

Nancy's Talk to the PUC (Ver 2)

My name is Nancy Tarbox and I live at [REDACTED], Bradley. My land adjoins the Crocker Wind Farm footprint.

I'd like to ask you, "Just how many chances does this project get?"

~~We defeated Crocker Wind Farm's~~ first application in December 2017.

We identified several deficiencies. Now here we are again and those deficiencies have not been corrected. Even though the PUC focused last time on the deficiency of an inexact set of plans, there were many other serious deficiencies as well.

For example, I identified deficiencies in ground transportation planning. I don't see where any of this has been resolved in the new application under Section 9.7.3.2. The lack of ground transportation planning will result in serious injury to social and economic conditions of inhabitants in and around the siting area. Crocker Wind Farm has not met its burden of proof to show that project-related ground transportation will not cause this type of harm.

I also want to share with you that people involved with Crocker Wind Farm have harassed several people who oppose the project; in public, at work, and at home. At one point, harassment was so serious that the sheriff was called, he came out to investigate, and instructed a person to stop the harassment. This is documented in the Sheriff's log.

Our whole community has suffered due to the conflict: families, neighbors, and churches. There was even a letter written by Crocker Wind Farm advocates asking people to put their emotions aside.

We are not speaking from emotions. We are concerned about the harm we face from this project. It also troubles me that some of my neighbors could sign the contracts so quickly without concern for those around them. Some joked in early meetings: "Where's the dotted

you denied

line? Where do I sign?" We all have experienced hard economic times in our adult lives, but Big Wind is not the answer.

I am also concerned about the value of my property, which adjoins the Crocker Wind Farm footprint. I only have ¼ of land. If there are 6-8 turbines close to my land, as shown on the current plans, my land will surely lose significant value.

In closing, I hope you will decide that Crocker Wind Farm has not met its burden of proof in many areas of this second PUC application.

Alternatively, if you decide to approve this application, will you, the PUC, provide oversight for this project?

Will you make sure it is done properly and people are protected from the very real harm that could result from sloppy project management?

I am providing you with more documents in this envelope to help you decide that there are too many red flags in this project. This application should be denied once and for all.

Please put this to rest.

At that time, the ordinance setback rule was 1000 ft. Against Crocker Wind's objection, Clark County Commissioners approved the local application based on a $\frac{3}{4}$ mile setback instead. Crocker Wind was willing to settle on 2000 ft, but not $\frac{3}{4}$ mile. Therefore, Crocker Wind appealed the Commissioner's decision. Recently during the PUC hearings in December, Crocker Wind for the first time verbally agreed to the $\frac{3}{4}$ mile setback, but has never withdrawn its appeal against Clark County. If they pursue the appeal and prevail, will they be allowed to resubmit their application to the PUC with a reduced setback? We would like to see them withdraw their appeal against Clark County to settle this matter.

Clark County Commissioners have been maligned at commissioner meetings and at the public Board of Adjustment hearing. They have been accused of being biased in social media and most recently in the local newspaper, they have been falsely accused of changing the county ordinance regarding setback of turbines from non-participating landowners. Let's be absolutely clear; there has been no change whatsoever in the county ordinance regarding wind energy systems. The county ordinance, Section 4.21.03 paragraph 2 regarding setbacks states, in quote "Distances from existing off-site residences, businesses, churches, and buildings owned and/or maintained by a governmental entity shall be **at least** one thousand (1000) feet." Highlighted emphasis added!

Participating landowners "rant" about their landowner rights being infringed by reasonably imposed setbacks. These landowners apparently fail to comprehend that they signed away their landowner rights for up-to 55 years when they signed the wind easement contract with Crocker Wind Farms LLC. This contract is extremely restrictive; it prohibits the landowner from even planting a tree on "signed" land. Furthermore, the contract binds these terms to the current landowners heirs or assigns.

Granted, an industrial scale wind farm would bring considerable income to our county, but it is by no-means free money at no cost, County residents are already experiencing declining non-harmonious relationships within family & neighborhoods, not to mention the pending, very real negative impact on their property values.

Claims have been made implying that participating landowners in the wind farm project are local residents supporting the project primarily for its benefit to the rural community & county. This claim is misleading! Many of the participating landowners do not live near the windfarm footprint, They stand to benefit financially without having to deal with the noise, shadow flicker, potential health risks etc.

