

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

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

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**PHILIP WIND PARTNERS, LLC'S
RESPONSES TO STAFF'S FIRST SET
OF DATA REQUESTS**

EL25-029

Philip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s First Set of Data Requests in the above-captioned matter.

- 1-1) Please provide GIS shapefiles for the project.

Teddy Hines: All shapefiles for Project infrastructure shown in Figure A2, including signed land, and sound and shadow receptor locations are provided in Exhibit 1-1.

- 1-2) Refer to Page 1 of the Application. The Applicant states “the Project will be located on privately owned land within the 68,300-acre general Project Area, of which 51,189 acres are leased for the Project.” How does the Applicant define the “general Project Area?” Please explain why approximately 1[2],111 acres that are not leased are considered part of the general Project Area.

Alex Chandler: In the Application, Philip Wind identified the acreage under lease as 51,180 acres. This leased area is the private land upon which facilities may be located. The Project Area, which includes the area study in the Environmental Assessment prepared by Western Area Power Association (WAPA), is the acreage within the area outlined in red on Figure A-2. It includes 17,111 acres¹ of land that is not leased for the Project so as to encompass land generally within the vicinity of the Project and areas included in Project studies, where applicable. In noticing landowners in compliance with SDCL 49-41B-5.2, Philip Wind used this boundary to measure the one-half mile notice area.

- 1-3) Refer to Page 1 of the Application. The Applicant states that “the wind energy facility will have a nameplate capacity of up to 333 megawatts (MW) and deliver up to 300 MW to the point of interconnection.” Please explain how the Applicant decided it would install approximately 33 MW of nameplate capacity above the amount requested through the interconnection.

¹ Philip Wind believes that the 12,111 acres referenced in this question may be a typographical error.

Teddy Hines: Philip Wind requests approval for a nameplate capacity of up to 333 MW to optimize energy production while complying with the 300 MW limit at the point of interconnection established in the Generator Interconnection Agreement (GIA). This approach accounts for inherent collection system losses and the variability of wind resources. If the Project were sized to match the interconnection capacity, actual delivered energy would consistently fall below 300 MW due to these factors. Based on long-term onsite meteorological data, turbine performance characteristics, and economic modeling, the Applicant determined that a modest overbuild, approximately 10 percent, maximizes energy efficiency and project economics without exceeding interconnection limits. The Project's SCADA and dispatch control systems will ensure that output at the point of interconnection never exceeds 300 MW.

1-4) Refer to Page 2 of the Application. The Applicant states that "Philip Wind also removed four turbine locations from the layout due to proximity to prairie grouse leks and Tier 3 modeled priority sharp-tailed grouse habitat." Was Philip Wind required to remove these turbines as a condition to obtain a permit from a federal agency, or was it a voluntary measure? Please explain.

Michelle Phillips: Philip Wind coordinated with the United States Fish and Wildlife Service (USFWS), South Dakota Game Fish and Parks (SDGFP), with WAPA oversight, to gather feedback on minimizing the Project's potential wildlife impacts. Philip Wind presented several iterations of the Project turbine layout over the years of agency coordination. In a summer 2023 meeting with USFWS, SDGFP, and WAPA, Philip Wind showed two turbines that were voluntarily removed as a demonstration of the Project's commitment to minimizing impacts to wildlife and received positive feedback from SDGFP on the approach.

1-5) Refer to Page 2 of the Application. The Applicant states that "Haakon County is unzoned and has no ordinances relating to wind energy facilities or transmission lines at the time of submittal of this Application." Please describe the coordination that occurred between the Applicant and Haakon County. Did the Applicant make any commitments to Haakon County to address their interests? If yes, how did the Applicant and Haakon County memorialize these commitments.

Brianna Gries: Philip Wind has been meeting with Haakon County officials since 2018. These discussions led to a road use agreement (RUA) to address the county's interests. The executed Road Use Agreement, effective December 18, 2024, is included as Exhibit 1-5.

1-6) Refer to Page 2 of the Application. The Applicant states that "Philip Wind refined Project design to shift turbine locations to avoid unbroken grasslands." Please provide a list of all turbines shifted to avoid unbroken grasslands.

Michelle Phillips: Phillip Wind sited all turbines in the proposed layout to avoid unbroken grasslands. Historical iterations of the layout featured turbines in unbroken grasslands that were removed over the course of development. In example, the September 2021 iteration of the layout featured 7 turbines on unbroken grasslands. The coordinates for those turbines removed from consideration in the layout are listed in the table below.

Turbine ID	Latitude	Longitude
A	44°21'24.58"N	101°49'39.10"W
B	44°21'25.16"N	101°48'50.45"W
C	44°19'39.61"N	101°50'34.07"W
D	44°18'59.82"N	101°50'36.61"W
E	44°19'9.34"N	101°50'7.01"W
F	44°16'25.03"N	101°54'26.43"W
G	44°15'9.72"N	101°38'33.64"W

1-7) Refer to Page 3 of the Application. The Applicant states that “there is one cemetery located within the Project Area; however, all Project Facilities will avoid the cemetery.” Please identify the closest turbine to the cemetery, and the distance from that turbine to the property line of the cemetery.

Teddy Hines: The closest turbine to the cemetery fence line, T-45, is 1.6 miles away.

1-8) Refer to Page 4 of the Application. The Applicant states that the “Project will not exceed 30 hours of shadow flicker per year at residences unless a waiver is obtained.” Is 30 hours of shadow flicker referenced above the actual amount of shadow flicker a residence will experience in any given year or a modeled level of shadow flicker? Please explain.

JoAnne Blank: The 30 hours of shadow flicker referenced is the actual expected maximum amount of shadow flicker any residence would experience in any given year. It is derived from a physics-based modeling application (EMD’s WindPRO Version 3.6 software) using historic climatological averages.

The application considers the attributes and positions of the wind turbines in relation to receptors within the area. Shadow flicker models also consider the sun’s position as it passes through the Project area each day in addition to regional climatological information. The model steps through an entire year, in one-minute increments considering the positions described above, resulting in the total number of hours per year that any given receptor may receive shadow flicker from the source turbines.

The results provided in the Shadow Flicker Study technical report (Appendix T) are greater than what is expected from the final project, as the model is conservative. For each turbine model, all 91 turbine locations were modeled, but only a subset will be constructed.

The results demonstrate that each of the three turbine project designs can be operated with less than 30 hours of shadow flicker on receptors, with the exception of one residence, owned by a participant in the project. (R-004, discussed in response to Data Request 1-9).

1-9) Refer to Page 4 of the Application. The Applicant states that “the Applicant has acquired a shadow flicker waiver from one participating landowner that had 33 modeled hours of shadow flicker under one of the turbine models.” Please provide a copy of the waiver.

Alex Chandler and JoAnn Blank: Turbine 104 is located on Toby and Amy Kroetch's property. The executed shadow flicker waiver is included as Exhibit 1-9.

1-10) Refer to Page 4 of the Application. The Applicant states that “there are no noise-related federal, county, or local regulations that apply to the Project.”

a) Please provide the Applicant's policies to minimize noise impacts during construction activities.

Brianna Gries: To reduce potential noise impacts during construction, Philip Wind will limit noisy activities primarily to daylight hours and schedule activities efficiently where practicable to minimize overall disturbance. Stationary equipment such as compressors and generators will be located as far as practicable from sensitive receptors. All construction equipment will be maintained in good working order per manufacturer specifications and the proposed layout was designed to site facilities away from residences and other sensitive receptors. Mufflers and air-inlet silencers will be installed on internal combustion engines.

It is possible some construction activities would carry through the night, but such activities would be infrequent and dependent on weather and timing of a concrete pour, which must be continuous.

b) Will the Applicant cease construction activities after dark? If no, what policies are in place to minimize construction activity sounds near non-participating residences after dark?

Brianna Gries: Philip Wind will minimize noise impacts at night during construction activities by limiting nighttime activities. Construction would mostly occur during the day when background noises tend to be higher. It is possible some construction activities would carry through the night, but such activities would be infrequent and dependent on weather and timing of a concrete pour, which must be continuous.

1-11) Refer to Page 5 of the Application. The Applicant states that “Philip Wind may sell or assign the Project, or a portion thereof, to one or more public utilities or other qualified entity or entities at any time.” Pursuant to SDCL 49-41B-29, please confirm that a permit may only be transferred subject to the approval of the South Dakota Public Utilities Commission.

Lisa Agrimonti: Yes. Under SDCL 49-41B-29, Philip Wind must obtain South Dakota Public Utilities Commission (Commission) approval to transfer a facility permit to another entity.

1-12) Pursuant to ARSD 20:10:22:07, please identify the name of the project manager of the proposed facility.

Alex Chandler: Currently, during this development stage of the Project, Brianna Gries is the project manager, as noted in Section 1.4 of the Application. Once permits are obtained, a construction project manager will be assigned to the Project. Philip Wind will identify the construction project manager in post permit compliance filings.

1-13) Refer to Page 19 of the Application. The Applicant states that “Philip Wind is actively submitting bids for power purchase agreements through various utility, commercial, and industrial opportunities.” Will the Applicant consider constructing the facility without a power purchase agreement? Please explain.

Alex Chandler: Yes. Philip Wind may consider constructing the Project without a power purchase agreement. Philip Wind is actively marketing the Project and expects it will have an off-take agreement prior to construction. However, it is possible the final agreements may not be in place before construction would commence to meet the commercial operation date. In addition, Philip Wind has not ruled out the possibility of constructing the Project and selling the energy into the Southwest Power Pool (SPP) market.

1-14) Refer to Page 20 of the Application. The Applicant states that “Xcel Energy, a regional electric utility company, aims to have an energy mix consisting of 44% wind energy by 2030 (Xcel Energy 2024).” Is Xcel Energy a market participant in the Southwest Power Pool and considering a power purchase agreement with Philip Wind? Please explain.

Alex Chandler: Southwestern Public Service Company is a subsidiary of Xcel Energy and is a member of the SPP and has an active Request for Proposal (RFP) and is expected to issue another RFP next year.

1-15) Refer to Page 21 of the Application. The Applicant states that “Philip Wind’s Generator Interconnection Agreement which was executed in 2023 and the Haakon County RUA which was executed in 2024 will be subject to expiry, adding further need to adhere to

the Project schedule as delay could impact the validity of these agreements.” What is the expiration dates on the Generator Interconnection Agreement and the Haakon County RUA?

Brianna Gries: The commercial operation date (COD) in the GIA is December 2027. There is an option for Philip Wind to request an extension until December 2028 under SPP’s Tariff. Extenuating circumstances are required to extend the GIA further beyond that timeframe.

Philip Wind would like to clarify that the RUA does not expire, nor would its validity be impacted by a delay.

1-16) Pursuant to ARSD 20:10:22:09, please provide a detailed cost breakdown of the current estimated construction cost of approximately \$750 million.

Alex Chandler: The cost breakdown is provided in the table below.

Philip Wind Project	
Cost Category	\$ Millions
Turbine Supply	\$350
Construction & Procurement	\$282
POI Network Upgrades	\$21
Real Estate & Field Studies	\$23
Sales Tax	\$21
Financing Costs	\$53
Total Estimated Project Costs	\$750

1-17) Refer to Page 24 of the Application. The Applicant states that “adjustments to the location of the electrical collection and SCADA systems, Collector Substation, O&M Facility, access roads, MET towers, ADLS towers, and temporary construction areas may also be necessary. Therefore, Philip Wind respectfully requests that the Permit allow the location of these facilities to be adjusted,...”

a) Has the Commission allowed adjustments to these facilities in other wind energy facility permits? If yes, please provide the docket number and associated permit condition.

Lisa Agrimonti: Yes, the Commission has allowed adjustments to these facilities in prior wind energy facility permits. Similar conditions were included in the following dockets:

Docket	Permit Condition
<p><i>EL24-023 - 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</i></p>	<p>Applicant may make adjustments to the location of the electrical collection and SCADA systems, Collector Substation, O&M Facility, 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. (Condition No. 24).</p>
<p><i>EL21-018 - In the Matter of the Application by North Bend Wind Project, LLC for a Permit to Construct and Operate the North Bend Wind Project in Hyde County and Hughes County, South Dakota</i></p>	<p>Applicant may adjust locations and details of access roads, the collector and communication system, meteorological tower(s), Aircraft Detection Lighting System facilities, the operations and maintenance facility, the Project Substation, and temporary facilities, 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. (Condition No. 23).</p>
<p><i>EL19-012 - In the Matter of the Application by Sweetland Wind Farm, LLC for Facility Permits for a Wind Energy Facility and a 230-kV Transmission Facility in Hand County, South Dakota, for the Sweetland Wind Farm Project</i></p>	<p>Applicant may adjust access roads, the underground collection/communication systems, meteorological towers, the operations and maintenance facility, the Project substation, switchyard, laydown yard, and temporary facilities, so long as they are located on land leased for the Project; cultural resources are avoided or mitigated in consultation with the SHPO; wetland impacts are avoided or are in compliance with applicable USACE regulations; and all other applicable regulations and requirements are met. (Condition No. 24).</p>
<p><i>EL19-026 - In the Matter of the Application by Tatanka Ridge Wind, LLC for a Permit of a Wind</i></p>	<p>Applicant may adjust access roads, the collector system, meteorological towers, the operations and maintenance facility, the Project substation, and temporary facilities, so long as they are located on land leased for the Project, cultural resources are</p>

<i>Energy Facility in Deuel County, South Dakota</i>	<p>avoided, or mitigated in consultation with the SHPO; documented habitats to 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. (Condition No. 23).</p>
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b) Please explain why the proposed location of the O&M facility could be adjusted.

Teddy Hines: The location of the Operations and Maintenance (O&M) facility could be adjusted to connect to the rural water supply as well as other design requirements. Philip Wind has been coordinating with West River/Lyman-Jones Rural Water Systems, Inc., to determine suitable locations with ability to provide water from the existing Rural Water system. O&M facility location is adjacent to an existing rural water line and Philip Wind expects to be able to make the water connection in this location. If the interconnection is located elsewhere, the O&M facility may need to be shifted. In addition, a geotechnical investigation has not yet been conducted on the O&M location. The location of the O&M facility may be adjusted if poor subsurface conditions exist at the current location.

c) Please explain why the proposed location of the Collector Substation could be adjusted.

Teddy Hines: The collector substation is typically located near the center of the project area to minimize electrical losses and optimize cable routing. Adjustments to its location may be necessary to achieve the most efficient layout based on final turbine selection and placement and a more developed electrical design.

d) Please explain why the proposed location of MET towers could be adjusted.

Teddy Hines: The number and placement of meteorological (MET) towers depend on off-take agreements and the final layout. Once the layout and off-take agreement are determined, the locations of the MET towers may need to be adjusted to comply with International Electrotechnical Commission (IEC) standards.

e) Please explain why the proposed location of ADLS towers could be adjusted.

Teddy Hines: A viewshed analysis must be completed to ensure the installed ADLS towers have an unobstructed line of sight to all turbines. Based on the results of this analysis, adjustments to the ADLS tower locations may be necessary to maintain compliance with Federal Aviation Administration (FAA) requirements. This viewshed analysis is currently underway.

1-18) Refer to Page 25 of the Application. The Applicant states that the “Project Layout shown in Figure A-2 in Appendix A identifies 91 proposed turbine locations. The actual number that will be constructed depends on the nameplate capacity(s) of the turbine model(s) procured (Table 4.2.1-1) but will not exceed 87.”

a) Please identify how many locations will be constructed for each of the three models under consideration (GE, Nordex, Vestas), assuming only one turbine model is utilized.

Teddy Hines: The expected number of turbines for each turbine model can be found in Table 4.2.1-1:

Turbine Model	Nameplate Capacity (MW)	Expected Number of Turbines	Hub Height		Rotor Diameter		Tip Height	
			Feet	Meters	Feet	Meters	Feet	Meters
General Electric 3.8-154	3.8	87	322	98	506	154	575	175
Nordex 163-5.9	5.9	56	355	108	535	163	624	190
Vestas 163-4.5	4.5	74	322	98	535	163	590	180

b) Can the Applicant identify what turbine locations are alternate sites using each of the three models under consideration? If not, please explain why not. If yes, please provide an updated turbine layout identifying the alternate turbine locations for each turbine model.

Teddy Hines: The final selection of turbine locations has not been completed. Final decisions will be made once a turbine model is chosen and electrical designs are further developed. The sites least likely to be constructed are those with lower wind resource, greater distance from the substation, or constructability concerns identified during design. Final determination will occur once the turbine model is selected, and civil and electrical designs are further developed.

Because the GE turbine has a lower nameplate capacity, more turbines are required to meet the 300 MW interconnection limit. There are four locations that will not be used for GE turbines. No low potential sites have been identified for the GE turbine.

For the Nordex and Vestas models, 10 locations with lower wind resources have been identified. These locations are the least likely to be constructed. Based on current information, the following ten turbines are the least likely to be constructed: T5, T6, T9, T20, T29 T34, T35, T38, T87, T88.

1-19) Refer to Page 25 of the Application. The Applicant requests “that the Permit allows for the use of turbine models of comparable capacity and specifications, provided conditions specified in the Permit can be complied with.” In Appendix B, Condition 23(b), the Applicant proposed to file a request for a material change with the Commission if it proposed a new turbine model. Please confirm that the Company agrees to the approach proposed in Condition 23(b) if the Applicant elects to use a different turbine model.

Brianna Gries: Philip Wind confirms that they will provide a description of the new proposed turbine model, the reason for the change, and any impacts that may differ from the three models presented in this proceeding, as outlined in the Proposed Condition, 23 (b).

1-20) Refer to Page 25 of the Application. The Applicant states that “turbine locations were sited in accordance with industry standard spacing.” Pursuant to ARSD 20:10:22:33.01(1), please provide additional description regarding the distance between the turbines in the proposed layout.

Teddy Hines: Invenergy has extensive experience developing wind energy facilities and works closely with turbine manufacturers to evaluate suitability of turbine locations from a loading perspective to preserve the mechanical integrity of equipment for the project lifetime. Invenergy also works with third-party energy assessors to model the wind conditions at project sites and characterize the blockage and wake impacts to maximize energy production through turbine siting. Based on internal expertise and alignment with manufacturers and third-party energy assessors, the typical spacing for the Project is three times the rotor diameter of the turbine. Refer to Page 25 of the Application. The Applicant states that “Philip Wind developed this Application with a set of proposed turbine locations that can accommodate the turbine models identified in Table 4.2.1-1.”

a) Would it be possible to identify the specific turbine model prior to the hearing in this permit proceeding since construction is expected to commence in 2026? If no, please explain.

Alex Chandler: Potentially. As noted in response to DR 1-13, Philip Wind is in active off-take discussions with a counterparty. If, prior to hearing, those negotiations result in an executed agreement, Philip Wind will be able to identify the turbine model identified in the off-take agreement. The turbine selection will not be final, however, until a turbine supply agreement is executed. That agreement would be executed after receipt of the Commission facility permits.

b) Will the Applicant purchase the turbines before receiving all necessary regulatory permits? Please explain.

Alex Chandler: No. Please see response to 1-21(a), incorporated herein. It is possible, however, that a form of Turbine Supply Agreement may be prepared prior to permit issuance.

1-21) Refer to Page 28 of the Application. The Applicant states that “the proposed Gen-Tie Line route has been presented to landowners and there was no opposition to the location and is provided in Figure A-2 in Appendix A.” Were landowners presented a route option of following the edge of their property line rather than cutting through the middle of their acreage? If no, please explain why the transmission line route didn’t primarily follow property lines.

Teddy Hines: The route for the transmission line proposed in the Application was developed by internal engineers and shared with affected landowners prior to the filing of the Application. Since the filing, one of the affected landowners requested that the line be moved to the property boundary. As a result of that request, Philip Wind is developing a revised transmission line route that will follow property boundaries and affect fewer landowners (4 instead of 5). Philip Wind is coordinating with landowners and will supplement this request when the updated alignment is complete.

1-22) Refer to Page 29 of the Application. The Applicant states that “final MET tower locations will depend on the final location of the turbines and specifications of the turbine manufacturer and financing parties.” Please explain how financing parties participate in the determination of where MET towers are located.

Teddy Hines: Financing parties may require permanent MET towers during operation to validate energy production against turbine manufacturer specifications. However, they do not determine the exact placement of these towers; their role is limited to specifying the number required to meet financing and operational risk requirements. Philip Wind will select the final locations of the permanent MET towers based on the final turbine layout and surrounding terrain. All MET towers will need to be sited in order to comply with IEC standards.

1-23) Refer to Page 29, Section 4.2.14 of the Application. The Applicant states “[i]f approved by the FAA, an ADLS will be installed to minimize illumination time of the lights.”

a) When does the Applicant expect the FAA review and approval of the ADLS to be completed by?

Brianna Gries: Philip Wind anticipates filing for approval of the ADLS in December of 2026. Philip Wind anticipates that the necessary approvals would be obtained in July of 2026.

b) Does the Applicant expect ADLS to be installed and utilized prior to commercial operation of the Project? If no, please explain.

Lisa Agrimonti: If approvals are obtained as anticipated, ADLS is expected to be operational at the time of COD.

