

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

IN THE MATTER OF THE APPLICATION)	ORDER GRANTING JOINT)
BY PHILIP WIND PARTNERS, LLC, FOR)	MOTION FOR APPROVAL OF)
ENERGY FACILITY PERMITS OF A WIND)	SETTLEMENT STIPULATION;)
ENERGY FACILITY AND A 230 KV)	ORDER GRANTING PERMITS TO)
TRANSMISSION FACILITY IN HAAKON)	CONSTRUCT FACILITIES; NOTICE)
COUNTY, SOUTH DAKOTA FOR THE)	OF ENTRY)
PHILIP WIND PROJECT)	
)	EL25-029

On August 15, 2025, the South Dakota Public Utilities Commission (Commission) received a facility permit application (Application) from Philip Wind Partners, LLC (Applicant) for Energy Facility Permits of a Wind Energy Facility and a 230 kV Transmission Facility in Haakon County, South Dakota. Applicant proposes to construct the Philip Wind Project and a 230 kV transmission line, (together, Project) to be located in Haakon County, South Dakota. The Project would be situated within an approximately 68,300-acre project area. The total installed capacity of the Project would not exceed 333 mW of nameplate capacity and would deliver up to 300 mW to the point of interconnection. The proposed Project includes up to 87 wind turbines, a 34.5 kV electrical collection and supervisory control and data acquisition systems, a 230 kV collector substation, an approximately 5.5-mile long 230 kV generator transmission tie line, an operations and maintenance facility, up to three aircraft detection lighting system towers; access roads, and up to three meteorological towers. The Project will also include temporary construction areas: crane paths, public road improvements, three general construction laydown yards, staging areas, and a concrete batch plant, as needed. The Project will also be supported by a short (less than 1 mile) extension of an existing 230 kV line owned by Basin Electric Power Cooperative (Basin Electric) that will be separately permitted. In addition, the Western Area Power Administration (WAPA) will construct the 230 kV Philip North Switchyard and two tie-in lines to interconnect the Project into WAPA's existing Oahe to New Underwood 230 kV transmission line. The Project, which has an estimated construction cost of \$750 million, is expected to be in commercial operation in December 2027.

On August 20, 2025, the Commission issued a Notice of Application; Order for and Notice of Public Input Meeting; Notice of Opportunity to Apply for Party Status (Notice of Application). Pursuant to SDCL 49-41B-15(3), the Commission served this Notice of Application upon the governing bodies of the local units of government. The Commission also published notice of the public input meeting in newspapers of general circulation in Haakon County, pursuant to SDCL 49-41B-16.

On August 21, 2025, the Commission electronically transmitted notice of the filing and the intervention deadline of October 14, 2025, to interested persons and entities on the Commission's PUC Weekly Filings electronic listserv. No petitions to intervene were filed. On January 30, 2026, Staff and Applicant filed a Settlement Stipulation along with a Joint Motion for Approval of Settlement Stipulation. On February 10, 2026, Staff filed a Staff Memorandum.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 15-6 and 49-41B, specifically 49-41B-1, 49-41B-4, 49-41B-22, 49-41B-24, 49-41B-25, 49-41B-38 and

ARSD Chapter 20:10:01, specifically 20:10:01:19 and Chapter 20:10:22.

At its regularly scheduled meeting on February 12, 2026, the Commission considered this matter. The Commission took oral presentations from the parties and asked questions of the parties. In response to Commissioner questions, the parties agreed to amend the Conditions proposed in the Settlement Stipulation, specifically Condition 39, to include a provision noting that the Commission reserves the right to extend the reporting period for the required Aircraft Detection Lighting System (ADLS) reports based on actual ADLS performance.

The Commission voted unanimously to grant Philip Wind Partners, LLC and Staff's Joint Motion for Approval of Settlement Stipulation; and to issue a permit to construct the Philip Wind Project and the 230 kV Transmission line, subject to the conditions included in the Settlement Stipulation, with the previously noted revision to Condition 39. It is therefore

ORDERED, that the Joint Motion for Approval of Settlement Stipulation is hereby granted, and the Settlement Stipulation, with the revision to Condition 39 is hereby approved and is incorporated by reference into this Order the same as if it had been set forth in its entirety herein. It is further

ORDERED, that the Applicant is granted the requested permits to construct the wind energy facility and the transmission facility and associated facilities subject to the conditions included hereto as Attachment 1.

