

**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**

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**DEUEL HARVEST WIND
ENERGY SOUTH LLC'S
REQUEST FOR PARTIAL
EXEMPTION FROM ORDER
GRANTING PERMITS TO
CONSTRUCT FACILITIES**

EL24-023

INTRODUCTION

Deuel Harvest Wind Energy South LLC (“South Deuel Wind”) submits this request for partial exemptions from certain conditions included in the South Dakota Public Utilities Commission’s (“Commission”) Order Granting Permits to Construct Facilities (“Order”) for South Deuel Wind’s wind energy facility and associated transmission facility in Deuel County (collectively, “Project”). South Deuel Wind is proposing to install two mud mats this spring, at Turbine Site Nos. 11 and 28. South Deuel Wind asks that the mud mat work be permitted with the same limited exemptions approved by the Commission in July 2025 for the mud mat installation for Turbine Site Nos. 37 and 38 to maintain tax credit eligibility.

The Project has achieved significant progress necessary for the Project construction to commence but the Project is on a later schedule that previously envisioned based on interconnection constraints, hence the request to obtain an additional year of tax credit qualification. First, we’ve reached a resolution on our Generator Interconnection Agreement (“GIA”) with the Midcontinent Independent System Operator, Inc. (“MISO”) and the transmission owner, Otter Tail Power (“OTP”). Together with MISO and OTP, we have reached a satisfactory

resolution to the network upgrade costs that were previously untenably high and South Deuel Wind signed the GIA in April 2026, with MISO and OTP countersignatures to follow. Due to OTP's long lead procurement estimates for the interconnection equipment, backfeed is now slated for June 25, 2030. At our request, the GIA indicates that if resolution of long lead procurements allows for a mutually agreeable earlier backfeed date, that parties will strive for a 2029 backfeed date.

Second, South Deuel Wind is in late-stage negotiations to execute a contract with a customer with signatures expected by the end of Q2 2026.

Third, the Project executed a road use agreement with Deuel County on February 17, 2026. South Deuel Wind has also executed road use agreements with Brandt and Norden Townships and is still pursuing a road use agreement with Scandinavia Township.

South Deuel held a landowner dinner in March 2026 and continues to work with landowners to maintain real estate for the Project and communicate updates with stakeholders. South Deuel Wind continues to plan for Project construction and operation while balancing challenges with development, including interconnection timing and federal permitting delays. Assuming a backfeed date in 2030 and there are no external delays out of the team's control, full construction and mobilization is planned to occur in Fall 2029 and be completed by Fall 2030 for an end-of 2030 commercial operation date

Development Considerations Supporting Request

The Project is multifaceted and as it continues to progress, there are increasing complexities and risks that South Deuel Wind is working to mitigate and resolve:

DOW Mitigation Agreement & FAA Determinations: All turbine locations were filed with the Federal Aviation Administration ("FAA") in April 2023. Since that time, the Department of War ("DOW") has completed a radar impact analysis and provided a Mitigation Agreement to

South Deuel Wind which executed the Mitigation Agreement in August 2025. The DOW has not counter-signed the document which is necessary for the Project to proceed and to allow the FAA to issue Determinations of No Hazard. Though these agreements are typically routine, we are currently seeing extensive delays in countersignature by the federal Government, leaving the Project's schedule uncertain.

Offtake Agreement: Part of the commercial agreement is that the Project is qualified to receive federal tax credits.

Tax Credit Preservation: The mud mats that the Project installed in 2025 qualified the Project for tax credits through 2029. Now that the interconnection schedule puts the Project into 2030, South Deuel Wind must advance construction in 2026 to maintain tax credit qualification.

Proposed Scope of Work

South Deuel Wind proposes to commence limited construction with earth excavation and installation of two mud mats for Turbine Nos. 11 and 28 beginning as soon as May 18th, 2026 pending Commission approval.¹ A map showing the limited construction area is included as **Attachment A**. South Deuel Wind has been coordinating with the landowners and tenant farmers to coordinate the proposed construction. Both support the proposed installations and emails confirming this coordination included as **Attachment C**.

