

**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**

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**STAFF’S SECOND SET OF DATA
REQUESTS TO CHRISTINA KILBY**

EL18-053

Below, please find Staff’s Second Set of Data Requests to Ms. Christina Kilby. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

- 2-1) Referring to the response of Christina Kilby to Staff Data Request 1-3, you state “I ask that setbacks for non-participating landowners be set at two miles with the option of a waiver. This is because of the characteristics of and problems caused by infrasound that turbines are known to produce.”
- a) Please provide documentation that supports a two mile setback is appropriate to alleviate problems caused by infrasound.
 - b) Is the recommended setback from the residence or property line?
- 2-2) Referring to the response of Christina Kilby to Staff Data Request 1-3, you state “As an alternative to two-mile setbacks, sound levels should not be allowed to exceed any level that can cause sleep disturbance, annoyance, or stress. Nonparticipating landowners should not be forced to sacrifice their enjoyment, comfort, or health for the profits of the applicant.”
- a) What is your recommendation for the sound level to avoid sleep disturbance for non-participating landowners? Please provide any documentation to support the recommendation.
 - b) What is your recommendation for the sound level to avoid annoyance for non-participating landowners? Please provide any documentation to support the recommendation.
 - c) What is your recommendation for the sound level to avoid stress for non-participating landowners? Please provide any documentation to support the recommendation.
- 2-3) Referring to the response of Christina Kilby to Staff Data Request 1-3, you state “I feel upon any reliable complaint made to a PUC liason, Deuel Harvest should be required to shut down the possibly offending turbine until an independent test done at Deuel Harvest’s expense can prove no violation exists.”
- a) In the last four wind energy facility dockets (Dockets, EL17-055, EL18-003, EL18-026, and EL18-046), the public liason condition stated “the public liason services

- shall terminate 90 days after the Project commences commercial operations, unless the appointment is extended by order of the Commission.” What is your recommendation for the duration of service for a public liason?
- b) Is it lawful to require the shut down of a possibly offending turbine until an independent test can prove no permit violation exists? Please explain why a permit violation would not need to be ruled on by the Commission before a turbine be required to shut down.
 - c) Regarding the PUC liason, please explain why the PUC complaint process established by administrative rule will not be able to address the potential permit violations during operations.
- 2-4) Referring to the response of Christina Kilby to Staff Data Request 1-3(a), you state “Long term and continuous harassment and health effects from noise, flicker and infrasound is unjustified and a serious harm.” Is your position that shadow flicker causes health effects? If yes, please explain in detail and provide any supporting documentation.
- 2-5) Referring to the response of Christina Kilby to Applicant Data Request 1-7, you state “The size, number and location of turbines in close proximity to our property will destroy the peace, and quiet we currently enjoy at the property. The size, number, and location of the turbines in close proximity will prevent the safe use and enjoyment of the property, because of shadow flicker, noise, infrasound, and risk of ice throw, component liberation and fire.”
- a) Please explain and describe the risk of ice throw stated above. Please provide documentation to support the response. Do you have a setback recommendation for ice throw? Please support such recommendation with documentation.
 - b) Please explain and describe component liberation stated above. Please provide documentation to support the response. Do you have a setback recommendation for component liberation? Please support such recommendation with documentation.
- 2-6) Referring to the response of Christina Kilby to Applicant Data Request 1-7, you state “I am concerned about disturbance from the construction and operation of the turbines polluting the aquifer and other bodies of water.”
- a) Please describe and explain the disturbance from the construction and operation of the turbines that would pollute the aquifer and other bodies of water.
 - b) Please provide documentation that supports the claim that the construction and operation of wind energy facilities pollute aquifers and other bodies of water.
- 2-7) Referring to the response of Christina Kilby to Applicant Data Request 1-8, you state “Because of the distance infrasound can travel, I request a two-mile setback for non-participating landowners, with the option of a waiver.” How far can infrasound travel? Please provide documentation to support the claim.

