

FPL Energy Oliver Wind, LLC
Baldwin Wind, LLC
Ashtabula Wind I, LLC

November 20, 2015

Mr. Jerry Lein
Public Utility Analyst
North Dakota Public Service Commission
600 East Boulevard, Dept 408
Bismarck, ND 58505-0408

UPS Overnight Mail

RE: Post Construction Inspection & Tree & Shrub Mitigation Issues, Case Nos. PU-06-312, PU-08-032, PU-08-073 and PU-09668

Dear Mr. Lein:

Please find responses below from FPL Energy Oliver Wind, LLC ("Oliver Wind"), Baldwin Wind, LLC ("Baldwin Wind") and Ashtabula Wind I, LLC ("Ashtabula I") to your letter dated October 27, 2015. The following list provides responses to your inquiries and references to requested documentation.

Oliver Wind: PU-06-312

- **Request:** The Commission requests a 2015 survival report to ensure that at least 155 trees have survived three years from the last planting
 - **Response:** Oliver Wind has engaged a consultant to complete a survival report, which will be filed before the end of 2015.

Ashtabula I: PU-08-032

- **Request:** Please provide updated information as to the types of plants that are growing currently and what reseeding options if any, may be needed.
 - **Response:** Ashtabula I has engaged a consultant to complete this review. Due to seasonal constraints, the review will begin early next summer and the results will be filed after completion.
- **Request:** The following wildlife protection measures should be implemented or explained why they should not be implemented: 1) bird diverters on the transmission line, and 3) bird deterrents on MET towers. Please provide an update on these measures.
 - **Response:** Ashtabula I conducted a visual inspection of the transmission line and MET towers in November and confirms that bird diverters are in place on the transmission line and bird deterrents are in place on the MET towers.

- **Request:** Provide documentation of the ND PES and NDDOT Permits if needed. Please provide copies of these permits or explain why they were not needed.
 - **Response:** Permits attached include:
 - Letter dated May 16, 2008 “Notice of Coverage under Construction Storm Water General Permit NDR10-2264
 - Letter dated October 5, 2010 “Notice of Termination NDPDES Stormwater General Permit Coverage Number NDR102264”
 - ND DOT Utility Occupancy Application and Permit

- **Request:** Provide documentation of the pre-construction conference and notice of intent to start construction.
 - **Response:** Ashtabula I cannot locate documentation of the pre-construction conference or notice of intent to start construction, but believes both requirements were completed based on discussions with those involved with the project at the time.

- **Request:** Provide documentation of SHPO concurrence
 - **Response:** See attached documentation.

- **Request:** Verification of setbacks for an occupied structure in the NE ¼ of the SE ¼ of Section 28, T143N, R57W, about 1300 feet west of Turbine 14 and an occupied structure in the SW ¼ of the SE ¼ of Section 9, T142N, R57W, about 1200ft southeast from Turbine 76 and about 1160ft southeast from Turbine 75. There is no evidence of agreements with the landowners filed. (Order Point 4) Please provide this documentation.
 - **Response:** Attached please find the setback waivers associated with the two occupied structures in the areas identified in Staff’s request.

- **Request:** The Commission requests a 2015 and 2016 survival report to ensure that 444 trees are surviving after three years of monitoring from each planting.
 - **Response:** Ashtabula I has engaged a consultant to complete the survival report and will file the reports before year-end 2015 and 2016, respectively.

Ashtabula I: PU-08-073

- **Request:** Please provide a copy of the ND Department of Transportation Utility Permit or explain why the permit was not necessary.
 - **Response:** ND DOT Utility Occupancy Application and Permit attached.

- **Request:** Confirmation that no TV or radio interference occurred.
 - **Response:** Ashtabula I has not received any comments regarding TV or radio interference.

