

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

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**IN THE MATTER OF THE  
APPLICATION OF DEUEL HARVEST  
WIND ENERGY LLC FOR A PERMIT  
OF A WIND ENERGY FACILITY AND  
A 345-KV TRANSMISSION LINE IN  
DEUEL COUNTY**

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**APPLICANT'S RESPONSES TO  
STAFF'S FOURTH SET OF DATA  
REQUESTS TO APPLICANT**

**EL18-053**

Below, please find Applicant's responses to Staff's Fourth Set of Data Requests to Applicant.

**4-1) Regarding fire protection for wind turbines:**

**a) Is a turbine fire a fairly rare event? Please provide statistics with sources to support the response.**

Jacob Baker: Yes, turbine fires are rare. Invenergy has experienced a fire at one turbine in its fleet in approximately 15 years of owning and operating wind projects; at this time, Invenergy operates over 4,800 MW of wind turbines. Invenergy staff and local emergency responders responded to the incident, and the fire extinguished on its own. There were no injuries or property damage as a result of this incident. The fire occurred in 2013 at the Forward Energy Wind Center, which was constructed in 2008 and is located in Dodge and Fond du Lac counties, Wisconsin. A new nacelle, hub, and blade set were installed, and the turbine was returned to service.

**b) Has OSHA required the installation of fire detection and control in all wind turbines? Is the Applicant planning on installing fire detection and control in the proposed turbines? Please explain.**

Jacob Baker: No, neither OSHA nor any other regulatory bodies requires fire detection or control. It is not typical to install fire detection or control in wind turbines, and Deuel Harvest does not plan to install detection or control systems for the Project. Countermeasures that are taken are listed in response to Request 4-1(c).

**c) What protections is the Applicant developing to prevent fires at the turbines?**

Jacob Baker: With respect to Project operations, Deuel Harvest will acquire turbines from reputable suppliers. Turbines are constructed of fiberglass and steel, which are not highly flammable materials. With respect to Project maintenance activities, a rigorous hot



works program is adhered to whenever any open flames or heat sources are introduced in a tower. A hot works program is a program to reduce risks associated with an activity, such as welding, which provides an ignition source. All up tower entries require a fire extinguisher be taken up the tower. All employees are trained annually on use.

**d) What fire-emergency plans does the Applicant tend to implement at the Project?**

Jacob Baker: Deuel Harvest will coordinate fire emergency plans and hold emergency response drills at the Project with local fire departments both before the Project becomes operational and annually thereafter.

**e) Please explain how the Applicant will coordinate with the agencies responsible for fire suppression within and near the Project area.**

Jacob Baker: See Response to 4-1(d) above.

- 4-2) In Docket EL18-026, the Commission ordered Prevailing Wind Park to fund a decommissioning escrow account annually at a rate of \$5,000 per turbine per year for the first 30 years, commencing no later than the commercial operation date. See Condition 40, subparts (a) – (j) of the Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry for the entire condition. Does the Applicant agree to the decommissioning condition referenced above for this permit? Please explain.**

Michael Svedeman: Yes. Deuel Harvest agrees to this condition.

- 4-3) In Docket EL17-055, Crocker Wind Farm stated that “a conservative decommissioning cost estimate in current dollars is between \$100,000 to \$150,000 per turbine after salvage value, including associated facilities” (Exhibit A6, Page 14, Lines 407 – 408). In Docket EL18-046, Dakota Range III provided a decommissioning cost estimate of \$101,420 per turbine in 2018 dollars, and \$183,710 per turbine in 2050 dollars, assuming no resale of the Project’s major components (Appendix M, Page 20). Deuel Harvest is representing a decommissioning cost estimate per turbine of \$29,074 per turbine in current dollars, assuming no resale of the Project Facilities for reuse (Appendix U, Page 4-3).**

- a) Please explain why Deuel Harvest’s estimate of decommissioning costs, assuming no resale of components, is significantly lower per turbine than other wind facilities that have been recently permitted. Please list some of the major assumptions that would drive significant differences in decommissioning cost estimates.**

- b) **Please refer to Section 4.4, Statement of Limitations of Appendix U of the Application. Specifically, the Appendix states “Any use or reliance on the contents, information, conclusions, or opinions expressed herein by any other party or for any other use is strictly prohibited and is at that party’s sole risk.” Please explain how the Commission can base the appropriate amount of financial assurance to require for decommissioning on this study based on the statement of limitations.**

Lisa Agrimonti: Based on coordination with Staff and in light of Deuel Harvest's response to 4-2) above, Deuel Harvest understands that Staff has withdrawn this request.

**4-4) Refer to Appendix U, Table A-1 of the Application.**

- a) **Is disassembly included in the decommissioning cost estimate?**  
b) **In Docket EL18-046, DNV GL estimated the disassembly, removal, and disposal of 36 turbines would cost approximately \$6,970,000 (Appendix M, Page 18, Table 5-1). For Deuel Harvest, Burns & McDonnell is estimating wind turbine removal costs of \$4,881,000 for 112 turbines. Please explain some of the assumptions that could result in a significantly lower estimate for wind turbine removal costs, even though there are nearly three times as many turbines.**

Lisa Agrimonti: Based on coordination with Staff and in light of Deuel Harvest's response to 4-2) above, Deuel Harvest understands that Staff has withdrawn this request.

Dated this 13th day of March 2019.

By /s/ Lisa Agrimonti

Mollie M. Smith

Lisa M. Agrimonti

FREDRIKSON & BYRON, P.A.

Attorneys for Applicant

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402

Phone: (612) 492-7000

Fax: (612) 492-7077

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**APPLICANT’S RESPONSES TO  
STAFF’S FIFTH SET OF DATA  
REQUESTS TO APPLICANT**

**EL18-053**

Below, please find Applicant’s responses to Staff’s Fifth Set of Data Requests to Applicant. Please note that the response to Request 5-13(a)(III) has been redacted to exclude confidential information.

- 5-1) Referring to the response of Will Stone to Applicant Data Request 1-7, Mr. Stone stated “I am concerned it will effect nesting habits and most wildlife will migrate out of area.” What is the Applicant’s position on this concern? Please provide supporting documentation.**

Andrea Giampoli: Section 3.4 of the Bird and Bat Conservation Strategy (“BBCS”) (Appendix O) details the Applicant's position regarding Mr. Stone's concerns and provides the necessary supporting documentation. The BBCS includes impact minimization measures that will be implemented to minimize impacts to avian and bat species during construction and operation of the Project.

- 5-2) Referring to the response of Will Stone to Applicant Data Request 1-7, Mr. Stone stated “I am concerned of unconstitutionally imposing a safety zone on our property and on public right of ways.”**

Lisa Agrimonti: Deuel Harvest objects to the term “safety zone” as being ambiguous and objects to these questions as calling for a legal conclusion.

- a) What is the recommended “safety zone” for ice throw per the safety manuals of the proposed turbines? Please provide documentation to support your answer.**

Lisa Agrimonti/Jacob Baker: Deuel Harvest objects to the term “safety zone” as being ambiguous. Notwithstanding this objection, Section 7 in Appendix V of the Application, the General Electric Setback Considerations for Wind Turbine Siting, identifies applicable setback considerations for the turbine models proposed for this Project.

**b) Is the safety zone recommendation an appropriate distance to use as a setback to protect South Dakotans from ice throw along property lines and right-of-ways? Please explain.**

Jacob Baker: The setbacks recommended by General Electric are appropriate setbacks to protect South Dakotans from ice throw along property lines and rights-of-way. In addition, Deuel Harvest has agreed to use the following method to detect icing conditions on turbine blades: (1) monitoring for deviations in the power curve and (2) confirming meteorological data from onsite permanent meteorological towers, on-site anemometers, and other relevant meteorological sources to determine if ice accumulation is occurring. These control systems would either automatically shut down the turbine(s) in icing conditions, or Applicant would manually shut down turbine(s) if icing conditions are identified. Turbines would not return to normal operation until the control systems no longer indicate icing is no longer a concern.

