

**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**

EL24-023

The Project will have a significant tax benefit for Deuel County and the surrounding community. The Project is expected to generate over \$9.1 million in total county property taxes for Deuel County and over \$11.9 million in total state property taxes for the State of South Dakota over the life of the Project.¹ Additionally, the Project is expected to recognize a combined additional revenue impact of \$3,045,000 for the Deuel School District 19-4 and the Deubrook

¹ See South Deuel Wind's Application for Energy Facility Permits, at 105.

School District 05-6 over the first ten years of Project operation. South Dakota has established itself as a leader in American energy production over the last 5 years, particularly wind energy, attracting more than 2,700 jobs and \$7 billion in investment. The Project will continue to attract and retain skilled workers and bolster rural communities in South Dakota, contributing to a strong state economy built on affordable, reliable domestic energy.²

South Deuel Wind has consulted with Commission Staff regarding this partial exemption request and Staff identified information required for its review. That information is in this supplement.

FACTS SUPPORTING THE REQUEST

This request is filed with the intention to commence construction activities on the Project in the near term and then to later commence full construction on the Project when final civil design drawings are completed. Due to recent changes in federal policies including legislation passed on July 4th, the deadline by which construction must commence for renewable energy projects, such as the South Deuel Wind Project, to be able to qualify for federal tax credits is no longer certain. South Deuel Wind has been working to contract with potential customers based on the existence of the federal tax credits. To keep the cost of the Project low to the benefit of ultimate consumers, South Deuel Wind plans commence construction on August 4th.

South Deuel Wind proposes to commence construction with earth excavation and installation of mud mats for Turbine Nos. 37 and 38.³ A map showing the limited construction area is included as **Attachment A**. The two turbines are located on properties owned by the same individual and will be accessed via state highways and across the field. The access used across the

² See *South Dakota's Renewable Energy*, South Dakota Renewable Energy Association (available at <https://sodakrenewables.org>).

³ The nearest residence to these locations is 3,488 feet.

field will be approximately 16 feet wide and approximately 3,000 feet long. With the exception of approximately .38 acres, all work will occur in previously surveyed areas as shown on **Attachment A**. The .38-acre area is part of the access area off of South Dakota State Highway 15 where contractors will utilize an existing field entrance into an actively cultivated agricultural field. In this .38-acre area, a desktop review confirmed the absence of wetlands. To ensure there are no potential wetland impacts, timber matting will be used in this area. An additional cultural survey of this limited area was undertaken on July 10, 2025 and no resources were identified. South Deuel Wind will file the cultural report with the Commission when it is finalized and before commencing construction.

A mud mat is a concrete foundation that is installed at the base of a turbine location after excavation of the dirt, and provides a clean surface below grade for the future installation of turbine foundations. A standard mud mat is slightly larger in diameter than the base of the anticipated turbine foundation, which will be 74 feet in diameter. The area will be excavated and concrete will be poured. Upon curing, the mud mats will be back filled leaving a slight mound. This mound area will be removed from agricultural production. Exemplar photographs of mud mats are included as **Attachment B**. Turbine tower construction and installation are not part of this first phase of construction.

South Deuel Wind has been working with the landowner and tenant farmer to coordinate the proposed construction. An email confirming this coordination is included as **Attachment C**.

South Deuel Wind intends and expects to construct the entire Project in accordance with the Commission's Order. If, however, the Project were not constructed, South Deuel Wind would restore the area consistent with the Decommissioning Plan dated November 11, 2024. South Deuel Wind also proposes to provide the Commission with financial assurance in the form of a letter of

credit in the amount of \$25,000⁴ at least 48 hours prior to construction to cover decommissioning costs associated with the decommissioning of the mud mats of Turbine Nos. 37 and 38.