- **Request:** Provide documentation of the pre-construction conference and notice of intent to start construction
 - **Response:** Ashtabula I cannot locate documentation of the pre-construction conference or notice of intent to start construction, but believes both requirements

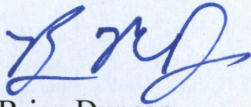
were completed based on discussions with those involved with the project at the time.

Baldwin Wind: PU-09-668

- **Request:** The Commission requests additional reports in 2015 through 2017 to ensure that 309 trees are surviving after three years of monitoring of each planting.
 - **Response:** Baldwin Wind has engaged a consultant to complete the requested reports. The reports will be filed in the corresponding year.

Thank you for your attention to this matter. Please feel free to contact me at (561) 304-5641 should you have any questions.

Sincerely,



Brian Duncan
Director
Business Management – Midwest Region



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov



May 16, 2008

Dick Rausch
FPL Energy – Ashtabula Wind, LLC
10812-B Highway 66 NE
Osnabrock, ND 58269

RE: Notice of Coverage under
Construction Storm Water General Permit NDR10 - 2264

Dear Mr. Rausch:

We have reviewed your application for coverage under the North Dakota Pollutant Discharge Elimination System (NDPDES) General Permit associated with storm water discharges from construction activity, NDR10-0000. Your application has been assigned serial number:

<u>Coverage #</u>	<u>Site name</u>
NDR10-2264	Ashtabula Wind Energy Center

Please remember to update the Storm Water Pollution Prevention (SWPP) Plan when necessary, and to inspect, maintain and adjust the best management practices (BMPs) and temporary structures until the site is stabilized following construction activities. Once the site is stabilized as outlined in the general permit, you may file for termination of permit coverage. Cities or counties may impose additional requirements and/or specific BMPs for construction affecting their storm drainage system. Please check with the local officials to be sure all local storm water management considerations are addressed. The general permit (NDR10-0000), forms and additional information may be found at the following webpage:

<http://www.health.state.nd.us/wq/Storm/Construction/ConstructionHome.htm>

If you have any questions, please contact me at (701) 328-5244 or at cllawson@nd.gov.

Sincerely,

Cory Lawson
Environmental Scientist
Division of Water Quality

c.c.: Tom Blattner – DH Blattner & Sons, Inc.

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov



October 5, 2010

Don Hopkins
NextEra Energy
12306 20th Street
Luverne, ND 58056

RE: Notice of Termination
NDPDES Stormwater General Permit
Coverage Number **NDR102264**
Ashtabula Wind, LLC

Dear Mr. Hopkins:

In response to your request, coverage under the stormwater general permit for construction activity for the above referenced facility has been discontinued. As indicated in your notice, coverage under the permit is no longer required since final stabilization has been achieved on the construction site.

By satisfying the conditions to discontinue permit coverage and filing the notice, you are no longer required to submit reports or conduct other activities as outlined in the permit. You must retain all records and information from the project(s) for at least three (3) years.

If you should have any questions, please contact me at (701)328-5239.

Sincerely,

Randy Kowalski
Environmental Scientist
Division of Water Quality

CC: Brian Wysong, NextEra Energy Resources

Environmental Health
Section Chief's Office
701-328-5150

Division of
Air Quality
701-328-5188

Division of
Municipal Facilities
701-328-5211

Division of
Waste Management
701-328-5166

Division of
Water Quality
701-328-5210

UTILITY OCCUPANCY APPLICATION AND PERMIT
 North Dakota Department of Transportation, Design Division
 SFN 7995 (Rev. 05-2004)

COPY

Document No. _____ (FOR STATE USE ONLY) Permit No. 21329

APPLICANT INFORMATION

Owner of Facility FRL Energy	City Juno Beach	State FL	Zip Code 33408-0420
Mailing Address P.O. Box 14000			Telephone Number 561-691-7171
Owner's Agent Otter Tail Power Company	City Fergus Falls	State MN	Zip Code 56538-0496
Owner's Contractor	City	State	Telephone Number

LOCATION NO. 1 (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

Highway No. 26 Along or Across Lanes of traffic 2 4

Direction N S E W Begin _____ feet from reference marker _____

Direction N S E W End _____ feet from reference marker _____

N S E W from city of _____ or 5.0 miles from junction highway CR 32

TYPE OF FACILITY (Complete appropriate spaces only.)