NOTICE OF ENTRY

PLEASE TAKE NOTICE that this Final Decision and Order Granting Permits to Construct Facilities was duly issued and entered on this 17th day of February 2026.

Dated at Pierre, South Dakota, this 17th day of February 2026.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u><i>Justin Edwards</i></u>
Date: <u>17 February 2026</u>

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Chairman

Kristie Fiegen
KRISTIE FIEGEN, Commissioner

Gary Hanson
GARY HANSON, Commissioner

PERMIT CONDITIONS

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.
2. Applicant shall construct, operate, and maintain the Project in a manner consistent with (1) descriptions in the Application, (2) Application supplements, (3) responses to any data requests, (4) the Environmental Assessment prepared by the Western Area Power Administration, (5) the Final Decision and Order Granting Permit to Construct Facility, and attached Permit Conditions, (6) any applicable industry standards, (7) all applicable permits issued by a federal, state, or local agency, and (8) Applicant's testimony.
3. Applicant agrees that the Commission's complaint process as set forth in ARSD Chapter 20:10:01 shall be available to landowners and other persons sustaining or threatened with damage as the result of Applicant's failure to abide by the conditions of the Permit or otherwise having standing to seek enforcement of the conditions of the Permit. Participating landowners are free to use the complaint process free from retribution or consequence regardless of any private easement term to the contrary.
4. 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:
 - a) A copy of the Order and Permit Conditions;
 - b) Detailed safety information describing:
 - 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; and

- e) Contact person for Applicant, including name, e-mail address, and phone number.

A copy of the landowner notice letters shall be filed with the Commission to demonstrate compliance with this condition.

- 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.
- 6. Except as otherwise provided in the Permit Conditions, Applicant shall comply with all mitigation measures set forth in the Application and Applicant's responses to Commission staff's data requests. Material modifications to the mitigation measures shall be subject to prior approval of the Commission.
- 7. Applicant will follow the terms of all road use agreements, including the one entered into with Haakon County. 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.
- 8. In accordance with applicable road use agreements or applicable law, Applicant shall comply with the following conditions regarding road protection:
 - a) Applicant shall acquire all necessary permits authorizing the crossing of federal, state, county, and township roads;
 - b) Applicant shall coordinate road closures with federal, state, and local governments and emergency responders;
 - c) Applicant shall implement a regular program of road maintenance and repair through the active construction period to keep paved and gravel roads in an acceptable condition for residents and the public;
 - d) After construction, Applicant shall repair and restore deteriorated roads resulting from construction traffic or compensate governmental entities for their repair and restoration of deteriorated roads, such that the roads are returned to their preconstruction condition;
 - e) Within 180 days of completing construction and reclamation of the Project, Applicant shall submit documentation to the Commission identifying that the roads were repaired in accordance with this Condition and to the satisfaction of affected townships and county. If a township or county will not provide such documentation, then Applicant shall provide a report to the Commission on the outstanding road repair issues and how those issues will be resolved;
 - f) Privately owned areas used as temporary roads or crane paths during

construction will be restored to their preconstruction condition, except as otherwise requested or agreed to by the landowner;

