission questions and/or
22 motions.

23 Commissioner Nelson.

24 COMMISSIONER NELSON: For Ms. Kaaz, if you would
25 come back.

1 In your presentation today you made reference
2 to -- and I've got this quoted, I think, accurately --
3 "Many errors in the sound and flicker studies."

4 Are you referring to the items that Ms. Smith
5 just reviewed? Is that what you were referring to? Or
6 something else?

7 MS. KAAZ: No. That is correct.

8 COMMISSIONER NELSON: And were you satisfied
9 with her explanations?

10 MS. KAAZ: Yes. I still have questions
11 concerning if those errors were not pointed out to her,
12 those errors would have gone unnoticed, and that concerns
13 all of us as far as the accuracy of the studies.

14 COMMISSIONER NELSON: Okay. I want to go now to
15 your Posthearing Brief. On the top of page 4 where
16 you're talking about road use agreements, and I'm going
17 to quote the first bullet point, you said, "My argument
18 is all road use agreements, including all township
19 agreements, must be completed before PUC agrees to accept
20 Application."

21 Okay. That's not an argument. That's a
22 statement of what you believe. I want to know what your
23 argument is. Why do you think that would be important?

24 MS. KAAZ: Well, I was just under the
25 understanding of there was at that time -- and I'd have

1 to ask Kristi. At the time I wrote that it was either
2 due to Grant or Codrington. There was a township, I
3 believe. What I meant was the township agreements were
4 not all completed.

5 COMMISSIONER NELSON: Okay. But I guess my
6 question is why do you think they would need to be
7 completed before we issue our permit as opposed to before
8 there's actually going to be some use of the roads?

9 MS. KAAZ: Oh. I was thinking along the lines
10 that if -- because of the fact that our county has given
11 the conditional use permit, that once you approve it
12 there could maybe be no other way to get those, that
13 there would be no other way to make sure that those were
14 completed.

15 COMMISSIONER NELSON: And I appreciate that
16 because I wasn't sure quite what you were getting at.

17 I will just say, though, that in the permit
18 conditions that the Applicant has suggested -- we haven't
19 adopted them yet, but the very first one is that the
20 Applicant must obtain all governmental permits from
21 everybody before they can do any work. It would seem to
22 me that would cover it.

23 MS. KAAZ: Okay.

24 COMMISSIONER NELSON: Okay. I just wanted to
25 make sure I wasn't missing something.

1 MS. KAAZ: No.

2 COMMISSIONER NELSON: The last question I've got
3 for you -- and I think this was page 5 of your Brief --
4 you said you're requesting to review with your attorney
5 the Good Neighbor Agreement.

6 Obviously, we've reviewed the confidential
7 version so I know what the compensation would be for your
8 small parcel. I can tell you I don't think you would be
9 interested in it.

10 Do you think you -- I mean, is this really
11 important to you that you able to review that and have an
12 opportunity to sign it?

13 MS. KAAZ: No. It's just that they had stated
14 that I had already seen it and that I had been offered
15 it, but I've never seen it. And that's why I said let me
16 see it if that's the case. Because you're stating about
17 it without showing it to me.

18 COMMISSIONER NELSON: Okay. And I appreciate
19 that. And part of the reason that I wanted to see it,
20 I'm trying to think, I mean, is this something that could
21 help you through this difficult thing? And when I looked
22 at the compensation that's included I can tell you it
23 wouldn't. It wouldn't for me anyway.

24 MS. KAAZ: Okay.

25 COMMISSIONER NELSON: So I appreciate having

1 that discussion.

2 For Ms. Smith, the issue that you ended with,
3 James Waldren. First of all, appreciate you pointing
4 that out, being palms up about that.

5 Can you tell me -- I've got the map. Can you
6 tell me where -- which turbine his residence is closest
7 to?

8 MS. SMITH: Okay. That's a good question. Do
9 you remember?

10 MS. GUNDERSON: It's west of 50.

11 MS. SMITH: West of 50.

12 COMMISSIONER NELSON: Okay. So I'm seeing --
13 I'm seeing a pink dot that is to the northwest of 50. Is
14 that the one that we're talking about?

15 MS. SMITH: Yes. That's it.

16 COMMISSIONER NELSON: And do you know how far
17 that is from 50 or 48?

18 MS. SMITH: We looked at it. It was --

19 MS. GUNDERSON: It was about 1,800 feet, I
20 believe, from the house.

21 MS. SMITH: So I'll just repeat it for the
22 record. 1,800 feet and over 2,000 for the other turbine
23 location is my recollection.

24 COMMISSIONER NELSON: Okay. The other question
25 that I've got -- and I dearly wish this would have

1 clicked with me before we had the hearing but it didn't
2 and so I'm going to ask you and we'll see where we can go
3 with this.

4 As I was reviewing everything in preparation for
5 today, it struck me as being really unusual the
6 combination of tower hub height and rotor diameter that
7 you've chosen for this project, the hub height being 82
8 meters, the rotor diameter being 136 meters.

9 And Ms. Mogen just alluded to it that these
10 blades are going to be about 45 to 50 feet off the
11 ground. Very, very low compared to the typical wind
12 turbine in South Dakota where the blades are 100 to 150
13 feet off the ground.

14 And so my question -- I mean, you get that thing
15 spinning 45 feet over your head -- well, 40 feet over
16 your head, that's pretty scary in my mind. And so my
17 question is why has the company chosen this very, very
18 short tower for this project as opposed to what is
19 normally used?

20 MS. SMITH: So I'm going to take a stab at this,
21 and then Brenna can tell me. And I will admit I am
22 speaking a bit off the cuff.

23 But my understanding is that turbine technology
24 is evolving and so that there is -- the future of
25 turbines is having a longer turbine blade. That's part

1 of the efficiency and the ability to get to a
2 4.2 megawatt turbine.

3 And so having -- you don't necessarily increase
4 the hub height. If you increase the hub height, then you
5 would maybe be over 500 feet. This one is not over
6 500 feet and so, therefore, naturally there is a reduced
7 area, a blade height clearance I guess is what you would
8 call it.

9 At the county level the blade height clearance
10 requirement is 25 feet, and so there is compliance with
11 the county's requirement on blade height clearance.
12 There isn't anything specified obviously at the state
13 level.

14 My understanding is that turbine manufacturers
15 are cognizant of safety as well as potential liability,
16 and so they are designing these to ensure that there is
17 sufficient clearance. And, again, this is my
18 understanding, and Brenna can certainly add to that if
19 needed.

20 MS. GUNDERSON: I think you've captured it.

21 COMMISSIONER NELSON: And I appreciate that.

22 So I guess the follow-up questions, you talked
23 about the county requirements. So do both of these
24 counties have that requirement?

25 MS. SMITH: Yes. 25 feet is the blade height

1 clearance. And that's fairly typical from what I've seen
2 in South Dakota in the ordinances.

3 COMMISSIONER NELSON: And so I know that Vestas
4 has, at least from what I could tell, four kind of
5 standard heights for their towers. And this project is
6 using the shortest one.

7 What's the thought process?

8 MS. SMITH: The only thing that I can say is
9 that I do know that there are somewhat different FAA
10 requirements once you get above 500 feet. So that is, I
11 believe, a consideration. But I also can't tell you
12 specifics unless Brenna can add to that.