1-24) Pursuant to ARSD 20:10:22:11, please provide a reference to the map “showing cemeteries, places of historical significance, transportation facilities, or other public facilities adjacent to or abutting the plant or transmission site.”

Brianna Gries: A map showing land use in the Project Area, including cemeteries, places of historical significance, transportation facilities, and public lands and facilities is included as Figure A-10 in Appendix A to the Application.

1-25) Refer to Page 30 of the Application. The Applicant states that “Philip Wind has entered into long-term, voluntary lease and easement agreements for the placement of Project Facilities with private landowners within the Project Area that provide for a total operating period of 30 years.” Do the lease agreements have renewal options that extend beyond 30 years? Please explain.

Brianna Gries: The operating term of the lease is 380 months (31.67 years). There is no provision in the lease to extend that term.

1-26) Refer to Page 30, Section 4.3 of the Application. The Applicant states that “all Project Facilities will utilize private land, federally authorized land, and public road ROWs.”

a) Which Project Facilities will be located in the public road ROW?

Brianna Gries: Philip Wind anticipates that some collector line (electrical and communications) facilities will be placed in public ROW. No other physical facilities will be located in public ROW. However, access roads and crane paths may be located in public road ROW.

b) Which Project Facilities will be located on federally authorized land?

Brianna Gries: – Federally authorized land was intended to refer solely to property owned by WAPA, an agency of the Federal government under the Department of Energy. WAPA owns the land across which the transmission line will cross for 150 feet.

c) Has the Applicant received approval from the appropriate governmental authority to place facilities in the public road ROW and federally authorized land? Please explain.

Brianna Gries and Lisa Agrimonti: For federally authorized land, yes. See response to 1-27(a). For road right-of-way, Philip Wind has an RUA with Haakan County. Philip Wind will obtain permits from Haakan County to place collector (electrical and communication) facilities in the road right-of-way in accordance with SDCL 31-26-1; SDCL 31-1-1; SDCL 31-18-1. To place physical facilities in State highway ROW, Philip Wind will obtain a permit to occupy right-of-way from the South Dakota Department of Transportation for use of state road right-of-way. *See also* ARSD 70:04:05:14 (“In order to install, relocate, or expand utility facilities on a state highway within the right-of-way, the utility owner must submit an application to the applicable regional engineer.”). Philip Wind will obtain necessary permits for access roads and crane paths in County and State highway ROW.

The Project obtained a Transmission Easement across the WAPA property. The WAPA property was privately owned at the time of the easement grant.

1-27) Refer to Appendix S, Page 7 of the Application. Receptor R-005 has a predicted noise level between 44 dBA and 45 dBA, depending on which turbine model is selected.

- What is the distance in feet from Turbine 104 to Receptor R-005?
- What is the distance in feet from Turbine 36 to Receptor R-005?
- What is the distance in feet from Turbine 35 to Receptor R-005?
- What is the distance in feet from Turbine 34 to Receptor R-005?
- What is the distance in feet from Turbine 26 to Receptor R-005?
- What is the distance in feet from Turbine 20 to Receptor R-005?

Teddy Hines:

	Distance (feet)					
	T104	T36	T35	T34	T26	T20
R-005	6,063	4,397	3,340	3,494	5,884	5,760

1-28) Refer to Appendix S, Page 7 of the Application. Receptor R-007 has a predicted noise level between 43 dBA and 44 dBA, depending on which turbine model is selected.

- What is the distance in feet from Turbine 104 to Receptor R-007?
- What is the distance in feet from Turbine 36 to Receptor R-007?
- What is the distance in feet from Turbine 35 to Receptor R-007?
- What is the distance in feet from Turbine 34 to Receptor R-007?
- What is the distance in feet from Turbine 26 to Receptor R-007?
- What is the distance in feet from Turbine 20 to Receptor R-007?

Teddy Hines:

	Distance (feet)					
	T104	T36	T35	T34	T26	T20
R-007	4,874	7,364	5,443	3,254	4,417	6,695

1-29) Refer to Appendix S, Page D-4, and Appendix T, Page 21 of 21 of the Application. If Turbines 34 and 35 were eliminated from the layout, please provide the:

- Predicted noise level at Receptor R-005 for all three turbine models.
- Predicted noise level at Receptor R-007 for all three turbine models.
- Expected annual shadow flicker at Receptor R-005 for all three turbine models.
- Expected annual shadow flicker at Receptor R-007 for all three turbine models.

Teddy Hines, Michael Hankard (sound), JoAnne Blank (shadow flicker): Mr. Hankard prepared an updated sound analysis for the Project assuming removal of T34 and T35. JoAnne Blank prepared an updated shadow flicker analysis with removal of T34 and T35. Table 1 shows the predicted noise and shadow flicker values with T34 and T35 included. Table 2 shows the predicted noise and shadow flicker values with T34 and T35 removed.

Table 1: Predicted Noise and Shadow Flicker Levels with T34 and T35 Included

	Predicted Noise Level (Leq dBA)		
	General Electric 3.8-154	Nordex 163-5.9	Vestas 163-4.5
R-005	44	44	45
R-007	43	43	44

	Expected Shadow (Annual Hours)		
	General Electric 3.8-154	Nordex 163-5.9	Vestas 163-4.5
R-005	16:39	17:56	18:17
R-007	26:23	28:27	28:43

Table 2: Predicted Noise and Shadow Flicker Levels with T34 and T35 Removed

	Predicted Noise Level (Leq dBA)		
	General Electric 3.8-154	Nordex 163-5.9	Vestas 163-4.5
R-005	41.3	41.5	42.6
R-007	41.2	41.3	42.4

	Expected Shadow (Annual Hours)		
	General Electric 3.8-154	Nordex 163-5.9	Vestas 163-4.5
R-005	7:34	7:29	8:20
R-007	12:40	12:16	13:40

1-30) How does the forecasted energy production of Turbines 34 and 35 compare with the other turbines in the proposed layout? Please explain and provide supporting documentation.

Lisa Agrimonti: Philip Wind objects to this request as not relevant to the Applicant's burden of proof in SDCL 49-41B-22. Subject to this objection and without waiver thereof, Philip Wind responds below.

Teddy Hines: Turbines 34 and 35 are expected to be below average producing turbines. The estimates for individual turbine generation are based on a commercially sensitive and proprietary wind flow model based on years of onsite meteorological data collection.

1-31) Refer to Appendix S, Page 7 of the Application. Receptor R-022 has a predicted noise level between 40 dBA and 41 dBA, depending on which turbine model is selected. What is the distance in feet from Turbine 4 to Receptor R-022?

Teddy Hines: The distance from T4 to R-022 is 3,363 feet.

Dated this 12th day of December, 2025.

By /s/ *Lisa M. Agrimonti*

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AGREEMENT FOR ROAD USE, REPAIR, AND IMPROVEMENTS

This AGREEMENT FOR ROAD USE, REPAIR, AND IMPROVEMENTS (this “**Agreement**”) is made and entered into this 18th day of December, 2024 (the “**Effective Date**”), between Philip Wind Partners, LLC (“**Developer**”), a Delaware limited liability company with offices at c/o Invenergy LLC, 1 S. Wacker Dr., Suite 1800, Chicago IL 60606, and Haakon County, South Dakota (the “**County**”), acting through its duly elected officers. Developer and the County may be referred to herein, individually, as a “**Party**” and, collectively, as the “**Parties**”.

RECITALS

1. Developer intends to develop a wind-powered electric generating facility with a planned nameplate capacity of up to approximately 300 MW, located primarily in Haakon County, South Dakota (the “**Project**”).
2. The County is responsible for the maintenance of certain roads within the County.
3. In connection with the development, construction, operation, maintenance, and decommissioning of the Project, it will be necessary for Developer and its contractors and subcontractors or designees to: (i) transport heavy equipment and materials over designated haul routes located in the County, which may in certain cases be in excess of the design limits of such roads; (ii) transport personnel, equipment, and materials on such roads; (iii) widen such roads and make certain modifications and improvements (both temporary and permanent) to such roads to permit such equipment and materials to pass; and (iv) place certain electrical cables for the Project adjacent to, under, or across certain roads for the purposes of the collection, distribution, and transmission of electricity to and from, and between and among various parts of, the Project.
4. The County and Developer wish to enter into an agreement for the use, repair, and improvement of the Designated Roads and their appurtenant rights-of-way (as defined in Appendix A), all in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings assigned to them in Appendix A.

ARTICLE II USE OF DESIGNATED ROADS BY DEVELOPER

2.1 Use of Designated Roads by Developer. The County hereby acknowledges and agrees that, in connection with the development, construction, operation, maintenance, and decommissioning of the Project, the Developer Parties may use, non-exclusively, all public County roads. Use of public County roads that are not Designated Roads shall be restricted by all applicable limitations, rules, ordinances, and regulations (together the “Legal Restrictions”) concerning their use, whether federal, state, County, or those of any other governmental entity or agency having jurisdiction over such roads. The Developer Parties may use all Designated Roads at any time of day, seven (7) days a week. Such use may include (but is not limited to) the transportation of personnel, equipment, and materials to and from the Project and shall not be subject to Legal Restrictions of the County, except as expressly provided in this Agreement (including Appendix B). From time to time, Developer may request that additional roads be included as Designated Roads by (A) submitting such a request to the County in writing, accompanied by an updated version of Appendix B that includes such additional roads, and (B) performing an Initial Evaluation on such additional roads. Upon Developer’s submission of such a request, the County shall promptly (A) review such request and (B) unless there exists a material defect in the form of the updated Appendix B or substantial reasons related to public safety why such request should not be granted, provide written notice that such request has been granted, whereupon Appendix B shall be deemed automatically amended and restated as such updated version of Appendix B without any further action required by either Party.

2.2 Incidental Use. The Parties recognize that, while Developer does not currently anticipate use of roads within the County during construction of the Project other than Designated Roads and certain federal and state highways, the Developer Parties may, nevertheless, make some incidental use of roads other than Designated Roads. All Repairs of damage caused by such incidental use shall be dealt with by adding such road to Appendix B, as provided for in Section 2.1, and performing Repairs in accordance with Section 3.2, as if such road had been a Designated Road when such damage occurred.

2.3 County Designee; Commencement of Construction; Construction Period Meetings. The County has designated Mitch Kammerer as the County Designee; in the event Mr. Kammerer is no longer the County Designee, the County shall promptly provide the name and contact information for the County Designee, who shall have authority to act on behalf of the County. Developer shall provide to the County Designee at least thirty Business Days’ prior written notice of the commencement of construction on Designated Roads. Beginning with commencement of construction of the Designated Roads and/or the Project, Developer and the County Designee shall meet from time to time upon the reasonable request of either Party to discuss the expected use of the Designated Roads, including the construction schedule and haul routes to be used. Once commencement of construction on the Designated Roads and/or the Project has occurred, Article III and Article IV govern requirements for Maintenance, Repairs, and Improvements made to Designated Roads.

2.4 Evaluation of Designated Roads. Except as otherwise stated in Appendix C, Developer and the County Designee shall mutually agree on a selected provider to conduct an Initial Evaluation of Designated Roads prior to commencement of construction of the Project. Developer will notify the County Designee in advance of, and allow the County Designee to participate in, the Initial Evaluation of Designated Roads. During the Initial Evaluation, the entire length of the Designated Roads shall be videotaped and photographs

taken by the selected provider and Developer. In addition, the County will provide Developer, if available, with copies of any plans, cross-sections, and specifications relevant to the existing structure of the Designated Roads. This Initial Evaluation will include relevant road condition survey methodologies mutually agreed upon between Developer and the County Designee. Developer will reimburse the County for all documented, reasonable, third-party out-of-pocket amounts actually incurred by the County due to the Initial Evaluation. If, pursuant to Section 2.1, Developer submits to the County an updated version of Appendix B that designates an additional road as a Designated Road, Developer shall perform an Initial Evaluation with respect to such additional Designated Road. The costs of all Initial Evaluations will be borne by Developer. Evaluations in addition to Initial Evaluations shall be conducted upon mutual agreement of the Parties.

2.5 Fugitive Dust. Developer shall be responsible for addressing Significant Fugitive Dust created by the Developer Parties. When requested by the County, Developer shall reasonably address or minimize Significant Fugitive Dust using water, calcium chloride, chemicals, or appropriate other commercially available, reasonable means in Developer's reasonable discretion and subject to County's reasonable satisfaction.

2.6 Road Closures. Developer shall use reasonable efforts to avoid the closure of any County road. Nevertheless, Developer shall be permitted to close Designated Roads for such periods as are reasonably necessary (A) in the interest of safety, (B) to permit the passage of large loads or (C) in connection with the installation of Improvements or Repairs; *provided*, that Developer shall have provided the County with twenty-four (24) hours' prior notice of any planned road closure and obtained the County's approval thereof, which approval shall not be withheld except for reasons of public safety or substantial and unavoidable public inconvenience. Notice to the County Designee shall satisfy such requirement, provided that such notice is given by both telephone and either fax or e-mail.

ARTICLE III MAINTENANCE AND REPAIR OF DESIGNATED ROADS

3.1 Maintenance of Designated Roads.

- (a) The County shall, in a timely fashion and at no additional cost to Developer, maintain Designated Roads as determined by the County Commissioners and in accordance with the County's standard practices for road maintenance, having due regard for safety, prevailing and predicted weather conditions, and the presence of emergency conditions, including without limitation the removal or plowing of snow.
- (b) Developer shall grade and maintain all non-paved Designated Roads during construction of the Project, including such measures for Significant Fugitive Dust as provided in Section 2.5.

3.2 Repair of Designated Roads. Developer shall be responsible for Repairs to Designated Roads for damage caused by Developer Parties. Developer shall not be responsible for, or required to Repair, any damage to a County public road that is not caused by a Developer Party or any Repair of damage that results from a pre-existing condition that made or makes the Designated Road or appurtenance inadequate for, or that would cause it to fail under, normal use. Developer shall notify the County of damage caused by the Developer Parties, and of any other damage noted by Developer, to the Designated Roads and request the

County's authorization to conduct Repairs for which Developer is responsible pursuant to this Section 3.2. Developer shall provide the County with reasonable details as to the nature, scope, and schedule of Repairs of damage to Designated Roads that Developer desires to perform, and unless the County notifies Developer in writing that substantial County interests would not be properly served by allowing Developer to make such Repairs, the Parties shall agree upon the manner in which Developer may proceed with such Repairs. If the Parties cannot so agree within a reasonable period, taking into account public safety, public inconvenience, and Developer's construction schedule, the County shall perform the Repairs in a timely fashion, in accordance with the County's standard practices for road repairs and any specific needs of Developer that Developer would address if Developer were making the Repairs, and otherwise having due regard for safety, prevailing and predicted weather conditions, Developer's construction schedule, and the presence of emergency conditions. Prior to the commencement of a Repair, whether by Developer or by the County, the Developer Representative and the County Designee shall, in response to a request by either Party, meet to review the damage in question in relation to any Initial Evaluation or any more recent subsequent evaluation, as applicable, and to discuss the nature, scope, and schedule of Repairs. The Parties shall rely upon any available Initial Evaluation or any subsequent similar evaluation, as applicable, as a benchmark by which to determine (i) the condition of Designated Roads prior to commencement of construction of the Project, (ii) whether the subject damage was caused by the Developer Parties and (iii) whether a Repair was required and performed in accordance with this Agreement. If the County performs Repairs of damage caused by the Developer Parties, Developer shall reimburse the County the documented reasonable costs of Repairs in accordance with Appendix D. At any time during or after completion of a Repair, the Parties shall, upon the request of either Party, promptly conduct a joint inspection of the Repair, or the progress thereof, to determine that the Repair is being performed in accordance with County standards. Upon completion of Repairs performed by the County for which reimbursement is owed by Developer pursuant to this Agreement, but no more often than monthly, the County shall deliver an invoice to Developer in accordance with the invoicing procedures attached hereto as Appendix E. Developer shall pay undisputed invoiced amounts within thirty (30) days after receipt of such invoice. Developer's sole responsibility for Repairs is to return Designated Roads to a better or substantially similar condition as indicated in the Initial Evaluation, to the County's reasonable satisfaction.

3.3 Payment Security: Developer will cause to be delivered to County, no later than thirty (30) days prior to commencement of construction of the Project, Payment Security, in the form of a surety bond or letter of credit. The Payment Security will be calculated per **Appendix G**. The Payment Security will be maintained until Restoration of Haul Roads is complete.

- (a) Rights of Developer. In the event the Developer puts in place the Payment Security but does not commence Project construction, the County will return the Payment Security in full no later than thirty (30) days after written request by the Developer, and this Agreement will end upon return of the Payment Security. If Developer has performed under this Agreement and met its payment obligations, the County will return the Payment Security in full no later than thirty (30) days following the completion of Restoration of Designated Roads.
- (b) Rights of County. In the event the Developer fails to perform under this Agreement or fails to meet its payment obligations, the County may make a claim upon the surety bond or draw upon the letter of credit, as applicable.

During construction of the Project, if Designated Roads are added or removed, as approved by

the County, the Payment Security will be adjusted per **Appendix G**. Developer will cause to be delivered to County, before any added Designated Roads are used, any required increased Payment Security.

3.4 Collection System Cabling. The County acknowledges and approves the preliminary Electrical/Communications Installation as set forth in Appendix F. In instances where the Electrical/Communications Installations are required to cross a County road, Developer shall design and construct such crossing so as not to permanently interfere with the intended use of such road, public safety, or considerations for future road maintenance by the County. Developer shall also provide such reasonable documentation of the proposed crossings, as set forth in Appendix F, as the County may require. County shall approve all final locations of Electrical/Communications Installation prior to construction. Developer shall provide an updated version of Appendix F that shows the final approved and as-built Electrical/Cable Installations to the County, whereupon Appendix F shall be deemed automatically amended and restated as such updated version of Appendix F without any further action required by either Party. The County shall not require Electrical/Communications Installation cabling to be buried deeper than thirty-six (36) inches except (i) where such a cable crosses a County road, it shall be buried to a minimum depth of forty-two (42) inches, or (ii) as required by state or federal law, whichever is deepest. Electrical/Communications Installations that cross County roads shall be directional bored, unless otherwise agreed by the Parties. For above ground Electrical/Communications Installations, the County shall not require Developer to install such installations greater than the local, state, and/or federal electrical code(s) requires. For the avoidance of doubt, Developer may close a Designated Road to the extent reasonably necessary to carry out this Section 3.3.

3.5 Road Access and Crossings with Construction Equipment. The County hereby acknowledges and approves that Developer will need to access, utilize, and cross the County roads with heavy construction equipment, such as, but not limited to, cranes, during the construction, operation, maintenance, and decommissioning of the Project. Developer will use commercially reasonable efforts to protect the existing County road from damage during such access, utilization, and crossings and shall be responsible for any damages and subsequent Repairs in accordance with Section 3.2.

3.6 Failure to Maintain or Repair. With respect to a Designated Road, in the event that the County does not perform maintenance as required by Section 3.1 or does not perform Repairs undertaken by the County pursuant to Section 3.2, Developer may request in writing that the County permit Developer to perform such maintenance or Repair, in which case Developer shall also provide the County with reasonable details as to the nature, scope, and schedule thereof. The Parties shall cooperate so as to permit the County to respond promptly to such a request, which the County shall endeavor in good faith to do. If the County does not object to such request within five (5) business days (or within two (2) business days if exigent circumstances require [e.g., if significant Project maintenance or construction delays might otherwise result]), or if the County grants such request, Developer may perform, or cause to be performed, such maintenance or Repair. If Developer performs such maintenance or Repair, Developer shall complete such maintenance or Repair to standards that are the same as or better than applicable County standards in all material respects and shall cooperate to permit the County to inspect such maintenance and Repair work during and after its performance. The County shall not be required to reimburse or otherwise compensate Developer for performing any such maintenance or Repair. In the event a Repair is not timely performed and it interferes with Developer's construction and/or maintenance schedule, Developer shall have the right

to utilize alternative routes on public or private roads as may be required to mitigate any such adverse effect on its schedule, subject to Developer's obligation to repair in accordance with Section 3.2.

ARTICLE IV **IMPROVEMENTS AND MODIFICATIONS TO DESIGNATED ROADS**

4.1 In General. Developer shall complete Improvements in accordance with this Article IV. Developer shall not be required to complete any improvement or modification, or perform any road work, that is not required by this Article IV, or in the case of Repairs, by Section 3.2, or that is expressly excluded from Developer's scope of work in Appendix B or in the Plans, unless such improvement, modification, or work is required by applicable law.