**5-3) Referring to the response of Will Stone to Applicant Data Request 1-7, Mr. Stone stated “I am concerned of .... the economic effects the turbines could have on our hunting business.” Do wind turbines near a hunting preserve impact landowners’ hunting business? Please provide documentation to support your answer.**

Michael Svedeman: Deuel Harvest is unaware of any potential adverse effects a wind turbine near a hunting preserve would have. Deuel Harvest's own leases do not prohibit hunting on properties hosting turbines, so the presence of the turbines would not prohibit hunting on unleased property. See Attachment 3-10 to Staff DR 3-10 (Confidential Wind Lease and Easement Agreement).

**5-4) Referring to the response of Will Stone to Applicant Data Request 1-15g, Mr. Stone stated “Wind company would not put a clause in contract offered to us, to guarantee compensation of difference if preserve's gross income dropped below current level.” Please explain why Deuel Harvest would not guarantee compensation if the preserve’s gross income drop below current level.**

Lisa Agrimonti: Deuel Harvest objects to this question because it seeks information about potential negotiations with landowners concerning wind leases, which is not part of this proceeding.

Michael Svedeman: Subject to this objection, Deuel Harvest states that it is unaware of any potential adverse effects a wind turbine near a hunting operation would have. Moreover, there are a number of factors that may cause a hunting operation's gross income to increase or decrease (including, but not limited to, owner sentiments and effort, weather, business regulations, changing clientele and hunting demographics, periods of economic growth or uncertainty, local and regional competition, force majeure, etc.) that would be wholly unrelated to the construction and operation of a wind farm. It would be inappropriate to place Deuel Harvest in the role of guaranteeing Mr. Stone's income given these other factors.

**5-5) Referring to the response of Jon Henslin to Applicant Data Request 1-8, Mr. Henslin requested the following mitigation measure: “Provide property value guarantees for nonparticipants in the siting area.” Please provide Deuel Harvest’s position on offering non-participants a property value guarantee with supporting documentation.**

Michael Svedeman and Michael MaRous: Deuel Harvest does not support a property value guarantee. As an initial matter, Mr. Henslin’s property is at least two miles from the nearest proposed turbine location, so it is not clear that Mr. Henslin’s stated concern is specific to his property. As discussed in the testimony of Mr. MaRous, the Project is not expected to negatively impact property values. Further, a property value guarantee is a complex and nebulous concept and would be difficult, if not impossible, to implement. Many variables can influence value. See, for example, the Rebuttal Testimony of Michael MaRous in Docket No. EL 18-026 at page 2:

“I do not believe a property value guarantee is warranted for this Project or workable. As I testified, the Project is not expected to have any adverse impact on property values. I also agree with Mr. Lawrence’s “concerns about how to properly manage the valuation process for consistent results before the project and after the installation of the wind project.” Lawrence Direct at 14. As Mr. Lawrence discussed, many variables can influence the criteria to establish value or re-establish value at a later date. For example, in addition to the examples provided by Mr. Lawrence, if maintenance and modernization has not been done, the condition of the property can deteriorate and negatively impact value. Alternatively, it would be difficult to determine how an improvement, such as a new kitchen or bathroom, should be factored in. Further, ideally, the same appraiser should do the appraisal years later if an allegation of an impact due to proximity to a wind farm is suggested. There are very few residential appraisers in the Project area, and there is a reasonable chance that the same appraiser would be retired or no longer working in the area when the future appraisal is needed. I want to emphasize that these are just some, not all, of the reasons I believe a property value guarantee is unworkable.”

Deuel Harvest also agrees with appraiser Mr. David Lawrence's assessment in his testimony in Docket EL18-026 regarding a property value guarantee.

"While I understand the goal of a property value guarantee, I have concerns about how to properly manage the valuation process for consistent results before the project and after the installation of the wind project. Many variables can influence the criteria to establish value or to reestablish value at a later date. For example, who is qualified to provide a value opinion? What will be the scope of work for establishing the market value before, and the market value after the installation of the wind project? How will changes in a property's condition such as a well maintained property versus a poorly maintained property be measured for value differences in contrast to the operational date of the wind project? I would be more supportive of the idea of a property value guarantee if there were a way to consistently define and measure the valuation process for a property's market value in proximity to a wind project."

- 5-6) Referring to the response of Heath Stone to Staff Data Request 1-3, Mr. Stone requested the following mitigation measure: "I recommend the Commission to study the impact that turbine placement will have on future development of non-participating landowners. Currently, if the project was completed to today, future development on my property at the old homestead would be within the setback established in the Deuel County Ordinance B2004-01 Section 1215.03 Section 2a."**

Michael Svedeman: As an initial matter, Deuel Harvest will comply with all land use requirements in Deuel County. Deuel County requires that turbines be setback from existing residences, and business and government buildings. It would not be possible or reasonable to design a wind farm to include setbacks based on speculative potential future construction. See Deuel Harvest's response to 5-6(a).

- a) Would Deuel Harvest offer Heath Stone a voluntary setback from a five-acre plot around the old homestead on his property in accordance with Deuel County Ordinance B2004-01 Section 1215.03 Section 2a? Please explain.**

Michael Svedeman: No, Deuel Harvest will not offer a voluntary setback. Mr. Stone's unoccupied homestead is more than 1,700 feet from the nearest turbine (T-103). As noted in Mr. Stone's responses to Staff Data Request 2-3(b), Mr. Stone did not request such a setback from Deuel Harvest during prior conversations concerning the Project. Deuel Harvest is unaware of any limitation in the Deuel County Zoning Ordinance that would preclude Mr. Stone from developing the old homestead. In addition, Deuel Harvest cannot move this turbine to the west because it would violate a setback from an existing residence. To the north is a wetland and another string of turbines, and to the south is a U.S. Fish and Wildlife Service grassland easement.



- b) Provide the predicted sound levels from the Project and the estimated annual frequency of shadow flicker associated with the operation of the Project wind turbines at the Stone homestead given the current layout. In addition, provide the distance from the closest wind turbine to the old homestead.**

Joann Blank and Mike Hankard: The predicted sound level at the homestead is 45.5 dBA. Expected shadow flicker at this location is 31:23 hours per year.

- 5-7) Referring to the response of Christina Kilby to Applicant Data Request 1-7, Ms. Kilby stated “I am concerned about disturbance from the construction and operation of the turbines polluting the aquifer and other bodies of water.” Will disturbance from the construction and operation of the turbines pollute the aquifer(s) and other bodies of water? Please explain your response, discuss any measures implemented to mitigate pollution, and provide documentation to support your response.**

Michael Svedeman: Deuel Harvest does not anticipate that construction and operation of the turbines will pollute any aquifer(s) or other bodies of water. As described further in the Application, construction impacts on waterbodies and groundwater will be limited, and Deuel Harvest will implement a Stormwater Pollution Prevention Plan to address run-off and erosion issues during and after construction. There will be no operations impacts on waterbodies and groundwater, as turbines will be sited to avoid these resources.

- 5-8) Referring to the response of Garret Homan to Staff Data Request 1-3, Mr. Homan recommended the following setback from Homan Field: (1) no turbine sites under a one-sided (biased to the East) traffic pattern airspace sized for category B aircraft, and (2) no turbine sites within 10 rotor diameters (4,170 ft or .8 statute miles) of the runway and imaginary approach surfaces for the runway. Will Deuel Harvest agree to this setback? If no, is there an alternative setback Deuel Harvest will agree to from Homan Field? Please explain.**

Michael Svedeman: No, Deuel Harvest will not agree to this setback. First, the setbacks requested by Mr. Homan are not required by federal, state, or local regulations; as indicated in the Notice of Airport Airspace Analysis Determination attached to Mr. Homan's responses to Staff's Second Set of Data Requests, "[t]he FAA cannot prevent the construction of structures near an airport. The airport environment can only be protected through such means as local zoning ordinances, acquisitions of property in fee title or aviation easements, letters of agreements, or other means." In addition, the current Project layout already reduces the number of turbines in proximity to the Homan property, as compared to prior versions of the Project layout. In addition, the setback Mr.



