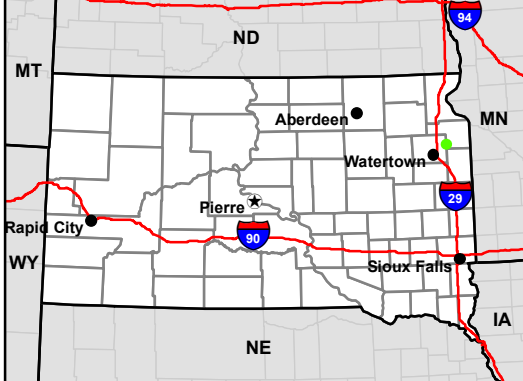


# **Crowned Ridge:** Amber Kaye Christenson Turbine Proximity

- House to Turbine
- Parcel To Turbine
- 2-mile Analysis Area
- Parcel Boundary



Feet  
0 150 300

Meters  
0 100 200

Base Map: Aerial Imagery  
Sources: USGS/FSA -  
Aerial Photography Field Office  
Codington County, South Dakota

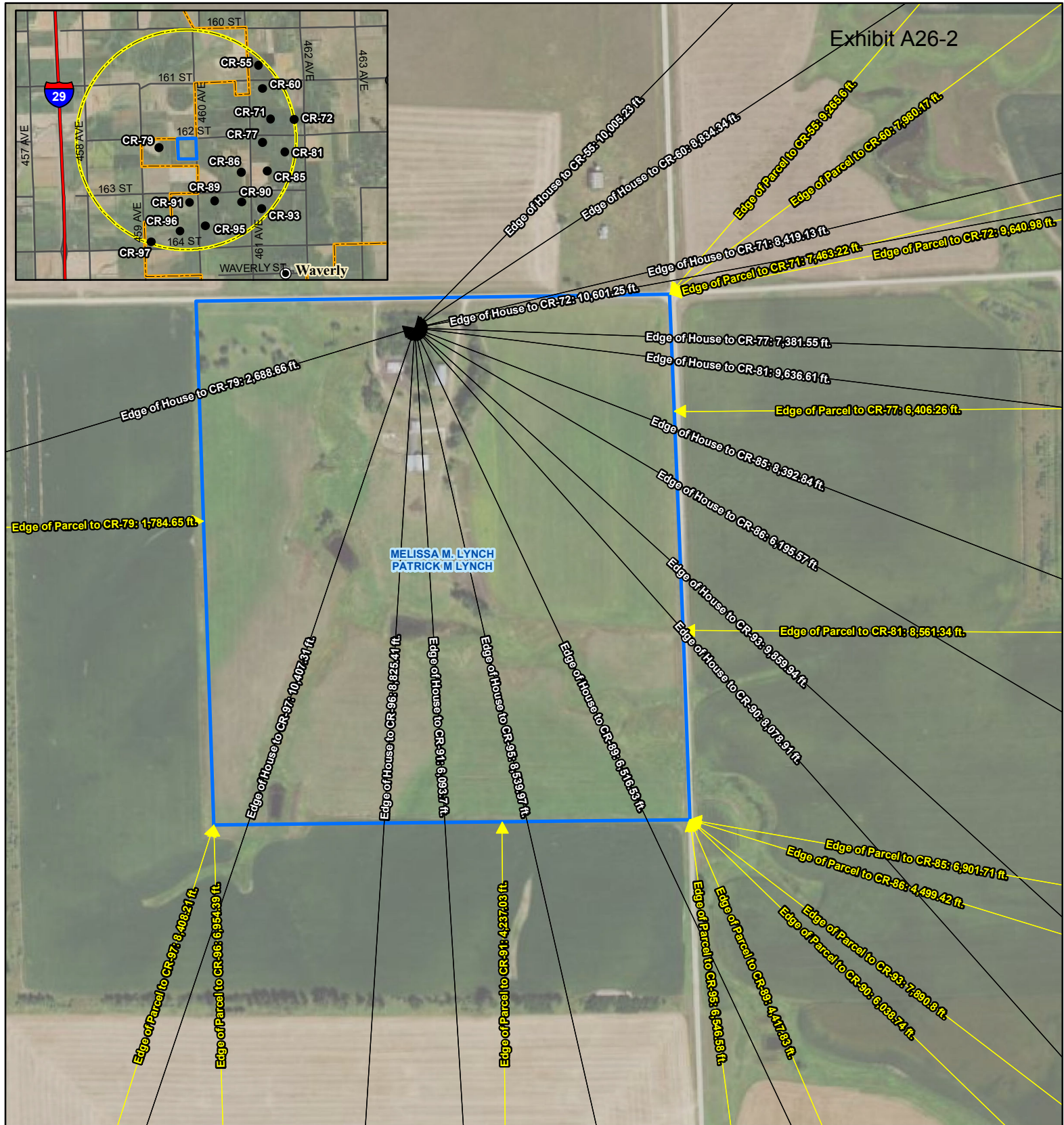
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Projection: NAD 1983 UTM Zone 14N

009997

SWCA  
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## Crowned Ridge:

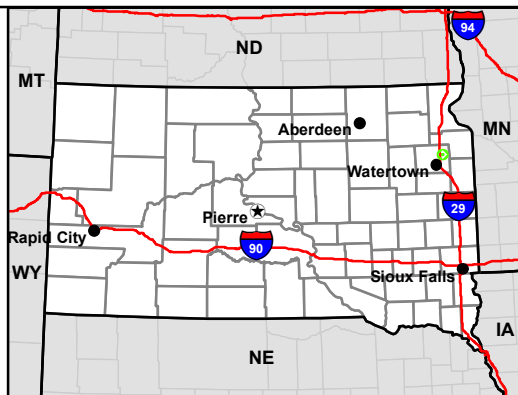
Melissa and Patrick Lynch Turbine Proximity

↔ House to Turbine

↔ Parcel To Turbine

2-mile  
Analysis Area

Parcel Boundary



Feet  
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Meters  
0 150 300

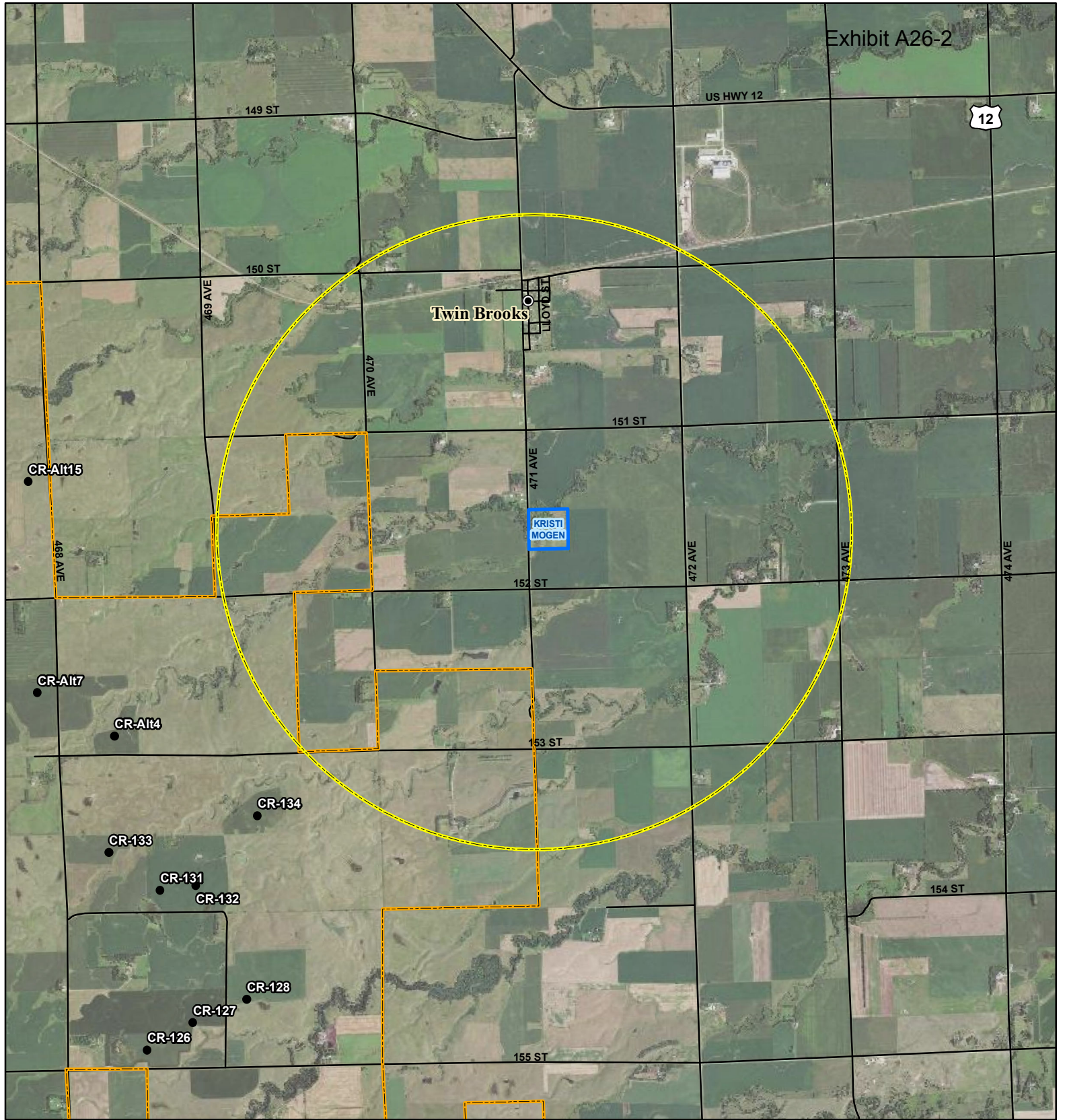
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Sources: USGS/FSA -  
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Projection: NAD 1983 UTM Zone 14N

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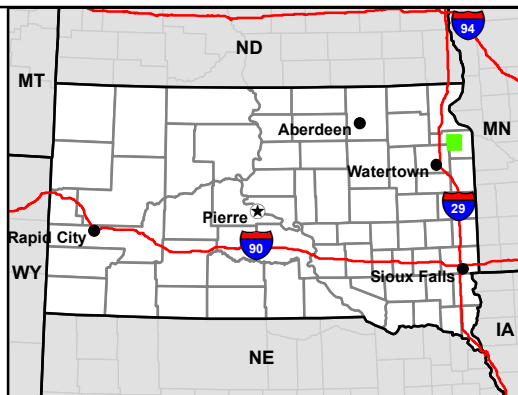




### Crowned Ridge:

#### Kristi Mogen Turbine Proximity

- Turbine
- ⊙ City
- Existing Road
- ▭ Parcel Boundary
- 2-mile Analysis Area
- ▭ Project Boundary



Base Map: Aerial Imagery  
Sources: USGS/FSA -  
Aerial Photography Field Office  
Codington County, South Dakota

009999

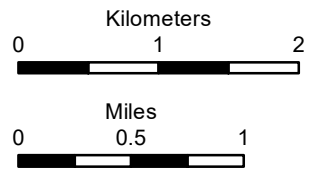
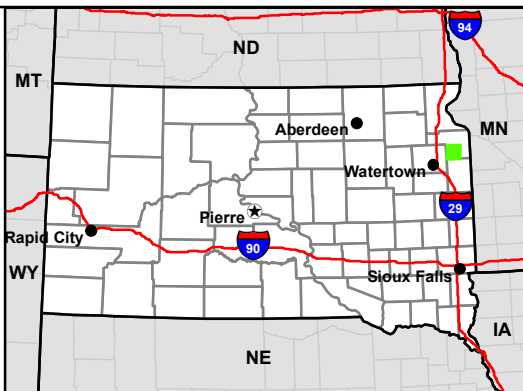




# **Crowned Ridge:**

## **Allen Robish Turbine Proximity**

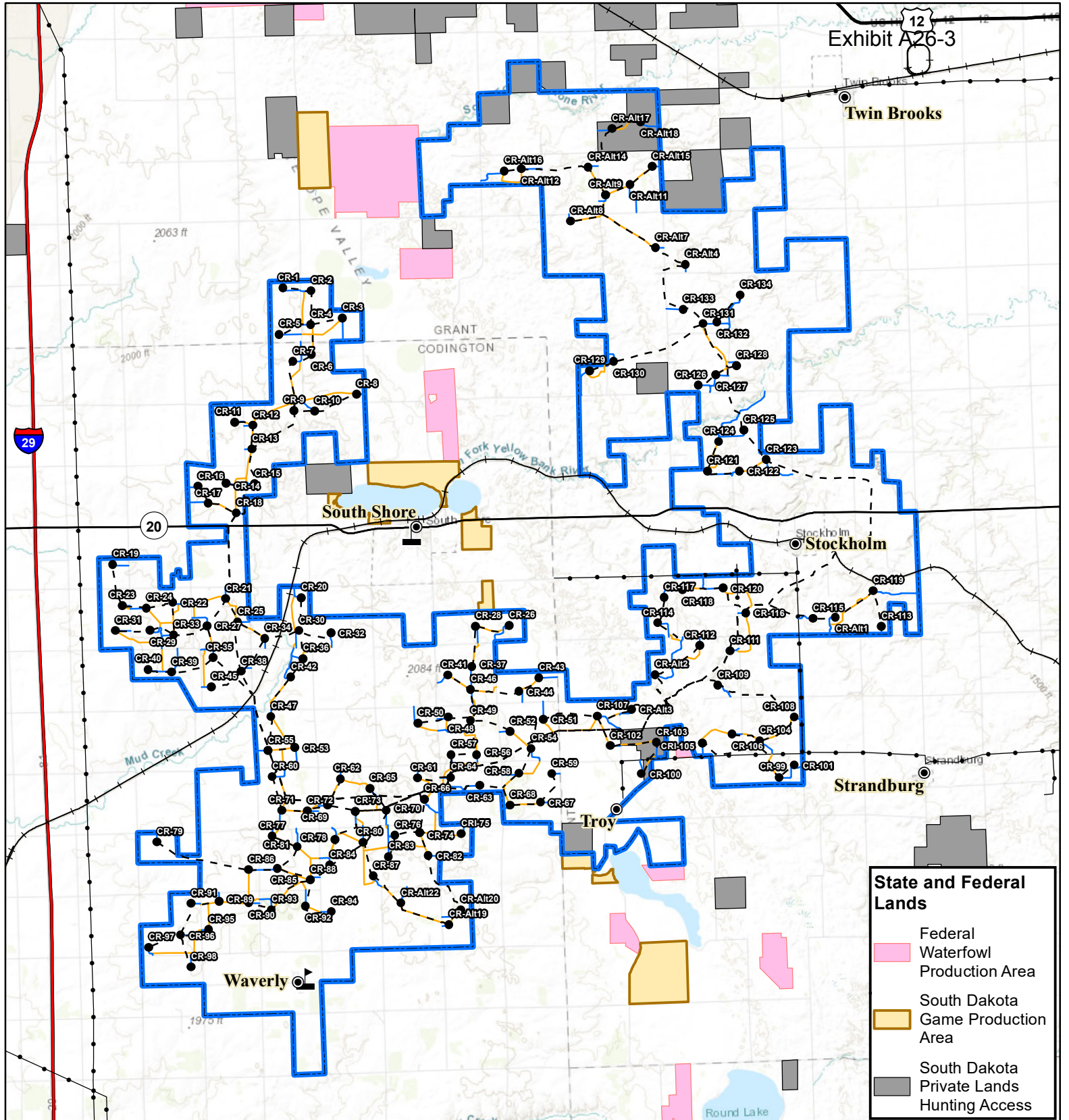
- Turbine
- City
- Existing Road
- Parcel Boundary
- 2-mile Analysis Area
- Project Boundary



Base Map: Aerial Imagery  
 Sources: USGS/FSA -  
 Aerial Photography Field Office  
 Codington County, South Dakota

010000



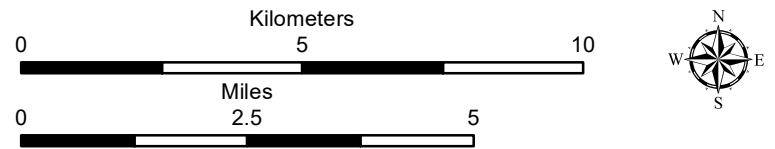


**State and Federal Lands**

- Federal Waterfowl Production Area
- South Dakota Game Production Area
- South Dakota Private Lands Hunting Access