- g) Should Applicant need to widen any existing roadways during construction of the Project, Applicant shall return the roadways back to original width after completion of the Project, unless otherwise agreed upon with the federal, state, county, or township entities, or the landowner; and
 - h) Before commencing construction, Applicant shall furnish an indemnity bond in the amount of \$1,000,000 to comply with the requirements of SDCL 49-41B-38. Such bond shall be issued in favor of, and for the benefit of, all such townships, counties, and other governmental entities whose property is crossed by the transmission facilities. The bond shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and repair period. Applicant shall give notice of the existence and amount of this bond to all counties, townships and other governmental entities whose property is crossed by the transmission facilities.
9. Applicant shall provide signage that identifies road closures and disturbances resulting from the Project in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
10. Applicant shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species in the Project Area that Applicant becomes aware of and that was not previously reported to the Commission.
11. Applicant agrees to avoid direct impacts to cultural resources that are unevaluated, eligible for, or listed in the National Register of Historic Places (NRHP). When a NRHP unevaluated, eligible, or listed resource cannot be avoided, Applicant shall notify the South Dakota State Historic Preservation Office (SHPO) and the Commission prior to excavation of the area of the reasons that complete avoidance cannot be achieved in order to coordinate minimization and/or treatment measures.
12. Applicant shall follow its unanticipated discovery plan (Appendix AA to the Application) for cultural resources and follow SDCL 34-27-25, 34-27-26, and 34-27-28 for the discovery of human remains.
13. Applicant shall file the final cultural resources report with the Commission prior to commercial operation. If any potential adverse impacts to NRHP unevaluated, listed, or eligible cultural resources are identified in the final cultural resources report, Applicant shall file with the Commission a report describing the SHPO-approved planned measures to ameliorate those impacts.
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.

15. Applicant shall repair and restore areas disturbed by the construction or maintenance of the Project. Except as otherwise agreed to by the landowner, restoration shall include the replacement of the original pre-construction topsoil or equivalent quality topsoil to its original elevation, contour, and compaction and re-establishment of original vegetation as close thereto as reasonably practical. In order to facilitate compliance with this Permit Condition, Applicant shall:
 - a) Strip the topsoil to the actual depth of the topsoil, or as otherwise agreed to by the landowner in writing (e-mail is sufficient), in all areas disturbed by the Project; however, with respect to access roads, Applicant may remove less than the actual depth of the topsoil to ensure roads remain low-profile and the contours align with the surrounding area;
 - b) Store the topsoil separate from the subsoil in order to prevent mixing of the soil types;
 - c) Ensure all excess soils generated during the excavation of the wind turbine foundations shall remain on the same landowner's land, unless the landowner agrees in writing otherwise; and
 - d) When revegetating non-cultivated grasslands, Applicant shall use a seed mix that is recommended by the Natural Resource Conservation Service (NRCS), or other land management agency, unless otherwise agreed upon with the landowner in writing.
16. Applicant shall work closely with landowners or land management agencies, such as the NRCS, to determine a plan to control noxious weeds and Applicant shall implement the plan.
17. Applicant shall stage construction materials in a manner that minimizes the adverse impact to landowners and land users as agreed upon between Applicant and landowner or Applicant and the appropriate federal, state, and/or local government agency. All excess (non-permanent) construction materials and debris shall be removed upon completion of the Project, unless the landowner agrees otherwise.
18. To mitigate interference with agricultural operations during and after construction, Applicant shall locate all structures, to the extent feasible and prudent, to minimize adverse impacts and interferences with agricultural operations, shelterbelts, and other land uses or activities. Applicant shall take appropriate precautions to protect livestock and crops during construction. Applicant shall repair all fences and gates removed or damaged during construction or maintenance unless otherwise agreed upon with the landowner or designee. Applicant shall be responsible for the repair of private roads damaged when moving equipment or when obtaining access to the right-of-way.
19. Applicant shall bury the underground collector system at a minimum depth of 4 feet,

or deeper if necessary, to ensure the current land use is not impacted.

