

Appendix B – Conditional Use Permit, Associated Findings, and Wind Energy System Zoning Ordinance

DEUEL COUNTY
WIND ENERGY SYSTEM (WES) CONDITIONAL USE PERMIT APPLICATION
PERMIT NUMBER 23CW022

APPLICANT (PRINT): Deuel Harvest Wind Energy South LLC PHONE: +1 (312) 224-1400

ADDRESS: One South Wacker Drive, Suite 1800, Chicago, IL 60606

OWNER (PRINT): _____ PHONE: _____
IF DIFFERENT THAN APPLICANT

ADDRESS: _____

DEVELOPMENT SITE LEGAL DESCRIPTION: n/a

DEVELOPMENT SITE STREET ADDRESS: n/a

EXISTING ZONING DESIGNATION: Agricultural District PARCEL NUMBER: n/a

REQUIRED APPLICATION SUBMISSIONS:

- Haul roads identified. *Not required per Deuel County Zoning Ordinance §1215.03(1)(f)(i)*
- Soil erosion and sediment plan. *Not required per Deuel County Zoning Ordinance §1215.03(1)(f)(vi)*
- Boundaries of the site proposed for WES and associated facilities on United States geological survey map or other map as appropriate.
- Map of easements for WES.
- Copy of easement agreements with landowners
- Map of occupied residential structures, businesses and public buildings.
- Map of sites for WES, access roads and utility lines.
- Proof of utility right-of-way easement for access to transmission lines.
- Location of other WES in general area.
- Project schedule.
- Mitigation measures.

PLEASE DESCRIBE THE PROPOSED WORK: (be specific as to size of buildings, lots, construction materials, etc)

Construction of up to 76 wind turbines and associated facilities to achieve Deuel Harvest Wind Energy South's nameplate capacity of up to 260 Megawatts

ESTIMATED PROJECT CONSTRUCTION COST (including labor): \$600-700M

NOTE: A SITE AND AREA PLAN OF THE PROPOSED WES SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

1. NORTH DIRECTION
2. DIMENSIONS OF PROPOSED STRUCTURE
3. STREET NAMES
4. LOCATION OF PROPOSED STRUCTURE ON LOT
5. DIMENSIONS OF FRONT AND SIDE SETBACKS
6. LOCATION OF ADJACENT EXISTING BUILDINGS
7. OTHER INFORMATION AS MAY BE REQUESTED

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I further understand and agree that the granting of a permit does not presume to give authority to violate, cancel or variance the provisions of the Deuel County Zoning Ordinance or any other federal, state, or local law regulating construction or the performance of construction.

SIGNATURE OF CONTRACTOR DATE

[Signature] 7/17/23
SIGNATURE OF APPLICANT DATE

SIGNATURE OF OWNER DATE
(IF DIFFERENT THAN APPLICANT)

FOR OFFICIAL USE ONLY

- FEE PAID:
- PERMIT ISSUED
- PERMIT EXPIRES

DATE: 8-8-23
DATE: 9-11-23
DATE: 8-8-26

REASONS FOR DENYING PERMIT:

CONDITIONAL USE PERMIT

This Certifies that the following Conditional Use Permit has been issued by Deuel County

Conditional Use Permit # 23 CUV 022

Permit Issued to: Deuel Harvest Wind Energy South LLC

Zoning Designation: A – Agricultural District

Legal Description: Blom, Brandt, Clear Lake, Norden and Scandinavia Townships, Deuel County, South Dakota (Project Area identified in the Application)

Parcel Number: _____

Conditional Use Permit (Section Of Ordinance): Wind Energy Systems: Section 1101.04.22 & Section 1215 to construct all Project Facilities using the GE 3.4- 140, SG 4.4-164, V163-4.5 or turbines of similar dimensions and capacity with a nameplate capacity of up to 260 MW Wind Energy System with up to 76 wind turbines, operations and maintenance building, a project substation, up to two aircraft detection lighting system (“ADLS”) towers, collector lines, feeder lines, transmission lines, laydown yards, concrete batch plants and up to three meteorological towers subject to compliance with all applicable Zoning Ordinance requirements

Other Permit Requirements (To be Attached to Permit):

- Findings of Fact
- Conditions and/or Signed Letter of Assurance, if applicable.
- Expiration date, if applicable.