Homan proposes for the airstrip would have a negative impact on the participating landowners neighboring Mr. Homan's property who wish to have turbines sited on that property and have not been compensated by Mr. Homan for his proposed restrictions on their land for his occasional recreational use of a newly-proposed airstrip.

- 5-9) Referring to the response of John Homan to Staff Data Request 1-3, Mr. Homan stated "I would like to have the applicant provide an independent geological and hydrology study of the project area within a minimum distance of two miles of Monighan Creek, and within a two mile distance from our property boundaries. It is critical since Monighan Creek is a spring-fed, free flowing creek and our property contains 4 spring-fed dams that could be impacted by contamination from the process of construction and the long term damage that could be caused by the impacts of these massive turbine foundations and the ground vibrations caused by the operations of the towers."**

- a) Does Deuel Harvest perform geological studies in and around the Project area? Please explain.**

Lisa Agrimonti: As an initial matter, Deuel Harvest objects to this request because "geological studies" is vague.

Michael Svedeman: Notwithstanding that objection, Deuel Harvest provided surficial geology, bedrock geology, and soil information in the Application, and is conducting geotechnical analysis before Project construction begins. Deuel Harvest will have detailed soil characteristics at every turbine location.

- b) Does Deuel Harvest perform hydrology studies in and around the Project area? Please explain.**

Lisa Agrimonti: Deuel Harvest objects to this request because "hydrology studies" is vague.

Michael Svedeman: Notwithstanding this objection, Deuel Harvest has conducted wetland delineations with respect to Project facilities. The Application also provides data with respect to hydrology and waterbodies within the Project Area.

- c) Is there the potential for contamination of Monighan Creek as result of the construction of the Deuel Harvest North Wind Farm? Please explain and describe any mitigation measures the Company will implement.**

Michael Svedeman: As stated in Section 13.3.4.4 of the Application, a SWPPP will be prepared and implemented prior to construction, as required by the EPA; the plan will include standard sediment control devices (e.g., silt fences, straw bales, netting, soil stabilizers, check dams) to minimize soil erosion during and after construction.

In addition, as stated in Section 13.2.2 of the Application, collector lines that cross delineated wetlands and streams will be directionally bored beneath the wetland. To further protect wetlands and streams, BMPs for sediment and erosion control would be implemented. To limit the risk of contamination of wetlands and streams due to accidental spilling of fuels or other hazardous substances, construction equipment would be refueled in areas away from wetlands or drainage areas, and a spill kit would be available at the construction site.

**d) Please explain all potential environmental impacts associated with the size/weight of the turbine foundations, and any mitigation measures employed to address the potential impact.**

Lisa Agrimonti: Deuel Harvest objects to this request as vague and ambiguous as to the scope of the types of impacts included in this question.

Michael Svedeman: There are no potential environmental impacts associated with the weight of the turbine foundations. As stated in Table 10-1 of the Application, approximately 9 acres will be impacted during the life of the Project by the 124 proposed turbines and their associated foundations.

**e) Please explain all potential environmental impacts associated with the ground vibrations caused by the operations of the turbines, and any mitigation measures employed to address the potential impact.**

Michael Svedeman: There are no known or anticipated ground vibrations caused by the operation of the turbines, and, thus, no known or anticipated resulting potential environmental impacts. A similar concern was in relation to another project. However, after the turbines became operational, no vibrations were perceptible.

**5-10) Referring to the response of John Homan to Staff Data Request 1-3, Mr. Homan recommends a maximum shadow flicker level of 15 minutes per day at non-participating landowner property lines. What is Deuel Harvest's position on regulating shadow flicker at property lines? Please explain.**

Michael Svedeman: Deuel Harvest does not support regulating shadow flicker at property lines or the arbitrary and capricious limit of 15 minutes per day. As discussed in the testimonies of Drs. Roberts and Ellenbogen, there are no adverse health effects from shadow flicker. Further, the 30-hour per year limit at residences established by Deuel County is reasonable and consistent with many other jurisdictions' shadow flicker limits (to the extent that other jurisdiction even regulate shadow flicker). In addition, shadow flicker has consistently been regulated at residences by the Commission, as well. See Crocker Wind Farm, LLC, EL 17-055, Dakota Range I, LLC and Dakota Range II, LLC, EL 18-003, Prevailing Wind Park, EL18-026 and Dakota Range III, LLC, EL 18-046.

- 5-11) Referring to the response of John Homan to Staff Data Request 1-3, Mr. Homan recommends a maximum sound level of 45 dBA at non-participating landowner property lines. What is Deuel Harvest's position on regulating sound levels at property lines? Please explain.**

Michael Svedeman: Deuel Harvest does not support regulating sound levels at property lines. The sound requirements proposed by Deuel Harvest are consistent with those imposed by the Commission in prior dockets, and they are consistent with the regulations enacted by Deuel County. Deuel Harvest is not aware of other jurisdictions which regulate sound at the property line, rather than at residences. In addition, as discussed in the testimonies of Drs. Roberts and Ellenbogen, the sound requirements in the Deuel County Zoning Ordinance are protective of human health.

- 5-12) Regarding the following Deuel County setback: "Distances from existing non-participating residences and businesses shall be not less than four times the height of the wind turbines. Distance from existing participating residences, business and public buildings shall be not less than 1,500 feet. Non-participating property owners shall have the right to waive the respective setback requirements."**

- a) Please provide scientific evidence to support the non-participating and participating setbacks.**

Lisa Agrimonti: Deuel Harvest objects to this request to the extent that it asks for information not in Deuel Harvest's custody or control, and to the extent that a burden is being imposed on Deuel Harvest to defend a duly-enacted local zoning regulation.

Michael Svedeman: Notwithstanding those objections, Deuel County developed its regulations based upon a lawful process, and there is no evidence suggesting that there are health impacts from wind turbines at the distances identified in Deuel County's Ordinance, as discussed by Drs. Roberts and Ellenbogen. In addition, the setbacks

imposed by the Deuel County Ordinance are consistent with those recommended by the turbine manufacturer.

**b) Please provide documentation of Deuel County's reasoning and findings to support the setback.**

Lisa Agrimonti: Deuel Harvest objects to this request as seeking information that is not in Deuel Harvest's custody or control. Notwithstanding that objection, information concerning Deuel County's Zoning Ordinance is available at: [https://docs.wixstatic.com/ugd/1bce45\\_aa74143ecd604f67965091665ce47f99.pdf](https://docs.wixstatic.com/ugd/1bce45_aa74143ecd604f67965091665ce47f99.pdf)

In addition, meetings minutes from the Zoning Board and County Commission meetings regarding amendments to Deuel County's Zoning Ordinance concerning wind energy systems can be found at the following links:

Board of Adjustment:

October 17, 2016 -

[https://docs.wixstatic.com/ugd/1bce45\\_00462099056841f795b0f22776d7a6df.pdf](https://docs.wixstatic.com/ugd/1bce45_00462099056841f795b0f22776d7a6df.pdf)

November 21, 2016 -

[https://docs.wixstatic.com/ugd/1bce45\\_6c93bda6ac694574be96aad7636a9685.pdf](https://docs.wixstatic.com/ugd/1bce45_6c93bda6ac694574be96aad7636a9685.pdf)

December 12, 2016 -

[https://docs.wixstatic.com/ugd/1bce45\\_9111cb2ca07f4e11bf354930cb5d241b.pdf](https://docs.wixstatic.com/ugd/1bce45_9111cb2ca07f4e11bf354930cb5d241b.pdf)

January 9, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_3af2a21986d54b5fb26a581c08a0a58c.pdf](https://docs.wixstatic.com/ugd/1bce45_3af2a21986d54b5fb26a581c08a0a58c.pdf)