**Figure 2. Public Land and Facilities**  
Crowned Ridge Wind Farm

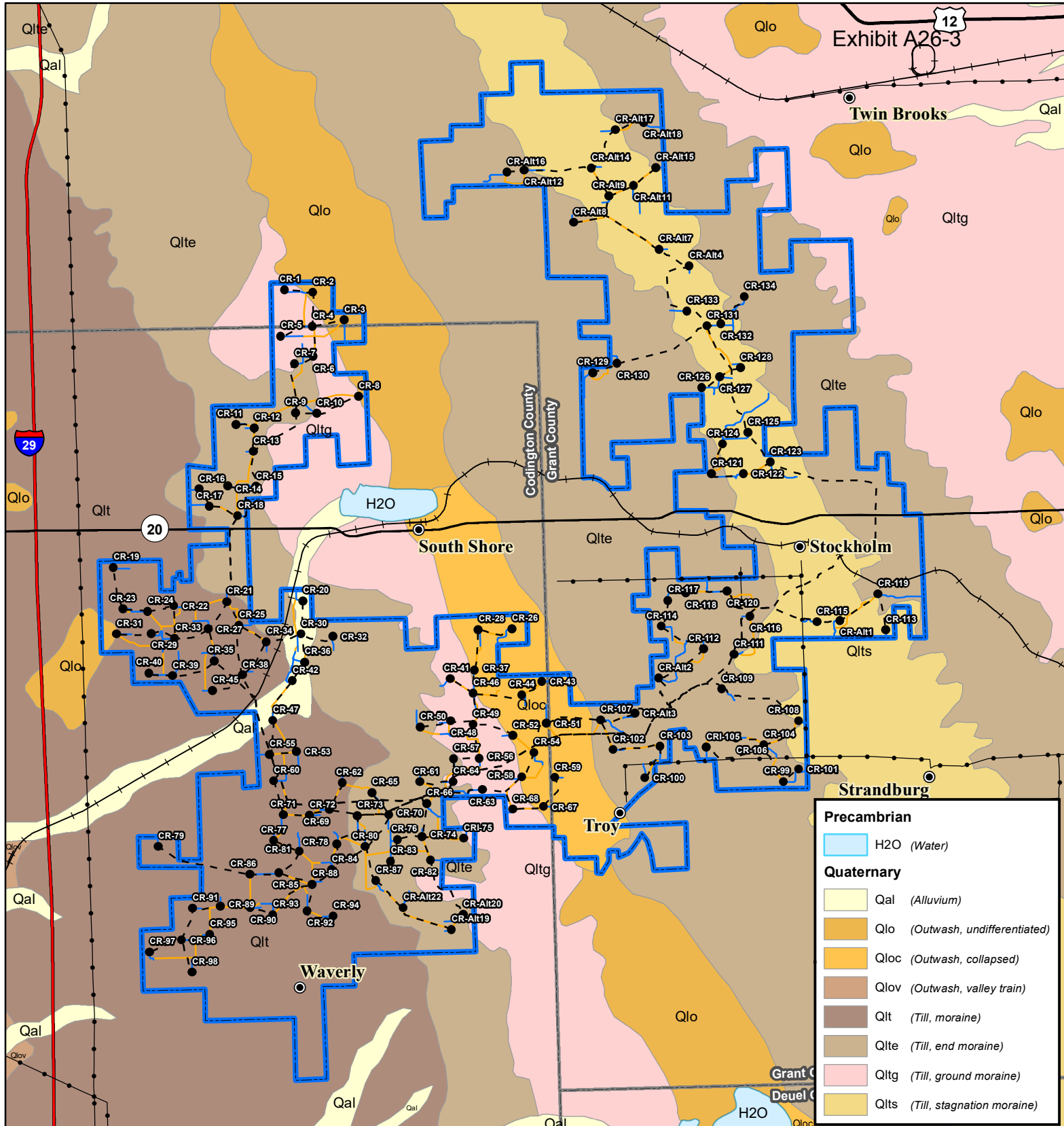
- City
- School
- Turbine
- Collector Line
- Proposed Turbine Access Road
- Crane Path
- Electrical Line
- Railroad
- Interstate Highway
- U.S. Highway
- State Highway
- Project Boundary



Base Map: World Topographic Map  
 Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community  
 Codington and Grant Counties, South Dakota  
 Projection: NAD 1983 UTM Zone 14N

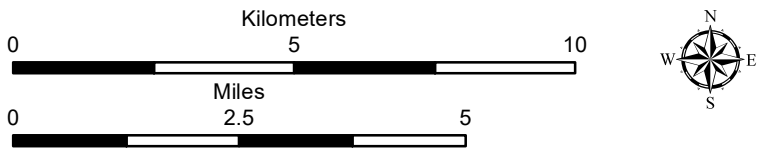
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**SWCA**  
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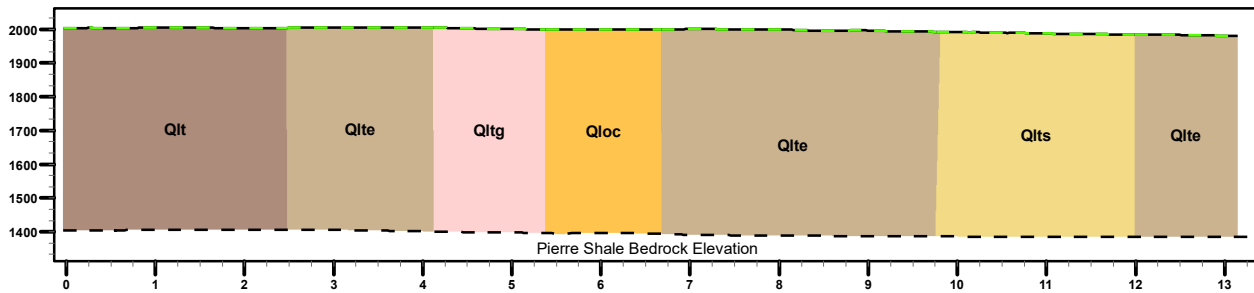
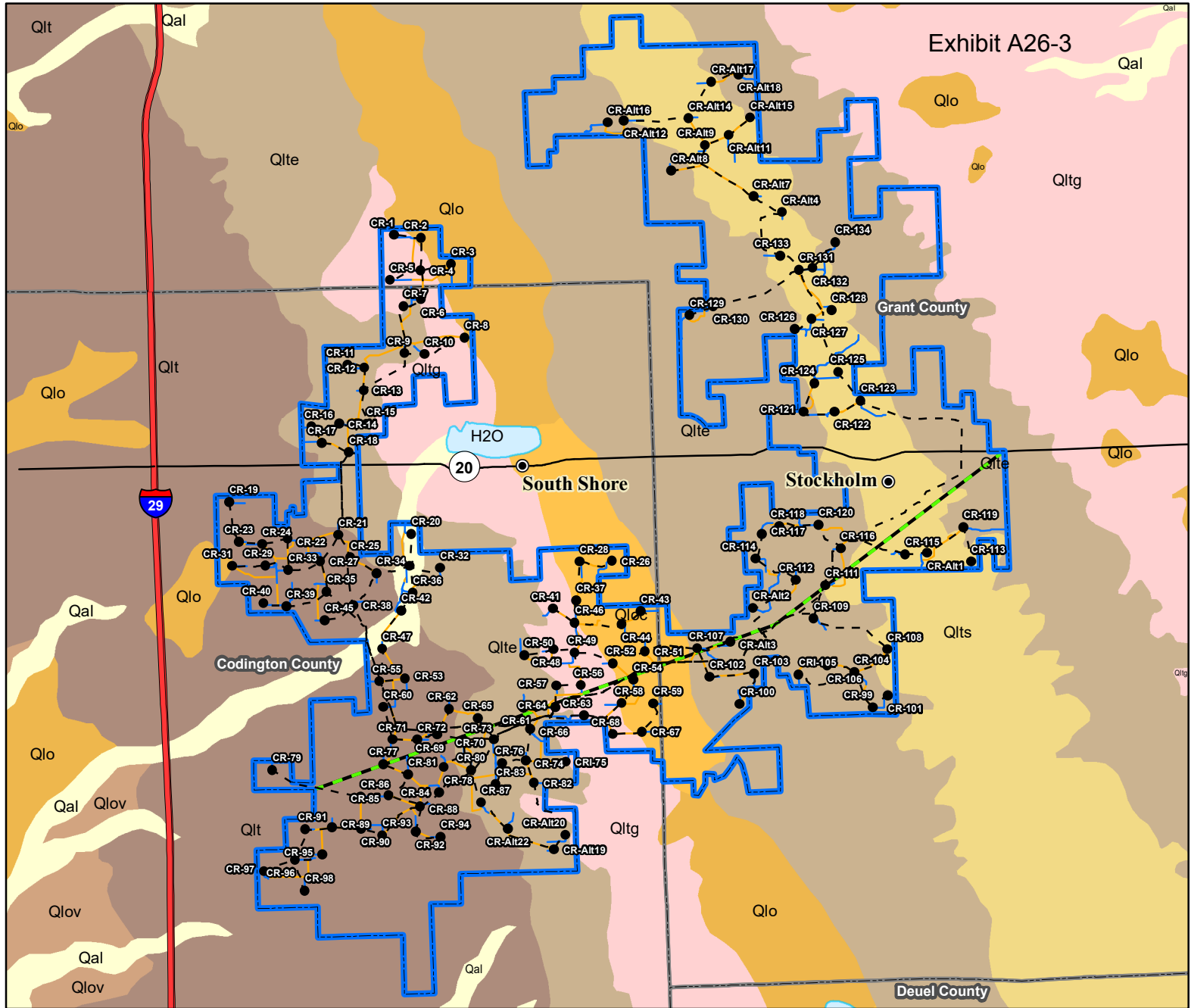


**Figure 9a. Surficial Geology**  
 Crowned Ridge Wind Farm

- City
- Turbine
- - - Collector Line
- Proposed Turbine Access Road
- Crane Path
- Electrical Line
- +— Railroad
- Interstate Highway
- U.S. Highway
- State Highway
- Project Boundary
- County Boundary



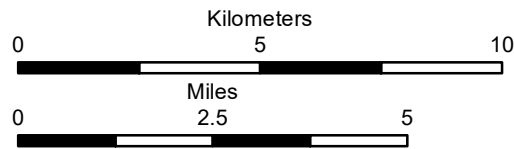
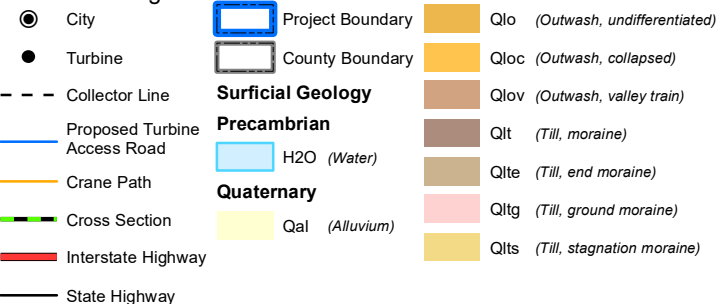




\*Vertical axis in feet above sea level; Horizontal axis in miles

## Figure 9b. Geology Cross Sections

Crowned Ridge Wind Farm



Base Map: Surficial Geology  
Source: South Dakota Geological Survey via  
State of South Dakota GIS  
Codington and Grant Counties, South Dakota

Page 000003

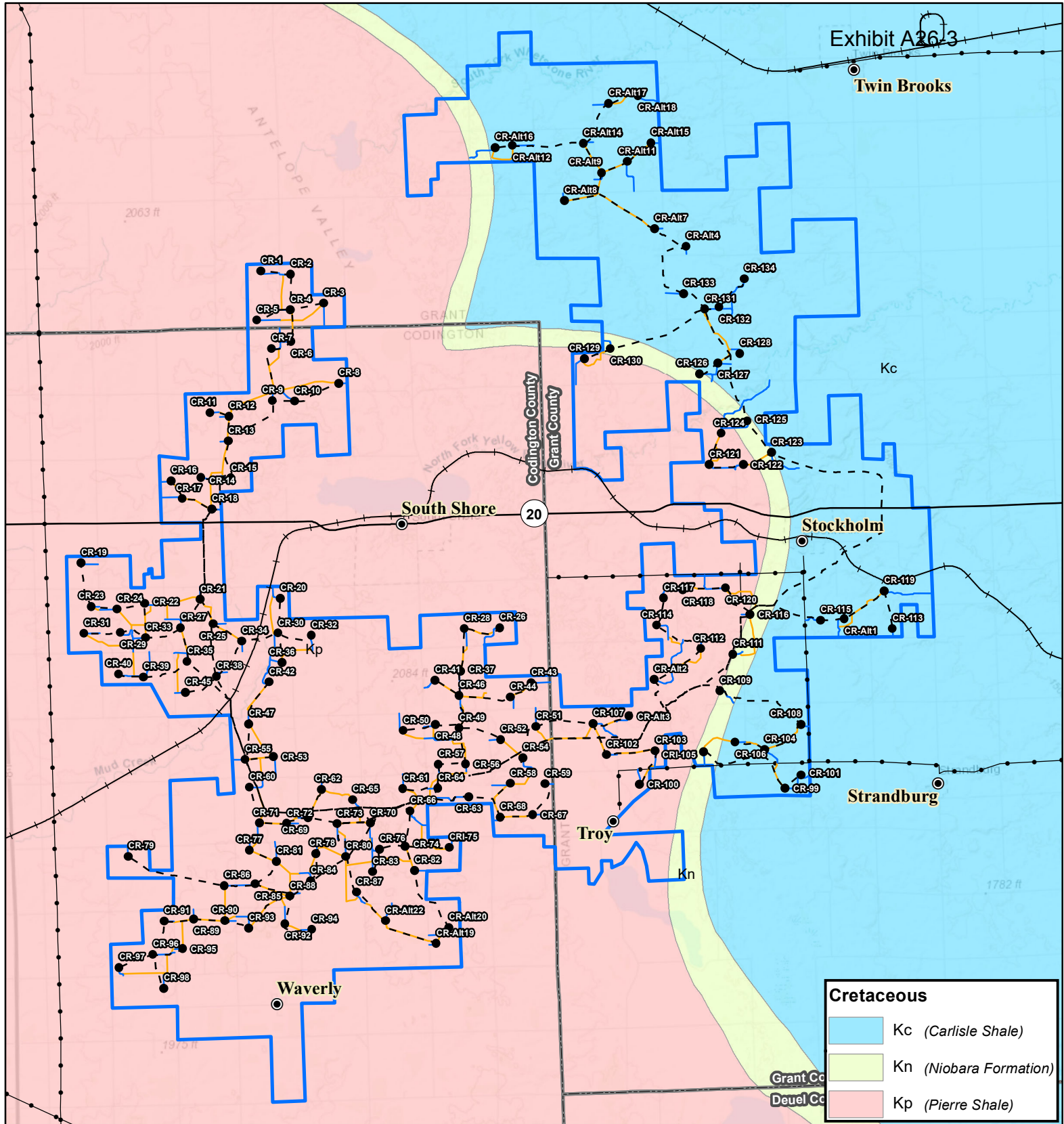
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Projection: NAD 1983 UTM Zone 14N

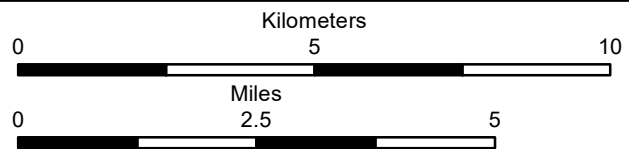


Twin Brooks

**Figure 10. Bedrock Geology**

Crowned Ridge Wind Farm

- City
- Turbine
- - - Collector Line
- Proposed Turbine Access Road
- Crane Path
- +— Railroad
- Electrical Line
- State Highway
- Project Boundary
- County Boundary



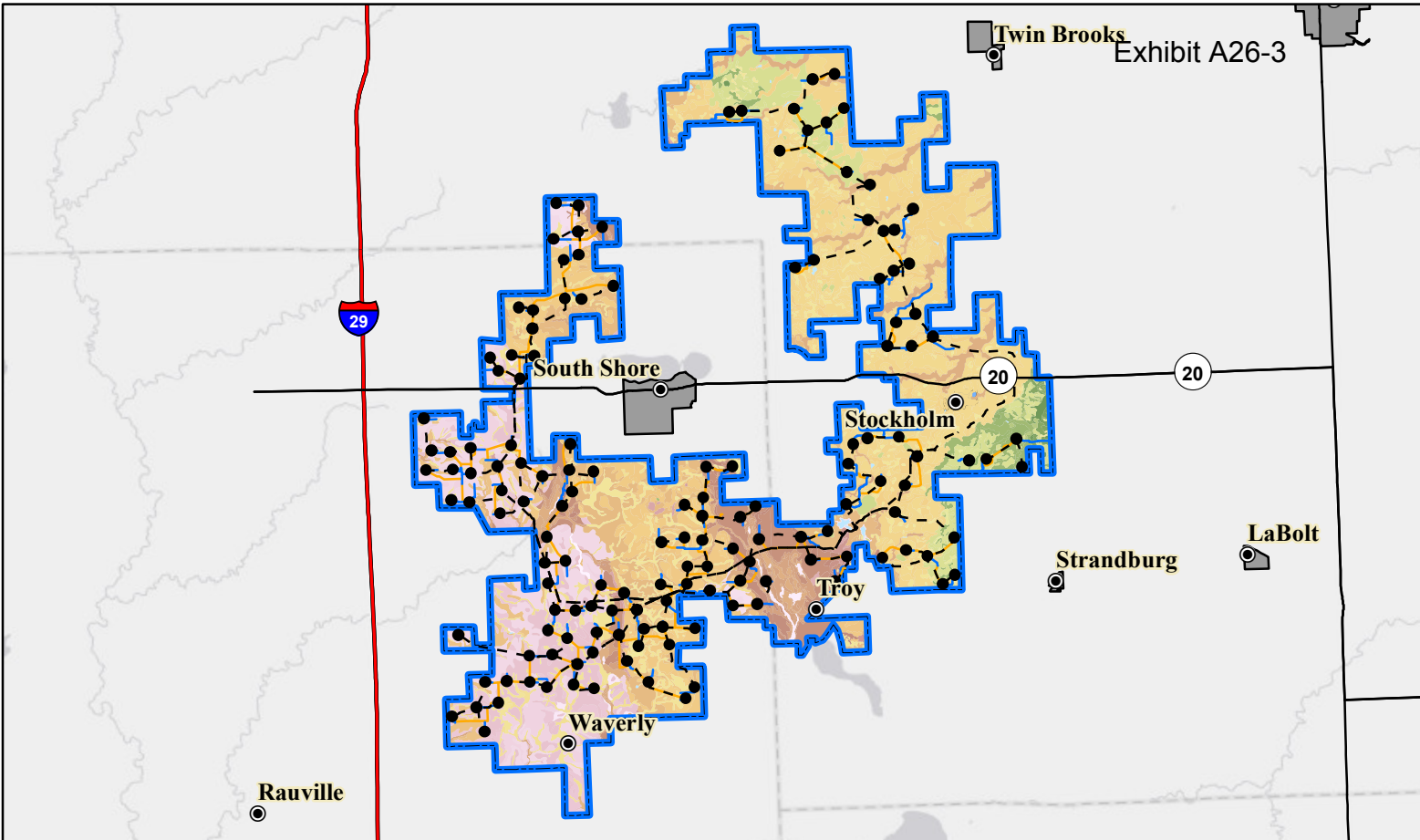
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 GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL,  
 Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong),  
 swisstopo, © OpenStreetMap contributors, and the GIS  
 User Community  
 Codington and Grant Counties, South Dakota

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**SWCA**  
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Projection: NAD 1983 UTM Zone 14N





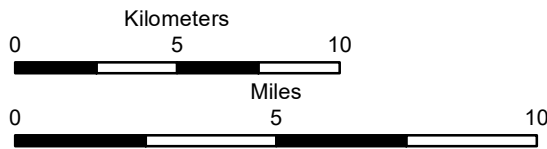
#### MUSYM (Soil Type)