Issuance Date: 9-11-23

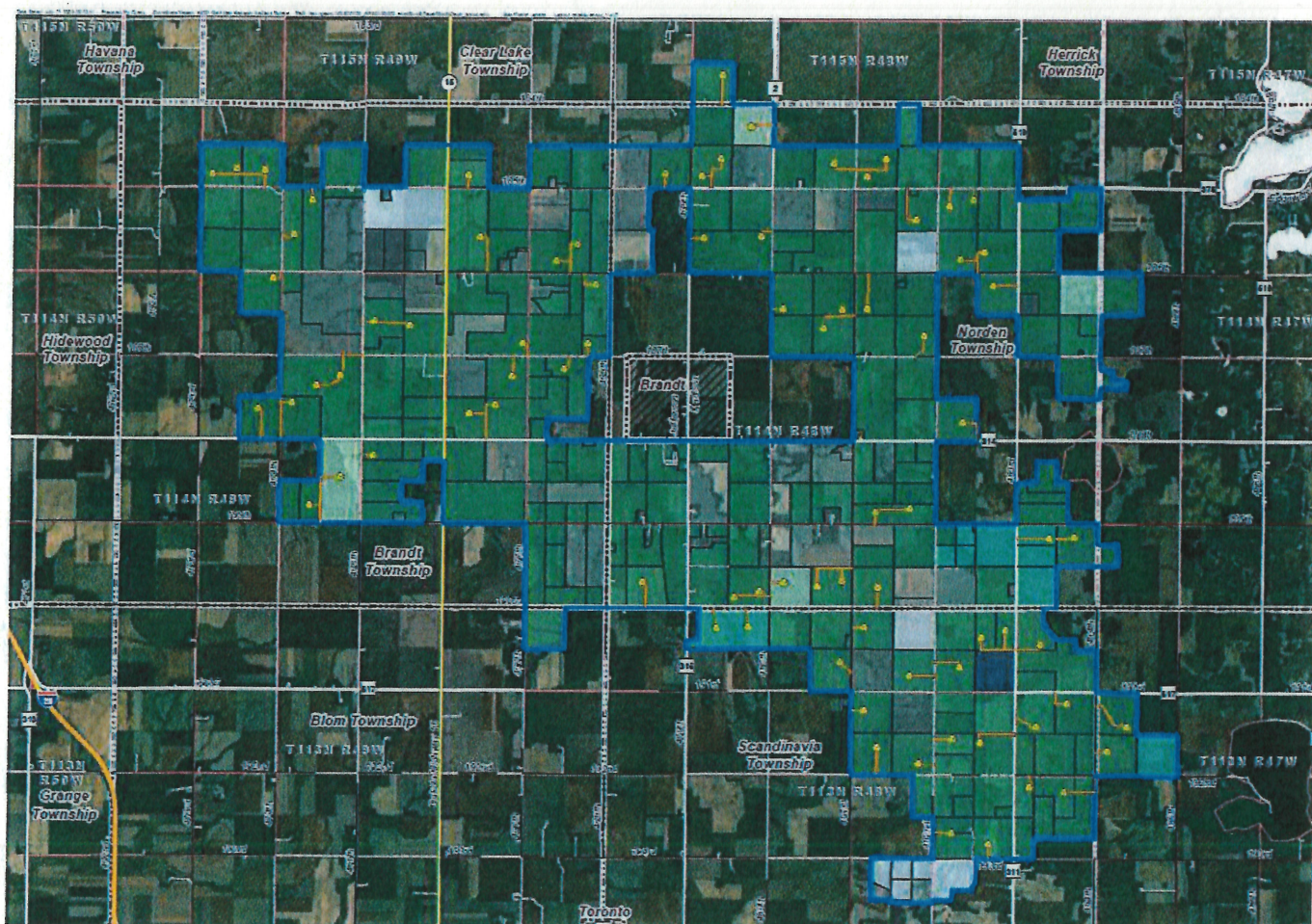
Zoning Officer Signature: 

Prepared by:
Deuel County Zoning Office
408 4th Street West
Clear Lake, SD 57226

Letter of Assurance

A Conditional Use Permit under Deuel County Zoning Ordinance Section 1215, "Wind Energy System Requirements" has been granted by the Deuel County Board of Adjustment to Deuel Harvest Wind Energy South LLC to operate a Wind Energy System with up to 76 wind turbines and other ancillary structures/uses.