20. Applicant shall repair or replace all property removed or damaged during all phases of construction, including but not limited to, all fences, gates, and utility, water supply, irrigation, or drainage systems. Applicant shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses. All repair, replacement and/or compensation described above shall be in accordance with the terms and conditions of written agreements between Applicant and affected landowners where such agreements exist.
21. Applicant shall, in the manner described in its written agreement with a landowner, indemnify and hold the landowner harmless for loss, damage, claim, or actions resulting from Applicant's use of the easement, including any damage resulting from any release, except to the extent such loss, damage claim, or action results from the negligence or willful misconduct of the landowner or his employees, agents, contractors, invitees, or other representatives.
22. Applicant may shift turbines within 250 feet of their currently proposed locations, so long as they are located on land leased for the Project, the specified noise and shadow flicker thresholds are not exceeded, cultural resource impacts and documented habitats for listed species are avoided, potentially undisturbed grasslands are avoided, wetland impacts are avoided or are in compliance with applicable United States Army Corps of Engineers (USACE) regulations, and all other applicable regulations and requirements are met. Prior to implementing the wind turbine location adjustment, Applicant will file in the docket an affidavit demonstrating compliance with the limitations set forth above. Any wind turbine location adjustment that does not comply with the aforesaid limitations, or a turbine model change other than listed in the Application, shall be considered a "material change" and shall follow the process for review of the "material change" as outlined in Paragraphs 23 and 24.
23. Prior to making a material change, Applicant will file with the Commission and serve on the official Service List a request for approval of the material change that includes:
 - a) An affidavit that 1) describes the proposed wind turbine or Gen-Tie location adjustment or other material change, 2) provides the reason for the location adjustment, 3) provides the reason the location adjustment does not comply with one or more flexibility limitations set forth in the Permit Conditions, and 4) attest to compliance with all other applicable requirements; along with updated sound and shadow flicker studies that account for any change in turbine location(s) and a map showing both the approved location and the proposed location adjustment (in different colors); or
 - b) A description of the proposed new turbine model, the reason for the change, updated sound and shadow flicker studies, and any impacts that may differ from the three models presented in this proceeding.

24. Once a request for a material change is received, Staff and the Commission shall have 10 business days to request further Commission review via written request filed in the docket and served on the Applicant.
 - a) If no further review is requested, Applicant may proceed with the location adjustment.
 - b) If further review is requested, the Commission will issue a decision regarding Applicant's request at its next available regularly scheduled Commission meeting, subject to notice requirements, after the request for further review is made.
25. Applicant may shift transmission structures within the 150-foot-wide Gen-Tie Line approved route as needed, so long as the transmission structures are located on land leased for the Project, impacts to cultural resources are avoided or mitigated in consultation with the SHPO; wetland impacts are avoided or are in compliance with applicable USACE regulations; potentially undisturbed grasslands are avoided; and all other applicable regulations and requirements are met. Any adjustments that fall outside of the 150-foot approved route in the Application, or do not meet the above-stated limitations, are considered a "material change." If a "material change" is proposed, Applicant shall follow the same process for review of the "material change" as outlined in Paragraphs 23 and 24.
26. Applicant may make adjustments to the location of the electrical collection and SCADA systems, access roads, MET towers, ADLS towers, and temporary construction areas, as needed, so long as they are located on land leased for the Project, cultural resources are avoided or mitigated in consultation with the SHPO; documented habitats for listed species are avoided; wetland impacts are avoided or are in compliance with applicable USACE regulations; and all other applicable regulations and requirements are met. Applicant may make adjustments to the Collector Substation and O&M Facility so long as they are located on the same parcel identified in the Application, cultural resources are avoided or mitigated in consultation with the SHPO; documented habitats for listed species are avoided; wetland impacts are avoided or are in compliance with applicable USACE regulations; and all other applicable regulations and requirements are met. Any other location adjustments are considered a "material change" and shall follow the process for review of the "material change" as outlined in Paragraphs 23 and 24.
27. If the Project causes interference with radio, television, or any other licensed communication transmitting or receiving equipment, Applicant shall take all appropriate action to minimize any such interference and shall make a good faith effort to restore or provide reception levels equivalent to reception levels in the immediate areas just prior to construction of the Project. This mitigation requirement shall not apply to any dwellings or other structures built after completion of the Project.
28. Applicant will provide Global Positioning System (GPS) coordinates of structure locations to affected landowners at any time during the life of the Project. Coordinates will be provided in writing to landowners within 30 days of a request.
29. The Philip Wind Project, exclusive of all unrelated background noise except for that

associated with pre-existing wind turbines, shall not generate a sound pressure level (10-minute equivalent continuous sound level, Leq) of more than 45.0 dBA at non-participating residences when the nearest four Project turbines are producing full acoustic output, as measured within 25 feet of any residence unless the owner of the residence has signed a waiver or the Commission otherwise orders. Applicant shall, upon Commission formal request, conduct valid field surveys or provide post-construction monitoring data verifying compliance with specified noise level limits. If the measured wind turbine noise level exceeds 45.0 dBA at any residence, then the Project owner shall take whatever steps are necessary in accordance with prudent operating standards to rectify the situation. Sound monitoring will not be repeated in a representative area during any five-year period unless operational or maintenance changes result in a reasonable assumption of higher turbine sound levels.

