

**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**

**SD PUC DOCKET EL24-023**

PRE-FILED REBUTTAL TESTIMONY OF MICHELLE PHILLIPS  
ON BEHALF OF DEUEL HARVEST WIND ENERGY SOUTH LLC

December 5, 2024

1 **I. INTRODUCTION**

2 **Q. Please state your name.**

3 A. My name is Michelle Phillips.

4  
5 **Q. Have you previously provided testimony in this docket?**

6 A. Yes. I submitted Direct Testimony in this docket on behalf of Deuel Harvest Wind  
7 Energy South LLC (“South Deuel Wind”) in support of its Facility Permit Application  
8 (“Application”) to the South Dakota Public Utilities Commission (“Commission”) on  
9 June 28, 2024.

10

11 **II. PURPOSE OF TESTIMONY**

12 **Q. What is the purpose of your Rebuttal Testimony?**

13 A. The purpose of my Rebuttal Testimony is to respond to the testimonies of Chad  
14 Switzer, South Dakota Game, Fish, and Parks (“SDGFP”) Division of Wildlife,  
15 Commission Staff witness Jon Thurber, and intervenor Arla Hamann Poindexter.

16

17 **III. RESPONSE TO MR. SWITZER**

18

19 **Q. Have you reviewed the Direct Testimony of Mr. Chad Switzer, of the South  
20 Dakota Game, Fish, and Parks Division of Wildlife, submitted on behalf of  
21 Commission Staff?**

22 A. Yes.

23

24 **Q. What is your general response to Mr. Switzer’s Direct Testimony?**

25 A. South Deuel Wind appreciates Mr. Switzer’s discussion of the coordination  
26 between SDGFP and South Deuel Wind to site the Project in a way that minimizes  
27 environmental and wildlife impacts. Through this coordination, SDGFP made  
28 several recommendations, including siting recommendations to avoid sensitive  
29 species potential habitat, suggestions on types of wildlife surveys, and siting  
30 recommendations to avoid unbroken grasslands and minimize grassland

31 fragmentation. South Deuel Wind agrees with Mr. Switzer's testimony that it  
32 utilized the proper studies and wildlife surveys necessary to identify potential  
33 impacts to the environment.

34

35 **Q. On page 4, Mr. Switzer recommends avoiding the placement of turbines and**  
36 **roads in contiguous blocks of grassland. Did South Deuel Wind follow this**  
37 **recommendation?**

38 A. Yes. South Deuel Wind was very successful in minimizing impacts to grasslands  
39 by avoiding and/or minimizing placement of turbines and access roads in  
40 contiguous grassland areas. There are no proposed turbine locations or access  
41 roads located in unbroken grasslands. Only one turbine location and access road  
42 crosses broken grassland. Furthermore, South Deuel Wind sited all proposed  
43 turbine locations outside of native habitat (including unbroken grasslands, forested  
44 habitat, and wetlands), prioritized using existing roads, and primarily placed new  
45 roads in areas of existing disturbance or cultivated fields to avoid wildlife habitat  
46 fragmentation. South Deuel Wind agrees with Mr. Switzer that avoidance of all  
47 grassland types would be challenging. Therefore, any areas temporarily disturbed  
48 during construction will be restored in accordance with pre-construction use.

49

50 **Q. Mr. Switzer also refers to studies by Loesch (2013) and Shaffer and Buhl**  
51 **(2016). Are you familiar with these studies?**

52 A. Yes.

53

54 **Q. In your opinion, how do these studies relate to the Project?**

55 A. These studies found that wind turbines may have indirect displacement effects on  
56 grassland birds (Shaffer and Buhl 2016) and waterfowl (Loesch 2013). That is,  
57 they found that there was a lower density of grassland birds and waterfowl,  
58 respectively, near turbines compared to areas farther away from turbines. These  
59 studies suggest that a wind project could displace grassland birds and waterfowl.  
60 As stated in Section 9.1.1 of the Application, most of the Project Area (Figure 1 to

61 the Application) has been converted to agricultural use, with 73 percent of the  
62 Project Area being used for cultivated crops. Only approximately 16 percent of the  
63 entire Project Area has herbaceous cover. As detailed in Appendix F to the  
64 Application, the field assessment of the herbaceous cover found only a minimal  
65 amount of unbroken grassland. Therefore, the existing grassland habitat in the  
66 Project Area is already heavily fragmented and regularly disturbed for agricultural  
67 activities. Given the limited amount of potential habitat, the disturbance of regular  
68 agricultural activities, the Project's avoidance of unbroken grasslands, and the  
69 minimization of infrastructure near suitable waterfowl stopover habitat, South  
70 Deuel Wind expects minimal, if any, displacement effects. Further, the Project Area  
71 does not contain habitat likely to concentrate avian species relative to the nearby  
72 surrounding areas.