Presentation Notes ^{To} Clark Co. Board of Adjustment
March 7-2017

1. Thank you for the opportunity to speak to you all today.
2. My name is Nancy Tarbox. I own and live on ¼ Section of land adjacent to the project.
3. I have filed written comments and have copies of my letter for anyone who wants one today, after the meeting. I ask the Board to read my letter carefully.
4. My letter asks the Board of Adjustment to deny the application for the Crocker Wind Farm because the application is incomplete in several areas. The Clark County Zoning Ordinance requires the Board of Adjustment to deny an application when it is incomplete. My letter identifies four deficiencies that justify denial. This is the only fair result because the Board must by law evaluate and certify compliance with our Zoning requirements. The

Board can't do this when the application is incomplete.

5. In addition, I want to ask for a setback of 1.2 miles from my residence, if this project is approved. I have lived in Clark County all my life, I grew up on this farm, and moved back onto it after my father died in 2012. This is our family farm and it is a very nice place to live. This project is so large, I would be surrounded on three sides by wind turbines. It's not fair to my interests and property values to have wind towers on three sides of my property. Therefore I ask for a setback of 1.2 miles from my residence.

6. Finally, I live in a farming community, zoned for agriculture. If this project goes through with 219 wind turbines, it's going to look like a commercial energy zone instead of a farming community. This project is just too big. It's not what our zoning ordinance intended. If you

approve this project, PLEASE reduce the number of wind towers.

7. In closing, I ask for four things:

- a) Deny the application because it is incomplete.
- b) If you don't deny the application, give me a 1.2 mile setback AND reduce the number of wind towers.
- c) Finally, read my letter carefully and PLEASE think long and hard before you make a final decision.

Nancy Tarbox

██████████
Bradley, SD 57217

February 26, 2017

Jarvis Reidburn
Administrative Official
Clark County Board of Adjustment
PO Box 295
Clark, SD 57225

Please read
in entirety.
If only the county
had denied the
permit at the local
level instead
of trying to please
both sides

RE: Written Comments Regarding Crocker Wind Farm Permit No. CU1-17 and CU2-17 (for Filing)

Dear Mr. Reidburn:

Thank you for sending notice of the public hearing to be held on Tuesday, March 7, 2017, regarding the application pending for two conditional use permits, submitted by Crocker Wind Farm, LLC, for wind energy systems and transmission lines. As an adjoining landowner not participating in the Crocker Wind Farm project, I respectfully request that you accept my written comments below for filing, as provided in the public notice.

I own most of the northwest quarter of ██████████ which is included in the footprint of the Crocker Wind Farm project. When this project first began, I was not interested in participating because I did not want wind turbines on or close to my property. As the project progressed, I attended several meetings hosted by Geronimo on behalf of the Crocker Wind Farm. I also reviewed the proposed agreement presented to me by Geronimo in detail with my attorney. In the end, I declined participation for several reasons and now strongly oppose the project in its entirety, and especially the parts close to my property.

With all due respect to participating landowners, below are **five requests** for consideration:

- 1. Deny the Application as Incomplete.** I request that the Board of Adjustment very closely review the pending application for both permits and compare the application's response to each and every requirement in the Clark County Zoning Ordinance. If the application has any deficiencies that prevent the Board from properly evaluating and certifying compliance with any such requirement, then I ask that the Board deny the application as required by Zoning Ordinance Section 3.04.01(6) (which requires evaluation and certification of compliance for each requirement, as also required by state law) and Section 3.04.01 (which requires all plans and data accompanying an application to be final and conclusive, except where exempted in other provisions of the ordinance). Precise compliance with the Zoning Ordinance is paramount in this matter, for both the applicant and the Board. For the applicant to receive a permit, the application must be complete upon its original filing date (February 8, 2017), so that the Board has enough information to evaluate and certify compliance of the project with regard to all

Wind Energy System (WES) requirements and general permit requirements in the Zoning Ordinance. It is not enough for the application to merely restate a requirement or say that the project will meet a requirement but not provide an explanation in the application of how it will meet a requirement. Rather, the application must include sufficient detail for the Board to determine that the applicant's plan is adequate and certifiable as compliant. If the application fails to sufficiently explain how it will satisfy even one WES requirement, then the Board must deny the application as incomplete because the Board is unable to properly evaluate and certify compliance as required by Section 3.04.01(6). The Board also cannot accept or consider information received after the application filing date because the application is required to be complete and final upon filing, as stated in Section 3.04.01. Overall, for the permit application process to be fair and produce a just result for all, these Zoning Ordinance requirements must be followed.