BeF (Buse-Forman loams, 25-40% slopes)	PeB (Peevler clay loam, 2 to 6% slopes)	Z132B (Forman-Buse-Aastad loams, coteau, 1 to 6% slopes)	Z152A (Lamoure silty clay loam, coteau, occasionally flooded, 0 to 1% slopes)	Z176C (Arville-Sandberg sandy loams, coteau, 6 to 9% slopes)
BfD (Buse-Forman-Aastad loams, 4-15% slopes)	Ph (Playmoor silty clay loam)	Z132C (Forman-Buse-Aastad loams, coteau, 2 to 9% slopes)	Z153A (Lamoure-Rauville silty clay loams, channeled, frequently flooded, 0 to 2% slopes)	Z177 (Udorthents, coteau (gravel pits))
Fa (Flom Clay loam)	Ta (Tonka silty clay loam, 0 to 1% slopes)	Z132D (Forman-Buse-Aastad loams, coteau, 2 to 15% slopes)	Z157A (Fairdale loam, channeled, frequently flooded, 0 to 2% slopes)	Z178A (Rentil loam, coteau, 0 to 2% slopes)
FdB (Forman-Aastad loams, 1-6% slopes)	Vb (Vallers-Parnell complex)	Z135D (Forman-Buse loams, very stony, 2 to 15% slopes)	Z158A (Maryland loam, occasionally flooded, 0 to 1% slopes)	Z179F (Sioux-Renshaw complex, very stony, 15 to 40% slopes)
FdC (Forman-Aastad loams, 3-9% slopes)	W (Water)	Z136F (Buse-Langhei complex, very stony, 9 to 40% slopes)	Z159A (Divide loam, occasionally flooded, 0 to 2% slopes)	Z184E (Maddock loamy fine sand, 9 to 25% slopes)
FdD (Forman-Aastad loams, 4-15% slopes)	Z101A (Tonka silty clay loam, 0 to 1% slopes)	Z137F (Buse-Forman loams, very stony, 15 to 40% slopes)	Z160A (Moritz, occasionally flooded-Lamoure, frequently flooded, complex, 0 to 2% slopes)	Z185A (Egeland-Embsen complex, coteau, 0 to 2% slopes)
FgC (Forman-Buse loams, 6-9% slopes)	Z102A (Badger-Tonka silty clay loam, 0 to 1% slopes)	Z140F (Buse-Langhei complex, coteau, 15 to 40% slopes)	Z161A (Spottswood loam, occasionally flooded, 0 to 2% slopes)	Z185B (Egeland-Embsen complex, coteau, 2 to 6% slopes)
FgE (Forman-Buse loams, 15-25% slopes)	Z105A (Oldham silty clay loam, coteau, 0 to 1% slopes)	Z141A (Barnes-Svea loams, coteau, 0 to 2% slopes)	Z162A (La Prairie loam, coteau, occasionally flooded, 0 to 2% slopes)	Z186B (Maddock-Egeland sandy loams, coteau, 2 to 6% slopes)
FhE (Forman-Buse extremely stony loams, 9-40% slopes)	Z106A (Southam silty clay loam, 0 to 1% slopes)	Z141B (Barnes-Svea loams, coteau, 1 to 6% slopes)	Z166A (Fordtown loam, rarely flooded, 0 to 2% slopes)	Z186C (Maddock-Egeland sandy loams, coteau, 6 to 9% slopes)
HaD (Hattie clay loam, 9 to 15% slopes)	Z107A (Parnell silty clay loam, coteau, 0 to 1% slopes)	Z142B (Barnes-Buse-Svea loams, coteau, 1 to 6% slopes)	Z167A (Renwash loam, rarely flooded, 0 to 2% slopes)	Z190A (Brookings silty clay loam, 0 to 2% slopes)
HaE (Hattie clay loam, 15 to 40% slopes)	Z110A (Vallers loam, coteau, 0 to 1% slopes)	Z142C (Barnes-Buse-Svea loams, coteau, 2 to 9% slopes)	Z171A (Renshaw-Fordville loams, coteau, 0 to 2% slopes)	Z192A (Vienna-Brookings complex, coteau, 0 to 2% slopes)
J119E (Buse-Sioux complex, 9 to 40% slopes)	Z112A (Vallers-Hamerly loams, coteau, 0 to 2% slopes)	Z143C (Barnes-Buse loams, coteau, 6 to 9% slopes)	Z171B (Renshaw-Fordville loams, coteau, 2 to 6% slopes)	Z192B (Vienna-Brookings complex, coteau, 1 to 6% slopes)
J136A (Great Bend-Beotia silt loams, 0 to 2% slopes)	Z113A (Vallers-Parnell complex, coteau, 0 to 2% slopes)	Z144E (Buse-Barnes loams, coteau, 9 to 20% slopes)	Z172A (Renshaw loam, coteau, 0 to 2% slopes)	Z193C (Vienna-Buse complex, coteau, 6 to 9% slopes)
J225B (Forman-Aastad complex)	Z114A (Hamerly-Tonka complex, coteau, 0 to 2% slopes)	Z145D (Buse-Barnes loams, coteau, very stony, 2 to 15% slopes)	Z172B (Renshaw loam, coteau, 2 to 6% slopes)	Z194A (Barnes clay loam, coteau, 0 to 2% slopes)
Lb (LaDelle silt loam, channeled)	Z115A (Hamerly-Badger complex, coteau, 0 to 2% slopes)	Z145F (Buse-Barnes loams, coteau, very stony, 9 to 40% slopes)	Z173B (Renshaw-Sioux complex, coteau, 2 to 6% slopes)	Z194B (Barnes clay loam, coteau, 2 to 6% slopes)
Lc (Ludden silty clay)	Z116A (McKranz-Hidwood, frequently flooded, silty clay loams, 0 to 2% slopes)	Z146F (Buse-Lamoure, channeled, frequently flooded, complex, 0 to 40% slopes)	Z173C (Sioux-Renshaw complex, coteau, 6 to 9% slopes)	Z198A (Vienna-Forestville loams, coteau, 0 to 2% slopes)
M-W Miscellaneous Water	Z117A (McKranz-Badger silty clay loams, 0 to 2% slopes)	Z148F (Buse very stony-Lamoure, channeled, frequently flooded, complex, 0 to 40% slopes)	Z174D (Sioux-Renshaw complex, coteau, 9 to 15% slopes)	Z199B (Vienna-Forestville loams, 1 to 6% slopes)
Pa (Parnell silty clay loam)	Z119A (Hamerly-Balaton loams, coteau, 0 to 3% slopes)	Z149F (Buse-Langhei, very stony-La Prairie, channeled, occasionally flooded, complex, 0 to 60% slopes)	Z174F (Sioux-Renshaw complex, coteau, 15 to 40% slopes)	Z205B (Mauvais silty clay loam, occasionally ponded, extremely stony, 2 to 6% slopes)
Pb (Southam silty clay loam, 0 to 1% slopes)	Z128B (Hettland silty clay loam, 2 to 6% slopes)	Z150A (Rauville silty clay loam, coteau, frequently flooded, 0 to 1% slopes)	Z175D (Renshaw-Sioux complex, very stony, 2 to 15% slopes)	Z217A (McKranz silty clay loam, 0 to 2% slopes)
PcA (Peevler clay loam, coteau, 0 to 2% slopes)	Z131A (Forman-Aastad loams, coteau, 0 to 2% slopes)			Z250A (Rauville mucky silty clay loam, ponded, frequently flooded, 0 to 1% slopes)
PcB (Peevler clay loam, coteau, 2 to 6% slopes)	Z131B (Forman-Aastad loams, coteau, 1 to 6% slopes)			Z252A (Hidewood silty clay loam, frequently flooded, 0 to 2% slopes)
PcC (Peevler clay loam, 6 to 9% slopes)				

#### Figure 11. Soil Types

Crowned Ridge Wind Farm

- City
- Turbine
- - - Collector Line
- Proposed Turbine Access Road
- Crane Path
- Interstate Highway
- State Highway
- Town Boundary
- Project Boundary



Base Map: World Light Gray Canvas Base  
Sources: Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community  
Codyington and Grant Counties, South Dakota

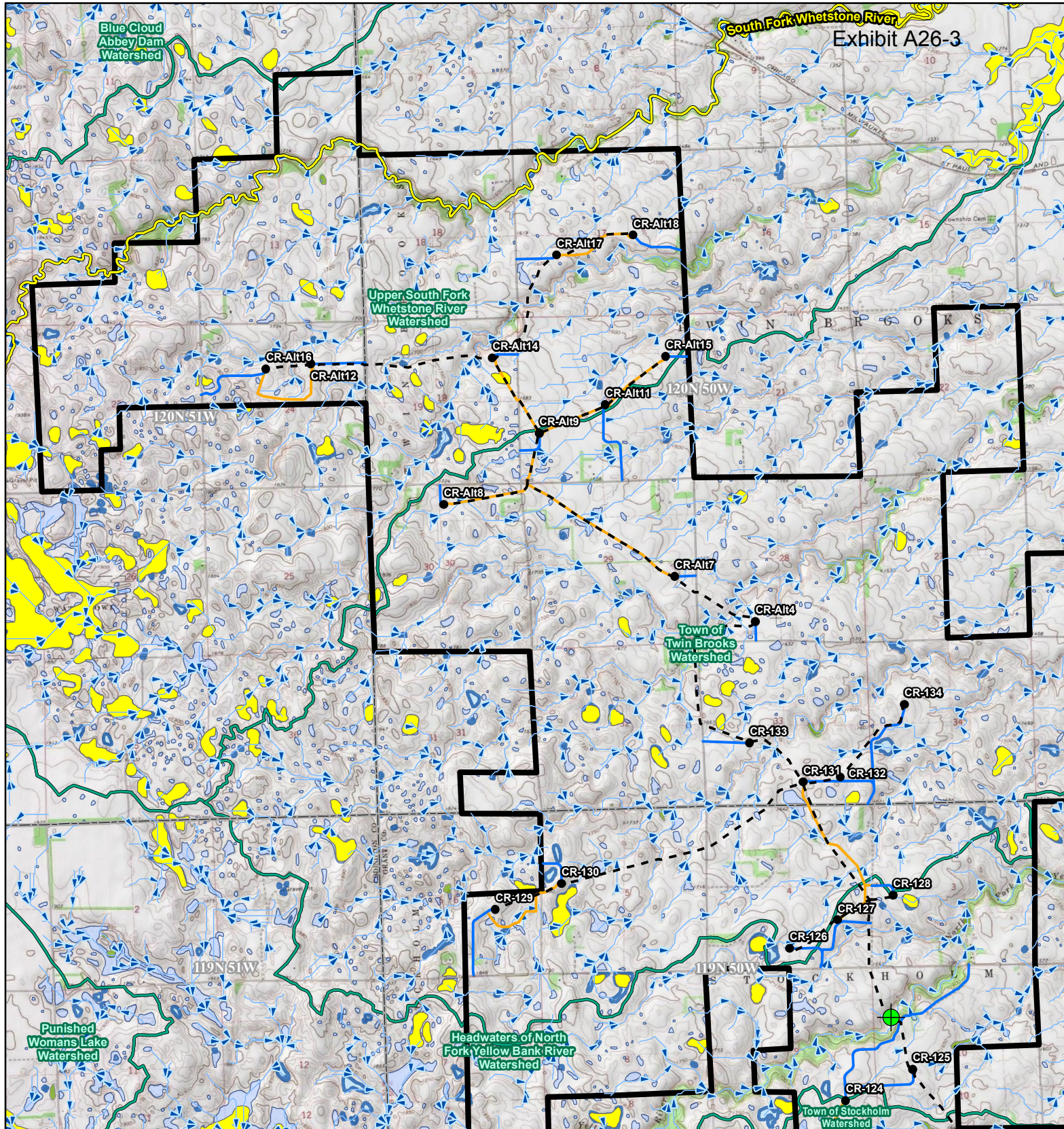
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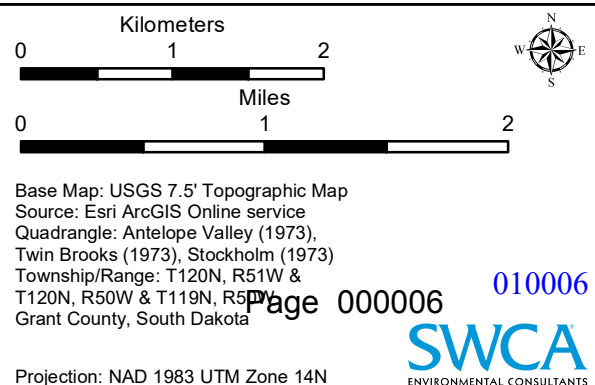
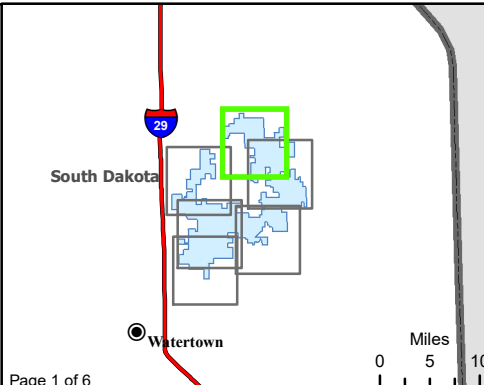
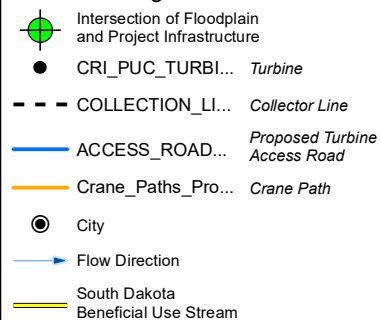
SWCA  
ENVIRONMENTAL CONSULTANTS

Projection: NAD 1983 UTM Zone 14N





**Figure 12. Water Resources**  
Crowned Ridge Wind Farm





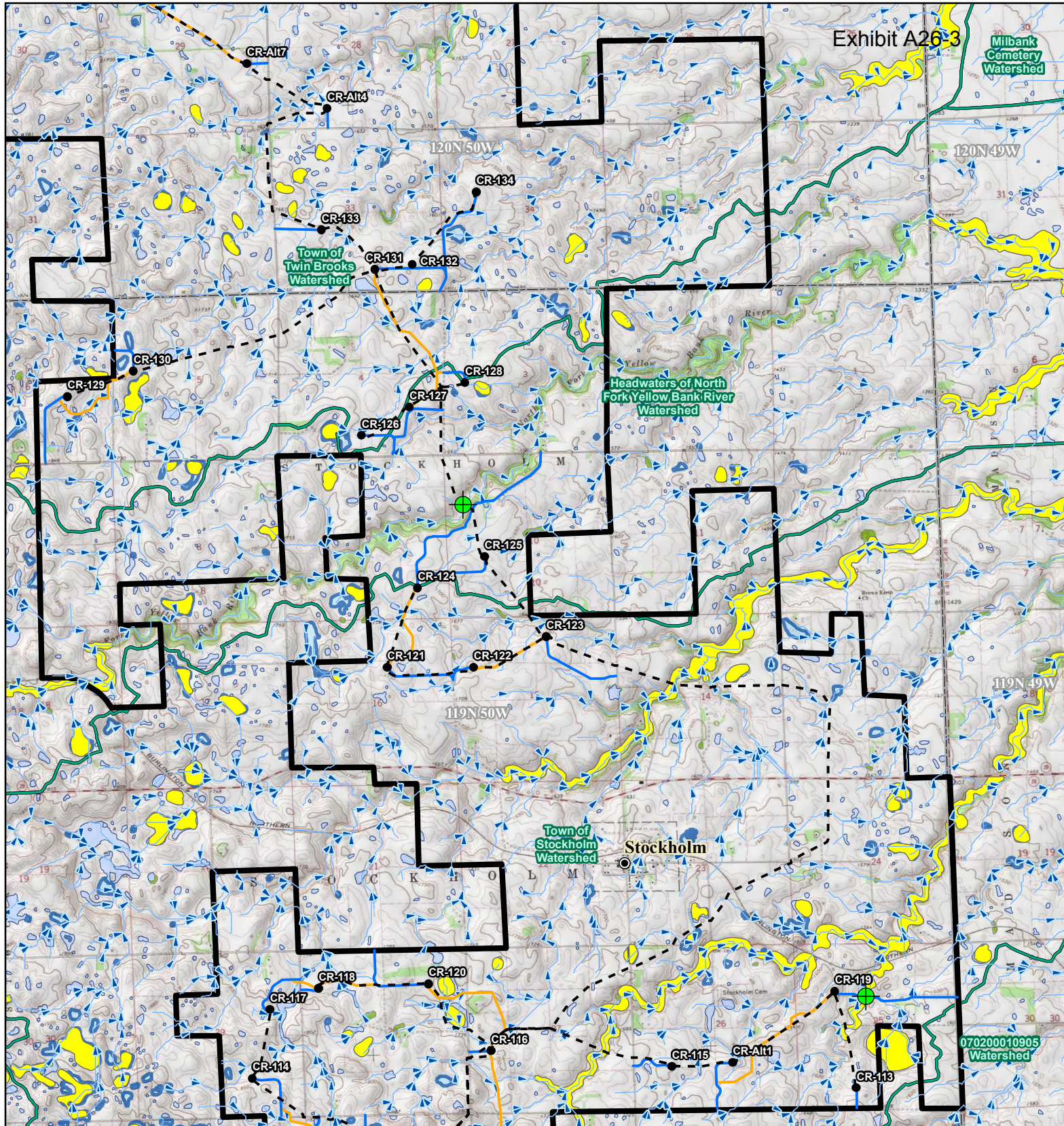


Exhibit A26-3  
Milbank Cemetery Watershed

Town of Twin Brooks Watershed

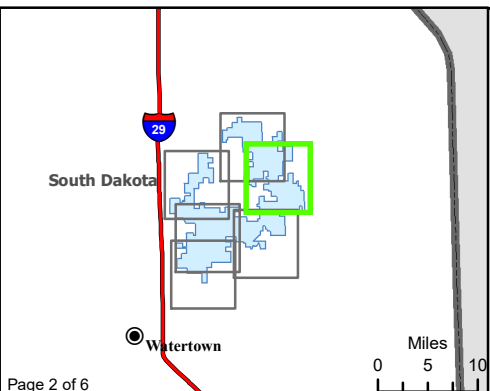
Headwaters of North Fork Yellow Bank River Watershed