73

74 **Q. On page 13, Mr. Switzer recommends that turbines should not be placed in**  
75 **or near wetland basins and special care should be made to avoid areas with**  
76 **high concentrations of wetlands. Did South Deuel Wind incorporate this**  
77 **recommendation when siting its proposed turbine locations?**

78 A. Yes. No proposed turbine locations are located in wetland basins. Impacts to  
79 wetlands will be avoided or minimized through limiting disturbance of individual  
80 wetlands during project construction as well as identifying wetland boundaries by  
81 delineating them prior to construction. Mr. Switzer notes that these are appropriate  
82 measures.

83

84 **Q. On pages 13-14, Mr. Switzer discusses the possibility of cumulative impacts**  
85 **of the Project and other wind projects in Deuel County. What is your**  
86 **response?**

87 A. As noted in the Application, surveys and studies performed demonstrate that the  
88 Project will not have a significant impact on the environment when considered with  
89 the existing wind projects in proximity to the Project Area. Each turbine has been  
90 or will be sited in accordance with Deuel County and applicable state requirements,  
91 which are generally designed to avoid and minimize impacts on the community

92 and the environment. Adherence to these standards will help reduce cumulative  
93 impacts.

94

95 **Q. On page 15, Mr. Switzer notes that there is one Game Production Area within**  
96 **the Project Area boundary. Are any Project Facilities sited within this Game**  
97 **Production Area Mr. Switzer references?**

98 A. No. Project Facilities have been sited to avoid state-owned lands. There is one  
99 walk-in hunting area located on privately-owned property participating in the  
100 Project that is anticipated to host Project Facilities.

101

102 **Q. On pages 16-17, Mr. Switzer proposes a permit condition recommending two**  
103 **years of post-construction avian and bat mortality monitoring. Is South**  
104 **Deuel Wind agreeable to that condition?**

105 A. Yes. South Deuel Wind is agreeable to a condition to complete two years of post-  
106 construction avian and bat mortality monitoring.

107

#### 108 **IV. RESPONSE TO MR. JON THURBER**

109 **Q. Did you review the Direct Testimony of Mr. Jon Thurber?**

110 A. Yes.

111

112 **Q. On page 13, Mr. Thurber proposes a condition related to whooping cranes.**  
113 **Do you agree with this suggested condition?**

114 A. I do not believe the condition Mr. Thurber proposes regarding whooping cranes is  
115 necessary. The condition is unnecessary given that whooping cranes are unlikely  
116 to occur in the Project Area. The Project is not within the United States Fish and  
117 Wildlife Service ("USFWS") whooping crane observation corridor, which is located  
118 approximately 85 miles west of the Project Area. The whooping crane does not  
119 appear in USFWS Information for Planning and Consultation results for the Project  
120 Area nor was there any record of occurrence identified within 5 miles of the Project  
121 Area in the South Dakota Natural Heritage Database query results. No whooping

122 cranes were observed during any of the site visits or throughout the multiple years  
123 of avian surveys. Due to being outside of the observation corridor, whooping  
124 cranes are unlikely to occur in the Project Area. In an October 2022 coordination  
125 letter, SDGFP noted that the Project is outside the 95 percent whooping crane  
126 migration corridor and concluded that the Project likely does not pose a substantial  
127 risk to whooping cranes and neither the USFWS nor SDGFP recommended  
128 mitigation measures for potential impacts to whooping cranes.<sup>1</sup>

129  
130 Though it is unlikely that a whooping crane would occur in the Project Area, South  
131 Deuel Wind is agreeable to the following order condition:

132  
133 Applicant will train all operations personnel at the Project to  
134 identify whooping cranes. A poster of whooping crane  
135 identification will be displayed year-round in a common area  
136 of the main office building to aid in the education and  
137 identification of the species. If operations personnel observe  
138 a whooping crane within two miles of a turbine at the Project,  
139 the Site Manager (or their designee) will execute a procedure  
140 to shut down any operating turbines within two miles of the  
141 observed whooping crane until it is greater than two miles  
142 away from the nearest turbine.

