

EXHIBIT _____

IN THE MATTER OF THE APPLICATION OF)
 CROWNED RIDGE WIND II, LLC FOR)
 WIND ENERGY FACILITY IN) EL19-027
 DEUEL, GRANT AND CODINGTON COUNTIES)

AFFIDAVIT OF GARRY EHLEBRACHT
 17539 468TH AVE., GOODWIN, SOUTH DAKOTA 57238

State of South Dakota, County of Deuel: ss.

Garry Ehlebracht, being duly sworn on oath, deposes and says:

1 My name is Garry Ehlebracht. I purchased this property – then a bare tract – in 1993,
 2 and have lived at the above-referenced address since 1999. The legal description for our
 3 property is the **SOUTH 922' OF THE EAST 731' OF THE SOUTHEAST QUARTER**
 4 **OF THE NORTHEAST QUARTER (SE1/4, NE1/4), LESS THE SOUTH 605' OF THE**
 5 **WEST 97' OF THE EAST 731' THEREOF, IN SECTION 20, TOWNSHIP 116**
 6 **NORTH, RANGE 50 WEST OF THE 5TH P.M., DEUEL COUNTY.**

7 My home is about two miles south of Goodwin. I presently own and operate Kliegles
 8 Garage in Goodwin, and OR Machining and Repair. I have been employed by the US Postal
 9 Service (Goodwin) since 2003, and still work as Postmaster Relief.

10 Goodwin, as a community, has been around for a long time – around 1878. It is
 11 platted into lots, and has a population of around 150, but to the best of my knowledge, it is
 12 not an incorporated municipality under Title 9 of SDCL. If incorporated, it would be a third-
 13 class municipality with a population of under 500.

14 To the best of my knowledge, Goodwin does not exercise zoning power. Assuming it
 15 is an incorporated municipality, I believe it is a very old one. I have a memo from counsel
 16 addressing the statute, SDCL 11-2-14, uniformity in zoning regulations being required within
 17 each district. If the towns of Goodwin, Astoria, Brandt and Altamont are incorporated, and
 18 the city limits represent the dividing line for the “unincorporated” areas of the County, the
 19 County’s adopted WES setback of 1 mile, measured from the “nearest residence,” seems to
 20 be highly variable in all directions.

GE

1 In 2017, the Deuel County Board adopted amendments to Section 1215 of the Zoning
2 Ordinance, concerning Wind Energy Systems (or WES). As amended, my home on 468th
3 Avenue is subject to this setback from WES (Section 1215.2.a):

4 **Distance from existing Non-Participating residences . . . shall be not less**
5 **than four times the height of the wind turbine.**

6 In the case of Crowned Ridge, it is my understanding the required setback from my home
7 will be about 1,950 feet, more or less.

8 Meanwhile, the homes within Goodwin itself are subject to a much more generous or
9 favorable setback (Section 1215.e):

10 **Distance from the municipalities Altamont, Astoria, Brandt and**
11 **Goodwin of 1 mile from the nearest residence . . .**

12 Likewise, there are several homes just outside of Goodwin who are pretty close to those
13 within Goodwin, so they will get the benefit of whatever a 1-mile setback proves to be from
14 their city neighbors. City limits are not the measuring point.

15 My home is in the same Zoning District as those near (but not necessarily *in*)
16 Goodwin. There is no logic for exposing my home to a setback minimum of about 1,950 feet,
17 while those in or near Goodwin are benefitted by a minimum of 1 mile. I believe this to be
18 an unlawful form of discrimination between properties in the same zoning district. The other
19 variations in setbacks within the County are just as odd, in my view.

20 Since acquiring this site on 468th Ave., I have undertaken many projects and spent a
21 considerable amount to improvements on this property. Back when I purchased the land, I
22 had an agreement drawn up with the seller, under which they committed not to create or
23 develop a concentrated animal feeding operation (CAFO) on the surrounding land. If I had
24 foreseen what is now happening to the Goodwin area, I would have included "wind turbines"
25 in that prohibition, too.

26 According to information provided by the Applicant's attorney, my property near
27 Goodwin is referenced in the Applicant's materials as CR2-D220-NP. According to Table
28 C-1 of Exhibit JH-S-2, "Final Report" prepared by Jay Haley, dated September 18, 2019, my
29 home will be located 2,211 feet from the nearest turbine (much less than the 1 mile setback
30 the Zoning Ordinance assures for homes in or near Goodwin), and I am targeted (predicted)
31 to receive 3:14 worth of Shadow Flicker annually. I understand that with 1 mile setbacks,

Affidavit of Garry Ehlebracht

1 Shadow Flicker is supposed to fade away as a problem – not so at 2,211 feet, however.
2 According to Exhibit JH-S-1, Table C-1, my home (CR2-D220-NP) will also receive sound
3 or noise of 42.1 or 43.6 dB(A). A greater distance reduces the sound, of course.

