

November 6, 2020

Via Electronic Mail Only


Mr. Steve Kahl
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

**In re: Baldwin Wind, LLC
Incursion Memorandum
Case No. PU-09-668
Our File No.: 035218-00058**

Dear Mr. Kahl:

Enclosed for filing in the above-referenced matter is an Incursion Memorandum regarding the Baldwin Wind Energy Center Improvement Project. Please feel to contact me with any questions.

Sincerely,


Casey Furey

CAF/lh

cc: Tracy Davis (via email)
Brian Johnson (via email)
Jerry Lein (via email)

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Memorandum regarding Avoidance Area Incursion
Baldwin Wind, LLC
Casey Furey, Crowley Fleck, PLLP

Memorandum

To	Baldwin Wind, LLC
Subject	Baldwin Wind Energy Center Improvement Project Avoidance Area Incursion Case No. PU-09-668
From	AECOM
Date	November 6, 2020

On July 14, 2010, the North Dakota Public Service Commission (Commission) approved Findings of Fact, Conclusions of Law and Order (Order) issuing Certificate of Site Compatibility No. 16 (Case No. PU-09-668) to Baldwin Wind, LLC (Baldwin Wind). On May 19, 2020 Baldwin Wind submitted documentation in support of a certification pursuant to North Dakota Century Code (NDCC) Section 49-22-03(3)(a) for the Baldwin Wind Energy Center (Baldwin WEC) improvement project (Project) as well as a request to amend the Order to clarify property setback requirements. An amendment to the Order was issued by the Commission on July 23, 2020.

Prior to construction of the Project, Baldwin Wind set up wooden lathe marked with pink paint connected with gold rope to delineate avoidance areas near and within the construction corridors. Construction crews were instructed not to enter the avoidance areas. On October 15, 2020, Baldwin Wind identified certain instances where it appeared that a construction crew may have driven outside of the previously surveyed areas and potentially entered sensitive areas. Construction in these areas had been completed when the potential incursions were identified. Baldwin Wind immediately notified construction crews of the apparent incursion and instructed crews to remain fully within the construction corridor and avoid marked avoidance areas on the remainder of the Project.

AECOM, the Project's environmental contractor, was scheduled to visit the Project on October 20, 2020 to evaluate the suspected disturbance areas; however, heavy snowfall prevented the AECOM surveys from occurring until October 23, 2020. During the October 23, 2020 inspection, AECOM set up lathe along the previously surveyed area to clearly guide crane operators to stay within the survey corridor and reflagged the avoidance areas as needed to enhance their visibility.

After snow melt, AECOM surveyed the disturbance areas on October 30, 2020 and November 2, 2020. The cultural resources surveys determined that there was disturbance within the avoidance buffers around sites 32BL660, 32BL667, and 32BL675; however, the sites themselves were not impacted. These sites were previously documented as unevaluated for the National Register of Historic Places (NRHP). Separately, AECOM observed disturbances at two sites, one of which (32BL672) was previously documented, and one of which (32BL670) was a newly documented feature outside of the previous survey area. Based upon AECOM's surveys, these two sites (32BL670 and 32BL672) are not recommended as being evaluated for the NRHP. Impacts at these two sites consisted of a crane or truck driving over rocks that were identified as part of the site features, but the sites themselves remain intact. Baldwin Wind is in the process of coordinating with the North Dakota State Historic Preservation Office (NDSHPO) to evaluate and report impacts. Baldwin Wind will file the results of this coordination with the Commission.

To prevent additional impacts, Baldwin Wind has implemented the following precautionary measures:

- Repair or reinstallation of steel post fencing around avoidance areas to mitigate wood staking being damaged or moved;
- Installation of lathe along remaining construction corridors for crane operators; and
- Increased training and coordination with the construction contractor regarding avoidance areas and the requirement to remain within the construction corridor.