

**CHARLES MIX COUNTY
STATES ATTORNEY
PO BOX 370
LAKE ANDES, SOUTH DAKOTA 57356
605-487-7441**

August 22, 2018

South Dakota Public Utilities Commission
500 East Capital Ave.
Pierre, SD 57501

RE: APPLICATION BY PREVAILING WIN PARK, LLC FOR A PERMIT OF WIND ENERGY FACILITY IN BON HOMME COUNTY, CHARLES MIX COUNTY AND HUTCHINSON COUNTY, SOUTH DAKOTA FOR THE PREVAILING WIND EL 18-026

Dear SDPUC Commission:

This letter is to follow up the phone conversation we had concerning Charles Mix County, SD, and Keith Mushitz's notice of intervening party and the STATE'S FIRST SET OF DATA REQUESTS TO CHARLES MIX COUNTY

As I stated during that phone conversation, Charles Mix County by and through its Commission Chairman, Keith Mushitz, sought to be an intervening party in the above entitled action. In hind sight, I am not sure that was necessary. Applicant has met with the Charles Mix County Commission concerning its project and the concerns of that board Charles Mix County is presently not zoned. In these meetings, the Applicant listened to the county's concerns about parameters of the project. In the end, Applicant agreed to build the project in Charles Mix County in a manner that reflects the Commission's wishes, i.e., Tower Setbacks, Tower Noise (DB level), Shadow Flickering, etc.. The Applicant signed an Affidavit and provided the Commission with that document which outlines these commitments. A copy of that Affidavit is attached hereto.

Given that, the County's request to intervene was only to provide the SDPUC with notice this agreement, to provide the SDPUC with the parameters of the agreement and to request that the SDPUC consider implementing Charles Mix County parameters in the final permit, if given, to the Applicant.

Thus, Charles Mix County does not plan to take depositions, testify or present witnesses during the application process of Applicant. In fact, Charles Mix County has no intention of attending any of the hearings unless called upon.



Thank you very much for your office's guidance in helping Charles Mix County better understand the Application process.

Sincerely,



Scott J. Podhradsky
Deputy State's Attorney
Charles Mix County

In the Matter of the Prevailing Wind Park Project in Charles Mix County, South Dakota

State of South Dakota)
) SS.
 County of Charles Mix)

Affidavit of Peter Pawlowski

Peter C. Pawlowski, Vice President, Wind, Sustainable Power Group, LLC ("sPower") of the City of Salt Lake City, County of Salt Lake, State of Utah, being duly sworn on oath, deposes and states that the proposed Prevailing Wind Park will comply with the following requirements in Charles Mix County, South Dakota ("County"):

1. Prevailing Wind Park, LLC ("Prevailing Wind Park") is proposing to construct a wind energy system and associated facilities in Bon Homme, Charles Mix, Hutchinson and Yankton counties, South Dakota. As noted on its website, Basin Electric Power Cooperative has contracted to purchase the 200 megawatts of energy to be generated by the Project.¹ Up to 23 of the proposed turbines and associated facilities ("Project") would be located in Charles Mix County.
2. Prevailing Wind Park has been working cooperatively with the County to address questions regarding the Project.
3. Prevailing Wind Park is a wholly-owned subsidiary of sPower. In my position as Vice President, Wind, sPower, I am authorized to make commitments on behalf of Prevailing Wind Park.
4. Prevailing Wind Park hereby commits to the County Board of Commissioners that the Project will adhere to the following requirements:

Setbacks.

- (a) Turbine tower distance from currently inhabited rural residence of a nonparticipating landowner shall be not less than three and a half (3.5) times the system height or two thousand feet (2,000) feet, whichever is greater. Turbine tower distance from the residence of the landowner on whose property the tower(s) are erected shall be not less than one thousand (1,000) feet.
- (b) Turbine tower distance from right-of-way of public roads shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater.

¹ <https://www.basinelectric.com/About-Us/Organization/At-a-Glance/>.

(c) Turbine tower distance from any property line shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater, unless a waiver has been obtained from adjoining property owner.

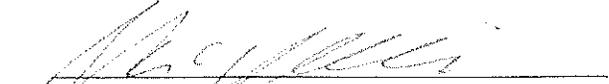
Noise. Noise from the wind turbines will not exceed 43 dBA at any existing nonparticipating residences and 45 dBA at existing participating residences, unless a signed waiver is obtained from the owner of the residence.

Shadow Flicker. Shadow flicker produced by the wind turbines will not exceed 30 hours per year and/or 30 minutes per day at currently inhabited residences of non-participants.

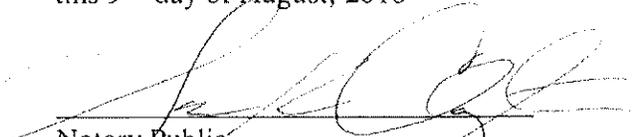
Lighting. The towers shall be lit using an Aircraft Detection Lighting System ("ADLS"), pending Federal Aviation Administration approval. The ADLS is designed to mitigate the impact of nighttime lights by deploying a radar-based system around a windfarm, turning lights on only when low-flying aircraft are detected nearby. The ADLS sends a signal to keep the light off until a plane is detected, then it stops sending the signal and the lights operate normally until the plane leaves the area and the off signal resumes.

Ice Detection. Prevailing Wind Park will use two methods to detect icing conditions on turbine blades: (1) sensors that will detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site permanent meteorological towers, on-site anemometers, and other relevant meteorological sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbine(s) in icing conditions (per the sensors) or Prevailing Wind Park will manually shut down turbine(s) if icing conditions are identified (using meteorological data). Turbines will not return to normal operation until the control systems no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern. Prevailing Wind Park will pay for any documented damage caused by ice thrown from a turbine

- 5. Prevailing Wind Park further commits to submitting this affidavit in the proceeding currently pending at the South Dakota Public Utilities Commission, *In the Matter of the Application by Prevailing Wind Park, LLC for a permit of a Wind Energy Facility in Bon Homme, Hutchinson and Charles Mix Counties*, Docket EL18-026.


Peter C. Pawlowski

Subscribed and sworn to before me
this 9th day of August, 2018


Notary Public
Expires 4-19-2023