After reviewing the application, the application appears incomplete as described below:

Page 12, Referencing WES Requirement Section 4.21.03, 1(a):

1(a)	Mitigation Measures: Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the WES.	Clearing will occur only within the construction corridors to minimize the area disturbed.
------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------

The above table is an exact excerpt from the application. The applicant's response in the third column to the requirement in the second column is clearly inadequate and incomplete. It appears that the applicant made no effort to properly address this requirement or provide a sufficient description of how it plans to minimize disturbance of the site. The application contains no definition of "construction corridors." Although final plans are not yet required, construction corridors should minimally be defined in terms of size and relation to proposed and final turbine sites and transmission lines.

Page 12, Referencing WES Requirement Section 4.21.03, 1(b):

1(b)	Mitigation Measures: Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.	Best Management Practices (BMPs) will be utilized during construction and operation to protect topsoil and minimize soil erosion. A soil erosion and sediment control plan will be submitted to the County prior to construction.
------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The above table is an exact excerpt from the application. The applicant's response in the third column to the requirement in the second column is clearly inadequate and incomplete. It appears that the applicant made no effort to properly address this requirement other than reference "Best Management Practices (BMPs)" that are not included or defined. Without defining the BMPs, this response is meaningless, and the Board cannot make assumptions as to what it means. The second sentence that references soil erosion and sediment control plan does not help and is not a sufficient response because that plan is required by a different

requirement regarding "Roads" at Section 4.21.03, 1(f). Even though the Roads requirement allows a soil erosion sediment control plan to be submitted later, the Topsoil Protection requirement must be fully addressed in the application. The applicant's response must be evaluated based only on the first sentence and not on the second. No other information on Topsoil Protection is provided in the application except with regard to decommissioning and restoration requirements at a different section (Section 4.21.03, 9).

Page 12, Referencing WES Requirement Section 4.21.03, 1(d):

1(d)	Mitigation Measures: Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project's life.	Crocker will install temporary fencing during construction, as appropriate, to ensure livestock are protected.
------	------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

The above table is an exact excerpt from the application. The applicant's response in the third column to the requirement in the second column is clearly inadequate and incomplete. It appears that the applicant made no effort to properly address this requirement other than referencing temporary fencing, as appropriate. Applicant does not explain the type of fencing, how it will be monitored, and how it will determine when it is appropriate. Compare this response to requirement 1(e) on the same page, which more adequately explains the standard for repairing and replacing fences (referencing original condition).

Page 14, Referencing WES Requirement Section 4.21.03, 1(f)(v):

1(f)(v)	Mitigation Measures: Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.	Crocker will use BMPs to control dust during construction including but not limited to water trucks in front of residences and community buildings, and magnesium sulfides or other acceptable dust suppression chemicals as a supplement.
---------	-------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The above table is an exact excerpt from the application. The applicant's response in the third column to the requirement in the second column is clearly inadequate and incomplete. It appears that the applicant made minimal effort to address this requirement other than referencing "BMPs," which are not included or defined. The term "BMP" could mean anything. The promise of "water trucks in front of residences and community buildings" is also meaningless. The promise of "magnesium sulfides or other acceptable dust suppression chemicals as a supplement" would be meaningful if additional information on proposed quantities and procedures for use were included; but that is not the case here. A project of this extreme size will produce significant dust from construction and hauling for a large area beyond the footprint and likely will affect neighboring livestock, crops, and farming activities. Dust control measures is a major, important consideration for granting this conditional use permit. Based on the answer above, applicant does not appear to take this important requirement seriously or see the need to explain or assure the Board regarding mitigation measures for this important public interest of dust control.

Therefore, I request that the Board follow the Zoning Ordinances referenced above and deny the application based on the finding that the application is incomplete with regard to the four permit requirements identified above, as well as other requirements that the Board or others may identify as insufficiently addressed.

2. Deny the Application Based on Findings that the Conditional Use as Described in the Application Will Adversely Affect the Public Interest. I request that the Board make findings and determine that the application, if granted, will adversely affect the public interest. Section 3.04.01.5 of the Zoning Ordinance requires the Board of Adjustment, prior to granting a conditional use permit, to make a finding that “the granting of the conditional use will not adversely affect the public interest.” I do not believe that the Board can justifiably make this finding due to the extreme size of this project, which distinguishes it from other WES permits previously granted. Specific reasons to conclude that this project will adversely affect the public interest are:

- the extreme size of the project and its overwhelming footprint across the county and land zoned for agricultural use;
- the extreme amount of traffic and trucks that will be needed to construct up to 213 turbine sites, passing through neighboring areas, producing wear and tear on existing roadways, and the likely need for traffic control during high-peak project months, which is not addressed by the application; and
- the extreme amount of dust that will result from construction of such a large number of sites and lines and the impact of that dust on neighboring livestock, crops, and farming activities.