13 Brenna, do you have more?

14 COMMISSIONER NELSON: And, again, I apologize
15 because I know this isn't your area, but I need to have
16 this conversation before we can move through today.

17 MS. GUNDERSON: Brenna Gunderson with Dakota
18 Range.

19 That is correct. There would be an FAA -- you
20 know, getting beyond 500 feet would require additional
21 scrutiny, you know, on the wind turbine, on the air
22 space.

23 COMMISSIONER NELSON: So as far as whether or
24 not they would even permit construction? Is that what
25 you're getting at? Or what kind of scrutiny are you

1 talking about?

2 MS. GUNDERSON: Not necessarily. But it's about
3 availability of turbines. It's going to be about, you
4 know, what would work with the wind resource at this
5 particular site in combination of permitting
6 requirements.

7 COMMISSIONER NELSON: Okay. Well, I appreciate
8 that. It just -- go ahead.

9 MS. GUNDERSON: This is a turbine that Xcel also
10 has chosen to use for the project. So --

11 COMMISSIONER NELSON: So it's Xcel's fault?

12 MS. GUNDERSON: No, not at all. Not at fault.

13 COMMISSIONER NELSON: I thought maybe we ought
14 to call up the Xcel representative and he can defend that
15 choice.

16 I appreciate that. And, you know, we've
17 obviously got wind farms around South Dakota, and so
18 we're kind of used to what they look like and what the
19 configurations are. Obviously, we know that the rotor
20 diameters are getting bigger because the generators are
21 getting bigger. But all the sudden what that means is
22 that instead of that blade 150 feet over your head it's
23 40 feet over your head, and that's just a whole different
24 context.

25 The fact that the counties -- and I give great

1 deference to what counties believe is appropriate in
2 their county, and if the county believes 25 feet is
3 sufficient in their county, I'm not going to quibble with
4 that. But I appreciate your explanation of that.

5 I think that's all the questions I've got at
6 this point.

7 CHAIRWOMAN FIEGEN: I have a quick question of
8 Staff.

9 On the National Registry of Historical Places
10 why didn't -- you know, we worked on Crocker on that one,
11 and we have the Commission being notified, I believe.
12 I'm kind of having all my --

13 Yes. Is there any reason why that's not
14 included in this condition? And I'll -- I think your
15 number is 11, but I have so many papers right here, I
16 should have waited and had Commissioner Hanson ask a
17 question before I got my papers organized.

18 Yes. It is 11 on Dakota Range. And it doesn't
19 include that the Commission should be notified, that I
20 see, but the previous Crocker Docket we did add that.

21 MS. REISS: Thank you, Commissioner.

22 I believe we did discuss this with the
23 Applicant, and there was an agreement made between the
24 SHPO office and the Applicant regarding a Cultural
25 Resource Plan and the Applicant requested that the

1 condition match that plan and if the Applicant would like
2 to follow up with that, they can.

3 CHAIRWOMAN FIEGEN: If you could just
4 re-identify yourself.

5 MS. SMITH: Certainly. This is Mollie Smith
6 again for Dakota Range.

7 Ms. Reiss is correct. The language that is used
8 in Condition 11 is from the CRMMP, the reference just
9 below Cultural Resources Monitoring and Management Plan
10 for the project. And so it was requested within Dakota
11 Range that it match exactly what SHPO had agreed to, and
12 so that's why the language was proposed here.

13 CHAIRWOMAN FIEGEN: Okay. Thank you. The
14 Commission certainly can add language, although you guys
15 do agree that -- to be notified.

16 Thank you.

17 Other Commission questions.

18 Commissioner Hanson.

19 COMMISSIONER HANSON: Thank you, Madam Chair.

20 My first question is for Staff on the statement
21 that on -- item 34, felt was redundant. I was wishing
22 to -- I was considering an edit to that, and I'm curious
23 where you find it redundant.

24 I know that there's a lot of information
25 pertaining to that subject, but I was curious on the

1 redundancy.

2 MS. REISS: Thank you. This is Amanda Reiss for
3 Staff.

4 Regarding Findings of Fact 34, Staff would just
5 note that we did not request a condition regarding
6 compensatory mitigation in this docket and do not believe
7 anyone has requested that. So we feel like that's just
8 unnecessary.

9 And then the previous Findings of Fact from 28
10 through 33 cover environmental impacts so we just felt
11 like this was unnecessary regarding this Application.

12 COMMISSIONER HANSON: All right. Thank you. It
13 takes just a little piece of my heart when you're looking
14 at that. Birds and bats are --

15 Oh, you're looking at Findings of Facts. All
16 right. I was looking at permit conditions. Oh, thank
17 you.

18 I feel much better now. It's just like a -- an
19 Advil or something. Thank you.

20 Then my next question would be for Ms. Smith.
21 On item 34 on the recommended permit conditions I've
22 debated and argued with myself a bit here.

23 When I look at the avian mortality and the study
24 that was done for the Application, it just didn't seem
25 like a real strong study to me. It was bits and pieces

1 here and there. Certainly was a study. It just wasn't
2 as thorough as I thought it should be.

3 And I'm concerned when I look at this particular
4 condition it states that you agree -- the Applicant
5 agrees to undertake a one-year independently conducted
6 postconstruction --

7 I just -- that seems lacking for me. It would
8 seem that two years would be absolute minimum we would
9 want to be examining something of this nature. What
10 opposition would you have to having that a two-year
11 agreement instead of a one-year study?

12 MS. SMITH: Certainly, Commissioner. The intent
13 in that provision 34 is not to not do two years. It is
14 to commit to one year and then determine the need for and
15 scope of additional years. So a second year based on the
16 information that's provided from the first year's
17 mortality study.

18 My understanding is that the goal is to ensure
19 that a second year study, if it's needed, is considered
20 in coordination with U.S. Fish & Wildlife Service and
21 Game & Fish. And so it's not that they wouldn't do it
22 but they would determine what is needed and then they
23 maybe wouldn't do just a broad all-species study but they
24 would do -- if the information was indicating a
25 particular species that it would be more appropriate to

1 do a focused study on, that's the scope piece, and that
2 would be determined.

3 So the intent is that if an additional year is
4 needed with discussions with U.S. Fish & Wildlife Service
5 and Game & Fish, it would be conducted. It's just
6 specifying some latitude in working with the agencies on
7 what that should look like.

8 COMMISSIONER HANSON: Thank you.

9 I understood that, that it was a one year in
10 order to determine whether a second year -- my concern
11 was that one year just did not sound -- appear with the
12 history of the survey, the previous survey, that one year
13 would be sufficient in order to basically gauge that
14 baseline that I'm not confident with, that two years
15 would make much more sense.

16 Do you have an objection to having two year
17 instead of a one year?

18 MS. SMITH: I'll defer to Ms. Gunderson in a
19 second.

20 I will say I didn't note during the hearing that
21 there were particular concerns with the study work so I'm
22 somewhat surprised about the comment and concerned that
23 we weren't able to address your concerns during the
24 hearing. We would have hoped that we could do that or
25 have that opportunity.

1 And so I think, Ms. Gunderson, do you have any
2 objections if it was changed to two years at this point?
3 Other than what I've already stated?