4.2 Current Improvements. Developer shall complete Current Improvements to certain Designated Roads prior to and/or during the construction of the Project and in accordance with Appendix B and the Plans. The County acknowledges that it has received from Developer, and is satisfied with and approves, Plans that are 10% complete for collection, turbines, and transmission. The Parties agree and acknowledge as follows:

- (a) Developer will develop Plans using an engineer licensed in the State of South Dakota;
- (b) such Plans are not final and shall be revised so as to finalize them and take into account any need for changes as the Plans are finalized and conditions of the Designated Roads and Developer's construction plans change or become better known;
- (c) it is, nevertheless, the Parties' intention that the Current Improvements be similar to the Current Improvements described on the Plans discussed and approved to date;
- (d) the Parties shall consult and cooperate reasonably so as to permit the County Designee's review and approval of final (100% complete) Plans in a timely manner to not disrupt or delay Developer's construction schedule;
- (e) the Parties shall consult and cooperate with regard to the proposed material (including, but not limited to, necessary caliche and chip seal) to be used by Developer to Repair or improve County roads as provided herein; *provided* that so long as such material is not of lesser quality or product than currently used by the County on the Designated Roads, such consultation and cooperation shall not result in disruption or delay to Developer's construction schedule or increase costs borne by Developer hereunder; and
- (f) Developer may make changes to the Plans with the consent of the County and is in no way obligated to complete such Current Improvements if deemed unnecessary by Developer.

4.3 Driveway Entrances. Developer will construct new roads on private lands in order to access proposed Project facilities; these roads are for use by (i) Developer only for the construction, operation, maintenance, and decommissioning of the Project and (ii) by the landowner on whose property the private road is constructed. The County hereby acknowledges and grants Developer the right to construct and/or install new driveway entrances from the County roads to these new access roads. Developer shall design,

procure, and install driveway culverts to the required size, length, and depth as reasonably deemed necessary by the County, in accordance with the requirements of this Agreement.

4.4 Section Line Access Roads. Developer may construct new access roads within section line rights-of-way under County administration pursuant to South Dakota Codified Laws § 31-18-1. Developer shall have sole responsibility for all construction and maintenance costs and requirements of any such access roads constructed within section line rights-of-way as if such access roads had been constructed on private land. The County shall have no duty of care to keep and maintain any portion of section line right-of-way access road so newly constructed by the Developer. Section line access roads constructed by Developer shall be abandoned by Developer and permitted to revert to their pre-construction unimproved state following permanent cessation of commercial operation of the Project.

4.5 Minimum Maintenance Roads. Developer may use, repair, and improve existing Minimum Maintenance Roads under County administration. Developer shall have sole responsibility for all repair and maintenance costs and requirements associated with the use, repair, and improvement of any such Minimum Maintenance Road. The County shall have no duty of care to keep and maintain any portion of Minimum Maintenance Road so improved by the Developer. Minimum Maintenance Roads improved by Developer shall be abandoned by Developer and permitted to revert to their pre-improvement state following permanent cessation of commercial operation of the Project.

4.6 Future Improvements. After completion of the construction of the Project and for so long as the Project has not permanently ceased commercial operation, Developer may perform, but shall not be obligated to perform, Future Improvements; *provided*, however, that such Future Improvements shall be subject to the County's customary review and permitting processes, if any, pursuant to statutory and regulatory authority, and in any case, processes applied consistently and in a fashion that treats Developer in a manner similar to other users of County roads.

4.7 County Jurisdiction. Nothing in this Article IV or this Agreement shall be construed as limiting or abrogating the County's jurisdiction or duties under applicable law concerning the construction, maintenance, and repair of highways and bridges within the County.

ARTICLE V NO CONSEQUENTIAL DAMAGES

To the extent allowable under state law, the Parties waive all claims against each other (and against each other's parent company and affiliates and their respective members, shareholders, officers, directors, agents, and employees) for any consequential, incidental, indirect, special, exemplary, or punitive damages (including loss of actual or anticipated profits, revenues, or product loss by reason of shutdown or non-operation; increased expense of operation, borrowing, or financing; loss of use or productivity; or increased cost of capital), regardless of whether any such claim arises out of breach of contract or warranty, tort, product liability, indemnity, contribution, strict liability, or any other legal theory. This Article V shall be fully effective with respect to the subject matter of this Agreement.

ARTICLE VI TERM; DEFAULT AND REMEDIES

6.1 Term of Agreement. The term of this Agreement shall be from the Effective Date until six (6) months after the Project reaches Commercial Operations, unless either Party terminates this Agreement as herein provided. Notwithstanding anything herein to the contrary, the following provisions of this Agreement shall survive its termination or expiration for so long as the Project has not permanently ceased commercial operation: (i) Section 3.1, Section 3.3, and Section 3.4, (ii) the right of the Developer Parties under Article IV (but not any obligation) to construct and maintain access roads in section line rights-of-way, Minimum Maintenance Roads, and/or to perform Future Improvements, (iii) Article V, (iv) this Article VI, and (v) Article IX, Article X, and Article XI. In the event major maintenance or repairs are required during operation of the Project, the Parties agree to enter into a new Agreement on substantially the same terms and conditions as contained herein.

6.2 Remedies Upon Default. Whenever an Event of Default shall have occurred, the Party not in default shall have the right to terminate this Agreement, subject to any right to cure of a Permitted Collateral Assignee, and take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of the Party in default under this Agreement. Notwithstanding the foregoing, if the Project is still in Commercial Operation, no termination of this Agreement by the County shall have the effect of terminating the rights granted to Developer in Section 3.3 or give County the right to require Developer to remove any aspect of the Electrical/Communications Installation that crosses a County road.

6.3 Remedies Cumulative. The rights and remedies of the County under this Agreement shall be cumulative and shall not exclude any other rights or remedies the County may have at law or in equity with respect to any Event of Default under this Agreement.

6.4 Disputes. If a dispute arises under this Agreement, any Party may commence a proceeding at law or in equity to resolve such dispute.

ARTICLE VII FORCE MAJEURE EVENT

No Party will be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure Event, provided that:

- (a) the affected Party shall give the other Party written notice describing the particulars of the occurrence, with written notice given promptly after the occurrence of the event, and in no event more than fifteen (15) Business Days after the affected Party becomes aware that such occurrence is a Force Majeure Event; *provided*, however, that any failure of the affected Party to provide such written notice within such fifteen (15) Business Day period shall not waive, prejudice, or otherwise affect such Party's right to relief under this Article VII;
- (b) the delay in performance will be of no greater scope and of no longer duration than is directly caused by the Force Majeure Event;

- (c) the Party whose performance is delayed or prevented will proceed with commercially reasonable efforts to overcome the events or circumstances preventing or delaying performance; and
- (d) when the performance of the Party claiming the Force Majeure event is no longer being delayed or prevented, that Party will give the other Party written notice to that effect.

ARTICLE VIII **PERMITTING AND LAND RIGHTS**

8.1 Review, Approval, and Permitting.

Except as expressly set forth in Section 3.3, Section 4.2, Section 4.3, and Section 8.2, the County represents, warrants, and covenants that:

- (a) the County has fully and completely reviewed and approved the Plans (as provided to the County as of the Effective Date) and permits Developer's use, maintenance, and upgrading of the Designated Roads, the Electrical/Communications Installation, and technical plans for all of the foregoing, as described in this Agreement and the Plans;
- (b) as of the Effective Date, no further licenses, permits, or approvals are required by or from the County for such use, maintenance, upgrading, completion of the Project, including the Improvements and the Electrical/Communications Installation, or the technical plans, except as provided herein;
- (c) in the event that a requirement for review and/or approval of Plans by, or for any other approval, license, permit, authorization, or consent from, the County comes into effect that would otherwise be applicable to the Project, the County shall, to the maximum extent permissible by law, apply such requirement proactively so as to "grandfather" the Project and maintain the effectiveness of Section 8.1(a) and Section 8.1(b) as written; and
- (d) as of the Effective Date, the County has no land use ordinances, including ordinances relating to zoning, setbacks, buffer zones, noise restrictions, glare, reflection or visibility requirements, or wind project decommissioning, that apply to the Project.

8.2 Land Rights. Subject to the terms and conditions of this Agreement, the Parties acknowledge that the Developer Parties may require certain Private Land Rights in order to conduct maintenance or complete Improvements to Designated Roads, complete the Electrical/Communications Installation, or access private lands necessary for any of the foregoing. Except for such Private Land Rights and subject to the terms and conditions of this Agreement, the County represents and warrants that the County possesses and grants to Developer all Land Rights required, and that no further Land Rights are required for Developer (i) to use the Designated Roads, (ii) to maintain and complete Improvements of the Designated Roads, and (iii) to complete the Electrical/Communications Installation insofar as the Designated Roads are affected thereby.

8.3 Review and Inspection. Upon request by Developer, the County Designee shall review plans for any road work proposed by Developer and inspect road work completed by Developer under this Agreement for compliance with County specifications and right-of-way or easement restrictions. If the

County Designee is able to confirm such compliance, the County Designee shall promptly so notify Developer in writing. On termination of this Agreement, the County Designee shall provide an acknowledgement and release that Developer has performed its obligations under this Agreement and that Developer is released from any and all ongoing maintenance activities on the Designated Roads, other than those that expressly survive the termination of this Agreement.

ARTICLE IX INDEMNITY

To the fullest extent permitted by law, Developer (as "**Indemnitor**") shall indemnify and hold harmless the County, each of its elected officials, all of its servants, agents, and employees, and any person or legal entity designated by the County to perform any function required under this Agreement (collectively, "**Indemnitee**") from and against all Losses, to the extent that such Losses may be caused by or arise out of performance of work upon County roads by Indemnitor or result from any breach of any representation or warranty made in this Agreement by Indemnitor.

ARTICLE X AVOIDING PARTIAL REPAIR OR IMPROVEMENTS OF ROADS

As a part of the Plans, Developer agrees that where Developer intends to repair, maintain, replace, improve and/or upgrade any portion of a County road, Developer will cooperate in good faith with the County to consider the need to repair, maintain, replace, improve, and/or upgrade such County road for the full length of such County road to the next intersecting County road or highway.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota, without regard to the conflict of laws provisions in such state.

11.2 Compliance with Law. Developer agrees that all Repairs, Improvements, and the Electrical/Communications Installation shall comply with all applicable laws.

11.3 Amendments and Integration. This Agreement (including Appendices) shall constitute the complete and entire agreement between the Parties with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. Except as set out in Section 2.1 of this Agreement, this Agreement may be amended only by a written agreement signed by the Parties.

11.4 Assignment.

- (a) Except as provided in subsections (b), (c), and (d) below, no Party to this Agreement shall assign, transfer, delegate, or encumber this Agreement or any or all of its rights, interests, or obligations under this Agreement without the prior written consent of the other Party. In those instances in which the approval of a proposed assignee or transferee is required or requested: (i) such approval shall not be unreasonably withheld, conditioned, or delayed; and (ii) without limiting the foregoing,

in the case of the County, the County's approval may not be conditioned on the payment of any sum or the performance of any agreement other than the agreement of the assignee or transferee to perform the obligations of Developer pursuant to this Agreement.

- (b) Developer may, without the consent of the County, assign this Agreement or any or all of its rights, interests, or obligations under this Agreement; *provided*, that such assignment shall be in connection with the conveyance or lease of the Project and Developer's assignee agrees in writing to be bound by the terms of this Agreement. Upon assignment pursuant to this subsection (b), and with no further action by Developer or the County, Developer shall be released from all liability for and obligations under this Agreement.
- (c) Developer may, without the consent of the County, pledge, mortgage, grant a security interest in, or otherwise collaterally assign this Agreement or any or all of its rights, interests and obligations under this Agreement to a Permitted Collateral Assignee. In connection with any such collateral assignment to a Permitted Collateral Assignee, the County shall, upon the request of Developer, deliver to Developer and the Permitted Collateral Assignee without delay a consent agreement and/or an opinion of counsel in a form reasonably requested by Developer and the Permitted Collateral Assignee and which shall contain customary provisions.
- (d) Developer may, without the consent of the County, assign this Agreement or any or all of its rights, interests, and obligations under this Agreement to any corporation, partnership, limited liability company, or other business entity that acquires all or substantially all of the assets used in connection with the Project or (ii) any corporation, partnership, limited liability company, or other business entity that acquires all or a portion of the membership interests in Developer; *provided*, in each case, that such Developer assignee agrees in writing to be bound by the terms of this Agreement.

11.5 Notices. All notices, requests, demands, and other communications required or permitted to be given by the Parties hereunder shall be in writing and shall be delivered in person or by facsimile or by first class certified mail, postage and fees prepaid, to the address of the intended recipient as set forth below. Notice delivered in person shall be acknowledged in writing at the time of receipt. Notice delivered by facsimile shall be acknowledged by return facsimile within twenty-four (24) hours, excluding Saturdays, Sundays, and public holidays. All such notices, requests, demands, and other communications shall be deemed to have been received by the addressee, as follows: if by first class certified mail, three (3) days following mailing; if by facsimile, immediately following transmission; or if by personal delivery, upon such delivery. All such notices, requests, demands, and other communications shall be sent to the following addresses:

To Developer: Philip Wind Partners, LLC
c/o Invenergy LLC
1 South Wacker Drive, Suite 1800
Chicago IL 60606
Attn: General Counsel
(312) 224-1400

To the County: Haakon County Highway Superintendent

Haakon County Courthouse
140 S Howard Ave
PO Box 408
Philip, SD 57567

The foregoing addresses may be changed by any Party by giving written notice to the other Party as provided above.

11.6 Exercise of Rights and Waiver. The failure of any Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof, nor shall a waiver by any Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

11.7 Nature of Relationship. The status of Developer under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, each Party and its officers, agents, employees, representatives, and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives, or servants of the other Party. Each Party accepts full responsibility for providing to its own employees all statutory coverage for worker's compensation, unemployment, disability, or other coverage required by law. Notwithstanding the foregoing, it is not the Parties' intention to establish a relationship whereby the County is, and notwithstanding anything to the contrary in this Agreement, the County shall not be, a contractor of Developer with respect to Repairs. Rather, the County shall perform Repairs as part of its ongoing maintenance of County roads, and Developer's only obligation with respect to Repairs performed by the County shall be to reimburse the County in accordance with this Agreement.

11.8 Severability. In the event that any clause, provision, or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be impaired, invalidated, or otherwise affected and shall remain in full force and effect.

11.9 Headings and Construction. The section headings in this Agreement are inserted for convenience of reference only and shall in no way affect, modify, define, or be used in construing the text of this Agreement. Where the context requires, all singular words in this Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words. Notwithstanding the fact that this Agreement may have been prepared by one of the Parties, the Parties confirm that they and their respective counsel have reviewed, negotiated, and adopted this Agreement as the joint agreement and understanding of the Parties. This Agreement is to be construed as a whole, and any presumption that ambiguities are to be resolved against the primary drafting Party shall not apply. All Appendices and Attachments referenced in this Agreement are incorporated in and form a part of this Agreement.

11.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

11.11 No Third Party Beneficiary. No provisions of this Agreement shall in any way inure to the benefit of any person or third party so as to constitute any such person or third party as a third-party beneficiary

under this Agreement, or of any one or more of the terms of this Agreement, or otherwise give rise to any cause of action in any person not a Party hereto.

11.12 Confidentiality. Except to the extent in conflict with laws relating to freedom of information or public access to governmental information, and only to such extent, all data and information acquired by the County from the Developer Parties (or their affiliates, representatives, agents, or contractors) in connection with the performance by Developer of its obligations hereunder, including information regarding the Project, shall be confidential and will not be disclosed by the County to any third party, and upon request of Developer will be returned thereto. Notwithstanding the foregoing, the Parties acknowledge and agree that such confidential information may be disclosed to third parties as may be necessary for Developer to perform its obligations under this Agreement and that Developer may disclose such confidential information to its investors, potential investors, lenders, and potential lenders (including any tax equity investors). This provision will not prevent the County from providing any confidential information as required by open records laws, open meetings laws, or other laws regarding public information, or in response to the reasonable request of any governmental agency charged with regulating such Party's affairs; *provided*, that in the case of a request by such a governmental agency, if feasible, the County shall give prior notice to Developer of such disclosure and, if so requested by Developer, shall cooperate reasonably, at Developer's expense, in Developer's efforts (i) to oppose or resist the requested disclosure, as appropriate under the circumstances, or (ii) to otherwise make such disclosure subject to a protective order or other similar arrangement for confidentiality.

11.13 Representative of Developer. The Developer Representative shall act as the manager and coordinator of this Agreement on Developer's behalf and as liaison for Developer's communications with the County and the County Designee. The initial Developer Representative shall be Alex Chandler and Carleigh Houghtling. Prior to the commencement of construction, Developer shall ensure that the name(s), phone number(s), e-mail address(es), and any other relevant contact information for the Developer Representative is updated, current, and provided in writing to the County and County Designee. Should the Developer Representative change during construction, the Developer shall provide updated contact information promptly.

11.14 Safety. Developer shall perform the work hereunder in a safe manner and shall obey all safety requirements of the County, and all applicable federal, state, and County laws, rules, and regulations, that may be established from time to time. While work is being done on a Designated Road, Developer shall cause the Developer Parties to (i) place signs stating that people and vehicles are entering a construction area and (ii) identify certain hazards that may be present on the Designated Road. Developer also agrees to cause the Developer Parties to provide traffic control on the Designated Roads when such roads are blocked during their use by Developer or the Developer Parties under this Agreement. All traffic control devices and signage associated with Road construction shall comply with the Manual on Uniform Traffic Control Devices.

11.15 Cooperation. Notwithstanding anything contained herein to the contrary, the County agrees to reasonably cooperate with Developer's reasonable use of all County roads for the operation and maintenance of the Project.

11.16 Extraordinary Events. The Parties acknowledge that, during the expected life of the Project, circumstances may arise which will make it necessary or advisable for Developer to replace major

components or make other repairs to major components or other heavy or bulky equipment beyond ordinary maintenance and that transportation of such components or equipment on or across Designated Roads may be necessary. The Parties agree that, if Developer determines that such circumstances have occurred, Developer will give advance written notice of the intended transportation plans to the County, and the Parties shall work together cooperatively in good faith to control such factors as: unreasonable costs for Developer; delays in transportation; inconvenience to Developer, the County government, the traveling public, and nearby residents; and risks to public safety.

11.17 Reimbursement of Expenses. Within thirty (30) days of the date of receipt of an invoice, Developer agrees to reimburse the County for or pay directly to the County's attorneys, as applicable, the reasonable and necessary attorney's fees and expenses incurred, directly or indirectly, by the County in connection with the negotiation and formalization of this Agreement in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00).

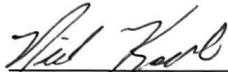
[next page is signature page]

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement for Road Use, Repair, and Improvements effective as of the date first above written.

ATTEST/SEAL:

HAAKON COUNTY, SOUTH DAKOTA

Date: December 12, 2024



Nick Konst, Chairman of the Haakon County Board of County Commissioners

Attest:



Stacy Pinney, Haakon County Auditor

PHILIP WIND PARTNERS, LLC
a Delaware limited liability company

DocuSigned by:
By: 
Printed Name: Bristi Cure
Title: Authorized Signatory
DS



Date: 12/18/2024

APPENDIX A

DEFINITIONS

“**Agreement**”, “**Developer**”, “**County**”, “**Effective Date**”, “**Parties**”, and “**Party**” have the respective meanings assigned to them in the preamble to the Agreement.

“**Appendix**” shall mean an appendix to the Agreement, including any Attachment to such Appendix.

“**Article**” and “**Section**” shall refer, respectively, to an article and section of the Agreement.

“**Attachment**” shall refer to an attachment to an Appendix.

“**Business Day**” refers each of, and “**Business Days**” refers to all weekdays, except those designated as national holidays or state holidays in either South Dakota or Illinois.

“**Commercial Operations**” means that the Project has become commercially operational and placed into service for the purpose of generating electricity for sale in one or more commercial markets.

“**County Designee**” means the Haakon County Highway Superintendent, Chairman of Board of County Commissioners, or other person designated by Haakon County in a written notice delivered to Developer.

“**Current Improvements**” means near-term Improvements to the Designated Roads made in accordance with Section 4.2.

“**Designated Road**” means any public road which will be used in the transport of equipment, parts, and materials of the Project specifically and expressly identified as a Designated Road in Appendix B to the Agreement, and “**Designated Roads**” means any two or more thereof; *provided*, however, that Designated Roads do not include any state or federal road or highway, even if depicted in Appendix B.

“**Developer Party**” refers to each of, and “**Developer Parties**” refers to all of, Developer and its contractors and subcontractors and each of their respective agents, employees, representatives, and permitted assigns.

“**Developer Representative**” means the initial representative of Developer designated in Section 11.13 or such other representative of Developer as may be designated by Developer in a written notice delivered to the County from time to time.

“**Electrical/Communications Installation**” means the routing, construction, and installation, above or below ground, at a location adjacent to, under, or across certain roads, as identified on Appendix F, of certain wires, cables, conduits, and/or lines (and their associated equipment) related to the collection, distribution, or transmission of the Project’s (i) electrical power output at a voltage of up to 230 kV and (ii) construction, maintenance, and operation related data.