2-8) Referring to the response of Christina Kilby to Applicant Data Request 1-11, you state “I believe the market value of all residences located in and around the project will decrease. I do not believe anyone would choose to live near an industrial wind project if given a choice, especially if wanting to live in a quiet rural area. I know the project will negatively affect the value of our family property. No formal appraisals have been done that I am aware of at this time. But the property will no longer have the desired characteristics it has now.”

- a) Are you aware of any market sales near a wind tower that supports that assertion that the market value of all residences located in and around wind turbines will decrease? If yes, please provide all information you are aware of, including address, of the market transaction.
- b) Do you think the market value of a participating landowner will decrease, even if the wind turbine lease payments are transferred in the property sale? Please explain and provide any evidence you have.

Dated this 4th day of March 2019.

Amanda M. Reiss

Amanda M. Reiss
Kristen Edwards
Staff Attorneys
South Dakota Public Utilities Commission
500 East Capitol Ave.
Pierre, SD 57501

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**STAFF’S SECOND SET OF DATA
REQUESTS TO GARRET HOMAN**

EL18-053

Below, please find Staff’s Second Set of Data Requests to Mr. Garret Homan. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

2-1) Referring to the response of Garret Homan to Staff Data Request 1-3(1): Does FAA order JO 7400.2L and 14 CFR 77 apply to private-use airstrips? If no, please explain why it is appropriate to apply these standards to private-use airstrips for safety purposes.

2-2) Referring to the response of Garret Homan to Staff Data Request 1-3(2):

- a) Please provide the “safety manual” recommendation for ice throw as it applies to the turbines proposed in this Application?
- b) Have you requested the safety manual from the Applicant through discovery?

2-3) Referring to the response of Garret Homan to Staff Data Request 1-3(3):

- a) Regarding the “state-managed 24-7 hotline and response department”, please explain why the PUC complaint process established by administrative rule will not be able to address the concerns listed.
- b) Regarding the “safety issues (such as oil leaks and other pollution, ...)”:
 - i. Please describe the specific “other pollution” you are referring to in the response, and explain what aspects of the construction, operation, and maintenance of a wind energy facility would cause the pollution.
 - ii. Please provide documentation that supports the claim that wind energy facilities causes the other pollution identified in 1-3)b)i).
- c) Regarding the “ground water contamination”:
 - i. Please describe the specific ground water contamination you are referring to in the response, and explain what aspects of the construction, operation, and maintenance of a wind energy facility would cause the pollution.
 - ii. Please provide documentation that supports the claim that wind energy facilities cause the ground water contamination identified in 1-3)c)i).

- 2-4) Referring to the response of Garret Homan to the Applicant Data Request 1-9, you cited a recommendation for ice throw that the German Wind Institute made in 1999. Is this recommendation applicable to the turbines proposed in this 2018 filing? Please explain.
- 2-5) Referring to the response of Garret Homan to the Applicant Data Request 1-11, you asserted that “the project will negatively affect the property value of my parents’ property, both monetary and the intrinsic value.” Are you aware of any market sales near a wind tower that supports that assertion? If yes, please provide all information you are aware of, including address, of the market transaction.
- 2-6) Referring to the response of Garret Homan to the Applicant Data Request 1-13, you stated that you “look forward to flying much more often in the future because of the availability of our airstrip.” Please explain the advantages and benefits of using a private airstrip compared to the local public airstrips. In other words, how is the private airstrip going to allow you fly more often in the future than current available options?
- 2-7) Referring to the response of Garret Homan to the Applicant Data Request 1-18:
- a) Please provide a copy of the Special Exception Permit from Deuel County.
 - b) Did you request the setbacks as described in the response of Garret Homan to the Applicant Data Request 1-8 as part of the Special Exception Permit? What setbacks were granted by Deuel County for the private airstrip?
- 2-8) Did you receive a letter from the FAA titled “Notice of Airport Airspace Analysis Determination Establish Private Use Airport” similar to letter available via the following link: <https://puc.sd.gov/commission/dockets/electric/2017/el17-055/testimony/crocker/Rebuttal/Morrisexhibit1.PDF> ? If yes, please provide.
- 2-9) Are you aware of any state governmental agency in other states that is regulating setbacks from private airstrips? If yes, please provide with supporting documentation.