Property location: Blom, Brandt, Clear Lake, Norden and Scandinavia Townships as displayed in Exhibit "A" below and hereby incorporated by reference.



Conditions to be placed upon the Conditional Use Permit permit issued to Deuel Harvest Wind Energy South LLC by the Deuel County Board of Adjustment on August 7, 2023:

- 1) Effective Date and Transferability:
 - a. Upon issuance of applicant permit by South Dakota Public Utilities Commission.
 - b. This permit shall expire if no substantial construction of the Project Facilities described within the application has occurred within three (3) years of issuance of this permit (on or before August 8, 2026.) If the Conditional Use Permit decision is appealed, the Conditional Use Permit shall not expire for a period of two (2) years following completion of any final appeal of the decision.
 - c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

- 2) General Requirements:
 - a. There shall be no discharge of industrial processed water on the site
 - b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
 - c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.

- 3) Obligation to Meet Requirements:
 - a. Applicant agrees to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, , Final site location of towers, building permit application, meeting applicable federal and state requirements.
 - b. Further, with respect to abandonment/decommissioning.
 - (1) Both the Deuel County Board of Adjustment and the Applicant understand that the decommissioning plan will comply with Zoning Ordinance and that when the applicant submits to the PUC, it will submit the same decommissioning plan to the Deuel County Zoning Office. Any and all addition requirements made by the PUC shall be added to the decommissioning plan. Applicant's compliance with the PUC's decommissioning requirements will be deemed to comply with the decommissioning financial assurance requirements in § 1215.09.

- 4) Violation and Penalties:
 - a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference solely to the specific tower found to be in violation, and will be enforced pursuant to Zoning Ordinance Sections 801 and 808 in the manner as described in Section 4.b below.
 - b. Violation of the terms of this Conditional Use permit will be determined by the Deuel County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this Conditional Use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation, which time shall be no less than 30 days. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the Conditional Use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the Conditional Use permit.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment to the Deuel County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

(3) Failure to comply with the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment may be deemed a separate violation.

IN WITNESS WHEREOF, Deuel County and the Grantor(s) have executed this Conditional Use Permit Letter of Assurance.

[Signature]
Deuel Harvest Wind Energy South LLC (Grantor)

9/12/23
Date

by (Name): Daniel Litchfield
its (Title): Authorized Representative

[Signature]
Vice Chairman
Deuel County Board of Adjustment

9/11/23
Date

STATE OF ~~South Dakota~~ Illinois
SS:
COUNTY OF ~~Deuel~~ COOK

This instrument was acknowledged before me on September 12th, 2023 by Daniel Litchfield, on behalf of Deuel Harvest Wind Energy South LLC (Grantor).

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Name: Melanie Marion
Notary Public, State of Illinois
My Commission Expires: 6/8/2027

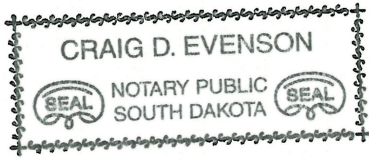


STATE OF SOUTH DAKOTA
SS:
COUNTY OF DEUEL

This instrument was acknowledged before me on September 11th, 2023 by Kevin De Boer, representing Deuel County as the Vice Chairman of the Deuel County Board of Adjustment.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Name: Craig D. Evenson
Notary Public, State of South Dakota
My Commission Expires: 4/6/29



**Findings of Fact
Conditional Use Permit
Deuel Harvest Wind Energy South LLC
September 11, 2023**

This matter having come before the Board of Adjustment and the Board having taken testimony and heard the evidence. The Board enters the following Findings of Fact in support of its motion to approve the Petitioner's application for a Conditional Use Permit for a Wind Energy System comprised of up to 76 wind turbines and other ancillary structures/uses ("Project Facilities").

