



May 18, 2020

VIA EMAIL ONLY

gregghubner@gmail.com sol@midstatesd.net jhpowers@hcinet.net
jenkinskd55@gmail.com kepazour@hotmail.com
mjhubner@gmail.com paullisa5@msn.com

Re: Access to Property for Sound Monitoring
 Prevailing Wind Park, LLC / Prevailing Wind Park Project

Dear Landowners:

On November 28, 2018, the South Dakota Public Utilities Commission (“Commission”) issued its Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry (“Final Decision”). The Final Decision includes Condition 27 which establishes a sound limit for the Prevailing Wind Park project (“Project”). The Final Decision also includes Condition 42 which requires Prevailing Wind Park, LLC (“Prevailing Wind Park”) to verify compliance with the sound level requirement (Condition 27) at the residences of intervenors. Prevailing Wind Park has also offered to verify sound levels at Mr. Jerome Powers’ property.

You are receiving this letter because Prevailing Wind Park requests that you provide consent for access to enable the collection of sound measurements at your property. The access required will include an initial site investigation to identify an appropriate location for two sound monitoring/recording units in a location that is reasonable and convenient for the landowner. Installation of the sound monitoring/recording units will take approximately two hours and may occur that same day or may require another visit to the property. A representative picture of the sound monitoring/recording equipment is provided below.



The dimensions of the case are approximately 2 feet by 1.5 feet by 0.5 feet. The solar panel is approximately 2 feet by 3 feet. Tripods and/or metal T-posts (driven by hand 1 to 2 feet into the ground) may also be used. The testing period will last two to four weeks and will require periodic access (approximately one hour each) for technicians to check on the equipment. The specific timing is expected to be finalized this month.

Please advise whether you will provide access to Prevailing Wind Park's consultant and technicians to perform the sound monitoring on your property by email to bcanty@spower.com. The courtesy of your reply by May 26, 2020 is requested.

Thank you for your attention to this matter.

Sincerely,

/s/ Bridget Canty

Bridget Canty
Prevailing Wind Park, LLC

On Tue, May 26, 2020 at 10:48 PM Gregg Hubner <gregghubner@gmail.com> wrote:

Bridget,

In response to the request of Kelsey McGregor about setting up a sound monitoring system, yes I will allow that under the following conditions:

1. The people that will be bringing the equipment must contact me (605 660 1867 or 605 286 3205) no less than 48 hours in advance to set up an appointment when I would be home. Any presence on my property without calling me first will be considered trespassing. This rule will pertain to every visit made by the sound monitoring staff.
2. All 57 turbines in this project must be turning the day they set up the equipment. Without that, it's not a fair test.
3. When the test is over, I immediately want a copy of what was produced, whether it be a digital copy or if it is a paper copy, I have a copy machine in my office. I want this results immediately after the test is complete.
4. I reserve the right to add any other stipulations before the equipment is set up. I also reserve the right not to sign any document presented to me by S Power or Prevailing Winds. And I reserve the right to hire my own expert do do the same test, even at the same time.

Gregg C. Hubner
Avon, SD

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-----Confidentiality Statement-----

This transaction is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original transmission as well as any electronic or printed copies.

[Gregg C. Hubner](#)



June 16, 2020

Via Email: gregghubner@gmail.com

Mr. Gregg C. Hubner
29976 406th Ave.
Avon, SD 57315

Re: Prevailing Wind Park, LLC Request for Access to Property for Sound Monitoring

Dear Mr. Hubner:

As you know, in a letter dated May 18, 2020, Prevailing Wind Park, LLC (“Prevailing Wind Park”) requested that you provide consent for access to your property to enable the collection of certain sound measurements at your property. The November 28, 2018 Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry (“Final Decision”) issued for the Prevailing Wind Park project (“Project”) by the South Dakota Public Utilities Commission (“Commission”) includes Condition 27 which establishes a sound limit for the Project. Condition No. 42 requires: “Verification of compliance with the sound level requirement at the residences of the Intervenor....”

On May 26, 2020, you replied to Prevailing Wind Park indicating that you would not provide such consent unless various conditions were met, including the following:

1. The people that will be bringing the equipment must contact me (605 660 1867 or 605 286 3205) no less than 48 hours in advance to set up an appointment when I would be home. Any presence on my property without calling me first will be considered trespassing. This rule will pertain to every visit made by the sound monitoring staff.
2. All 57 turbines in this project must be turning the day they set up the equipment. Without that, it’s not a fair test.

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3. When the test is over, I immediately want a copy of what was produced, whether it be a digital copy or if it is a paper copy, I have a copy machine in my office. I want th[ese] results immediately after the test is complete.
4. I reserve the right to add any other stipulations before the equipment is set up. I also reserve the right not to sign any document presented to me by S Power or Prevailing Winds. And I reserve the right to hire my own expert [t]o do the same test, even at the same time.