30. If a field survey and monitoring data is requested by the Commission, the Project owner shall submit the test protocol to the Commission prior to conducting the survey and sound monitoring for approval. The test protocol shall include and be executed as follows:
- a) The post-construction monitoring survey shall follow the applicable portions of the American National Standards Institute (ANSI) standard S12.9 Part 3, and other acoustical standard relating to equipment and calibration specifications.
 - b) Noise levels shall be measured continuously for at least two weeks, or until such time that a sufficient number of valid 10-minute Leq periods are acquired to determine compliance to a reasonable degree of scientific certainty. At a minimum, data must be collected for multiple 10- minute periods on at least two different nights when the nearest turbines are operating at full acoustic emissions. Windscreens will be used to protect microphones and minimize effects from self-generated wind-induced noise.
 - c) Measurements shall be conducted at a select number of non-participating and participating residences (where access can be arranged) with the highest expected noise levels based on acoustic modeling and/or at specific residences identified in the Commission's formal request. Typically, 4 to 6 measurement locations total.
 - d) Measurements shall be conducted using sound level meters meeting ANSI Type1 specifications. An anemometer shall be placed within 20 feet of each microphone, and at a height of approximately 2 meters above the ground.
 - e) The measurement data shall be analyzed as follows:
 - i. Analyze those data acquired when the closest four Project turbines to each measurement location are operating at full capacity (80% electric power or more, which typically occurs at a hub-height wind speed of 10 m/s or greater).
 - ii. Discard those samples measured when the 10-minute average ground wind speed is 5 m/s or greater and samples measured during periods with precipitation.

- iii. Remove transient background noise (i.e. occasional traffic, activities of residents, farming activities, and wind gusts) per ANSI S12.9 Part 3.
 - iv. Remove continuous background noise by conducting turbine shut-downs, where the background noise is measured directly. Shut down testing will be conducted in a controlled manner and shall continue until enough data has been collected when ground wind speeds are less than 5 m/s (preferably less than 3 m/s) such that a repeatable pattern is observed in the measured background noise level. Philip Wind's sound test consultant shall be present onsite for a portion of the shutdown tests, as deemed necessary by the consultant and Commission Staff, to observe and listen during the tests. Background noise levels will be subtracted from total noise levels measured during these wind conditions to calculate turbine-only noise levels.
 - v. Review of the frequency spectra of potential turbine-only samples to identify and remove outliers (spectral shape clearly differing from those samples measured under very low (less than 2 m/s) ground wind conditions, which are samples most representative of turbine-only noise).
- f) Compare the resulting turbine-only noise levels to the 45.0-dBA limit. Compliance shall be demonstrated if all samples are less than the limits.
31. Shadow flicker at any receptor shall not exceed 30 hours per year unless the landowner has signed a waiver.
32. At least 30 days prior to the commencement of construction work in the field for the Project, Applicant will file with the Commission the following information:
- 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.
33. Within 90 days after the Project's commercial operation date, Applicant shall submit a report to the Commission that provides the following information:
- a) as-built location of structures and facilities, including drawings clearly showing compliance with the setback required by state law and the

environmental setbacks committed to in the EA for identified resources.