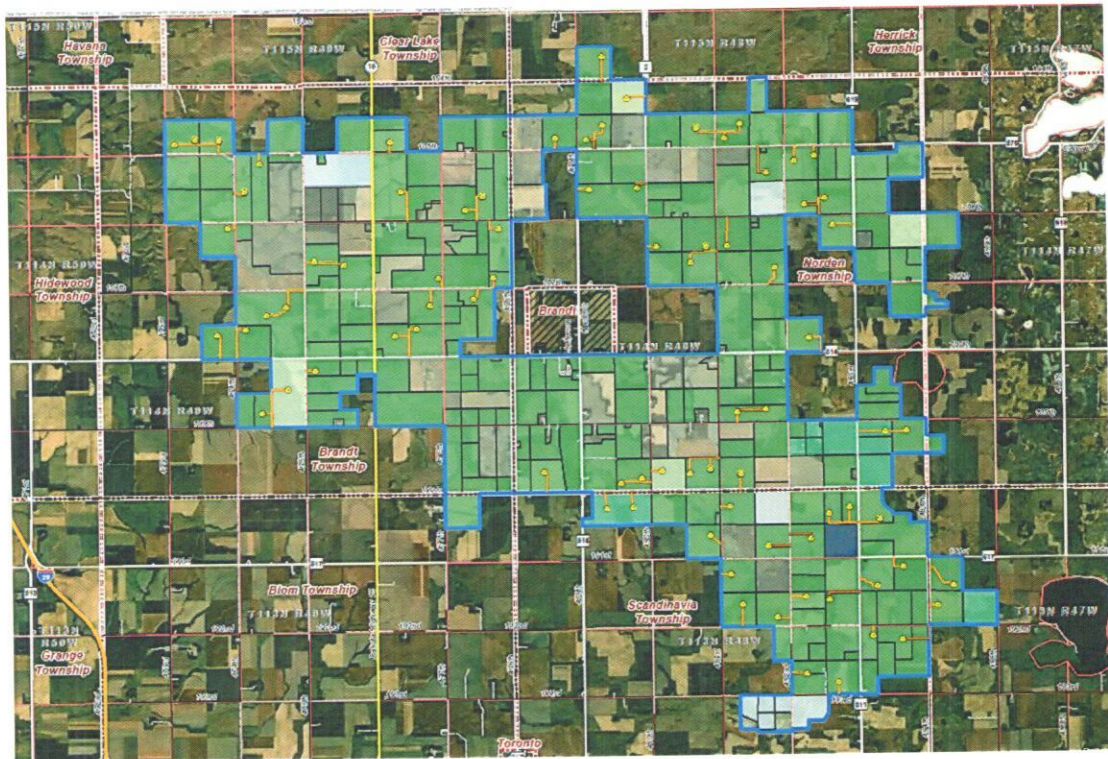
1. The following use is listed as a conditional use in the A – Agricultural Zone and Zone B of the Aquifer Protection Overlay District of the Deuel County Zoning Ordinance (Ref: SDCL 11-2-17.3):

Wind Energy Systems (Ref: Zon. Ord. Sections 1101.04.22 and 1215).

1. Project facilities may be located in Zone B of the Aquifer Protection Overlay District:

All conditional use allowed in underlying districts, with the exception of those expressly prohibited in Zone B, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zone. (Ref: Zon. Ord Section 1105.10.1)

2. On or before July 18, 2023, Deuel Harvest Wind Energy South LLC applied for a Conditional Use Permit to operate a Wind Energy System on property in Blom, Brandt, Clear Lake, Norden and Scandinavia Townships as displayed in Exhibit "A" below and hereby incorporated by reference.