3. Deny the Application Based on the Rational that the Project Is Not in Harmony with the Purpose and Intent of the Zoning Ordinance of Clark County. Section 3.04.01 of the Zoning Ordinance states that the Board of Adjustment is authorized to deny conditional uses when not in harmony with the purpose and intent of the Zoning Ordinance.

Section 1.01.03 (Purpose) states:

The Zoning Ordinance was adopted “to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare.” More specifically, the Zoning Ordinance was adopted in order to achieve a specific list of ten objectives, which include:

- To promote the stability of existing land uses that conform with the Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
- To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
- To protect and enhance real estate values.
- To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes.
- To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

The extreme size of the applicant’s project makes it not in harmony with the purpose and intent of the Zoning Ordinance, based on the specific objectives listed above along with other reasons presented to the Board in this letter and by concerned citizens.

4. **If the Permit is Granted, Require the Project to Honor a 1.2 Mile Setback from My Residence.** Zoning Ordinance Section 1.01.03 (Purpose) states that the Zoning Ordinance as a whole was adopted to achieve the objective of protecting and enhancing real estate values and ensure uses that are beneficial to the community as a whole. Locating turbine sites at a mere setback of 1000 feet to residential uses who object to the project violates these principles, even if the Zoning Ordinance requires a mere setback of 1000 feet. For this reason, as well as dangers and other information presented by the concerned citizens, I ask the Board to require a minimum 1.2 mile setback from my residence if the permit is granted.
5. **If the Permit is Granted, Require the Project to Provide Sufficient Screening (Plantings) to Block the View From My Residence of All Wind Turbines on Adjacent Property.**

In the event that the permit is granted, I request that the Board require the Crocker Wind Farm to provide screening on my land, in the form of plantings (trees), sufficient to block the view from my residence of all constructed wind turbines on adjacent property; and that such screening be to my satisfaction; with the understanding that such trees may not fully block my view at planting but will block my view within 5 years after planting (which speaks to the size of trees at planting).

This request is required by Chapter 4.14 of the Zoning Ordinance, which says: "where any 'CI' use is adjacent to any residential use, that use . . . shall be appropriately screened from the residential use by a fence or planting" Wind Energy Systems are included in the list of CI conditional uses and Agricultural (A) conditional uses. Although the land included in the project footprint appears to be zoned as Agricultural (not Commercial/Industrial (CI)), Chapter 4.14 applies to this project and my residence because Chapter 4.14 applies to "any 'CI' use," which includes Wind Energy Systems. Chapter 4.14 is a requirement included under Article IV (Supplemental Regulations), which includes general requirements not limited to particular zoning districts unless specifically stated. It would not be logical to read Chapter 4.14 as applicable only to residences adjacent to Wind Energy Systems on CI-zoned land and not to residences adjacent to Wind Energy Systems on Ag land, because both types of residences would experience identical harm. Instead, Chapter 4.14 applies to all residences that are adjacent to Wind Energy Systems on both types of land because it says "any CI use" and Wind Energy Systems meet that definition regardless of where they are placed. If Chapter 4.14 was intended to apply only to residences adjacent to CI-zoned land, it could have easily been written that way. In comparison, other provisions under Article IV make reference to uses in specific zoning districts, such as Section 4.02.01.02, which states: "Permits to construct fences exceeding thirty-six (36) inches in height shall be required in the TD and PR Districts." Chapter 4.14 should have been phrased this way if it was intended to apply only to residences adjacent to CI-zoned land.

Thank you for consideration.

Cordially,



Nancy Tarbox

Issues with CWF application for PUC permit

Previous application issues unresolved:

- Litigation with Clark County BOA
- Poor location for wind farm (*elaborate*)
- Turbines sited on USFWS grassland easements
- Application ignores siting guidelines of SDGF&P & USFWS
- ITC Resolution re: interference
- Applicant's evasive, snarky responses to PUC data requests
- Omissions, errors & misrepresentations
 - Liability insurance
 - Named project manager
 - Detailed project schedule
 - Impact on property value
 - Decommissioning
 - Agency Coordination

New Issues:

