

BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

EXHIBIT I-1

IN THE MATTER OF THE APPLICATION OF)
CROWNED RIDGE WIND II, LLC FOR)
WIND ENERGY FACILITY IN) EL19-027
DEUEL, GRANT AND CODINGTON COUNTIES)

AFFIDAVIT OF GARRY EHLEBRACHT
17539 468TH AVE., GOODWIN, SOUTH DAKOTA 57238

State of South Dakota, County of Deuel: ss.

Garry Ehlebracht, being duly sworn on oath, deposes and says:

1 My name is Garry Ehlebracht. I purchased this property – then a bare tract – in 1993,
2 and have lived at the above-referenced address since 1999. The legal description for our
3 property is the **SOUTH 922’ OF THE EAST 731’ OF THE SOUTHEAST QUARTER**
4 **OF THE NORTHEAST QUARTER (SE1/4, NE1/4), LESS THE SOUTH 605’ OF THE**
5 **WEST 97’ OF THE EAST 731’ THEREOF, IN SECTION 20, TOWNSHIP 116**
6 **NORTH, RANGE 50 WEST OF THE 5TH P.M., DEUEL COUNTY.**

7 My home is about two miles south of Goodwin. I presently own and operate Kliegles
8 Garage in Goodwin, and OR Machining and Repair. I have been employed by the US Postal
9 Service (Goodwin) since 2003, and still work as Postmaster Relief.

10 Goodwin, as a community, has been around for a long time – around 1878. It is
11 platted into lots, and has a population of around 150, but to the best of my knowledge, it is
12 not an incorporated municipality under Title 9 of SDCL. If incorporated, it would be a third-
13 class municipality with a population of under 500.

14 To the best of my knowledge, Goodwin does not exercise zoning power. Assuming it
15 is an incorporated municipality, I believe it is a very old one. I have a memo from counsel
16 addressing the statute, SDCL 11-2-14, uniformity in zoning regulations being required within
17 each district. If the towns of Goodwin, Astoria, Brandt and Altamont are incorporated, and
18 the city limits represent the dividing line for the “unincorporated” areas of the County, the
19 County’s adopted WES setback of 1 mile, measured from the “nearest residence,” seems to
20 be highly variable in all directions.

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1 In 2017, the Deuel County Board adopted amendments to Section 1215 of the Zoning
2 Ordinance, concerning Wind Energy Systems (or WES). As amended, my home on 468th
3 Avenue is subject to this setback from WES (Section 1215.2.a):

4 **Distance from existing Non-Participating residences . . . shall be not less**
5 **than four times the height of the wind turbine.**

6 In the case of Crowned Ridge, it is my understanding the required setback from my home
7 will be about 1,950 feet, more or less.

8 Meanwhile, the homes within Goodwin itself are subject to a much more generous or
9 favorable setback (Section 1215.e):

10 **Distance from the municipalities Altamont, Astoria, Brandt and**
11 **Goodwin of 1 mile from the nearest residence . . .**

12 Likewise, there are several homes just outside of Goodwin who are pretty close to those
13 within Goodwin, so they will get the benefit of whatever a 1-mile setback proves to be from
14 their city neighbors. City limits are not the measuring point.

15 My home is in the same Zoning District as those near (but not necessarily *in*)
16 Goodwin. There is no logic for exposing my home to a setback minimum of about 1,950 feet,
17 while those in or near Goodwin are benefitted by a minimum of 1 mile. I believe this to be
18 an unlawful form of discrimination between properties in the same zoning district. The other
19 variations in setbacks within the County are just as odd, in my view.

20 Since acquiring this site on 468th Ave., I have undertaken many projects and spent a
21 considerable amount to improvements on this property. Back when I purchased the land, I
22 had an agreement drawn up with the seller, under which they committed not to create or
23 develop a concentrated animal feeding operation (CAFO) on the surrounding land. If I had
24 foreseen what is now happening to the Goodwin area, I would have included “wind turbines”
25 in that prohibition, too.

26 According to information provided by the Applicant’s attorney, my property near
27 Goodwin is referenced in the Applicant’s materials as CR2-D220-NP. According to Table
28 C-1 of Exhibit JH-S-2, “Final Report” prepared by Jay Haley, dated September 18, 2019, my
29 home will be located 2,211 feet from the nearest turbine (much less than the 1 mile setback
30 the Zoning Ordinance assures for homes in or near Goodwin), and I am targeted (predicted)
31 to receive 3:14 worth of Shadow Flicker annually. I understand that with 1 mile setbacks,

Affidavit of Garry Ehlebracht

1 Shadow Flicker is supposed to fade away as a problem – not so at 2,211 feet, however.
2 According to Exhibit JH-S-1, Table C-1, my home (CR2-D220-NP) will also receive sound
3 or noise of 42.1 or 43.6 dB(A). A greater distance reduces the sound, of course.