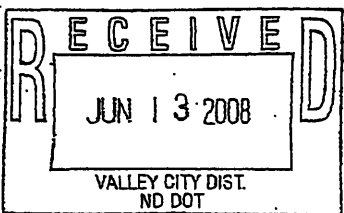
Description of Proposed Facility Electric Transmission Power line, along the east side of CR 27 and crossing Hwy 26		
Size of Facility 230 kV	Number of Cables 4	Length of Down Guys
Pipeline Pressure	Size of Casing	Length of Casing
Location of Pole(s) 192.2' south of CR 26 center line	Location of Appurtenances	Location - Others

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions, attached hereto and made a part hereof.

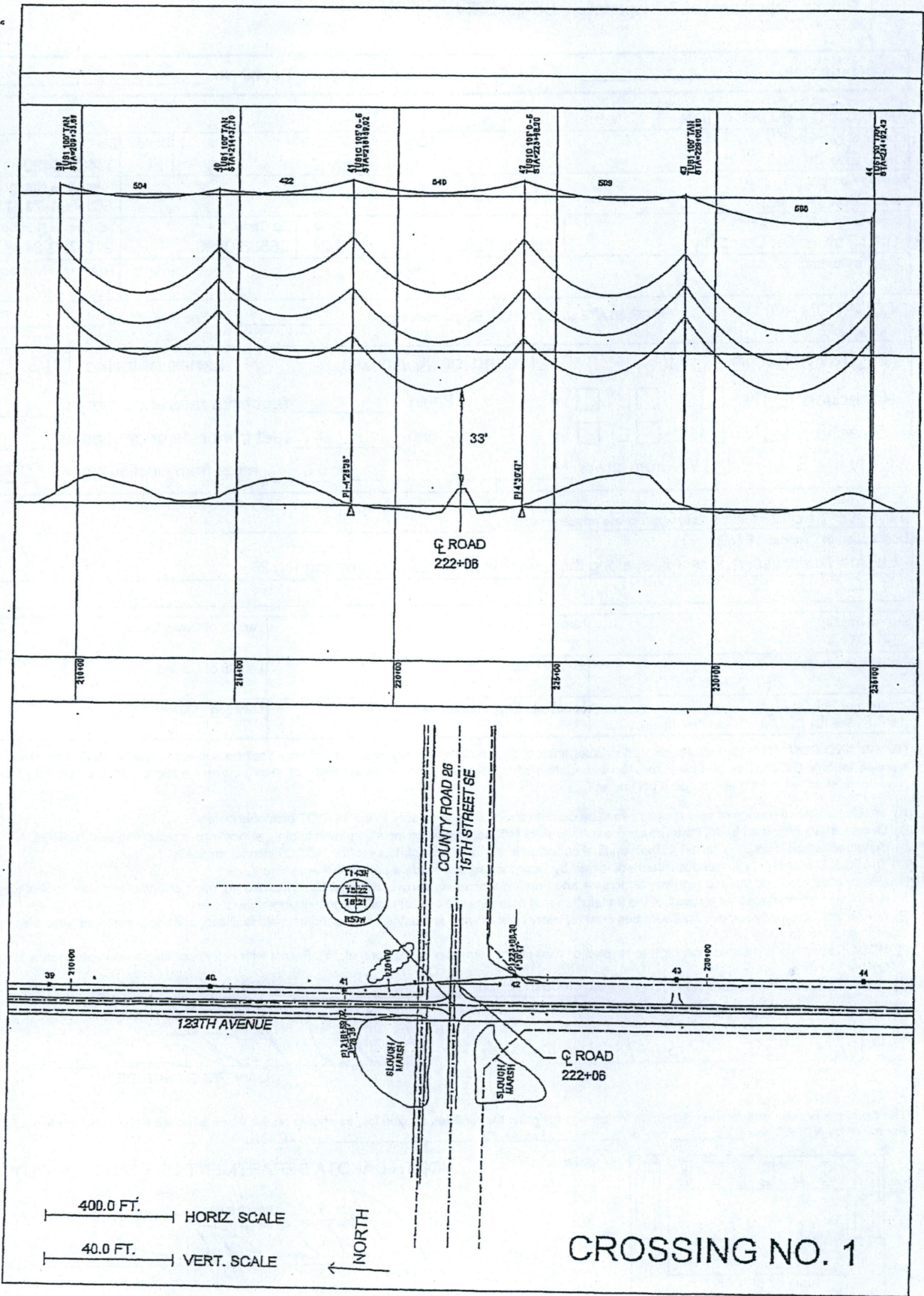
- (A) Installation/maintenance of said facilities shall be done in a manner satisfactory to the NDDOT district engineer.
- (B) Owner shall notify the NDDOT district engineer forty-eight (48) hours prior to installing, maintaining, relocating, or removing said facilities. All disturbed areas shall be restored to their original condition in a manner satisfactory to the NDDOT district engineer.
- (C) The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
- (D) Owner shall repair or replace highway structures and appurtenances, and any existing facilities located on, over, or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (E) Owner shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to do so by NDDOT.
- (F) NDDOT specifically reserves the right to revoke, or change the terms and conditions of, this Permit with or without cause and upon notice to the Owner.
- (G) The installation shall be completed on or before December 31, 20 08

