



500 West Russell Street  
Sioux Falls, South Dakota 57101-0988

July 31, 2020

—VIA ELECTRONIC FILING—

Ms. Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

RE: PRECONSTRUCTION FILING – SITE PERMIT CONDITION NO. 1 – PERMITS  
OBTAINED  
APPLICATION BY DAKOTA RANGE I, LLC & DAKOTA RANGE II, LLC FOR A  
PERMIT OF A WIND ENERGY FACILITY IN GRANT COUNTY AND CODINGTON  
COUNTY, SOUTH DAKOTA, FOR THE DAKOTA RANGE WIND FARM  
DOCKET NO. EL18-003

Dear Ms. Van Gerpen:

Northern States Power Company, doing business as Xcel Energy (NSP or the Company), submits this pre-construction filing to the Commission's for the 302.4 MW wind energy conversion facility located in Grant and Codington Counties South Dakota known as the Dakota Range I & II Wind Energy Facility.

The Commission's July 23, 2018 Site Permit – Permit Condition 1 states:

Applicant will obtain all governmental permits which reasonably may be required by any township, county, state or federal agency, or any other governmental unit for construction and operation activity prior to engaging in the particular activity covered by that permit. Copies of any permits obtained by Applicant shall be sent to the Commission.

In compliance with this Site Permit Condition, the Company provides the following as attachments to the filing:

- Attachment A – FAA Determinations of No Hazard
- Attachment B – FAA Determinations of No Hazard
- Attachment C – South Dakota General Permit for Stormwater Discharges
- Attachment D – South Dakota Contractor Authorization Form Approval
- Attachment E – EPA Authorization to Discharge under the Construction Stormwater General Permit
- Attachment F – Temporary Water Use Permit
- Attachment G – Codington County Individual Building Permit – Tower 57
- Attachment H – Codington County Country Road Permits
- Attachment I CONFIDENTIAL – Codington County Country Road Use Agreement
- Attachment J – Grant County Individual Building Permits
- Attachment K – Grant County Country Road Permits
- Attachment L – Grant County Road Use Agreements

Below, we provide an updated status for all permits and approvals included in **Table 27-1: List of Applicable Permits or Approvals** of the January 24, 2018 Application. Also, we have adjusted the table to include additional township Road Use Agreement permits that we have included with this filing as shown below. As reflected in the table, we do not yet have applicable permits for a number of items. As required by Permit Condition 1, prior to engaging in a particular activity covered by such permits, we will obtain the necessary permits and file them with the Commission.

**Table 27-1 (As of July 31, 2020): List of Applicable Permits or Approvals**

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
USFWS	Compliance with Section 10 of the ESA	Private non-federal entities undertaking projects may not result in the take of an endangered or threatened species, unless an incidental take permit is issued by the USFWS.	Wildlife studies and coordination with USFWS determined low risk to threatened and endangered species warranting permitting under the ESA. No incidental take permit warranted. BBCS to be prepared and implemented for the Project.	Additional pre-construction wildlife studies were completed that confirmed low risk to threatened and endangered species. No incidental take permit is warranted. The BBCS was provided to wildlife USFWS and filed on 7/23/2020.

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
USFWS	Compliance with the BGEPA	Projects may not result in the take of bald or golden eagles, unless an eagle take permit is issued by the USFWS.	Wildlife studies and coordination with USFWS determined low risk to eagles. No permit warranted. BBCS to be prepared and implemented for the Project.	Additional pre-construction eagle studies were conducted that confirmed a low risk to eagles, and no ETP is warranted. The BBCS was provided to wildlife agencies and filed on 7/23/2020.
FAA	Form 7460-1, Notice of Proposed Construction or Alteration	Required if construction or alteration is within 6 miles of public aviation facility and for structures higher than 200 feet	Received Determinations of No Hazard from FAA for a preliminary layout in February 2016 and for current layout in December 2017. Notices of Proposed Construction for the final layout will be filed after final design is complete.	FAA Determinations of No Hazard have been obtained and are included as <b>Attachment A</b> and <b>Attachment B</b> to this filing.
USACE	Section 404 permit	Authorization under the Clean Water Act for impacts to wetlands and waters of the U.S.	Impacts will comply with USACE NWP 12 requirements.	The project has been designed to avoid impacts to wetlands.
South Dakota SHPO	Coordination	Coordination regarding potential effects on archaeological and historical resources	A CRMMP was developed in coordination with SHPO; cultural resources surveys completed in December 2017 in accordance with CRMMP. Avoidance and mitigation measures will be implemented per the CRMMP to protect archaeological and historic resources.	An updated cultural and tribal resources survey reported was reviewed by SHPO and filed on 7/8/2020. Per the CRMMP, an archaeologist and SWO tribal resources monitor will be onsite during construction to ensure that appropriate avoidance and minimization measures are implemented.

