

BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF SOUTH DAKOTA

In the Matter of the Application by)
CROWNED RIDGE WIND II, LLC *for a*) Docket EL19-027
Permit of a Wind Energy Facility in)
Deuel, Grant and Codrington Counties)

NOTICE OF FILING OF AFFIDAVIT OF STEVEN GREBER, AND
MOTION FOR EXAMINATION OR ADMISSION UPON STIPULATION OF COUNSEL

Under the Commission’s Order for and Notice of Evidentiary Hearing, dated October 1, 2019, and the prior Order Granting Motion Establishing Procedural Schedule, etc., dated September 20, 2019, Intervenor Steven Greber, together with Mary Greber, hereby give notice of herewith submitting the Affidavit of Steven Greber (hereafter “Greber Affidavit,” dated and signed November 13, 2019), such being intended to state and reflect their respective interests in this matter.

Intervenors further given notice they will not be available for examination by Applicant or others during the course of the hearing February 4-7, 2020, for reasons stated on p. 1 of the Greber Affidavit, lines 6 through 20. As counsel, I was further advised by email on November 15, 2019 that Greber presently expects his pending departure will take place “Thanksgiving Holiday weekend,” and the “latest will be the following week,” while he expects to return to the United States in the “April-May time frame.” While Greber has been on these excursions before with a 3-month commitment, he believes this one will be closer to four months.

If all counsel would carefully consider the Greber Affidavit, and wish to conduct cross-examination of Steven Greber based on the statements and averments therein, there is a small window of time during which this could be accomplished – with the Commission’s approval – by telephone, when and as such arrangements can be made prior to the Thanksgiving Holiday. Mr. & Mrs. Greber are departing for Florida today (November 17), but the undersigned is confident that with the Commission’s consent and arrangements for a reporter, counsel for interested parties can examine Mr. Greber, upon the Greber Affidavit, by means of telephone, provided this is done during this short time frame. As an alternative, if counsel for Applicant, and Commission’s staff, as well as other intervenors, are willing to do so, I would ask that the Greber Affidavit be marked and received as evidence during the course of hearing, with cross-examination of this witness being waived. *Undersigned requests that each party’s counsel promptly confirm to all parties, by email, your respective intentions or wishes, or willingness to so stipulate, as outlined.* Dated at Canton, South Dakota, this 16th day of November, 2019.

Respectfully submitted,

A.J. Swanson
ARVID J. SWANSON, P.C.
27452 482nd Ave.
Canton, SD 57013
605-743-2070
E-mail: aj@ajswanson.com

/s/ A.J. Swanson

A.J. Swanson
State Bar of South Dakota # 1680

GARRY EHLEBRACHT, STEVEN GREBER,
MARY GREBER, RICHARD RALL, AMY RALL
and LARETTA KRANZ, *Intervenors & Parties*

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 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, including as referenced in SDCL 43-13-
19 2.

20 As my counsel has explained to me, and as I understand our rights to exist under
21 statutes and the South Dakota Constitution, we also have a right to be free from servitudes
22 we did not create being placed upon on our land. If Deuel County Board is going to create a
23 servitude as to Shadow Flicker, or as to noise effects, or if the PUC proposes to set those
24 rights on the part of Crowned Ridge II, then the order under which that right on the part of
25 the Applicant is either void – *or if not void, because the County and this agency has the*
26 *power to do so* – then it is a taking of or infringement upon our purchased rights.

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

Affidavit of Steven Greber

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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 I have been advised by my counsel that by virtue of the special exception permit
7 allowed by Deuel County Board, and then, if this application is *also* approved by the PUC,
8 our ability to enforce our legal rights as property owners (for reasons of annoyance, etc., as
9 mentioned in Chapter 22-10, SDCL), because of a claimed nuisance, whether that be in the
10 nature of Shadow Flicker, or ILFN or sound within the dB(A) scale, will be extremely
11 curtailed, if not entirely thwarted. 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. I am advised that the
30 zoning statutes for our state require the regulations in each district be uniform. The homes in
31 Goodwin are no better or more deserving of a reasonable setback from wind turbines than

Affidavit of Steven Greber

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1 our own home, which itself is just a mile or so outside of Goodwin, to the north. This seems
2 to be another example of zoning regulations or zoning efforts that do not follow the zoning
3 law or zoning power, as delegated to the County.

