

Below are email conversations I had with Dan Litchfield of Invenergy after he approached me following the Feb. 7th Commissioners Meeting wanting to know if I would be the one to get the group of those opposed together to visit..... (start at the back)

----- Original message -----

From: "Litchfield, Daniel" <DLitchfield@invenergyllc.com>
Date: 2/10/17 7:53 AM (GMT-06:00)
To: "Oeltjenbruns, Angel" <Angel.Oeltjenbruns@k12.sd.us>
Subject: RE: Health

Good morning Angel. Yesterday just flew away for me.

I think that if we drew up a map showing 1 mile setbacks from every creek/ravine and forest in the county, there would be nothing left. If you saw that map and realized how much space of other peoples' land you are asking to set aside for eventual, theoretical residential development, would that change your mind? I can get the map made, but don't want to waste anybody's time.

Dan Litchfield | Senior Manager, Project Development
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC
@danlitch

From: Oeltjenbruns, Angel [mailto:Angel.Oeltjenbruns@k12.sd.us]
Sent: Wednesday, February 08, 2017 3:28 PM
To: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Subject: Re: Health

I can let them know, but I'm willing to bet it won't be an option. I just thought it in your best interest to get this group quieted down with minimal effect to your proposed project. I'm guessing they will proceed as planned.....

Angel

Angel Oeltjenbruns
Business Manager
Immaculate Conception School/Parish
605-886-3883

From: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Sent: Wednesday, February 8, 2017 3:11 PM
To: Oeltjenbruns, Angel
Subject: RE: Health

Well we can memorialize it with a contract. We'd be looking for not just lack of opposition from your group toward our interests, but support for our interests. Our interests are to see a return to the old zoning ordinance. We'd also want your explicit support for an eventual permit application from our project (s). In exchange for this cooperation, we would offer the cooperation that you request of not placing wind turbines in certain areas.

Dan Litchfield | Senior Manager, Project Development
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC
@danlitch

From: Oeltjenbruns, Angel [mailto:Angel.Oeltjenbruns@k12.sd.us]
Sent: Wednesday, February 08, 2017 2:47 PM
To: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Subject: Re: Health

There aren't many areas that have a lot of trees, ravines and creek. I was trying to make a distinction of the landscape on the eastern side of county.

How exactly would you propose to guarantee the setback?
I will have to let these people know what some of the ideas are so they are willing to let me share their info with you.

Angel

Angel Oeltjenbruns
Business Manager
Immaculate Conception School/Parish
605-886-3883

From: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Sent: Wednesday, February 8, 2017 2:26 PM
To: Oeltjenbruns, Angel
Subject: RE: Health

I am concerned the ask of me is too broad. Creeks and forests or just specific people's property lines? There are a lot of creeks and forests all over the county. 1 or 2 miles from all of those is going to eliminate most of the county if not all. I just don't see that as a reasonable request. That ask would be to essentially set aside the entire county for *potential* residential development while blocking wind development that is more of a here and now.

Can you give me a more specific list of who wants 1 mile setbacks from their properties? Maybe addresses or land descriptions so I can see where they are and map them.

I also must point out that with the materials I sent last night, it should be apparent that a 1 mile setback is unnecessary to achieve peace and good health near a wind farm. Setbacks of 1500 feet and sound restrictions of 50 dBA are more than adequate.

Dan Litchfield | Senior Manager, Project Development
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC
@danlitch

From: Oeltjenbruns, Angel [mailto:Angel.Oeltjenbruns@k12.sd.us]
Sent: Wednesday, February 08, 2017 12:55 PM
To: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Subject: Re: Health

Dan-

You asked if we could visit to see if we could resolve some of the concerns of the people in the group. That is my intention, we could debate all day about where homes could maybe go. I've seen the development in the area

To: Oeltjenbruns, Angel
Subject: RE: Health

Good morning Angel –

Thanks for your consideration. I will ask our Environmental Permitting Manager to explain a bit about what setbacks we will be using to avoid or mitigate impacts to wildlife, but 2 miles is going to be way more than is required by the US Fish and Wildlife Service and South Dakota GFP. Science does not support that setbacks that large make any real difference.

Why 2 miles?

That is an extremely large area, approximately 8700 acres from a square, ten acre parcel.