Town of Stockholm Watershed  
Stockholm

070200010905 Watershed

**Figure 12. Water Resources**  
Crowned Ridge Wind Farm

- Intersection of Floodplain and Project Infrastructure
- CRI\_PUC\_TURBI... Turbine
- COLLECTION\_LI... Collector Line
- ACCESS\_ROAD... Proposed Turbine Access Road
- Crane\_Paths\_Pro... Crane Path
- City
- Flow Direction
- South Dakota Beneficial Use Stream



Kilometers

0 1 2

Miles

0 1 2

Base Map: USGS 7.5' Topographic Map  
Source: Esri ArcGIS Online service  
Quadrangle: Twin Brooks (1973),  
Stockholm (1973)  
Township/Range: T120N, R50W &  
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Grant County, South Dakota

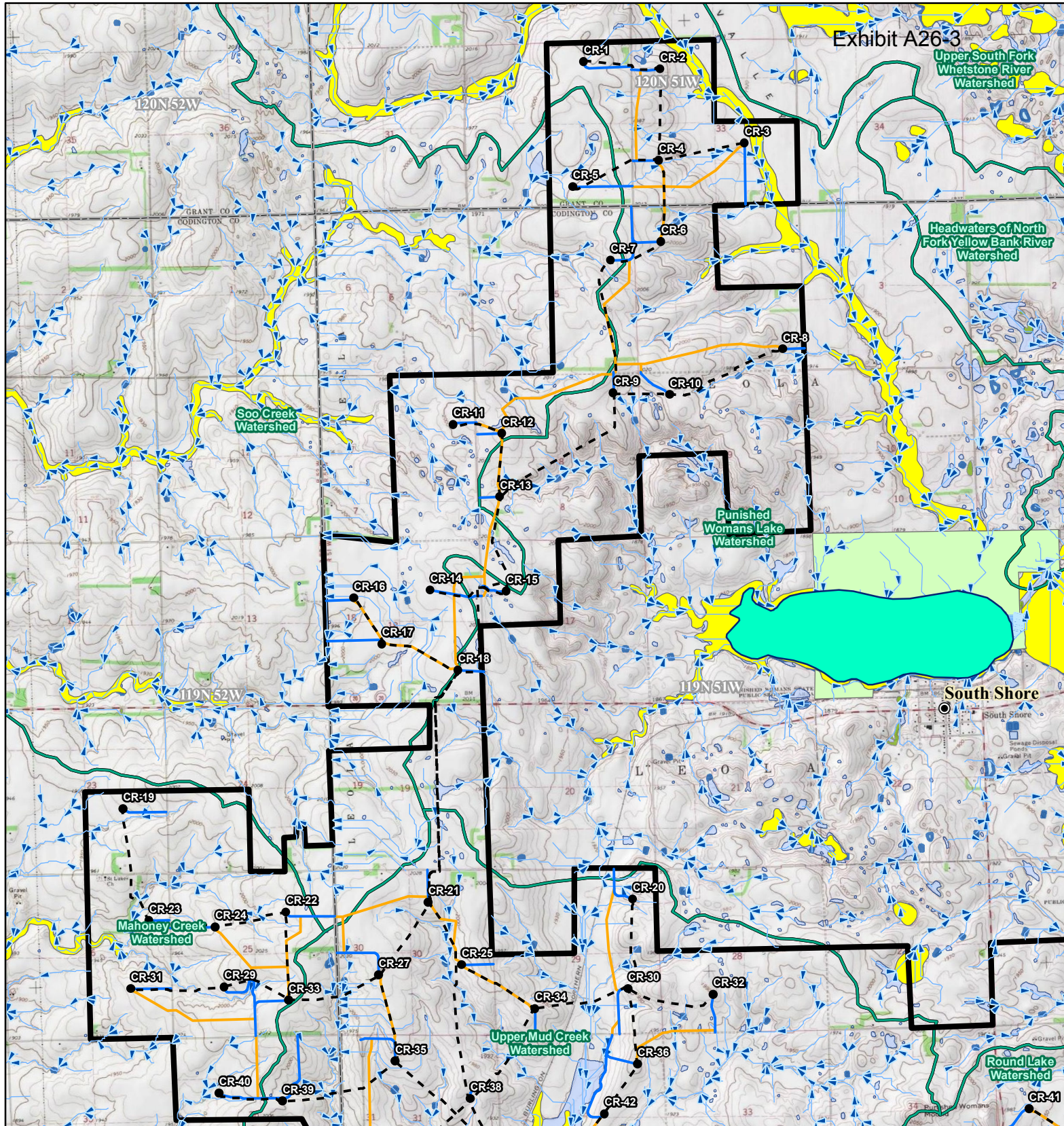
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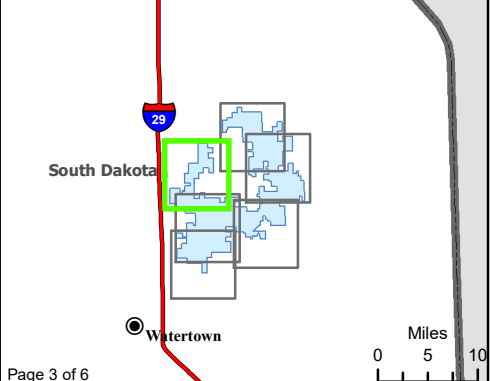
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**Figure 12. Water Resources**  
Crowned Ridge Wind Farm

- Intersection of Floodplain and Project Infrastructure
- CRI\_PUC\_TURBI... Turbine
- COLLECTION\_LI... Collector Line
- ACCESS\_ROAD... Proposed Turbine Access Road
- Crane\_Paths\_Pro... Crane Path
- City
- Flow Direction
- South Dakota Beneficial Use Stream



Kilometers

0 1 2

Miles

0 1 2

Base Map: USGS 7.5' Topographic Map  
 Source: Esri ArcGIS Online service  
 Quadrangle: Antelope Valley (1973),  
 Still Lake SE (1970), South Shore (1973)  
 Township/Range: T120N, R51W &  
 T119N, R52W & T119N, R51W  
 Codington and Grant Counties, South Dakota

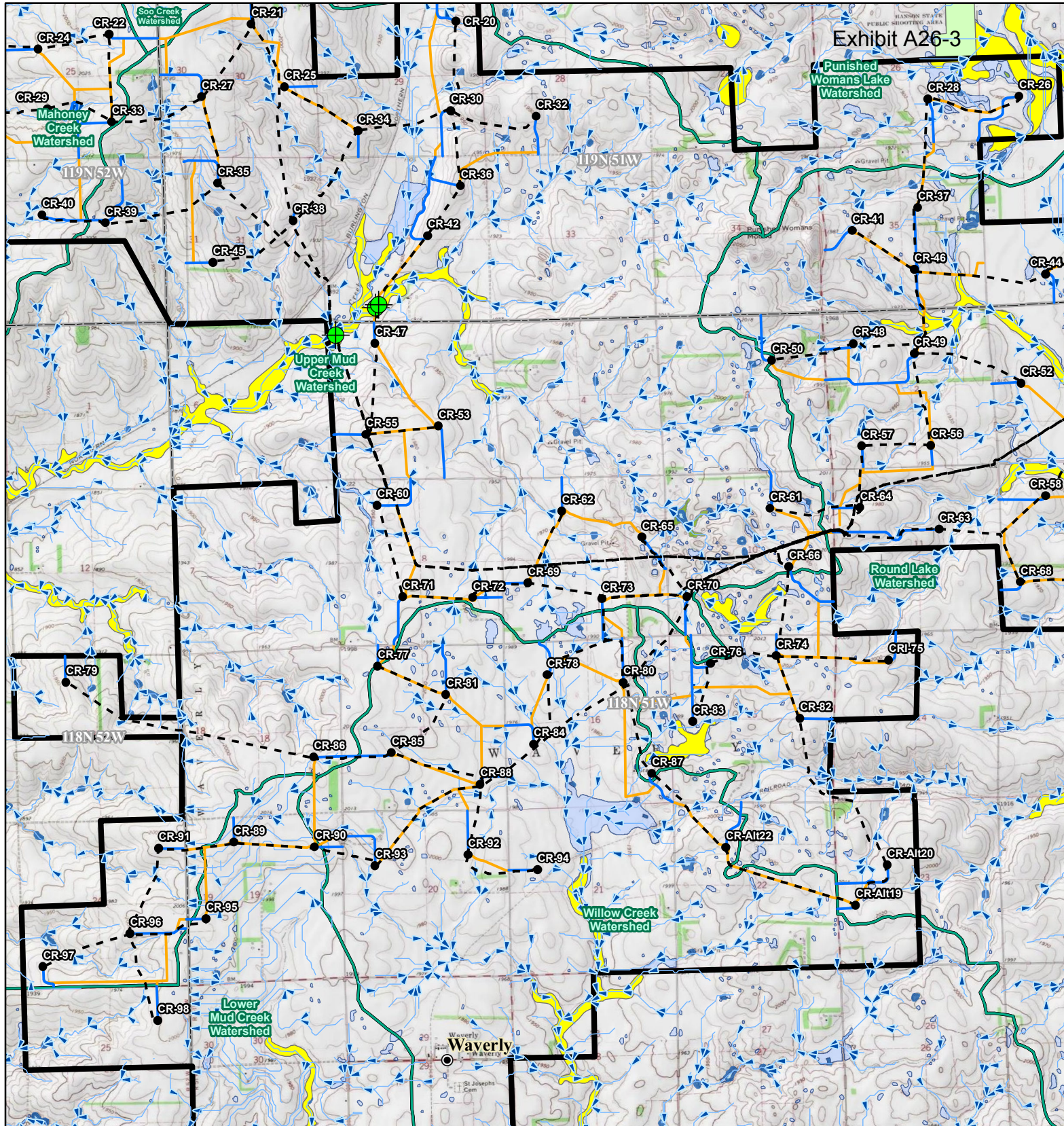
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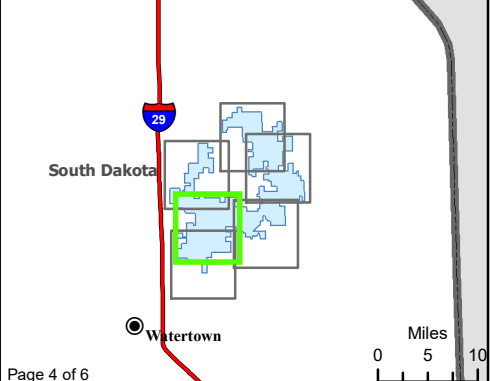
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**Figure 12. Water Resources**  
Crowned Ridge Wind Farm

- Intersection of Floodplain and Project Infrastructure
- CRI\_PUC\_TURBI... Turbine
- COLLECTION\_LI... Collector Line
- ACCESS\_ROAD... Proposed Turbine Access Road
- Crane\_Paths\_Pro... Crane Path
- City
- Flow Direction
- South Dakota Beneficial Use Stream



Kilometers

0 1 2

Miles

0 1 2

Base Map: USGS 7.5' Topographic Map  
Source: Esri ArcGIS Online service  
Quadrangle: Still Lake SE (1970), South Shore (1973),  
Watertown East (1969), Kranzburg (1970)  
Township/Range: T119N, R52W & T119N, R51W &  
T118N, R52W & T118N, R51W  
Codington County, South Dakota

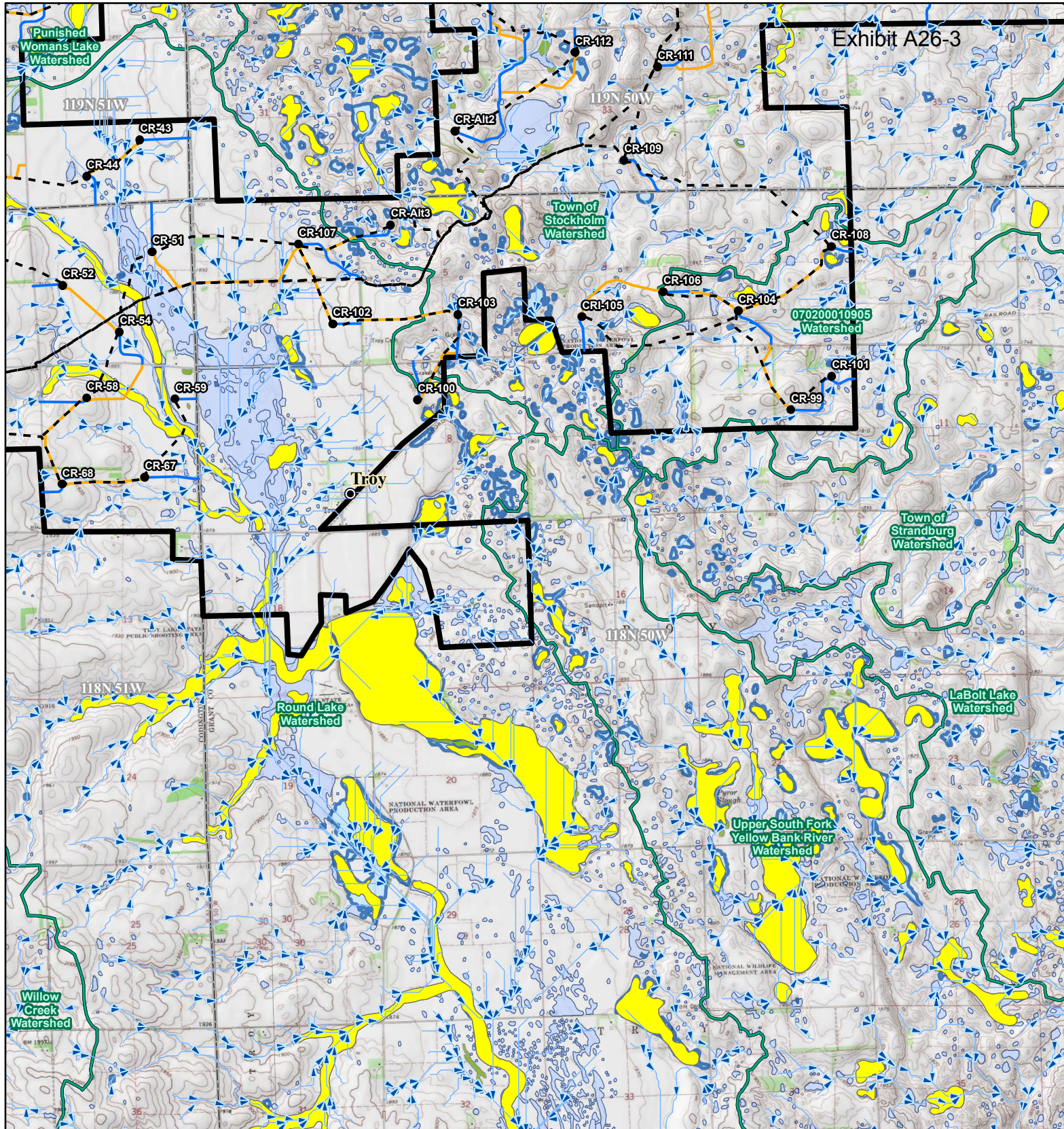
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ENVIRONMENTAL CONSULTANTS

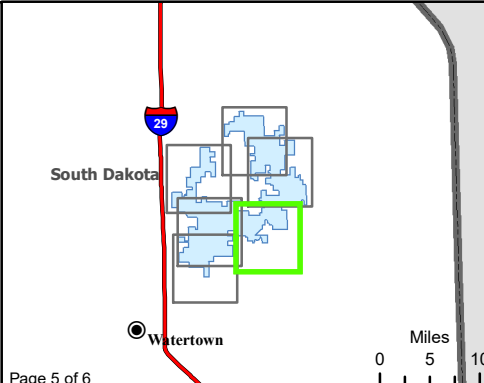
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**Figure 12. Water Resources**  
Crowned Ridge Wind Farm

- Intersection of Floodplain and Project Infrastructure
- CRI\_PUC\_TURBI... Turbine
- COLLECTION\_LI... Collector Line
- ACCESS\_ROAD... Proposed Turbine Access Road
- Crane\_Paths\_Pro... Crane Path
- City
- Flow Direction
- South Dakota Beneficial Use Stream



Kilometers  
0 1 2

Miles  
0 1 2

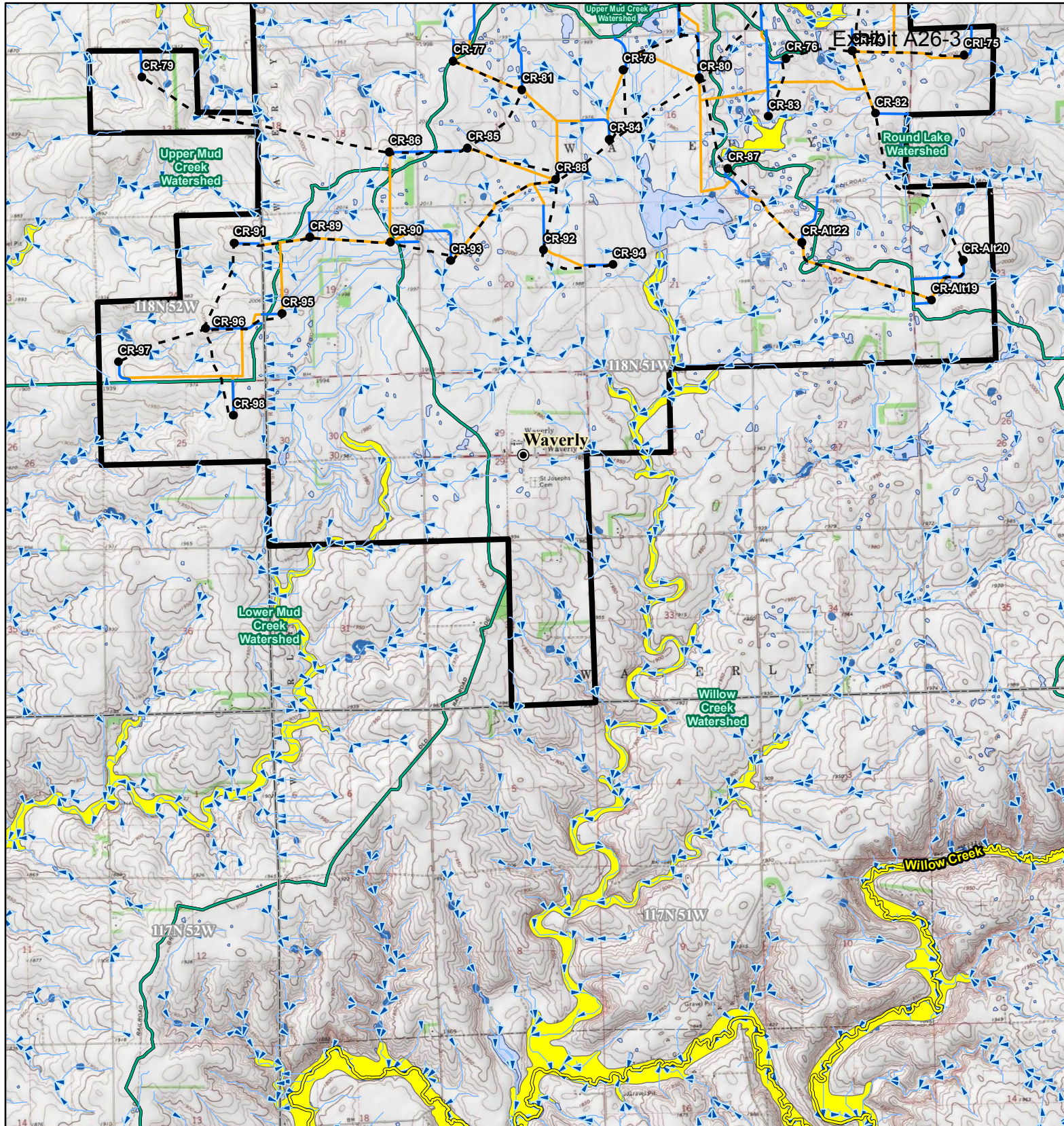
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Source: Esri ArcGIS Online service  
Quadrangle: South Shore (1973), Stockholm (1973)  
Township/Range: T119N, R51W & T119N, R50W & T118N, R51W & T118N, R50W  
Codington and Grant Counties, South Dakota