4 While these current predictions are believed to be somewhat better than what had
5 been given to Deuel County Board of Adjustment (which of these are correct – and are you
6 entirely sure, if reality proves otherwise?), I will provide four observations:

7 (1) I note many Participants in rural Deuel County will experience either a lesser
8 duration, or even no amounts of Shadow Flicker, as well as a reduced level of noise,
9 compared to my home;

10 (2) I have done nothing to encourage or invite an invasion of my home by either
11 of these “Effects” to be given off by Crowned Ridge II, and intend to continue to resist this
12 invasion;

13 (3) What Deuel County has done with the Special Exception Permit is to place a
14 servitude or burden upon my home, and this is done without my approval; and

15 (4) If Crowned Ridge was required to observe the same setback of one (1) mile as
16 pertains to Goodwin, as [REDACTED]

[REDACTED] the Shadow Flicker would be further reduced – if not entirely eliminated – and the
18 noise level would be much closer to what now exists in our quiet area (prior to wind farm
19 development work or operation of the “wind farm”).

20 I am familiar with the proposed “option for lease and easement” that was presented to
21 my neighbor, Laretta Kranz, by an agent for Crowned Ridge. I am familiar with the
22 language within the option, including the “Effects Easement” described in Section 5.2
23 (mentioning “noise” and “flicker” and “shadow”), and also Section 11.10, “Remediation of
24 Glare and Shadow Flicker.”

25 This document, to the best of my knowledge, was never presented to Deuel County
26 Board of Adjustment, nor were any of the “options” or actual “leases or easements” obtained
27 from Deuel County “Participants.” When presented to Mrs. Kranz, she gave it to me and
28 directed the agent to call me as her advisor. The agent then called me, and I proceeded to
29 inform him that I was not at all happy about the siting of the turbines, and that they should be
30 moved further away from homes. This Crowned Ridge agent laughed – and I told him to
31 never contact me again as I hung up on him.

1 Today, Crowned Ridge still intends – which is obvious from their plans and
2 projections, both to the County and to this Commission – to make use of my land and home,
3 and also of my several neighbors who, like me, object to this proposal. Some – like the
4 Grebers – appear to have exposure to an even greater length of Shadow Flicker and noise
5 levels than what these experts have “predicted” for my home. Regardless, none of this is
6 being carried out with my permission, and I have given no easement for the use of my land
7 and my home in this manner.

8 There does not appear to be any mechanism in the Zoning Ordinance, or the Decision
9 made by the Board of Adjustment, and I also expect this Commission will reserve no
10 meaningful supervision over the Crowned Ridge II operation so that, *if* these uninvited
11 elements or “Effects” of the wind farm prove to be a nuisance (a nuisance is an annoyance –
12 these experts seem rather dismissive of mere “annoyances” since they all claim they really
13 don’t lead to a “substantial impairment” of our health) we will at least be entitled to have
14 further resort to the Courts to protect ourselves. It is my belief, [REDACTED]
15 [REDACTED] that in issuing a Special Exception Permit, and also now this Facility Siting Permit,
16 each of which approves or gives official government blessing to Crowned Ridge’s
17 predictions of this or that on my land as “okay” or “fine,” our legal remedies for a nuisance
18 may have also been seriously undercut, if not entirely ruined.

19 This is why I am not willing to allow these “Effects” to come onto my property or to
20 invade my home. [REDACTED] [REDACTED]

21 [REDACTED]
22 [REDACTED] and will pursue my legal remedies accordingly. Neither this Commission, nor the
23 Deuel County Board of Adjustment, knows what is best for my land, or how to enjoy the
24 property. [REDACTED]

25 [REDACTED] If government plans or wishes to take my land by these
26 permits and approvals – or simply intends to just damage it – then government should be
27 prepared to pay for it.

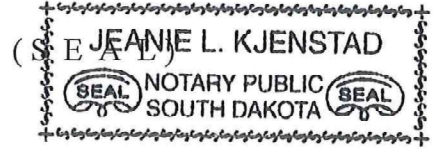

GARRY EHLEBRACHT

SUBSCRIBED AND SWORN TO BEFORE ME, A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH DAKOTA, BY SAID GARRY EHLEBRACHT, PERSONALLY KNOWN OR PROVEN TO ME TO BE SUCH PERSON, THE DATE ENTERED BELOW.