- b) ArcGIS shapefiles of the final wind turbine and facility layout;
 - c) the status of remedial activities for road damage, landowner property damage, crop damage, environmental damage, or any other damage resulting from Project construction activities; and,
 - d) a summary of any known landowner complaints and Applicant's plan for resolving those complaints.
34. For purposes of this Project and the commitments herein, "residences/dwellings," "businesses," "structures," "schools," "churches," and "buildings owned and/or maintained by a governmental entity" shall include only those that are in existence and in use as of the date of the Order.
35. Applicant shall seek input from local emergency response personnel to properly and effectively coordinate an emergency response plan consistent with local resources and response abilities. Upon completion of construction, a Project operation emergency response plan shall be filed with the Commission to make available to the general public on the Commission's website.
36. 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 Haakon County, and the Haakon County Office of Emergency Management.
37. Applicant's Bird and Bat Conservation Strategy (BBCS) (Application, Appendix Q) shall be implemented during construction and operation of the Project.
38. If the Project is decommissioned, Applicant will follow Section 18 of the Application and the Decommissioning Plan attached as Appendix E to the Application. The Commission shall be notified prior to any decommissioning action.
39. Applicant shall utilize an Aircraft Detection Lighting System (ADLS), if approved by the Federal Aviation Administration and the Federal Communications Commission. Applicant shall take all reasonable steps to ensure the ADLS is operational prior to commercial operation. Applicant shall file quarterly reports on ADLS operations for the first two years of Project operation. The Commission reserves the right to extend this period based on actual ADLS performance. The report shall include: 1) identification of ADLS outages that occurred during the quarter, the cause of the outage, and repair time or timeline, and 2) a daily log of ADLS activity for the quarter that includes sunset time, sunrise time, total night hours, lights "on" hours, lights "on" percent of total night hours, hours lights "on" due to aircraft detected, lights "on" hours due to ADLS system check, and time ADLS system check occurred.
40. Applicant shall comply with its whooping crane monitoring and contingency plan (Application, Appendix R) as amended in coordination with South Dakota Game, Fish, and Parks and file the amended plan in the docket at least 30 days prior to

construction. The plan includes requirements that construction and operations and maintenance personnel are trained on the identification of whooping cranes, requires monitoring for whooping cranes during spring and fall migration and establishes a procedure for responding to a known or suspected whooping crane sighting.

41. The Permit Conditions shall be uniform conditions of construction and operation, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular Permit Condition should not be applied and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis, which evaluation shall be completed within 60 days unless exigent circumstances require action sooner.
42. Within 30 days of receiving its Permit, Applicant shall provide a copy of the Commission's Final Decision and Order Granting Permit to Construct Facility; Notice of Entry and attached Permit Conditions in this docket to the affected county, townships, and municipalities in the Project Area.
43. At least 60 days prior to commencement of commercial operation, Applicant shall file an escrow agreement with the Commission for Commission approval that provides a decommissioning escrow account. The escrow account agreement shall incorporate the following requirements:
 - a) The escrow account is funded by the turbine owner annually at a rate of \$5,000 per turbine per year for the first 30 years, commencing no later than the commercial operation date.
 - b) Beginning in year ten following commercial operation of the Project and each fifth year thereafter, the turbine owner shall submit to the Commission an estimated decommissioning date, if established, and estimated decommissioning costs and salvage values. Based on the verification of the information in the filing the Commission may determine that funds in escrow are sufficient to cover the costs of decommissioning and that reduced or no additional deposits are required. The Commission also may determine that additional funding is required and may require additional funding equal to the estimated amount needed for decommissioning.
 - c) All revenues earned by the account shall remain in the account.
 - d) An account statement shall be provided annually to the Commission and become a public record in this docket.
 - e) The escrow account obligations will be those of Applicant and the escrow agreement shall include terms providing that the agreement binds Applicant's successors, transferees, and assigns. A sale of the Project assets shall include the associated Permit that requires Commission approval per SDCL 49-41B-29.
 - f) The escrow account agent shall be a South Dakota chartered state bank or a nationally chartered bank with an office located in South Dakota.

- g) The escrow agreement shall be subject to the laws of South Dakota and any disputes regarding the agreement shall be venued in South Dakota.
- h) To minimize risk that the escrow account would be subject to foreclosure, lien, judgement, or bankruptcy, the escrow agreement will be structured to reflect the following factors:
 - i. That Applicant agreed to the creation of the escrow account;
 - ii. Applicant exercises no (or the least amount possible of) control over the escrow;
 - iii. The initial source of the escrow account;
 - iv. The nature of the funds put into the escrow account;
 - v. The recipient of its remainder (if any);
 - vi. The target of all its benefit; and
 - vii. The purpose and its creation.
- i) Account funds are to be paid to the Project owner at the time of decommissioning, to be paid out as decommissioning costs are incurred and paid.
- j) If the Project owner fails to execute the decommissioning requirement found in this section of the Permit Conditions, the account is payable to the landowner who owns the land on which associated Project facilities are located as the landowner incurs and pays decommissioning costs.

