North Dakota Department of Transportation
Temporary **DRIVE PERMIT**

COPY

Permit No. _____ **District No.** 63

APPLICANT	ADDRESS	
Langdon Wind LLC	817 Third Street, Suite 106	
CITY	STATE	ZIP
Langdon	ND	58249

The Applicant requests permission to construct 1 (AMOUNT) (private)/commercial (circle one) drives on the state highway right of way along the E (DIRECTION) side of Route Hwy 1, 1/2 mile North (LOCATION), from Hwy 66 (TOWN, HIGHWAY, JUNCTION), Mile Marker No. 205.2 * 395

described as follows: (*Description of proposed work on state right of way and type of business served.*)

modify ~~Construction~~ of a private access off of the Highway to string roads leading to wind turbin sites. modify an existing drive to allow access of long loads. This is only a temporary permit, when finished with project the drive is to be restored to its original size and all disturbed areas are to have top soil replaced and reseeded.
Temporary & permanent Inslopes are to be 8:1

Applicant agrees that any permit issued and any entrance built or work done shall be in accordance with plans attached hereto and made a part hereof, and Permit Specifications printed on the reverse side of this sheet. If the applicant fails to construct the drive to the specified dimensions, including the proper culvert length and inslopes, the Department of Transportation, hereinafter referred to as NDDOT, will either cancel this permit and remove the drive or make the necessary corrections and the Applicant will reimburse NDDOT for such work.

To be signed by **Owner; Partner; Corp. Pres., Vice Pres.,** or **other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

APPLICANT:

Dick Rausch
NAME (TYPE OR PRINT)

SIGNATURE

Project Construction Manager
TITLE

8-9-07
DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

Wayde Swenson
DISTRICT ENGINEER (TYPE OR PRINT)

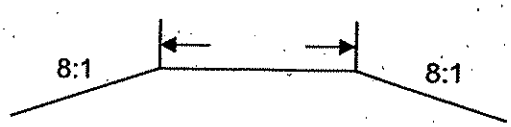
SIGNATURE

9/17/07
DATE

Permit granted: 9-17, 20 07

Construction shall be completed by: _____, 20 _____

Sketch:
Project FAS I 14(1)
sta 450+83.0 Lt



(Original to District File, copy to Applicant.)

(over)

DOT 5918 (Div. 70)

PERMIT SPECIFICATIONS

1. The total cost of all construction and maintenance of the work specified shall be borne by the Applicant, his grantees, successors, and assigns; except that the state will maintain the shoulder of the roadway.

2. It is understood by the Applicant that the state does not assume any responsibility for the removal or clearance of snow, ice, or sleet, or the opening of windrows of such materials, upon any portion of the drive even though snow, ice, or sleet is deposited or windrowed on said drive by its authorized representative engaged in normal winter maintenance operation.

3. No drive shall be considered as completed until checked and approved by NDDOT. Surfacing may be omitted on field entrances if so specified in the application.

4. A drive, as referred to in this permit, shall be the traveled area between the highway roadway surface and the adjacent right-of-way line. Said drive shall be used only for the purpose of providing entrance to and exit from the Applicant's property.

5. No drive, or improvement constructed on the highway right of way shall be altered or relocated without permission of the district engineer of NDDOT.

6. The Applicant agrees to perform all work in accordance with this permit, and to indemnify and hold harmless NDDOT, its officers, and employees from any and all liability, judgments, costs, expenses, and claims growing out of damages, or alleged damages, of any nature whatsoever, to any person or property arising out of performance or nonperformance of said work, or the existence of said drives.

7. It is understood by the Applicant that the location, construction, and maintenance of drives are under the supervision of NDDOT at all times, and that in granting this permit NDDOT waives none of its powers or rights to direct the removal, relocation, or proper maintenance in the future of any drives within the right of way of the state highway.

8. The granting of this permit does not vest the Applicant with the exclusive use of the drive. NDDOT retains the right to diminish and expand the use of the drive as required in the interest of the safety of highway traffic.

9. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

VK

Risk Management Appendix

Small, Low-Risk Leases, Easements, Licenses, and Permits with Private Individuals, Companies, Corporations, Etc. (referred to as Recipient):

Recipient agrees to indemnify, save, and hold harmless the State of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the Recipient or its agent, including all costs, expenses, and attorneys' fees, which may in any manner result from or arise out of this agreement (i.e., low-risk lease, easement, license, or permit). Recipient also agrees to indemnify, save and hold the State harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein.

Recipient shall secure and keep in force during the term of this agreement the following insurance coverages covering the Recipient for any and all claims of any nature which may in any manner arise out of or result from this agreement:

1) **Commercial general liability** insurance – minimum limits of liability required are **$250,000 per person** and **$1,000,000 per occurrence**. If it is not practical for Recipient to carry commercial general liability insurance, Recipient **may substitute farm liability insurance, renters insurance, or home owners** insurance in the amount of **at least $300,000**.
2) If Recipient may use an automobile in relation to the attached agreement, Recipient must secure **automobile liability** insurance with a minimum limit of liability of **at least $250,000**. The above limits may be satisfied through a policy or policies of insurance, primary and excess, including the so called umbrella or catastrophe form.
3) The State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an **additional insured** on the above policies.

The Recipient shall furnish a certificate of insurance coverage evidencing the requirements in 1 through 3 above to the undersigned State representative prior to commencement of this agreement.

Recipients' insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance, or self-retention maintained by the State.

The Recipient must secure any necessary Workers Compensation coverage that may be required by State law.

When a portion of a Contract is sublet, the Recipient shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Recipient and the State as a result of work undertaken by the Subcontractor or Sublessor. In addition, the Recipient shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors or Sublessors performing work under the Contract are required to maintain the same scope of insurance required of the Recipient. The Recipient shall be held responsible for ensuring compliance with those requirements by all Subcontractors or Sublessors.

RM Consulted 1997
Revised 11-04

MARSH

CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER
ATL-001245506-03

PRODUCER
MARSH USA, INC.
3475 PIEDMONT RD, N.E.
SUITE 1200
FAX: 404-760-5663
ATLANTAOFFICE.CERTREQUEST@MARSH.COM
ATLANTA, GA 30305
500469-ENERG--06/07

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

COMPANIES AFFORDING COVERAGE

COMPANY A FEDERAL INSURANCE CO

COMPANY B AMERICAN HOME ASSURANCE COMPANY

COMPANY C

COMPANY D

INSURED
FPL ENERGY, LLC
LANGDON WIND
ATTN: ERICA MCNABB
RISK MANAGEMENT DEPARTMENT
700 UNIVERSE BOULEVARD
JUNO BEACH, FL 33408

COVERAGES

4

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	3711-09-30	09/15/06	09/15/07	GENERAL AGGREGATE	$ 2,000,000
	X COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG	$ 1,000,000
	CLAIMS MADE X OCCUR				PERSONAL & ADV INJURY	$ 1,000,000
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	$ 1,000,000
					FIRE DAMAGE (Any one fire)	$ 1,000,000
					MED EXP (Any one person)	$ 10,000
A	AUTOMOBILE LIABILITY	7352-37-31 (AOS)	09/15/06	09/15/07	COMBINED SINGLE LIMIT	$ 1,000,000
A	X ANY AUTO	7352-37-33 (VA)	09/15/06	09/15/07		
	ALL OWNED AUTOS				BODILY INJURY (Per person)	$
	SCHEDULED AUTOS					
	HIRED AUTOS				BODILY INJURY (Per accident)	$
	NON-OWNED AUTOS					
					PROPERTY DAMAGE	$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	UMBRELLA FORM				AGGREGATE	$
	OTHER THAN UMBRELLA FORM					$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC 7207708 (AOS)	09/15/06	09/15/07	X WC STATUTORY LIMITS / OTHER	
B		WC 7207709 (CA)	09/15/06	09/15/07	EL EACH ACCIDENT	$ 1,000,000
B	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: INCL	WC 7209331 (FL)	09/15/06	09/15/07	EL DISEASE-POLICY LIMIT	$ 1,000,000
B	EXCL	WC 7209332 (OR)	09/15/06	09/15/07	EL DISEASE-EACH EMPLOYEE	$ 1,000,000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