3. This application for the Project Facilities meets the definition of a Wind Energy System.
4. This permit shall not become effective until issuance of applicant's permit by South Dakota Public Utilities Commission.
5. The application and testimony at this meeting allowed the Board to adequately review how the applicant will satisfy requirements for site clearance, topsoil protection, compaction, livestock protection, fences, public roads, haul roads, turbine access roads, private roads, control of dust, soil erosion and sediment control, electromagnetic interference, lighting, turbine spacing, footprint minimization, collector lines, feeder lines, decommissioning, tower height and appearance met towers, noise and flicker.
6. The applicant satisfactorily demonstrated the ability to meet required setbacks for turbines from property lines, right-of-way, residences, businesses, government facilities and other structures, uses and features which would require setback. Final determination of compliance with setbacks for the final design will be completed upon issuance of building permit(s).
7. The applicant submitted boundaries of the site proposed for WES on a USGS Map, a map of easements, copies of easement agreements with landowners, maps of occupied residential structures, businesses, churches, and buildings owned and/or maintained by a governmental entity, maps of sites for WES, access roads, and utility lines, location of other WES in general area, project schedule, and mitigation measures.
8. The agreement in the letter of assurance that the applicant will obtain haul road agreements satisfies the requirement for a haul road agreement.
9. The application, staff report, and testimony during the public hearing adequately addressed all applicable requirements of the Zoning Ordinance, including Section 504 of the Zoning Ordinance in reference to all forms of Conditional Use. With respect to Section 504, the Board specifically finds:
 - a. Access § 504(5)(a & g): The Project will have adequate access and will not adversely affect automotive and pedestrian safety and convenience or daily traffic flow.
 - b. Parking and internal traffic § 504(5)(b): The project will provide for adequate parking for the operations and maintenance building and internal traffic will not be adversely affected.
 - c. Utilities and Refuse § 504(5)(c): The Project is designed to have adequate utilities and will properly manage waste during and after construction.
 - d. Screening, Buffering, and Open Space § 504(5)(d): The Project Substation will be located within a fenced area. The wind turbines will be buffered from participating and non-participating landowners in accordance with the Zoning Ordinance's setback requirements. There are no screening requirements applicable to a WES.
 - e. Lighting § 504(5)(e): South Deuel will meet all lighting requirements listed in Ordinance § 1215.03(4), and lighting will not create a nuisance or distract traffic. The Project will employ ADLS if approved by the FAA. In addition, the O&M Building will have lighting

and signage that complies with County requirements. Brightness, intensity, glare of lights will be similar to lighting that is typically used within the Agricultural District.

- f. General compatibility with adjacent properties and other property in the district. § 504(5)(f): The Project is compatible with the existing agricultural land uses in areas within and surrounding the Project. Wind development is particularly compatible with agricultural land because the existing uses can continue around the wind energy facility. The Project will provide new sources of income for area landowners and allow landowners to diversify their operations with minimal disruption to existing agricultural use.
10. No other issues were brought up with the application or during testimony which relate to the Zoning Ordinance or Comprehensive Land Use Plan that needed to be addressed.
 11. That Wind Energy Systems such as proposed by the applicant are allowable in the A – Agricultural District and Zone B of the Aquifer Protection District under certain conditions. Therefore, The Board of Adjustment finds that it is empowered to grant the Conditional Use Permit, and that the granting of the Conditional Use will not adversely affect the public interest.
 12. The Board requested legal counsel to prepare the findings of fact which are to be approved by the Chairman of the Board; and for the zoning officer to issue the Conditional Use permit and any letters of assurance, building permits or other items associated with said Conditional Use Permit.
 13. In order to comply with the requirements of the Zoning Ordinance, the Board of Adjustment grants a Conditional Use Permit to Deuel Harvest South to construct all Project Facilities and is authorized to use the GE 3.4- 140, SG 4.4-164, V163-4.5 or turbines of similar dimensions and capacity with a nameplate capacity of up to 260 MW within the Project Area identified in the Application, subject to compliance with all applicable Zoning Ordinance requirements with the following conditions and safeguards in conformity with the Deuel County Zoning Ordinance to be agreed to in the form of a “Letter of Assurance”:
- 1) Effective Date and Transferability:
 - a. Upon issuance of applicant permit by South Dakota Public Utilities Commission.
 - b. This permit shall expire if no substantial construction of the Project Facilities described within the application has occurred within three (3) years of issuance of this permit (on or before August 8, 2026.) If the Conditional Use Permit decision is appealed, the Conditional Use Permit shall not expire for a period of two (2) years following completion of any final appeal of the decision.
 - c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
 - 2) General Requirements:
 - a. There shall be no discharge of industrial processed water on the site
 - b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven

hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.