Dated this 4th day of March 2019.

Amanda M. Reiss

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Kristen Edwards
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**STAFF'S SECOND SET OF DATA
REQUESTS TO HEATH STONE**

EL18-053

Below, please find Staff's Second Set of Data Requests to Mr. Heath Stone. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

- 2-1) Referring to the response of Heath Stone to Staff Data Request 1-3, you recommend the following mitigation measure: "I recommend the Commission to order the applicant to adhere to the 2-mile buffer given to the eagle nests outside of the project area to be the same for the eagle nest that has been monitored the past two years, north of Lake Alice a half mile."
- a) Please explain the basis for the two-mile buffer for the bald eagle nest north of Lake Alice, and provide documentation to support the recommendation.
 - b) In the Applicant Supplemental Testimony of Andrea Giampoli, Ms. Giampoli stated Deuel Harvest will voluntarily apply an 800-meter (2,625 feet) setback from the nest to the nearest turbine based on the South Dakota Bald Eagle Management Plan. Do you believe this setback is unreasonable? If yes, please explain and provide support.
- 2-2) Referring to the response of Heath Stone to Staff Data Request 1-3, you requested the following mitigation measure: "I recommend the Commission to review the placement of turbines that are in close proximity of bird movement corridors and concentrated bird and/or bat use areas. Set back of 1 mile to these areas. Provide property value guarantees for nonparticipants in the siting area."
- a) Please define "bird movement corridors" and "concentrated bird and/or bat use areas."
 - b) Please provide a map that identified these corridors and areas within the Project area and up to 1 mile outside the project area.
 - c) Please explain the basis for a 1-mile set back from these corridors and areas, and include supporting documentation.
 - d) Are you aware if the referenced corridors or areas are defined by other agencies in and around other wind energy facilities? If yes, please provide.

- 2-3) Referring to the response of Heath Stone to Staff Data Request 1-3, you 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.”
- a) What would the study requested assess? Please provide specific details.
 - b) Have you requested the Company implement a voluntary setback from the old homestead consistent with the Deuel County Ordinance B2004-01 Section 1215.03 Section 2a? If yes, please provide the Company’s rational for not implementing the setback.
- 2-4) Referring to the response of Heath Stone to Staff Data Request 1-3, you requested the following mitigation measure: “I recommend the Commission to reevaluate turbine placements next to ecological sensitive areas and give them a 2 mile setback.”
- a) Are you aware of agencies that have defined an “ecological sensitive area” in and around other wind energy facilities? If yes, please provide supporting documentation with setback information. If no, please provide your definition with supporting documentation.
 - b) How many ecological sensitive areas are in and around the Deuel Harvest North Wind Farm? Please provide support for your answer.
 - c) Please explain the basis for the 2-mile setback recommendation.
- 2-5) Referring to the response of Heath Stone to Staff Data Request 1-3, you requested the following mitigation measure: “I recommend the commission to review turbine replacements next to non-participating landowners and give them a setback of 4 times the height of a tower.”
- a) Is the setback from the property line or residence? Please provide support for the recommendation.
 - b) If the setback is from the residence, please explain how the setback is different than Deuel County Ordinance B2004-01 Section 1215.03 Section 2a.

Dated this 4th day of March 2019.