THE STATE OF NORTH DAKOTA AND ITS AGENCIES, OFFICERS, AND EMPLOYEE (STATE) ARE INCLUDED AS ADDITIONAL INSUREDS ON THE GENERAL LIABILITY AND AUTOMOBILE POLICY AS ADDITIONAL INSUREDS AS REQUIRED BY WRITTEN CONTRACT.
COVERAGE INCLUDES WAIVER OF SUBROGATION IN FAVOROF THE STATE OF ND.

CERTIFICATE HOLDER

NORTH DAKOTA DEPARTMENT
OF TRANSPORTATION
608 EAST BOULEVARD AVENUE
BISMARCK, ND 58505-0700

CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE

MARSH USA INC.
BY: Ronald A. Santaniello

MM1(3/02)

VALID AS OF: 04/24/07

Martinson, Leon O.

From: Lares, Sheri G.
Sent: Friday, September 07, 2007 2:01 PM
To: Geoffrey_West@fpl.com; Semenko, Greg J.; Martinson, Leon O.
Cc: Court_Laska@fpl.com
Subject: RE: FW: FLP Energy Drive - Cavalier County

Leon

FPL is good to go since they know will be authorized under NW 12 rather than 14.

Sheri

From: Geoffrey_West@fpl.com [mailto:Geoffrey_West@fpl.com]
Sent: Thursday, August 30, 2007 4:27 PM
To: Lares, Sheri G.
Cc: Court_Laska@fpl.com
Subject: Re: FW: FLP Energy Drive - Cavalier County

Hi Sheri,

I talked with Toni at the USACE in great length concerning the project and now understand your reservations under the Nationwide 14. She explained that the work we are doing should fall under the Nationwide 12 only, even the access roads we are constructing. The "devil is in the details" as she explained it. Our rationale came from previous projects where we submitted a PCN for the Nationwide 12 and 14 for similar access roads.

Therefore based on our discussion, our activities fall under NWP 12 and still under the 1/10 of an acre threshold for the PCN. I appreciate you bringing this matter to our attention. As I told Toni, we spend quite a bit of time conducting due diligence so that we can avoid impacts to wetlands. We would rather spend the extra effort up front in micro-siting turbines and re-routing roads before construction rather than delay the construction process, because as you know there just a short season to work before winter sets in. Should you have any questions, please feel free to contact me at (561) 691-2644 or on my cell at (561) 758-4277.

Geoff

Geoffrey B. West
700 Universe Blvd.
Juno Beach, FL 33408
W: (561) 691-2644

"Lares, Sheri G." <slares@nd.gov>

"Lares, Sheri G." <slares@nd.gov>

To: "Martinson, Leon O." <lmartins@nd.gov>, Geoffrey_West@fpl.com
cc:
Subject: FW: FLP Energy Drive - Cavalier County

08/29/2007 12:18 PM

Leon,

I received this information below from our Cultural Resources Section. I would add that any waste material shall not be stockpiled in wetland areas.

Thanks
Sheri

I understand that FLP Energy would like to temporarily improve three drives to accommodate trucks hauling their large wind turbine parts. These improvements consist of increasing the radius of the drives and the Highway 1/66 intersection. I assume that this would be accomplished by placing borrow along the existing drives/roadways, and then removing the borrow and wasting it when it is no longer needed.