“Event of Default” means the occurrence of any one or more of the following events:

- (a) Failure by Developer to make any payment or reimbursement due under the terms of the Agreement when due and payable, when such failure continues for thirty (30) days after receipt by Developer of written notice of such failure from the County.
- (b) Failure by Developer to comply with any of its non-monetary obligations, covenants, agreements or conditions contained in the Agreement, when such failure continues for thirty (30) days after written notice of default from the County; *provided*, that if such failure cannot reasonably be cured within the thirty (30) day period, a default shall not be deemed to have occurred if Developer begins to cure the breach within the thirty (30) day period and thereafter diligently and in good faith continues to pursue the cure of the breach until cured.
- (c) Either Party experiencing either of the following:
 - (i) Voluntarily commencement of bankruptcy, insolvency, moratorium, reorganization, stay, or similar debtor-relief proceedings, or having become insolvent or generally failing to pay its debts as they become due, or having admitted in writing its inability to pay its debts, or the making of an assignment for the benefit of creditors; or
 - (ii) Bankruptcy, insolvency, receivership, reorganization, or a similar proceeding having been commenced against such Party and such proceeding remaining undismissed or unstayed for a period of ninety (90) days.
- (d) In the event of an Event of Default by Developer, or upon the occurrence or non-occurrence of any event or condition which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable the County to terminate the Agreement, the County shall not terminate the Agreement until it first gives written notice of such Event of Default to the Permitted Collateral Assignee (concurrently with the notice of such Event of Default to the Purchaser) and affords the Permitted Collateral Assignee (a) a period of thirty (30) days from receipt of such notice to cure such Event of Default if such Event of Default is the failure to pay amounts to County which are due and payable under the Agreement or (b) with respect to any other Event of Default, a reasonable opportunity, but no fewer than forty five (45) days from receipt of such notice, to cure such non-payment Event of Default (provided that during such cure period the Permitted Collateral Assignee or Developer continues to perform each of Developer's other obligations under the Agreement, as applicable).

“Force Majeure Event” means a cause or event that is beyond the reasonable control, and without the fault or negligence, of the Party claiming such Force Majeure Event, to the extent such cause or event prevents or delays performance of any obligation imposed on the Party claiming such Force Majeure Event (other than an obligation to pay money), and includes the following: natural disasters; fire; lightning strikes; earthquake; unavailability of equipment; acts of God; pandemics

and/or local, state, national, or global public health emergencies; unusually severe actions of the elements such as snow, floods, hurricanes, or tornadoes; causes or events affecting the performance of third-party suppliers of goods or services to the extent caused by an event that otherwise is a Force Majeure Event under this definition; sabotage; terrorism; war; riots or public disorders; strikes or other labor disputes; and actions or failures to act (including expropriation and requisition) of any governmental agency.

“Future Improvements” means such reasonable further Improvements as Developer believes to be reasonably necessary to accommodate the use of the Designated Roads by the Developer Parties for operation and maintenance of the Project.

“Improvements” means improvements and modifications by Developer to the Designated Roads and may include the strengthening and widening of Designated Roads, the strengthening and/or spanning of existing culverts and bridges thereon, adding caliche and other materials where needed, patching pot holes, installing chip seal, and other improvements and modifications reasonably necessary to accommodate increased traffic and the heavy equipment and materials to be transported on the Designated Roads.

“Indemnitor” and **“Indemnitee”** have the respective meaning assigned to them in Article IX.

“Initial Evaluation” means the report/survey of the condition of the surface of all Designated Roads included in Appendix B which provides an evaluation of the then-current condition of a Designated Road, as required by the Agreement.

“Land Rights” means rights or interests in real estate, including any easement (proscriptive or otherwise), leasehold, right of way, licenses, crossing consents and permits, or title in fee, as well as all consents, authorizations, and approvals that may be required for the full exercise thereof.

“Losses” means any and all losses, damages, liabilities, and expenses, including reasonable attorneys' fees and court costs.

“Minimum Maintenance Road” means a road or segment of road defined by the County as used only occasionally or intermittently for passenger and commercial travel and maintained at a level less than the minimum standards for full maintenance roads but at a level required to serve the occasional or intermittent traffic, the travel upon which is at the traveler's own risk, as defined by South Dakota Codified Laws § 31-12-46.

“Permitted Collateral Assignee” means any lender, financing party, or investor providing financing of any sort, including equity financing, construction debt, back leveraged debt, or sale-leaseback financing for the Project as security for Developer's obligations under a financing agreement, purchase and sale agreement, sale leaseback transaction or similar financing mechanism (including a trustee or agent for the benefit of its lenders).

“Plans” means plans, drawings, and specifications for Current Improvements.

“Private Land Rights” means Land Rights in or to private property which Land Rights are not owned by and do not relate to any real property that lies within any easement or right of way held by the County.

“Project” has the meaning assigned to it in the recitals of the Agreement.

“Repair” and **“Repairs”** refer to the performance of work (or causing the performance of work) on a Designated Road or related appurtenance (including any bridge, culvert, or other fixture upon such Designated Road) in order to repair damage beyond ordinary wear and tear, so as to restore such Designated Road or related appurtenance to the condition it was in prior to such damage, as near as is reasonably practicable; *provided*, however, that Repairs performed by or on behalf of Developer shall not include removal or plowing of snow or routine maintenance activities.

“Significant Fugitive Dust” means dust that creates a nuisance by drifting beyond the boundary of the property on which such dust is raised, it being understood that a nuisance is not created unless a person is significantly and adversely affected and that dust drifting onto a vacant lot, pasture, or field may not be a nuisance.

APPENDIX B

DESIGNATED ROADS

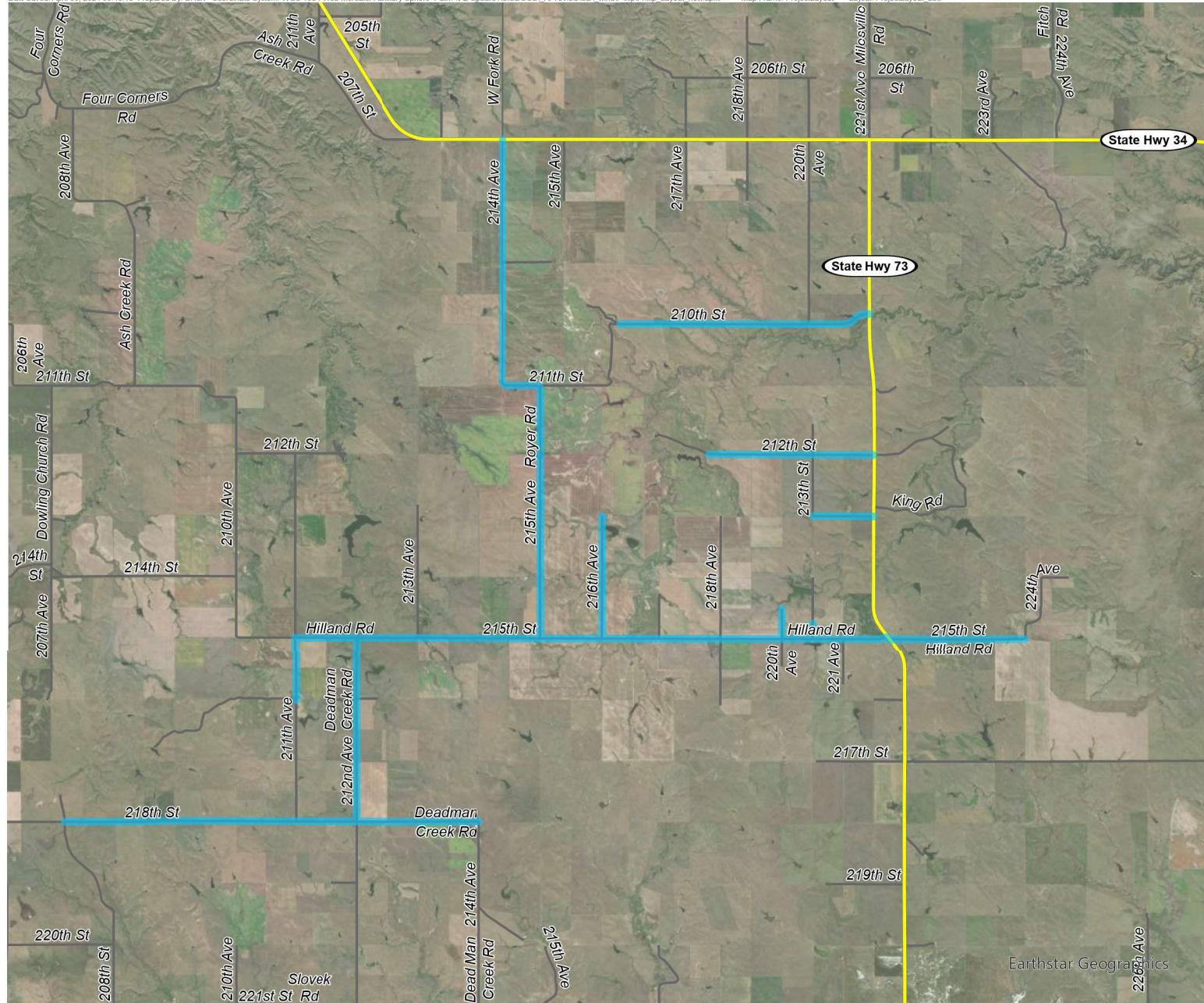
Designated Roads are depicted in the Attachments hereto. No other roads are Designated Roads. State highway(s) may be depicted on Attachments (and, if depicted, may be depicted in red). Nevertheless, State highway(s) are not Designated Roads and are not subject to the Agreement.

The Initial Evaluation shall be a report/survey to be provided by Developer to the County within seven (7) days of completion.

The Developer plans to improve and modify the Designated Roads as necessary to use the Designated roads for purposes of delivering and installing Project components to the planned locations as depicted in Appendix B.

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Map Frame: ProjectLayout Layout: ProjectLayout_Lett



Legend

Designated Road
Road Classification
US/State Route
Local Road

Appendix B - Designated Roads

Philip Wind Energy Center | Haakon County, South Dakota

April 09, 2024

Invenergy

APPENDIX C
DESIGNATED ROADS NOT EVALUATED

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APPENDIX D

REIMBURSEMENT RATES

Labor: With respect to labor used in making Repairs, the County shall be reimbursed for the expense of such labor at the then-prevailing wage rate, as published or provided by the South Dakota Department of Labor and Regulation for the specific type of labor in question and for the most specific region of South Dakota of which Haakon County is a part. If a comparable prevailing wage rate cannot be obtained, the rate shall be equal to the County's actual, reasonable, out-of-pocket cost (without mark-up) for such labor.

Equipment: With respect to equipment used in making Repairs, the County shall be compensated for the use of such equipment at the rates set out in the then-current "Rental Rate Blue Book (Equipment Cost Recovery)", as published by Equipment Watch. Where such rates are stated in monthly terms, such rate shall be prorated to and billed as an hourly rate, where one month equals 176 hours.

Materials: With respect to materials used in making Repairs, the County shall be reimbursed for the expense of such materials at actual, reasonable, out-of-pocket cost (without mark-up).

APPENDIX E

INVOICING PROCEDURES

The County shall invoice Developer in accordance with the invoicing procedures set out below. Invoices shall:

- Identify the invoice as relating to the Agreement for Road Use, Repair, and Improvements, including the Effective Date, between Developer and Haakon County, South Dakota.
- Set out an itemization of the Repairs made and their location, in each case in such detail and with such supporting documentation as are reasonable to permit Developer to verify the invoiced amounts.
- Be addressed to Developer's address set out in the Agreement's notice provision, to the attention of Project Controls.

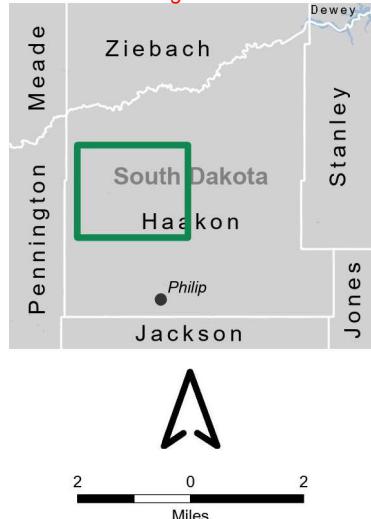
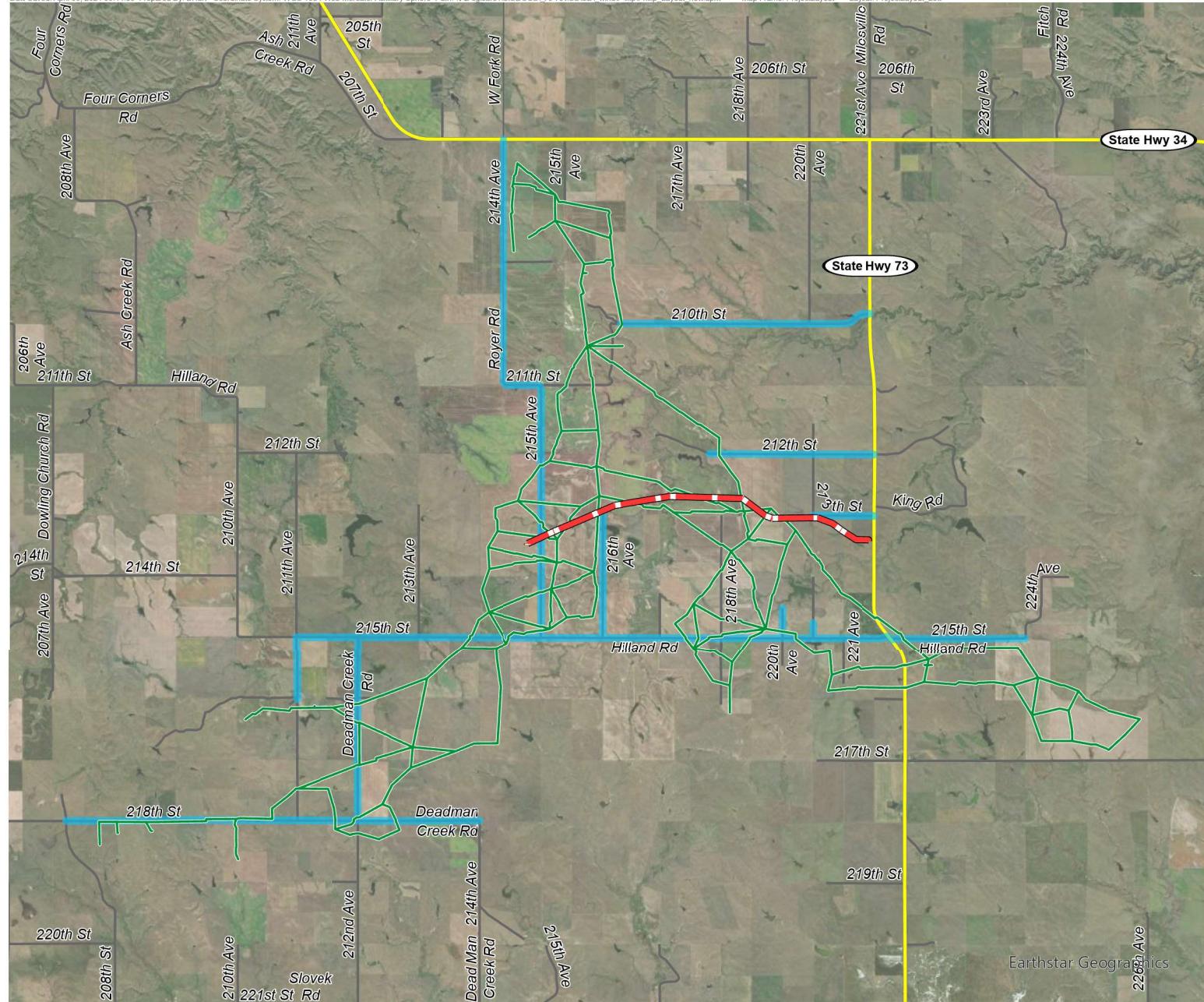
APPENDIX F

Electrical /Communications Installation

The attached map(s) depict routing, construction, and installation of the Electrical/Communications Installation adjacent to, under, or across certain roads.

Date Saved: April 09, 2024 09:44:30 Prepared By: BHurt Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere Path: \VAz-cgisarc1\GISDOCS\APRX\US\SD\wind\Philip\Philip_Layout_new.aprx

Map Frame: ProjectLayout Layout: ProjectLayout_Lett



Appendix F - Electrical/Communications Installation

Philip Wind Energy Center | Haakon County, South Dakota

April 09, 2024

Invenergy

APPENDIX G

PAYMENT SECURITY

Anticipated Restoration	= Miles	x Cost per Mile	= Total Cost
Surface Gravel Road	39	\$25,000	\$975,000

The anticipated restoration items and Payment Security will be determined by the County and the County's Engineer, based on the Designated Roads approved by the County.

SHADOW FLICKER WAIVER

Philip Wind Partners LLC (“Philip Wind”) intends to construct the Philip Wind Project (the “Project”) to be located in Haakon County, South Dakota.

Tobin C. Kroetch and Amy J. Kroetch (“Landowner”) and Philip Wind entered into a Wind Energy Lease and Wind Easement Agreement, dated effective as of May 3, 2022, and the associated Memorandum of Lease Agreement, dated effective as of May 3, 2022, was recorded on May 20, 2022, as Document No. 22-195 (the “Wind Lease”). Pursuant to the Wind Lease, Landowner granted to Philip Wind an easement for the construction, operation, and maintenance of the Project over a portion of the real property, described as follows:

**Township 4, Range 20 East of the Black Hills Meridian, Haakon
County, South Dakota: Section 29: NW 1/4**

(the “Property”).

The Project is a wind energy facility and consists of wind turbines and other associated components. When the wind turbine blades rotate and pass in front of the sun, a flickering or flashing effect may occur when the shadows of the rotating blades cause alternating changes in light intensity at a given stationary location, such as the window of a home. This is called shadow flicker, and can be a temporary phenomenon experienced at nearby residences.

Shadow flicker is not regulated in applicable county, state, or federal law. It is possible operation of the Project may result in shadow flicker levels that may reach up to 35 hours per year at a residence located on Landowner’s Property.

By signing this Shadow Flicker Waiver, Landowner acknowledges and confirms that: (1) Landowner owns a currently occupied residence located on the Property; (2) Landowner understands operation of the Project may result in shadow flicker levels that may reach up to 35 hours per year at Landowner’s residence; and (3) Landowner has no objection to the construction and operation of the Project, including potential shadow flicker from the Project up to 35 hours a year.

Dated this 7 day of November, 2024.

LANDOWNER:

Signature: Philip C Kratch

Print Name: Tobin C Kratch

Address: 21795 Hilland Road
Philip, South Dakota 57567

Telephone: 605-441-1639

LANDOWNER:

Signature: Amy J Kratch

Print Name: Amy J. Kratch

Address: 21795 Hilland Road
Philip, South Dakota 57567

Telephone: 605-441-2700

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

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

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**PHILIP WIND PARTNERS, LLC'S
RESPONSES TO STAFF'S SECOND
SET OF DATA REQUESTS**

EL25-029

Philip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s Second Set of Data Requests in the above-captioned matter.

2-1) At the public input meeting in Philip, SD on October 2, 2025, Mr. Mark Nelson stated a concern that wind turbine blades are shedding microplastics and bisphenol A (“BPA”), citing studies from Norway and Denmark.

a) Please provide the Applicant’s position on the studies, with supporting documentation.

Lisa Agrimonti: Philip Wind objects to this request as being vague and ambiguous because “the studies” is not defined and Mr. Mark Nelson did not submit any additional information in the docket to identify the study or studies he was referencing. Similarly, Ms. Deborah Delbridge submitted a comment dated October 15, 2025 and generally referenced a concern about blade shedding without providing any specific facts regarding blade shedding. As such, Applicant is being asked to respond to undefined studies and assertions. Subject to and without waiving these objections, Philip Wind provides the response below.

Brianna Gries: Microplastics are generally defined as minuscule pieces of plastic smaller than 5 millimeters in diameter. Microplastics are present in many aspects of human life, and in many household goods and appliances used every day, such as clothing, makeup, containers, and cups. Microplastics can be considered “primary” (plastic that is intentionally designed as microplastic, such as microbeads added to personal cosmetic products) or “secondary” (those that come from the disintegration of larger plastic products, such as plastic wrap, containers, and clothing). Secondary microplastics are extremely common in everyday life and are introduced into the environment when plastic-containing products degrade or shed during routine use.

These products include marine coatings and car tires. It is estimated that car tires shed 6 million tons of microplastics globally each year.¹

Blades of wind turbines contain non-toxic protective coatings with negligible amounts of BPA that are specifically designed to have high resistance to weathering. American Clean Power determined that “the extremely low potential for BPA emissions from wind turbine blades does not pose a risk to the environment or people and is much lower compared to what the U.S. Food and Drug Administration has approved for human exposure from food and beverage packaging.”²

- b) Have any environmental agencies in the United States issued an opinion on this concern? If yes, please provide.

Brianna Gries: Philip Wind is not aware of any U.S. federal or state environmental agencies (such as the U.S. Environmental Protection Agency, National Oceanic and Atmospheric Administration, or any state-level environmental protection agencies) that have issued formal opinions or guidance specifically addressing microplastics or BPA shedding from wind turbine blades.

- c) Has there been any studies to determine how far microplastics or BPA shed from turbine blades may be carried? If yes, please provide.