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
Native American tribes	Coordination	Coordination regarding potential effects on Native American cultural resources	Cultural resources surveys are being completed in coordination with the SWO, allowing the SWO opportunities to review finds and participate in eligibility recommendations and avoidance plans for sensitive tribal resources.	An updated cultural and tribal resources survey report was completed in coordination with SWO and filed on 7/8/2020. Per the CRMMP, an archaeologist and SWO tribal resources monitor will be onsite during construction to ensure that appropriate avoidance and minimization measures are implemented.
SDPUC	Energy Facility Site Permit	Application required for wind facilities with nameplate capacity greater than 100 megawatts	Submitted January 2018	Site Permit received July 23, 2018 and is available online in the docket filings.
SDGFP	Coordination	Coordination regarding effects on state-listed threatened or endangered species	Wildlife studies and coordination with SDGFP complete. Site determined low risk to state-listed species. Avoidance and minimization measures will be implemented to address potential impacts. BBCS to be prepared and implemented for the Project	Additional pre-construction wildlife studies were completed that confirmed low risk to state-listed species. The BBCS was provided to SDGFP and filed on 7/23/2020.
SDDENR	Section 401 Water Quality Certification	Complete an application under the Clean Water Act, only if Individual Permit is required for Section 404	Project-specific certification is not anticipated due to NWP 12 compliance.	No project-specific certification is required.

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
	General Permit for Storm Water Discharges Associated with Construction Activities	Storm water permit required for construction activities	SWPPP will be prepared and Notice of Intent will be submitted after final design is complete.	South Dakota General Permit for Stormwater Discharges included as <b>Attachment C</b> to this filing. South Dakota Contractor Authorization Form Approval included as <b>Attachment D</b> to this filing. EPA Authorization to Discharge under the Construction Stormwater General Permit included as <b>Attachment E</b> to this filing.
	Temporary Water Use Permit	Temporary permits for the use of public water for construction, testing, or drilling purposes; issuance of a temporary permit is not a grant of water right	If necessary, will be obtained prior to construction.	Permit Obtained on 7/30/2020. Included as <b>Attachment F</b> to this filing.
	General Permit for Temporary Discharges	Temporary permit for the use of public water for construction dewatering	If necessary, will be obtained prior to construction.	If necessary, will be obtained prior to engaging in the activity.
	Water Rights Permit for Nonirrigation Use	Needed if water will be appropriated for O&M facility	If necessary, will be obtained prior to construction.	If necessary, will be obtained prior to engaging in the activity.
SDDOT, Aeronautics Commission	Aeronautical Hazard Permit	Permit lighting plan determined with FAA coordination	Will be completed after final design is complete.	Will be completed after final design is complete.
SDCL 49-32-3.1	Notice to telecommunication companies	Telecommunication companies review the preliminary electrical layout and may suggest revisions to reduce impact to their systems	Will be completed after final design is complete.	The project team is in the process of contacting all telecommunications companies in the project area. We are providing the construction plans for their review and comment. Construction coordination efforts are underway.
SDDOT	Highway Access Permit	Permit required for any access roads abutting State roads	If necessary, will be obtained after final design is complete.	If necessary, will be obtained prior to engaging in the activity.