44. If Applicant is purchased by an electric utility which is rate regulated by the Commission, Paragraph 43 of these conditions will not apply. Instead, the purchasing utility will assume financial responsibility and provide funding for the decommissioning and removal of the Project. As a regulated electric utility, the projected financial cost of decommissioning will be reviewed when the purchasing utility requests recovery of the Project investment and associated decommissioning cost from customers in a rate proceeding. The Commission may review and adjust the Project decommissioning cost recovered from customers in subsequent rate proceedings using the most current information available regarding decommissioning.

45. The Project will use two methods to detect icing conditions on wind turbine blades:

(1) sensors that will detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site anemometers and other relevant meteorological sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the wind turbine(s) in icing conditions (per the sensors) or Applicant will manually shut down the wind turbine(s) if icing conditions are identified (using

referenced data). Wind turbines will not return to normal operation until the control systems no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern. Applicant will pay for any documented damage caused by ice thrown from a turbine.

46. Applicant will cooperate with agricultural spray applicators who request for Philip Wind to temporarily shut down wind turbines as needed to accommodate safe and effective spray operation and application when conditions allow for aerial spraying.
47. 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:
 - a) A summary of the work completed to date;
 - b) A summary of the activities to be completed for the project and an associated timeline;
 - c) A summary of consumer contacts, indicating the issue raised in the contact and the action Applicant took to address the issue; and
 - d) A permit condition checklist including the status of all required filings to the Commission and any other permitting agency.
48. 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;
 - b) Report the date construction was completed within five business days of completion;
 - c) Report the Commercial Operation Date within five business days of commercial operation; and
 - d) Report the date reclamation was completed within five business days of completion.
49. Applicant agrees to undertake a minimum of two years of independently-conducted postconstruction avian and bat mortality monitoring for the Project, and to provide a copy of the report and all further reports to the USFWS, SDGFP, and the Commission.
50. Philip Wind will not construct any turbine location that has received a final determination of hazard. The Project will abide by any conditions as determined by the FAA for turbine locations that have received a final determination of no hazard with conditions.
51. Applicant will provide the Commission with updated contact information for a

representative of the Project, including name, phone number, and email address, when and as the same may change.

52. Applicant will remove turbine foundations to a depth of not less than 48 inches during decommissioning.
53. Applicant shall, to the extent feasible, avoid construction activities between the hours of 10:00 p.m. and 7:00 a.m.
54. Applicant shall not construct a turbine on Site No. 34. If the Applicant decides to construct a turbine on Site No. 35, Applicant shall file an affidavit with the Commission setting forth why alternative sites cannot be used and the use of Site No. 35 shall be considered a material change, following the process for review of a material change as outlined in Paragraphs 23 and 24.
55. The Applicant is authorized to commence mud mat construction activities at any two approved turbine sites, provided that the Applicant satisfies certain permit conditions included herein as modified and listed on Attachment A to these conditions. Prior to beginning construction of any mud mat, the Applicant shall provide financial assurance in the form of a surety bond for the benefit of the affected landowner(s) where the construction occurs to cover decommissioning costs associated with the construction of mud mats. Unless otherwise ordered by the Commission, the bond shall remain in place for two years or completion of construction, whichever is later.

Attachment A (Conditions requisite for mud mat construction)

Condition No.	Full Condition	Modified Condition for Mud Mat Construction
1	<p>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.</p>	<p>Applicant 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.</p>
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; and e) Contact person for Applicant, including name, e-mail address, and phone number. <p>A copy of the landowner notice letters shall be filed with the Commission to demonstrate compliance with this condition.</p>	<p>Applicant will provide this notice to landowners at least 14 days prior to beginning mud mat construction.</p>
5	<p>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</p>	<p>N/A</p>