- Capacity of project, precise turbine siting, future expansion; intentionally vague
Specifically, what is PUC being asked to approve?
- Application difficult to analyze
 - Agency correspondence unorganized
 - Pages & pages of "filler" material of little or no relevance
 - 850 pages suggesting wind farms have negligible impact on property value
(Application 5 pages; Appendix I 33 pages; Thayer testimony/exhibits 812 pages)
- Northern Border Pipeline versus crane path crossings
- Omitted maps of significance; studies commissioned with old project footprint map
 - Grouse Lek studies
 - Raptor study
 - Cultural Resources ??
 - Comsearch Communication studies
- Crossing of collector line (Spring Valley Township)
- Micro-siting request inconsistency (325ft vs 1000ft)
- Intimidation & harassment of individual intervenors & non participants (15)

Maybe someone else can address this:

Alternative wind farm site locations were not considered; Crocker is a poor choice:

- The permit application ignores turbine siting guidelines of USFWS & SDGF&P. Siting guidelines recommend avoiding placement of turbines on grassland and in particular, native prairie. As far back as 2010, Geronimo was advised that Crocker was a high impact area & discouraged siting turbines on grassland.
- The area is predominantly hilly grassland in close proximity to a wildlife refuge and a state game production area. The Spring and Fall waterfowl migration is concentrated in the area and is accompanied by a significant number of eagles preying on sick and injured waterfowl. Wind turbines kill migratory birds!
- Much of the land is constrained by grassland and wetland easements.
- Wind turbines eliminate habitat for many species of ground nesting birds.
- The hilly, rocky terrain of the proposed wind farm dictates aerial application of herbicides. Aerial spraying and wind farms are incompatible.
- Some of the land within the proposed wind farm footprint is accessible by low maintenance and no maintenance dirt roads. Construction and maintenance of the wind farm would be extremely difficult in these areas.

The Application states that all required land easements have been obtained. This may not be the case. Consider the Collector Line crossing in Spring Valley Township, section xx

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

**IN THE MATTER OF THE
APPLICATION BY CROCKER WIND
FARM, LLC FOR A PERMIT OF A
WIND ENERGY FACILITY AND A 345
KV TRANSMISSION LINE IN CLARK
COUNTY, SOUTH DAKOTA, FOR
CROCKER WIND FARM**

*
*
*
*
*
*
*
*
*
*

**RESPONSE TO STAFF'S FIRST SET
OF DATA REQUESTS TO ALL
INDIVIDUALS WITH PARTY STATUS**

EL17-028

Below, please find Intervenor Nancy Tarbox' Response to Question 1.7 only of Staff's First Set of Data Requests to all individuals with party status ("Intervenors").

- 1.7) For each individual intervenor, please identify any specific concerns the intervenor has with Crocker's proposed turbine layouts as it relates to their interest in the docket. Further, please identify if the individual intervenor proposes any reasonable measures that can be taken by Crocker to address or mitigate those concerns.

Four Specific Concerns of Intervenor Nancy Tarbox

- a) Crocker's proposed turbine layouts place turbines close to my crop land. This likely will result in a reduction of my income from my crop land rental agreements due to the increased risk of chemical drift during aerial and ground spraying. Turbines are known to increase wind and cause increased chemical drift during aerial and ground spraying, which raises insurance costs for those who farm rented crop land. These costs are passed onto landowners through the reduction of rental income in crop land rental agreements.

My land is legally described as:

[REDACTED]

- b) Crocker's proposed turbine layouts place turbines close to my residence (the Clark County ordinance setback is 1000 feet). This will subject my residence to turbine noise, shadow, flicker, electromagnetic radiation, and other interference and effects.
- c) Crocker's proposed turbine layouts configure turbines such that construction to the South likely will cause interference with the natural flow of water in a ravine that flows from North to South through my land. SD law prohibits land owners from interfering with the natural flow of water from the property of one landowner to another. If the project construction blocks the natural flow of this waterway to the immediate South of my land, backed-up water would flood my land.
- d) Crocker's proposed turbine layouts place turbines closer to the residences of non-participating landowners than to the residences of participating landowners; because many participating landowners live away from the project footprint.

Dated this 10th day of October, 2017.



Nancy Tarbox, Intervenor

██████████
Bradley, SD 57217

Date Time Unit # Code Rpt by

03/28/17

0842

18-1A

Routine

report of threatening and harassing phone calls

██████████ calling ██████████ ██████████, Nancy
Tarbox, making threats, showed up in Tarbox's yard,
intimidating over Wind Tower opposition

Robert H. McLean Clark Co Sheriff