

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](mailto: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 5<sup>TH</sup> 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  
[mschumacher@lynnjackson.com](mailto:mschumacher@lynnjackson.com)

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:

Ms. Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
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Dated at Canton, South Dakota, this 11th day of June 2019.

Respectfully submitted,

A.J. Swanson  
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605-743-2070  
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/s/ A.J. Swanson  
A.J. Swanson  
State Bar of South Dakota # 1680

*Attorney for*  
TIMOTHY LINDGREN & LINDA LINDGREN

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**From:** Brad Johnson <[bdjohnson@iw.net](mailto:bdjohnson@iw.net)>

**Sent:** Tuesday, June 11, 2019 3:04 PM

**To:** PUC-DOCKET FILINGS <[PUCDocketFilings@state.sd.us](mailto:PUCDocketFilings@state.sd.us)>

**Subject:** [EXT] Wind energy hurts property values

To members of the PUC:

As a real estate appraiser in northeast South Dakota, I am convinced that wind towers negatively impact the property values particularly of rural residential acreages. I realize that government, with the help of the wind industry, has stacked the deck against the average South Dakotan and that the “little guy’s” opinion doesn’t matter. These are not wind farms, these are industrial power plants being dropped in the middle of our rural country. The one landowner who owns the 1.5 acre site where a wind tower is located will benefit while anyone with a residence close to a tower loses. You all are in a tough position but please, wherever possible, give the benefit of the doubt to the average resident over the wind industry.

Brad Johnson

SD/MN Certified General Real Estate Appraiser

Johnson Appraisal, Inc.

P.O. Box 1343

Watertown, SD 57201

605-886-4393



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**From:** PUC

**Sent:** Tuesday, June 11, 2019 5:20 PM

**To:** 'bdjohnson@iw.net' <bdjohnson@iw.net>

**Subject:** EL19-003, EL19-007, EL19-012

Mr. Johnson,

Thank you for your message relaying your concerns about proposed wind energy projects and property values in the state. As a former real estate broker, appraiser, and auctioneer for over 30 years, I am keenly aware of property valuation methods. The commission is required by law to base our decisions on actual evidence presented in the docket process. We do not have the liberty of making decisions based upon our feelings. If you have evidence regarding property values that you believe should be considered by the commission then you should apply for party status in the proper and timely fashion or inform intervenors to wind dockets that you possess evidence regarding valuation. The method and deadline for applying for party status are discussed at every public input meeting and are included on the Public Utilities Commission's website.

The PUC has three wind dockets currently being reviewed and processed for which my fellow commissioners and I have yet to vote as to whether or not to issue requested siting permits: Crowned Ridge, docket EL19-003; Triple H, EL19-007; and Sweetland, EL19-012. Party status application deadlines have expired for these dockets; however, there may be time for you to provide evidence to the EL19-012 intervenors.

By law, we must take several factors into account when considering whether or not to grant a wind siting permit. The primary duty of the commission is to ensure the location, construction, and operation of the facilities will produce minimal adverse effects to the health, safety, and welfare of the environment and citizens. The standards we must follow are defined in South Dakota Codified Laws and Administrative Rules. Again, our decisions must be based upon evidence that is presented to the commission by parties of the docket.

Your message and my response will be posted under Comments and Responses in the dockets specified above, so my fellow commissioners and other interested individuals can access them. This Siting Guide explains the commission's processing of siting dockets such as this, <http://puc.sd.gov/commission/dockets/electric/2019/e119-003/e119-003sitinghandout.pdf>.

Gary Hanson, Chairman  
South Dakota Public Utilities Commission  
[www.puc.sd.gov](http://www.puc.sd.gov)

**From:** Gregg Hubner <[REDACTED]>

**Sent:** Tuesday, June 11, 2019 3:09 PM

**To:** [REDACTED]

**Subject:** [EXT] Post to EL19-003

I listened to a few minutes of the Crown Ridge evidentiary hearing today. It's more than I can stomach. After listening to most of 5 of these hearings, they sound like a broken record. There is a blatant bias for wind energy, the developer, the multinational corporations. There is a disregard and even sometimes a disdain for the public. The PUC will never deny a permit. It's a dog and pony show. They don't protect the public, they protect the multi national corporations and the kick backs to our politicians. It's pretty obvious. Some day when South Dakota is wall to wall wind turbines you can thank yourselves the PUC, the Governor, our delegation in Washington, or gutless legislators in Pierre who are run by lobbyists. I read the article about South Dakota being the 8th most corrupt state government. After my time in Pierre for 2 years, there is no doubt the people of this state are not being represented. The money interests are. And for the PUC Commissioners and their Staff, if you think you are fooling people, you are, but not all of us.

My wife and I are being forced from our 7 year old home we built to retire in. Have you ever been forced from your home? Do you have any idea what it is like? Like [REDACTED], we are the sacrificial lambs of wind energy. Wind energy, the 40% efficient boondoggle that the taxpayer pays for twice, and then gets his rates increased on top of it. It's very sickening to see what our state government is really like.

--

Gregg C. Hubner

[REDACTED]

Avon, SD 57315

[REDACTED]



**From:** PUC

**Sent:** Tuesday, June 11, 2019 5:25 PM

**To:** [REDACTED]

**Subject:** EL19-003

Mr. Hubner,

This is in response to your message relaying frustration with the Public Utilities Commission's processing of proposed wind energy projects siting applications.

By law, the commission must take several factors into account when considering whether or not to grant a wind siting permit. The primary duty of the commission is to ensure the location, construction, and operation of the facilities will produce minimal adverse effects to the health, safety, and welfare of the environment and citizens. The standards we must follow are defined in South Dakota Codified Laws and Administrative Rules. These were passed by the South Dakota Legislature.

The commission cannot pass its own legislation. The commission does not have the option of choosing what laws to follow. While I sympathize with you on your personal situation, it is not within my power – or the commission's power – to change your circumstances while also following state statutes. As a statewide elected official, I took an oath to follow the laws, as did my fellow commissioners. If we were to not follow these laws, if we were to pick winners and losers of our own accord regardless of the laws, *that* would be corruption.

Your message and my response will be posted under Comments and Responses in the Crowned Ridge docket, EL19-003, so interested individuals can access them.

Gary Hanson, Chairman  
South Dakota Public Utilities Commission  
[www.puc.sd.gov](http://www.puc.sd.gov)