Prevailing Wind Park is agreeable to providing 48 hours notice for setting up the equipment. Mr. Mark Bastasch would call you to set up a mutually agreeable time for install. There may be other times when the equipment may need to be checked or adjusted. For this access, Mr. Bastasch would notify you by phone at least 4 hours in advance that technicians would be accessing the property and the expected duration of the visit.

Prevailing Wind Park cannot agree to your remaining conditions for several reasons. First, Prevailing Wind Park's third-party consultant needs to be able to conduct the monitoring pursuant to the Commission permit and consistent with his/her expertise and industry standards to ensure reliable results. Accordingly, it would not be appropriate for a landowner to dictate the methodology for monitoring or to be able to direct the monitoring through additional stipulations as it goes forward. In addition, your conditions seek information and data beyond those required in permit Condition No. 42. For example, your condition number 3 appears to seek raw monitoring data; however, such raw data must be processed to be meaningful. Prevailing Wind Park will submit a sound analysis to the Commission to show compliance and this written report will be served on all parties. Further, as you indicate, you may conduct your own monitoring separately.

Please let me know by June 22, 2020 whether you will provide consent for access for Prevailing Wind Park's third party consultant to collect sound measurements on his property as described in our prior May 18, 2020 letter with the 48-hour and 4-hour notification requirements described in this letter.

Sincerely,

/s/ Bridget Canty

Bridget Canty
sPower, Permitting Project Manager

70237412 v1

From: Gregg Hubner <gregghubner@gmail.com>
Sent: Monday, June 22, 2020 8:53 AM
To: Bridget Canty <bcanty@spower.com>; Kelsey McGregor <kelsey.mcgregor@hdrinc.com>
Subject: Re: Sound monitoring

I think I will kindly ask you to stay off my property. If they were to visit my property the first question I would ask them is "Have you ever found a wind turbine to be out of compliance for noise?" Their answer would either be "no" or "no". Wind developers, as you know, have an art of talking about one thing and getting everybody's attention on that (audible sound) and never mentioning and always dismissing "the real issue (infrasound), the low frequency sound that the body can feel but not hear. Since these turbines have started running, my wife and I have had the following symptoms:

- Pressure build up in my ears
- Pain in ears like an earache
- Mild headaches
- Anxiety
- Some chest tightening while trying to sleep.
- Tinnitus

It's worse in the east side of the house where my office and bedroom are, and I spend most of my time in my office. Some days I can't be in the office. I haven't spent the night in the basement yet, but there were a couple nights I wanted to. It's better outside than inside the house. All of the research I have done on infrasound, but before experiencing it, have shown to be true in our house. And we're 4900 ft. away from the nearest turbine. The audible noise that you want to test for is not excessive on most days, on some days it is really irritating. We bought a camper and try to leave as much as we can. The turbines have ruined our living and the retirement home we built to enjoy our last years has turned into a torture chamber at times. Jim and Julie Kaufman from Delmont sleep in the middle of their living room to avoid the worst of the infrasound.

The wind industry has known about this for 40 years, but they get the participants to sign the confidentiality contract so they can't complain, and the absentee owners could care less about the residents, so that just leaves a few of us to suffer. And we don't have enough votes to make any difference, so the politicians who have their palms greased and the PUC who is either corrupt or clueless, all make it impossible for a resident living in a wind farm to stand up against this well oiled machine called Big Wind.

Soon to come will be a class action lawsuit because of infrasound. People are getting sick and tired of being run over by the politicians and multinational corporations for PTC money. That's why in Iowa Big Wind is now trying for eminent domain. I think that is unconstitutional and will start a revolution of landowners to protect their own rights.

so for now, just stay off my property, I have attached one article on infrasound for you to read. I have provided a suitcase full of more articles, some peer reviewed to the PUC, but they have been instructed to permit every wind farm.

Gregg Hubner
Avon, SD



26 MAY, 2020

Dear Bridget Canty:

We intend to be as accommodating as is practicable, but consent to access to property for sound monitoring will be granted to Prevailing Wind personnel upon agreement to and pursuant to the following terms and conditions:

1.
 - a. Understand that all Prevailing Wind personnel enter private property at their own risk.
2.
 - a. Notice is required of all ingress and egress of all Prevailing Wind personnel in order to ensure that all gates are properly secured.
 - b. Be aware that electrified fence may cause bodily injury.
3.
 - a. Free ranging livestock can and do damage equipment, vehicles, and people.
 - b. Prevailing Wind personnel will be responsible for adequately securing equipment placed and left on private property.
 - c. Be aware that security deemed adequate by Prevailing Wind personnel may not be deemed adequate by an 1800 lb. bull.
4.
 - a. Be aware that any persons encountered by Prevailing Wind personnel on private property in Charles Mix County, South Dakota are more likely than not to be armed.
 - b. Aggressive or threatening behavior towards livestock or persons encountered on private property may be responded to in kind.
5.
 - a. Be aware that wet weather may complicate access.
 - b. Appropriate assistance to moving mired vehicles may be offered but risk of damage to Prevailing Wind personnel vehicles from towing or pushing will be borne by Prevailing Wind personnel.
6.
 - a. All sound monitoring information, measurements, results, and reports including original results and final reports will be made available to the property owners and residents as well as to the acousticians of their choice in a timely manner not later than upon presentation to the South Dakota Public Utilities Commission.
7.
 - a. Understand that all Prevailing Wind personnel entering private property do so at their own risk.