March 7, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_e83da4fa24674ea7861e25ff6d58bba8.pdf](https://docs.wixstatic.com/ugd/1bce45_e83da4fa24674ea7861e25ff6d58bba8.pdf)

Commission:

January 17, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_39f8b53d254f48d0a3a1094d5d474de9.pdf](https://docs.wixstatic.com/ugd/1bce45_39f8b53d254f48d0a3a1094d5d474de9.pdf)

February 7, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_1ce3229029cf4b228b94259b1633c7a7.pdf](https://docs.wixstatic.com/ugd/1bce45_1ce3229029cf4b228b94259b1633c7a7.pdf)

February 10, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_223dae481ea44b4a88f9c498747722d7.pdf](https://docs.wixstatic.com/ugd/1bce45_223dae481ea44b4a88f9c498747722d7.pdf)

February 24, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_6b90f3a746ff470492d41d04e1577d85.pdf](https://docs.wixstatic.com/ugd/1bce45_6b90f3a746ff470492d41d04e1577d85.pdf)

February 28, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_fc202eb976e248cd9ed84a062802196f.pdf](https://docs.wixstatic.com/ugd/1bce45_fc202eb976e248cd9ed84a062802196f.pdf)

March 7, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_f3c79518360948168b3b79397f0b84dc.pdf](https://docs.wixstatic.com/ugd/1bce45_f3c79518360948168b3b79397f0b84dc.pdf)

March 23, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_22bda0fbcaa14ff996b2ffbc1ac36b8f.pdf](https://docs.wixstatic.com/ugd/1bce45_22bda0fbcaa14ff996b2ffbc1ac36b8f.pdf)

March 28, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_088cd8a16b4247639c4f122f95b96f5c.pdf](https://docs.wixstatic.com/ugd/1bce45_088cd8a16b4247639c4f122f95b96f5c.pdf)

April 4, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_c3db4d623eb7438aae7a71709f583522.pdf](https://docs.wixstatic.com/ugd/1bce45_c3db4d623eb7438aae7a71709f583522.pdf)

April 25, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_60c1bc5d713b453bb4f472828230890e.pdf](https://docs.wixstatic.com/ugd/1bce45_60c1bc5d713b453bb4f472828230890e.pdf)

May 2, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_130ed1508b2c404080ed87be7a239e64.pdf](https://docs.wixstatic.com/ugd/1bce45_130ed1508b2c404080ed87be7a239e64.pdf)

May 16, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_e0efbe9c8b5f4c6ab2c4112f0cce82ce.pdf](https://docs.wixstatic.com/ugd/1bce45_e0efbe9c8b5f4c6ab2c4112f0cce82ce.pdf)

May 23, 2017 -

[https://docs.wixstatic.com/ugd/1bce45\\_2aafce9396724562ae7f89e5f6ebfb0b.pdf](https://docs.wixstatic.com/ugd/1bce45_2aafce9396724562ae7f89e5f6ebfb0b.pdf)

**5-13) Refer to the Applicant's Response to Staff Data Request 1-5.**

- a) Referring to Project wind turbine A99 approximately 2,052 feet from Matthew Thomas' residence, can turbine A99 be shifted approximately 600 feet so that it can be at one half mile away from Mr. Lynde residence without (1) violating other constraints and (2) shifting the turbine off from the current participating landowner's property?**

Lisa Agrimonti: Deuel Harvest objects to this request to the extent that, based on the current record, there are no facts to support or justify a half-mile setback from non-participating residences.

Michael Svedeman: A shift of turbine A99 to be one half mile away from the Mr. Thomas residence without violating other constraints is possible, with the caveats outlined in Section 5-13(a). However, such a shift would require shifting the turbine off the current landowner's property, and would require moving the turbine approximately 1,350 feet to the south. Turbine A99 is on the southern edge of the current property, and a shift in this location would move the turbine off the current landowner's property.

- I. If the answer to 5-13)a) is yes, please provide the information discussed in the Application in Section 8.1 regarding minor turbine shifts.**

Michael Svedeman: County and State setback distance requirements can be met. The Applicant is currently evaluating a new location for compliance with County noise and shadow flicker requirements; potential cultural resource impacts have not yet been evaluated as the new location is outside of the survey corridors of the Level III Intensive Cultural Resource Survey; environmental constraints are adhered to as agreed upon with the USFWS and the SDGFP; and wetland impacts have not yet been evaluated as the new location is outside of the survey corridors evaluated in the Wetland Delineation Report. In addition, FAA determinations of no hazard would need to be submitted.

**II. If the answer to 5-13)a) is no due to (1) violating other constraints, please explain the constraints the shifts would violate.**

Michael Svedeman: The area in which the shift can occur is limited; in short, as discussed in more detail below, the turbine location could only be shifted to the south. Shifts in other directions would violate or conflict with numerous constraints and siting criteria including: (1) internal turbine spacing guidelines to meet manufacturer requirements if moved to the east, (2) shifting to the north and west would violate residential setbacks from both Mr. Thomas and the participating landowner, (3) shifting to the west would violate setbacks from public right-of-way, (4) shifting to the north and north east would site the turbine on potentially undisturbed grassland. As discussed previously, potential cultural resource and wetland impacts have not been evaluated at this location.

**III. If the answer to 5-13)a) is no due to shifting the turbine off from the current participating landowner's property, please provide the following: name of participating landowner impacted, current number of turbines on the property of the participating landowner, and annual financial impact to the participating landowner by removing the turbine from their property. If required, please provide confidentially.**

Michael Svedeman: The shift would not be possible without moving the turbine significantly greater than 600 feet. The landowner is James DeBoer, who resides on the property. [CONFIDENTIAL INFORMATION BEGINS...  
...CONFIDENTIAL INFORMATION ENDS]

**IV. If the answer to 5-13)a) is no, would Deuel Harvest be willing to eliminate the alternative turbine from consideration? If no, please explain the Company is unwilling to remove an alternate from consideration.**

Michael Svedeman: No, Deuel Harvest is currently unwilling to eliminate the alternative turbine from consideration. This turbine location is already more than 2,400 feet from Mr. Lynde's residence, which exceeds applicable setback requirements by about 20%.

Alternate turbine locations are proposed to provide optionality during final micro siting (to address, for example, site-specific considerations including geotechnical results) or a change in the nameplate capacity of the turbine. Furthermore, these additional locations provide layout flexibility to hedge against potential capacity factor reductions in cases where a necessary turbine shift within 250 feet of its original location lowers the capacity factor greater than activating an alternate location. Alternate turbine locations also help prevent unforeseen findings from reducing the size of the Project or from significantly injuring the productivity of the Project.

**b) Referring to Project wind turbine 1 approximately 2,520 feet from John Lynde's residence, can turbine 1 be shifted approximately 120 feet so that it can be at one half mile away from Mr. Lynde residence without (1) violating other constraints and (2) shifting the turbine off from the current participating landowner's property?**

Lisa Agrimonti: Deuel Harvest objects to this request to the extent that, based on the current record, there are not facts to support or justify a half-mile setback from non-participating residences.

Michael Svedeman: A shift of turbine 1 of up to 250 feet to be one half mile away from the Mr. Lynde residence without violating other constraints is possible, with the below caveats in Section 5-13(b), and with keeping the turbine on the current participating landowner's property.

**I. If the answer to 5-13)b) is yes, please provide the information discussed in the Application in Section 8.1 regarding minor turbine shifts.**

Michael Svedeman: County and State setback distance requirements can be met. The Applicant is currently evaluating the new location for compliance with county noise and shadow flicker requirements; potential cultural resource impacts have not yet been evaluated as the new location is outside of the survey corridors of the Level III Intensive Cultural Resource Survey; environmental constraints are adhered to as agreed upon with the USFWS and the SDGFP; and wetland impacts have not yet been evaluated as the new location is outside of the survey corridors evaluated in the Wetland Delineation Report.