- c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.

3) Obligation to Meet Requirements:

- a. Applicant agrees to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, Final site location of towers, building permit application, and meeting applicable federal and state requirements.
- b. Further, with respect to abandonment/decommissioning.

- (1) Both the Deuel County Board of Adjustment and the Applicant understand that the decommissioning plan will comply with Zoning Ordinance and that when the applicant submits to the PUC, it will submit the same decommissioning plan to the Deuel County Zoning Office. Any and all addition requirements made by the PUC shall be added to the decommissioning plan. Applicant's compliance with the PUC's decommissioning requirements will be deemed to comply with the decommissioning financial assurance requirements in § 1215.09(a).

4) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference solely to the specific tower found to be in violation, and will be enforced pursuant to Zoning Ordinance Sections 801 and 808 in the manner as described in Section 4.b below.
- b. Violation of the terms of this Conditional Use permit will be determined by the Deuel County Zoning Officer.

- (1) The first violation substantiated by the Zoning Officer of this Conditional Use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation, which time shall be no less than 30 days. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the Conditional Use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the Conditional Use permit.
- (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment to the Deuel County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
- (3) Failure to comply with the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment may be deemed a separate violation.

The Conditional Use Permit was approved by a vote of 5 yes and 0 no.

Kevin DeBoer

Kevin DeBoer, Vice Chairperson
Deuel County Board of Adjustment

Date Approved: August 7, 2023 (Permit acted on); September 11, 2023 (Findings Approved)

Date Signed: 9-11-23

Date Filed: 9-11-23

Conditional Use Permit Number(s): 23 CUU 022

- c. Signs shall not be located within the street right-of-way.
 - d. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.
 - e. Stacked signs (two or more signs stacked vertically on a single sign structure) are prohibited.
 - f. Each sign shall not be closer than two hundred fifty (250) feet from adjoining property lines.
6. Temporary signs, may be displayed on any lot under the following conditions:
- a. Temporary signs shall be readily movable and attached to the ground or another permanent structure;
 - b. Temporary signs shall be constructed with a material capable of withstanding impacts, winds or blown snow;
 - c. Temporary signs shall consist of a flat construction with a maximum of two display sides;
 - d. Temporary signs shall not be placed within a required clear view triangle or a required parking area;
 - e. Additional Locations and Area Regulations are regulated by Table 1214.1.

Table 1214.1. Location and Area Regulations

		All Zoning Districts
Minimum Distance from Edge of Right-of-Way (Front Yard Setback)		1'
Rear Yard		Same as setback for accessory structures in underlying zoning district
Front Yard		Same as setback for accessory structures in underlying zoning district
Number of Signs on a Lot	(A) Maximum throughout year except as in (B)	One (1) plus one (1) per frontage
	(B) Maximum during the period sixty (60) days before and five (5) days after an election	6
Maximum Height		3'
Maximum Area per sign (a)		6 sq. ft

Section 1215. Wind Energy System (Wes) Requirements.

Section 1215.01. Applicability.

The requirements of these regulations shall apply to all WES facilities except private non-commercial facilities with a single tower height of less than one-hundred forty (140) feet and used primarily for on-site consumption of power.

Section 1215.02 Federal and State Requirements.

All WESs shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WESs.

Section 1215.03. General Provisions.

1. Mitigation Measures

- a. Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the WES.
- b. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
- c. Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
- d. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project's life.
- e. Fences. The permittees shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.
- f. Roads
 - i. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WES project and shall notify the state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WES. Where practical, all-weather roads shall be used to deliver cement or concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.
 - ii. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County of such arrangements upon request of the County.
 - iii. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainageways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.

- iv. Private Roads. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
- v. Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.
- vi. Soil Erosion and Sediment control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

2. Setbacks

Wind turbines shall meet the following minimum spacing requirements.