Dan Litchfield | Senior Manager, Project Development
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC
@danlitch

From: Oeltjenbruns, Angel [<mailto:Angel.Oeltjenbruns@k12.sd.us>]
Sent: Wednesday, February 08, 2017 9:24 AM
To: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Subject: Re: Health

Good Morning Dan-

I gave this alot of thought last night and there is one common thread amongst all these landowners, they have land or are near land with woods and creeks or a lake. Would you be open to a 2 miles set back from wooded areas with creeks with a waiver up to a mile.

3 miles of Lake Cochrane with waiver up to 2 miles for those who don't mind them closer?

This wouldn't take up as large of an area as a radius of town and really takes out land that in most cases the majority of isn't conducive to wind turbines. I don't have a map with me, but I believe most of the participants that if would affect have land elsewhere that turbines can be placed on.

Let me know your thoughts.

Angel

these people live and it will continue, for whatever reason people like to live by other people....I prefer peace and quiet myself.

Right now we are trying to
#1 come to an agreeable setback for the people who are currently living in the area
#2 preserve the natural area that surrounds Gary for future growth.

It's that simple. It's too far down the path to change minds. They don't want a tower within 1 mile of their property lines. I simply thought we could work this out since it appeared one mile from that area wasn't going to affect your project by much and you would quiet down a large group of opponents.

If it isn't something you can consider, then just let me know, and I will pass on the word.

Angel

Angel Oeltjenbruns
Business Manager
Immaculate Conception School/Parish
605-886-3883

From: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Sent: Wednesday, February 8, 2017 12:12 PM
To: Oeltjenbruns, Angel
Subject: RE: Health

Are these specific home sites that are in the process of being developed or more of a preservation plan for eventual, theoretical development?

How about up in the NE corner of the county off the ridge where the wind is lower? Wouldn't a less windy site be more desirable for residential development? I'm talking about an area approximately 5 miles north of you in Antelope Valley township.

Dan Litchfield | Senior Manager, Project Development
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC
@danlitch

From: Oeltjenbruns, Angel [<mailto:Angel.Oeltjenbruns@k12.sd.us>]
Sent: Wednesday, February 08, 2017 10:04 AM
To: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Subject: Re: Health

To allow for a preserved area for new homes, it's the land that is desirable to build on. Landowners who want to participate could sign waiver up to a mile, so in those cases it's only a mile.

Angel Oeltjenbruns
Business Manager
Immaculate Conception School/Parish
605-886-3883

From: Litchfield, Daniel <DLitchfield@invenergyllc.com>
Sent: Wednesday, February 8, 2017 9:59 AM

Invenergy

One South Wacker Drive | Suite 1900 | Chicago, Illinois 60606
T 312-224-1400 | F 312-224-1444

Deuel County Planning Commission
Clear Lake, SD 57226

January 9, 2017

Deuel Harvest Wind Farm

Re: Proposal to modify the zoning ordinance

Dear Commission Members,

Thank you so much for your time spent considering this matter thus far. You have really put in some long hours and I know discussions have extended beyond the marathon meetings. Thank you.

We have been thrilled by the warm reception we have received from Deuel County residents. They really see the value of seeking a dual harvest on their land by harnessing the wind flowing over their property for the production of clean, affordable and stable-priced electricity. Our track record of developing over 7,000 megawatts (MW) of wind farms around the country is more evidence of the fit between a properly-designed wind farm and agricultural communities like Deuel County.

Our Deuel Harvest Wind Farm would be an over \$400 million investment that would harvest the strong winds flowing over Deuel County and tie into the newly constructed transmission line. The benefits are plentiful and spread widely: approximately eight million new dollars each year injected into the County in the form of new tax revenue, landowner payments, local salaries of operations workers, local purchases by the operations team and additional benefits from recycling this new money within the community. Plus, the project would generate an enormous amount of emissions-free energy that will never run out.

We carefully selected Deuel County for our planned project because of the intersection of a lot of different factors. Beyond the strong wind, transmission line, and compatible land use, we also evaluated the rulebook – your zoning ordinance and the South Dakota Public Utilities Commission requirements – and determined the regulations present would allow for a wind farm to be built that would be economically viable AND compatible with rural residences.

But now we are looking at wholesale changes to the zoning ordinance that would yank the rug out on our investment and completely block both our project and the resulting economic prosperity for Deuel County.