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
	Utility Permit	Permit required for any utility crossing or use within State road right-of-way	If necessary, will be obtained after final design is complete.	If necessary, will be obtained prior to engaging in the activity.
	Oversize & Overweight Permit	Permit required for heavy equipment transport over State roads during construction	Will be obtained prior to transport of overweight/oversize d loads.	If necessary, will be obtained prior to engaging in the activity.
Codrington County	Conditional Use Permit	Permit required for construction of the Project	Obtained June 19, 2017.	Included in Appendix K of the January 24, 2018 Application.
	Individual Building Permits	Permit required for construction of each turbine and building	Will be obtained prior to construction.	Tower 57 permit is included as <b>Attachment G</b> to this filing. Additional permits will be provided once obtained. No work will be commenced on other towers until permits are obtained.
	County Road Permits	County Road Permits are required for right-of-way occupancy, utility crossings, road approaches, and overweight loads	Will be obtained prior to activity requiring permit.	Road Approaches: Included as <b>Attachment H</b> to this filing.  Overweight Loads: Not required for foundation construction. Will obtain prior to hauling turbine components.  Right-of-way occupancy and utility crossing permits will be obtained once the collection layout is finalized. No work requiring these permits will be commenced until the permits are obtained. Once obtained, the Company will file the Permit with the Commission.
	County Road Use Agreement	Road use agreement may be required	Will be obtained in Q3 2018.	RUAs were signed in 2018 for County and townships. Included as <b>Attachment I</b> to this filing.
Grant County	Conditional Use Permit	Permit required for construction of the Project	Obtained June 12, 2017.	Included in Appendix K of the January 24, 2018 Application.

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
	Individual Building Permits	Permit required for construction of each turbine and building	Will be obtained prior to construction.	Obtained July 2020. Included as <b><u>Attachment J</u></b> to this filing.
	County Road Permits	County Road Permits are required for right-of-way occupancy, utility crossings, road approaches, and overweight loads	Will be obtained prior to activity for which permit is required.	Road Approaches: Included as <b><u>Attachment K</u></b> to this filing.  Overweight Loads: Not required for foundation construction. Will obtain prior to hauling turbine components.  Right-of-way occupancy and utility crossing permits will be obtained once the collection layout is finalized. No work requiring these permits will commenced until the permits are obtained. Once obtained, the Company will file the Permit with the Commission.
	County Road Use Agreement	Road use agreement may be required	Will be obtained in Q3 2018.	RUAs were signed in 2018 for County and townships. Included as <b><u>Attachment L</u></b> to this filing.
<b>Additions</b>				
Leola Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment I</u></b> .
Germantown Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment I</u></b> .
Blooming Valley Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment L</u></b> .
Farmington Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment L</u></b> .
Lura Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment L</u></b> .
Osceola Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <b><u>Attachment L</u></b> .

Agency	Permit/ Approval	Description	Status as of January 24, 2018	Current Status
Mazeppa Township	Road Use Agreement			RUAs were signed in 2018 for townships. Included in <u>Attachment L</u> .

In accordance with ARSD §§ 20:10:01:39 through 42, Xcel Energy respectfully requests confidential treatment of certain information contained in this filing. In compliance with ARSD § 20:10:01:41, we have clearly marked each page containing confidential information as “CONFIDENTIAL” and submitted it as a separate document along with this filing.

Pursuant to ARSD § 20:10:01:41, we provide the following information in support of our request:

- (1) We request confidential treatment of Attachment I.
- (2) We request these documents be treated as confidential forever.
- (3) If you have questions regarding this request, please contact:  
Matt Harris  
Principal Attorney  
Xcel Energy Services Inc.  
414 Nicollet Mall, 401 8<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 330-7641
- (4) We request confidential treatment on the grounds that the material comprises confidential contractual terms protected by South Dakota law. The claim for confidential treatment is based on ARSD §§ 20:10:01:39 (4) and SDCL § 1-27-30, among other potentially applicable laws. The information contained within the referenced documents includes proprietary commercial information, in the form of confidential contractual terms, that meets the definition of “trade secret” under SDCL § 37-29-1(4)(1), the South Dakota Uniform Trade Secrets Act, which is defined as information that “Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and... is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”



- (5) The noted documents qualify for confidential treatment because they contain confidential contract terms which the Company does not disclose to the public.

A copy of this Request for Confidential Treatment, along with the Confidential documents, will be electronically filed as separate documents and marked “CONFIDENTIAL.”

If you have any questions regarding this filing, please contact Amber Hedlund at (612) 337-2268 or [amber.r.hedlund@xcelenergy.com](mailto:amber.r.hedlund@xcelenergy.com) or me at (605) 339-8350 or [steven.t.kolbeck@xcelenergy.com](mailto:steven.t.kolbeck@xcelenergy.com).

Sincerely,

/s/

STEVEN T. KOLBECK

PRINCIPAL MANAGER – SOUTH DAKOTA

Enclosures