**II. If the answer to 5-13)b) is no due to (1) violating other constraints, please explain the constraints the shifts would violate.**



Michael Svedeman: The area in which the shift can occur is limited. The Applicant is concerned about constraints and siting criteria including: (1) internal turbine spacing to meet manufacturer requirements if moved to the west, (2) shifting to the north, east, and south could potentially violate setbacks from public right-of-way and non-participating property lines, and (3) shifting to west would site the turbine on potentially undisturbed grassland. As discussed previously, cultural resource and wetland impacts have not been assessed for this site. In addition, FAA determinations of no hazard would need to be submitted.

- III. If the answer to 5-13)b) is no due to shifting the turbine off from the current participating landowner's property, please provide the following: name of participating landowner impacted, current number of turbines on the property of the participating landowner, and annual financial impact to the participating landowner by removing the turbine from their property. If required, please provide confidentially.**

Michael Svedeman: A shift of turbine 1 to be one half mile away from the Mr. Lynde residence without violating other constraints is possible, with the caveats in Section 5-13(b), and with keeping the turbine on the current participating landowner's property.

- IV. If the answer to 5-13)b) is no, would Deuel Harvest be willing to eliminate the turbine from consideration and use an alternative turbine location? If no, please explain the Company is unwilling to use an alternative turbine location.**

Michael Svedeman: No, Deuel Harvest is currently unwilling to eliminate the alternative turbine from consideration. This turbine location is already more than 2,400 feet from Mr. Lynde's residence, which complies with applicable setback requirements. Alternate turbine locations are proposed to provide optionality during final micro siting or a change in the nameplate capacity of the turbine. Furthermore, these additional locations provide layout flexibility to hedge against potential capacity factor reductions in cases where a necessary turbine shift within 250 feet of its original location lowers the capacity factor greater than activating an alternate location. Alternate turbine locations also help prevent unforeseen findings from reducing the size of the Project or from significantly injuring the productivity of the Project.

- 5-14) Refer to the Supplement Testimony of Michael Svedeman regarding the two new building permits issued for houses after Deuel Harvest obtained its Special Exception Permit from Deuel County.**

- a) Pursuant to the Deuel County ordinance or County law, is there a cut off in which Deuel Harvest needs to consider new building permits for setbacks when designing the layout or constructing the facility? Please explain.**

Lisa Agrimonti: Deuel Harvest objects to this request because it calls for legal analysis.

Michael Svedeman: Notwithstanding that objection, based upon the previous SEP issued for the Project, I understand that setbacks are from those buildings existing at the time of the application or approval. Deuel Harvest is reapplying for the Project's SEP, and the Project's layout accounts for the two new residences constructed pursuant to the building permits referenced in this request.

**b) Can participating landowners waive the Deuel County setback from their residence? If yes, why is the Company considering changes to its layout? Please explain.**

Lisa Agrimonti: Deuel Harvest objects to this request because it calls for a legal analysis.

Michael Svedeman: Subject to this objection, Deuel Harvest states that is not aware of any ability of landowners to waive the setback requirement. Deuel Harvest understands that the County may grant a variance from this requirement.

**5-15) Referring to lines 352-354 of Mr. Svedeman's prefiled testimony and Section 20.5 of the Application (page 20-12), please explain why it was represented that a Level III Archaeological Survey was completed for all areas to be physically impacted by the project, whereas Appendix E of the Application states that only ~15% of the component footprint was surveyed.**

Lisa Agrimonti: A response to this request was previously provided on March 13, 2019.

Dated this 21st day of March, 2019.

By /s/ Lisa Agrimonti

Mollie M. Smith

Lisa M. Agrimonti

FREDRIKSON & BYRON, P.A.

Attorneys for Applicant

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402

Phone: (612) 492-7000

Fax: (612) 492-7077

66268231.1

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

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**IN THE MATTER OF THE APPLICATION  
OF DEUEL HARVEST WIND ENERGY LLC  
FOR A PERMIT OF A WIND ENERGY  
FACILITY AND A 345-KV TRANSMISSION  
LINE IN DEUEL COUNTY, SOUTH  
DAKOTA, FOR THE DEUEL HARVEST  
NORTH WIND FARM PROJECT**

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**CERTIFICATE OF SERVICE**

**EL18-053**

Roxanne Gangl, of Fredrikson & Byron, P.A., hereby certifies that on the 21st day of March, 2019, true and correct copies of **Applicant's Responses to Staff's Fifth Set of Data Requests to Applicant** and this **Certificate of Service** were served electronically on the Parties listed below:

Ms. Amanda Reiss Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:amanda.reiss@state.sd.us">amanda.reiss@state.sd.us</a> (Confidential and Public)	Ms. Kristen Edwards Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:kristen.edwards@state.sd.us">kristen.edwards@state.sd.us</a> (Confidential and Public)
Mr. Jon Thurber Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:jon.thurber@state.sd.us">jon.thurber@state.sd.us</a> (Confidential and Public)	Mr. Darren Kearney Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:darren.kearney@state.sd.us">darren.kearney@state.sd.us</a> (Confidential and Public)
Mr. Kristian Mark Dahl Attorney Otter Tail Power Company 215 S. Cascade St. Fergus Falls, MN 56538-0496 <a href="mailto:kdahl@otpc.com">kdahl@otpc.com</a> (Public)	Mr. Thomas J. Welk - Representing: Otter Tail Power Company Boyce Law Firm, LLP 300 S. Main Ave. Sioux Falls, SD 57104 <a href="mailto:tjwelk@boycelaw.com">tjwelk@boycelaw.com</a> (Public)

Mr. Jason R. Sutton - Representing: Otter Tail Power Company Boyce Law Firm, LLP 300 S. Main Ave. Sioux Falls, SD 57104 <a href="mailto:jrsutton@boycelaw.com">jrsutton@boycelaw.com</a> (Public)	Ms. Lisa M. Agrimonti Representing Deuel Harvest Wind Energy LLC Fredrikson & Byron, P.A. 200 South Sixth Street, Suite 4000 Minneapolis, MN 55402-1425 <a href="mailto:lagrimonti@fredlaw.com">lagrimonti@fredlaw.com</a>
Ms. Mollie M. Smith Representing Deuel Harvest Wind Energy LLC Fredrikson & Byron, P.A. 200 South Sixth Street, Suite 4000 Minneapolis, MN 55402-1425 <a href="mailto:msmith@fredlaw.com">msmith@fredlaw.com</a>	

/s/ Roxanne Gangl  
Roxanne Gangl

**Jones, Alicia**

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**From:** Waller Pitts, Haley <HWallerPitts@fredlaw.com>  
**Sent:** Wednesday, March 13, 2019 2:35 PM  
**To:** amanda.reiss@state.sd.us; Kristen.edwards@state.sd.us; jon.thurber@state.sd.us; darren.earney@state.sd.us; 'kdahl@otpc.com'  
**Cc:** Agrimonti, Lisa; Smith, Mollie  
**Subject:** EL 18-053: Deuel Harvest Response to Staff DR 5-15  
**Attachments:** Applicant's Response to Staff DR 5-15-c.pdf; Certificate of Service-c.pdf

Good Afternoon –

Attached please find Deuel Harvest's response to Staff DR 5-15. The referenced confidential attachment will be served upon Staff and Staff counsel separately.

Thank you,

Haley

**Haley L. Waller Pitts**  
**Attorney**  
**Fredrikson & Byron, P.A.**  
200 South Sixth Street  
Suite 4000  
Minneapolis, MN 55402.1425

**DIRECT:** 612.492.7443

**ASSISTANT:** 612.492.7641

**FAX:** 612.492.7077

**E-MAIL:** [hwallerpitts@fredlaw.com](mailto:hwallerpitts@fredlaw.com)

**\*\*This is a transmission from the law firm of Fredrikson & Byron, P.A. and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and notify us immediately at our telephone number (612) 492-7000. The name and biographical data provided above are for informational purposes only and are not intended to be a signature or other indication of an intent by the sender to authenticate the contents of this electronic message.\*\***

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

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**IN THE MATTER OF THE  
APPLICATION OF DEUEL HARVEST  
WIND ENERGY LLC FOR A PERMIT  
OF A WIND ENERGY FACILITY AND  
A 345-KV TRANSMISSION LINE IN  
DEUEL COUNTY**

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\* **APPLICANT'S RESPONSES TO STAFF**  
\* **DATA REQUEST 5-15 TO APPLICANT**  
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\* **EL18-053**  
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Below, please find Applicant's responses to Staff Data Request 5-15 to Applicant.