JUNE 12, 2008 DATE [Signature] OWNER'S SIGNATURE

The Owner is hereby granted permission to install and maintain the facilities applied for, as shown on the plans attached hereto and made a part hereof. Approved by NDDOT this 19th day of June, 2008



NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
John E. Thompson
 DISTRICT ENGINEER (TYPE OR PRINT)
[Signature]
 SIGNATURE





**STATE
HISTORICAL
SOCIETY**
OF NORTH DAKOTA

John Hoeven
Governor of North Dakota

June 18, 2008

North Dakota
State Historical Board

Jeffrey R. Rice, Project Manager, Natural Resources
Tetra Tech
618 South 25th Street
PO Box 30615
Billings MT 59107

Albert I. Berger
Grand Forks - President

Chester E. Nelson, Jr.
Bismarck - Vice President

Gerold Gerntholtz
Valley City - Secretary

A. Runic Todd III
Jamestown

Diane K. Larson
Bismarck

Marvin L. Kaiser
Williston

Richard Kloubec
Fargo

Sara Otte Coleman
Director
Tourism Division

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prehal
Director
Parks and Recreation
Department

Francis Ziegler
Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

ND SHPO REF: 08-0310 PSC/Tetra Tech 200 Mega Watt (MW) Barnes
County Wind Farm (Ashtabula Wind, LLC) Barnes County, North Dakota

Dear Mr. Rice,

We reviewed ND SHPO REF: 08-0310 PSC/Tetra Tech 200 Mega Watt (MW)
Barnes County, North Dakota and concur with the recommendation of "No
Historic Properties Affected" provided that the project is of the nature specified
and the work takes place in the mapped locations provided, and provided Sites
32BA172 and 32BA173 are avoided. Christina Grimsrud Burns' report
"Ashtabula Wind Farm Project: A Class III Cultural Resource Inventory, Barnes
County, North Dakota" is acceptable. If there are any further changes in the
project that result in a change of the "Area of Potential Effect," please be sure that
new areas are inventoried for cultural resources.