South Deuel Wind has continued to develop this Project and is also continuing to market the Project to secure an off-take agreement and is in discussions with multiple parties. South Deuel Wind has maintained regular communication with landowners via letters, phone calls, and in-person meetings to inform of Project status, extend the terms of land agreements, and to execute corrective real estate title work. South Deuel Wind has worked extensively with the Midcontinent Independent System Operator, Inc. and the Transmission Owner and believes it has in hand a path to a generator interconnection agreement in the near term. That path has been unusually long for this project, having started fully six years ago and being emblematic of the congestion challenges this area has seen, but is near completion which will allow cost effective interconnection to the grid, adherence to strict reliability standards, and the addition of new local energy generation to satisfy new electrical load growth opportunities in South Dakota. Finally, the Project continues to advance toward full construction despite regulatory complications. Recent reductions in federal workforce and resulting alterations in responsibilities at various federal agencies have delayed the conclusion of finalizing determinations of no hazard with the Federal Aviation Administration and a Mitigation Agreement with the Department of Defense that will collectively ensure safe siting of the turbines with respect to local air traffic as well as ensuring the reliability of America's air defense radar system. In short, the Project has made significant progress towards construction and

⁴ This value is derived from South Deuel Wind's Decommissioning Plan dated November 11, 2024, which assumes construction of 57 Vestas V163-4.5 wind turbines. That plan included a turbine foundation removal cost estimate of \$675,000, or approximately \$11,842.11 per turbine foundation, for a total of approximately \$23,685 for two turbine foundations. Therefore, South Deuel Wind proposes \$25,000 is an appropriate amount to provide for decommissioning of these two mud mats.

eventual commercial operations and the requested exemptions to enable the initial construction work are a very important part of this process and progress.

REQUESTED EXEMPTIONS

The Order includes 13 conditions regarding agreements, filings, and approvals that must be submitted to the Commission prior to commencing construction. South Deuel Wind has satisfied or will satisfy seven of these conditions prior to commencing construction on the mud mats, including Condition Nos. 1, 5, 12, 33, 34, 39, and 45a, as illustrated in **Table 1** below. South Deuel Wind is not requesting an exemption from these Conditions.

Table 1: No Exemption Requested

Condition No.	Condition	Satisfactory Action
1	Applicant will obtain all governmental permits which reasonably may be required by any township, county, state agency, or federal agency, or any other governmental unit for construction and operation activity of the Project prior to engaging in the particular activity covered by that permit. Applicant shall file an itemized affidavit with the Commission attesting that all permits were properly obtained prior to commercial operation.	South Deuel Wind will obtain all governmental permits related to construction of the mud mats prior to construction and provide an affirmative filing attesting that the requisite permits were obtained.
5	In order to ensure compliance with the terms and conditions of this Permit pursuant to SDCL 49-41B-33, it is necessary for the enforcement of this Order that all employees, contractors, and agents of Applicant involved in this Project be made aware of the terms and conditions of this Permit prior to the start of construction.	South Deuel Wind has made or will make its employees, contractors, and agents aware of the Order and its terms and conditions prior to beginning work on the mud mats.
12	Prior to the commencement of construction, Applicant agrees to develop an unanticipated discovery plan for cultural resources and follow SDCL 34-27-25, 34- 27- 26, and 34-27-28 for the discovery of human remains.	South Deuel Wind filed an Unanticipated Discovery Plan with its Application. <i>See</i> Application, Appendix W.

