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From the office of Miles F. Schumacher

e-mail address: mschumacher@lynnjackson.com

August 8, 2019

Via Electronic Filing

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Re: Docket #EL19-003; Application to the SD PUC for a Facility Permit to Construct
A 300 megawatt Wind Facility

Dear Ms. Van Gerpen:


Pursuant to Condition No. 1 of the Permit Conditions included as part of the July 26, 2019, Final Decision and Order Granting Permit to Construct Facility, Crowned Ridge Wind LLC (Crowned Ridge) submits the following documents:

1. Codington County letter granting CUP;
2. Codington County Letter of Assurance;
3. Grant County Findings of Fact Conditional Use Permit dated December 17, 2018;
4. Grant County Findings of Fact Conditional Use Permit dated April 8, 2019;
5. Grant County Letter of Assurance; and
6. A corresponding Certificate of Service.

If you have any questions, please contact me.

Yours very truly,

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.


Miles F. Schumacher
MFS:kab
Enclosure

020869

Codington County
Planning Commission / Board of Adjustment

1910 West Kemp Avenue
Watertown, SD 57201-3048

Email: codington.county@sdstate.edu
Website: codington.org

Phone: (605) 882-6300
Fax: (605) 882-6302

July 20, 2018

Crowned Ridge, LLC and Crowned Ridge II, LLC
700 Universe Blvd.
Juno Beach, FL 33408

To whom it may concern

This letter is written to formally inform you that on July 16, 2018 the Codington County Board of Adjustment (Board) approved your request for a conditional use permit to operate a Wind Energy System on property described in your application within Germantown, Leola, Waverly, Kranzburg, and Rauville Townships.

The Conditional Use permit will allow you to operate a wind energy system with up to 164 wind towers and other structures/uses in the manner presented in your application and at the meeting. The Board approved the Conditional Use Permit based upon the staff report, testimony at the meeting and in the application, findings read at the meeting, and conditions to be agreed upon in a letter of assurance. The official findings of fact will be filed at the zoning office upon review and signature of the Chairperson of the Board. Please contact this office if you would like a copy of the findings of fact for your records. As noted, the Board approved your permit subject to you signing a letter of assurance with the following conditions:

- 1) Effective Date and Transferability:
 - a. Upon issuance of permit by South Dakota Public Utilities Commission.
 - b. This permit shall expire if either no construction as described in the application has commenced within three (3) years of issuance by the County Board of Adjustment; or if a State Permit from the South Dakota Public Utility Commission has not been issued within two (2) years of issuance by the County Board of Adjustment; or any within three (3) years of the final decision regarding any appeal to circuit court relating to the issuance of the permit.
 - c. The applicant may apply for an extension of this permit if the requirements of 1.b above cannot be met.
 - d. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- 2) General Requirements:
 - a. There shall be no discharge of industrial processed water on the site

- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.

3) Obligation to Meet Requirements:

- a. Applicant agrees to meet requirements of Section 5.22 of the Codington County Ordinance in reference to remaining obligations including but not limited to: submittal of Soil Erosion and Sediment Control Plans, Haul Road Agreements, Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirement as required by Section 5.22
- b. Applicant acknowledges the ability of the Board of Adjustment to require some form of financial assurance to cover the anticipated costs of decommissioning the WES Facility on or before July 16, 2023.

4) Violation and Penalties:


- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation, and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
 - (3) Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.

