

Just Wind - Wind Farm Development North Dakota Division

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April 23, 2009

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North Dakota Public Service Commission
Mr. Kevin Kramer, Mr. Tony Clark, Mr. Brian Kalk
600 E. Boulevard, Dept. 408
Bismarck, ND 58505

PUBLIC SERVICE COMMISSION

Commissioners:

Enclosed please find 10 copies of the final Consent and Waiver for Extended Set Back Area.

Please attach this to the Additional Information submitted on April 17, 2009.

Respectfully,


Steve Fettig
Director of LAND MANAGEMENT



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45 **PU-07-54** Filed: 4/23/2009 Pages: 5
**Final Landowner Consent & Waiver for Extended
Setback Area**

Just Wind, LLC

Dir. of Land Management, Steve Fettig

CONSENT AND WAIVER FOR EXTENDED SET BACK AREA

This **CONSENT AND WAIVER FOR EXTENDED SET BACK AREA** (this "Consent and Waiver") is dated and effective as of the 22 day of April, 2009 (the "Effective Date"), by ALLEN FOSTER and SANDRA FOSTER, husband and wife, whose address is P.O. Box 139, Napoleon, North Dakota 58561 ("Owner") in favor of LOGAN COUNTY WIND FARM, LLC, a North Dakota limited liability company, whose address is 500 Lake Street, Suite 203, Excelsior, Minnesota 55331 ("Logan County Wind"), in light of the following facts and circumstances:

A. WHEREAS, Logan County Wind is a wind farm developer currently developing a wind generating electric power project within a portion of Logan County, North Dakota (the "Wind Project"); and

B. WHEREAS, Owner is presently in control of an unoccupied dwelling, commercial building or publically-used structure or facility on the real property legally described in Exhibit A attached hereto and made a part hereof by reference (the "Property") and which Property is within or adjacent to the Wind Project; and

C. WHEREAS, the Property is subject to the Logan County Zoning Ordinance, Section 6.11.42.2(1), regarding setbacks for turbines from occupied structures and facilities (the "Logan County Setback") as follows:

"1) Occupied Structures and Facilities: Each Wind Turbine shall be set back from the nearest occupied dwelling, commercial building or publically-used structure or facility at a distance of not less than 1.25 times its Total Height or seven hundred and fifty (750) feet, whichever is greater;" and

D. WHEREAS, the North Dakota Public Service Commission has informed Logan County Wind that it has a concern regarding possible icing hazards from turbines constructed within 1400 feet of occupied, structures and facilities and has requested that Logan County Wind obtain this Consent and Waiver for siting and constructing a turbine or turbines on or adjacent to the Property which are less than 1400 feet from an occupied dwelling, commercial building or publically-used structure or facility (but which are in compliance with the Logan County Setback).

CONSENT AND WAIVER

NOW THEREFORE, in consideration of the terms and conditions of this Consent and Waiver and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner hereby agrees as follows:

1. Consent and Wavier of Extended Set Back Area. Owner hereby consents to the siting and placement of turbines within 1400 feet from any and all dwellings, commercial buildings or

publically-used structure or facility, and waives any suggestion or requirement by the North Dakota Public Service Commission that turbines situated on or adjacent to the Property be no less than 1400 feet from an occupied dwelling, commercial building and publically-used structure or facility located on the Property.

2. Compliance with County Ordinance Regarding Wind Energy. Owner does not, by granting this Consent and Wavier, waive any setback, conditions or requirements contained in the Logan County Zoning Ordinance regarding Wind Energy.

3. Successors and Assigns. This Consent and Waiver is binding upon Owner, his, her or their heirs, personal representatives, successors and assigns. This Consent and Waiver shall inure to the benefit of Logan County Wind and its successors and assigns.

4. Governing Law. This Consent and Waiver shall be governed by and interpreted in accordance with the laws of the State of North Dakota.

5. Notice to Future Occupants. Owner, upon leasing or otherwise allowing persons to occupy the presently vacant dwelling, commercial building and publically-used structure or facility located on the Property, will give such occupants notice of the location of a wind turbine within 1400 feet and the possibility of icing hazards from such turbine.

[The remainder of this page is intentionally blank, signature page to follow.]

Exhibit A
TO
CONSENT AND WAIVER FOR EXTENDED SET BACK AREA

DESCRIPTION OF PROPERTY

All the following real property lying and being in the County of Logan and State of North Dakota, and described as follows, to-wit:

The North Half (N1/2) of Section Twenty-Two (22), Township One Hundred Thirty-Six (136), Range Seventy-Two (72).

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T-155 – Allen Foster