Thank you for the opportunity to review this project. Please include the ND
SHPO Reference number listed above in any further correspondence for this
project. If you have any questions please contact Susan Quinnell, Review and
Compliance Coordinator at (701)328-3576 or squinnell@nd.gov

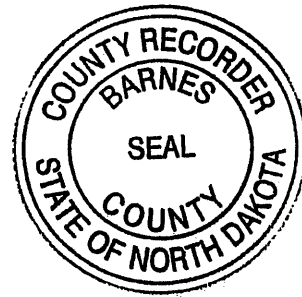
Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and
Director
State Historical Society of North Dakota

c: PSC
c: Beaver Creek Archaeology, Inc. 111 S Broadway, PO Box 489, Linton ND
58552

Accredited by the
American Association
of Museums

Grantor	J
Grantee	J
Indexed	J
Checked	2/25



Fee: \$ 16.00 264722
 OFFICE OF COUNTY RECORDER County of Barnes, North Dakota
 I hereby certify that the within instrument was filed in this office
 on 2/25/2009 at 9:20 AM, and was duly recorded.

By [Signature] County Recorder
 By [Signature] Deputy

AFTER RECORDING RETURN TO

Carlos Megias, Esq.
 FPL Energy, LLC
 700 Universe Blvd.
 Juno Beach, FL 33408

(This space reserved for recording
 information)

SETBACK WAIVER

This Setback Waiver ("Waiver") is granted this 28th day of January, 2009, by Harold Pross, a single man ("Owner") and Ashtabula Wind, LLC, a Delaware limited liability company, its successors and assigns ("Operator").

Owner owns property in Barnes County, North Dakota ("Property"), described as follows:

SEE EXHIBIT A

In consideration of Ten Dollars (\$10.00) in hand paid to Owner by Operator, Owner hereby consents to Operator constructing one (1) Wind Turbine on the Property at less than one thousand four hundred (1400) feet from an existing residence on the Property. Owner hereby waives any objection to Operator constructing one (1) Wind Turbine less than one thousand four hundred (1400) feet from an existing residence on the Property that Owner may have under the laws, regulations and ordinances enacted by local, state or federal government applicable to the development of a wind farm in Barnes County, North Dakota by Operator. Owner acknowledges that the consent and waiver given hereby is a covenant running with the Property and applies to succeeding and subsequent owners of the Property described herein. Owner consents to Operator recording this Waiver in the Office of the Barnes County Recorder to provide notice of this Agreement to succeeding and subsequent owners of the Property.

IN WITNESS WHEREOF, the Owner has executed this Setback Waiver on the date set forth above:

Owner:

Harold Pross
Harold Pross

STATE OF NORTH DAKOTA)
)
COUNTY OF BARNES) SS:

This instrument was acknowledged before me this 28 day of January, 2009, by Harold Pross, a single man. .

Dee Dee Olson

Notary Public, Commission No. _____

My Commission Expires:

(SEAL)

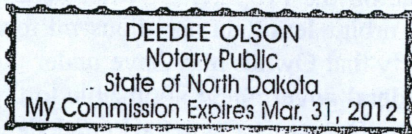


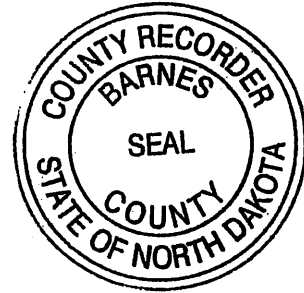
EXHIBIT A LEGAL DESCRIPTION

The South Half (S½) of Section 28, Township 143 North, Range 57 West of the Fifth Principal Meridian, Barnes County, North Dakota, less and except the following tracts of land:

- a) The East 75.0 feet of the E½ of Section 28, Township 143 North, Range 57 West, 5th P.M., excepting all that portion previously acquired for public highway right-of-way and all that portion lying with 33 feet of the Section lines. Tract contains 5.02 acres, more or less.

- b) Commencing at the NE corner of the SE¼ of said Section 28, thence West along the quarter line 720' to a point, thence due South 600' to a point, thence due East 720' to a point on the Section line, thence North along the Section line 600' to the Point of Beginning.