Responses to the remaining requests in Set 5 will be provided separately.

**5-15) Referring to lines 352-354 of Mr. Svedeman's prefiled testimony and Section 20.5 of the Application (page 20-12), please explain why it was represented that a Level III Archaeological Survey was completed for all areas to be physically impacted by the project, whereas Appendix E of the Application states that only ~15% of the component footprint was surveyed.**

Michael Svedeman: See Attachment 5-15, which is being provided confidentially and includes copies of correspondence between Paige Olson, South Dakota State Historical Society, and the Project concerning the Level III Archaeological Survey for the Project, including an explanation of the methodology used for that survey.

Dated this 13th day of March, 2019.

By /s/ Lisa Agrimonti

Mollie M. Smith

Lisa M. Agrimonti

FREDRIKSON & BYRON, P.A.

Attorneys for Applicant

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402

Phone: (612) 492-7000

Fax: (612) 492-7077



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

**IN THE MATTER OF THE APPLICATION  
OF DEUEL HARVEST WIND ENERGY LLC  
FOR A PERMIT OF A WIND ENERGY  
FACILITY AND A 345-KV TRANSMISSION  
LINE IN DEUEL COUNTY, SOUTH  
DAKOTA, FOR THE DEUEL HARVEST  
NORTH WIND FARM PROJECT**

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**CERTIFICATE OF SERVICE**

**EL18-053**

Haley Waller Pitts, of Fredrikson & Byron, P.A., hereby certifies that on the 13th day of March, 2019, true and correct copies of the Deuel Harvest Wind Energy LLC's Response to Staff Data Request 5-15 and this Certificate of Service were served electronically on the Parties listed below:

Ms. Amanda Reiss Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:amanda.reiss@state.sd.us">amanda.reiss@state.sd.us</a> (Confidential and Public)	Ms. Kristen Edwards Staff Attorney South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:kristen.edwards@state.sd.us">kristen.edwards@state.sd.us</a> (Confidential and Public)
Mr. Jon Thurber Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:jon.thurber@state.sd.us">jon.thurber@state.sd.us</a> (Confidential and Public)	Mr. Darren Kearney Staff Analyst South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 <a href="mailto:darren.kearney@state.sd.us">darren.kearney@state.sd.us</a> (Confidential and Public)
Mr. Kristian Mark Dahl Attorney Otter Tail Power Company 215 S. Cascade St. Fergus Falls, MN 56538-0496 <a href="mailto:kdahl@otpc.com">kdahl@otpc.com</a> (Public)	

/s/ Haley Waller Pitts  
Haley Waller Pitts

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

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**IN THE MATTER OF THE  
APPLICATION OF DEUEL HARVEST  
WIND ENERGY LLC FOR A PERMIT  
OF A WIND ENERGY FACILITY AND  
A 345-KV TRANSMISSION LINE IN  
DEUEL COUNTY**

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**APPLICANT'S RESPONSE TO  
STAFF'S SIXTH SET OF DATA  
REQUESTS TO APPLICANT**

**EL18-053**

Below, please find Applicant's response to Staff's Sixth Set of Data Requests Applicant, from which CONFIDENTIAL information has been redacted.

- 6-1) Refer to Deuel Harvest's response to Commission Staff data request 3-3)b). The Company stated there are no turbines within two miles of Mr. Henslin's address. Please provide the distance of the closest proposed turbine from Mr. Henslin's address.**

Michael Svedeman: The nearest turbine is T41 that is approximately 11,469 feet (2.17 miles) from Mr. Henslin's home at 1020 Lake Alice Road, Clear Lake, South Dakota.

- 6-2) Refer to Deuel Harvest's response to Commission Staff data request 1-5. Please identify all non-participating residences within  $\frac{3}{4}$  miles from a proposed turbine. For each residence identified, provide the name of the property owner, distance from closest turbine, and receptor identifier in the shadow flicker and noise studies.**

Michael Svedeman: See the table below.

Distance from Residence to Nearest Turbine (ft)	Owner	Turbine No.	Residence ID
3,949.0	SEEFELDT, LAURIE	A4	231
2546.0	LYNDE, JOHN	1	272
3804.1	AOC FARMS LLC	3	233
3054.36	SWITZENBERG, KEVIN	7	275
3375.2	HUNT, JUDY	A22	287
4193.0	KELLEY, RAMONA	38	257
3,099.5	TOBEN FARMS INC	41	259
2974.4	GARY, DOUGLAS	17	694
3299.2	ADLER, TERRY	A12	325
2861.3	HOMAN BROTHERS	82	292

Distance from Residence to Nearest Turbine (ft)	Owner	Turbine No.	Residence ID
	PARTNERSHIP		
3,100	THOMAS, MATTHEW	98	293
2,053.03	THOMAS, MATTHEW	A99	294
3501.3	KRAUSE, JOYCE	118	341
3385.7	KRAUSE, JOYCE	118	499
3349.2	LEE, ROBERT ETAL	118	198
3559.5	HUNT, DAROLD ETUX	121	203
3587.4	KORINEK, DAVID ETUX	120	202
3384.5	HINDERS, STACEY ETAL	121	200
3514.6	SANDER, JESSE	121	5
3442.5	SANDER, GARY	124	201
3695.3	SANDER, GARY	124	199
3352.3	HOMAN STEEL CONSTRUCTION	121	803

6-3) [BEGIN CONFIDENTIAL]

[END CONFIDENTIAL]

6-4) [BEGIN CONFIDENTIAL]

[END CONFIDENTIAL]

6-5) Refer to Deuel Harvest's response to Commission Staff data request 5-13)a). Commission Staff made a typo in the question. The question should have read:

Referring to Project wind turbine A99 approximately 2,052 feet from Matthew Thomas' residence, can turbine A99 be shifted approximately 600 feet so that it can be at one half mile away from Mr. Thomas' residence without (1) violating other constraints and (2) shifting the turbine off from the current participating landowner's property? (correction noted)

Does this correction change any of Deuel Harvest's responses to Commission Staff data request 5-13)a)? Specifically, the response to Commission Staff data request 5-13)a)IV) references Mr. Lynde rather than Mr. Thomas.

Michael Svedeman: Deuel Harvest's response was in response to Mr. Thomas' residence and, as such, the correction noted above does not change Deuel Harvest's response.

**6-6) Refer to Deuel Harvest's response to Commission Staff data request 5-13)b) and Appendix A, Figure 2 – Turbine Siting Constraints Map.**

- a) Please provide a turbine constraints map specifically for Turbine 1, simply zooming in on Figure 2, but identifying all the constraints Mr. Svedeman stated in response to 5-13)b)II.**

Michael Svedeman: See Attachment 6-6(a). Note that this figure does not include cultural resources or wetland constraints, as field surveys for those resources have not been conducted in areas where no facilities are currently proposed.

- b) In response to 5-13)b)I), Mr. Svedeman stated the following regarding a potential 120 foot move, "County and State setback distance requirements can be met. The Applicant is currently evaluating the new location for compliance with county noise and shadow flicker requirements; potential cultural resource impacts have not yet been evaluated as the new location is outside of the survey corridors of the Level III Intensive Cultural Resource Survey; environmental constraints are adhered to as agreed upon with the USFWS and the SDGFP; and wetland impacts have not yet been evaluated as the new location is outside of the survey corridors evaluated in the Wetland Delineation Report."**

**I. Please explain the value of the turbine constraint map submitted in Figure 2 if a 120 foot turbine move cannot be analyzed with that specific map.**

Michael Svedeman: A constraints map identifies constraints known to Deuel Harvest as a result of setbacks, other regulations, and desktop and field survey work. In general, field surveys are completed for where facilities are planned to be located. In the event that facilities are shifted, additional field surveys may be conducted if the new location falls outside the surveyed corridor. The survey corridors for Wetland Delineations and Cultural Resources Surveys included turbine locations (250-foot radius), access roads (100-foot on either side of the centerline), collector lines (50-foot on either side of the centerline), and crane paths (50-foot buffer on either side of the centerline). In other words, a constraints map identifies known, geographically-definable constraints, rather than definitively identifying all areas where facilities could be located.