4 MS. GUNDERSON: No. I don't think we have an
5 objection.

6 MS. SMITH: So yeah. I think the rationale
7 behind how it was written is still valid, but if the
8 determination is made that it should just simply state
9 two years, then that would be what we will abide by.

10 COMMISSIONER HANSON: I appreciate that.

11 And your comments preceding the question to
12 Ms. Gunderson, I would just like you to understand that I
13 rarely come forth with a strong objection to
14 presentations when they're being made during evidentiary
15 hearing. I simply ask questions in an effort to
16 ascertain information.

17 I would like to say and have on record that I
18 appreciate the extent and information that you have on --
19 throughout the entire presentation pertaining to not only
20 the work that -- the mitigation processes and the
21 extensive information that you have. I think it's one of
22 the better ones that I have seen for wind farms
23 certainly. And I appreciated that very much and the
24 information that your -- his name slips right now.

25 MS. SMITH: Mr. Phillips.

1 COMMISSIONER HANSON: That's correct. Who did
2 an excellent job of presentation and information. I
3 appreciated it very, very much.

4 And thank you for that answer.

5 On item 2 of recommended permit conditions what
6 concerns would you have with an addition, item 7 there?
7 If we were to insert -- add, excuse me, "and Applicant's
8 testimony during the evidentiary hearing." Or it could
9 state, "evidence presented by the Applicant at the
10 evidentiary hearing."

11 MS. SMITH: In looking at that, I think that
12 that probably is intended. So I don't think that there
13 would be a concern.

14 Yeah. No. That wouldn't be a problem with us.

15 COMMISSIONER HANSON: Thank you very much.
16 Appreciate that.

17 Madam Chair, I believe that's -- oh, one other,
18 I guess, timely question.

19 Ms. Gunderson did state during the testimony
20 that it would be highly unlikely that the Applicant would
21 need or that Xcel would need A26, turbine A26. And I
22 believe that's a direct quote. So I'm curious why -- and
23 I do very much appreciate that that was one of the four
24 that was offered from the standpoint that you proffered
25 that it would likely not be used at all and that one of

1 those four would not be used.

2 Considering the testimony and the good will that
3 it would expand for your project, which I think has been
4 presented very well, why not just simply state this one
5 we're not going to use?

6 MS. SMITH: I believe the reason is simply
7 flexibility. But the intent is to only use three of the
8 four. So we understand your thought. I think it seems
9 to accomplish the same goal to commit to three of the
10 four versus omitting A26. I guess that was the intent.

11 It wasn't trying to be not addressing your
12 concern. It was trying to address your concern but leave
13 a little flexibility, I guess.

14 COMMISSIONER HANSON: Thank you very much.

15 Thank you, Ms. Gunderson.

16 Thank you, Madam Chair.

17 CHAIRWOMAN FIEGEN: This might be just questions
18 like popcorn questions where we all take a minute and
19 find our stuff.

20 I'm going to go to shadow flicker, and I'm going
21 to ask the Staff first.

22 So help me understand Condition No. 28 and 29
23 that are presented. Because when I read 28, which I
24 don't necessarily like that word "reasonable" steps
25 because that's always in the interpretation of a lawyer,

1 and I'd rather have that in interpretation of the
2 Commission so I might ask that that be deleted.

3 So in Crocker when we looked at that -- and I
4 know Crocker is different, but it is all residents. So
5 in item 28 it looks like it's all residents. But then
6 when I read No. 29 it looks like only nonparticipating
7 residents.

8 Can you help me understand that?

9 And, of course, if we remember right, Crocker
10 was all residents. Nonparticipating and participating
11 resident was my understanding of 30 hours or plus per
12 year.

13 MS. REISS: Thank you.

14 Commissioner, this was just the language agreed
15 to between Staff and the Applicant. However, we would
16 have no concern from Staff's perspective if you remove
17 the nonparticipating and just leave it at residences from
18 29.

19 CHAIRWOMAN FIEGEN: Then all homes in that area
20 would be protected with the 30-hour shadow flicker,
21 unless there was a waiver that was obtained; correct?

22 MS. REISS: Correct.

23 CHAIRWOMAN FIEGEN: Thank you.

24 We are down to committee questions and/or
25 action.

1 MS. SMITH: May I respond to the comment that
2 was made by Staff? Because at this point the commitment
3 regarding 30 hours of shadow flicker or less was at
4 nonparticipating. There are some participants that are
5 currently over 30 hours, as we discussed at the hearing.

6 So the project could not comply with a
7 requirement if it were changed to all residences. There
8 would be some over. They are participating. And as we
9 discussed in testimony, they were made aware of the
10 shadow flicker levels. So I just want to make sure that
11 was clear on the record.

12 CHAIRWOMAN FIEGEN: But they can sign a waiver;
13 correct?

14 MS. SMITH: I suppose that could be requested
15 but that was not the proposal that was made or agreed to
16 with Staff and so, therefore, we didn't discuss anything
17 along those lines at the hearing.

18 CHAIRWOMAN FIEGEN: Sure. Yeah. Thank you.

19 Just to my fellow Commissioners, I'm always
20 committed to protecting as many people as we can, and
21 they can certainly get waivers signed.

22 Other Commission questions and/or action.

23 COMMISSIONER HANSON: Go ahead.

24 CHAIRWOMAN FIEGEN: It doesn't matter. Mine
25 might take a while because of this. So I'm going to make

1 a few amendments probably.

2 COMMISSIONER NELSON: I've got some written ones
3 so why don't we --

4 CHAIRWOMAN FIEGEN: If you have a written one --
5 because mine would be kind of line item, and I would
6 verbally say it.

7 COMMISSIONER HANSON: Well, Madam Chair, would
8 you like to just start out with the recommended permit
9 conditions by the Applicant and then go from there with
10 making it a better piece of product --

11 CHAIRWOMAN FIEGEN: Right. I will take a motion
12 to grant, deny, or grant with conditions, and then I
13 believe if it is with conditions, those will be presented
14 by you or Commissioner Nelson.

15 COMMISSIONER NELSON: Or all of us.

16 CHAIRWOMAN FIEGEN: Or all of us. And we'll
17 start amending them.

18 COMMISSIONER HANSON: Correct.

19 Well, then, Madam Chair, in Docket EL18-003 I
20 move that the Commission grant the recommended permit
21 conditions.

22 CHAIRWOMAN FIEGEN: Grant the permit with
23 conditions. Okay. Great.

24 Is there discussion on that Motion?

25 COMMISSIONER HANSON: I should say grant the

1 recommended permit conditions as presented under
2 Exhibit A18. And then we can make amendments to that.
3 Does that work?

4 I'm looking at attorneys, and they're looking
5 off to see -- is that a good starting point?

6 Karen?

7 COMMISSIONER NELSON: If I could recommend if we
8 would start with the permit conditions that were
9 recommended by the Applicant in their Posthearing Brief,
10 that would be the most current version.

11 COMMISSIONER HANSON: Oh, in their Posthearing
12 Brief.

13 COMMISSIONER NELSON: Yes. And the reason I'm
14 asking that is because that's what my amendments are
15 based on, and I'm going to be really screwed up if we
16 don't start there.