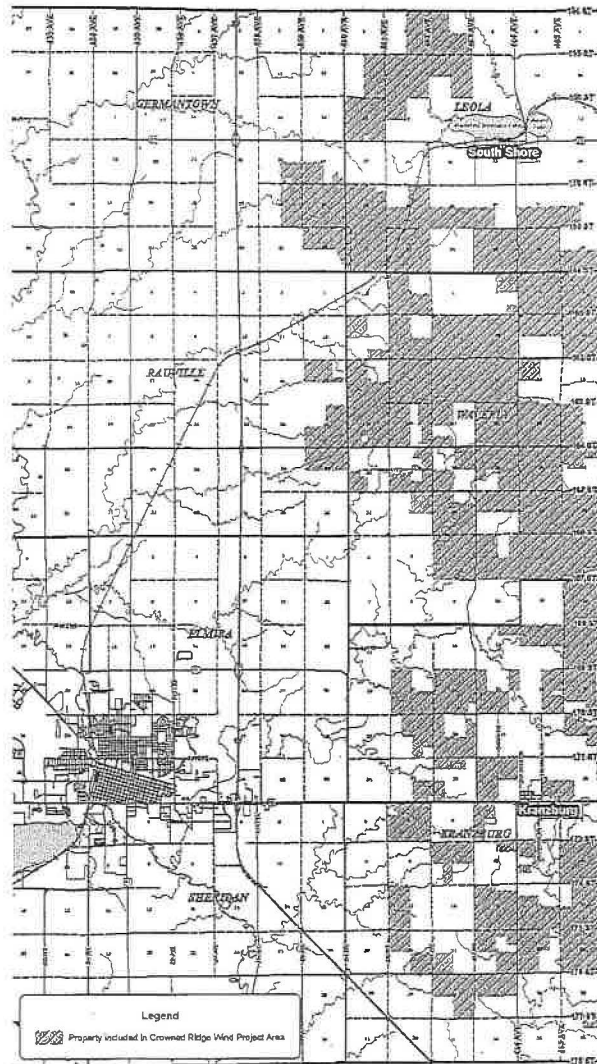
I have attached the Letter of Assurance to this letter for your signature. Please note, two letters of assurance have been attached to be signed on behalf of the separate entities (Crowned Ridge, LLC and Crowned Ridge II, LLC.) These letters of assurance will be filed with this letter and the original application at the Zoning Office. If you would like a copy of the letter of assurance after signature from the Chairperson of the Board, please contact this office. Further, if you have any other questions you may reach me at 882-6300 between the hours of 9:00 a.m. and 11:00 a.m. on Mondays, Wednesdays, and Fridays.

Sincerely,


Luke Muller
Coddington County Zoning Officer

Exhibit "A"

 **Crowned Ridge, LLC and Crowned Ridge II, LLC:
Wind Energy System Orientation Map**



Prepared by: Luke Muller
Codyington County Zoning Officer
1910 West Kemp Avenue
Watertown, SD 57201

Letter of Assurance

A Conditional Use Permit under Codyington County Zoning Ordinance 3.04.02.21., "Wind Energy Systems" has been granted by the Codyington County Board of Adjustment to Crowned Ridge Wind, LLC to operate a Wind Energy System with up to 164 Wind Towers and other ancillary structures/uses described in the application.

Property location: As displayed in Exhibit "A" attached and hereby incorporated by reference.

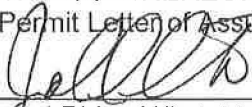
Conditions to be placed upon the conditional use permit issued to Crowned Ridge Wind, LLC by the Codyington County Board of Adjustment on July 16, 2018:

- 1) Effective Date and Transferability:
 - a. Upon issuance of permit by South Dakota Public Utilities Commission.
 - b. This permit shall expire if either no construction as described in the application has commenced within three (3) years of issuance by the County Board of Adjustment; or if a State Permit from the South Dakota Public Utility Commission has not been issued within two (2) years of issuance by the County Board of Adjustment; or any within three (3) years of the final decision regarding any appeal to circuit court relating to the issuance of the permit.
 - c. The applicant may apply for an extension of this permit if the requirements of 1.b above cannot be met.
 - d. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- 2) General Requirements:
 - a. There shall be no discharge of industrial processed water on the site
 - b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
 - c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
- 3) Obligation to Meet Requirements:
 - a. Applicant agrees to meet requirements of Section 5.22 of the Codyington

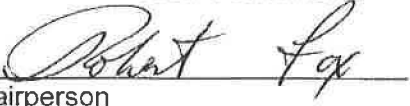
4) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation, and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all operations within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
 - (3) Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.

IN WITNESS WHEREOF, Codington County and the Grantor(s) have executed this Conditional Use Permit Letter of Assurance.


Crowned Ridge Wind, LLC (Grantor)
by (Name): John Di Donato
its (Title): Vice President

Date


Chairperson
Codington County Board of Adjustment

11-19-18
Date

STATE OF Florida
SS:
COUNTY OF Palm Beach

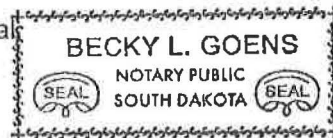
This instrument was acknowledged before me on 25 September 2018 by John Di Donato on behalf of Crowned Ridge Wind, LLC and by Robert Fox on behalf of Codington County Board of Adjustment.
020875

STATE OF SOUTH DAKOTA
SS:
COUNTY OF CODINGTON

This instrument was acknowledged before me on 11-19, 2018 by Robert Fox,
representing Codington County as the Chairman of the Codington County Board of Adjustment.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Becky L. Goens Notary Public
My Commission Expires: 5-17-22



**Findings of Fact
Conditional Use Permit
Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC
Wind Energy Systems
December 17, 2018**

This matter having come before the Grant County Board of Adjustment and the Board having taken testimony and heard the evidence, the Board enters the following Findings of Fact in support of its motion to approve the Petitioner's application for a Conditional Use Permit.