Grantor	<i>[Signature]</i>
Grantee	<i>[Signature]</i>
Indexed	<i>[Signature]</i>
Checked	<i>[Signature]</i>



AFTER RECORDING RETURN TO

Carlos Megias, Esq.
FPL Energy, LLC
700 Universe Blvd.
Juno Beach, FL 33408

Fee: \$ 31.00 264877
OFFICE OF COUNTY RECORDER County of Barnes, North Dakota
I hereby certify that the within instrument was filed in this office
on 3/24/2009 at 9:15 AM and was duly recorded.

By *[Signature]* County Recorder
Deputy

(This space reserved for recording
information)

SETBACK WAIVER

This Setback Waiver ("Waiver") is granted this 5th day of March, 2009, by Mark C. Askerooth and Frances Karen Askerooth, husband and wife; Cynthia Sue Askerooth-Olson and Maurice Olson, wife and husband; and Scott L. Askerooth, a single man ("Owners") and Ashtabula Wind, LLC, a Delaware limited liability company, its successors and assigns ("Operator").

Owners own property in Barnes County, North Dakota ("Property"), described as follows:

SEE EXHIBIT A

In consideration of Ten Dollars (\$10.00) in hand paid to Owners by Operator, Owners hereby consent to Operator constructing two (2) Wind Turbine(s) on the Property at less than one thousand four hundred (1400) feet from an existing residence on the Property. Owners hereby waive any objection to Operator constructing two (2) Wind Turbine(s) less than one thousand four hundred (1400) feet from an existing residence on the Property that Owners may have under the laws, regulations and ordinances enacted by local, state or federal government applicable to the development of a wind farm in Barnes County, North Dakota by Operator. Owners acknowledge that the consent and waiver given hereby is a covenant running with the Property and applies to succeeding and subsequent owners of the Property described herein. Owners consent to Operator recording this Waiver in the Office of the Barnes County Recorder to provide notice of this Agreement to succeeding and subsequent owners of the Property.

IN WITNESS WHEREOF, the Owners have executed this Setback Waiver on the date set forth above:

Owner:

Mark C. Askerooth
Mark C. Askerooth

Frances Karen Askerooth
Frances Karen Askerooth

Maurice D. Olson

Cynthia Sue Askerooth Olson

Scott L. Askerooth

(ACKNOWLEDGEMENTS ARE ON THE FOLLOWING PAGE(S))

Return To: Cameron D. Sillers
908 3rd St.
LANGDON ND 58249

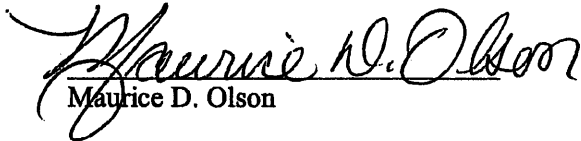
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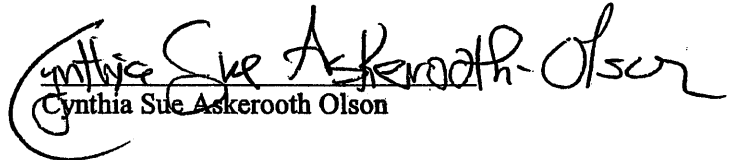
IN WITNESS WHEREOF, the Owners have executed this Setback Waiver on the date set forth above:

Owner:

Mark C. Askerooth

Frances Karen Askerooth


Maurice D. Olson


Cynthia Sue Askerooth Olson

Scott L. Askerooth

(ACKNOWLEDGEMENTS ARE ON THE FOLLOWING PAGE(S))

Return To: Cameron D. Sillers
908 3rd St.
LANGDON ND 58249

264877
3 of 8

IN WITNESS WHEREOF, the Owners have executed this Setback Waiver on the date set forth above:

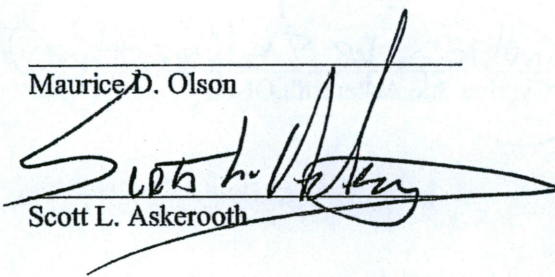
Owner:

Mark C. Askerooth

Frances Karen Askerooth

Maurice D. Olson

Cynthia Sue Askerooth Olson



Scott L. Askerooth

(ACKNOWLEDGEMENTS ARE ON THE FOLLOWING PAGE{S})

Return To: Cameron D. Sillers
908 3rd St.
LANGDON ND 58249

264877
4 of 8

STATE OF NORTH DAKOTA)
)
COUNTY OF BARNES)

SS:

This instrument was acknowledged before me this 5th day of March, 2009,
by Mark C. Askerooth and Frances Karen Askerooth, husband and wife.

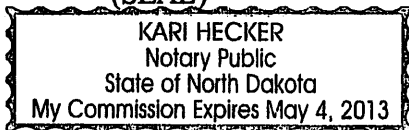
Kari Hecker

Notary Public, Commission No. _____

My Commission Expires:

05/04/2013

(SEAL)



STATE OF MINNESOTA)
)
COUNTY OF CROW WING)

SS:

This instrument was acknowledged before me this _____ day of _____, 2009,
by CYNTHIA SUE ASKEROTH OLSON and MAURICE D. OLSON, wife and husband.

Notary Public, Commission No. _____

My Commission Expires:

(SEAL)

STATE OF NORTH DAKOTA)
)
COUNTY OF BARNES) SS:

This instrument was acknowledged before me this ____ day of _____, 2009,
by Mark C. Askerooth and Frances Karen Askerooth, husband and wife.

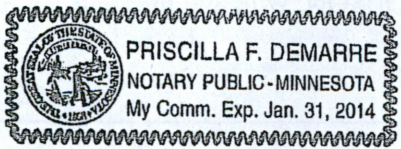
Notary Public, Commission No. _____

My Commission Expires:

(SEAL)

STATE OF MINNESOTA)
)
COUNTY OF CROW WING) SS:

This instrument was acknowledged before me this 5th day of March, 2009,
by CYNTHIA SUE ASKEROTH OLSON and MAURICE D. OLSON, wife and husband.



Priscilla F. Demarre

Notary Public, Commission No. _____

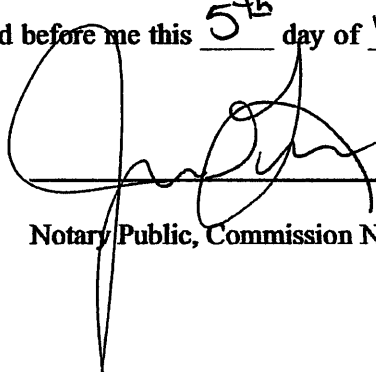
My Commission Expires:

(SEAL)

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

SS:

This instrument was acknowledged before me this 5th day of March, 2009,
by Scott L. Askerooth, a single man.



Notary Public, Commission No. _____

My Commission Expires:

(SEAL)
JESSICA GROSS
Notary Public
State of North Dakota
My Commission Expires May 2, 2014

EXHIBIT A LEGAL DESCRIPTION

The Southwest Quarter of Section 10, in Township 142 North of Range 57 West of the 5th P.M., Barnes County, North Dakota; and

That part of Section 9, containing 160 acres, more or less, bounded and more particularly described as follows, to wit: Beginning at a point 100 rods W of the SE corner of said Section 9; thence running N 320 rods; thence W 60 rods; thence S 100 rods; thence W 53 1/3 rods; thence S 120 rods; thence E 53 1/3 rods; thence S 100 rods; thence E 60 rods to the point of beginning, in Township 142 North of Range 57 West of the 5th P.M., Barnes County, North Dakota.