17 COMMISSIONER HANSON: All right. So in
18 deference to my fellow Commissioner and his ability to
19 present his amendments, I would correct my Motion.

20 I would change my Motion to allude to the
21 posthearing recommended permit conditions, yes.

22 CHAIRWOMAN FIEGEN: By the Applicant.

23 COMMISSIONER HANSON: Correct.

24 CHAIRWOMAN FIEGEN: Is there discussion on that
25 Motion? Or amendments?

1 COMMISSIONER NELSON: I will -- well, I'll first
2 say that I would concur with the Motion that Commissioner
3 Hanson has made. I think we all understand that state
4 law lays out the criteria in which a permit can be
5 granted or must be granted, and I believe that this
6 project has met that burden.

7 I appreciate the work that Staff and the
8 Applicant has done on the recommended conditions. As I
9 have said in Crocker, it's a very good start. But I do
10 have some amendments. And I'm going to pass some -- I'll
11 pass some this way; I'll pass some this way.

12 CHAIRWOMAN FIEGEN: Will they be available
13 online?

14 COMMISSIONER NELSON: And, as we speak, Tina is
15 posting them online, e-mailing them to the Service List
16 and --

17 CHAIRWOMAN FIEGEN: We'll be at ease.

18 COMMISSIONER NELSON: If anybody in the audience
19 wants a copy, we've got copies here.

20 We're just going to give it a minute to make
21 sure this all gets out to the folks that might be out and
22 about listening.

23 Okay. I'm told that it is posted and it is out
24 there.

25 So what I have done is come up with eight

1 particular amendments. And actually I'm going to offer a
2 verbal ninth one after some of the testimony today.

3 The first one, obviously, is just a grammatical
4 change.

5 The second one deals with deleting a section
6 that is not included in what we did in Crocker and I
7 think goes beyond what we need to there.

8 And number three is in the same vein. I want to
9 keep those -- the sound level monitoring the same as what
10 we did with Crocker. I'm comfortable with that.

11 Number four, again, would bring it into
12 compliance with what we did with Crocker in that the
13 information needs to be posted on the Commission website.

14 Section 38. And this deals with the
15 decommissioning. And I want to say to the Applicant,
16 first of all, I greatly appreciate kind of the creative
17 solution that you came up with for your language. And I
18 agree that provided this all ends up in Xcel's hands, we
19 have an adequate control of the decommissioning process
20 and payment to make sure it all gets done. And so I
21 appreciate what you've provided there.

22 But I'd also recommend that that be amended so
23 that in the slight chance that the deal with Xcel falls
24 through that the decommissioning escrow account would be
25 established under the same provisions that we used in

1 Crocker. And so that's just kind of the -- in case
2 things fall through.

3 Section 40 was the one -- and way before Staff
4 objected to that I read through that, and I said
5 obviously we understand that Condition 40 was based on
6 information that came from our confidential discussion,
7 but the only way a condition can be of any use to anybody
8 is if the public knows what it is and so the public can
9 make sure that that condition is, in fact, enforced. So
10 Section 40 will not be a confidential condition.

11 In addition, I'm proposing that we add one
12 sentence to Section 40, and that be that, "The project
13 owner will pay for any documented damage caused by ice
14 thrown from a turbine."

15 Now I'd love to elaborate on why I've chosen
16 that, but I think if I do, I'm going to dive right back
17 into the confidential information that we talked about
18 during the hearing. And so I'm not going to say anymore
19 about that other than I think it is only right that if
20 there is ever any documented damage from ice thrown by a
21 turbine, that the project owner pay for that.

22 Number 8, I believe that Ms. Kaaz made a very
23 credible case that an aircraft detection lighting system
24 ought to be used. It's one of the few things that I
25 think that we can do to try to make this a more livable

1 situation for her and her family. And it will not only
2 be for her but for everybody in that area will benefit by
3 being able to see the night sky as opposed to red
4 blinking lights.

5 The FAA obviously considers this to be a
6 technology that is usable, and I think this is something
7 that we can do to try to make this project if only
8 slightly more palatable for the folks that are living
9 there.

10 And then I would add a ninth one that just -- I
11 think it was Ms. Mogen raised today. And that would be
12 an amendment to Condition 4 where current Condition 4
13 says, "The Applicant shall provide each landowner on
14 whose property the project is to be constructed the
15 following information." I would simply change that to
16 say each landowner in the project footprint. I don't see
17 any reason why they shouldn't have all of that same
18 information. That would make good sense to me.

19 And so I would move to amend the Motion in that
20 fashion.

21 CHAIRWOMAN FIEGEN: Would you accept any
22 friendly amendments possibly, or would you like to vote
23 on this amendment first and then --

24 COMMISSIONER NELSON: Are they changes to things
25 that I've talked about, or are they new issues?

1 CHAIRWOMAN FIEGEN: One of them is the same.
2 Some of them are new.

3 COMMISSIONER NELSON: Yeah. I mean, if they're
4 new ones, I'd do that separately. But if there's minor
5 wording changes to this, I can certainly accept that.

6 CHAIRWOMAN FIEGEN: The only minor wording in
7 Section 11 was that also the Commission is notified, just
8 like in Crocker.

9 COMMISSIONER NELSON: Yeah. Let's just put that
10 in. Yeah. I'm good with that. In the very first one,
11 Section 11, add that the Commission would be notified
12 also.

13 CHAIRWOMAN FIEGEN: On the National Register of
14 Historical Places is what we're talking about if you're
15 online and not seeing Section 11.

16 Other discussion on the amendments?

17 I am supporting your amendments, Commissioner
18 Nelson. The Applicant that shall utilize an aircraft
19 detection lighting system was extremely important to me.
20 And, just like you stated, I believe it's something we
21 can do to help the community.

22 Other discussion on the amended conditions? The
23 amendment?

24 Hearing none, all in favor of the amendment to
25 the conditions say aye.

1 Commissioner Hanson.

2 COMMISSIONER HANSON: Aye.

3 CHAIRWOMAN FIEGEN: Commissioner Nelson.

4 COMMISSIONER NELSON: Aye.

5 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
6 aye.

7 Motion carries.

8 Are there other amendments?

9 And the other amendment I would offer is I move
10 that we amend -- in No. 28 take out the word "reasonable"
11 and on item 29 take out the word "non-" on item C. So C
12 shall read, "A shadow flicker analysis showing
13 anticipated shadow flicker levels will not exceed the
14 Applicant's voluntary commitment of 30 hours per year at
15 any" -- oops. Not non. It's nonparticipating. I'm
16 deleting nonparticipating. Any resident.

17 I'm going to -- you know what? I'm going to
18 change that amendment. Sorry about that. At the end of
19 C, and my attorneys can help me over here, I'm going to
20 leave that and say something to the impact of securing
21 waivers from participating landowners if it is over
22 30 hours.

23 I think that will make more sense. And that you
24 can secure waivers and those people have been notified
25 already. And so the amendment is on 28 take out

1 "reasonable" on C and 29 add "and receive a waiver from
2 participating residents if over 30 hours."

3 And my attorneys can draft that more
4 appropriately if needed.

5 And my concern is I just want to make sure that
6 shadow flicker is an important level and that even our
7 landowners that are participants can sign waivers and
8 absolutely understand that shadow flicker will be over
9 30 hours.