Brianna Gries: Philip Wind is not aware of any peer-reviewed studies or U.S. agency reports that specifically quantify the distance microplastics or BPA particles from wind turbine blade erosion may travel. Available research instead focuses on erosion rates and total quantities shed, rather than dispersion modeling. However, due to the microscopic size and minimal volume, any particles released are expected to settle near the turbine site rather than disperse over long distances. No evidence suggests that BPA or fiberglass particles are transported beyond localized areas.

- d) Please explain why the Commission should not require a bond to remediate the land near the Project Area of microplastics or BPA.

Lisa Agrimonti: The Commission should not require any bond because there is no factual support in this record for imposing such a requirement. Two members of the public generally raised this topic in comments but provided no evidence to support a conclusion that the Project will result in microplastics or BPA in the Project Area in

¹ Giechaskiel B, Grigoratos T, Mathissen M, Quik J, Tromp P, Gustafsson M, Franco V, Dilara P, *Contribution of Road Vehicle Tyre Wear to Microplastics and Ambient Air Pollution*, Sustainability, 2024; 16(2):522, available at <https://doi.org/10.3390/su16020522>.

² *Claims vs. Facts: Microplastics ad BPA in Wind Turbine Blades*, American Clean Power, available at <https://cleanpower.org/resources/microplastics-and-bpa-in-wind-turbine-blades/>.

volumes that would necessitate remediation. Similarly, there is no way to measure current levels of microplastics/BPA in the Project Area. In short, Philip Wind does not support a condition regarding blade shedding of microplastics. The Commission has issued permits for 16 wind farms without such a requirement and there is no evidence in the record to support regarding remediation of microplastics.

2-2) Refer to Page 32 of the Application. The Applicant states that “final haul routes will be selected in consultation with the Haakon County Road Department.” Has the final haul route been determined? If yes, please provide. If not, when does the Applicant expect to finalize the route.

Brianna Gries: Final haul routes have not been determined. Philip Wind anticipates it will finalize the haul routes approximately 4 weeks prior to construction in coordination with Haakon County.

2-3) Refer to the Response to Data Request 1-4. Please clarify whether four turbines were removed as stated in the Application or two turbines removed as stated in the response to Data Request 1-4.

Michelle Phillips: Four turbines were removed. The response erroneously referred to two turbines being removed.

2-4) Refer to the Response to Data Request 1-5. Besides the RUA, did Haakon County provide any feedback that the Applicant incorporated into the Project design? If yes, please identify. Specifically, did Haakon County provide any guidance on setbacks, sound limits, or shadow flicker limits? Please elaborate.

Alex Chandler: Haakon County officials did not request any specific changes, but recommended that impacts to the Morrison residence be minimized. Philip Wind explained that it designed the Project to comply with all applicable state requirements and industry standards for setbacks, sound, and shadow flicker, consistent with best practices for minimizing potential impacts to nearby residences and communities.

2-5) Refer to the Response to Data Request 1-6. Were the seven turbines listed removed, or were they shifted to broken grasslands? Please explain.

Michelle Phillips: All seven turbines were removed.

2-6) Refer to the Response to Data Request 1-18. Can the Applicant commit to utilizing either the Nordex or Vestas models for the Project, and eliminate the GE turbine model from consideration? Please explain.

Alex Chandler and Teddy Hines: At this time Philip Wind cannot eliminate the GE turbine model from consideration. Until an offtake agreement and a turbine supply agreement are executed, Philip Wind needs to have the flexibility to select among multiple turbine technologies based on multiple factors including, but not limited to, price, availability, and offtaker preference.

2-7) Refer to the Response to Data Request 1-21. Please provide the specific date the Applicant will provide an updated transmission line route to the Commission.

Alex Chandler: Philip Wind expects to provide an updated transmission line route based on landowner feedback by January 16, 2026. All landowners within a half mile of the re-route have received notice of the Project.

2-8) Refer to the Response to Data Request 1-23(a). The Applicant states that “Philip Wind anticipates filing for approval of the ADLS in December of 2026. Philip Wind anticipates that the necessary approvals would be obtained in July of 2026.” Did the Applicant intend to say that necessary approval will be obtained in July of 2026, or July of 2027? Please explain.

Teddy Hines: July 2026. The reference to December 2026 in response to Data Request 1-23(a) was in error. Philip Wind intends to submit its request to the FAA in January 2026 (previously expected in December 2025). In that request, Philip Wind will seek a single location that will support the entire project. A map showing the single location is provided in Exhibit 2-8. The new ADLS location is on an upland area, on property leased for the Project. No historical or cultural resources will be impacted and documented habitats for listed species will be avoided.

Tetra Tech, Inc. conducted a historical and cultural resources review, including a pedestrian survey and concluded there are no cultural or architectural resources of significance that would be impacted by the installation or operation of the ADLS system at this location. Tetra Tech’s report will be submitted when completed.

2-9) Refer to the Responses to Data Requests 1-18(b) and 1-31. Is turbine location T4 expected to be a lower wind resource turbine? If no, please explain why location T5 is expected to be a low wind resource and location T4 is not expected to be a low wind resource.

2-10) Are Receptors R-005, R-007, and R-022 the only non-participating residences with a turbine less than 0.75 miles from their residence? If no, please identify what additional non-participating residences have a turbine less than 0.75 miles from their residence.

Teddy Hines: Yes, those are the only three non-participating residences with a turbine less than 0.75 miles from a residence.

2-11) Is the Applicant required to provide notice to a telecommunications company in accordance with SDCL 49-32-3.1? If yes, please identify the affected telecommunications company and summarize what notice and coordination has occurred to date.

Brianna Gries: Golden West Telecommunications Cooperative, Inc. (“Golden West”) is the only telecommunications company within the Philip Wind Project Boundary. Philip Wind has initiated engagement with Golden West by sending a draft crossing agreement for review. The Applicant will continue to coordinate with Golden West in accordance with SDCL §49-32-3.1 after receiving Permits from the SDPUC, if issued, and prior to the conclusion of planning for construction of the Project, pursuant to the statute.

Dated this 2nd day of January, 2026.

By /s/ *Lisa M. Agrimonti*

Lisa M. Agrimonti (#3964)
Haley L. Waller Pitts (#4988)
FREDRIKSON & BYRON, P.A.
60 South Sixth Street
Suite 1500
Minneapolis, MN 55402-4400
(612) 492-7344
lagrimonti@fredlaw.com
hwallerpitts@fredlaw.com

Attorneys for Phillip Wind Partners, LLC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

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**PHILIP WIND PARTNERS, LLC'S
SUPPLEMENTAL RESPONSE TO
STAFF'S DATA REQUEST 2-7**

EL25-029

Phillip Wind Partners, LLC ("Philip Wind" or "Applicant") provides the following supplemental response to Staff's Data Request 2-7 in the above-captioned matter.

2-7) Refer to the Response to Data Request 1-21. Please provide the specific date the Applicant will provide an updated transmission line route to the Commission.

Alex Chandler: Philip Wind expects to provide an updated transmission line route based on landowner feedback by January 16, 2026. All landowners within a half mile of the re-route have received notice of the Project.

Philip Wind's Supplemental Response by Alex Chandler: Philip Wind has completed refinement of the Gen-Tie Line route based on landowner input and will provide the revised Gen-Tie Line route to the Commission by January 16, 2026. The revised Gen-Tie Line alignment is shown in Figure A-2, Rev. 1, attached to this filing.

The revised Gen-Tie Line route is approximately 5.5 miles in length—shorter than the prior ~6-mile routing—and has been realigned to follow section lines and the edges of actively cultivated farm fields. This routing change reduces potential impacts to agricultural operations, minimizes new ground disturbance, and reflects preferences expressed by participating landowners. All landowners within one-half mile of the revised Gen-Tie Line route have been notified of the Project and the revised Gen-Tie Line route, covering the segments overlapping or adjacent to areas previously surveyed.

Dated this 16th day of January, 2026.

By */s/ Lisa M. Agrimonti*

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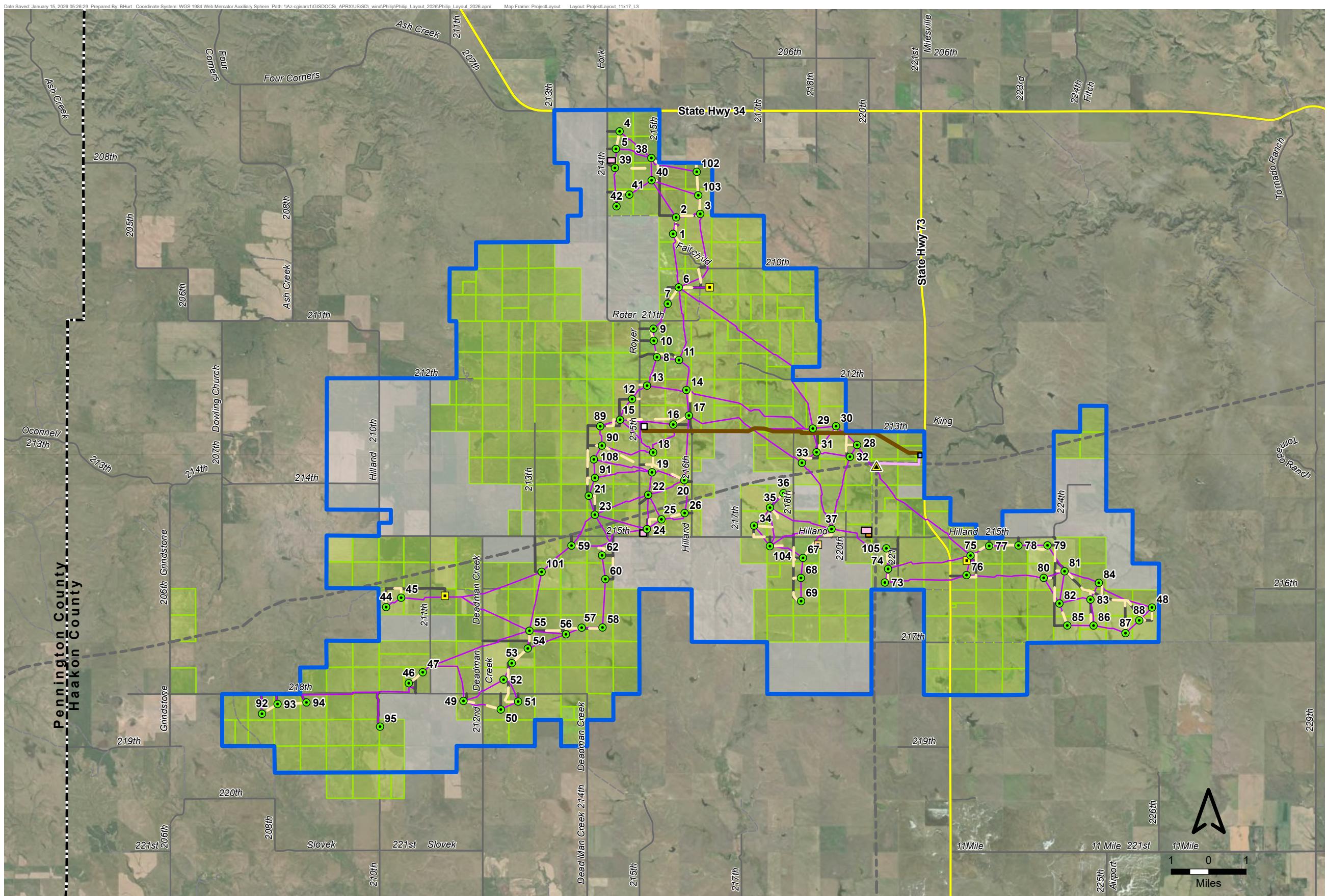


Figure A-2 Rev.1 - Project Layout Map

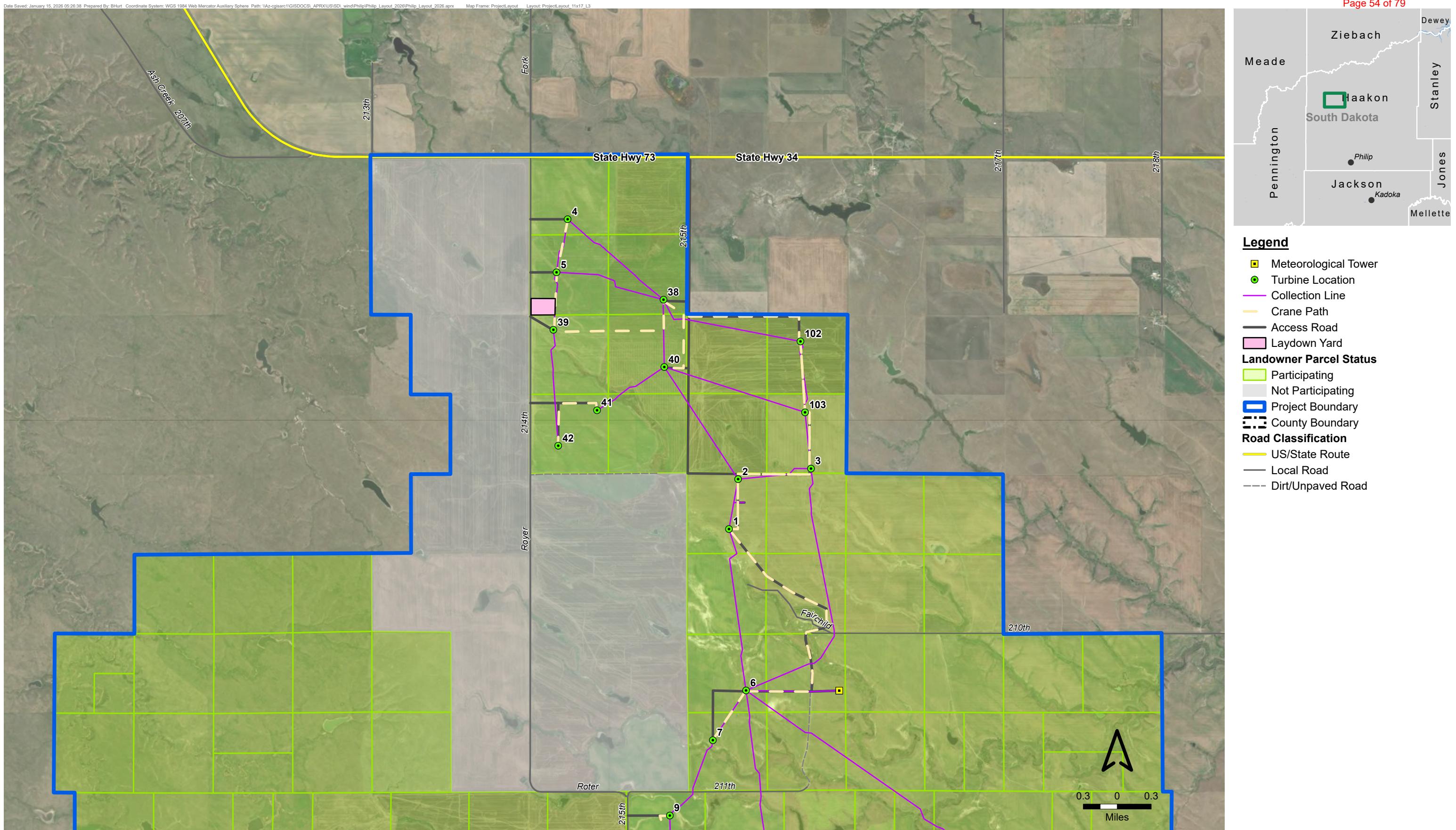


Figure A-2 Rev.1 - Project Layout Map

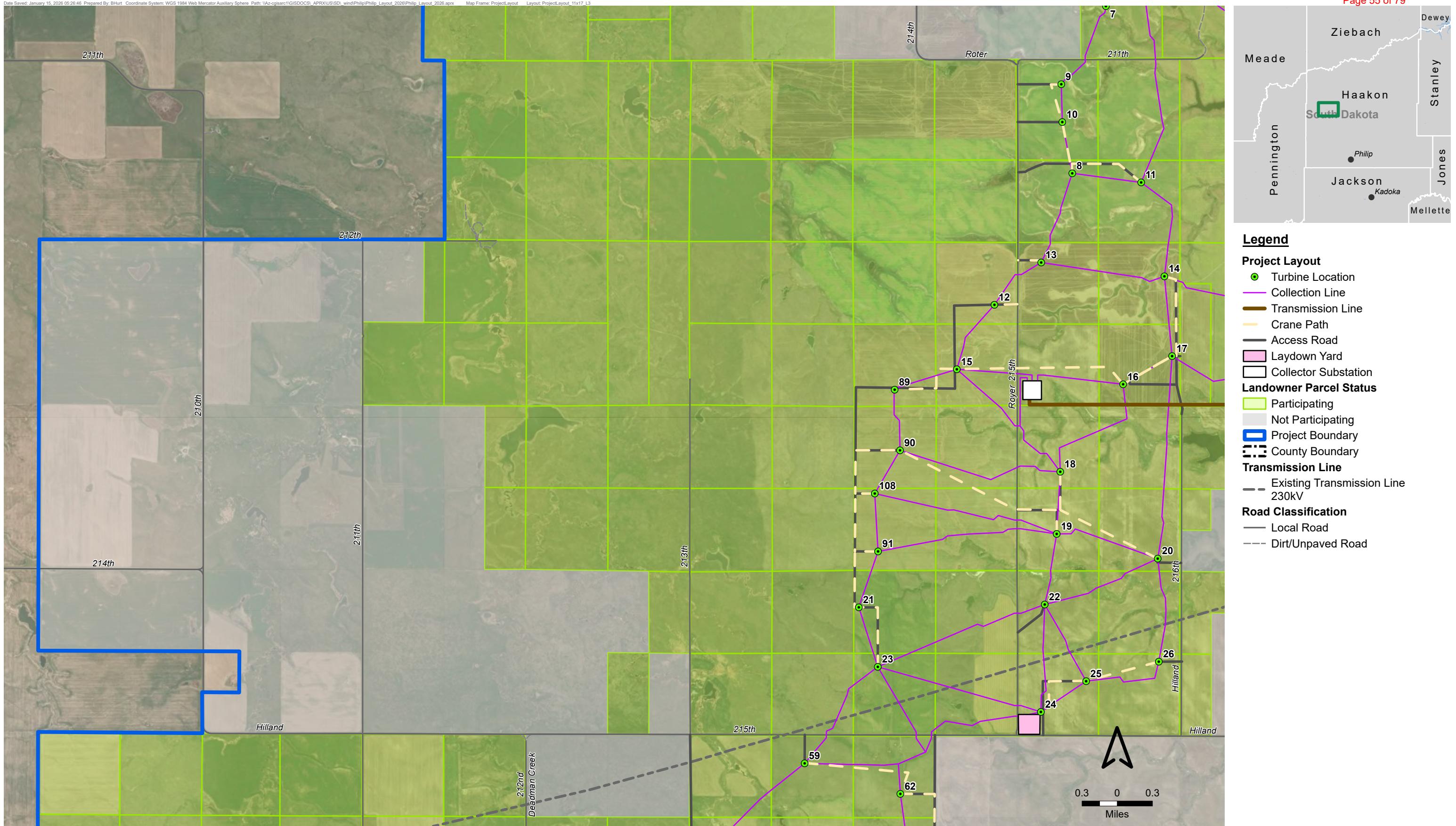
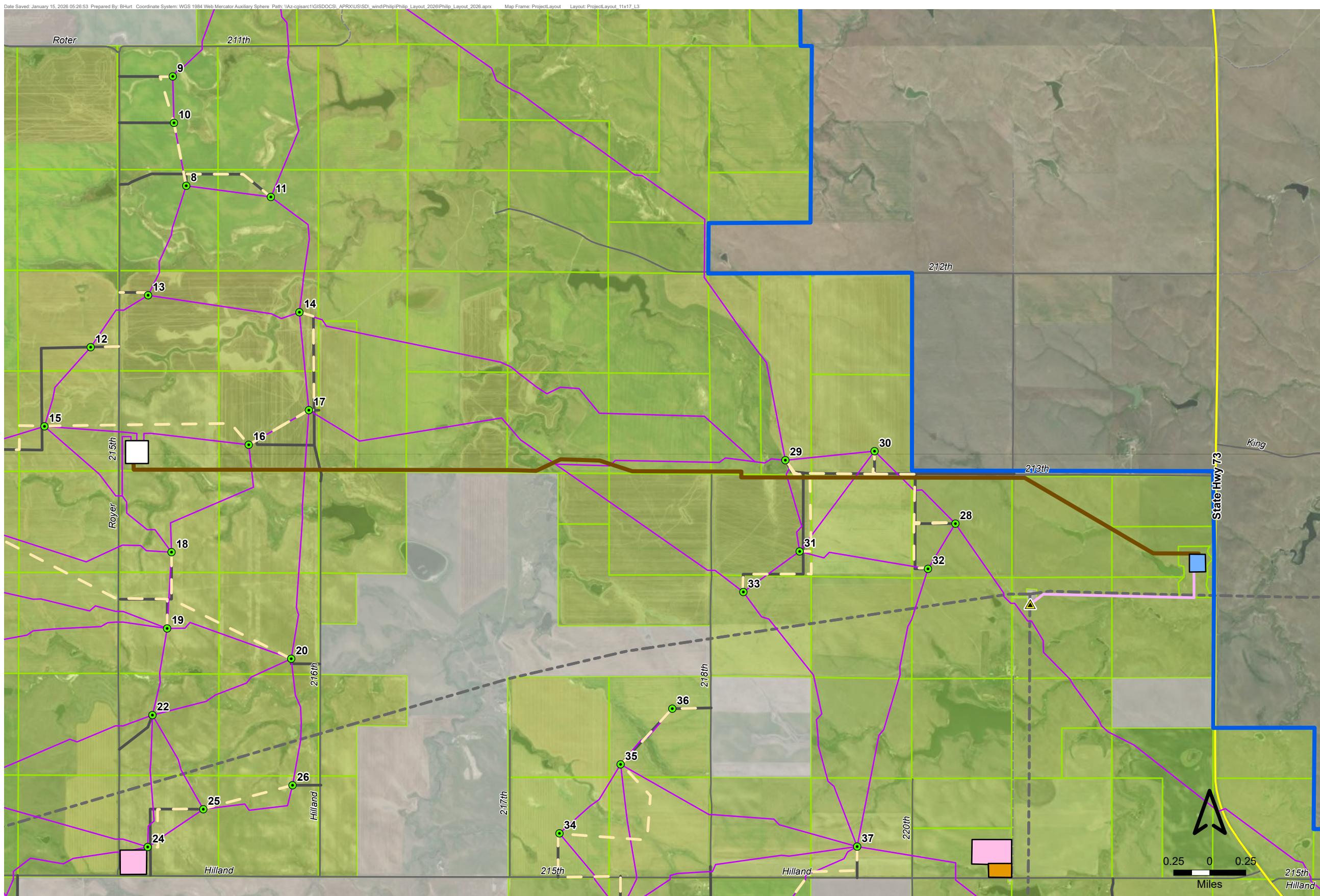