Condition No.	Condition	Satisfactory Action
33	Prior to the construction of the Project, Applicant will notify public safety agencies by providing a schedule and the location of work to be performed within their jurisdiction. The agencies contacted will include the South Dakota Department of Public Safety, the Sheriff of Deuel County, and the Deuel County Offices of Emergency Management.	South Deuel Wind will notify the public safety agencies noted in Condition No. 33 prior to beginning construction related to the mud mats.
34	Applicant shall file a Bird and Bat Conservation Strategy (BBCS) prior to beginning construction of the Project. The BBCS shall be implemented during construction and operation of the Project.	South Deuel Wind filed a Bird and Bat Conservation Strategy with its Application. <i>See</i> Application, Appendix K.
39	Within thirty days of receiving its Permits, Applicant shall provide a copy of the Commission's Final Decision and Order Granting Permits to Construct Facility; Notice of Entry and attached Permit Conditions in this docket to the affected county, townships, and municipalities in the Project Area.	South Deuel Wind provided a copy of the Commission's Order to Deuel County on March 11, 2025. South Deuel Wind sent a copy of the Order to affected townships and municipalities in the Project Area on July 10, 2025. ⁵
45a	Applicant shall notify Commission of key Project milestones by making the following filings in the docket: a) Report the date construction will commence as soon as it is known, but no later than five business days prior to commencement.	South Deuel Wind reports in this request that construction related to the two mud mat sites will begin as early as August 4, 2025, provided the Commission approves this request and Deuel County grants the required building permits. Should the start of construction be delayed, South Deuel Wind will notify the Commission Staff at least 48 hours prior to construction start.

Condition No. 8h applies to the construction of the Project's transmission facility, and is therefore not applicable to the scope of work relating to the mud mats.

⁵ In preparing this exemption request, South Deuel Wind recognized and rectified its error in not previously providing a copy of the Order.

For the five remaining conditions, South Deuel Wind seeks partial exemptions, pursuant to Condition No. 38, as indicated in **Table 2** below. South Deuel Wind aims to begin the initial phase of construction on Turbine Nos. 37 and 38 by August 4, 2025, or as soon thereafter as authorized by the Commission and Deuel County. The construction will take up to approximately two to three weeks.

Table 2: Requested Exemptions

Condition No.	Condition	Exemption Sought
4	<p>At least 14 days prior to commencement of construction, Applicant shall provide each participating and non-participating landowner in the Project Area and within one-half mile outside the Project Area, using the addresses designated to receive the property tax bill sent by the county treasurer, with the following information:</p> <ul style="list-style-type: none"> a) A copy of the Order and Permit Conditions; b) Detailed safety information describing: <ul style="list-style-type: none"> i. Reasonable safety precautions for existing activities on or near the Project; ii. Known activities or uses that are presently prohibited near the Project; and, iii. Other known potential dangers or limitations near the Project; c) Construction/maintenance damage compensation plans and procedures (only to participating landowners); d) The Commission's address, website, and phone number; e) Contact person for Applicant, including name, e-mail address, and phone number. 	<p>South Deuel Wind requests a partial exemption from Condition No. 4.</p> <p>South Deuel Wind has been coordinating with the affected landowner and its tenant regarding the proposed construction. An email confirming that coordination is provided as Attachment C. Should the Commission approve these exemptions, South Deuel Wind will provide notice to landowners within a one-half mile area surrounding the location of this construction work.</p> <p>South Deuel Wind requests an exemption from providing notice to all other landowners within the entire Project Area, and landowners within one-half mile outside of the Project Area, because these landowners will not be impacted by the limited initial phase of construction for Turbine Nos. 37 and 38. South Deuel Wind will file a copy of the notice letter with the</p>