1. Standard Findings of Fact for Conditional Uses adopted in the Articles of By-Laws for Grant County Board of Adjustment: Article 12.
2. The following use is listed in the A – Agricultural Zone and Zone B of the Aquifer Protection Overlay District of the Grant County Zoning Ordinance and (Ref: SDCL 11-2-17.3):
 - Wind Energy Systems (Ref: Zon. Ord. 1101.03.22).
 - All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.09)
 - All Conditional Uses allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.10)
3. On or before September 17, 2018, Crowned Ridge Wind, LLC and Crown Ridge Wind II, LLC. made an application for a conditional use permit to operate a Wind Energy System on property within Mazeppa, Stockholm and Troy Townships as displayed in Exhibit "A" attached and hereby incorporated by reference
4. This application meets the definition of a Wind Energy System.
5. This permit should not become effective until all required permits are granted by the state and federal government, including the remaining applications and licenses referenced in the application.

6. The application and testimony at this meeting allowed the Board to adequately review how the applicant will satisfy requirements of Section 1211 of the Grant County Zoning Ordinance; including but not limited to site clearance, topsoil protection, compaction, livestock protection, fences, public roads, haul roads, turbine access roads, private roads, control of dust, soil erosion and sediment control, electromagnetic interference, lighting, turbine spacing, footprint minimization, collector lines, feeder lines, decommissioning, tower height, flicker appearance, and noise.
7. The applicant satisfactorily demonstrated the ability to meet required setbacks for turbines from property lines, right-of-way, residences, businesses, government facilities and other structures, uses, municipalities and features which would require setback.
8. The applicant submitted all materials required by Section 1211 of the Grant County Zoning Ordinance, including but not limited to boundaries of the site proposed for WES, a map of easements, maps of occupied residential structures, businesses, churches, and buildings owned and/or maintained by a governmental entity, maps of sites for WES, access roads, and utility lines, location of other WES in general area, project schedule, and mitigation measures.
9. The agreement in the letter of assurance that the applicant will obtain a haul road agreement satisfies the requirement for a haul road agreement.
10. The application, and testimony during the meeting adequately addressed all concerns of the ordinance, including those concerns which apply to the provisions of the Zoning Ordinance raised in written testimony received in accordance with the By-Laws of this Board, and in testimony given during the public hearing. All issues that were brought up with the application or during testimony which relate to the Zoning Ordinance or Land Use Plan were adequately addressed.
11. The Board considered and determined that, with conditions proposed by the Board, the proposed use will meet the intent, purpose, and regulations of the Comprehensive Land Use Plan and Zoning Ordinance.
12. That Wind Energy Systems such as proposed by the applicant are allowable in the A – Agricultural District, and Zone B of the Aquifer Protection District under certain conditions; and
13. Further, the satisfaction of the conditions of the Zoning Ordinance regulating Wind Energy Systems (Section 1211), the Aquifer Protection District (Section 1105), and all conditional use permits (Section 504) satisfies Section 104 (Purpose) of the Grant County Zoning Ordinance.

14. Therefore, the Board of Adjustment finds that it is empowered to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.

15. The Board requests the zoning officer to prepare the findings of fact which are to be approved by the Chairman of the Board; and for the zoning officer to issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit.

16. In order to comply with the requirements of the Zoning Ordinance the Board of Adjustment prescribes the following conditions and safeguards in conformity with the Grant County Comprehensive Land Use Plan and Zoning Ordinance to be agreed to in the form of a "Letter of Assurance":

1) Effective Date and Transferability:

- a. Upon issuance of permit by South Dakota Public Utilities Commission.
- b. This permit shall expire on December 17, 2020 if no substantial construction as described in the application has been completed; or if a State Permit from the South Dakota Public Utility Commission has not been issued; or within two (2) years of the final decision regarding any appeal to circuit court relating to the issuance of the permit.
- c. The applicant may apply for an extension of this permit if the requirements of 1.b above cannot be met.
- d. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.