- 143  
144 **V. RESPONSE TO INTERVENOR ARLA HAMANN POINDEXTER**
- 145 **Q. Have you reviewed the Direct Testimony and data request responses**  
146 **submitted by Ms. Arla Hamann Poindexter included as Exhibits JT-2 and JT-**  
147 **3 in this proceeding?**
- 148 **A. Yes.**

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<sup>1</sup> See Appendix D to the Application, at p. 126 (containing a letter from the South Dakota GFP dated October 3, 2022, stating “The proposed project is located 41 miles east of the 95% migration corridor, and likely does not pose a substantial risk to whooping cranes.”).

149

150 **Q. What is your overall response to Ms. Hamann Poindexter's Direct**  
151 **Testimony?**

152 A. Ms. Hamann Poindexter has concerns about the potential environmental impacts  
153 of the Project. Ms. Hamann Poindexter describes her own land conservation and  
154 her stewardship of her family's land. In response I would emphasize that South  
155 Deuel Wind designed and sited the Project in an environmentally responsible way  
156 using industry best practices. South Deuel Wind's success in minimizing Project  
157 impacts is recognized and discussed in the Direct Testimony of SDGFP witness  
158 Mr. Switzer. I would further note that since Ms. Hammon Poindexter is not  
159 participating in the Project, no facilities are proposed to be located on her property  
160 and thus will not directly impact her conservation efforts.

161

162 **Q. On page 4 of her Direct Testimony, Ms. Hamann Poindexter suggests that**  
163 **the Project will negatively impact wildlife in the area. Ms. Hamann Poindexter**  
164 **also states in discovery response 1-2(b), contained in Exhibit JT-2 that she**  
165 **believes the Project will diminish biodiversity of native species, including**  
166 **less birds and insects. What is your response to these concerns?**

167 A. South Deuel Wind undertook multiple studies to analyze potential impact on wildlife  
168 and habitat. For example, the Project conducted bird surveys in the Project Area  
169 as prescribed by the USFWS and SDGFP. The survey methods and results were  
170 shared with those agencies and are available in Appendices G and K to the  
171 Application.

172

173 Potential impacts to migrating birds as a result of the Project are discussed in  
174 Appendix K to the Application. Project Facilities have been sited to avoid protected  
175 lands, potential habitat, and other environmental resources identified and mapped  
176 within the Project Area. South Deuel Wind conducted detailed assessments for  
177 habitat that may support protected insect species and has sited the Project to avoid  
178 those habitats. The majority of insects in the Great Plains are residents of an area  
179 and are not migratory. These insects have populations based at a local or regional

180 level. The Project conducted detailed assessments for habitat that may support  
181 protected insect species and has sited components to avoid those habitats. These  
182 efforts are detailed in various sections of the Application as well as in the  
183 appendices. As such, construction and operation of the Project are not anticipated  
184 to impact protected insect species. South Deuel Wind is not aware of any studies  
185 in South Dakota or the region demonstrating changes to insect migration due to  
186 turbine construction.

187  
188 There are no land features, habitat types, or seasonal differences known to occur  
189 in the Project Area relative to the overall landscape of the region that would  
190 concentrate prey and potential use by raptors. The Project has also conducted  
191 multiple assessments to identify wildlife habitat, and these are detailed in various  
192 sections of the Application as well as the appendices. South Deuel Wind does not  
193 propose any mitigation for wildlife habitats given that Project Facilities have been  
194 sited primarily on regularly disturbed agricultural lands. The Project has also  
195 coordinated with SDGFP and the USFWS to characterize use of the site by wildlife  
196 as detailed in the Application and followed the agencies' recommended survey  
197 methods and guidance documents to assess wildlife.<sup>2</sup> For example, no Project  
198 Facilities have been sited on USFWS critical habitat or USFWS easements.  
199 Likewise, to the extent practicable, Project Facilities are sited in upland areas,  
200 avoiding low-lying wetlands and streams. South Deuel Wind will also use best  
201 management practices to further reduce the Project's environmental impact.

