

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

**IN THE MATTER OF THE  
APPLICATION BY PREVAILING  
WIND PARK, LLC FOR A PERMIT OF  
A WIND ENERGY FACILITY IN BON  
HOMME COUNTY, CHARLES MIX  
COUNTY AND HUTCHINSON  
COUNTY, SOUTH DAKOTA, FOR THE  
PREVAILING WIND**

\*                   **STAFF'S SECOND SET OF DATA  
\*                   REQUESTS TO SHERMAN FUERNISS**

\*                   **EL18-026**

Below, please find Staff's Second Set of Data Requests to Sherman Fuerniss. Please submit responses by October 5, 2018, at 5:00 pm.

- 2-1) Refer to the rebuttal testimony of Mr. Fuerniss, Page 5, subpart (7).
- a) Provide and specifically identify all "misidentifications of land use" that Mr. Fuerniss is aware of.

The land use map in Figure 9 of appendix A of the application indicates that the SE1/4 of the SW 1/4 of section 18E-96-61 in Choteau Creek Township South is a small amount of pasturelands and rangelands with the majority being row or non-row crops in rotation. In reality only the east side of the property has ever been in crops while the west 20 acres are native prairie. The W1/2 and E1/2 of the NE1/4 of the SW1/4 of 18E-96-61 Choteau Creek Township South are also both native prairie as well making 60 contiguous acres of native prairie. It can easily be determined by driving by on the road to south that this is not row or non-row crops land in rotation. My family has owned the SE1/4 of the SW1/4 of section 18E-96-61 for over 50 years.

Mr. Darren Kearney uses the same map on page 166 of his pre-filed testimony and exhibits and I do not find any update elsewhere. Appendix B of the application also indicates the area as "tilled grasslands". This is incorrect and thus I doubt the trustworthiness of other aspects of the applications as well.

- b) Provide and specifically identify all "misidentifications of participating/nonparticipating residents" that Mr. Fuerniss is aware of.

Figure 5 of the application's appendix A represents all but the NW1/4 of the NW1/4 of section 11-96-62 Choteau Creek Township South as being leased land for the project area. It also indicates setback waivers around section 11-96-62 Choteau Creek Township South less the NW1/4 of the NW1/4 but does not specify if these are distance or noise waivers. (Although at a Charles Mix County Commissioners meeting this summer Mr. Roland Jurgens stated that projects could not be financed if waivers were used.) Figure 5 would seem to imply that any residences in section 11-96-62 CCTS would be considered participating as the land is represented as being leased to the project.

Figure 9 on page 166 of Mr. Darren Kearney's pre-filed testimony and exhibits shows two nonparticipating residences in section 11-96-62 CCTS. The residents of the



residence in the center of section 11-96-62 CCTS have other land leased to the project ( Figure 5 of appendix A) on which nine turbines are proposed to be built. Perhaps there is a fine line between participating and nonparticipating about which I am confused? Are the residents of the center of section 11-96-62 CCTS nonparticipating residents but participating landowners? Would they be nonparticipating residents due to the fact that no physical part of the facility would be constructed on the leased property on which they reside? If so, would there be something in play here like the definitions of ‘participating and nonparticipating noise receptors’ found in the Ontario Technical Guide to Renewable Energy Approvals, specifically Chapter 3:Required setback for wind turbines (<https://www.ontario.ca/document/technical-guide-renewable-energy-approvals/required-setback-wind-turbines>) which states in part:

“ 2.2.1 Participating vs. Non-participating Receptors Setback distances do not apply to noise receptors (so-called “participating” noise receptors) on a parcel of land where any part of a renewable energy generation facility will be located once the facility is installed, constructed or expanded in accordance with the REA. It must be emphasized that for setback distances not to apply, all or part of the renewable energy generation facility (e.g. turbine, transmission line) must be constructed on the parcel of land. Thus, this does not apply to lease options that do not result in the construction of facility components or other agreements to waive the 550m setback distance in consideration of financial compensation or other arrangements. Further, it should be noted that a temporary structure that does not form part of the operational facility is not considered sufficient to create a participating noise receptor.”

I am not aware of any other situations similar to this in the project area, but again this casts doubt on the application, at least for me.

- c) Has the “misidentifications of participating/nonparticipating residents” that Mr. Fuerniss is aware of been corrected as part of independent review of residences within the Prevailing Wind Park project and verification area attached to Bridget Canty’s rebuttal testimony?

I do not know that the review and verification apply to my concern.

- d) Please explain in detail what consideration should be provided for rural cemeteries. Please provide evidence to support this consideration.

The existing Beethoven wind farm locates one turbine within 1.1 miles of a rural Charles Mix County cemetery and nine within 1 mile (15 within 1.25 miles) including two within 500 ft. of a Hutchinson County rural cemetery. The proposed project would put two turbines less than 1.25 miles from a Hutchinson County rural cemetery, two turbines less than 1.0 mile from a Charles Mix County rural cemetery, three turbines less than 1.0 mile from a Bon Homme County rural cemetery where my Civil War veteran great-grandfather is buried, and two turbines less than 1.0 mile from a Bon Homme County church and cemetery. This ought not to be. The proponents of these facilities seem to care little enough for the living let alone for the living who are mourning the loss of a loved one.

When we laid my father to rest beneath the prairie beside St. Paul Evangelical Lutheran Church, on the western edge of this proposed project, on a clear crisp January

day we could hear the birds singing while the church bells rang. We prayed and sang hymns. We could hear the handfuls of soil thrown by family members as they hit the casket. We stayed talking, crying, laughing and grieving until the last shovelful. If we had had to endure the noise that we sometimes hear at our farm from a distance of 1.25 miles from Beethoven, I would have been angry enough to want to tear someone's head off and spit in their neck. I do not believe a one-mile setback for the amenity of a rural cemetery is too much to ask and an active church should have two miles.

4 October, 2018  
Sherman Fuerniss  
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Dated this 28<sup>th</sup> day of September 2018.



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