**II. When will the Applicant finalize its evaluation? Please explain.**

Michael Svedeman: Deuel Harvest would not conduct cultural and wetland field surveys of this location unless such a turbine shift were required by the Commission or another regulatory body.

Dated this 5th day of April, 2019.

By /s/ Lisa Agrimonti

Mollie M. Smith

Lisa M. Agrimonti

FREDRIKSON & BYRON, P.A.

Attorneys for Applicant

200 South Sixth Street, Suite 4000

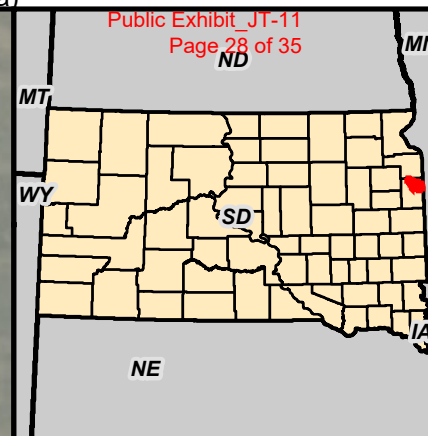
Minneapolis, MN 55402








Phone: (612) 492-7000

Fax: (612) 492-7077

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-  Turbine Location
-  Crane Path
-  Access Road
-  Collection Line
-  Project Area
-  Buildable Area
-  Constraints



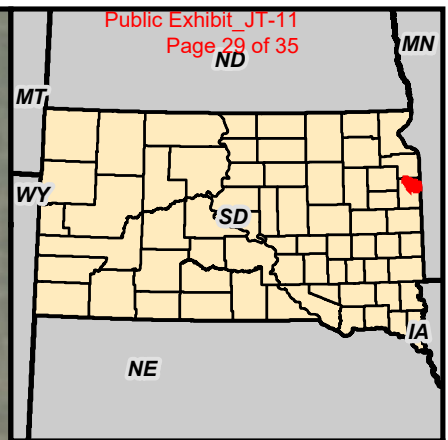
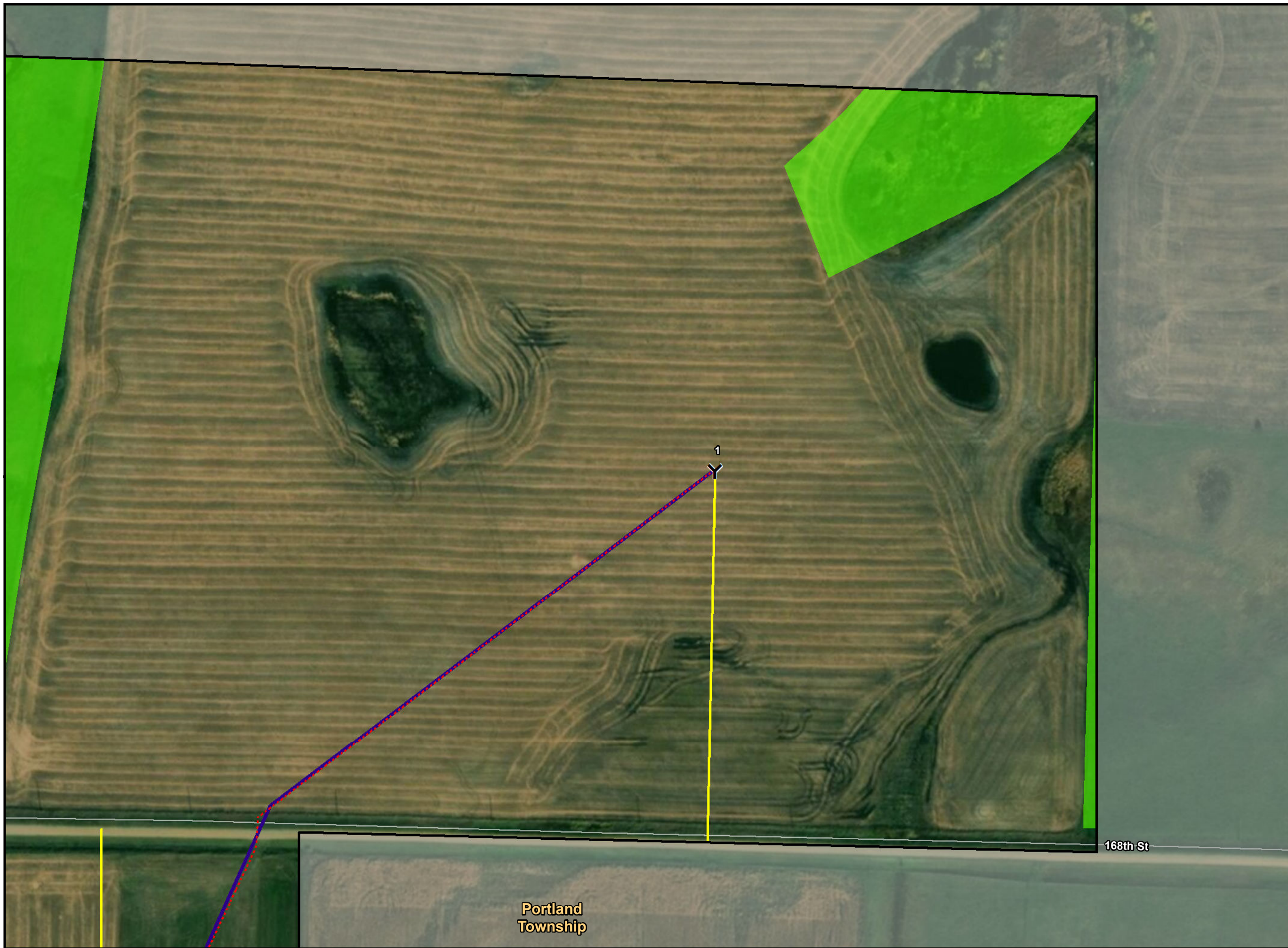
0 75 150  
Feet

**Invenergy**

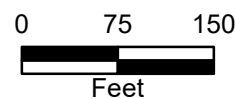
Figure A-2 Turbine 1  
Turbine Siting Constraints Map  
Deuel Harvest North Wind Farm  
Deuel Harvest Wind Energy LLC  
Deuel County, South Dakota







- Turbine Location
- Crane Path
- Access Road
- Collection Line
- Project Area
- Township Boundary
- Potentially Undisturbed Grassland



Invenergy

Figure A-3 Turbine 1  
Environmental Constraints Map  
Deuel Harvest North Wind Farm  
Deuel Harvest Wind Energy LLC  
Deuel County, South Dakota



Turbine Location **NWI Wetland**

Crane Path

Access Road

Collection Line

Project Area

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland



NORTH

0 100 200



Feet

Invenergy

Figure A-6 Turbine 1  
Water ResourcesDeuel Harvest North Wind Farm  
Deuel Harvest Wind Energy LLC  
Deuel County, South Dakota

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

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**IN THE MATTER OF THE APPLICATION  
OF DEUEL HARVEST WIND ENERGY  
LLC FOR A PERMIT OF A WIND  
ENERGY FACILITY AND A 345-KV  
TRANSMISSION LINE IN DEUEL  
COUNTY**

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\*  
\* **APPLICANT'S RESPONSES TO**  
\* **STAFF'S SEVENTH SET OF DATA**  
\* **REQUESTS TO APPLICANT**  
\*  
\* **EL18-053**  
\*

Below, please find Applicant's responses to Staff's Seventh Set of Data Requests to Applicant.