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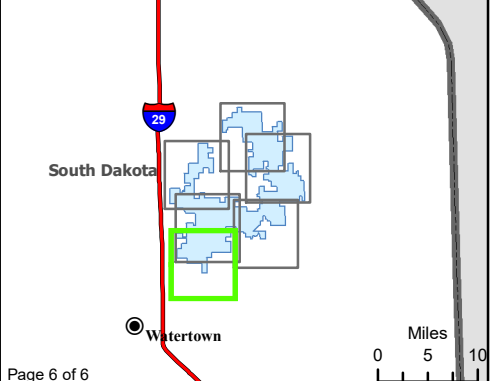
Projection: NAD 1983 UTM Zone 14N





**Figure 12. Water Resources**  
**Crowned Ridge Wind Farm**

- Intersection of Floodplain and Project Infrastructure
- CRI\_PUC\_TURBI... Turbine
- COLLECTION\_LI... Collector Line
- ACCESS\_ROAD... Proposed Turbine Access Road
- Crane\_Paths\_Pro... Crane Path
- City
- Flow Direction
- South Dakota Beneficial Use Stream



Kilometers

0 1 2

Miles

0 1 2

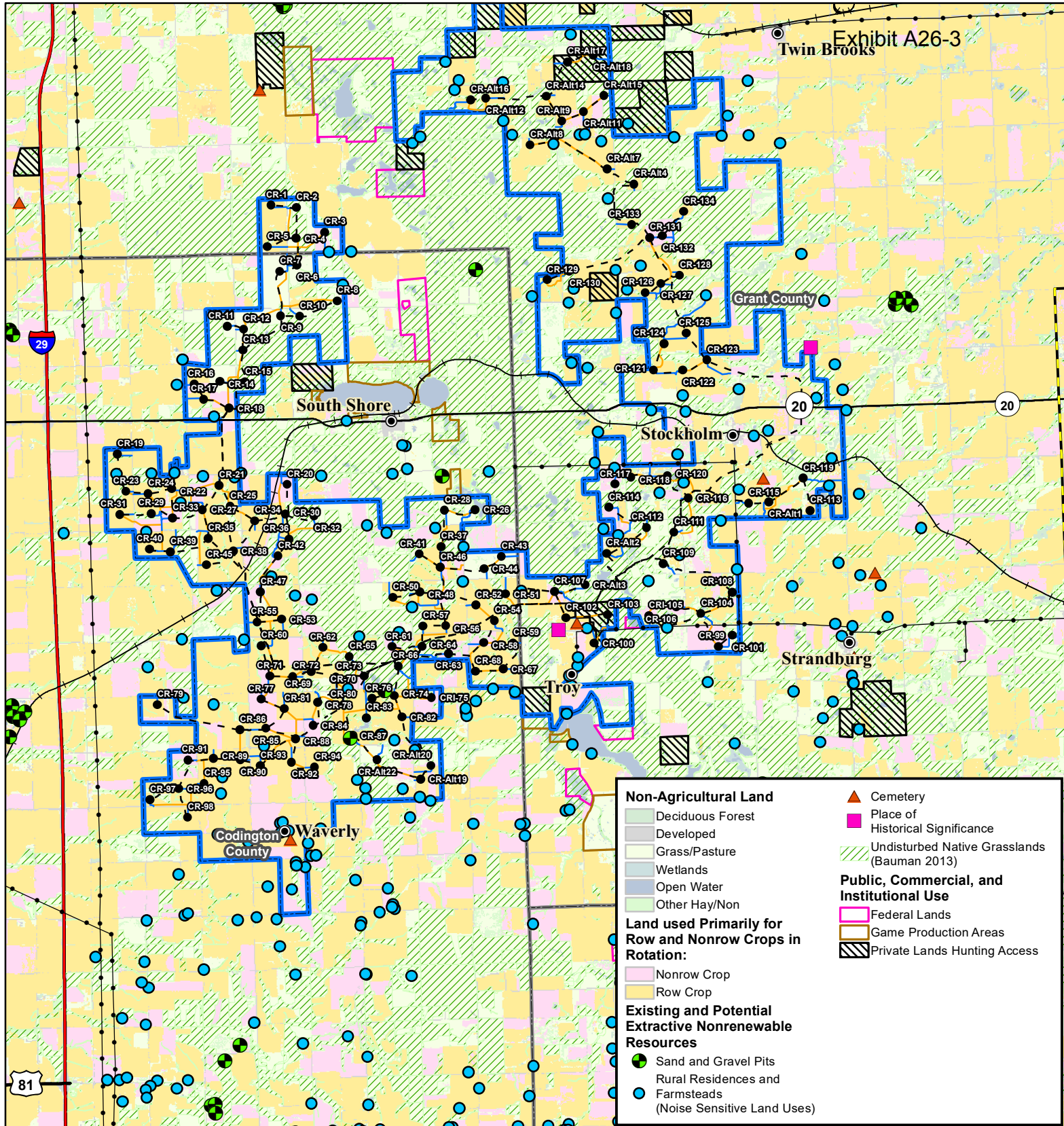
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 Township/Range: T118N, R52W & T117N, R51W  
 Codington County, South Dakota

Page 000011

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Projection: NAD 1983 UTM Zone 14N

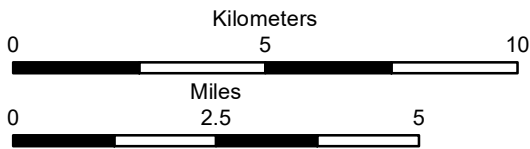




**Figure 13. Land Use**

Crowned Ridge II Wind Farm

- City
- Turbine
- Collector Line
- Proposed Turbine Access Road
- Crane Path
- Electrical Line
- Natural Gas Line
- Railroad
- Interstate Highway
- U.S. Highway
- State Highway
- Project Boundary
- County Boundary



Base Map: 2017 South Dakota Cropland Data Layer | NASS/USDA  
 Source: United States Department of Agriculture (USDA),  
 National Agricultural Statistics Service (NASS),  
 Research and Development Division (RDD),  
 Geospatial Information Branch (GIB),  
 Spatial Analysis Research Section (SARS), 2017 Edition  
 Codington, Deuel, and Grant Counties, South Dakota  
 Projection: NAD 1983 UTM Zone 14N

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

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IN THE MATTER OF THE APPLICATION	)	
BY CROWNED RIDGE WIND, LLC FOR A	)	EL19-003
PERMIT OF A WIND ENERGY FACILITY	)	
IN GRANT AND CODINGTON COUNTIES	)	<b>APPLICANT’S RESPONSES TO</b>
	)	<b>STAFF’S FOURTH SET OF</b>
	)	<b>DATA REQUESTS TO</b>
	)	<b>CROWNED RIDGE WIND, LLC</b>

---

Attached, please find Applicant’s Responses to Staff’s Fourth Set of Data  
Requests to Crowned Ridge Wind, LLC (“Crowned Ridge” or “Company”).



4-1) Referring to Crowned Ridge's response to Staff data request 3-3, please provide the following:

- i) An explanation as to why section 3 of the Sound Study (Appendix H to the Application) did not identify that Dakota Range I&II was included in the noise model,

**Response:** The Sound Study filed with the Application did not include the effects from the Dakota Range I & II wind project, as the Study focused on the sound resulting for the proposed Crowned Ridge Wind project. Subsequently, the effects of the Dakota Range I and II project were set forth on page 4 of Haley's Supplemental testimony.

- ii) An explanation as to why the sound pressure contours in Appendix D of the Sound Study do not appear to factor in the noise levels of the Dakota Range I & II wind turbines; and

**Response:** The sound pressure contours in Appendix D submitted with the Application only showed the effects of the proposed Crowned Ridge Wind project, as it focused on the effect from the proposed project. The results tables in the Sounds Study, however, did include the effects of all Dakota Range I and II and Crowned Ridge Wind II wind turbines.

- iii) Provide updated Standard Resolution Sound Maps as found in Appendix D of the Sound Study that includes on the map the Dakota Range I & II wind turbines that influence sound levels for receptors studied in the Crowned Ridge Project.

**Response:** Attached are updated maps that include rge iso-lines for both Dakota Range Wind I and II and Crowned Ridge Wind II turbines within 2 kilometers of Crowned Ridge Wind receptors.

**Respondent:** Jay Haley, Wind Engineer





www.eapc.net | 701.775.3000

**Crowned Ridge Wind Farm  
Sound Pressure Iso-Lines  
Overview Map**

*Client*  
SWCA Environmental Consultants

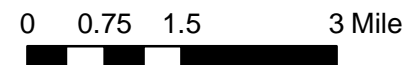
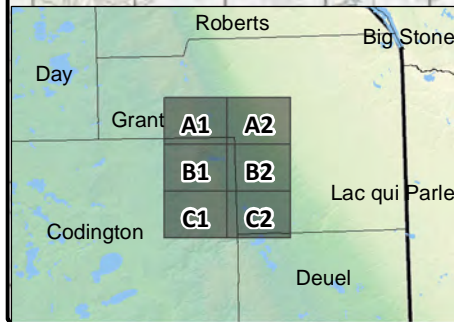
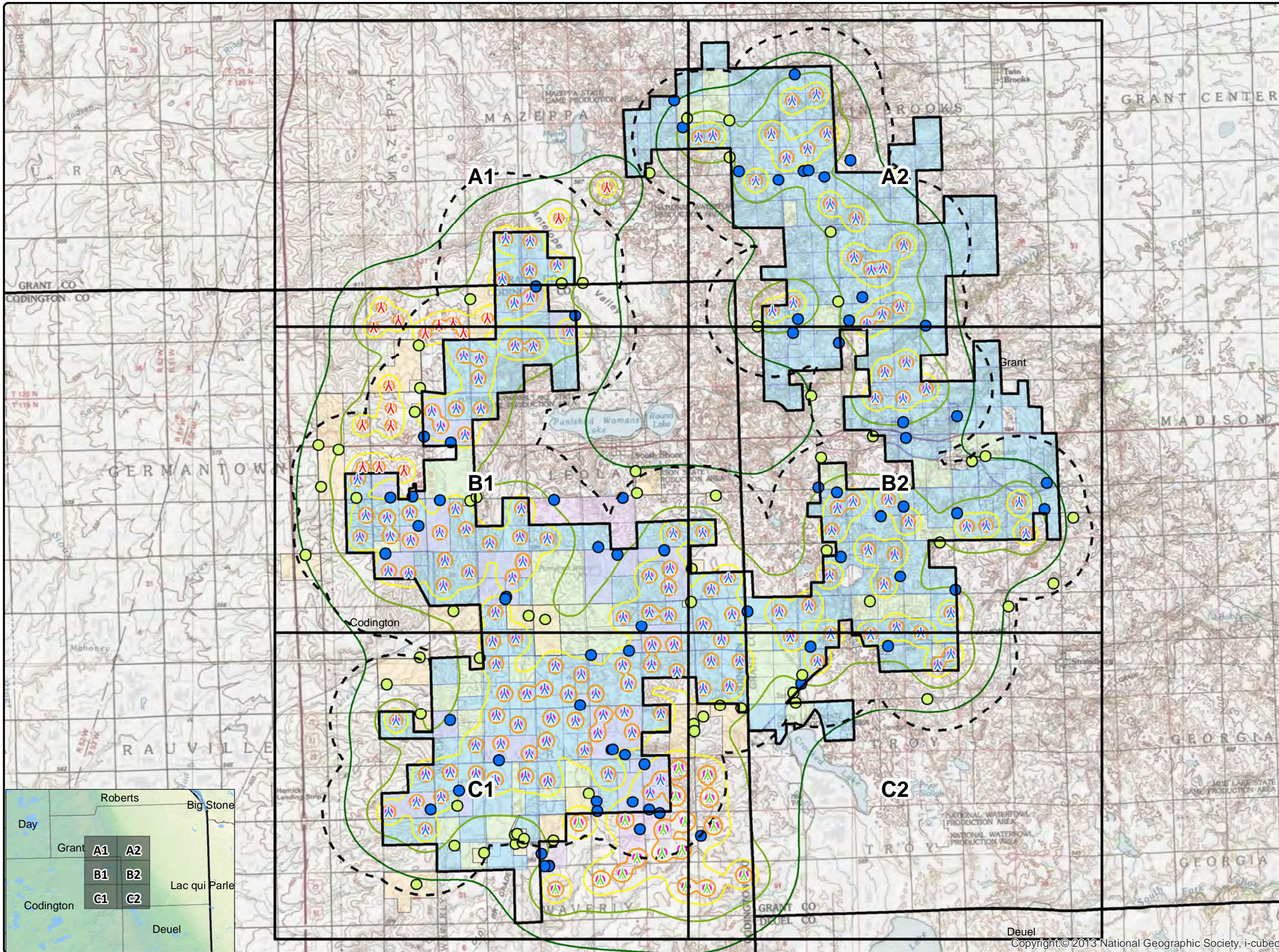

*Project Description*  
Wind turbine layout with occupied structures and parcel boundaries within 2 km.  
  
Predicted sound pressure levels at existing residences and land parcel boundaries.  
  
Additional 2 dBA added.

*Location:* Watertown, SD  
*Project #:* 20174431

Issue Dates		
1	Original	2019.05.03
#	Description	Date
Drawn By: AS		Checked By: JH

- Legend**
- Crowned Ridge Wind Turbines
  - Crowned Ridge II Wind Turbines
  - Dakota Range Wind Turbines
  - 2 km Turbine Buffer
  - County Lines
  - CR1 Project Boundary
  - Non-Participants
  - Participants
  - Sound Pressure Level (dBA)**
    - 35
    - 40
    - 45
    - 50
    - 55
  - Participating Codington Parcels
  - Non-Part. Codington Parcels
  - Participating Land Parcels
  - Non-Participating Land Parcels

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**Crowned Ridge Wind Farm  
Sound Pressure Iso-Lines**


*Client*  
SWCA Environmental Consultants


*Project Description*  
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*Location:* Watertown, SD  
*Project #:* 20174431


Issue Dates		
1	Original	2019.05.03
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Drawn By: AS		Checked By: JH


**Legend**


 Crowned Ridge Wind Turbines


 Crowned Ridge II Wind Turbines


 Dakota Range Wind Turbines

 2 km Turbine Buffer


 County Lines


 CR1 Project Boundary


 Non-Participants


 Participants


**Sound Pressure Level (dBA)**


 35


 40


 45


 50

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 Participating Codington Parcels

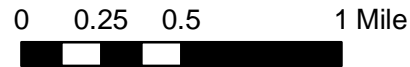
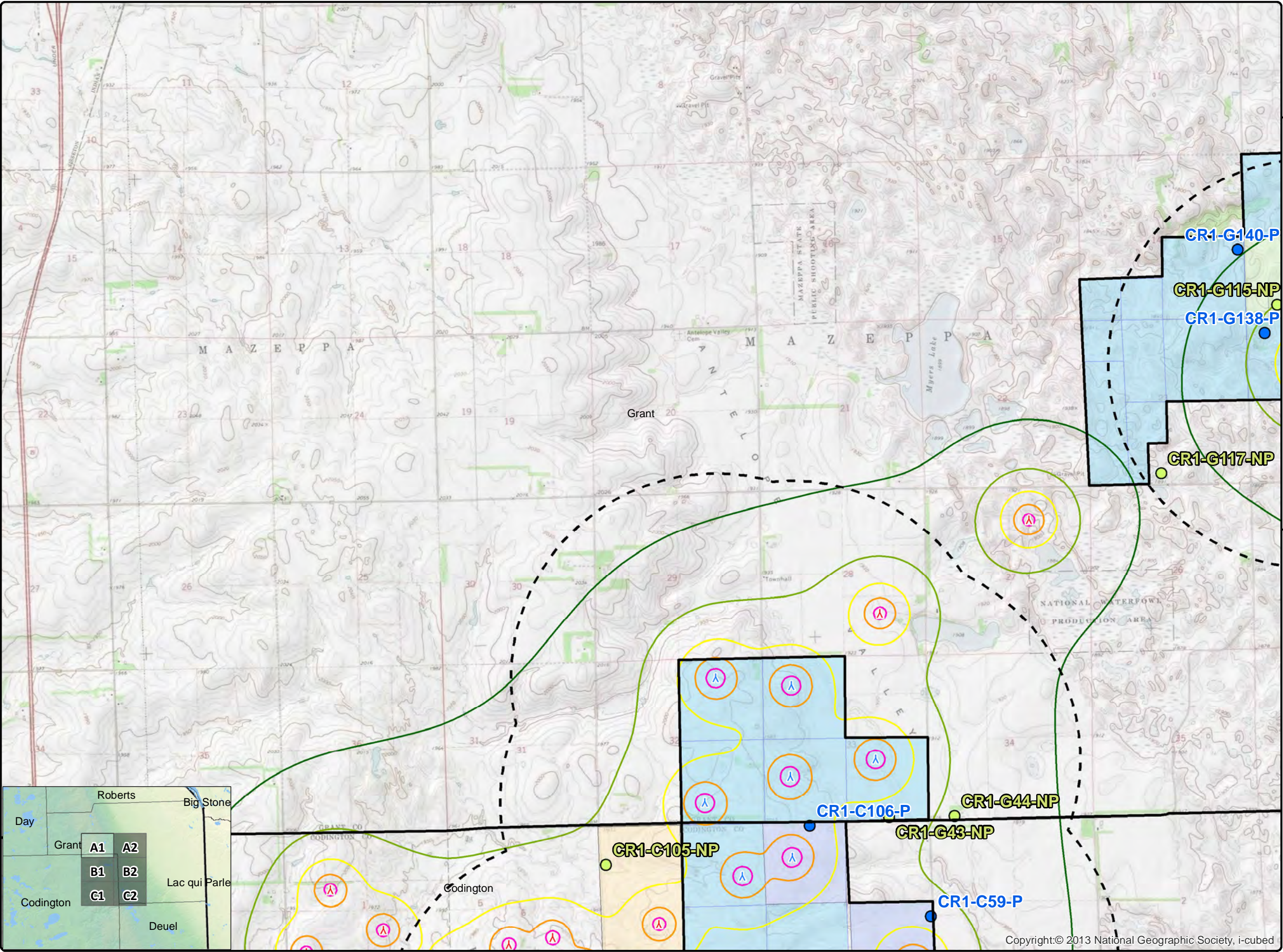
 Non-Part. Codington Parcels