I checked the following locations in our database:

Cavalier County:
S.35, 160/60
S.6, 159/59

Highway 1 and Highway 66 ROW has been surveyed in these areas and no cultural resources were recorde in these areas. Therefore, I recommend no additional cultural resource work provided the borrow is acquired from within a mile of each location, from within our ROW, and it is wasted into the same areas along the bac slope. If the borrow is to come from any other area, it should be handled as contractor optioned material source according to Standard Specification 107.04.

Bob Christensen
Cultural Resource Section Leader
701-328-4539

Martinson, Leon O.

From: Lares, Sheri G.
Sent: Wednesday, August 29, 2007 11:15 AM
To: Geoffrey_West@fpl.com
Cc: Martinson, Leon O.
Subject: RE: Langdon Nationwide Permit

Geoff,

Based on our conversations with the USACE, pursuant to Nationwide Permit 14, a preconstruction notification to the ND Regulatoı office of the USACE is required prior to construction if, (2) there is a discharge into a special aquatic site. Since the NDDOT is unaware of whether this area fits that description, beyond knowing that it is a jurisdictional area, we recommend that you provide notification to the USACE and copy us in on the letter. The letter should describe the project and impacts, including temporary impacts. Also describe your intentions to regrade the areas back to existing contours and plans for reseeding. Once we are in receipt of the letter, we will provide the approval to proceed.

Regards
Sheri

From: Geoffrey_West@fpl.com [mailto:Geoffrey_West@fpl.com]
Sent: Tuesday, August 21, 2007 11:59 AM
To: Lares, Sheri G.
Cc: Court_Laska@fpl.com
Subject: Langdon Nationwide Permit

Sheri,

Court Laska contacted me and asked me to follow up with you concerning the nationwide permit. Our consultant who conducted the wetlands work at Langdon has provided a response below. Since we fall below the 1/10 of an acre for the Prior to Construction Notification (PCN) threshold, we are not required to notify the USACE before beginning road work. We did, however, contact the USACE to get a jurisdictional determination as part of our due diligence. That information is attached below as is the crossing matrix for wetland impacts at the Langdon site. Under the nationwide, we would have to notify the USACE if our impacts were greater than 1/10 acre. Court did not provide a contact number for you, so should you have any questions feel free to contact me at (561) 691-2644.

Regards,
Geoff

Geoffrey B. West
700 Universe Blvd.
Juno Beach, FL 33408
W: (561) 691-2644

----- Forwarded by Geoffrey West/HR/FPL on 08/21/2007 12:43 PM -----

"Dawdy, Greg" <Greg.Dawdy@tetratech.com>

To: Geoffrey_West@fpl.com
cc: "Martorano, Tracey" <tracey.martorano@tteci.com>
Subject: Langdon Nationwide Permit

08/21/2007 12:09 PM

Geoff, as we discussed on the phone this morning we have received a jurisdictional determination (JD) of Project area from the USACE-Omaha District. A copy of the JD letter and associated map are attached.

Prior to the site visits Tetra Tech requested a jurisdictional determination of aquatic resources in the project area from tl Bismarck, North Dakota office of the USACE – Omaha District. Tetra Tech provided the USACE with a figure depictir the project area with a preliminary array and requested that all areas within that project boundary be identified to aid FPLE in avoiding and minimizing impacts to aquatic resources. The USACE identified several drainages and tributaries to the Park River and the Nekoma Coulee within the site boundaries as jurisdictional waters of the United States (WUS) The areas as marked on the figure do not define actual wetland boundaries but rather only identify features which the USACE – Omaha District claimed as jurisdictional.

In the response to our request, the USACE also indicated that joint USEPA and USACE guidance based on the recent U.S Supreme Court decisions (Rapanos vs. the U.S and Carabell vs. the U.S) would soon be issued and this guidance may affect the jurisdictional status of some of these areas. The effect of these Supreme Court decisions would likely be reduction in the number of locations which would now be considered jurisdictional by the USACE.

Based on this JD and the proposed project impacts to jurisdictional waters as identified by the USACE-Omaha District, the proposed impacts are below the 1/10 acre notification threshold for Nationwide Permits 12 and 14.