Figure A-2 Rev.1 - Project Layout Map



Legend

Project Layout

- Turbine Location
- Philip Tap Location
- Collection Line
- Transmission Line
- Basin Line
- Crane Path
- Access Road
- O&M Building
- Laydown Yard
- Interconnection Switchyard
- Collector Substation

Landowner Parcel Status

- Participating
- Not Participating
- Project Boundary
- County Boundary

Transmission Line

- Existing Transmission Line 230kV

Road Classification

- US/State Route
- Local Road
- Dirt/Unpaved Road

Figure A-2 Rev.1 - Project Layout Map

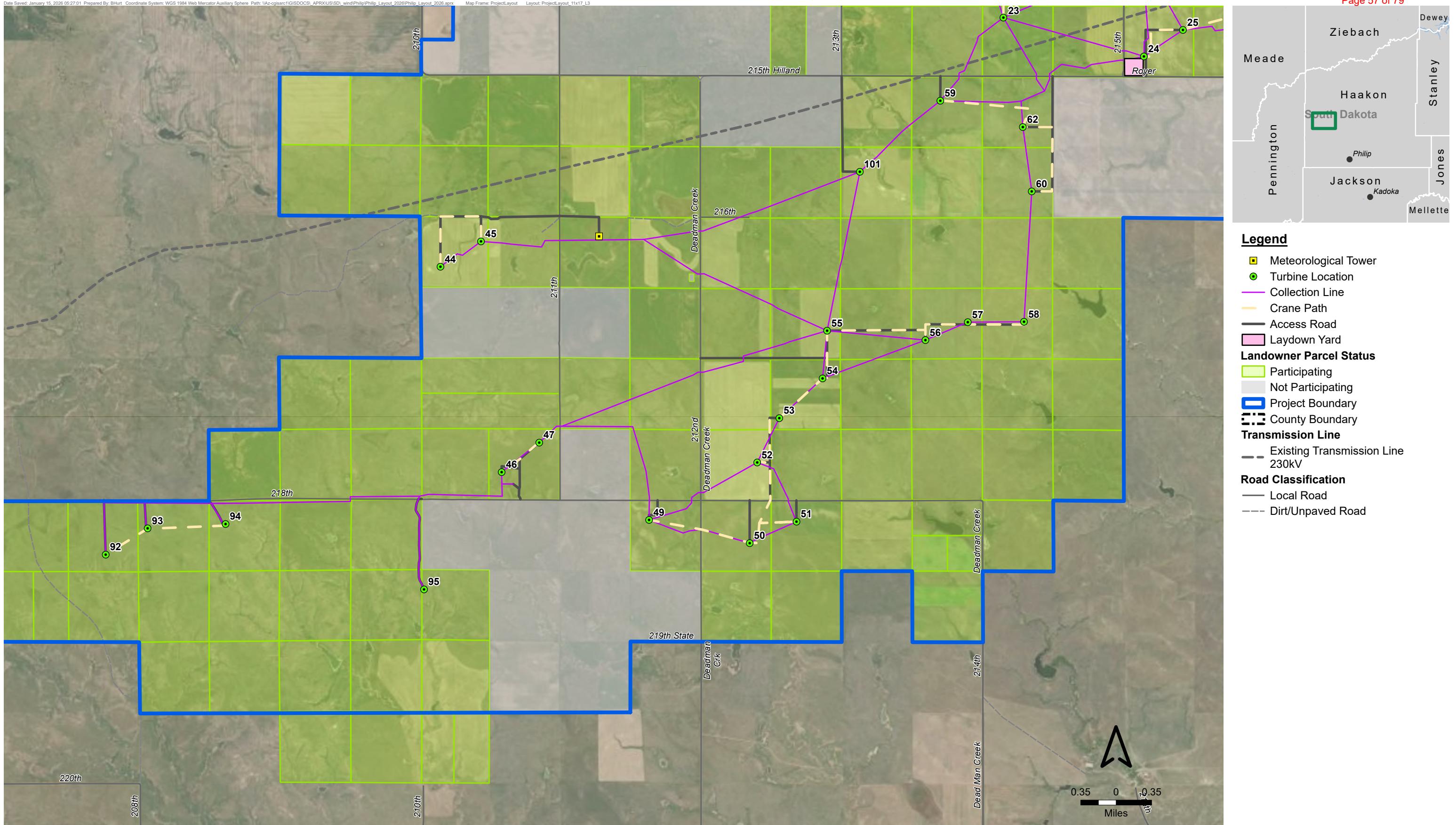


Figure A-2 Rev.1 - Project Layout Map

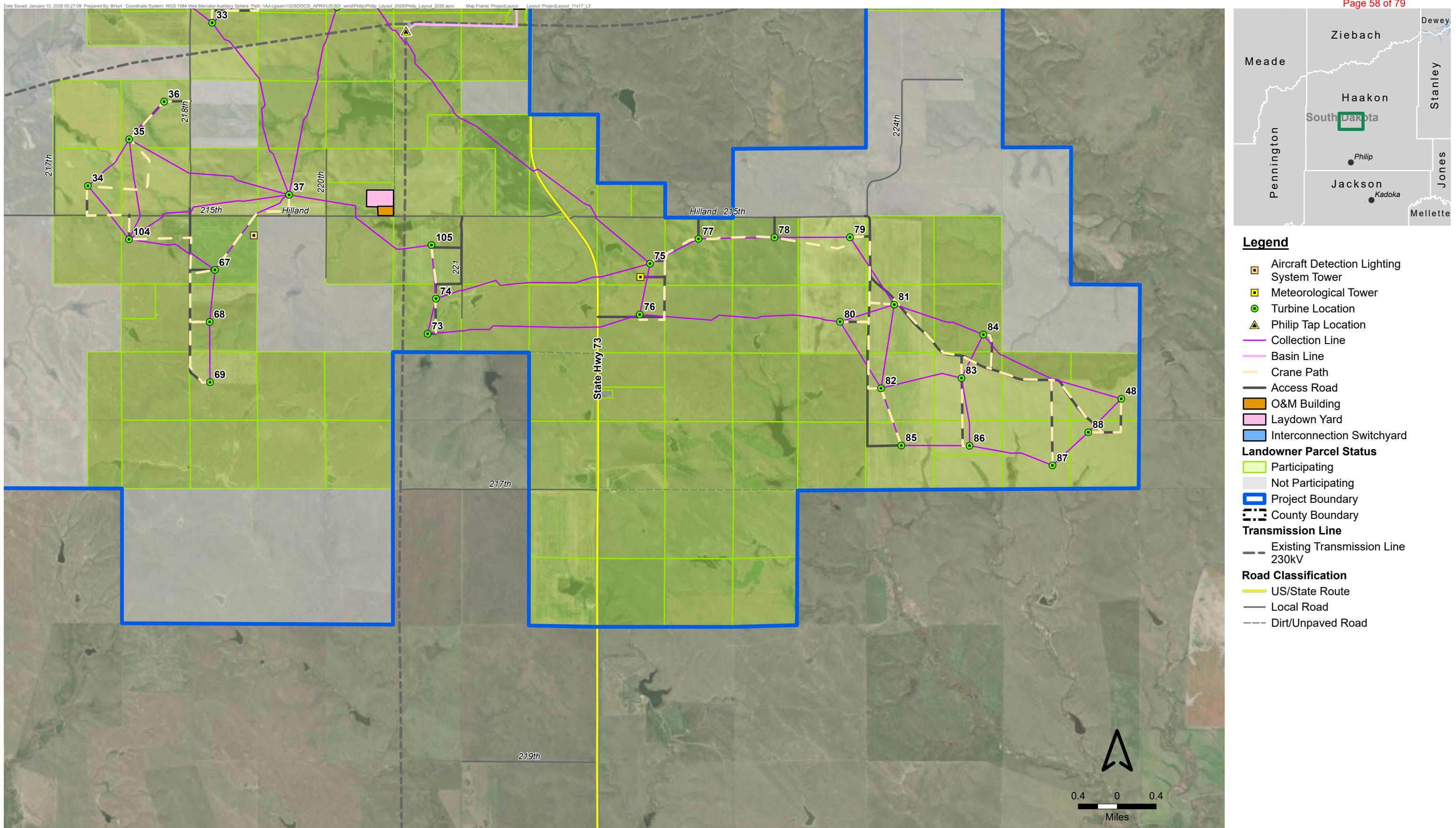


Figure A-2 Rev.1 - Project Layout Map

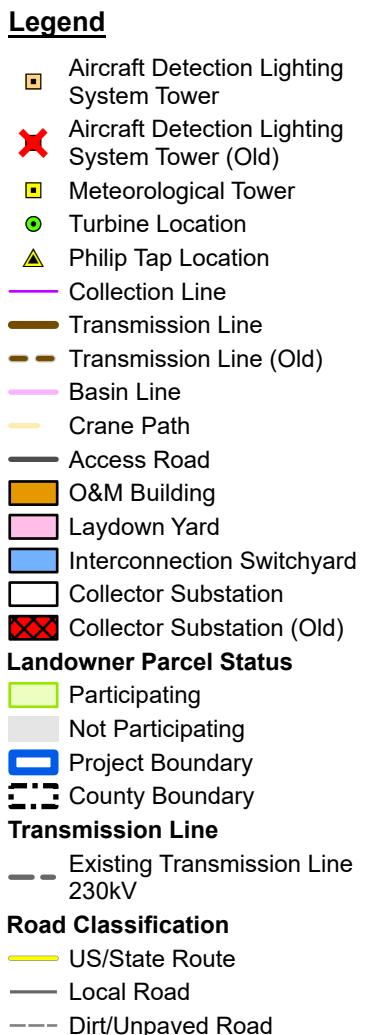
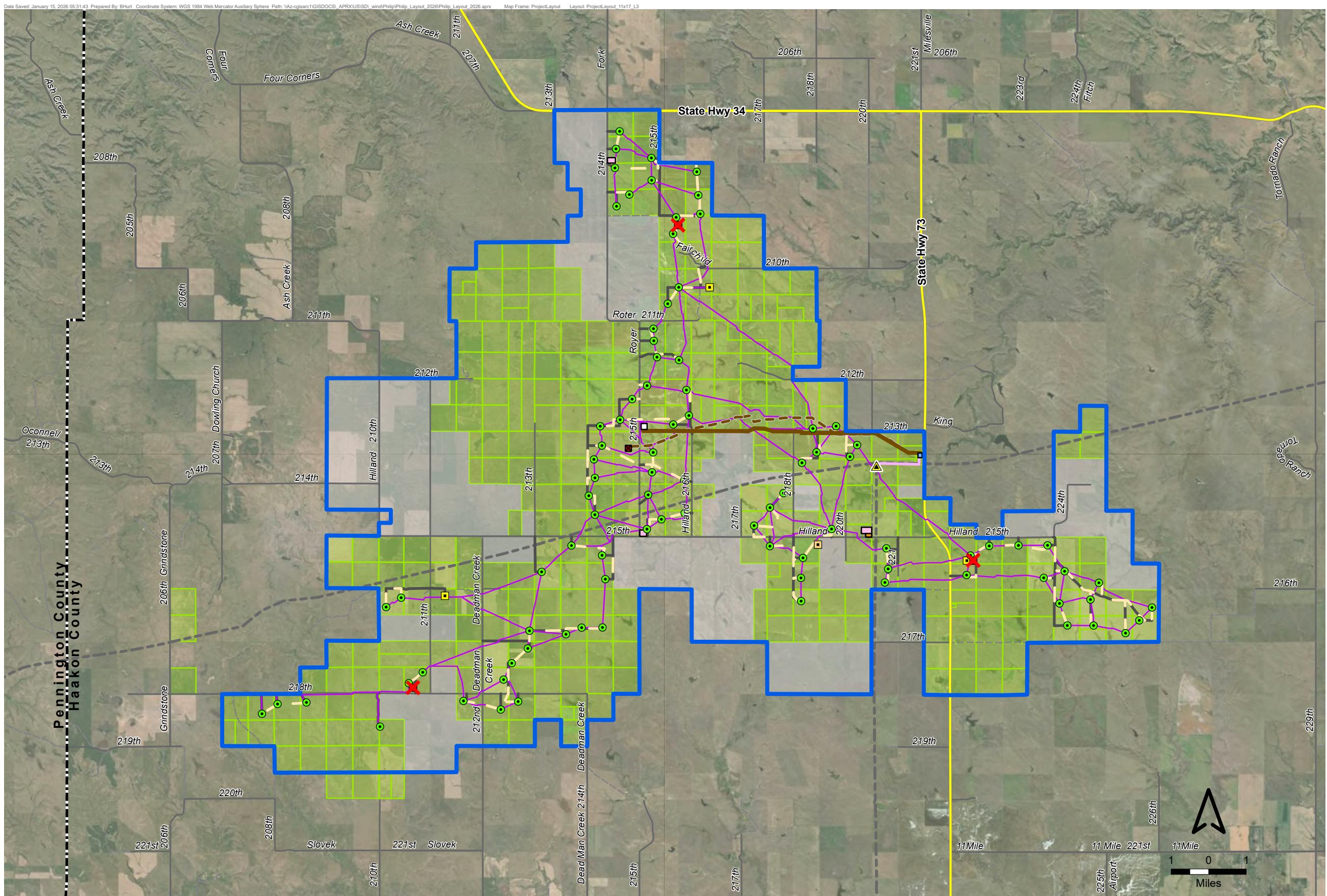
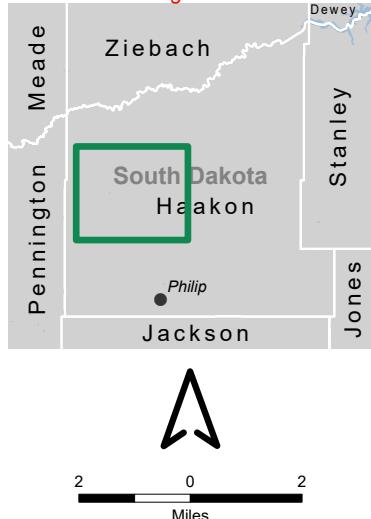
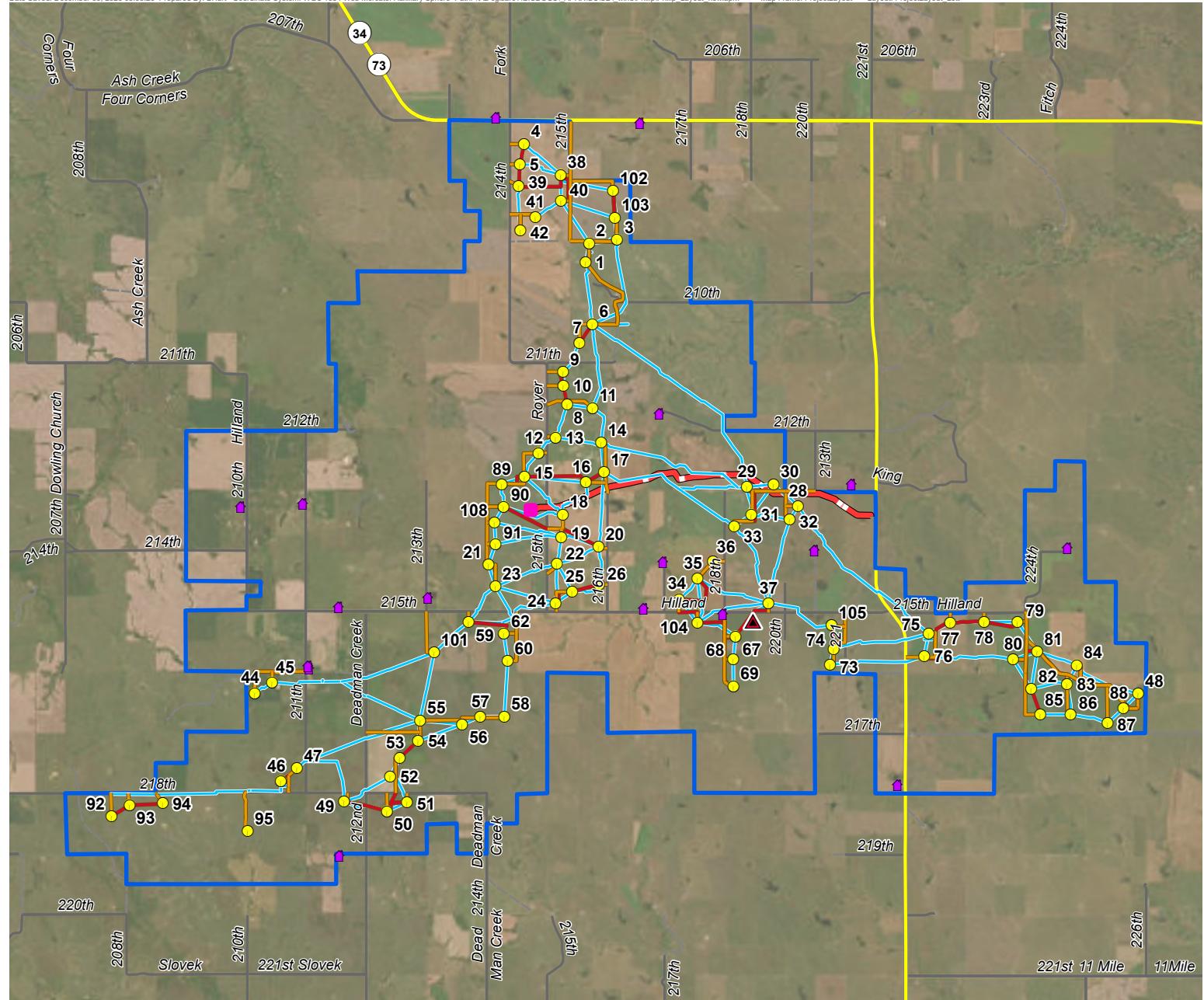


Figure A-2 Rev.1 - Project Layout Map - Changes

Date Saved: December 30, 2025 05:08:26 Prepared By: BHurt Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere Path: \IAz-cgisarc1\GISDOCS\APRXIUS\SDI\wind\Philip\Philip Layout new.aprx

Frame: ProjectLayout Layout: ProjectLayout_Lett



Project Layout with Updated ADLS Location

Philip Wind Energy Center | Haakon County, South Dakota

December 30, 2025

Invenergy

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

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

PHILIP WIND PARTNERS, LLC'S RESPONSES TO STAFF'S THIRD SET OF DATA REQUESTS

EL25-029

Phillip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s Second Set of Data Requests in the above-captioned matter.

3-1) Refer to Page 34 of the Application. The Applicant states that “Philip Wind will communicate regularly with local first response agencies and coordinate training meetings in accordance with the Project’s Emergency Response Plan (ERP) once established. Should any aspect of the Project construction or operations present unfamiliar situations for first responders, Philip Wind will arrange for adequate professional training to address those concerns.”

a) When does the Applicant expect to finalize its Emergency Response Plan?

Teddy Hines: Philip Wind will have two Emergency Response Plans (ERPs): one for construction and one for operations. Philip Wind and the Engineering, Procurement and Construction (EPC) contractor will prepare the construction ERP in coordination with Philip Wind and will be finalized 30–60 days prior to the start of construction. The operations ERP will be created by Philip Wind and finalized 30–60 days prior to COD.

b) Does the Applicant have a draft available to review?