 Participating Land Parcels

 Non-Participating Land Parcels

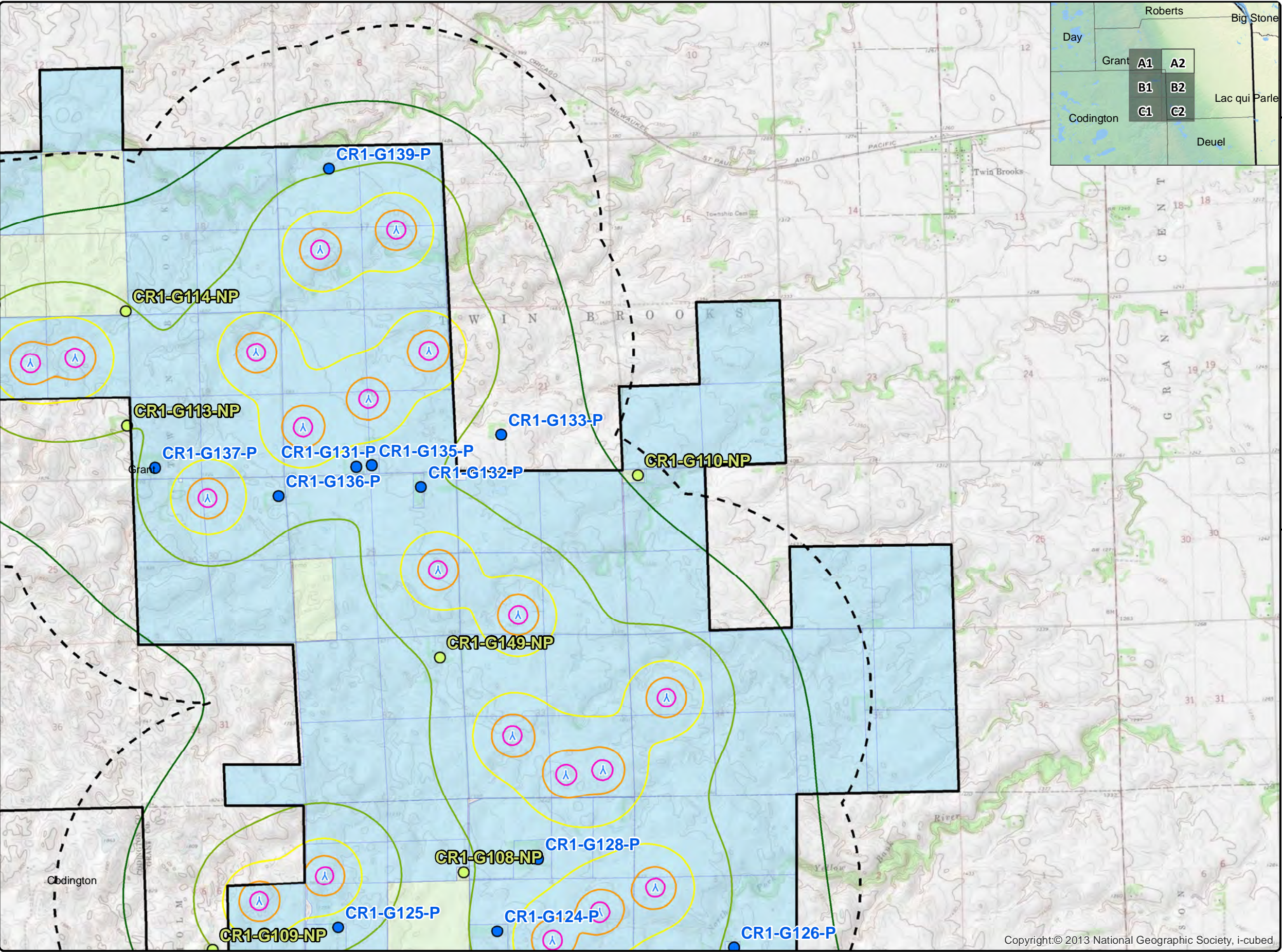
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**Crowned Ridge Wind Farm**  
**Sound Pressure Iso-Lines**

*Client*

SWCA Environmental Consultants

*Project Description*

Wind turbine layout with occupied structures and parcel boundaries within 2 km.

Predicted sound pressure levels at existing residences and land parcel boundaries.

Additional 2 dBA added.

*Location: Watertown, SD*

*Project #: 20174431*

*Issue Dates*

1	Original	2019.05.03
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Drawn By: AS      Checked By: JH

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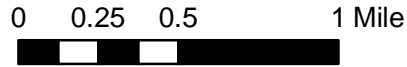
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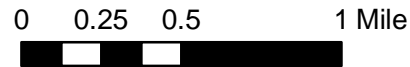
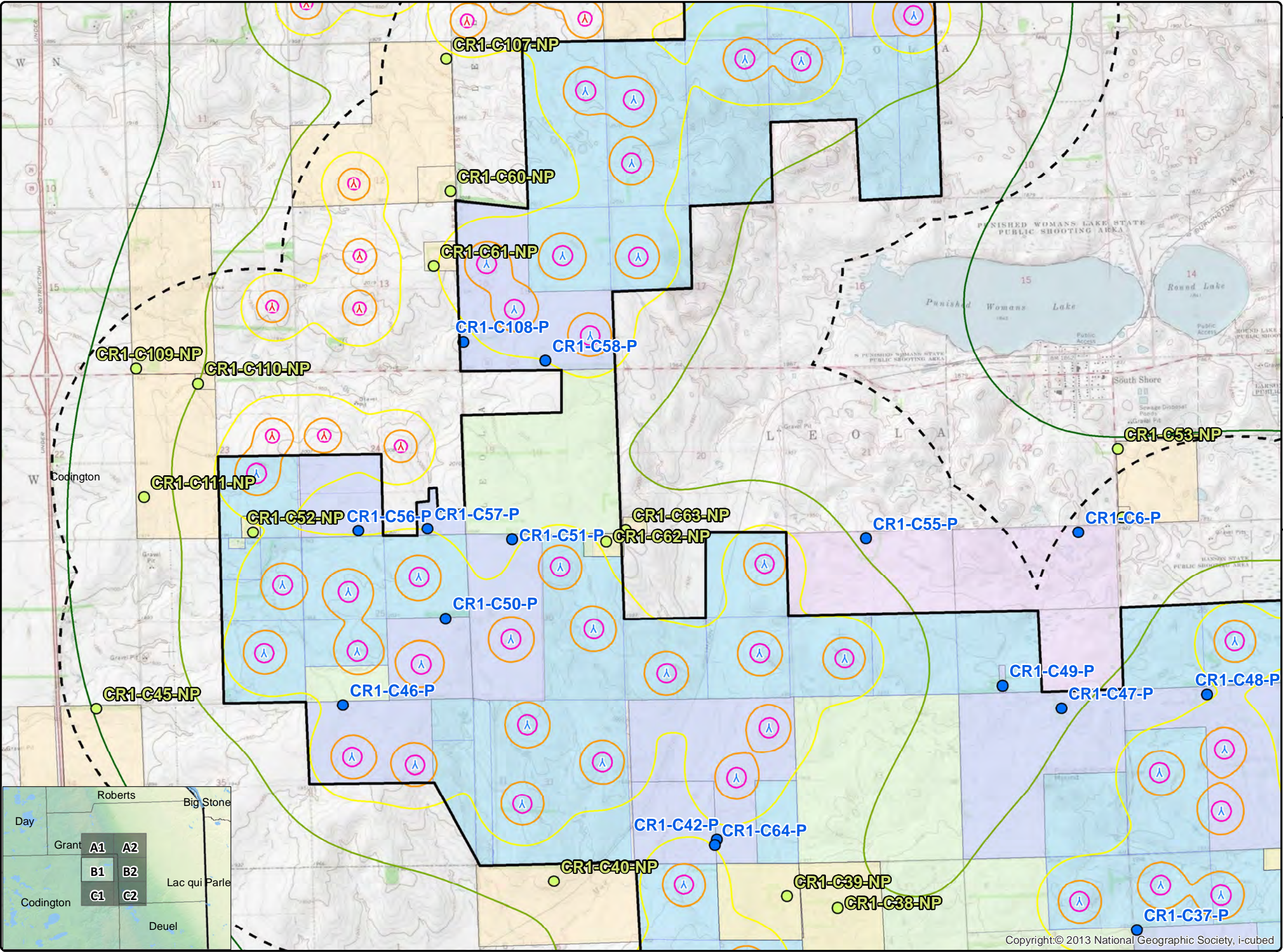
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Issue Dates		
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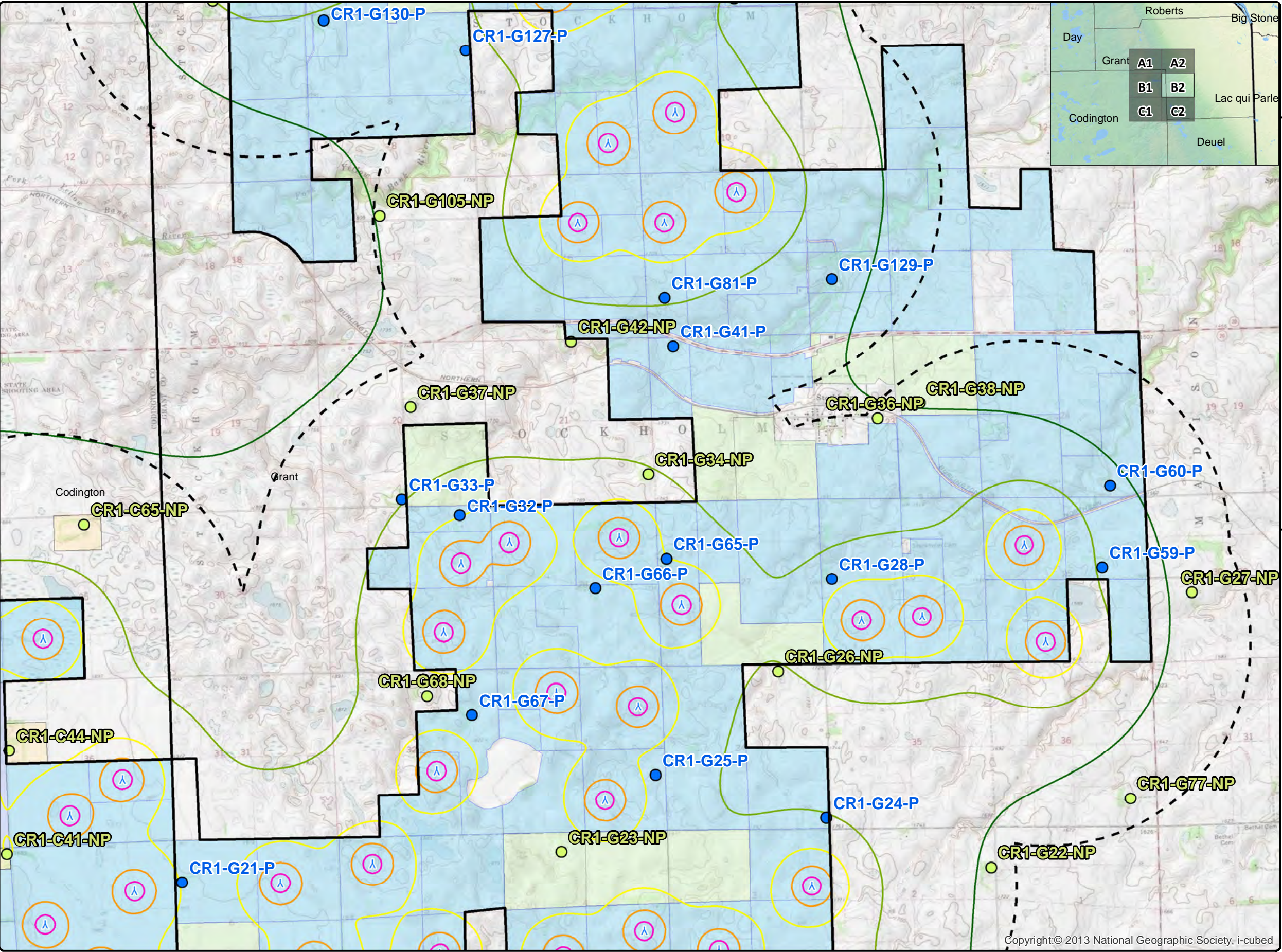
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**Crowned Ridge Wind Farm**  
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*Client*