Gregory C. Dawdy| Project Manager/Senior Biologist
Main: 618.343.2300 | Fax: 618.343.7042 | Direct Dial: 618.343.2342| Cell: 314.706.4336

Tetra Tech | Complex World, Clear Solutions
1634 Eastport Plaza | Collinsville, IL 62234
www.tetratech.com

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(See attached file: Fig1USACEDetReq.pdf)(See attached file: dept of army ltr.pdf)(See attached file: LngdnFig2_11x17.pdf)(See attached file: crossings_summary.xls)

Martinson, Leon O.

From: Lares, Sheri G.
Sent: Tuesday, August 21, 2007 9:30 AM
To: Court_Laska@fpl.com
Cc: Martinson, Leon O.
Subject: RE: Nationwide permit

Good morning,

I have contacted the USACE regarding this project. The USACE indicated that FPL needs to contact the ND Regulatory office regarding jurisdiction and authorization under the NWP. Upon receiving documentation from the USACE that they concur with you assumptions, we will provide the approval to move forward with the roadway approach work.

Sheri Lares

From: Court_Laska@fpl.com [mailto:Court_Laska@fpl.com]
Sent: Monday, August 20, 2007 8:04 AM
To: Lares, Sheri G.
Subject: Re: Nationwide permit

Please see the attachments below.

(See attached file: crossings_summary_7_16_updated.xls)(See attached file: LngdnFig1Wetlands11x17Q_07_16_07.pa

Court Laska
Civil Superintendent

Langdon Wind, LLC
817 3rd St. Suite 106
Langdon, ND 58249

(701) 256-3298 Office
(701) 256-5393 Fax
(701) 550-0993 Cell

Court_Laska@fpl.com
----- Forwarded by Court Laska/FPL Energy/FPL on 08/20/2007 08:02 AM -----

Geoffrey West

08/20/2007
07:57 AM

To: Court Laska/FPL Energy/FPL@FPL
cc:
Subject: Re: Nationwide permit

Court,

See the attached and scroll down to page 93 of the pdf. Our activities are regulated by the nationwide 12 and 14 permits. There is no formal notification to the US Army Corp of Engineers unless you exceed the thresholds set forth in these

permits. That is where the wetland matrix and corresponding map comes in handy. Please let me know if you have any questions.

Geoff

(See attached file: NWP_2007_final.pdf)

Geoffrey B. West
700 Universe Blvd.
Juno Beach, FL 33408
W: (561) 691-2644

Court Laska

Court Laska
Sent by: Court Laska

To: Geoffrey West/HR/FPL
cc: Connie Rausch/FPL Energy/FPL, Dick Rausch/FPL Energy/FPL, Geoffrey West/HR/FPL
Subject: Re: Nationwide permit

08/20/2007
07:34 AM

Geoff,

How's this coming along? We will need to get a copy by Weds or this could hold up the road progress. Thanks for your help.

Court Laska
Civil Superintendent

Langdon Wind, LLC
817 3rd St. Suite 106
Langdon, ND 58249

(701) 256-3298 Office
(701) 256-5393 Fax
(701) 550-0993 Cell

Court_Laska@fpl.com
Court Laska

Court Laska
Sent by: Court Laska

To: Geoffrey West/HR/FPL
cc: Dick Rausch/FPL Energy/FPL, Connie Rausch/FPL Energy/FPL
Subject: Nationwide permit

08/17/2007
09:08 AM

Geoff,

I had a request from the ND/DOT to see the Nationwide permit. They would like to see a copy before the issue anymor
Permits for access roads. I f you could forward a copy to me that would be great.

Thanks,

Court Laska
Civil Superintendent

Langdon Wind, LLC
817 3rd St. Suite 106
Langdon, ND 58249

(701) 256-3298 Office
(701) 256-5393 Fax
(701) 550-0993 Cell

Court_Laska@fpl.com