Teddy Hines: A draft ERP has yet to be made specifically for Philip Wind. Invenergy Services has an Emergency Response Plan template that is attached as Exhibit 3-1. Some of the content in the template may need to be adjusted for project-specific needs.

c) What type of training has the Applicant provided to first responders for other wind energy projects?

Teddy Hines: Invenergy meets with local first responders to review rescue procedures and familiarize them with wind project infrastructure. Invenergy also conducts an

annual mock rescue drill with local first responders, which provides safety training for both Invenergy personnel and the responders.

3-2) Refer to Page 37 of the Application. The Applicant states that “the transmission facility may remain in use or be repurposed after the operational life of the wind energy facility.” Please elaborate why or how the gen tie may remain in use or be repurposed after the operational life of the wind energy facility.

Teddy Hines: While it is not possible to predict with certainty what circumstances may exist and the end of the operational life of the wind energy facility, one of the potential scenarios is that the gen tie might be used for a repowered or new wind energy facility or other generator to connect to the transmission grid.

3-3) Refer to Page 39 of the Application. The Applicant states that “Phillip Wind performed a comprehensive analysis incorporating the following data: Turbine locations from operational wind energy facilities in the area and respective turbine technology power curves.” Please explain how turbine locations from operational wind energy facilities in the area factored into the analysis.

Teddy Hines: When developing any wind project, including Philip Wind, engineers review the locations of other wind turbines in the area for potential wake effect. The investigation for Philip Wind showed that wind farms are located far enough away that any external wakes would not have any impact on the Project’s energy production.

3-4) Refer to Page 39 of the Application. The Applicant states that “the Switchyard’s location would be approximately 1 mile east of the existing Philip Tap (see Figure A-2 in Appendix A), which is the interconnection point for the Basin Electric 23-kV transmission line to WAPA’s Oahe to New Underwood 230-kV transmission line.” Is the Basin Electric transmission line referenced above 23-kV? If no, please clarify.

Teddy Hines: No. Basin Electric’s transmission line to Philip Tap is 230 kV.

3-5) Refer to Page 40 of the Application. The Applicant states that “comment submissions were received by two landowners during public scoping and the public comment review period for the Draft EA.” Please provide a copy of those comment submissions.

Alex Chandler: The Application reference is to two commenters who identified themselves as landowners with concerns. These consist of: (1) verbal comments made by one landowner during the public scoping meeting, which appear in WAPA’s Appendix J – Public Involvement noted as private citizen, submission ID 007. Appendix J of the Environmental Assessment (EA) is provided Appendix I of the Application. And (2) written comments submitted by a married couple via a Draft EA comment form. Philip

Wind does not have a copy of the comment form, but is aware that the comment raised questions regarding responsibility for livestock losses (00401).

3-6) Refer to Page 40 of the Application. Did the Tribes participate in the 2023 cultural resource surveys? If so, which Tribes. If not, please explain.

Alex Chandler: Tribal Cultural Specialists (TCSs) from four federally recognized Tribes, consisting of the Standing Rock Sioux Tribe, Rosebud Sioux Tribe, Cheyenne River Sioux Tribe, and Northern Cheyenne Tribe, participated in the 2023 survey effort. Full details of the survey are detailed in section 3.10.1.2 of the Project EA (Appendix I of the Application). The 2018 cultural survey effort included TCSs from the Rosebud Sioux Tribe, the Standing Rock Sioux Tribe, the Cheyenne River Sioux Tribe, and the Santee Sioux Nation; these tribes were all invited to participate in the 2023 survey as well.

3-7) Refer to Page 40 of the Application. Regarding the City of Philip staff engagement, which topics were of the interest to the City of Philip? Please explain.

Alex Chandler: Brittany Smith, the Philip City Administrator expressed interest in Philip Wind safety protocols, how our operating projects provide training to local EMS and first responders, and how the Project will benefit the local school.

3-8) Refer to Page 41 of the Application. The Applicant states that “the Project Area and facility locations have been refined to further avoid and minimize impacts to sensitive resources, while complying with state and county siting requirements.” What county siting requirements is the Applicant referring to? Please explain.

Brianna Gries: Haakon County is unzoned. This is a general statement about how the Project approached compliance. There are no applicable county requirements.

3-9) Refer to Figure A-6 and ARSD 20:10:22:14. Are there major subsurface variations of geological features in the siting area? If yes, please provide a map showing sufficient cross-sections to depict subsurface variations.

Teddy Hines: There are no major subsurface variations or significant changes in geological units within the siting area. The Project Area is characterized by relatively consistent geology, where layers of sandstone and shale are overlain by thin surficial unconsolidated sediments. These overlying sediments consist of Eolian Deposits, which are primarily composed of clay and generally range from approximately 5 to 15 feet in thickness. Given the uniformity of these subsurface conditions, no additional cross-sectional mapping is required for the project.

Dated this 12th day of January, 2026.

By */s/ Lisa M. Agrimonti*

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Attorneys for Phillip Wind Partners, LLC

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

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

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**PHILIP WIND PARTNERS, LLC'S
RESPONSES TO STAFF'S FOURTH
SET OF DATA REQUESTS**

EL25-029

Phillip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s Fourth Set of Data Requests in the above-captioned matter.

4-1) Pursuant to ARSD 20:10:22:15, provide a map drawn to scale of the wind energy and transmission site showing surface water drainage patterns before and anticipated patterns after construction of the facility.

Teddy Hines: Please see Exhibit 4-1a. This map reflects the drainage for both before and after construction of the facility, as the Project infrastructure is not expected to affect drainage patterns at the site.

4-2) Refer to Page 87 and Appendix Q of the Application. The Applicant states that “Philip Wind plans to conduct postconstruction mortality monitoring, which is described in detail in the Project Bird and Bat Conservation Strategy. The Applicant appears to make a commitment of 1-year post-construction monitoring in Appendix Q, but proposes to undertake a minimum of two years of monitoring in Condition 49 of Appendix B. Please clarify whether the Applicant is committing to perform one or two years of postconstruction mortality monitoring.

Michelle Phillips: Philip Wind intends to perform two years of avian and bat mortality studies: one in year 1 after the Project is operational and a second to occur seven years later in year 8 after the Project is operational. In addition, Philip Wind agreed with WAPA that it will conduct bat monitoring in year 15, 22 and 29. *See* Section 6.1 of the Project Bird and Bat Conservation Strategy (Appendix Q of the Application).

4-3) Refer to Page 88 of the Application. The Applicant states that “Philip Wind developed and will implement a whooping crane monitoring and contingency plan (Appendix R) to minimize potential impacts to whooping cranes during Project construction and O&M.” Did the Applicant consult with the South Dakota Game, Fish, and Parks on the plan? If

no, would the Applicant commit to consult with the South Dakota Game, Fish, and Parks on the plan and incorporate changes, if needed? Please explain.

Michelle Phillips: Philip Wind engaged with agencies throughout the Environmental Assessment process. The coordination was overseen by WAPA. SDGFP provided comments on the whooping crane during the EA scoping process and Philip Wind developed its whooping crane monitoring and contingency plan in cooperation with WAPA. Given that the plan was developed as part of the EA process in which SDGFP participated, Philip Wind does not believe that further coordination is needed.

4-4) Refer to Page 91 of the Application. The Applicant states that “vehicle speeds will be limited to 25 mph to avoid wildlife collisions.” Please elaborate where vehicle speeds will be limited to 25 mph in or near the Project Area.

Teddy Hines: The 25 mph limit applies to the access roads built by Philip Wind. Vehicles will follow posted speed limits on all public roads.

4-5) Refer to Page 91 of the Application. The Applicant states that “a mitigation offset for potentially impacted whooping crane stopover habitat (5 acres) will be implemented by a third party prior to an interconnect.” Please elaborate on and provide the status of the mitigation offset commitment. Will the offset be provided near the Project Area? Please explain.

Michelle Phillips: Philip Wind commits to fund 5 acres of wetlands offsets through a third-party mitigation provider that will independently acquire and manage the mitigation habitat within the South Dakota 95% whooping crane corridor and within the top five deciles of the Niemuth et al. (2018) model, or any 5 wetland acres within the South Dakota 50% whooping crane corridor. The third-party mitigation provider shall be responsible for protecting the wetlands in perpetuity and may include existing, restored, or created wetlands. Philip Wind’s selection of a third-party mitigation provider and associated location is pending. Documentation of funding by the Project to the third-party mitigation provider will be provided to WAPA prior to Project interconnection.

Dated this 15th day of January 2026.

By /s/ *Lisa M. Agrimonti*

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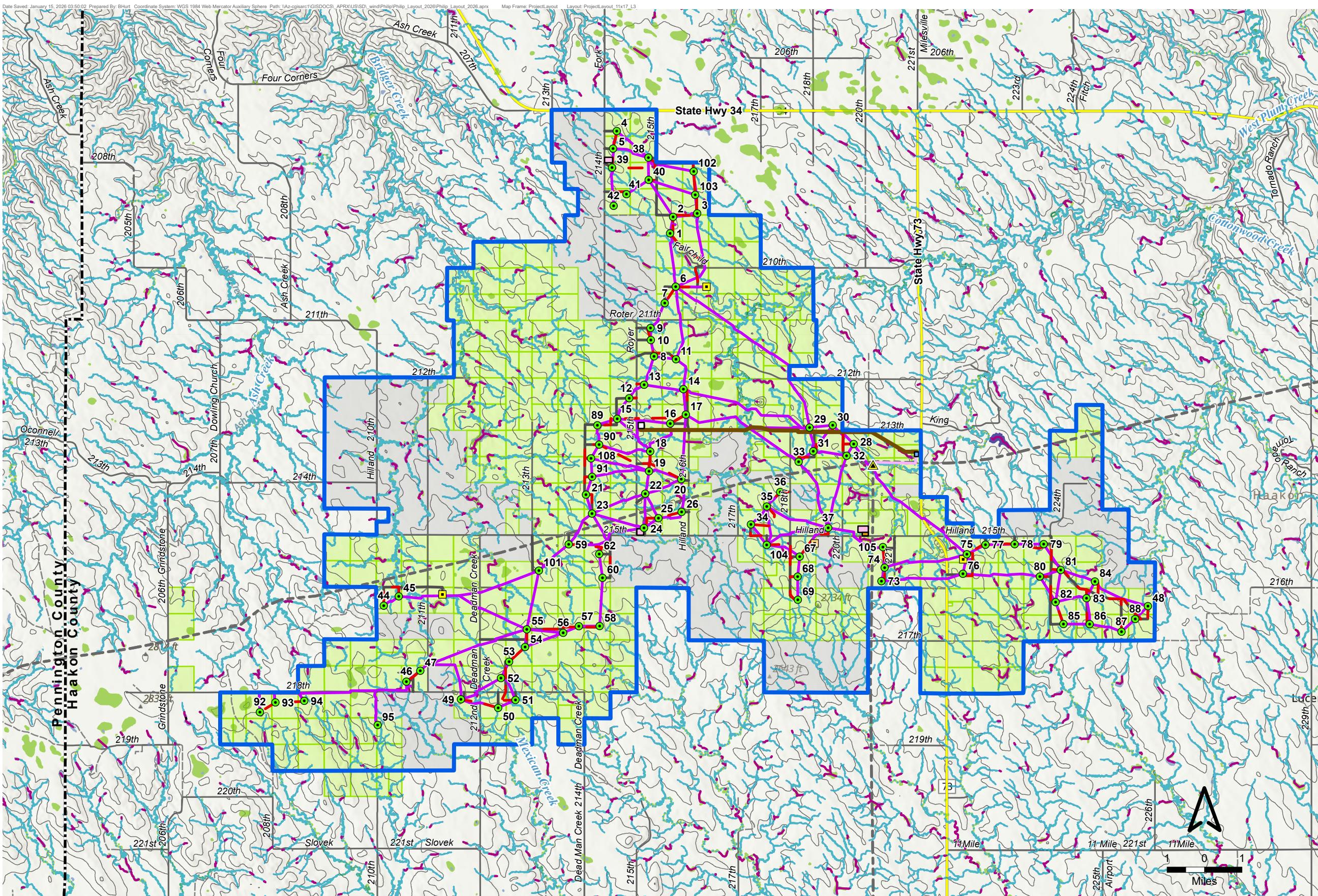


Exhibit 4-1a

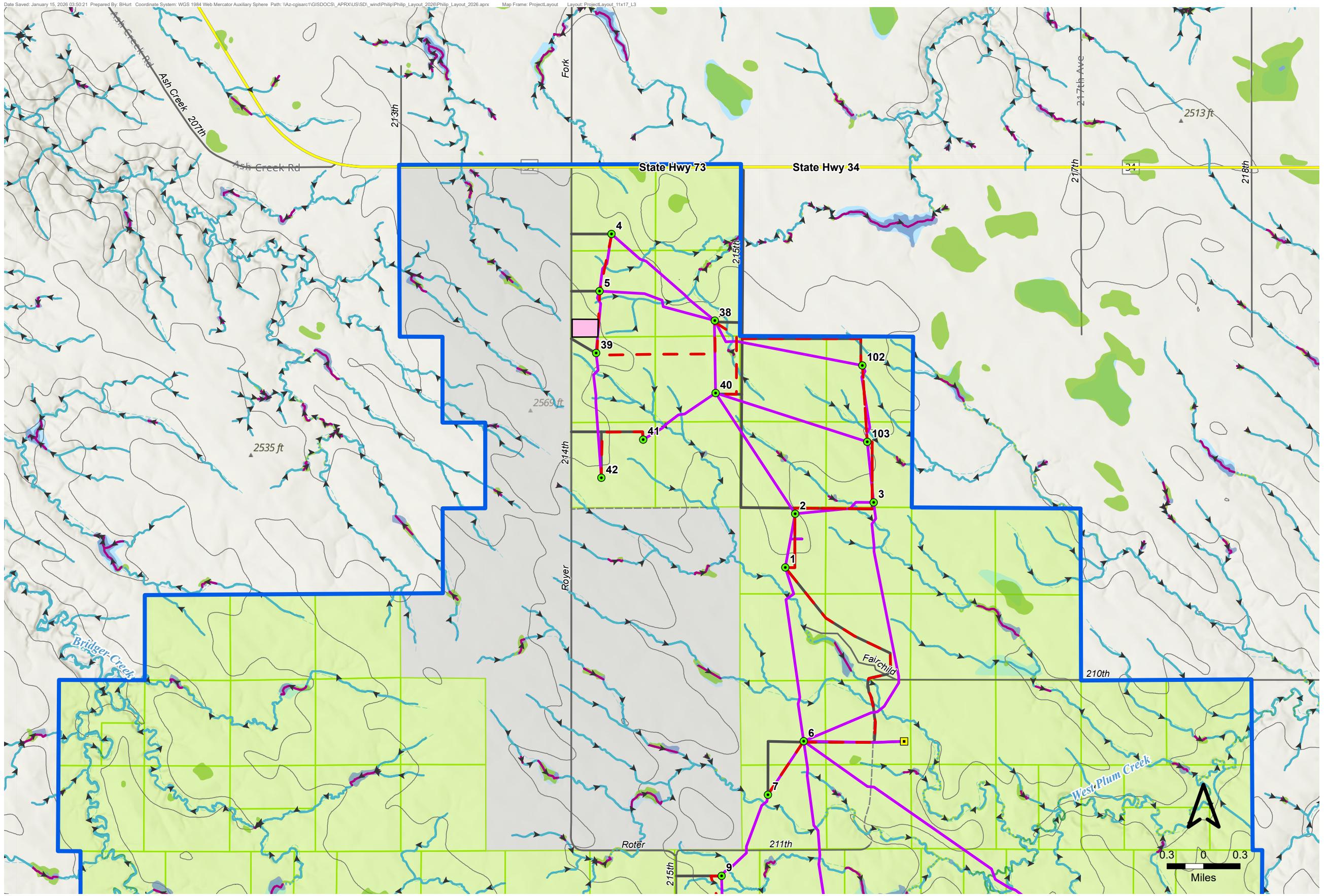


Exhibit 4-1a

Philip Wind Energy Center | Haakon County, South Dakota

January 15, 2026

Invenergy

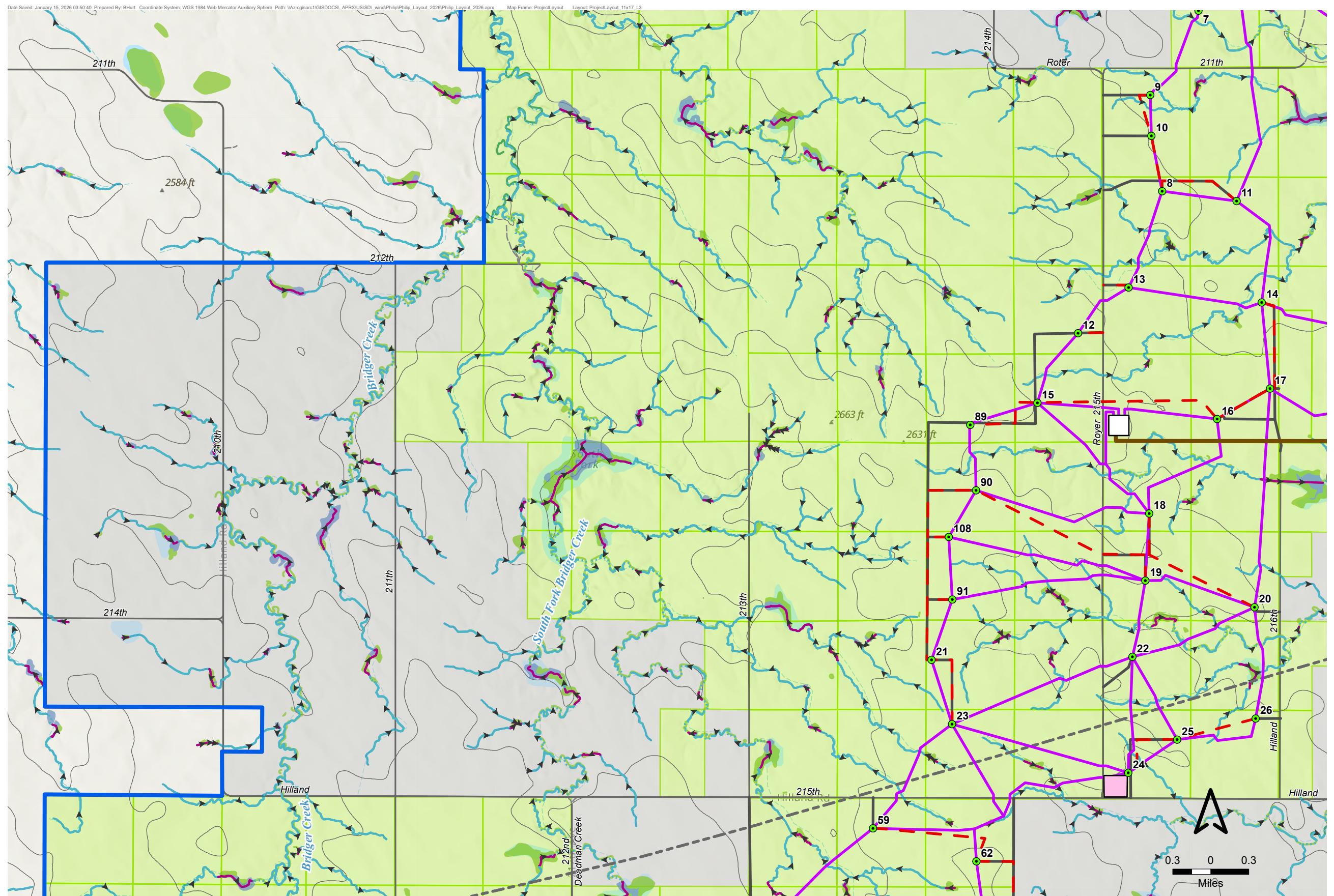
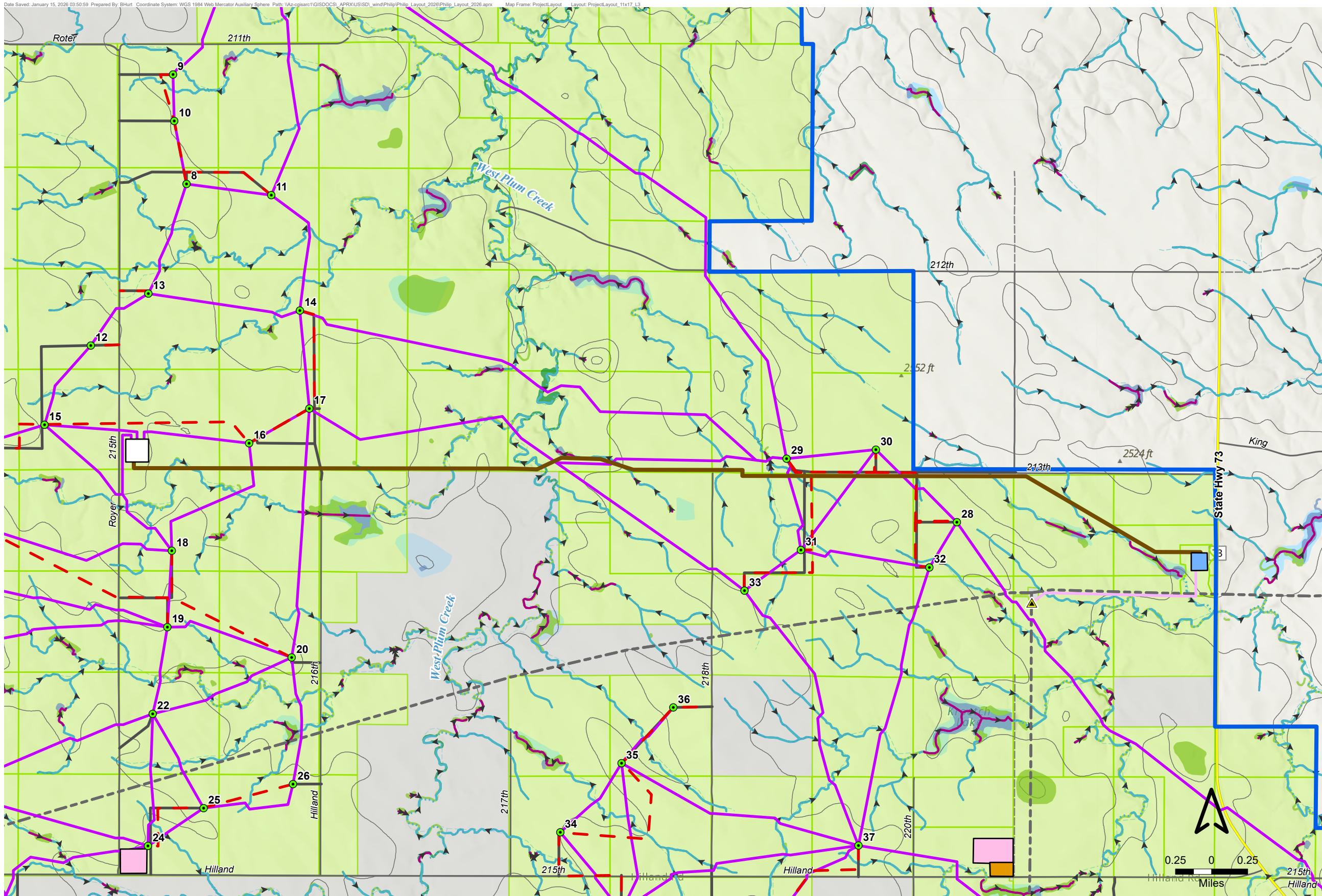