- 7-1) If the County Commission or a court concludes that the Deuel County Zoning ordinance should be read as requiring a setback of 2 miles from Lake Alice (i.e. not the Lake Park District), please explain what impact a 2-mile setback from Lake Alice would have on the project layout. Further, please explain how Deuel Harvest will address any changes that may need to be made to the turbine layout if a permit is granted for the currently proposed layout. Would Deuel Harvest remove the impacted turbines from the project or would the turbines need to be relocated?**

Lisa Agrimonti: Deuel Harvest objects to this request to the extent it calls for legal analysis.

Michael Svedeman: Subject to and without waiving that objection, based on Deuel County's enactment of its current Zoning Ordinance, Deuel Harvest believes that the County has a setback from the Lake Park District, not Lake Alice itself and that it would be unlikely that Deuel County or a court would conclude otherwise. As such, Deuel Harvest has not extensively analyzed the impact of a two-mile setback from Lake Alice on the Project's layout. There are 17 turbines within two miles of Lake Alice itself. In the event that a two-mile setback from Lake Alice would apply, Deuel Harvest does not currently know whether it would remove or seek to relocate those turbines.

- 7-2) Will Deuel Harvest apply for an aeronautical hazard permit from the South Dakota Department of Transportation for turbine #90 given the Clear Lake Public Airport is approximately 23,300 feet away from that turbine location? Please explain.**

Lisa Agrimonti: Deuel Harvest objects to this request to the extent it calls for legal analysis.

Michael Svedeman: Subject to and without waiving that objection, Deuel Harvest has received Determinations of No Hazard ("DNHs") from the Federal Aviation Administration for all turbine locations, including Turbine No. 90. Deuel Harvest will comply with SDCL 50-9-1 and submit DNHs to the South Dakota Department of Transportation "prior to the start of construction in lieu of the application and permit

required by [SDCL 50-9-1].” *See also* ARSD 70:02:03:19. Deuel Harvest understands that submitted DNHs meets these requirements and will obtain any additional permits, to the extent they are required.

Dated this 10th day of April, 2019.

By /s/ Lisa Agrimonti  
Mollie M. Smith  
Lisa M. Agrimonti  
FREDRIKSON & BYRON, P.A.  
Attorneys for Applicant  
200 South Sixth Street, Suite 4000  
Minneapolis, MN 55402  
Phone: (612) 492-7000  
Fax: (612) 492-7077

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

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**IN THE MATTER OF THE APPLICATION  
OF DEUEL HARVEST WIND ENERGY  
LLC FOR A PERMIT OF A WIND  
ENERGY FACILITY AND A 345-KV  
TRANSMISSION LINE IN DEUEL  
COUNTY**

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\*  
\* **APPLICANT’S RESPONSES TO**  
\* **STAFF’S EIGHTH SET OF DATA**  
\* **REQUESTS TO APPLICANT**  
\*  
\* **EL18-053**  
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Below, please find Applicant’s responses to Staff’s Eighth Set of Data Requests to Applicant.

- 8-1) Refer to the rebuttal testimony of Mr. Michael Svedeman, Page 6, line 166 through Page 7, line 187, regarding the two-mile setback from Lake Alice. Did Mr. Thurber state that Commission Staff will defer to Deuel County to interpret its Ordinance on the Lake Alice setback, rather than Mr. Thurber making a determination as indicated in the question and response? Please explain.**

Michael Svedeman: On page 23 of his direct testimony, Mr. Thurber stated: “The Zoning Officer for Deuel County indicated to Commission Staff that the setback was from the Lake Park District at Lake Alice, not from Lake Alice itself. Commission Staff will defer to Deuel County to interpret its Ordinance on the Lake Alice setbacks as the measure relates to the orderly development of the region, and the Commission has legislative direction to give due consideration to the views of governing bodies of affected local units of government pursuant to SDCL 49-41B-22(4).” To the extent that my rebuttal testimony may be read to misstate Mr. Thurber’s testimony, that was not intended.

- 8-2) Refer to the rebuttal testimony of Mr. Michael Svedeman, Page 9, lines 242 through 243. Mr. Svedeman stated “I note also that five turbine locations have already had to be removed to meet setback and other requirements, leaving 119 remaining locations.” Please explain the purpose of that note.**

Michael Svedeman: That statement was made in response to the following question: “Mr. Thurber suggests that turbine location No. A99 could be removed to meet a half-mile setback because it is an alternate. What is Deuel Harvest’s response?” My note regarding the 119 turbine locations was intended to provide additional context for the response to Staff DR3-15 quoted in my testimony, where Deuel Harvest explained the importance of having alternate turbine locations. As I explained, the number of alternate turbine locations has already been reduced because of other changes required in the Project layout, and, as such, Deuel Harvest was not willing to commit to removing Turbine No. A99, which is already more than 2,400 feet from the nearest non-participating residence.

**8-3) Refer to the rebuttal testimony of Mr. Jacob Baker, Page 1, lines 22 through 30. Mr. Baker states “that said, as I discussed in my Supplemental Testimony, ice throw is uncommon, and Deuel Harvest is reducing the risk of ice throw by following the manufacturer's recommended setbacks (Section 7 of Appendix V) and employing an ice detection system.”**

**a) Has Mr. Baker quantified the risk of ice fall and ice throw? Please explain and support.**

Jacob Baker: An ice detection risk analysis would be conducted for the purpose of determining whether a project should employ an ice detection system. Because the Project has already been designed with an ice detection system, we have not performed a risk analysis to determine whether such a system would be appropriate.

**b) Is Mr. Baker familiar with the International Recommendation for Ice Fall and Ice Throw Risk Assessment study provided by link: <https://community.ieawind.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=3e92fc30-a54a-4888-e612-79126301c58e&forceDialog=0>**

Jacob Baker: No. I am not familiar with this document.

**c) Please explain why it is unnecessary to perform an ice fall and ice throw risk assessment for the Deuel Harvest Wind Farm to provide an objective and site-specific level of risk assessment.**

Jacob Baker: See response to 8-3(a) above.

**8-4) Refer to the rebuttal testimony of Mr. Michael MaRous, Page 1, line 19, through Page 2, line 45, and Attachment to Commission Staff data request 8-4 – Henslin Response to Commission Staff data request 2.**

**Refer to Mr. Henslin’s response to Commission Staff data request 2-2. Do the property value guarantee examples provided by Mr. Henslin address the implementation concerns raised by Mr. MaRous in his rebuttal testimony? Please explain and provide specific references to example agreements, where applicable.**

Michael MaRous: No, the examples do not address the implementation concerns raised in my rebuttal testimony. As an initial matter, there are very few active residential appraisers in Deuel County, let alone those with an SRA or MAI designation. An appraiser who is an active real estate broker may not be willing or able to participate, as it may interfere with the ability to list properties, which would further reduce the number of available appraisers. In addition, I note:

- Neither PVG identifies who is responsible for resolving disputes concerning the PVG, and I suspect the SDPUC does not have staff that could be devoted to this.

- A reasonable percentage of sales transactions in Deuel County are between related parties. Inter-family transactions do not qualify as valid sales under the definition of fair market value. Whether by direct blood lines, marriage, or indirect, family relations create difficulty in determining the validity of a sale particularly in a small market area with a limited number of transactions.
- The ability to monitor the condition and maintenance of a property after it comes on the market (the marketing period), and after the appraisal inspection, particularly during a long marketing period, is difficult to assess.
- The agreement to have a professional, experienced broker (real estate professional) to market the property with significance experience in the market is also difficult to monitor.

Dated this 11th day of April, 2019.

By /s/ Lisa Agrimonti

Mollie M. Smith

Lisa M. Agrimonti

FREDRIKSON & BYRON, P.A.

Attorneys for Applicant

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402

Phone: (612) 492-7000

Fax: (612) 492-7077