Amanda M. Reiss

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**STAFF’S SECOND SET OF DATA
REQUESTS TO JOHN HOMAN**

EL18-053

Below, please find Staff’s Second Set of Data Requests to Mr. John Homan. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

- 2-1) Referring to the response of John Homan to Staff Data Request 1-2, you state the “Applicant has the burden of proof that the project will not have negative impacts on...”.
- a) Please provide the statutes or rules that support the claim that the Applicant has to show the project will not have *negative impacts*.
 - b) The South Dakota legislature established the Applicants burden of proof in SDCL 49-41B-22, which uses the following terms:
 - “not pose a threat of serious injury”;
 - “not substantially impair the health”; and
 - “not unduly interfere with the orderly development of the region”.

Are these the standards of negative impacts you were referring to? Please explain.

- 2-2) Referring to the response of John Homan to Staff Data Request 1-2, you state “The effect of the project on Monighan Creek and its drainages, and the concern for the springs that feed it”.
- a) What specific concerns do you have regarding the effect(s) identified above? Please describe in detail.
 - b) Please provide documentation that supports the claim that wind energy facilities cause the impact identified in 2-2)a).
- 2-3) Referring to the response of John Homan to Staff Data Request 1-2, you state “The concern for the safe usage of our landing strip, Homan Field, which is permitted and FAA approved.”
- a) Does the FAA approval authorize any setback provisions for safety? If no, which governmental agency is responsible for setbacks from the private air strips?
 - b) By permitted, do you mean by Deuel County? If no, please provide the permitting agency? Please also provide a copy of the permit.

- c) Did the permitting agency grant any setbacks from the private air strips? If yes, please provide.
- 2-4) Are you aware of any governmental agency in other states that is regulating setbacks from private airstrips? If yes, please provide supporting documentation.
- 2-5) Referring to the response of John Homan to Staff Data Request 1-2, you state “Also the negative effect it would have on the property value, the value that is attributed to the use of the property as well as the monetary value.” Are you aware of any market sales near a wind tower that supports that assertion? If yes, please provide all information you are aware of, including address, of the market transaction.
- 2-6) Referring to the response of John Homan to Staff Data Request 1-3, you state “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) Regarding the request for an independent geological study:
- i. What would the independent geological study assess around Monighan Creek and your property?
 - ii. Explain how the areas you want assessed in 2-6)a)i) impact Monighan Creek and your property.
 - iii. What South Dakota statute or rule are you basing the study request on?
 - iv. Who would you recommend hiring to conduct this study?
 - v. Are you aware of any other wind energy facilities that have submitted a study that you request? If yes, please provide.
 - vi. Please submit any studies you are aware of that perform the assessment requested so the Commission can have an example to analyze.
- b) Regarding the request for an independent hydrological study:
- i. What would the independent hydrological study assess around Monighan Creek and your property?
 - ii. Explain how the areas you want assessed in 2-6)b)i) impact Monighan Creek and your property.
 - iii. What South Dakota statute or rule are you basing the study request on?
 - iv. Who would you recommend hiring to conduct this study?
 - v. Are you aware of any other wind energy facilities that have submitted a study that you request? If yes, please provide.
 - vi. Please submit any studies you are aware of that perform the assessment requested so the Commission can have an example to analyze.