Please consider the following unrealistic and unreasonable aspects of the proposed zoning ordinance:

1. The temporary suspension of all WES applications until ordinance modifications are addressed, without a specific timeline, could drag on indefinitely. As

invenergyllc.com

February 18, 2017

It is with great disappointment that I write to you. I just recently received a copy of the enclosed letter that was written by Invenergy and given to the zoning board the very day they voted for the ordinance change recommendations. The letter clearly shows that our proposed ordinance was written for/by the wind industry. I have yet to understand why most of the appointed individuals on that board felt obligated to please this big industry that is walking in and taking over the county with persuasive marketing and a very ill written contract that leaves the landowner unprotected. Is there no loyalty to the residents that have made their home here in Deuel County? At the very least I think the residents deserve a freeze on permits and time be taken to thoroughly study this issue before making a decision that will change the county forever. I have faith that your group can look at both sides a little more clearly. It is hard to believe that all the ongoing litigation is based on "make believe" and "falsehood" as the wind industry claims. No one uses their hard earned life savings to pay lawyers if there hasn't been wrong doing. It's obvious there are some negative effects and there is an easy way to prevent most of them.

Most of what I have read on the opposition's side comes back to a one mile set back being the best option. A lot of the litigation is prevented, flicker and sound aren't an issue, or at least are very minimal.

One mile set back will protect residents and adding a waiver would allow landowners to control the use of their land. Best of all, it relieves the county from having to enforce pieces of an ordinance that are variable. I still see it as the most compromising ordinance idea yet. One mile from property lines. If setbacks are determined from a residence, it doesn't protect future home building and acreage improvements. We must use the property lines and city limits. Resident locations change. Using a residence as a measuring point is short term thinking, it only protects what's already here, and not what may be in the future. When we stop planning for growth, we stop growing.

An Invenergy representative has indicated to me in an email that a mile set back from those opposed would not be detrimental to their project, but in return they wanted us to support no ordinance change.....that told me a lot about their integrity. Although it was tempting, it is not right to sacrifice the protection of the other residents in the county. I have included a copy of the email conversation or your review. It is apparent they have room to work with and the threat of not doing the project is just a game to get all the land they can. They currently have MANY projects that are much smaller than the ones they are proposing for Deuel County.

Thank you for your time. We all just want this over, but not taking your time now may require a lot more time and cost in future years. Please consider rewriting the ordinance to fit modern day wind turbines. They have grown!

Angel Oeltjenbruns
605-881-7553

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- demonstrated with the Flying Cow application, your zoning review process works properly, and resulted in rejection of an ill-conceived application.
2. Increasing the non-participating residential setback by more than 300% from 1,000 feet to 3,280 feet is an unfair transfer of property rights from one landowner to another. A 3,280 foot setback means a non-participating residence can block wind turbines on 776 surrounding acres.
 3. Increasing the non-participating property line setback from 110% of turbine tip height (approximately 550 feet considering a 500 foot tall wind turbine) to 1000 feet is also an unfair transfer of property rights from one landowner to another. A 1,000 foot setback means a non-participating quarter section can block wind turbines on 315 surrounding acres.
 4. Limiting turbine height to 450 feet is a complete non-starter because that would require the use of older model turbines, and not the best available machines. Turbine technology has progressed rapidly in recent years and can now allow for extremely economic power pricing from wind farms. But a limit of 450 feet would mean buying turbines of a design that was common five years ago, not now, and the older model turbines are simply not available today, nor would they be economically viable.
 5. Limiting sound levels to 35 dBA at non-participating residences is impractical and unrealistic, as everyday sound levels in Deuel County are routinely higher than 35 dBA now, without wind turbines. We brought two experts to the December meeting to help shed light on these subjects. Dr. Mark Roberts is an MD and PHD – an expert in public health – who clearly confirmed that wind turbines do not present a health hazard. Michael Hankard, PE, is a professional acoustician who explained that the 50 decibels allowed by your ordinance is both reasonable and responsible.
 6. Limiting shadow flicker levels on non-participating homes to zero hours presents an unreasonable and unfair zero impact standard.

Finally, all these changes are very bad precedents for restricting other agricultural uses of Deuel County property, such as livestock operations.

The other proposed changes, such as presenting accurate map data and studies for public review, are certainly appropriate and are the sorts of things that we routinely do. Again, this is a distinction from what was presented to you in the Flying Cow application. But one deficient application that, again, was rejected, should not be used as a basis for punishing an entire industry.