3) Obligation to Meet Requirements:

- a. Applicant agrees to construct all WES towers with a setback distance equal to or greater than exhibited in the application.
- b. Applicant agrees that the construction and operation of all WES towers will comply with noise and shadow flicker thresholds exhibited in the application's noise and shadow flicker analysis

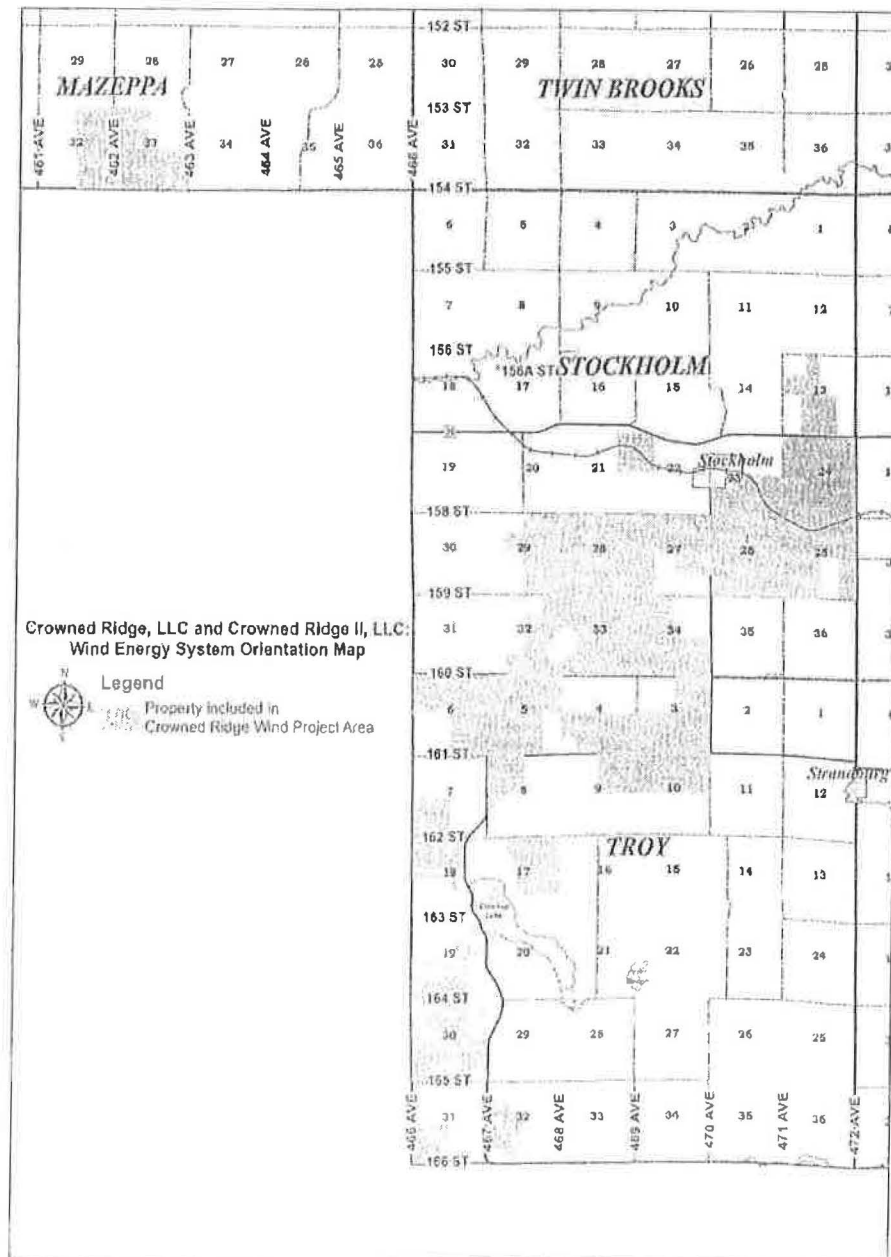
- c. Applicant further agrees to meet requirements of Section 1211 of the Grant County Ordinance in a manner consistent with its application in reference to remaining obligations including but not limited to: submittal of Soil Erosion and Sediment Control Plans, Haul Road Agreements, Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirement as required by Section 1211.
- d. Applicant acknowledges the ability of the Board of Adjustment to require some form of financial assurance to cover the anticipated costs of decommissioning the WES Facility. Tentative zoning ordinance amendments propose a financial instrument be established at \$5,000 per tower per year for 30 years.
- e. Applicant agrees that haul road agreements are to be executed not less than 30 days prior to construction.
- f. Applicant agrees that haul Road Agreement language to include provision that the adjoining landowners be notified of road closures at least 2 days prior to road closure.

1) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation, and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this conditional use permit will be determined by the Grant County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and/or cessation of the specific tower within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment to the Grant County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
 - (3) Failure to comply with the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment may be deemed a separate violation.

The Conditional Use Permit was approved by a vote of 6 yes and 1 no (Pillatzki). (Ref: SDCL 11-2-59).

Exhibit A



Nancy Johnson

Nancy Johnson, Chairperson
Grant County Board of Adjustment

Date Approved: December 17, 2018

Date Signed: 12-28-2018

Date Filed: 12-28-2018

Conditional Use Permit Number(s): CUP08172018

**Findings of Fact
Conditional Use Permit
Cattle Ridge Wind Farm, LLC (Applicant): Wind Energy Systems
April 8, 2019**

This matter having come before the Grant County Board of Adjustment and the Board having taken testimony and heard the evidence; the Board enters the following Findings of Fact in support of its motion to approve the Petitioner's application for a Conditional Use Permit.

1. Standard Findings of Fact for Conditional Uses adopted in the Articles of By-Laws for Grant County Board of Adjustment: Article 12 were addressed.
2. The following use is listed in the A – Agricultural Zone and Zone B of the Aquifer Protection Overlay District of the Grant County Zoning Ordinance and (Ref: SDCL 11-2-17.3):
 - Wind Energy Systems (Ref: Zon. Ord. 1101.03.22).
 - All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.09)
 - All Conditional Uses allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.10)
3. On or before February 12, 2019, Cattle Ridge Wind Farm, LLC. applied for a conditional use permit to operate a Wind Energy System on property in Mazeppa, Stockholm and Twin Brooks Townships as displayed in Exhibit "A" attached and hereby incorporated by reference
4. This application meets the definition of a Wind Energy System.
5. This permit should not become effective until all required permits are granted by the state and federal government, including the remaining applications and licenses referenced in the application.
6. The application and testimony at this meeting allowed the Board to adequately review how the applicant will satisfy requirements of Section 1211 of the Grant County Zoning Ordinance; including but not limited to site clearance, topsoil protection, compaction, livestock protection, fences, public roads, haul roads, turbine access roads, private roads, control of dust, soil erosion and sediment control, electromagnetic interference, lighting, turbine spacing, footprint minimization, collector lines, feeder lines, decommissioning, tower height, shadow flicker, appearance, and noise.
7. The applicant satisfactorily demonstrated the ability to meet required setbacks for turbines from property lines, right-of-way, residences, businesses, government facilities and other structures, uses, municipalities and features which would require setback.

8. The applicant submitted all materials required by Section 1211 of the Grant County Zoning Ordinance, including but not limited to boundaries of the site proposed for WES, a map of easements, maps of occupied residential structures, businesses, churches, and buildings owned and/or maintained by a governmental entity, maps of sites for WES, access roads, and utility lines, location of other WES in general area, project schedule, and mitigation measures.
9. The agreement in the letter of assurance that the applicant will obtain a haul road agreement satisfies the requirement for a haul road agreement.
10. The application, staff report and testimony during the meeting adequately addressed all concerns of the ordinance, including those concerns which apply to the provisions of the Zoning Ordinance raised in written testimony received in accordance with the By-Laws of this Board, and in testimony given during the public hearing. All issues that were brought up with the application or during testimony which relate to the Zoning Ordinance or Land Use Plan were adequately addressed.
11. The Board considered and determines that, with conditions contained in the staff report and proposed by the Board, the proposed use will meet the intent, purpose, and regulations of the Comprehensive Land Use Plan and Zoning Ordinance.
12. That Wind Energy Systems such as proposed by the applicant are allowable in the A – Agricultural District, and Zone B of the Aquifer Protection District under certain conditions; and
13. Further, the satisfaction of the conditions of the Zoning Ordinance regulating Wind Energy Systems (Section 1211), the Aquifer Protection District (Section 1105), and all conditional use permits (Section 504) satisfies Section 104 (Purpose) of the Grant County Zoning Ordinance.
14. Therefore, the Board of Adjustment finds that it is empowered to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.
15. The Board directs the zoning officer to prepare the findings of fact which are to be approved by the Chairman of the Board; and for the zoning officer to issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit.
16. In order to comply with the requirements of the Zoning Ordinance the Board of Adjustment prescribes the following conditions and safeguards in conformity with the Grant County Comprehensive Land Use Plan and Zoning Ordinance to be agreed to in the form of a "Letter of Assurance":
 - 1) Effective Date and Transferability:
 - a. Upon issuance of permit by South Dakota Public Utilities Commission.
 - b. This permit shall expire on April 8, 2022 if no substantial construction as described in the application has commenced; or the permit shall expire on April 8, 2021 if a State Permit from the South Dakota Public Utility Commission has not been issued.

- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. Applicant shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
- d. Applicant agrees to submit final WES maps, points of contact, soil and erosion plan, decommissioning plan and haul road agreements as required by ordinance.
- e. Applicant agrees to obtain building permits prior to commencing construction on any towers.
- f. Applicant agrees to meet all State and Federal requirements.

3) Obligation to Meet Requirements:

- a. Applicant agrees to meet requirements of Section 1211 of the Grant County Ordinance in reference to remaining obligations including but not limited to: submittal of Soil Erosion and Sediment Control Plans, Haul Road Agreements, Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirement as required by Section 1211
- b. Applicant acknowledges the ability of the Board of Adjustment to require some form of financial assurance to cover the anticipated costs of decommissioning the WES Facility. Final Decommissioning Plan to be submitted as required by ordinance.
- c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Applicant to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.

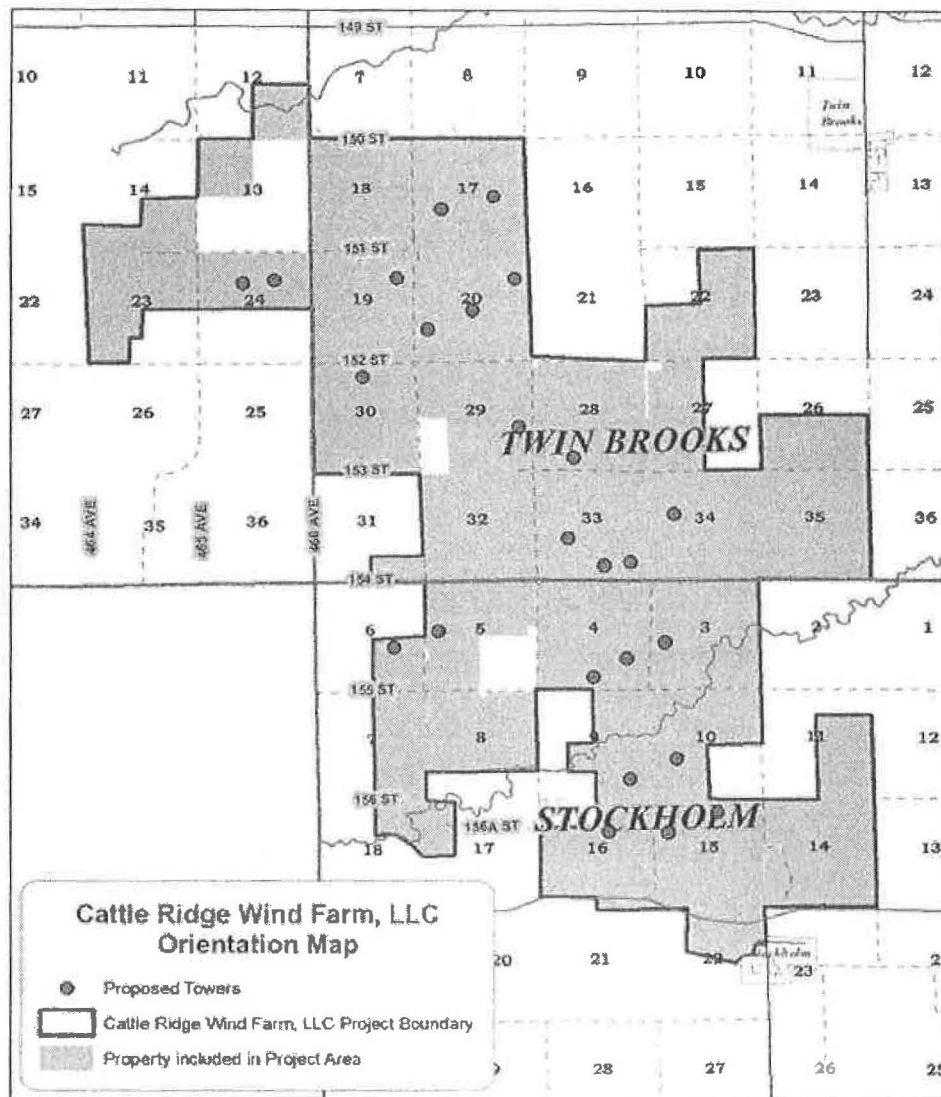
- iii. Unless otherwise agreed upon between the applicant and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
- iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
- d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".

4) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this conditional use permit will be determined by the Grant County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and/or cessation of the specific tower within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment to the Grant County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
 - (3) Failure to comply with the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment may be deemed a separate violation.

The Conditional Use Permit was approved by a vote of 5 yes and 1 no (Pillatzki). (Ref: SDCL 11-2-59).

Exhibit A



Tom Pillatzki

Tom Pillatzki, Chair
Grant County Board of Adjustment

Date Approved: April 8, 2019

Date Signed: 4-18-19

Date Filed: _____

Conditional Use Permit Number(s): _____

Prepared by: Krista Atyeo-Gortmaker
Grant County Zoning Officer
210 East 5th Avenue
Milbank, SD 57252
605-432-7580

Letter of Assurance

A Conditional Use Permit under Grant County Zoning Ordinance 11.01.03.22., "Wind Energy Systems" has been granted by the Grant County Board of Adjustment to Cattle Ridge Wind Farm, LLC to operate a Wind Energy System with up to 25 Wind Towers and other ancillary structures/uses described in the application.

Property location: As displayed in Exhibit "A" attached and hereby incorporated by reference.

Conditions to be placed upon the conditional use permit issued to Cattle Ridge Wind Farm, LLC by the Grant County Board of Adjustment on April 8, 2019:

1) Effective Date and Transferability:

- a. Upon issuance of permit by South Dakota Public Utilities Commission.
- b. This permit shall expire on April 8, 2022 if no substantial construction as described in the application has commenced; or the permit shall expire on April 8, 2021 if a State Permit from the South Dakota Public Utility Commission has not been issued.
- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks

larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.

- c. Applicant shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
- d. Applicant agrees to submit final WES maps, points of contact, soil and erosion plan, decommissioning plan and haul road agreements as required by ordinance.
- e. Applicant agrees to obtain building permits prior to commencing construction on any towers.
- f. Applicant agrees to meet all State and Federal requirements.

3) Obligation to Meet Requirements:

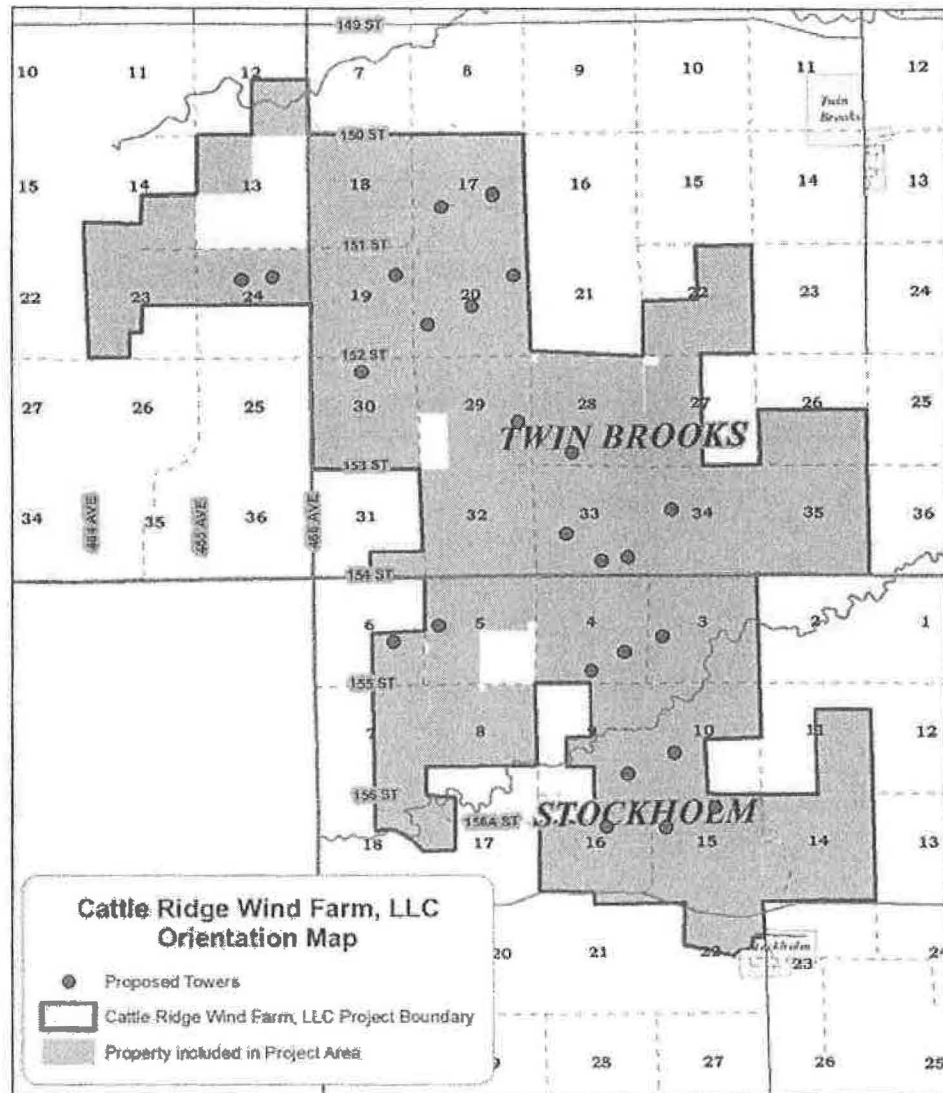
- a. Applicant agrees to meet requirements of Section 1211 of the Grant County Ordinance in reference to remaining obligations including but not limited to: submittal of Soil Erosion and Sediment Control Plans, Haul Road Agreements, Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirement as required by Section 1211
- b. Applicant acknowledges the ability of the Board of Adjustment to require some form of financial assurance to cover the anticipated costs of decommissioning the WES Facility. Final Decommissioning Plan to be submitted as required by ordinance.
- c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Applicant to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.
 - iii. Unless otherwise agreed upon between the applicant and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior

authorization from the applicable road authority to conduct its own repairs or maintenance.

- iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
 - d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".
- 4) Violation and Penalties:
- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation and will be enforced in the manner as described in Section 4.b below.
 - b. Violation of the terms of this conditional use permit will be determined by the Grant County Zoning Officer.

- (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and/or cessation of the specific tower within forty-five days (45) of notice of revocation.
- (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment to the Grant County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
- (3) Failure to comply with the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment may be deemed a separate violation.

5. Exhibit A



IN WITNESS WHEREOF, Grant County and the Grantor(s)/Applicant(s) have executed this Conditional Use Permit Letter of Assurance.

[Signature]
Cattle Ridge Wind Farm, LLC (Grantor/Applicant)
by (Name): John Di Donato
its (Title): Vice President

5-26-19
Date

[Signature]
Chairperson
Grant County Board of Adjustment

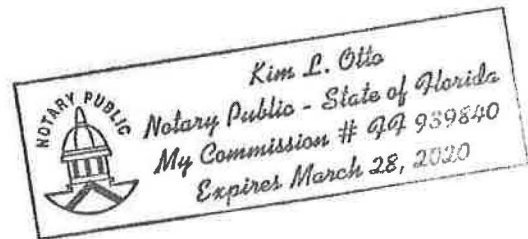
5/6/19
Date

STATE OF Florida
SS:
COUNTY OF Palm Beach

This instrument was acknowledged before me on April 16, 2019 by John Di Donato, on behalf of Cattle Ridge Wind Farm, LLC (Grantor/Applicant).

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature] Notary Public
My Commission Expires: _____

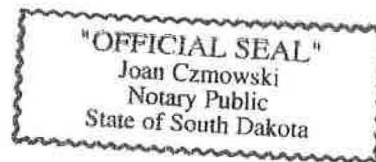


STATE OF SOUTH DAKOTA
SS:
COUNTY OF GRANT

This instrument was acknowledged before me on May 6, 2019 by Thomas P. Hatzki, representing Grant County as the Chair of the Grant County Board of Adjustment.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature] Notary Public
My Commission Expires: 10-17-21



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION)
BY CROWNED RIDGE WIND, LLC FOR A)
PERMIT OF A WIND ENERGY FACILITY)
IN GRANT AND CODINGTON COUNTIES)
)

EL19-003

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the following documents:

1. Codington County letter granting CUP;
2. Codington County Letter of Assurance;
3. Grant County Findings of Fact Conditional Use Permit dated December 17, 2018;
4. Grant County Findings of Fact Conditional Use Permit dated April 8, 2019;
and
5. Grant County Letter of Assurance,

were served electronically to the parties listed below on the 8th day of August, 2019,
addressed to:

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patty.vangerpen@state.sd.us

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Mr. David Ganje
Representing Intervenors Mr. Allen Robish.
Ms. Amber Christenson, Ms. Kristi Mogen,
Ms. Melissa Lynch and Mr. Patrick Lynch
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