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 approximately 80 feet in diameter. The area will be excavated and concrete will be poured. Upon curing, the mud mats will be backfilled leaving a slight mound.

¹ The nearest non-participating residence to Turbine No. 11 is 2,643 feet and 3,510 feet to Turbine No. 28.

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 phase of construction.

Both Turbine Nos. 11 and 28 are located on property that will be accessed via state highways and township roads. With the exception of approximately 4.3 acres for Turbine No. 28, all work will occur in previously surveyed areas as shown on **Attachment A**. The 4.3-acre area is part of the access road location off of township road 187th Street where contractors will enter on to an actively cultivated agricultural field to get to the mud mat location. In this 4.3-acre area, a desktop review did not identify any wetlands. An additional cultural survey of this limited area will be undertaken prior to commencing construction to ensure no resources are identified. South Deuel Wind will file the cultural report with the Commission when it is finalized and before commencing construction.

The temporary access used across the field of Turbine No. 11 will be approximately 100 feet wide and 800 feet in length. The temporary access used across the field of Turbine No. 28 will be approximately 100 feet wide and 1,900 feet in length. The access route of Turbine No. 28 has been adjusted from the access route in the Application to address landowner concerns. Both the participating landowner where Turbine No. 28 is located and the tenant that farms the land requested that the access route be relocated in this manner to the property line.

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 [REDACTED] Plan dated November 11, 2024. South Deuel Wind also proposes to provide the Commission with financial assurance in the form of a surety bond in the

amount of ²25,000~~000~~ at least 48 hours prior to construction to cover decommissioning costs associated with the decommissioning of the mud mats of Turbine Nos. 11 and 28

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.

² This value is the same amount required by the Commission for construction of the mud mats at turbine site Nos. 37 and 38. Order Granting Partial Exemption of Permit Conditions (July 18, 2025).

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. ³
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 May 18, 2026, 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 mud mats.

³ During the preparation of the exemption request filed with the Commission on July 10, 2025, 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 this limited phase of construction for the mud mats of Turbine Nos. 11 and 28 by May 18, 2026, 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 landowners and their tenants regarding the proposed construction. Emails confirming that coordination are 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 will file a copy of the notice letter with the Commission to demonstrate compliance with this condition.</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.	
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 partial exemption from Condition No. 7.</p> <p>South Deuel Wind has executed road use agreements with Deuel County and Norden and Brandt Townships. The only road use agreement that is not yet finalized is with Scandinavia Township but these limited construction activities will not occur on roads in that township.</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 limited construction at Turbine Nos. 11 and 28. 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 will file the SWPPP with the Commission prior to construction.</p>
29	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:	South Deuel Wind requests a partial exemption from Condition No. 29.

Condition No.	Condition	Exemption Sought
	<p>a) the most current preconstruction design, layout, and plans, including the wind turbine model;</p> <p>b) a sound level analysis showing compliance with the applicable sound level requirements;</p> <p>c) a shadow flicker analysis showing compliance with the applicable shadow flicker requirements;</p> <p>d) Applicant shall also demonstrate that in selecting locations for wind turbines, it considered how to reduce impacts on non-participating landowners; and</p> <p>e) Such additional Project preconstruction information as Staff requests.</p>	<p>For 29a, South Deuel Wind submits Attachment A for compliance. South Deuel Wind requests that the Commission exempt South Deuel Wind from 30-day advance timeline for the entire layout.</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.⁴</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 2,643 feet from Turbine No. 11 and 3,510 feet from Turbine No. 28. 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> <p>a) A summary of the work completed to date;</p> <p>b) A summary of the activities to be completed for the project, including installation and operation of ADLS, and an associated timeline;</p>	<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. 11 and 28 with information responsive to 44a and 44b for this initial scope of construction.</p>

⁴ 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>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. 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. 11 and 28.

Dated this 13th day of April 2026.

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