SWCA Environmental Consultants

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*Project #: 20174431*

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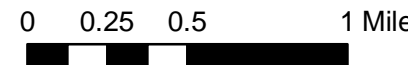
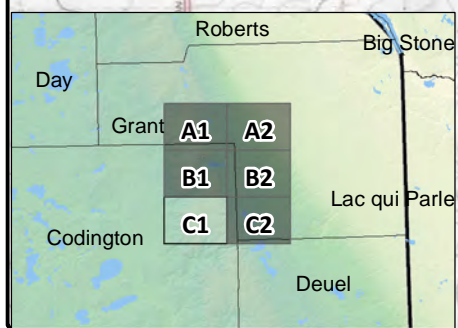
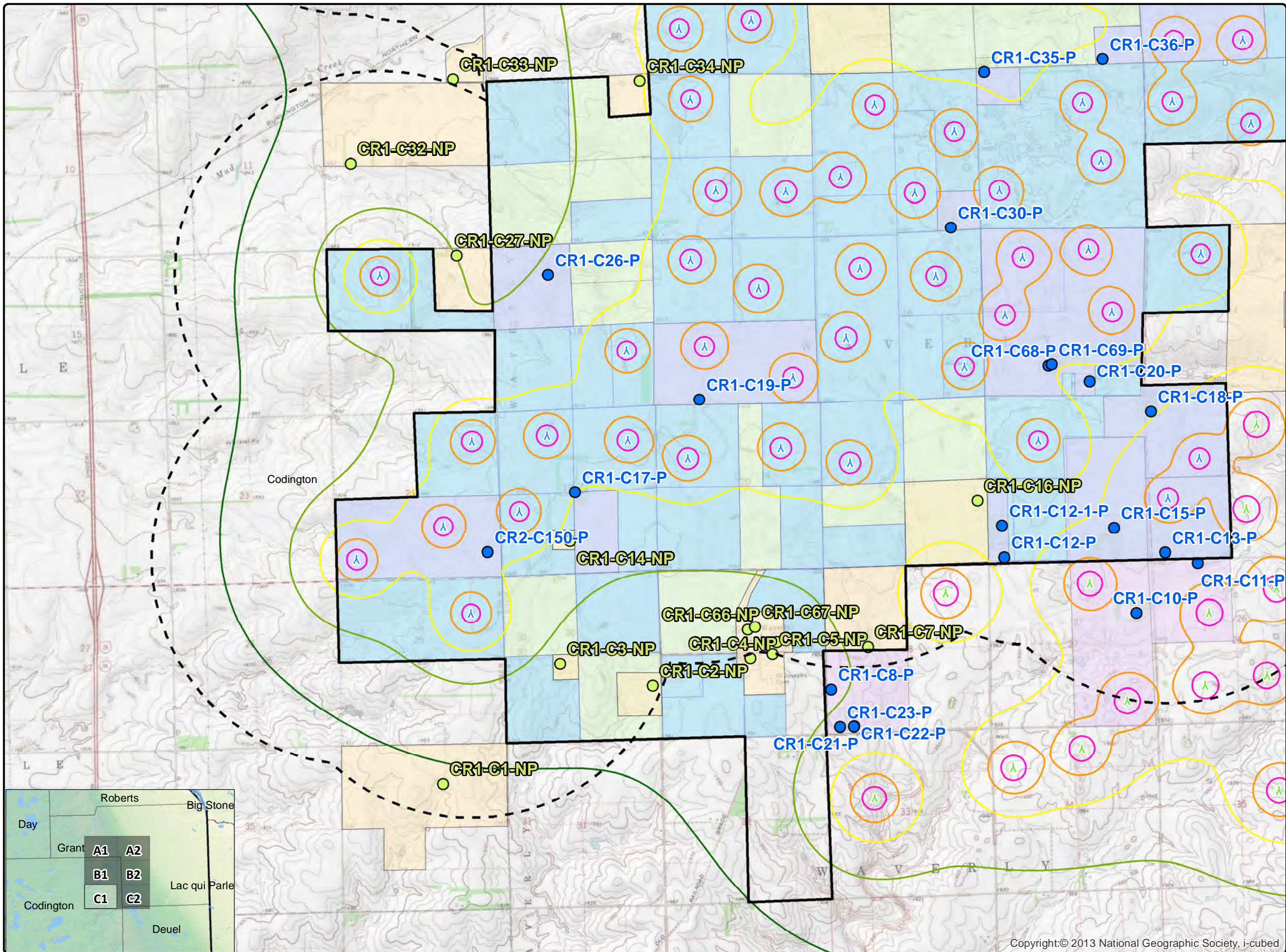
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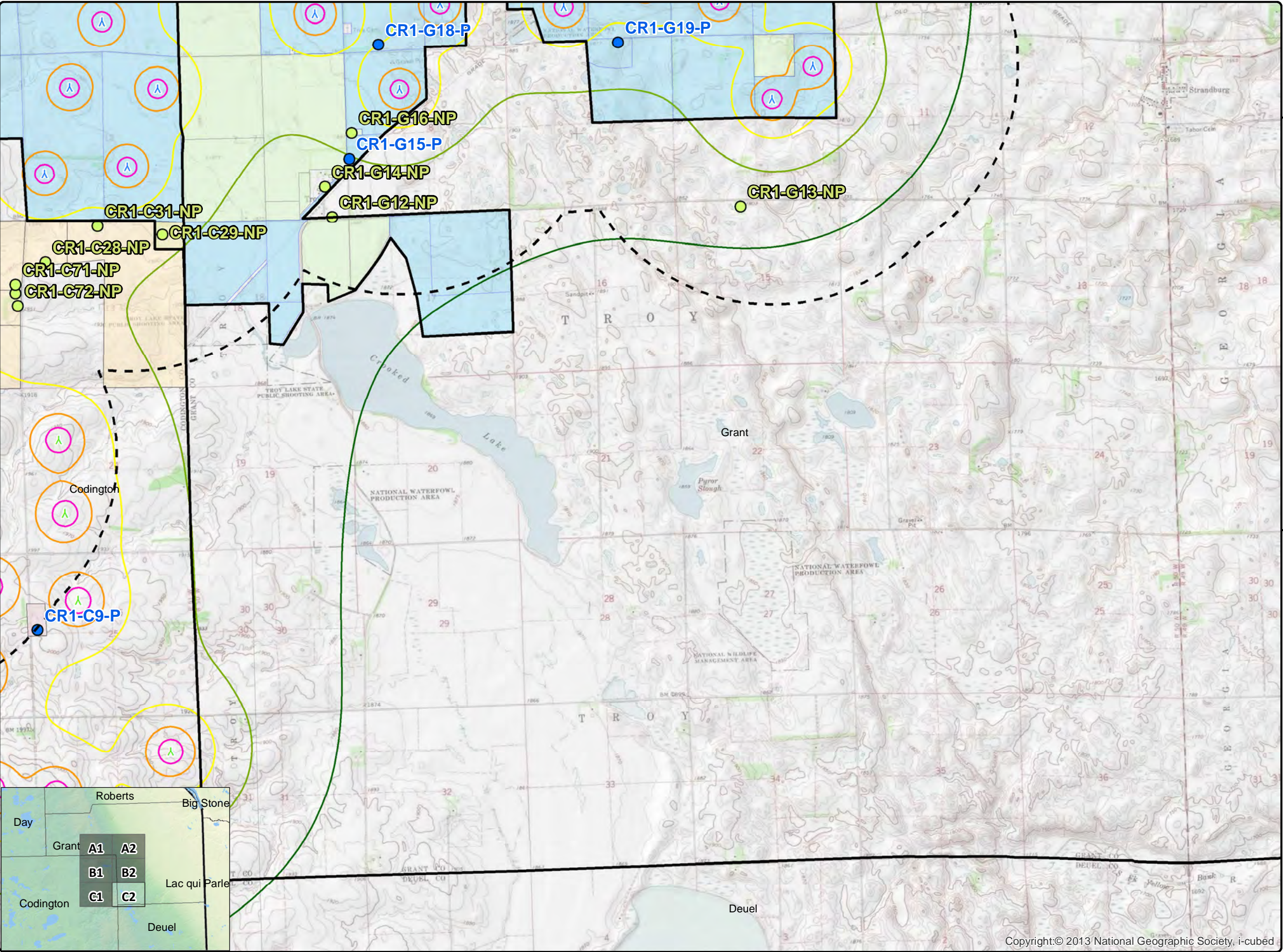
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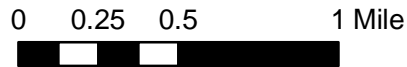
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FAX 605-722-9001

909 ST. JOSEPH STREET  
SUITE 800  
RAPID CITY, SD 57701-3301  
605-342-2592  
FAX 605-342-5185

REPLY TO: Sioux Falls 605-332-5999

*From the office of Miles F. Schumacher*

*e-mail address: [mschumacher@lynnjackson.com](mailto:mschumacher@lynnjackson.com)*

May 14, 2019

**Via Electronic Filing**

Ms. Patricia Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
Capital Building, 1<sup>st</sup> Floor  
500 East Capital Avenue

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

Dear Ms. Van Gerpen:

Crowned Ridge Wind, LLC ("CRW") submits the following update to its April 3, 2019 letter providing the information on the allocation of tax revenues requested by the Commission at the March 20, 2019 public input hearing. The information in this letter, therefore, supersedes the April 3, 2019 letter.

In accordance with South Dakota law, CRW will pay taxes based on the project nameplate capacity and based on the amount of energy generated. The Department of Revenue distributes one hundred percent of the nameplate capacity taxes and twenty percent of the energy taxes to the county treasurer in the county where the wind towers are located. The county auditor then, pursuant to SDCL 10-35-21, apportions fifty percent of those taxes to the school districts, thirty-five percent to the county and fifteen percent to the organized townships, all based on where a wind tower is located.

The charts on the following page illustrate the estimated taxes to the school districts. The top chart shows the taxes to be received by each district outside the state school aid formula. The second chart illustrates the taxes to be received by each district which will be considered as local effort under the school aid formula. See SDCL 13-13-10.1(6B).



Ms. Patricia Van Gerpen, Executive Director  
 May 14, 2019  
 Page 2

Taxes Outside State Aid Formula						
Project Year	Waverly School District		Millbank School District		Watertown School District	
	Allocation Per SDCL 10-35-21	Adjusted: SDCL 13-10.1(6B)	Allocation Per SDCL 10-35-21	Adjusted: SDCL 13-10.1(6B)	Allocation Per SDCL 10-35-21	Adjusted: SDCL 13-10.1(6B)
1	\$ 455,000	\$ 455,000	\$ 49,000	\$ 49,000	\$ 3,000	\$ 3,000
2	\$ 455,000	\$ 455,000	\$ 49,000	\$ 49,000	\$ 3,000	\$ 3,000
3	\$ 455,000	\$ 455,000	\$ 49,000	\$ 49,000	\$ 3,000	\$ 3,000
4	\$ 455,000	\$ 455,000	\$ 49,000	\$ 49,000	\$ 3,000	\$ 3,000
5	\$ 455,000	\$ 455,000	\$ 49,000	\$ 49,000	\$ 3,000	\$ 3,000
6	\$ 455,000	\$ 364,000	\$ 49,000	\$ 39,200	\$ 3,000	\$ 2,400
7	\$ 455,000	\$ 273,000	\$ 49,000	\$ 29,400	\$ 3,000	\$ 1,800
8	\$ 455,000	\$ 182,000	\$ 49,000	\$ 19,600	\$ 3,000	\$ 1,200
9	\$ 455,000	\$ 91,000	\$ 49,000	\$ 9,800	\$ 3,000	\$ 600
10	\$ 455,000	\$ -	\$ 49,000	\$ -	\$ 3,000	\$ -

Local Effort Taxes			
Project Year	Waverly School District	Millbank School District	Watertown School District
1	\$ -	\$ -	\$ -
2	\$ -	\$ -	\$ -
3	\$ -	\$ -	\$ -
4	\$ -	\$ -	\$ -
5	\$ -	\$ -	\$ -
6	\$ 91,000	\$ 9,800	\$ 600
7	\$ 182,000	\$ 19,600	\$ 1,200
8	\$ 273,000	\$ 29,400	\$ 1,800
9	\$ 364,000	\$ 39,200	\$ 2,400
10	\$ 455,000	\$ 49,000	\$ 3,000

If there are any questions on the information or need for additional information, please contact me.

Yours very truly,

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

  
 Miles F. Schumacher

MFS/kab



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

<b>IN THE MATTER OF THE APPLICATION OF CROWNED RIDGE WIND, LLC FOR A PERMIT OF A WIND ENERGY FACILITY IN GRANT AND CODINGTON COUNTIES</b>	) ) ) ) ) )	<b>AMENDMENT TO APPLICATION CROWNED RIDGE WIND, LLC</b>
		<b>EL-19-003</b>

**AMENDMENT TO APPLICATION**

Pursuant to the May 10, 2019, Commission's *Order Denying Motion to Deny and Dismiss; Order to Amend Application*, which directed Crowned Ridge Wind, LLC to amend its Application to describe the current and proposed rights of corporate ownership of the proposed facility, Crowned Ridge Wind, LLC files the following amendment, which adds additional information under Section 3.0 of its Application.

**Amendment to Section 3.0 of the Application.**

Crowned Ridge Wind, LLC is a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (NEER). Crowned Ridge Wind, LLC is the owner of the proposed wind facility, and will be the manager and owner of the proposed wind project if approved by the Commission. Crowned Ridge Wind, LLC will enter into an operating and maintenance agreement with NextEra Energy Operating Services, LLC.

Boulevard Associates, LLC (Boulevard Associates) is a wholly-owned indirect subsidiary of NEER. During early stage development, Boulevard Associates was used to secure easement options agreements for the potential wind facility. After the creation of the current and future owner of the proposed wind facility (Crowned Ridge Wind, LLC), Boulevard Associates ceased entering into easement option agreements, because those agreements were thereafter entered into by Crowned Ridge Wind, LLC. Boulevard Associates has not exercised any easement option agreements related to the proposed wind facility. If the Commission approves the proposed wind facility, all easement option agreements will be transferred from Boulevard Associates to Crowned Ridge Wind, LLC, and it will be Crowned Ridge Wind, LLC that exercises the options on the underlying easements prior to the start of construction.

Similarly, Cattle Ridge Wind Farm, LLC is a wholly-owned indirect subsidiary of NEER and holds certain easement agreements. The Cattle Ridge Wind Farm, LLC easement agreements will be transferred to Crowned Ridge Wind, LLC if the proposed project is approved by the



Commission and Crowned Ridge Wind, LLC will provide notice of the construction period pursuant to the underlying easement agreements prior to the start of construction.

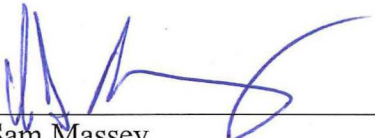
Further, Tower Associates, LLC is a wholly-owned indirect subsidiary of NEER and holds certain agreements related to temporary meteorological towers. These agreements will not be transferred to Crowned Ridge Wind, LLC and will expire at the end of their applicable term with the latest agreement expiring in 2022. The one permanent meteorological tower easement will be transferred from Tower Associates to Crowned Ridge Wind, LLC prior to the start of construction if the project is approved by the Commission.



STATE OF FLORIDA )

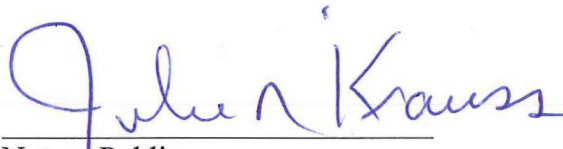
COUNTY OF PALM BEACH ) ss  
)

I, Sam Massey, being duly sworn on oath, depose and state that I am the witness identified in the foregoing prepared Amendment to Section 3.0 of the Crowned Ridge Wind, LLC Application, that I am familiar with its contents, and that the facts set forth are true to the best of my knowledge, information, and belief.

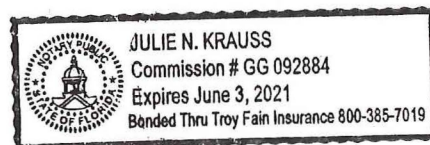
  
Sam Massey

Subscribed and sworn to before me this 15<sup>th</sup> day of  
May 2019.

SEAL

  
Notary Public

My Commission Expires \_\_\_\_\_





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**Lynn, Jackson, Shultz & Lebrun, P.C.**

LAWYERS ALSO ADMITTED IN MINNESOTA, IOWA, NORTH DAKOTA, AND WYOMING

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605-722-9000  
FAX 605-722-9001

909 ST. JOSEPH STREET  
SUITE 800  
RAPID CITY, SD 57701-3301  
605-342-2592  
FAX 605-342-5185

REPLY TO: Sioux Falls 605-332-5999

***From the office of Miles F. Schumacher***

*e-mail address: [mschumacher@lynnjackson.com](mailto:mschumacher@lynnjackson.com)*

May 17, 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  
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A 300 megawatt Wind Facility

Dear Ms. Van Gerpen:

This letter is to inform you that due to Kimberly Wells not being available for the evidentiary hearing on this docket, Sarah Sappington is adopting all of the responses of Kimberly Wells to Data Requests, including, but not limited to, the February 19, 2019 responses 1-4 and 1-5 to Staff's First Set of Data Requests; the March 18, 2019, responses 2-3, 2-8, 2-13, 2-15, 2-16 through 2-24, 2-37 and 2-38 to Staff's Second Set of Data Requests; and the March 22, 2019 responses 1-34 through 1-37, 1-39, 1-40, 1-90 through 1-92 and 1-146 and 1-147 to Intervenor's First Set of Data Requests.

Thank you.

Yours very truly,

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



Miles F. Schumacher

MFS:kab

cc: Brian Murphy



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

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IN THE MATTER OF THE APPLICATION	)	
BY CROWNED RIDGE WIND, LLC FOR A	)	EL19-003
PERMIT OF A WIND ENERGY FACILITY	)	
IN GRANT AND CODINGTON COUNTIES	)	<b>APPLICANT'S SUPPLEMENTAL</b>
	)	<b>RESPONSES TO STAFF'S FIRST</b>
	)	<b>SET OF DATA REQUESTS TO</b>
	)	<b>CROWNED RIDGE WIND, LLC</b>



- 1-1) Provide copies of all pleadings in any civil appeal associated with the county permit(s) related to this project.

**Response:**

Attached are all pleadings in any civil appeal associated with the county permit(s) related to this Project.

**Supplemental Response:**

Attached is a copy of the Notice of Entry of Findings of Fact and Conclusions of Law with attached Findings of Fact and Conclusions of Law and Order.

**Respondent:** Miles Schumacher, Attorney



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Miles F. Schumacher  
Attorneys for Applicant  
Lynn, Jackson, Shultz & Lebrun, PC  
110 N. Minnesota Ave., Suite 400  
Sioux Falls, SD 57104



STATE OF SOUTH DAKOTA    )  
   : SS  
 COUNTY OF CODINGTON    )

IN CIRCUIT COURT  
 THIRD JUDICIAL CIRCUIT

PAUL JOHNSON, PATRICK LYNCH,  
 MELISSA LYNCH, and AMBER  
 CHRISTENSON,

Petitioners,

v.

CODINGTON COUNTY BOARD OF  
 ADJUSTMENT, CROWNED RIDGE  
 WIND, LLC, CROWNED RIDGE WIND  
 II, LLC,

Respondents.

14CIV18-340

**NOTICE OF ENTRY OF FINDINGS  
 OF FACT AND CONCLUSIONS OF  
 LAW**

NOTICE IS HEREBY given that on May 6, 2019, the Honorable Robert L. Spears, Judge of the Third Judicial Circuit, signed the Findings of Fact and Conclusions of Law, which Findings of Fact and Conclusions of Law was entered and filed on May 6, 2019. Attached hereto and served herewith is a true and correct copy of said Findings of Fact and Conclusions of Law.

Dated this 7<sup>th</sup> day of May, 2019.

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

By: /s/ Miles F. Schumacher

Miles F. Schumacher  
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*Attorneys for Respondents Crowned Ridge  
 Wind I, LLC and Crowned Ridge Wind II,  
 LLC*

010030



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 7, 2019, I caused the following document:

▪ **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

to be filed and served electronically with the Clerk of Court through Odyssey File & Serve, upon the following:

Mr. John C. Wiles  
Wiles & Rylance  
[jcw@WilesAndRylance.com](mailto:jcw@WilesAndRylance.com)

Mr. Jack H. Hieb  
Mr. Zachary W. Peterson  
Richardson, Wyly, Wise, Sauck & Hieb, LLP  
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[ZPeterson@rwwsh.com](mailto:ZPeterson@rwwsh.com)

*/s/ Miles F. Schumacher*

\_\_\_\_\_  
Miles F. Schumacher



STATE OF SOUTH DAKOTA   )  
   : SS  
 COUNTY OF CODINGTON    )

IN CIRCUIT COURT  
 THIRD JUDICIAL CIRCUIT

PAUL JOHNSON, PATRICK LYNCH,  
 MELISSA LYNCH, and AMBER  
 CHRISTENSON,

Petitioners,

v.

CODINGTON COUNTY BOARD OF  
 ADJUSTMENT, CROWNED RIDGE  
 WIND, LLC, CROWNED RIDGE WIND  
 II, LLC,

Respondents.

14CIV18-340

**FINDINGS OF FACT AND  
 CONCLUSIONS OF LAW  
 AND ORDER**

The Court having reviewed the parties' submissions, and having heard argument from the parties, and being full advised, enters the following Findings of Fact and Conclusions of Law and Order.

**FINDINGS OF FACT**

To the extent that any Finding of Fact herein is improperly designated as such, it shall be considered as a Conclusion of Law.

1. This appeal follows the decision of the Codington County Board of Adjustment ("Board") to grant a CUP to Crowned Ridge Wind, LLC, and Crowned Ridge Wind II, LLC (collectively "Crowned Ridge").

2. Petitioners all own land in Codington County and claim to be aggrieved by the Board's decision granting a CUP to Crowned Ridge.



3. On or about June 4, 2018, Crowned Ridge filed an application for a CUP to construct and operate a wind energy system (“WES”) project in Codington County.

4. In addition to the CUP application, Crowned Ridge included a participating property owner list, corresponding map, project overview, as well as maps, plans, studies, reports, and analyses required by the recently revised Codington County Ordinance ("Ordinance").

5. The Board sent notice of the hearing to be held on Crowned Ridge’s CUP application via certified mail to 200 adjacent property owners.