Date: Dec 2, 2019

Jeanie L. Kjenstad
NOTARY PUBLIC – SOUTH DAKOTA

My Commission Expires: _____
My Commission Expires
1/20/2023



BEFORE THE PUBLIC UTILITES COMMISSION
STATE OF SOUTH DAKOTA

EXHIBIT I-5

IN THE MATTER OF THE APPLICATION OF)
CROWNED RIDGE WIND II, LLC FOR)
WIND ENERGY FACILITY IN)
DEUEL, GRANT AND CODINGTON COUNTIES) EL19-027

AFFIDAVIT OF STEVEN GREBER
17165 468TH AVE., GOODWIN, SOUTH DAKOTA 57238

State of South Dakota, County of Codington: ss.

Steven Greber, being duly sworn on oath, deposes and says:

1 My name is Steven Greber and I have lived at the above-referenced address, with my
2 wife, Mary Greber, since early 1995. The legal description for our property is the **SOUTH**
3 **920' OF THE EAST 575' OF THE NORTH HALF OF THE SOUTHEAST QUARTER,**
4 **SECTION 32, TOWNSHIP 117 NORTH, RANGE 50 WEST OF THE 5TH P.M.,**
5 **DEUEL COUNTY.**

6 I am a Licensed Merchant Marine Engineering Officer, and hold a Chief Engineer
7 Motor / Steam / Gas Turbine Vessel of any Horse Power License. I work through the
8 American Maritime Officers Union, sailing out of U.S. and foreign ports. I have sailed on
9 commercial and government-contracted vessels for nearly 30 years, including diverse
10 operations on bulk carriers, tankers and surveillance vessels. I spend perhaps two thirds of
11 each year at this address in Deuel County and the balance on the oceans.

12 I am presently intending to ship out in late November or December for the Far East,
13 on board a U.S. Government vessel, T-AGOS, a mission expected to last for 3 or 4 months.
14 My wife, Mary, usually returns to the Philippines to her family while I am shipboard. Thus,
15 neither of us is presently expected to be available for the February 2020 hearing. I would ask
16 that this affidavit be marked and received by the Commission, with cross-examination by the
17 parties conducted in advance of my impending departure. This affidavit contains the
18 information that I would wish to place before the Commission in this matter; it has been
19 prepared under my direction and at my request by my counsel, and the statements contained
20 herein are true and correct to the best of my knowledge, information and belief.

Steve Greber

1 Since 1995, Mary and I have expended a great deal of money improving this property,
2 including the following projects and efforts:

3 1996: Replaced entire home drain and water piping, as well as laying tile around our home's
4 foundation.

5 1997: Replaced home's windows.

6 1997 to 1999: Remodel home's basement.

7 2000: Added on to existing homes kitchen approximately 140 sq. ft. and remodeled same.

8 2001: Remodeled second floor to have a full second floor with full bath.

9 2001: Had seamless steel siding applied to entire house.

10 2001: Shingles replaced on all house roofs minus kitchen add on.

11 2002: Constructed wooden deck south side of house approximately 452 sq. ft.

12 2003: Concrete pad approximately 12' x 25' poured west of house.

13 2004: Concrete pad approximately 12' x 25' poured west of house.

14 2008 to 2010: Convert old grain building into game room / garage, complete with steel siding.

15 2009: Convert old shed into workshop, complete with steel siding.

16 2015: Replaced all three garage doors and openers in garage.

17 2016: add on lean-to on garage for R/V.

18 2018: Concrete pad approximately 11' x 50' poured west of house to game room / garage.

19 We've also made many improvements to home and property such as bathroom remodels,
20 furnace upgrades, and many more too numerous to list.

21 We have had no contact from Crowned Ridge or anyone else regarding an "Effects
22 Easement" (similar to what was handed to our neighbor, Mrs. Kranz, several years ago), or a
23 lease or anything else. I would assume Crowned Ridge views our parcel as much too small
24 to be of any value to them as a site to be leased, or for some kind of easement. Regardless,
25 this small parcel is of major significance to us as fee simple owners. We are "non-
26 participants" for purposes of applying the Deuel County Zoning Ordinance. As such, the
27 "four times height" setback formula established under Section 1215 of the Ordinance
28 requires a setback of approximately 1,945 feet from our "closest exterior wall."

29 The nearest turbine proposed for our immediate vicinity is 2,041 feet due east of our
30 home, to be constructed on land in the SW1/4 of Section 33. This distance is measured from
31 our east exterior wall, according to my understanding. Our home's east wall is about 110'

Affidavit of Steven Greber

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1 west from our property line on 468th Avenue, so to this extent, Crowned Ridge is using that
2 much of our property to comply with the ordinance's requirements. We have neither agreed
3 to, nor done anything that might allow, Crowned Ridge doing so with our property, being
4 tacked onto the use it is planning to make of our neighbor's property to the east.