Though the wind in South Dakota is abundant, the regional electricity market is extremely competitive and any changes to the zoning regulations that adversely affect the economic viability of a project could prevent it from being built at all. Even seemingly minor changes could have huge ripple effects.

We completely understand and agree with the petitioners' distinction between properties that choose to participate in the project and those who choose not to, and we agree that it is our duty to get as much participation as possible. We are fortunate that we have

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received the confidence of an overwhelming majority of the acreage in our project area, and we have worked to include all of the adjacent residences and earned the trust and acceptance of a majority of them. But not all. And keep in mind the inconsistency of two statements we've heard at earlier meetings on this topic: "Invenergy just needs to get more residences to participate," and "there's no amount of money in the world that would make me sign up." When you have an existing rulebook that allows for wind turbines, and a proposal that significantly changes the rulebook, you can read between the lines of those two statements and the conclusion is: "transfer my neighbor's property rights to me so I can decide what they do with their land and potentially block them."

Finally, in the interest of being reasonable and proposing a compromise so we can conclude this process and begin designing an actual project application that you can consider, we offer the following recommendations that we believe strike a fair balance between both participants and non-participants, and do not prevent the development of our project:

1. Increase residential setback from 1000 feet to 1500 feet, an increase of 50%.
2. Enact a limit on shadow flicker of 30 hours cumulative per year on non-participating residences, meaning 99.7% of the year no flickering shadows allowed on residences.
3. We will provide sound and shadow flicker studies for the project at the time of application submittal, so all members of the public can see the predicted levels and the assumptions that form the study.
4. Create a formal complaint resolution procedure, with a published phone number and email address, for members of the public to share their issues with us, and a pledge to respond within 24 hours.

If we take the petitioners at their word that they do not want to block all wind development and simply want to protect the interests of nearby residences, this is a better approach. Let's look at the issues that will matter most to these residents – limiting potential nuisances by keeping sound and shadow flicker low, plus de-mystifying the process by sharing information and ensuring good communication when problems do arise – and address them specifically, rather than bluntly re-writing the rulebook. A scalpel instead of an axe.

Additionally, if you are going to consider the proposals of setbacks from non-agricultural zoning districts and municipalities, first keep in mind that placement of turbines in these areas can and should be considered on a project-by-project basis. But also please consider the following:

1. Non-agricultural zoning districts (especially Lake Park Districts) – Lake Cochrane is a very different lake than Lake Alice, so treating the park districts equally with massive setbacks from both is not appropriate. We agree on an abundant setback from Lake Cochrane, but three miles from Lake Alice's park district is outrageous and unnecessary. The failed Flying Cow project has been sent a strong message to avoid Lake Cochrane and we'll heed that lesson. But it should not be extended to Lake Alice, where you have an approximate 40 acre Lake Park district that, with a three mile buffer, blocks over 28 square miles, or 18,000

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acres of surrounding farmland from harvesting the wind. In this area we have a significant number of properties leased – local landowners who want to harvest their wind – and instituting this massive setback would yank away their rights to do so.

2. Municipalities – A two mile setback is just not warranted. Residences in these municipalities can enjoy the same protections as are being contemplated for the rural residences in terms of strict limits on sound and shadow flicker. Again, a scalpel instead of an axe is the more appropriate instrument here. If specific municipalities have specific expansion plans and areas where they are seeking additional residential or industrial development, please share that information and we can incorporate that information into our project plans accordingly. But a massive two mile setback is a brute force theft of property rights from adjacent property owners. For example, applying a two mile setback to a town like Brandt with an approximate one square mile municipal boundary (which is not fully occupied by urban development), takes property rights from over 20 square miles or 13,000 acres of adjacent property owners. This is excessive.

Harvesting the wind is an unprecedented opportunity for Deuel County. Please don't kill it before the dual harvest can start and put in a slate of common sense regulations that respect property rights of both participating and non-participating residents.

Sincerely,

Dan Litchfield | Senior Manager, Business Development
Invenergy LLC | 509 3rd Avenue South, Clear Lake, SD, 57226
1 S Wacker Dr, Ste 1800, Chicago, IL 60606
dlitchfield@invenergyllc.com | C 773-318-1289