6. The notice, dated July 5, 2018, stated, *inter alia*, “Your property has been identified as adjacent to property included in the wind energy system project described below. You are welcome to attend a meeting of the Codington County Planning Commission/Board of Adjustment on Monday, July 16, 2018 at the Codington County Extension Complex at 6:30 pm.”

7. The notice stated the Board would be considering the following application: “A Conditional Use Permit Pursuant to Section 3,04.02.21 Wind Energy System. The applicant, Crowned Ridge LLC and Crowned Ridge Wind II, LLC, is requesting to operate a Wind Energy System with up to 164 wind turbines, associated electrical transmission lines, and maintenance structures on certain property situated in Leola, Germantown, Rauville, Waverly, Kranzburg N, and Kranzburg S townships as displayed in the below map and available for review at the Codington County Zoning Office.”



8. The notice also stated “All persons interested therein may appear and be heard before the Board of Adjustment at said hearing or may file written comments with the Zoning Officer at 1910 West Kemp Avenue three or more days prior to said hearing.”

9. The Board provided evidence of certified mail receipts indicating notice was sent to each adjacent property owner.

10. The Board published notice of its July 16, 2018, hearing on Crowned Ridge's CUP application in the Watertown Public Opinion on July 6, 2018.

11. The Codington County staff report and related materials were posted on the County's website the week before the July 16, 2018, hearing.

12. A public hearing on Crowned Ridge's CUP application was held before the Board on July 16, 2018.

13. Petitioners have not identified any adjacent property owners who failed to attend the Board's July 16, 2018, hearing.

14. Petitioners have not provided proof of any written comments that were submitted after 12:00 pm on Friday, June 13, 2018, that were excluded from the Board's consideration.

15. Petitioners all attended and presented opposition to Crowned Ridge's CUP application, either personally or through counsel.

16. During the hearing, Board Member Klatt advised the Board of his sister's wind easement, and Petitioner Amber Christenson objected to his participation as a result.

17. There is no evidence that Board member Klatt stood to gain directly and financially by approving Crowned Ridge's CUP application.



18. The objection to Klatt participating was noted, but Klatt was found to be qualified to participate, without objection from any of the other Board members.

19. The Board's Findings of Fact show that the Board unanimously voted in favor of granting Crowned Ridge's CUP application.

20. Disqualifying Klatt's vote still satisfies the Ordinance requirement of a two thirds vote to grant a CUP.

21. Crowned Ridge's CUP application included an expert report regarding the noise and flicker impact of the WES project.

22. The expert concluded the noise and flicker impact would comply with the Ordinance.

23. The expert report was considered by the Board at the public hearing and was responded to by Petitioners at said hearing.

24. Petitioners provided no evidence regarding the credibility of that expert, no evidence that such expert lacked appropriate education, training, and expertise, and no evidence that the estimates in the expert report were unreliable.

25. The hearing minutes reflect that the Board discussed the issue of decommissioning with Crowned Ridge.

26. Petitioners have provided no evidence to call into question the reliability of Crowned Ridge's software programs such as "windPRO."

27. Prior to construction of a WES project, estimates based on computer modeling are all that is available when determining the flicker impact.



28. Crowned Ridge submitted a letter of assurance for obtaining haul road agreements to the Board.

29. Crowned Ridge is subject to the continuing jurisdiction and authority of the Board in the event of non-compliance of any conditions pertaining to the CUP for the WES project.

30. The Board addressed issues concerning certain terms and conditions of the haul road agreements.

31. Numerous questions were addressed at the hearing.

32. The Board clearly considered and asked questions regarding the issue of whether Crowned Ridge's CUP application would promote the public health, safety, and welfare.

33. After considering Crowned Ridge's CUP application, written testimony submitted prior to the hearing, and oral testimony presented at the July 16, 2018, hearing, the Board in a 6-0 vote granted a CUP to Crowned Ridge.

34. The Board issued its Findings of Fact in support of its motion to approve the application for CUP, dated July 16, 2018.

35. In its Findings of Fact, the Board found, *inter alia*, that the “application and testimony at this meeting allowed the Board to adequately review how the applicant will satisfy requirements of Chapter 5.22 of the Codington County Zoning Ordinance; including but not limited to site clearance, topsoil protection, compaction, livestock protection, fences, publish 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.”

36. The Board’s Findings of Fact also state that the “applicant submitted all materials required by Chapter 5.22 of the . . . Ordinance” and the agreement in the letter of assurance that the applicant will obtain a haul road agreement satisfies the requirement for a haul road agreement.”

37. The Board 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.”

38. The Board concluded it was “empowered to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.”

39. On August 17, 2018, Petitioners filed their “Petition to Appeal the Wind Energy System Conditional Use permit Granted July 16, 2018, and Filed July 18, 2018.” The Petition was submitted “pursuant to SDCL 11-2-61, SDCL 11-2-62 and SDCL 21-31-1 et seq.” and Petitioners allege the Board’s decision granting the CUP was illegal.

40. Petitioners request reversal of the decision granting the CUP and/or remand.

41. Petitioners allege five grounds for reversal: the Board arbitrarily and willfully disregarded undisputed proof; the Board’s decision was based on fraud; the Board exceeded its jurisdiction; the Board failed to regularly pursue its authority; or the Board engaged in any act forbidden by law and neglected to do any act required by law.



42. Additional findings of fact are set forth in the Court's Memorandum Opinion dated March 22, 2019, and are incorporated herein by this reference as allowed under SDCL § 15-6-52(a).

### **CONCLUSIONS OF LAW**

To the extent that any Conclusion of Law herein is improperly designated as such, it shall be considered a Finding of Fact.

1. Pursuant to SDCL 11-2-61.1, "[a]ny appeal of a decision relating to the grant or denial of a conditional use permit shall be brought under a petition, duly verified, for a writ of certiorari," and "shall be determined under a writ of certiorari standard regardless of the form of the approving authority."

2. The petition must set forth "that the decision is illegal, in whole or in part, [and] specify the grounds of the illegality."

3. Judicial review of petitions for relief postured as writs of certiorari is limited.

4. The court in reviewing the Board's decision does not determine whether it was right or wrong, but only "whether the board of adjustment had jurisdiction over the matter and whether it pursued in a regular manner the authority conferred upon it."

5. The test of jurisdiction is whether there was power to enter upon the inquiry.

6. A challenge to jurisdiction tests the power to make an inquiry, not the correctness of a decision of law or fact.



7. The Board's actions will be sustained unless it did some act forbidden by law or neglected to do some act required by law.

8. Certiorari will not lie to review technical lack of compliance with law or be granted to correct insubstantial errors which are not shown to have resulted in prejudice or to have caused substantial injustice.

9. The Board's consideration of Crowned Ridge's CUP application as authorized by the newly enacted Ordinance was not improper, but rather the duty of the Board.

10. Municipal zoning ordinances are afforded a presumption of constitutional validity.

11. To overcome this presumption, the Petitioners must present facts supporting the claim the ordinance is arbitrary, capricious, and unconstitutional.

12. The scope of review under the certiorari standard does not give the court the power to invalidate the ordinances themselves in this action, because under SDCL 11-2-65, this Court may only reverse or affirm, wholly or partly, or modify the decision brought up for review.

13. SDCL § 11-2-29 and -30 concern notice requirements for a planning commission's hearing and subsequent board hearing on any proposed amendment, supplement, change, modification, or repeal of comprehensive plan, ordinances, restrictions, and boundaries adopted by the County, and are inapplicable to the Board's review of a CUP application.



14. SDCL 15-6-6(a) is inapplicable because SDCL Ch. 15-6 governs the rules of procedure in circuit courts, not county boards of adjustment, and that chapter does not apply to writs of certiorari.

15. The Board had jurisdiction to consider Crowned Ridge's CUP application, and it did not exceed its authority in granting said application in accordance with the Ordinance.

16. Petitioners' argument that Crowned Ridge is not the real party in interest was not presented to the Board, and was made for the first time in this appeal, and the Court, therefore, need not consider this argument.

17. Moreover, even if the Court considered Petitioners' argument, it is without merit. A limited liability company such as Crowned Ridge is a legal entity distinct from its members [i.e., NextEra].

18. A member of a limited liability company is not a proper party to proceedings by or against a limited liability company.

19. Crowned Ridge was the real party in interest to file the CUP application.

20. The Board had jurisdiction over the matter to consider Crowned Ridge's CUP application, and it did not exceed its authority in granting said application to Crowned Ridge.

21. The notice and hearing requirements of South Dakota law are in place to afford affected landowners with the opportunity to formally voice their concerns and present evidence in opposition to opposed measures.



22. The Board complied with section 4.05.01(2) of the Ordinance by sending notice via certified mail to adjacent property owners.

23. The Board complied with section 4.05.01(2) of the Ordinance by timely publishing notice in the Watertown Public Opinion.

24. The Watertown Public Opinion is "a paper of general circulation in the area affected" because it "is a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota.

25. To establish a procedural due process violation, a plaintiff must demonstrate that he has a protected property or liberty interest at stake and that he was deprived of that interest without due process of law.

26. Proof of prejudice is generally a necessary element of a due process claim.

27. While chapter 5.22 of the Ordinance set forth requirements for the contents of the WES map to be included in a CUP application, the chapter does not extend these requirements to the contents of the Board's notice to adjacent land owners.

28. Petitioners are property owners adjacent to the wind project and thereby have protected property interests at stake.

29. Petitioners fail to show that they were deprived of their interests without due process of law.

30. Petitioners fail to show that the Board's mailing and publication of notice of its July 16, 2018, hearing caused them prejudice or substantial injustice.



31. Petitioners were properly and timely notified via certified mail of the Board's July 16, 2018, hearing, signed the included return receipts, and personally attended the hearing to voice their opposition to Crowned Ridge's CUP application.

32. The Board's inclusion of the WES map with the mailed and published notice of its July 16, 2018, hearing did not result in any prejudice or substantial injustice.

33. Petitioner Christenson both received mailed notice and attended the Board's meeting on Crowned Ridge's CUP application.

34. Petitioners fail to demonstrate that any of their submitted written comments were not considered by the Board, or that they were prejudiced by any alleged misunderstanding of the contents of the Board's notice published on July 6, 2018.

35. Therefore, the Board pursued in a regular manner the authority conferred upon it by complying with the notice requirements in the Ordinance, and did not thereby violate Petitioners' due process rights.

36. There is nothing in the Ordinance requiring that the zoning officer's staff report (its recommendation to grant the CUP application) must include exhibits, testimony or findings of fact.

37. A zoning officer's duties include receiving CUP applications, reviewing the application, and making recommendations regarding said application the Board of Adjustment.

38. The Ordinance does not require the zoning officer to independently review and provide recommendations for anything other than the CUP application.



39. The zoning officer duly reviewed Crowned Ridge's CUP application in making his recommendations to the Board, thereby satisfying section 4.02.02(12).

40. The recommendations in the Staff Report were not inherently illegal, and it was properly considered by the Board.

41. The Staff Report was properly made available at the zoning officer's office and online at the County's website on July 10, 2018.

42. The Board's public posting of the Staff Report was timely pursuant to its bylaws and state law.

43. Therefore, the Board pursued in a regular manner the authority conferred upon it in considering the zoning officer's Staff Report on Crowned Ridge's CUP application.

44. "Due process requires adequate notice and an opportunity for meaningful participation."

45. Under South Dakota law, "meaningful participation" does not require "equal time."

46. The Board may limit the period for public comment, but not so much as to provide for no public comment.

47. The Board pursued in a regular manner the authority conferred upon it in imposing time limitations on Petitioners' ability to present testimony at the July 16, 2018, hearing.

48. The Board pursued in a regular manner the authority conferred upon it by drafting its findings of fact during or after the July 16, 2018, hearing.



49. Because certiorari cannot be used to examine evidence for the purpose of determining the correctness of a finding, this Court does not decide whether it would have reached the same conclusion as the Board.

50. Therefore, the Board pursued in a regular manner the authority conferred upon it by finding that notice was adequately given.

51. The Board may review the evidence presented to it and make credibility determinations.

52. The Board acted within its authority at the hearing by adopting the report of Crowned Ridge's expert over Petitioners' objections about the validity of the report's conclusions.

53. The Board pursued in a regular manner the authority conferred upon it by considering the noise and flicker impacts of Crowned Ridge's proposed WES project.

54. The Board addressed the issue of allegedly missing tower locations and receptors by reviewing Crowned Ridge's CUP application and asking Crowned Ridge numerous questions regarding the WES project and its impact on the region.

55. The Board pursued in a regular manner the authority conferred upon it by finding that Crowned Ridge submitted all materials required by chapter 5.22 of the Ordinance.

56. The Board pursued in a regular manner the authority conferred upon it by finding that Crowned Ridge satisfied the haul road requirement as it pertains to issuance of the CUP.



57. The Board duly considered the credibility of all evidence before it and made its determination that Crowned Ridge's application satisfied all applicable Ordinance requirements.

58. The Board pursued in a regular manner the authority conferred upon it by finding that Crowned Ridge's CUP application and all written and oral testimony at the July 16, 2018, hearing adequately addressed all concerns of the Ordinance.

59. Some of the objectives of the County's adoption of the Ordinance include, "[t]o prevent excessive population densities and overcrowding of the land with structures" and "to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare."

60. The Board considered these objectives and found them to be satisfied.

61. The Board pursued in a regular manner the authority conferred upon it by considering the issue of project density or overcrowding of structures and determining that Crowned Ridge's application complied with Ordinance requirements.

62. The Board pursued in a regular manner the authority conferred upon it by finding that granting Crowned Ridge's CUP application would promote the public health, safety, and welfare.

63. Decision makers are presumed to be objective and capable of judging controversies fairly on the basis of their own circumstances.

64. The burden was on Petitioners to present some evidence of "actual bias," "unacceptable risk of actual bias or prejudgment," or some other conflict of interest by Klatt.



65. Petitioners failed to present any evidence of Klatt's alleged bias.

66. If an official with a direct pecuniary interest participates in discussion or votes on a matter before the governing body, the legal sole remedy is to invalidate that official's vote.

67. Board member Klatt did not harbor any improperly biased motive or purpose in deciding upon Crowned Ridge's CUP application.

68. If Klatt had a conflict of interest and his vote were disqualified, the number of Board member votes in favor of granting Crowned Ridge's CUP application is sufficient to grant the CUP to Crowned Ridge.

69. The Board pursued in a regular manner the authority conferred upon it by permitting Klatt to participate and vote upon Crowned Ridge's CUP application.

70. Petitioners' allegations are not supported in fact or law.

71. The Board had jurisdiction over the matter, regularly pursued its authority, and acted legally.

72. Additional conclusions of law are set forth in the Court's Memorandum Opinion dated March 22, 2019, and are incorporated herein by this reference as allowed under SDCL § 15-6-52(a).

### **ORDER**

Based on the foregoing, the Court enters the following:

The Petition to Appeal the WES CUP Granted July 16, 2018, and Filed July 18, 2018, is Denied and the Board's decision to grant the CUP to Crowned Ridge is Affirmed.

Dated this \_\_\_\_ day of May, 2019.

BY THE COURT

Signed: 5/6/2019 3:42:19 PM

*Robert L. Spears*  
The Honorable Robert L. Spears  
Circuit Court Judge

Attest:  
ATTEST:  
Zeller, Barbara  
Clerk of Court  
Clerk/Deputy

BY \_\_\_\_\_



(SEAL)



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

---

IN THE MATTER OF THE APPLICATION )	
BY CROWNED RIDGE WIND, LLC FOR A )	EL19-003
PERMIT OF A WIND ENERGY FACILITY )	
IN GRANT AND CODINGTON COUNTIES )	<b>APPLICANT'S RESPONSES</b>
)	<b>TO STAFF'S FIFTH SET OF</b>
)	<b>DATA REQUESTS TO</b>
)	<b>CROWNED RIDGE WIND, LLC</b>

- 5-1) Referring to Crowned Ridge's response to Staff data request 3-2, please provide a copy of the GE Safety Manual. The original response only included a copy of the operating manual.

**Response:** Please see Confidential Attachment 1.

**Respondent:** Mark Thompson, Manager of Wind Engineering

- 5-2) Please identify if an ice detector and/or ice detection system will be used for the wind turbines. If an ice detection system will be used, please explain what turbine parameters will be monitored and how the turbine's control system will know when ice is accumulating on the blades.

**Response:** Yes, an ice detector and ice detection system will be used for all Crowned Ridge Wind wind turbines. More specifically, the turbine is capable of detecting ice buildup on the blades by activating sensors that compare wind speed, ambient temperature and rotor (blade) rpm to the power output of the turbine. If the ice buildup is at a level that causes the turbine output to be outside expected limits set by GE, the turbine will automatically shut down. In addition, ice buildup can be detected through higher than normal vibration, in which case the turbines will shut down automatically.

**Respondent:** Mark Thompson, Manager of Wind Engineering

- 5-3) Will Mr. and Ms. Tim Lindgren's easement option expire prior to construction? If the easement option will expire, please identify what impact that will have on the project layout if the easement is not renewed. If the easement will not expire, please identify the expiration date.

**Response:** Yes, while the option is in effect today, assuming Crowned Ridge Wind does not exercise the option prior to it expiring and that Mr. and Ms. Lindgren do not elect to renew their easement option, the Lindgren's easement option would expire prior to construction of the Project. Upon expiration of the easement option, the two proposed turbine locations and associate facilities would be removed from the Lindgren property in its entirety and the Applicant would utilize two alternate turbine locations proposed in the Project Area.

**Respondent:** Tyler Wilhelm, Project Manager

- 5-4) Is Crowned Ridge aware of any additional easement options that may expire prior to the planned start of construction? If yes, please identify when Crowned Ridge will know if those landowners decide to renew.

**Response:** Yes. The Applicant expects to know if those landowners will elect to renew their easement options by June 20, 2019.


**Respondent:** Tyler Wilhelm, Project Manager

- 5-5) Provide an updated Figure 3, Project Map, that properly reflects the Thompson property as not participating and the location the underground collector line will be relocated to.

**Response:** See Attachment 1.

**Respondent:** Tyler Wilhelm, Project Manager

Dated this 23rd day of May, 2019.



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Miles F. Schumacher  
Attorneys for Applicant  
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110 N. Minnesota Ave., Suite 400  
Sioux Falls, SD 57104