5 According to an email from Crowned Ridge's counsel (July 17, 2019), our property is
6 assigned "receptor" code number CR2-D221-NP. As shown in Table C-1 (p. 27), "Crowned
7 Ridge II Shadow Flicker Tabular Results Sorted by Receptor ID," this being part of the
8 document entitled "Final Report Crowned Ridge II Wind Farm Shadow Flicker Study,
9 Codington, Deuel and Grant Counties, SD," dated July 7, 2019, and authored by Jay Haley,
10 Partner of EAPC Wind Energy, the distance from our home to the nearest turbine is 2,041
11 feet. This turbine is located due east, as said. I take this to mean that we – our home – will
12 thus be exposed to Shadow Flicker from the morning sun, at a predicted rate of 14:04
13 annually.

14 In other documents that I have seen, the predicted rate was much higher – somewhere
15 in the neighborhood of 27 hours. Whether the duration is 27 hours or now reduced to "only"
16 14 hours, I wish to say that neither of these planned or potential impacts is acceptable to
17 Mary and me. We view this Shadow Flicker presence (as predicted for our home) as a
18 complete violation of our rights as property owners, [REDACTED]

[REDACTED]

27 I understand that Witness Haley has also predicted the sound received at our home
28 (Receptor CR2-D221-NP) as being 43.1 dB(A), or a claimed "real case sound" of 42.8 dB(A).
29 This sound level – at our exterior wall – also does not account for infrasound or low
30 frequency noise (ILFN) – having spent many years onboard powerful ships, I can attest to the
31 fact that LFN – as given off by large cargo vessels, and also by passing helicopters – is a

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1 significant factor in whether one can sleep, rest or tolerate the sound, which is often more
2 'felt' than heard. I do not welcome this intrusion into our home. I believe the predicted
3 sound pressure level is significantly higher than what is otherwise recommended for
4 optimum sleep opportunities. Sleep disruption on a cargo ship is understandable. I am not
5 prepared to accept these conditions in and around my home.

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 [REDACTED] No one has bargained with us for that result. All we have
12 are these official permits and orders, issued by – or sought from - governmental agencies
13 who do not hold any right, title or interest in our property.

14 We did not purchase this home and acreage to be victimized with the trespassing and
15 total disregard of our property rights by Applicant's IWTs with noise, flicker,
16 electromagnetic waste and the unsightly blight on the landscape that will destroy our
17 property values, and nuisance of a IWT only 2,041 feet nearly directly due east of our home.
18 Sure, Applicant has produced market value studies for real estate, which, according to my
19 understanding, claim to show that residential real estate has *no* provable market value loss. I
20 would suggest that any such market value study be refined to include those that are within the
21 "project boundaries," and which also receive Shadow Flicker, along with an elevated level of
22 sound, and a completely unchecked amount of ILFN from the turbines. I can say for a fact
23 that if these IWTs were present in 1995, or even hinted at, we never would have elected this
24 part of the country as a place to live and raise our family.

25 I also question why I am to have the nearest wind turbine only 2,041 feet (just over
26 the four-times-height requirement) from my home while the good folks in Goodwin get the
27 benefit of a one-mile (5,280 feet) set back, under the Deuel County Zoning Ordinance as last
28 amended in early 2017. It is my understanding that Deuel County does all of the zoning in
29 this district, and that Goodwin is part of our same zoning district. [REDACTED]

30 [REDACTED] The homes in
31 Goodwin are no better or more deserving of a reasonable setback from wind turbines than

1 our own home, which itself is just a mile or so outside of Goodwin, to the north. [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 As far as the PUC's jurisdiction is concerned, I understand the agency has now found
5 in other cases – several times – that no evidence (perhaps insufficient evidence is a more apt
6 term) exists that these concerns over IWT proximity, as referenced in my affidavit, will
7 “substantially impair” the health, safety or welfare of Steven and Mary Greber, or of our
8 local community. I continue to believe that the risk exists, no matter what the experts hired
9 by Crowned Ridge might profess.

10 But that said, the PUC should carefully consider also our rights under South Dakota
11 property law, as referenced herein.

12
13 
14 STEVEN GREBER

15
16 SUBSCRIBED AND SWORN TO BEFORE ME, A NOTARY PUBLIC IN AND FOR THE
17 STATE OF SOUTH DAKOTA, BY SAID STEVEN GREBER, PERSONALLY KNOWN
18 OR PROVEN TO ME TO BE SUCH PERSON, THE DATE ENTERED BELOW.

19
20 Date: 11-13-19 
21 NOTARY PUBLIC – SOUTH DAKOTA

22
23
24 My Commission Expires: 3-12-24