10 Other comments on the amendment?

11 COMMISSIONER NELSON: I'm going to ask -- if I
12 could ask you a question and then I'd like to ask the
13 Applicant a question. So what if they don't sign the
14 waiver?

15 CHAIRWOMAN FIEGEN: Then they might not get a
16 tower.

17 COMMISSIONER NELSON: But they've already signed
18 an easement granting permission to put a tower.

19 CHAIRWOMAN FIEGEN: I don't know the
20 confidentiality of a -- you know, I don't know the
21 easement and the confidentiality of that.

22 COMMISSIONER NELSON: Okay. So that was going
23 to be the question -- I want to ask the Applicant two
24 questions.

25 Is the issue that Commissioner Fiegen's

1 concerned about in the easement language, is this issue
2 already covered?

3 CHAIRWOMAN FIEGEN: So my goal is to make sure
4 participating landowners do not have to put up with over
5 30 hours of shadow flicker unless agreed upon, which I
6 understand that those people that you shared during the
7 hearing are aware of that.

8 All my other amendments were taken care of by
9 Commissioner Nelson. That is the last amendment I wanted
10 to work on.

11 So if you are listening online, the Applicant is
12 looking at their lease agreements as to look at the
13 participating landowners that have shadow flicker over
14 30 hours and what that agreement looks like. So we are
15 at ease.

16 (Pause.)

17 MS. SMITH: So we have not -- this is Mollie
18 Smith for Dakota Range. We have not combed through each
19 and every sentence. Shadow flicker isn't specifically
20 addressed so if that is what would be required, we can
21 say that shadow flicker isn't specifically address.
22 There may be other provisions that generally address the
23 effects of turbine placement.

24 COMMISSIONER NELSON: Follow-up question.

25 CHAIRWOMAN FIEGEN: Yeah. And then I have one

1 question for you after Commissioner Nelson.

2 COMMISSIONER NELSON: So in trying to get at the
3 concern that Commissioner Fiegen has, isn't that what
4 Section 28 is about, where you talk about the Applicant
5 will take reasonable steps to mitigate shadow flicker
6 concerns at the -- at all residences that are more than
7 30 hours?

8 MS. SMITH: Yes. So if a landowner has -- at
9 this point the only landowners that have been modeled as
10 having potential at greenhouse -- this is greenhouse
11 levels of shadow flicker above 30 hours would be
12 participants.

13 So that is correct. That particular provision
14 is really geared towards the participants that may
15 potentially be over 30 hours. And the reason
16 "reasonable" was in there is omitting -- removing a
17 turbine would not necessarily be reachable, but putting
18 in shades, putting in trees, those sorts of measures,
19 would be the typical measures that are typically taken to
20 address shadow flicker concerns.

21 So, yes. You're correct, Commissioner. That is
22 the intent of that provision and that's why I believe
23 Staff had requested it originally and that's where we
24 came to on the agreement.

25 COMMISSIONER NELSON: Thank you.

1 CHAIRWOMAN FIEGEN: And, Ms. Smith, I can't
2 remember during the testimony. Were there only a couple
3 of homes that you predicted that would be over 30? I
4 remember there was a chart, and I just can't remember the
5 number.

6 MS. SMITH: I honestly don't remember the
7 specific number, Commissioner. It was around maybe six
8 homes if I --

9 MS. GUNDERSON: It's 10.

10 MS. SMITH: 10. 10 that are over. Again, this
11 is in greenhouse mode is my recollection and if it
12 wasn't, it hadn't done all the site-specific modeling
13 yet.

14 I believe the comment originally made was
15 site-specific modeling could be done if there was a
16 concern from the landowners. But it was discussed with
17 the landowners, each of them. None of them had concerns,
18 and so there wasn't site-specific modeling conducted.

19 CHAIRWOMAN FIEGEN: So those 10 that you talked
20 about, they're aware of it?

21 MS. SMITH: Yes. And that was in the testimony,
22 I believe, that they had each been -- the results had
23 been presented to them and each of them Dakota Range had
24 discussed with them if they had concerns and they
25 indicated they would not.

1 CHAIRWOMAN FIEGEN: So how hard would it be to
2 get a waiver from those 10?

3 MS. SMITH: I think that this is a matter
4 between the Commissioners so we would leave it to them.
5 I would just say at this point that wasn't discussed
6 during the hearing, but we would leave it to the
7 Commissioners how best to dress your particular Motion.

8 CHAIRWOMAN FIEGEN: Right. Because it's kind of
9 hard to figure out how do you protect all the landowners
10 except those six or 10, like you said, that have already
11 agreed to.

12 So how can I as a Commissioner protect the other
13 landowners that -- during our testimony they're
14 participating but were unaware that the shadow flicker
15 could be more than 30 hours?

16 So those 10, you showed us those. You've talked
17 to them. It sounds like you have their agreement. Just
18 to protect the other ones that may possibly come up.
19 That would probably not happen.

20 MS. SMITH: So I guess it sounds like you're
21 asking for some sort of solution here. And so perhaps if
22 you didn't want to offer a waiver -- or require a waiver
23 at this time, given that there was testimony to support
24 it and your concern is about the future, it would be
25 something to address through the shift provision in 22 so

1 that if there were shadow flicker above 30 hours per
2 year, then you're obtaining a waiver? Is that what
3 your -- is that getting to the concern that you have,
4 Commissioner?

5 CHAIRWOMAN FIEGEN: Right. And I just want to
6 make sure the participating landowners except those six
7 or 10 are protected.

8 MS. SMITH: The other way to do it -- I guess if
9 you're concerned about it -- would be in 29. So 28 would
10 govern -- the reason this was changed, as I understand
11 it, to the residences is to ensure that if anyone was
12 over 30, they are receiving the same treatment in the
13 mitigation.

14 So I believe there are measures in place that
15 address even those that are not currently contemplated in
16 the layout, if that's your concern. So I think the
17 concern is addressed through 28.

18 CHAIRWOMAN FIEGEN: So I'm just going to
19 friendly modify my amendment and only delete the word
20 "reasonable" and not modify C. Because -- and just to
21 state that reasonable sometimes can be up to the
22 interpretation of a lot of attorneys, and I just want to
23 make sure residents are protected. And I believe
24 landowners, if they are participants, they will be
25 reasonable.

1 Other questions, discussion, on the amendment?

2 So the amendment is on 28, only deleting the
3 word "reasonable." No discussion on the amendment.

4 All in favor say aye; opposed, nay.

5 Commissioner Hanson.

6 COMMISSIONER HANSON: Aye.

7 CHAIRWOMAN FIEGEN: Commissioner Nelson.

8 COMMISSIONER NELSON: Aye.

9 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
10 aye.

11 Amendment and Motion is carried.

12 This brings us back to the main Motion. The
13 main Motion has been amended.

14 Is there other discussion on the main Motion?

15 COMMISSIONER HANSON: Madam Chair.

16 CHAIRWOMAN FIEGEN: Commissioner Hanson.

17 COMMISSIONER HANSON: I appreciate the work that
18 both of you have worked towards on making this a better
19 product and especially -- well, I won't cover them.
20 We've already passed them, but I have a number of them
21 that have been taken care of as well. And I appreciate
22 that, that we're all thinking along pretty much the same
23 line.