202

203 **Q. In discovery response 1-3, contained in Exhibit JT-2, Ms. Hamann Poindexter**  
204 **expresses concern regarding South Deuel Wind's environmental study**  
205 **process, stating that "the grassland study only used an on-site inspection**

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<sup>2</sup> See, e.g., *Siting Guidelines for Wind Power Projects in South Dakota*, South Dakota Game, Fish, and Parks, available at <https://gfp.sd.gov/userdocs/docs/wind-energy-guidelines.pdf>; *Land-Based Wind Energy Guidelines*, U.S. Fish and Wildlife Service (Mar. 23, 2012), available at <https://tethys.pnnl.gov/sites/default/files/publications/USFWS-Wind-Energy-Guidelines.pdf>; *Eagle Conservation Plan Guidance: Module 1 – Land-Based Wind Energy*, U.S. Fish and Wildlife Service (Apr. 2013), available at <https://www.fws.gov/sites/default/files/documents/eagle-conservation-plan-guidance.pdf>.



206 **on one day at the end of the traditional grazing season,” and that “The Raptor**  
207 **Nest Study uses an aerial inspection on a date prior to the full migration of**  
208 **prey species.” What is your response?**

209 A. Ms. Hamann Poindexter’s concerns are not well-founded given the thorough  
210 environmental analyses undertaken for the Project. Burns & McDonnell conducted  
211 a series of desktop reviews and field surveys related to grasslands. In-field review  
212 for grassland assessment efforts occurred on October 10, 11, and 12, 2022 as well  
213 as July 31 and August 1, 2023. The timing of the field effort was completed prior  
214 to the end of the growing season as determined by ground temperatures and when  
215 herbaceous species targeted for identification (as detailed in Appendix F of the  
216 Application) were still present and therefore are sufficient.

217  
218 The grassland assessment of the 244 grassland observation points determined  
219 that the majority of the Project Area did not include potentially unbroken grassland.  
220 Of the 244 grassland observation points, 138 were determined to be a “low”  
221 classification, 73 were determined to be a “medium” classification, and 11 were  
222 determined to be a “high” classification. Two observation points were inaccessible  
223 from public roads and 20 did not have grassland present and were therefore not  
224 given a classification. The 11 grassland observation points within the Project Area  
225 classified as “high,” were identified as potentially unbroken grassland, and totaled  
226 335 acres or approximately 1 percent of the Project Area.

227  
228 Raptor nest surveys were conducted to identify the location and occupancy status  
229 of potential raptor nests within and surrounding the Project Area. These surveys  
230 included aerial and ground observation and occurred within the survey times  
231 recommended by the USFWS Region 6 survey protocols. These multi-year  
232 surveys were conducted in various different months, including March, April, May,  
233 June, July, and August. No federal- or state-threatened or endangered species  
234 were documented during these observations.

235  
236 South Deuel Wind coordinated with both the USFWS and SDGFP on the analyses,  
237 shared survey results, and discussed setbacks and siting decisions in response to  
238 the data. Neither USFWS nor SDGFP expressed concerns with South Deuel  
239 Wind's methodologies or the final study results.

240  
241 **Q. In discovery response 1-4, contained in Exhibit JT-2, Ms. Hamann Poindexter**  
242 **suggests that wind projects have affected the migratory patterns of**  
243 **Canadian geese in the area. What is your response?**

244 The avian surveys in the Project Area followed USFWS and SDGFP guidance.  
245 The survey methods and results were shared with those agencies and are  
246 available in Appendices G and K to the Application. While geese in South Dakota  
247 migrate at high altitudes, the Project coordinated with the USFWS and SDGFP to  
248 minimize infrastructure near suitable waterfowl stopover habitat. Therefore, the  
249 Project does not anticipate having an impact on migratory Canadian geese.

250

251 **VI. CONCLUSION**

252 **Q. Does this conclude your testimony?**

253 A. Yes.

254

255

256 Dated this 5<sup>th</sup> day of December, 2024

257

258 *Michelle Phillips*

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259 Michelle Phillips

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