

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

**IN THE MATTER OF THE APPLICATION BY**

**DEUEL HARVEST WIND ENERGY SOUTH**

**LLC FOR ENERGY FACILITY PERMITS OF A**

**WIND ENERGY FACILITY AND A 345-KV**

**TRANSMISSION FACILITY IN DEUEL**

**COUNTY, SOUTH DAKOTA, FOR THE**

**SOUTH DEUEL WIND PROJECT**

**Intervenor**

**Arla Hamann Poindexter**

**Post Hearing Brief**

**EL 24-023**

I, Arla Hamann Poindexter, respectfully submit this post hearing brief asking for a denial of the permit requested by Invenergy in docket EL 24-023 located in Deuel County, SD.

The SD Public Utilities Commission is asked to serve the people of SD considering 4 criteria. Each of these criteria will be addressed as a question with my concerns and reasons the Commission should deny the permit immediately following.

**Will the project comply with all applicable laws and rules?**

Invenergy has submitted terms and conditions that seem like an intent to comply with laws and rules.

I have a couple concerns with Invenergy's terms and conditions versus what was said at the hearing and what was included in discovery. The first concern is the aerial spray plane policy. Although Invenergy said in the hearing they would not enforce the 3 day, 24 hour, and 2 hour advance notice policy, Invenergy's terms and conditions said they "would cooperate" with aerial spray applicators. "Cooperate" is open to interpretation. I would like to see Invenergy revise the terms and conditions with a more specific policy.

My second concern with Invenergy's ability to comply with laws and rules involves the towers near Lake Cochrane. In discovery, Invenergy stated these were found to be within the sea plane setback area. However, 2 Invenergy witnesses stated that these 3 sites were still "on the table" and would only be removed after the FAA review. These contradictory statements make me question Invenergy's ability to comply with laws, rules, terms and conditions.

Commissioner Nelson asked Invenergy about the President's Executive Order issued the day before the hearing. The Federal Register published the Memorandum on January 29 on pages 8363-8365. I certainly am not a legal expert, but the project may be stalled by Section 2(a) of this order.

**Will the project pose a threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area?**

Invenergy is marketing this project as renewable energy. I asked Invenergy specifically how long the project had to be operational before the energy used to build the project was offset by the created power. Invenergy couldn't answer that question. This makes me believe that the environment isn't a concern to Invenergy.

In my opinion, Invenergy did not meet any burden of proof regarding the impacts to the environment. "We will work to minimize environmental impacts" is not a plan. It does nothing to address the death or displacement to the animals that reside in the area. It does nothing to address potential habitat changes to the monarch or regal fritillary that are under consideration as threatened species. I'm very grateful Invenergy decided to avoid grasslands for tower placement, but placing towers within close proximity to grasslands could still affect the species that reside on grasslands.

Grasslands are a vital part of SD's environment and economy. Grasslands (even "low quality" grasslands) meet ALL the principles of soil health. Invenergy's grassland assessment could be reason enough to deny the permit. Invenergy completed this assessment from public roads. The assessment was completed over "years" but only viewed on site once. No contact with landowners or renters was made to determine use plans or gain access to better view grass diversity and determine a real conservation value of grasslands. The grassland assessment is not a quality document. Additionally it provides no proof of limiting environmental damage.

Invenergy tries to prove they are helping the local economy with this project. However, according to Invenergy's own data, more residences are non-participants than participants. Of the 73 potential sites for towers, 36 are on property owned by people who do not live in Deuel County. Sixteen of these tower sites are owned by people who don't live in South Dakota. Invenergy payments will do very little to improve the local economy for this project.

**Will the project substantially impair the health, safety and welfare of the inhabitants?**

Invenergy has certainly tried to limit the impacts of health, safety and welfare of the inhabitants during the operations phase of the project. I certainly appreciated the livability information regarding noise and shadow flicker.

However, Invenergy has provided little information regarding the construction phase. With the exception of noise limited to 7am-9pm, there was no information regarding the hiring or subcontracting process, no intended road considerations, and no complaint process for unhappy residents. Without road use agreements between Invenergy and the county or townships, we don't have a clear picture of potential safety and welfare of residents through the construction phase.

**Will the project unduly interfere with the orderly development of the region with due consideration have been given to the views of the governing bodies of affected local units of government?**

Invenergy hasn't completed their due diligence with local units of government. No road use agreements have been signed. At the hearing, we were told Invenergy had sent the county an

agreement, but it wasn't signed yet. There were no agreements sent to townships as of the hearing date, but Invenergy expected to have these agreements signed and completed prior to April 1. Without these signed agreements, the people of Deuel County cannot be assured that Invenergy intends to respect local government or orderly development of the project area.

It is for the above reasons that I ask the SD Public Utilities Commissioners to deny Invenergy's application. I appreciate the Commissioners and PUC staff's consideration of my concerns and opinions.



Arla Hamann Poindexter

February 13, 2025