- c) What contamination from the process of construction are you concerned about?
Please describe in detail. Please provide documentation that supports the claim that wind energy facilities construction causes the contamination identified.
 - d) Regarding the “long term damage that could be caused by the impacts of these massive turbine foundations”:
 - i. What specific concerns do you have regarding the damage that could be caused by turbine foundations? Please describe in detail.
 - ii. Please provide documentation that supports the claim that wind energy facilities construction causes the damage identified in 2-6)d)i).
 - e) Regarding the “ground vibration caused by the operations of the towers”:
 - i. What specific concerns do you have regarding the ground vibrations caused by the operations of the towers? Please describe in detail.
 - ii. Please provide documentation that supports the claim that wind energy facilities vibrations from operation causes the concerns identified in 2-6)e)i).
- 2-7) Referring to the response of John Homan to Staff Data Request 1-3, you state “I would like the applicant to show locations of all aquifers and the depths to those aquifers. We request an aquifer study and report to be submitted with their application.”
- a) What would the aquifer study assess?
 - b) Explain how the areas you want assessed in 2-7)a)i) impact Monighan Creek and your property.
 - c) What South Dakota statute or rule are you basing the study request on?
 - d) Are you aware of any other wind energy facilities that have submitted a study that you request? If yes, please provide.
 - e) Please submit any studies you are aware of that perform the assessment requested.
- 2-8) Referring to the response of John Homan to Staff Data Request 1-3A(1), you state “That the towers be set back a minimum of 2 miles from environmentally sensitive areas, sensitive because of the concentration of wildlife and forested and riparian areas”:
- a) Are you aware of any agency that has defined an “environmentally sensitive area” in and around other wind energy facilities? If yes, please provide supporting documentation with setback information.
 - b) Please provide your definition of an environmentally sensitive area, with supporting documentation.
 - c) How many environmentally sensitive areas are in and around the Deuel Harvest North Wind Farm? Please provide support for your answer.
 - d) Please explain the basis for the 2-mile setback recommendation and provide any supporting documentation.

- 2-9) Referring to the response of John Homan to Staff Data Request 1-3A(2), you state “One and one half mile setbacks from non-participating residences, especially in the case of multiple residences in concentrated areas.”
- a) Please explain the basis for a one and one half mile setback from non-participating residences and provide any supporting documentation.
 - b) Please define “multiple residences in concentrated areas,” and explain why that definition should be treated differently than a singular non-participating residence.
- 2-10) Referring to the response of John Homan to Staff Data Request 1-3A(3) regarding non-participating property line setbacks, please explain the basis for a one half mile setback and provide any supporting documentation.
- 2-11) Referring to the response of John Homan to Staff Data Request 1-3A(4) regarding shadow flicker, please explain why shadow flicker should be conditioned at the property line rather than a residence.
- 2-12) Referring to the response of John Homan to Staff Data Request 1-3A(9) regarding the setback from Homan Field, are you relying on the testimony of Garret Homan to support that recommendation? If no, please provide the basis for your recommendation and any supporting documentation.
- 2-13) Referring to the response of John Homan to Staff Data Request 1-3A(10) regarding the setback from all public road and right-of-ways for safety concerns:
- a) Please provide the documentation associated with ice throw that supports a 1,500 foot setback as requested.
 - b) Are there other safety concerns that support a 1,500 foot setback? If yes, please describe in detail, and provide any supporting documentation that supports the setback distance.

Dated this 4th day of March 2019.

Amanda M. Reiss

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Kristen Edwards
Staff Attorneys
South Dakota Public Utilities Commission
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**STAFF'S SECOND SET OF DATA
REQUESTS TO JON HENSLIN**

EL18-053

Below, please find Staff's Second Set of Data Requests to Mr. Jon Henslin. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

- 2-1) Referring to the response of Jon Henslin to Applicant Data Request 1-11, you state "I am concerned that this project will negatively impact my property." Are you aware of any market sales that supports the assertion that there is adverse effects on the selling price of rural residential properties in proximity to a wind turbine? If yes, please provide all information you are aware of, including address, of the market transaction.
- 2-2) Referring to the response of Jon Henslin to Applicant Data Request 1-8, you requested the following mitigation measure: "Provide property value guarantees for nonparticipants in the siting area."
- a) Can you provide any examples of how a property value guarantee has been implemented for any other wind energy facilities? If yes, please provide supporting documentation.
- b) In response to a request for a property value guarantee condition for the Prevailing Wind Park permit (Docket EL18-026), Commission Staff witness David Lawrence stated the following:

"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.”

Please provide responses to the questions and concerns posed by David Lawrence in Docket EL18-026 regarding a property value guarantee.