- a. Distance from existing Non-participating residences and businesses shall not be less than four times the height of the wind turbine. Distance from existing Participating residences, businesses and public buildings shall not be less than fifteen hundred feet. Non-participating property owners shall have the right to waive the respective setback requirements. For purposes of this section only, the term "business" does not include agricultural uses
- b. Distance from public right-of-way shall be one hundred ten percent (110%) the height of the wind turbines, measured from the ground surface to the tip of the blade when in a fully vertical position.
- c. Distance from any property line shall be one hundred ten percent (110%) the height of the wind turbine, measured from the ground surface to the tip of the blade when in a fully vertical position unless wind easement has been obtained from adjoining property owner.
- d. Distance from the Lake Park District located at Lake Cochrane: 3 miles; Distance from the Lake Park District located at Lake Alice: 2 miles; and 1 mile from the Lake park District located at Bullhead Lake.
- e. Distance from the municipalities of Altamont, Astoria, Brandt and Goodwin of 1 mile from the nearest residence and 1 ½ miles from the city limits of the towns of Gary, Toronto and Clear Lake, except the area of Clear Lake located in sections 11, 12 and 14.

3. Electromagnetic Interference. The permittees shall not operate the WES so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the WES or its operation, the permittees shall take the measures necessary to correct the problem.
4. Lighting. Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment. Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA. Beacon lighting, unless required by FAA, shall not be utilized.
5. Turbine Spacing. The turbines shall be spaced no closer than is allowed by the turbine manufacturer in its approval of the turbine array for warranty purposes.
6. Footprint Minimization. The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall to the greatest extent feasible be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.
7. Electrical Cables. The permittees shall place electrical lines, known as collectors, and communication cables underground when located on private property except when total distance of collectors from the substation require an overhead installation due to line loss of current from an underground installation. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.
8. Feeder Lines. The permittees may place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction.

9. Decommissioning/Restoration/Abandonment

- a. **Decommissioning Plan.** Within 120 days of completion of construction, the permittees shall submit to the County a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees will ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. The County may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation. The decommissioning plan shall include the requirement that Permittee post a bond or other adequate security sufficient to pay the entire cost of the decommission process.
 - b. **Site Restoration.** Upon expiration of this permit, or upon earlier termination of operation of the WES, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of forty-two (42) inches. To the extent possible the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the County and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen months after expiration.
10. **Abandoned Turbines.** The permittees shall advise the County of any turbines that are abandoned prior to termination of operation of the WES. The County may require the permittees to decommission any abandoned turbine.
11. **Height from Ground Surface.** The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be twenty-five (25) feet.
12. **Towers.**
- a. **Color and Finish.** The finish of the exterior surface shall be non-reflective and non-glass.
 - b. All towers shall be singular tubular design. With the exception of those towers identified in Section 12.15.01.
13. **Noise and Shadow Flicker.**
- a. Noise level for non-participating residences shall not exceed 45 DBA, average A-Weighted Sound pressure. The noise level is to be measured at the perimeter of existing non-participating residences.
 - b. Limit for allowable shadow flicker at existing residences to no more than 30 hours annually.

14. Permit Expiration. The permit shall become void if no substantial construction has been completed within three (3) years of issuance.
15. Required Information for Permit.
 - a. Boundaries of the site proposed for WES and associated facilities on United States Geological Survey Map or other map as appropriate.
 - b. Map of easements for WES.
 - c. Copy of easement agreements with landowners.
 - d. Map of occupied residential structures, businesses and public buildings.
 - e. Map of sites for WES, access roads and utility lines.
 - f. Proof of utility right-of-way easement for access to transmission lines.
 - g. Location of other WES in general area.
 - h. Project schedule.

Section 1216. Wireless Telecommunications Towers and Facilities.

Section 1216.01. Purpose.

The general purpose of this Section is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the County.

Specifically, the purposes of this Ordinance are:

1. To regulate the location of Towers and Telecommunications Facilities in the County;
2. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
3. To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
4. To promote and encourage shared use/co-location of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
5. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;