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.

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STEVEN GREBER

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

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Date: 11-13-19


NOTARY PUBLIC – SOUTH DAKOTA

My Commission Expires: 3-12-24



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CROWNED RIDGE WIND II, LLC *for a*) Docket EL19-027
Permit of a Wind Energy Facility in)
Deuel, Grant and Codington Counties)

CERTIFICATE OF SERVICE

A true copy of the “Notice of Filing of Affidavit of Steven Greber, and Motion for Examination or Admission Upon Stipulation of Counsel,” and the “Affidavit of Steven Greber.” Dated November 13, 2019, being submitted on behalf of Garry Ehlebracht, and others (“Intervenors”), has been transmitted (the date below) by undersigned, as counsel for said Intervenors upon each of the following presently appearing on the Commission’s Service List in this matter:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us
(605) 773-3201 - voice

Mr. Jon Thurber
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
jon.thurber@state.sd.us
(605) 773-3201 - voice

Ms. Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Kristen.edwards@state.sd.us
(605) 773-3201 - voice

Mr. Eric Paulson
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
eric.paulson@state.sd.us
(605) 773-3201- voice

Ms. Amanda Reiss
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
amanda.reiss@state.sd.us
(605) 773-3201 - voice

Mr. Miles Schumacher - Representing Crowned
Ridge Wind II, LLC
Lynn, Jackson, Shultz and Lebrun, PC
101 N. Minnesota Ave., Ste. 400
Sioux Falls, SD 57104
mschumacher@lynnjackson.com
(605) 332-5999 - voice
(605) 332-4249 - fax

Mr. Mikal Hanson
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
mikal.hanson@state.sd.us
605-773-3201

Mr. Tyler Wilhelm
Project Manager
Crowned Ridge Wind II, LLC
700 Universe Blvd.
Juno Beach, FL 33408
Tyler.Wilhelm@nexteraenergy.com
(561) 694-3193 – voice

Mr. Darren Kearney
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
darren.kearney@state.sd.us
(605) 773-3201 - voice

Mr. Brian J. Murphy
Senior Attorney
NextEra Energy Resources, LLC
700 Universe Blvd.
Juno Beach, FL 33408
Brian.J.Murphy@nee.com
(561) 694-3814 – voice

210 E. Fifth Ave.
Milbank, SD 57252
Karen.Layher@state.sd.us
(605) 432-6711 - voice

Ms. Cindy Brugman
Auditor
Codington County
14 First Ave. SE
Watertown, SD 57201
cbrugman@codington.org
(605) 882-6297 - voice

Ms. Mary Korth
Auditor
Deuel County
PO Box 616
408 4th St. West
Clear Lake, SD 57226
dcaudit1@itctel.com
(605) 874-2312 - voice
(605) 874-1306 - fax

Ms. Karen Layher
Auditor, Grant County

Ms. Kristi Mogen
15160 471st Ave.
Twin Brooks, SD 57269
silversagehomestead@gmail.com
(307) 359-2928

Mr. Allen Robish
47278 161st St.
Strandburg, SD 57265
allen.robish@gmail.com
(605) 949-2648

Ms. Amber Christenson
16217 466th Ave.
Strandburg, SD 57265
amber@uniformoutlet.net
(605) 756-4119

Dated at Canton, South Dakota, this 16th day of November 2019.

Respectfully submitted,

A.J. Swanson
ARVID J. SWANSON, P.C.
27452 482nd Ave.
Canton, SD 57013
605-743-2070
E-mail: aj@ajswanson.com

/s/ A.J. Swanson
A.J. Swanson
State Bar of South Dakota # 1680

Attorney for,
GARRY EHLEBRACHT, STEVEN GREBER,
MARY GREBER, RICHARD RALL, AMY
RALL, and LARETTA KRANZ, *Intervenors*