- 2-3) Referring to the response of Jon Henslin to Applicant Data Request 1-8, you requested the following mitigation measure: “Provide two-mile radius safety zone for all bald eagle nests, including the nest identified at the PUC public hearing held in Clear Lake on this project.”
- a) Please explain the basis for the two-mile radius safety zone for all bald eagle nests, and provide documentation to support the recommendation.
 - b) In the Applicant Supplemental Testimony of Andrea Giampoli, Ms. Giampoli stated Deuel Harvest will voluntarily apply an 800-meter (2,625 feet) setback from the nest to the nearest turbine based on the South Dakota Bald Eagle Management Plan. Do you believe this setback is unreasonable? If yes, please explain and provide support.

Dated this 4th day of March 2019.

Amanda M. Reiss

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Kristen Edwards
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**STAFF’S SECOND SET OF DATA
REQUESTS TO WILL STONE**

EL18-053

Below, please find Staff’s Second Set of Data Requests to Mr. Will Stone. Please submit responses within 10 business days, or promptly contact Staff to discuss an alternative arrangement.

- 2-1) Referring to the response of Will Stone to Applicant Data Request 1-7, you state “I am concerned it will effect nesting habits and most wildlife will migrate out of area.” Please provide documentation to support this concern.
- 2-2) Referring to the response of Will Stone to Applicant Data Request 1-7, you state “I am concerned of unconstitutionally imposing a safety zone on our property and on public right of ways”
 - a) Please provide a recommendation for a safety zone, and provide documentation to support the recommendation.
 - b) Please provide the safety zone for the specific turbines proposed in this filing. If you do not have this information, have you requested this information from the Applicant in this proceeding?
- 2-3) Referring to the response of Will Stone to Applicant Data Request 1-7, you state ““I am concerned of the economic effects the turbines could have on our hunting business.”:
 - a) Do you have signed affidavits from hunters indicating they will quit coming because of the wind energy facility? Does the affidavit state the reason they will stop coming?
 - b) Do you have receipts that show how much each pheasant hunter spent at the preserve? Can you provide a detailed calculation based on these receipts on how much income you forecast losing as a result of this proposed facility? If so, please provide confidentially.
- 2-4) Referring to the response of Will Stone to Applicant Data Request 1-8, you state “The elimination turbines 109, 110, 111. Relocating turbines 103 and 112 2000' from our business acres. Relocating turbines 51, 52, 64, 72, A73, A74, A75, 82, 84, 98, 1122 and 123 so they do not impose a safety zone in public right of ways.”

- a) Please explain the basis for removing turbines 109, 110, and 111, and provide supporting documentation.
 - b) Regarding relocating turbines 103 and 112 2,000 feet from your business acres, please provide the basis for the 2,000 feet move and provide supporting documentation.
 - c) Regarding relocating turbines 51, 52, 64, 72, A73, A74, A75, 82, 84, 98, 1122, and 123:
 - i. Regarding turbine 1122, was that a typographical error? If yes, please correct.
 - ii. Please explain the basis for relocating those turbines based on the safety zone, and provide documentation to support your recommendation.
 - iii. Regarding relocating turbines, SDCL 49-41B-36 states that the Commission has not been delegated authority from the legislature to designate or mandate the location of a wind energy facility. Is your proposal consistent with SDCL 49-41B-36? Please explain.
- 2-5) Referring to the response of Will Stone to Applicant Data Request 1-11, you state “Loss hunters would impact value of the land to us. It will negatively impact our value by destroying our view of the Coteau hills and our sunrises and sunsets and moon at nights. There is no way it will not affect value.” Are you aware of any market sales near a wind tower that supports that assertion? If yes, please provide all information you are aware of, including address, of the market transaction.
- 2-6) Referring to the response of Will Stone to Applicant Data Request 1-15g, you state “can't prove income will decrease, wind company can't prove it won't, but if it does decrease who compensates us. 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”. Can you provide any examples of how a gross income guarantee has been implemented for any other wind energy facilities as requested above? If yes, please provide supporting documentation.

Dated this 5th day of March 2019.



Kristen N. Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
Phone (605)773-3201
Kristen.edwards@state.sd.us