Exhibit 4-1a

Philip Wind Energy Center | Haakon County, South Dakota

January 15, 2026

Invenergy



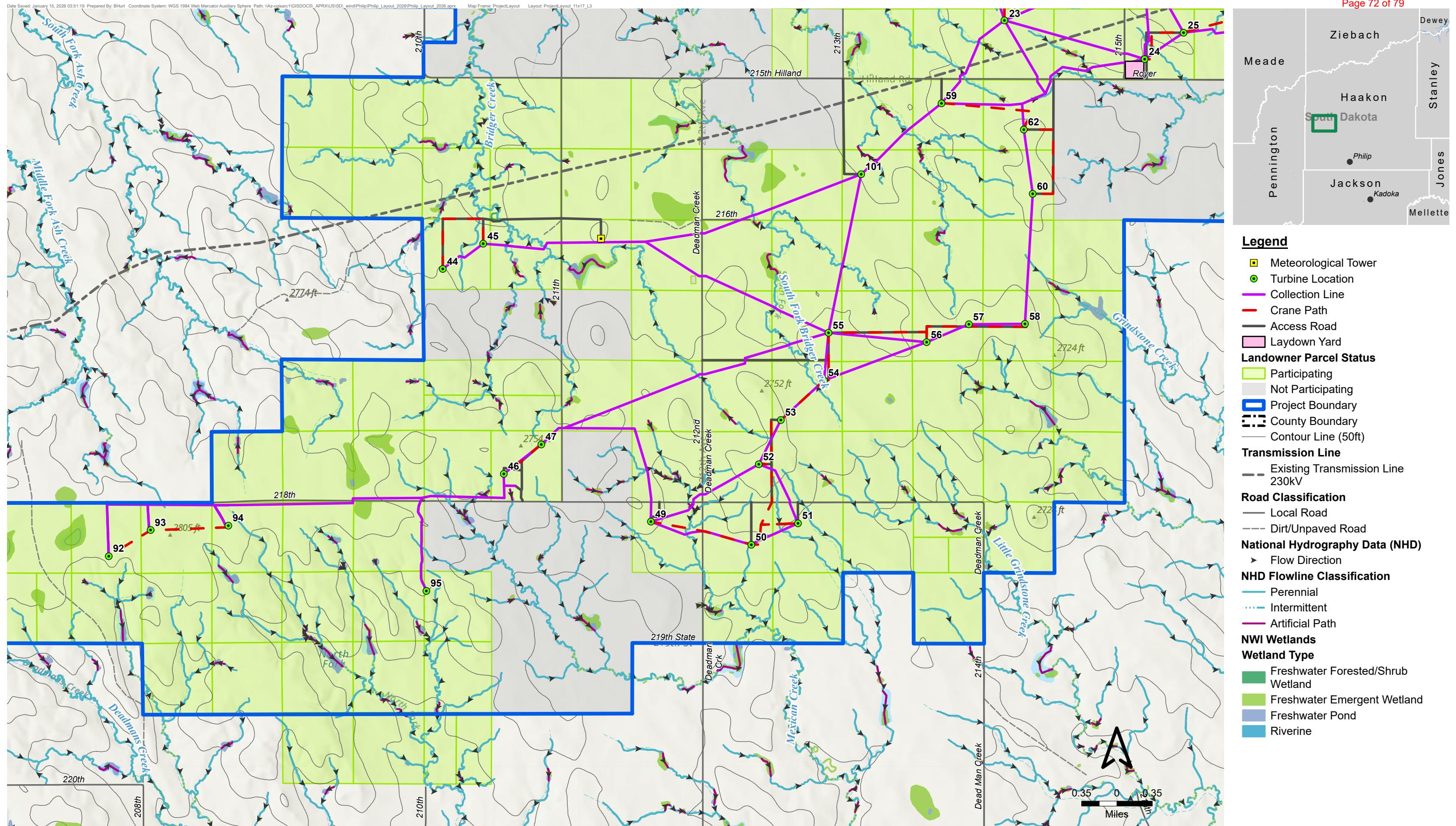
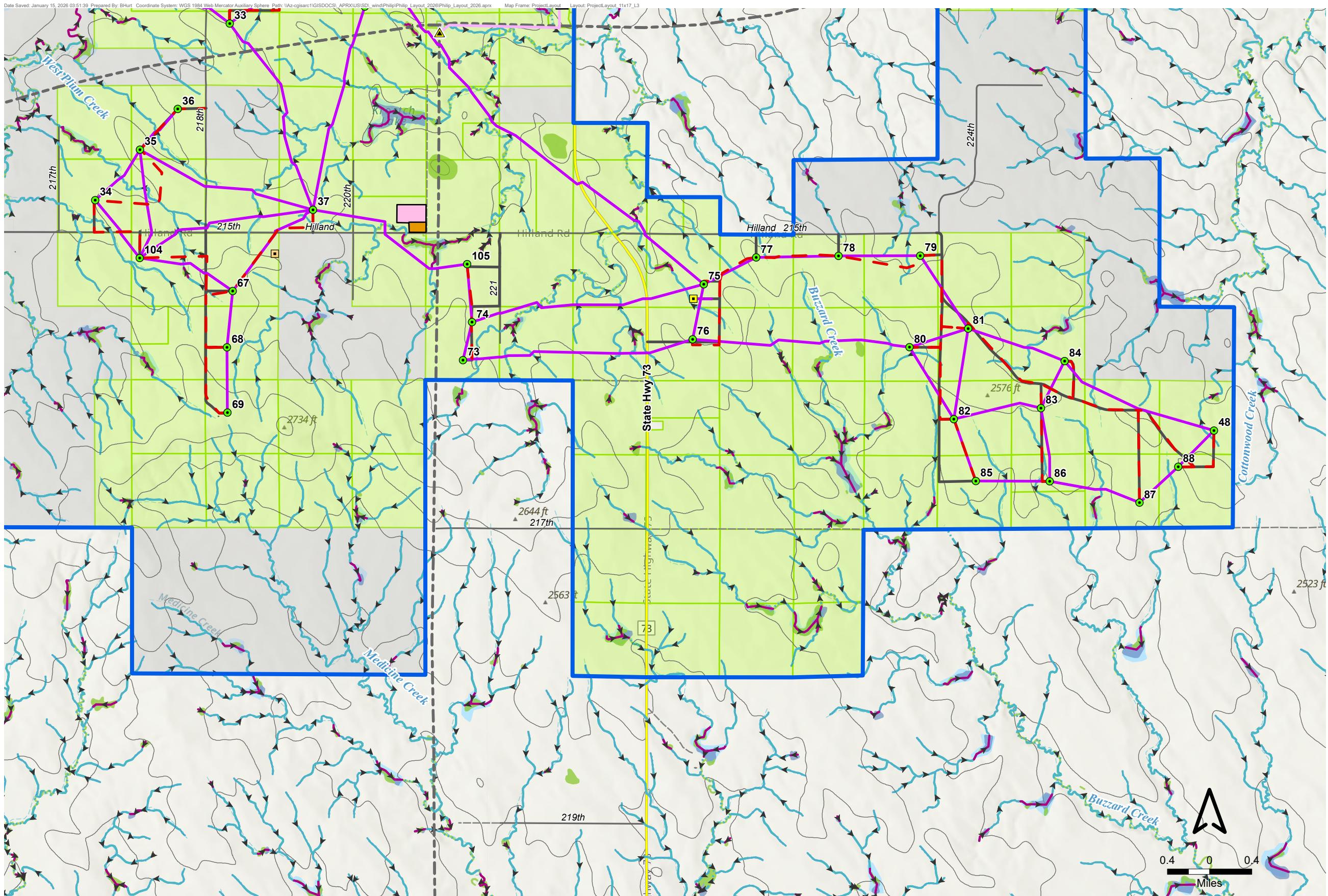


Exhibit 4-1a



Legend

- Aircraft Detection Lighting System Tower
- Meteorological Tower
- Turbine Location
- Philip Tap Location
- Collection Line
- Basin Line
- Crane Path
- Access Road
- O&M Building
- Laydown Yard
- Interconnection Switchyard
- Landowner Parcel Status**
 - Participating
 - Not Participating
- Project Boundary
- County Boundary
- Contour Line (50ft)
- Transmission Line**
 - Existing Transmission Line
 - 230kV
- Road Classification**
 - US/State Route
 - Local Road
 - Dirt/Unpaved Road
- National Hydrography Data (NHD)**
 - Flow Direction
- NHD Flowline Classification**
 - Intermittent
 - Artificial Path
 - Connector
- NHD Area Classification**
 - Stream/River
- NWI Wetlands**
- Wetland Type**
 - Freshwater Forested/Shrub Wetland
 - Freshwater Emergent Wetland
 - Freshwater Pond
 - Riverine

Exhibit 4-1a

Philip Wind Energy Center | Haakon County, South Dakota

January 15, 2026

Invenergy

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

**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
PARTNERS, LLC, FOR ENERGY
FACILITY PERMITS OF A WIND
ENERGY FACILITY AND A 230-kV
TRANSMISSION FACILITY IN
HAAKON COUNTY, SOUTH DAKOTA
FOR THE PHILIP WIND PROJECT**

**PHILIP WIND PARTNERS, LLC'S
RESPONSES TO STAFF'S FIFTH SET
OF DATA REQUESTS**

EL25-029

Philip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s Fifth Set of Data Requests in the above-captioned matter.

5-1) Refer to Page 108 of the Application. The Applicant states that "Philip Wind submitted updated requests to the FAA on April 30, 2025, and those requests are currently being processed. Philip Wind will provide an update in this docket with the FAA issues the Determinations of No Hazard." Please provide an update.

Teddy Hines: Philip Wind received approved Determinations of No Hazard (DNHs) for all 91 turbine locations on 9/19/2025.

5-2) Refer to Page 115 of the Application. The Applicant states that “workers outside an 85-mile radius will likely require temporary housing in or near the Project Area but Philip Wind expects existing community facilities and services to be generally adequate to support the workforce during construction.” Where does the Applicant expect workers find temporary housing in or near the Project Area? Please elaborate.

Brianna Gries: Philip Wind anticipates that the majority of construction workers will commute from within the region. However, for those traveling from outside an 85-mile radius, temporary accommodations are expected to be available through a combination of local motels, hotels, and short-term rental options in or near the Project.

- Local Lodging
 - Motel West in Philip, SD
 - Wall, SD (approximately 32 miles west of Project Area) and Kadoka, SD (approximately 40 miles southeast of Project Area) both have multiple hotels and motels that regularly accommodate seasonal and construction-related workforce.
- Temporary Space Offers
 - WAPA received a letter from Truck Stop T-34 (as of 2025 renamed The Ridge) indicating they have temporary space available for workers.

- Local landowners have expressed willingness to provide rental accommodations during the construction season.

5-3) Refer to Page 116 of the Application. The Applicant states that “Philip Wind minimized impacts to local agricultural operations by involving landowners in discussions to determine the least impactful infrastructure siting option.” Does a participating landowner have the final approval on the location of wind turbines on their property? Please explain. If no, were there any participating landowner objections to the current location of the proposed turbine locations?

Brianna Gries: Philip Wind worked closely with participating landowners to minimize impacts to agricultural operations. For example, in areas without existing section line roads, the project team consulted with landowners to determine preferred road orientations (North/South, East/West, or diagonal) that aligned with cultivation patterns and reduced field disruption.

Participating landowners provided valuable input on turbine placement, but they did not have final approval authority. Final turbine locations were determined through a comprehensive siting process that incorporated engineering, environmental, and permitting requirements, including review under the National Environmental Policy Act (NEPA).

Following these consultations, Philip Wind is not aware of any participating landowners objecting to the proposed turbine locations.

5-4) Refer to Page 119 of the Application. The Applicant states that “with respect to the Gen-Tie Line, pursuant to SDCL 49-41B-38, Philip Wind will furnish an indemnity bond in the amount of \$1 million to secure the restoration and repair of roads after construction.” Please explain how the Applicant determined that \$1 million is an appropriate bond amount.

Brianna Gries/Lisa Agrimonti: Pursuant to SDCL 49-41B-38, Philip Wind proposes to furnish an indemnity bond in the amount of \$1 million to secure the restoration and repair of roads after construction of the Gen-Tie Line. Philip Wind proposes this indemnity bond based on the length of the 7-mile-long Gen-Tie Line route (now reduced to approximately 5.5 miles) and prior Commission decisions. This is the same amount that the Commission recently approved in *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*, Docket No. EL24-023. The transmission line in that permitting proceeding was a similar length (approximately 6 miles). Likewise, the Commission in *In the Matter of the Application by Crocker Wind Farm, LLC for a Permit of a Wind Energy Facility and a 345 kV Transmission Line in Clark County, South Dakota, for Crocker Wind Farm*,

Docket No. EL17-055, approved a \$1 million road restoration bond for a 5.2 mile transmission line. There, Staff recommended in pre-filed testimony that a \$1 million road indemnity bond was appropriate to satisfy SDCL 49-41B-38. *See* Direct Testimony of Darren Kearney, at p. 11 (Mar. 28, 2018). Mr. Kearney noted that he based his recommendation on prior dockets:

the bonding requirements established in the two previous wind farm dockets. In Docket EL15-020 (Willow Creek Wind Farm) there was less than 1 mile of transmission proposed and a road repair bond set at \$500,000. In Docket EL09-028 (Prairie Winds SD1) there was 13 miles of transmission line proposed and a road repair bond set at \$1.5 million. Given that Crocker Wind Farm includes a 5.2 mile transmission line (a distance that falls in the middle of the two previous dockets), I felt that a \$1 million road repair bond would be reasonable for this project.

Id.

As indicated above, Philip Wind has modified the route for the Gen-Tie Line to shorten the route. The revised Gen-Tie Line route will be approximately 5.5 miles, compared to the approximately 7-mile-long line proposed in the Application. Additional information on the revised Gen-Tie Line route is included in Philip Wind's Supplemental Response to Staff's Data Request 2-7.

5-5) Refer to Page 130 of the Application. The Applicant states that “the nearest residence would be 9,232 feet from the Collector Substation, 233 feet from the Gen-Tie Line, and 2,310 feet from a Basin Electric t-line, it is expected EMFs produced would dissipate before reaching residences, causing no measurable effect above background levels.”

a) Is the nearest residence still 233 feet from the updated gen-tie line route? If no, please provide the distance? What Receptor ID is the residence? Please explain why the route needed to be located that close to a residence, what alternatives the Applicant explored, and if there has been any coordination with that landowner.

Alex Chandler: The nearest residence to the revised Gen-Tie Line route is 1,998 feet from the revised Gen-Tie Line route, Receptor ID R-018.

b) How many residences were within 1,320 ft. of the updated Gen-Tie line route? For each residence within 1,320 ft. of the updated Gen-Tie line route, please provide the Receptor ID and distance.

Teddy Hines: There are no residences within 1,320 feet of the revised Gen-Tie Line route.

5-6) Refer to Page 137 of the Application. The Applicant states that “some of the adjustments made during Project siting and design, in response to comments, included avoidance of impacts to state and federal lands within or near Project Area, to the extent practicable.” What type of impacts did the Applicant try to avoid to the state and federal lands near the Project Area?

Alex Chandler: Philip Wind sought to avoid all impacts to state and federal lands by placing facilities on adjacent participating landowners’ parcels. For example, the access road serving turbine T101 was intentionally designed not to follow the section-line right-of-way between Sections 27 and 28 (T04N R19E). Instead, it was placed fully on private leased land in Section 27, thereby avoiding the federally owned parcel immediately west of the turbine and access road, which is managed by the BLM.

Dated this 16th day of January 2026.

By */s/ Lisa M. Agrimonti*

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Attorneys for Phillip Wind Partners, LLC

**BEFORE THE PUBLIC UTILITIES COMMISSION
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**IN THE MATTER OF THE
APPLICATION BY PHILIP WIND
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HAAKON COUNTY, SOUTH DAKOTA
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PHILIP WIND PARTNERS, LLC'S RESPONSES TO STAFF'S SIXTH SET OF DATA REQUESTS

EL25-029

Philip Wind Partners, LLC (“Philip Wind” or “Applicant”) provides the following responses to Staff’s Fifth Set of Data Requests in the above-captioned matter.

6-1) Refer to Page 133 of the Application and ARSD 20:10:22:35(3). The Applicant states that it provided information required by ARSD 20:10:22:35(3) in Sections 5.1 and 5.2 of the Application.

a) Please provide a reference to page number of the Application that discusses the alternative transmission routes that were under consideration.

Alex Chandler/Lisa Agrimonti: ARSD 20:10:22:35(3) requires an applicant for a transmission facility to provide, "The proposed transmission site and major alternatives as depicted on overhead photographs and land use culture maps." The rule does not require an applicant to propose a certain number of alternative transmission routes.

Notwithstanding, in developing a route for the Gen-Tie Line, Philip Wind considered multiple factors. First, land rights. Philip Wind only considered participants' land for constructing the Gen-Tie Line, which narrowed the paths available for the Gen-Tie Line. As noted in Section 4.2.10 of the Application, the Gen-Tie Line is routed on land under long-term lease agreements and easements that allow for the construction of all Project Facilities.

Philip Wind also developed the Gen-Tie Line route in the Application based on review of cultural and environmental data and appropriate spacing between the wind turbines and the transmission line. Furthermore, during Project development, Philip Wind considered alternative parcels and Project substation locations but did not fully develop an alternative end-to-end route such as proposed in the Application. Rather, segments were evaluated and included or excluded based on the above factors.

The Gen-Tie Line route was refined and modified after direct feedback from landowners was received upon filing of the application with the South Dakota Public Utilities Commission (SDPUC), and landowners spent more time considering the route that had been previously proposed and presented to them for review. Further, SDPUC staff's Data Request No. 2-7 on the routing further encouraged Philip Wind's re-evaluation and continuation of discussions with landowners, along with engineering input, to optimize and finalize the revised Gen-Tie Line route.

After the public input meeting, Philip Wind developed a revised Gen-Tie Line route based on feedback from landowners. Information regarding the revised Gen-Tie Line route was provided in Philip Wind's Supplemental Response to Staff DR 2-7 and Figure A-2, Rev. 1.

- b) Please provide the maps pursuant to ARSD 20:10:22:35(3).

Alex Chandler: The Gen-Tie Line route proposed in the Application is shown on Figure A-2 in Appendix A to the Application. A map showing the Application Gen-Tie Line route and the revised Gen-Tie Line route are shown in Figure A-2, Rev. 1.

- c) Please explain why the collector substation was not located closer to the new Switchyard that will be constructed by WAPA.

Teddy Hines: Philip Wind sited the collector substation within the center of the Project to minimize environmental impacts and to efficiently design the project. Locating the substation closer to the WAPA switchyard would increase collection cable lengths, resulting in higher electrical losses and added cost.

Dated this 16th day of January 2026.

By /s/ Lisa M. Agrimonti

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