4 While these current predictions are believed to be somewhat better than what had
5 been given to Deuel County Board of Adjustment (which of these are correct – and are you
6 entirely sure, if reality proves otherwise?), I will provide four observations:

7 (1) I note many Participants in rural Deuel County will experience either a lesser
8 duration, or even no amounts of Shadow Flicker, as well as a reduced level of noise,
9 compared to my home;

10 (2) I have done nothing to encourage or invite an invasion of my home by either
11 of these “Effects” to be given off by Crowned Ridge II, and intend to continue to resist this
12 invasion;

13 (3) What Deuel County has done with the Special Exception Permit is to place a
14 servitude or burden upon my home, and this is done without my approval; and

15 (4) If Crowned Ridge was required to observe the same setback of one (1) mile as
16 pertains to Goodwin, as I believe is the intent of the law outlined in the Zoning Power (SDCL
17 11-2-14), the Shadow Flicker would be further reduced – if not entirely eliminated – and the
18 noise level would be much closer to what now exists in our quiet area (prior to wind farm
19 development work or operation of the “wind farm”).

20 I am familiar with the proposed “option for lease and easement” that was presented to
21 my neighbor, Laretta Kranz, by an agent for Crowned Ridge. I am familiar with the
22 language within the option, including the “Effects Easement” described in Section 5.2
23 (mentioning “noise” and “flicker” and “shadow”), and also Section 11.10, “Remediation of
24 Glare and Shadow Flicker.”

25 This document, to the best of my knowledge, was never presented to Deuel County
26 Board of Adjustment, nor were any of the “options” or actual “leases or easements” obtained
27 from Deuel County “Participants.” When presented to Mrs. Kranz, she gave it to me and
28 directed the agent to call me as her advisor. The agent then called me, and I proceeded to
29 inform him that I was not at all happy about the siting of the turbines, and that they should be
30 moved further away from homes. This Crowned Ridge agent laughed – and I told him to
31 never contact me again as I hung up on him.

Affidavit of Garry Ehlebracht

1 Today, Crowned Ridge still intends – which is obvious from their plans and
 2 projections, both to the County and to this Commission – to make use of my land and home,
 3 and also of my several neighbors who, like me, object to this proposal. Some – like the
 4 Grebers – appear to have exposure to an even greater length of Shadow Flicker and noise
 5 levels than what these experts have “predicted” for my home. Regardless, none of this is
 6 being carried out with my permission, and I have given no easement for the use of my land
 7 and my home in this manner.

8 There does not appear to be any mechanism in the Zoning Ordinance, or the Decision
 9 made by the Board of Adjustment, and I also expect this Commission will reserve no
 10 meaningful supervision over the Crowned Ridge II operation so that, *if* these uninvited
 11 elements or “Effects” of the wind farm prove to be a nuisance (a nuisance is an annoyance –
 12 these experts seem rather dismissive of mere “annoyances” since they all claim they really
 13 don’t lead to a “substantial impairment” of our health) we will at least be entitled to have
 14 further resort to the Courts to protect ourselves. It is my belief, having been so advised by
 15 counsel, that in issuing a Special Exception Permit, and also now this Facility Siting Permit,
 16 each of which approves or gives official government blessing to Crowned Ridge’s
 17 predictions of this or that on my land as “okay” or “fine,” our legal remedies for a nuisance
 18 may have also been seriously undercut, if not entirely ruined.

19 This is why I am not willing to allow these “Effects” to come onto my property or to
 20 invade my home. This predicted, proposed use is actually a trespass. And if this
 21 Commission now approves this use, I find that would be part of a taking of or damage to my
 22 property and will pursue my legal remedies accordingly. Neither this Commission, nor the
 23 Deuel County Board of Adjustment, knows what is best for my land, or how to enjoy the
 24 property. Neither agency has any real authority to approve or permit this adverse use as to
 25 the property of a “Non-Participant.” If government plans or wishes to take my land by these
 26 permits and approvals – or simply intends to just damage it – then government should be
 27 prepared to pay for it.


 GARRY EHLEBRACHT

SUBSCRIBED AND SWORN TO BEFORE ME, A NOTARY PUBLIC IN AND FOR THE
STATE OF SOUTH DAKOTA, BY SAID GARRY EHLEBRACHT, PERSONALLY
KNOWN OR PROVEN TO ME TO BE SUCH PERSON, THE DATE ENTERED BELOW.

Date: Dec 2, 2019 Jeanie L. Kjenstad
NOTARY PUBLIC – SOUTH DAKOTA

My Commission Expires: 1/20/2023