Condition No.	Full Condition	Modified Condition for Mud Mat Construction
	construction.	
14	<p>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>	<p>Applicant will develop a SWPPP solely applicable to mud mat construction at affected turbine locations. Applicant will file the SWPPP with the Commission prior to beginning mud mat construction.</p>
32	<p>At least 30 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>Applicant will file the information required by Condition No. 32(a).</p> <p>Applicant will affirm that noise and shadow flicker analyses remain accurate under Condition Nos. 32(b) and 32(c), or will provide an affirmative filing updating on any change of sound level or shadow flicker analysis.</p> <p>Applicant will provide an affirmative filing noting the distance of affected wind turbines where mud mat construction will occur from the closest non-participating landowner, required by Condition No. 32(d).</p> <p>Applicant will provide any information in response to Staff requests under Condition No. 32(e).</p>
36	<p>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 Haakon County, and the Haakon County Office of Emergency Management.</p>	N/A

Condition No.	Full Condition	Modified Condition for Mud Mat Construction
42	Within 30 days of receiving its Permit, Applicant shall provide a copy of the Commission's Final Decision and Order Granting Permit to Construct Facility; Notice of Entry and attached Permit Conditions in this docket to the affected county, townships, and municipalities in the Project Area.	N/A
47	<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 and an associated timeline; c) A summary of consumer contacts, indicating the issue raised in the contact and the action Applicant took to address the issue; and d) A permit condition checklist including the status of all required filings to the Commission and any other permitting agency. 	File monthly construction reports to the Commission during construction for the entire Project Area.
48(a)	<p>Applicant shall notify Commission of key Project milestones by making the following filings in the docket:</p> <ul style="list-style-type: none"> a) Report the date construction will commence as soon as it is known, but no later than five business days prior to commencement; 	File notice with Commission of intent to begin construction at least five days prior to commencement.

Attachment B (Reporting Requirement Summary)

Table 1. Summary of Condition Reporting/Notice Requirements		
Condition	Requirement	Timing
1	File affidavit attesting all permits received to the Commission	Prior to commercial operation
4	Send landowner notice letters and file a copy to the Commission	At least 14 days prior to construction
8(e)	File road repair documentation to the Commission	Within 180 days after construction and reclamation
8(h)	File road bond	Prior to con
10	Report discovery of critical habitat to Commission	Promptly upon discovery
11	Notify SHPO and Commission if eligible historic/cultural resource cannot be avoided	Prior to excavation of affected area
13	File final cultural resources investigation report to the Commission	Prior to commercial operation
14	File SWPPP to the Commission	Once final project design is completed and SWPPP is finished for NPDES permit
22	File affidavit for wind turbine location changes that are 250 feet or less, if needed, to the Commission for material change to turbine layout	Prior to construction of the affected turbine
23	File request for material change, if needed, to the Commission	Prior to construction of the affected turbine
25	File request for material deviation, if needed, to the Commission for material change to Gen-Tie Line	Prior to construction of the Gen-Tie Line

26	File request for material change, if needed, to the Commission for material change to Collector Substation and O&M Building	Prior to construction of the Collector Substation and O&M Building
32	File required preconstruction information to the Commission	30 days prior to construction
33	File post construction report to the Commission	Within 90 days after reaching commercial operations
35	File Emergency Response Plan with Commission	Upon completion of construction
36	Notify public safety agencies	Prior to construction
38	Notify Commission of decommissioning	Prior to decommissioning
39	ADLS reports	Quarterly for first two years of Project operation.
40	Whooping Crane plan	30 days prior to construction
42	Provide copy of Permit and Conditions to local governments	Within 30 days of permit issuance
43	File escrow agreement for Commission approval	At least 60 days prior to commercial operation
47	Reports to Staff	Quarterly: Preconstruction and post construction until reclamation completed Monthly: During construction
48	Key Project milestone notices to Commission: a) Commencement of Construction b) Construction completion c) Commercial Operation Date	Requirement specific timing: a) As soon as known, but no later than 5 business days prior b) Within five business days after date reached

	Reclamation Completion Date	c) Within five business days of commercial operation Within five business days after date reached
49	Provide copy of postconstruction avian and bat mortality monitoring for Project to USFWS, SDGFP, and Commission	As monitoring and reports are completed
51	Provide updated contact information to Commission	Promptly upon contact information changing
55	Mud Mat construction filings/notices	As required in Attachment A