24 During the questioning I asked two obvious
25 questions, and I'm going to present motions on those two

1 items at this time.

2 On the recommended permit conditions, I move
3 that on item 2, number 7 be added so that the word "and"
4 is stricken prior to the number 6 that is in parenthesis,
5 and at the end of that sentence prior to the period we
6 would add "and, (7), evidence presented by the Applicant
7 during the evidentiary hearing."

8 And this simply provides that -- and must be
9 read in -- consistently with the beginning of that
10 sentence that the Applicant shall construct, operate,
11 maintain the project in a manner consistent with those
12 items that are already presented plus the evidence that
13 was presented by the Applicant. And I would submit that
14 as my Motion.

15 CHAIRWOMAN FIEGEN: There's an amendment to the
16 amended conditions.

17 Is there other discussion on the Motion?

18 I would simply say I appreciate your adding
19 this. I'd always assumed that that was the case, but I
20 think spelling it out very clearly is the right thing to
21 do. So thank you.

22 COMMISSIONER HANSON: I appreciate that comment.
23 Madam Chair, I appreciate that comment. Because
24 assumptions are what get us into trouble.

25 COMMISSIONER NELSON: Yep.

1 COMMISSIONER HANSON: And I thought that as
2 well. And when I read it I thought -- I saw a large
3 opening there and thought we appear to have a good
4 Applicant and would like to just keep us all on the same
5 road.

6 CHAIRWOMAN FIEGEN: The Motion before the
7 Commission is an amendment to the amended conditions.

8 Other discussion on the Motion.

9 Hearing none, all in favor say aye; opposed,
10 nay.

11 Commissioner Hanson.

12 COMMISSIONER HANSON: Aye.

13 CHAIRWOMAN FIEGEN: Commissioner Nelson.

14 COMMISSIONER NELSON: Aye.

15 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
16 aye.

17 Motion carries.

18 Do you have another Motion, Commissioner Hanson?

19 COMMISSIONER HANSON: Thank you, Madam Chair.

20 I do on the Recommended Permit Conditions, item
21 No. 34. On the first line it states that, The Applicant
22 agrees to undertake one year of independently conducted,
23 et cetera.

24 It's my desire and my Motion is to strike one
25 year and add two years so that it will read that the

1 Applicant agrees to undertake two years of independently
2 conducted.

3 CHAIRWOMAN FIEGEN: Discussion on your Motion.

4 COMMISSIONER HANSON: I believe I made remarks
5 when I was -- when I was asking questions of the
6 Applicant, and that would suffice for me.

7 CHAIRWOMAN FIEGEN: Other discussions on your
8 Motion? Or on Commissioner Hanson's Motion?

9 Commissioner Nelson.

10 COMMISSIONER NELSON: If I could ask a question.
11 So your intention would be to leave the last
12 sentence in so that there's a possibility of a third year
13 if conditions warranted it; correct?

14 COMMISSIONER HANSON: Yes. To answer your
15 question, it would be my hope that four or five years is
16 necessary.

17 COMMISSIONER NELSON: Well, you're starting to
18 lose my vote.

19 I will simply -- you know, I can go either way
20 on this, but I know Commissioner Hanson feels strongly
21 about it so I'll support you on the deal. Two years.

22 CHAIRWOMAN FIEGEN: Other discussion on the
23 amended condition to the amended conditions already?

24 All in favor say aye; opposed, nay.

25 Commissioner Hanson.

1 COMMISSIONER HANSON: Aye.

2 CHAIRWOMAN FIEGEN: Commissioner Nelson.

3 COMMISSIONER NELSON: Aye.

4 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
5 aye.

6 Amendment to the amended conditions passes.

7 Are there anymore amendments to the conditions?

8 Commissioner Hanson.

9 COMMISSIONER HANSON: I know where it's -- one
10 beats their head so many times. I know where it's going.
11 No, no.

12 I have a question, and I'm concerned regarding
13 the -- I want to know where we are specifically on the
14 ability for a turbine to be moved in any particular
15 direction. And I've seen it spelled out, and I've seen
16 the debate and the discussions. Is this every bit as
17 consistent with our last wind turbine as it is -- as if I
18 don't know the answer when I'm asking it?

19 I'm not going to beat my head against that
20 again. I know where I'm going to end up.

21 CHAIRWOMAN FIEGEN: So we're back to 325 feet.

22 COMMISSIONER HANSON: Well, actually --

23 CHAIRWOMAN FIEGEN: 325 this way and 325
24 (indicating) --

25 COMMISSIONER HANSON: And 325 this way, and 325

1 this way (indicating).

2 CHAIRWOMAN FIEGEN: That is true.

3 COMMISSIONER HANSON: That's a huge area, isn't
4 it?

5 CHAIRWOMAN FIEGEN: That is a big area.

6 COMMISSIONER HANSON: That is a huge area. I
7 shouldn't use our President as an example, but a huge
8 area, isn't it? Does that gain me a vote?

9 CHAIRWOMAN FIEGEN: Would you like to offer an
10 amendment on the 325 feet?

11 COMMISSIONER HANSON: You know, I don't have it
12 in front of me right now actually. I had it a second
13 ago, and I've buried it in my --

14 CHAIRWOMAN FIEGEN: We will be at ease if you'd
15 like to.

16 COMMISSIONER NELSON: 22.

17 COMMISSIONER HANSON: Thank you.

18 Fellow Commissioner has just offered it to me,
19 which I'm sure is indicative of his support.

20 Madam Chair.

21 CHAIRWOMAN FIEGEN: Go ahead.

22 COMMISSIONER HANSON: I'm looking for a
23 compromise on this. And I recognize that -- well, I
24 can't speak to the Motion until I make the Motion.

25 On line 22 I move that the Applicant may make

1 turbine adjustments of 200 feet -- excuse me. I believe
2 I was pushing for 250 feet, was I, at the last one?
3 150. See, I'm getting more liberal in my old age going
4 to 200.

5 I would like to strike the footage and submit
6 200 feet.

7 CHAIRWOMAN FIEGEN: Discussion on your Motion.
8 Or amendment.

9 COMMISSIONER HANSON: I'm looking for some --
10 some more -- a more sensible distance. A more rational
11 examination. And I don't mean to infer that anyone is
12 not being rational.

13 350 feet added to 350 -- I mean, this is a huge
14 area. We're talking about all of these turbines. You're
15 basically talking about the entire area where turbines
16 can be moved. It's like not even having a map of where
17 the turbines are going to be, almost, when you start
18 looking at 700-foot distances. They can end up in a lot
19 of different areas.

20 You know, the turbines right now that people are
21 very concerned about, distances can be moved from
22 within -- and I understand. Within the scope of
23 distances from property lines, et cetera.

24 But if we really as a Commission want to have
25 a -- have an idea of where these are going to be located,

1 as we did in a -- not this very last one but in the --
2 well, we did in the -- in our previous decision where we
3 said there are just too many layouts, too many options
4 for where turbines were going to be located. That's
5 generally what I feel that we're doing when we say such a
6 spacious area, such a huge footprint.

