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October 2, 2019

Via Email and Fed Ex

Steve Kahl
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480

**Re: Merricourt Wind Project
Notice of Unintended Disturbance of Two Identified Cultural Sites
Case No. PU-08-932 (Site Certificate No. 23)
Case No. PU-19-144 (Joint Request to Transfer from EDF to OTP)**

Dear Mr. Kahl:

On September 25, 2019 the KLJ field archeologist assigned to the Merricourt Wind Project identified ground disturbances around and within two cultural sites at the Merricourt project site.

Pursuant to certification provision number 18 relating to the above-referenced Site Certificate, this letter is to provide the Commission: 1) notice and documentation of these disturbances; 2) confirmation that the affected cultural sites have been marked, preserved, and protected from further disturbances until a professional examination can be made by the State Historical Society's Preservation Office (hereinafter, "SHPO"), (a report of which may be filed with the Commission); and 3) details on corrective actions being taken in the field to ensure such an error does not happen again.

Project construction plans contemplated installation of 50-foot avoidance fencing around all identified cultural sites on a rolling basis preceding the start of construction in each location and/or having an archeological monitor onsite during construction activities in order to avoid all identified cultural, tribal and or similar features. Unfortunately, on September 25, 2019 a tractor operator mistakenly proceeded into areas that were staked but not yet fenced and without a monitor present. The preliminary analysis done at the affected sites by KLJ's archeologist is attached to this letter as Attachment A.

EDF-RE US Development, LLC ("EDF"), the KLJ field archeologist, and Wanzek have been in regular communication since discovery of the disturbance to ensure the sites are protected and corrective actions are being implemented. While EDF is contractually responsible for

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compliance with the Site Certificate during construction, pursuant to section 2.9 of its Turnkey Engineering, Procurement and Construction Services Agreement with Otter Tail Power Company, EDF contacted Otter Tail shortly after the discovery and these efforts are being coordinated to ensure compliance with the Site Certificate. This written notice is being submitted by EDF and on behalf of Otter Tail Power Company as the holder of the Site Certificate.

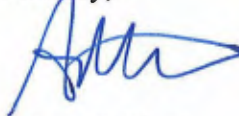
Given the nature of the error described above and in Attachment A, Wanzek construction crews have been working around the clock to complete fencing of all identified cultural sites for the entire project site. EDF will confirm that all such avoidance fencing is complete throughout the entire project site by October 4, 2019. Further details on existing and additional corrective measures being taken in the field are included in Attachment B to this letter.

Additionally, as noted above, all construction activity has been put on hold in the affected areas until further notice from SHPO and the Commission. Initial notice of these events was given to SHPO on Friday, September 27, 2019. We will file additional communication and analysis from SHPO with the Commission when available.

Please contact Chris Sternhagen (612-486-4513; Christopher.sternhagen@edf-re.com) with any further questions, clarifications or additional documentation requested.

An original and copies of this filing are being provided via FedEx.

Sincerely,



Andrew J. Pieper
STOEL RIVES LLP
Attorneys for EDF-RE US Development, LLC

AJP:cal

Enclosures

cc: Jerry Lein
Mark Bring
Harvey McMahon
Kate O'Hair
Bradley Tollerson
Chris Sternhagen
John Papasergia
Dave Cliff
Sara Bergan

ATTACHMENT A

KLJ PRELIMINARY ANALYSIS OF DISTURBANCE



4585 Coleman Street
Bismarck, ND 58503-0431
701 355 8400
KLJENG.COM

October 1, 2019

EDF Renewables
10 Second Street ND Suite 400
Minneapolis, MN 55413

**Re: Merricourt Wind Power Project
Cultural Resource Disturbance
PU-08-932**

To Whom it may Concern:

On September 25, 2019, prior to topsoil removal at Tower 56, the field archaeologist noticed ground disturbance around and within the two cultural resource sites. A tractor-pulled belly scrapper went through previously documented sites 32MT181 (temp number mwfar18-1) and JLH59 (tribal identified feature location). The area appeared to have avoidance stakes, but the stakes were knocked down. Neither site appeared to have avoidance fencing. At site 32MT181, at least one large rock was shifted and broken, with a few smaller ones also hit. Those were likely associated with the cairn feature. At JLH59, at least eight rocks were hit, including one feature of which has at least seven rocks hit/moved. Those were likely associated with the rock features.

No deep cuts were observed at either location. It appears the operator was likely going in a large circle to mark what they thought was the outer edge of the tower location by removing a thin layer of topsoil and upper vegetation. The width of disturbance is about 12 feet across. Most of the disturbed area is tire tracks, with limited soil removal. At the south end of the scrapper disturbance there is a small linear pile of soil, rock, and vegetation that apparently was pushed out of the scrapper belly. Also, a bare area where they dug a bit deeper--about 12 by 4 feet in size.

All work has been stopped at the tower and access road location. In addition, the cultural avoidance fencing at the remaining locations will be completed and confirmed by an archeologist before any topsoil is removed from those areas.

Additional measures taken by EDF include:

- Have an archaeologist complete a cursory re-inventory of all towers, access roads, and other utility corridors prior to the start of topsoil removal which have yet to be constructed.
- An archaeologist will be on location or within close proximity to the project location area everyday topsoil is removed. This includes days when construction is not occurring near culturally sensitive areas.

Both cultural resources were photographed and documented. The SHSND has been contacted to inform them of the cultural resource disturbance and we are currently awaiting a response. We will complete a



site update for 32MT181 and submit a new site form or cultural heritage form for JLH59 for a state number.

Should you have any comments or questions please contact me at Andrew.robinson@kljeng.com or 701-250-5921.

Sincerely,

KLJ

A handwritten signature in black ink, appearing to read 'Andrew Robinson'.

Andrew Robinson
Archeologist

ATTACHMENT B

MERRICOURT CULTURAL SITE VERIFICATION PROCESS



October 1st, 2019

Merricourt Cultural Site Verification Process

Cultural site fencing is ongoing ahead of construction. We currently have a dedicated crew installing the fence which is scheduled to finish by 10/4/2019.

We have implemented the following steps to verify compliance moving forward:

1. Fence installation will be verified by Wanzek Civil Field Engineer
2. Wanzek civil supervisor will contact Duane with KLJ prior to entering with a list of anticipated sites to become active over the next 24 hours.
3. Duane Klinner (Archaeologist) with KLJ will go inspect list of sites for appropriate fencing and surveying. He will then report back to EDF/Wanzek team with verification or instruction on how to proceed or hold off activity until further notice.
4. Once verification from KLJ (Duane Klinner - Archaeologist) is attained, the site will then be allowed access for construction activity.