Sincerely,
Sherman Fuerniss



June 16, 2020

Via Email: sol@midstatesd.net

Mr. Sherman Fuerniss
40263 293rd St.
Delmont, SD 57330

Re: Prevailing Wind Park, LLC Request for Access to Property for Sound Monitoring

Dear Mr. Fuerniss:

As you know, in a letter dated May 18, 2020, Prevailing Wind Park, LLC (“Prevailing Wind Park”) requested that you provide consent for access to your property to enable the collection of sound measurements at your property. The November 28, 2018 Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry (“Final Decision”) issued for the Prevailing Wind Park project (“Project”) by the South Dakota Public Utilities Commission (“Commission”) includes Condition 27 which establishes a sound limit for the Project. Condition No. 42 requires: “Verification of compliance with the sound level requirement at the residences of the Intervenor....”

On May 26, 2020, you responded to Prevailing Wind Park’s request with a letter indicating it would be physically unsafe for Prevailing Wind Park’s third party consultant to enter your property to conduct monitoring. For example:

- “Be aware that security deemed adequate by Prevailing Wind personnel may not be deemed adequate by an 1800 lb. bull.”
- “Be aware that any persons encountered by Prevailing Wind personnel on private property in Charles Mix County, South Dakota are more likely than not to be armed.”
- “Aggressive or threatening behavior towards livestock or persons encountered on private property may be responded to in kind.”

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- “Understand that all Prevailing Wind personnel enter private property do so at their own risk.”

As indicated above, Prevailing Wind Park interprets your letter to be notifying Prevailing Wind Park that it would not be possible for our third-party consultant to safely collect sound measurements at your property—the consultant would be in physical danger on your property. If being at your property presents a danger to Prevailing Wind Park’s third-party consultant, Prevailing Wind Park would not be able to collect sound measurements at your property. If we have misinterpreted your letter and you believe that monitoring could be safely conducted at your property, please advise by June 22, 2020.

Sincerely,

/s/ Bridget Canty

Bridget Canty
sPower, Permitting Project Manager

70237356 v1

20 June 2020

Delmont, South Dakota

Dear Ms. Canty:

Perhaps I have not properly understood the level of spower/Prevailing Wind familiarity with the conditions found on a working farm/ranch. The information I provided earlier was intended to be beneficial to the safety and security of spower/Prevailing Wind personnel and equipment while conducting the necessary sound measurements on our property. If you did not find it so, we are literally living worlds apart. Although no representative of spower/Prevailing Wind, to my knowledge, has ever set foot on any of our property (though coming so close that construction workers rolled enough debris into one of our roadside ditches that we can no longer hay it), spower/Prevailing Wind has known for some two years that animal husbandry is our primary vocation here. There simply is no access to our residence, short of parachuting in with a great deal of precision, that does not involve the likelihood of encountering or interacting with livestock.

Our children were born and raised here. My siblings and I were born and raised here. My father and his siblings were born and raised here. In recent years we have hosted guests and visitors from some twenty-five states and four foreign countries, all with few untoward incidents. We live and breathe and have our being within a few yards of livestock twenty-four hours a day. I tend to find it astoundingly ironic that we are now expected for the next thirty years to live and work within as little as four hundred feet of two-hundred-twenty-five foot long blades moving at nearly two hundred miles per hour and producing noise in excess of one hundred dB(A), while spower/Prevailing Wind personnel fear for their safety while coming and going for a two week period in the environment that has sustained us for generations. However, dangers do remain in this world and reasonable precautions are advised.

Should spower/Prevailing Wind personnel exercise a modicum of common sense, they really should have few difficulties, but they do need to recognize the realities of life here. Thus a few simple caveats: We need to know when someone is coming or going. Gates need to be kept closed. Do not antagonize the livestock. Realize that interactions with livestock may be dangerous. Be aware of surroundings. We will not be responsible nor liable for accidents to people or damage to equipment - ALL people come here at their own risk. Sensitive or expensive equipment should not be left unattended or unprotected. I may be able to offer some helpful suggestions in that regard. Native wildlife (deer, coyotes, badgers, raccoons, skunks, opossums, hawks, eagles, vultures, etc.) present their own difficulties as they rub, climb, crawl, and roost indiscriminately as well.

It is my opinion that anyone venturing about rural Charles Mix County, South Dakota, while wholly unarmed is either foolhardy or willfully ignorant. As I have neither the time nor inclination to coddle the squeamish, do not expect the residents thereof to suspend the free exercise of their God-given rights.

Respect the land. Respect the livestock. Respect the life.

Sincerely,

Sherman Fuerniss