7 And so I think we need to -- we're dealing with
8 professionals. We have the folks that have the ability
9 to practically pinpoint where a turbine is going to be.
10 So why not provide that they give us a better idea of
11 where those turbines are going to be.

12 When we look at the map we are looking at where
13 homes are. We're examining where structures are. It
14 just simply makes sense when we're looking at -- and if
15 200 feet is not the right number, then 250 feet would
16 have to be a much better number.

17 So I'll submit the 200 feet, and I've made my
18 remarks. I'll go from there.

19 Thank you, Madam Chair.

20 CHAIRWOMAN FIEGEN: Thank you.

21 I'm going to ask Staff because, you know, Staff,
22 this will be on your plate.

23 It appears to me that you have a condition, of
24 course, from Crocker and again here that are similar.
25 The 325 feet were kind of pulled out. I always kind of

1 wondered why 325. And maybe 200 feet is better. Because
2 there's still a process to be able to move those
3 turbines. They would need to come to you. It looks
4 like you would review it. You're going to do it within
5 10 business days, is it?

6 Do you have any comments or concerns with if we
7 would just give you a little bit more things to review to
8 protect our citizens of the State of South Dakota?

9 MS. EDWARDS: The 325, if you go back to where
10 it originally came from, was just a number pitched by
11 Crocker in its reconsideration Application so we never
12 had a record to support that, and it just became a
13 negotiating basis. So that's the only place we got it
14 from.

15 CHAIRWOMAN FIEGEN: Because they originally had
16 a thousand; right?

17 MS. EDWARDS: And we certainly always welcome
18 more work, especially if it protects the citizens of the
19 state.

20 CHAIRWOMAN FIEGEN: That's what I thought.

21 Other Commission comments.

22 We're in Commission time. If a Commissioner has
23 a question for you, they can certainly ask anyone a
24 question.

25 Commissioner Nelson.

1 COMMISSIONER NELSON: On comments?

2 CHAIRWOMAN FIEGEN: Yes.

3 COMMISSIONER NELSON: I understand your passion.
4 In your pitch you used the word "rational." And
5 Commissioner Fiegen I think got at it. We don't really
6 have a rational answer for any of these numbers.

7 I mean, there's not a scientific reason for 325.
8 There's not a scientific reason for 200. And so I would
9 simply say we've settled on 325 in the last docket. I
10 think there is some wisdom in consistency from one docket
11 to the next, and so for that reason I would stick with
12 the 325.

13 CHAIRWOMAN FIEGEN: Other Commission discussion.

14 COMMISSIONER HANSON: Madam Chair, I appreciate
15 with -- consistency and precedent, and I think that's an
16 excellent argument.

17 At the same time I would say, you know, if you
18 make a mistake once, you don't want to make it twice.

19 I'm not -- I haven't concluded remarks. I
20 recognize that the only person I'm speaking to here is
21 Commissioner Fiegen, and so I needed to have her
22 attention.

23 Commissioner Fiegen, if I could just --

24 CHAIRWOMAN FIEGEN: You know, because what I'm
25 trying to grasp is 1,000 feet was way too much. And 325

1 feet came to us. I don't know for sure if I liked 325.
2 And we're going to have more wind in front of us. So
3 here's an opportunity for us to look at it one more time
4 before more wind comes in front of us.

5 And that 325, was that perfect? I don't know.
6 So I'm trying to figure out if 200's the number, 250?
7 And then I want to try to stay within that parameter in
8 future dockets.

9 So I do not think 325 was absolutely perfect.
10 It was a negotiating tool down from 1,000. And so I'm
11 still trying to figure out if 200 or 250 is a better
12 number.

13 COMMISSIONER HANSON: Thank you, Commissioner
14 Fiegen.

15 And, if I may, I was making some pertinent
16 remarks to fellow Commissioner Nelson who provided an
17 excellent argument that I agreed with pertaining to
18 consistency. And I think that certain precedents are
19 ones that we need to follow.

20 At the same time, I made a slightly flippant
21 remark that you make a mistake once you don't want to
22 make it a second time. However -- and I don't mean that
23 we made a terrible mistake by any means.

24 I think that Commissioner Nelson's statements,
25 arguments, as I said, were excellent arguments. And I

1 don't know that 200 is perfect either.

2 And your remarks cause me to think regarding --
3 you know, we don't know what is a perfect way. However,
4 having one at 325 at this juncture, we have a perfect
5 opportunity now to have another incubator to look at.
6 Say -- I believe you mentioned 250 feet. And I would at
7 this juncture amend my own Motion from 200 feet to 250
8 feet so that we would have that opportunity for a second
9 incubator.

10 CHAIRWOMAN FIEGEN: And I want to keep our Staff
11 busy. You know, I'm going to support your Motion today.
12 I was a little bit uncomfortable with the 325 in Crocker,
13 but it certainly came down from 1,000. And it doesn't
14 mean that they can't be shifted. It means the Commission
15 will get to look at your shifts.

16 So I think Commissioner Hanson has brought a
17 condition today that continues to really help in a
18 community that not everybody sees the benefit so this
19 absolutely gives us the opportunity to have one more
20 condition to protect consumers.

21 Commissioner Nelson.

22 COMMISSIONER NELSON: A question and a comment.
23 Just so I'm clear, are we now talking 250 and that's what
24 you were supporting?

25 COMMISSIONER HANSON: Yes.

1 COMMISSIONER NELSON: Okay. I'm going to oppose
2 it for two reasons. One, I think consistency is good as
3 we go about this process.

4 But, secondly, understand that we're talking
5 rural areas. Okay. 325, 7.6 acres. 7.6 acres; that's
6 not a lot. 250; that's 4 and a half acres. Neither one
7 are a lot. I mean, when you're building stuff you've got
8 to have flexibility.

9 And I understand they can come back in, but, you
10 know, between 7 and a half, 7.6 acres, and 4 and a half
11 acres I'm struggling with what the harm is going to be
12 with giving them that extra flexibility of another 3.1
13 acres.

14 I'm not understanding what the possible harm is,
15 and so because of that, I can't support the amendment.

16 CHAIRWOMAN FIEGEN: Other discussion on the
17 Motion.

18 Hearing none, all in favor say aye; opposed,
19 nay.

20 Commissioner Hanson.

21 COMMISSIONER HANSON: Aye.

22 CHAIRWOMAN FIEGEN: Commissioner Nelson.

23 COMMISSIONER NELSON: Nay.

24 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
25 aye.

1 Motion carries.

2 We're back to the main Motion with the amended
3 conditions that have been approved. Are there other
4 amendments to the conditions?

5 Are there other comments to the -- so we are
6 back to -- correct, fellow Commissioners? We're back to
7 the main Motion.

8 You know, the main thing I want to say is thank
9 you for everybody that participated in a hearing that is
10 very emotional in a community. There are people that are
11 proponents, and there are people that are opponents. And
12 that's always difficult as a Commission to try to come up
13 with conditions that are meaningful and that will move
14 the process more smoothly.

15 I believe, you know, just Commissioner Hanson
16 adding the public liaison officer at the last hearing
17 that we had, facilitates that Dakota Range had also
18 agreed to a public liaison officer that can help with
19 communications in Codington County and Grant County. And
20 I appreciate Dakota Range agreeing to that.