Condition No.	Condition	Exemption Sought
	A copy of the landowner notice letters shall be filed with the Commission to demonstrate compliance with this condition.	Commission to demonstrate compliance with this condition.
7	Applicant will negotiate road use agreements with Deuel County and all affected townships, if required, and the same shall be executed before Applicant commences construction. Applicant will follow the terms of all road use agreements. When using haul roads specified in applicable road use agreements, Applicant shall take appropriate action to mitigate wind-blown particles created throughout the construction process, including but not limited to implementation of dust control measures such as road watering, covering of open haul trucks when transporting material subject to being windblown, and the removal of any soils or mud deposits by construction equipment when necessary.	<p>South Deuel Wind requests a full exemption from Condition No. 7.</p> <p>South Deuel Wind is actively working to execute road use agreements with Deuel County and all affected townships. For the initial construction on Turbine Nos. 37 and 38, South Deuel Wind and its contractors will exclusively use state highways. Therefore, road use agreements between South Deuel Wind and Deuel County and affected townships are not necessary for this phase of construction.</p>
14	Applicant shall provide the Stormwater Pollution Prevention Plan (SWPPP) to the Commission when Applicant has a final design for the Project. The SWPPP will outline the water and soil conservation practices that will be used during construction to prevent or minimize erosion and sedimentation and be in a form consistent with the South Dakota Department of Agriculture and Natural Resource guidelines for such plans. The SWPPP shall be completed before submittal of an application for a National Pollutant Discharge Elimination System (NPDES) general permit for construction activities. All contractors to be engaged in ground disturbing activities will be given a copy of the SWPPP and the requirements will be reviewed with them prior to the start of construction.	<p>South Deuel Wind requests a partial exemption from Condition No. 14.</p> <p>South Deuel Wind is developing a SWPPP applicable to the initial construction at Turbine Nos. 37 and 38. South Deuel Wind requests a partial exemption to this condition to allow it to submit a SWPPP that applies solely to this early, limited scope of construction.</p> <p>South Deuel Wind intends to file the SWPPP with the Commission as soon as final – currently anticipated on or around Friday, July 18, 2025.</p>

Condition No.	Condition	Exemption Sought
29	<p>At least thirty days prior to the commencement of construction work in the field for the Project, Applicant will file with the Commission the following information:</p> <ul style="list-style-type: none"> a) the most current preconstruction design, layout, and plans, including the wind turbine model; b) a sound level analysis showing compliance with the applicable sound level requirements; c) a shadow flicker analysis showing compliance with the applicable shadow flicker requirements; d) Applicant shall also demonstrate that in selecting locations for wind turbines, it considered how to reduce impacts on non-participating landowners; and e) Such additional Project preconstruction information as Staff requests. 	<p>South Deuel Wind requests a partial exemption from Condition No. 29.</p> <p>For 29a, South Deuel Wind submits Attachment A for compliance.</p> <p>For paragraphs 29b and 29c, the layout has not changed from Appendix A, Figure 2. Therefore, the noise analysis and shadow flicker analysis remain accurate and up to date.⁶</p> <p>For 29d, Application Appendix A, Figure 2 reflects South Deuel Wind's consideration of non-participating landowners. The closest non-participating residence is 3,790 feet from Turbine No. 37 and 3,488 feet from Turbine 38.</p> <p>For 29e, South Deuel Wind will provide such additional construction information as Staff requests.</p>
44	<p>Applicant shall submit monthly reports to the Commission during construction and shall submit quarterly reports to the Commission prior to the start of construction and from the date of commercial operation until reclamation is complete. Each of these monthly and quarterly reports shall include the following:</p> <ul style="list-style-type: none"> a) A summary of the work completed to date; b) A summary of the activities to be completed for the project, including 	<p>South Deuel Wind requests a partial exemption from Condition No. 44.</p> <p>South Deuel Wind proposes to submit monthly construction reports for the limited area concerning Turbine Nos. 37 and 38 with information responsive to 44a and 44b for this initial scope of construction.</p>

⁶ The noise analysis and shadow flicker analysis were included with South Deuel Wind's Application as Appendix M and Appendix N, respectively.

Condition No.	Condition	Exemption Sought
	<p>installation and operation of ADLS, and an associated timeline;</p> <p>c) A summary of consumer contacts, indicating the issue raised in the contact and the action the Applicant took to address the issue; and</p> <p>d) A permit condition checklist including the status of all required filings to the Commission and any other permitting agency.</p>	

CONCLUSION

South Deuel Wind respectfully requests that the Commission grant its motion for partial exemptions, as indicated above, on an expedited basis. South Deuel Wind specifically requests that the Commission issue an order providing that upon satisfaction of the conditions in Table 1 and Table 2, South Deuel Wind is authorized under the Facility Permit to construct two mud mats on Turbine Nos. 37 and 38.

Dated this 10th day of July 2025.

By /s/ Lisa Agrimonti

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