21 You know, Ms. Kaaz or Ms. Morgan [sic], I can't
22 remember which one, said, you know, we have outdated wind
23 laws. And I would agree with you. We do have outdated
24 wind laws. And I do think some of that needs to be
25 addressed at the State Legislature.

1 As your three Commissioners, we have to adhere
2 to the law. We have to do everything based on evidence
3 and facts. And if I could move those wind towers so
4 nobody's disappointed, man, wouldn't that be great? But
5 I can't. I can't do that.

6 So I believe our decisions are based on the
7 facts and the evidence. And we looked at the state law,
8 and the permit adheres to the state law and the criteria
9 that is outlined by the State Legislature.

10 Other comments?

11 Commissioner Nelson.

12 COMMISSIONER NELSON: I would concur with
13 Commissioner Fiegen's comments. Obviously our task is to
14 evaluate what has been presented and determine whether it
15 meets the hurdle that is established in state law. And
16 we believe that it does and, therefore, it deserves to
17 have the permit and that's what we're prepared to do.

18 I think we've put together a very good set of
19 conditions to make sure that this thing is built and
20 operated in a way that maintains what is required in
21 state law so far as health, safety, welfare of the area.

22 Having said that, I appreciate particularly
23 Ms. Kaaz because you're right in the middle of the deal.
24 I appreciate your entire participation. I appreciate the
25 fact your husband was here last time.

1 I've wrestled greatly with the concept of what
2 the appropriate setbacks should be from residences. And
3 I will tell you my personal opinion, I don't know that
4 the setbacks that these counties have established are
5 sufficient. But I give great deference to local
6 governments and the decisions that local governments make
7 and so I don't believe it's my job here to tell the
8 County Commissions in either of those counties how to run
9 the business in their county, even if I would probably
10 vote differently if I were in their spot.

11 The one thing that I would say to any County
12 Commission that's dealing with this issue going forward;
13 you know, greater setbacks eliminate some of the rubs
14 that we see. And I think that's worth -- worth
15 considering.

16 But in the imminent matter they certainly meet
17 the requirement of statute for a permit.

18 COMMISSIONER HANSON: Madam Chair.

19 I meant what I said when I stated to Ms. Smith
20 earlier today that I thought it was one of the better --
21 one of the best ones that I've seen. It certainly is one
22 of the best applications that I've seen. I can't speak
23 for the counsel -- for the Commission at this juncture,
24 but certainly you presented it very well.

25 You did an excellent job yourselves, plus the

1 standpoint of putting everything together. The
2 evidentiary hearing, it was very, very well done, and I
3 very much appreciate that. It actually places -- it
4 makes it a lot easier for us as we go through this
5 process.

6 And I do appreciate that you adapted a lot of
7 the items that were on the -- you had the opportunity to
8 go to school, so to speak, on the previous wind farm and
9 that gives you a great benefit, I know but at the same
10 time you could have still fought certain fights that you
11 wanted to get to different directions.

12 And I appreciate that very much. It makes it
13 easier for the Staff. It makes it easier for the rest
14 of us through this process. So thank you very much for
15 the professional way in which you presented your
16 Application.

17 Speaking of professional, we have some lay folks
18 that went way out of their way, Ms. Kaaz and Ms. Mogen.
19 You guys did as good of job as anybody that I've seen
20 from the standpoint of coming before us as lay people who
21 do not have legal backgrounds and experiences even in
22 this type of a theater.

23 And you did an excellent job. Especially on
24 something that was as emotional for you and challenging.
25 And it's on your front porch, not just your backyard.

1 It's something that's very important to you. And yet you
2 presented your evidence and information to us in a good
3 fashion so that we could understand it.

4 You didn't belabor points that should not have
5 been labored in the first place, and we appreciate that.
6 You beat up a little bit on your husband, I've got to
7 say. But we understand that as well.

8 I was very happy to hear Commissioner Nelson
9 just now talking about his concern for setbacks because
10 from the standpoint of setbacks I'm not comfortable
11 certainly with -- we have a menagerie of setbacks across
12 the State of South Dakota, but we do have a
13 responsibility from the standpoint that the counties have
14 the right and the law to establish the setbacks within
15 their counties and we have to give deference to the law
16 certainly and to the counties for what their setbacks
17 are.

18 I would like to see some -- in some cases what I
19 consider some more sensible setbacks from some that are
20 too far and some that are too short. So perhaps that
21 will work its way out.

22 Environmental aspects of these wind farms is
23 something that we really wrestle with. And I'm always
24 very concerned from the standpoint of trying to figure
25 out how it's going to affect wildlife. And, again, we

1 have other institutions that are required to pursue that,
2 and we have to place our trust within their -- within
3 their responsibilities of where they have the -- not only
4 authority but the expertise to determine.

5 We are not all seeing or all understanding
6 ourselves, by any means. So we place our faith in them
7 that they will do the right thing. And I do very much
8 appreciate my fellow Commissioners for the work that they
9 did and making it -- making a very difficult and trying
10 challenge less so. I admire both of you for the work
11 that you do here at the Commission.

12 And to Staff. Thank you so very, very much, all
13 of the Staff, for what you have done for us and the
14 information you have presented to us. I feel like I let
15 you down on occasion for the amount of things that you
16 bring to us and the suggestions that you have for us and
17 not accomplishing all of those. But thank you very much
18 for what you do. You do an excellent job.

19 Thank you, Madam Chair.

20 CHAIRWOMAN FIEGEN: Thank you.

21 I would agree with my fellow Commissioners. And
22 just for Ms. Kaaz, your participation was very impactful
23 in the aircraft detection lighting system. And
24 Commissioner Nelson and Commissioner Hanson have already
25 said that, but I just want to make sure that you're

1 totally aware of your participation without an attorney
2 made a difference.

3 Okay. Other discussion before the Commission?

4 All in favor of the Motion with all the
5 amendments say aye; opposed, nay.

6 Commissioner Hanson.

7 COMMISSIONER HANSON: Aye.

8 CHAIRWOMAN FIEGEN: Commissioner Nelson.

9 COMMISSIONER NELSON: Aye.

10 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
11 aye.

12 Motion carries.

13 Are there other items that shall come before the
14 Commission or public comments?

15 Hearing none, is there a Motion to adjourn?

16 COMMISSIONER HANSON: Madam Chair, I move to
17 adjourn.

18 CHAIRWOMAN FIEGEN: Move to adjourn. All in
19 favor say aye; opposed, nay.

20 Commissioner Hanson.

21 COMMISSIONER HANSON: Aye.

22 CHAIRWOMAN FIEGEN: Commissioner Nelson.

23 COMMISSIONER NELSON: Aye.

24 CHAIRWOMAN FIEGEN: Commissioner Fiegen votes
25 aye.

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We are adjourned.
(The proceeding is concluded at 3:18 p.m.)

1 STATE OF SOUTH DAKOTA)

2 :SS

CERTIFICATE

3 COUNTY OF SULLY)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 10th day of
11 July, 2018, and that the attached is a true and correct
12 transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 17th day of
14 July, 2018.

15

16

17

18 /s/ Cheri McComsey Wittler
19 Cheri McComsey Wittler,
20 Notary Public and
21 Registered Professional Reporter
22 Certified Realtime Reporter

23

24

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