

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Meadowlark Wind I, LLC  
New Frontier Wind Energy Project – McHenry County  
Siting Application

Case No. PU-11-69

AFFIDAVIT OF SERVICE BY REGULAR AND ELECTRONIC MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

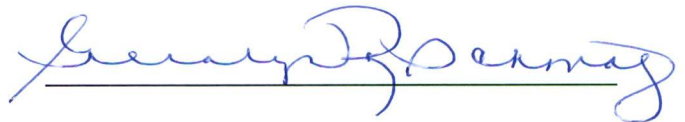
she is over the age of 18 years and not a party to this action and, on the **15th day of May, 2018**, she deposited in the United States Mail, Bismarck, North Dakota, **4** envelopes by first class mail, fully prepaid and **42** addressees electronically mailed a copy of:

- **Order**

The envelopes and electronic mails respectively were addressed as follows:

**See attached list.**

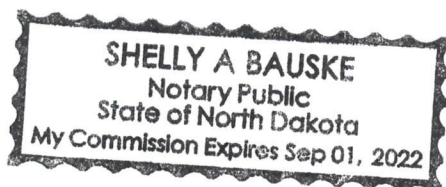
Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.



Subscribed and sworn to before me  
this **15th** day of **May 2018**.



Notary Public



SEAL

Federal Aviation Administration  
Bismarck Airports District Office, BIS-i  
Bismarck ND 58504

City of Voltaire  
Mayor  
Voltaire ND 58792

County Auditor  
McHenry County  
407 S Main  
Towner ND 58788

County Commissioners  
McHenry County  
407 S Main  
Towner ND 58788

ndaero@nd.gov  
Gaye Niemiller  
Aeronautics Commission  
PO Box 5020  
Bismarck ND 58502-5020

masagsve@nd.gov  
Matt Sagsveen  
Attorney General's Office

dhseo@nd.gov

Department of Human Services

energyimpact@nd.gov  
Energy Infrastructure and Impact Office

squinnell@nd.gov  
Susan Quinnell  
Historical Society

sjdavis@nd.gov  
Scott Davis  
Indian Affairs Commission  
State Capitol - 1st Floor J Wing INSIDE  
Bismarck ND 58505

jjhuibregtse@nd.gov  
Jared Huibregste  
N D Water Commission  
900 E Boulevard  
Bismarck ND 58505

jay.fuhrer@nd.usda.gov  
Jay Fuhrer  
NATURAL RESOURCE CONSERVATION SVC  
PO BOX 1458  
BISMARCK ND 58502-1458

ksonsalla@nd.gov  
Kevin Sonsalla  
ND Department of Commerce

jgisinger@nd.gov  
Jennifer Gisinger  
ND Dept. of Commerce

goehring@nd.gov  
Doug Goehring  
Agriculture Department  
State Capitol  
Bismarck ND 58505

todd.j.lindquist@usace.army.mil  
Todd Lindquist  
Corp of Engineers  
PO Box 527  
Riverdale ND 58565-0527

cte@nd.gov

Dept of Career and Technical Education  
State Capitol  
Bismarck ND 58505

governor@nd.gov  
Doug Burgum  
Governor's Office  
State Capitol  
Bismarck ND 58505

ppicha@nd.gov  
Paul Picha  
Historical Society

samuele.warren.1@us.af.mil  
Sam Warren  
Minot Air Force Base

gheiser@nd.gov  
Gerald Heiser  
N D Water Commission  
900 E Boulevard  
Bismarck ND 58505

ndascd@lincolnoakes.com  
ND Assoc of Soil Conservation Dist  
3310 University Drive  
Bismarck ND 58504-7564

mdockter@nd.gov  
Monte Dockter  
ND Department of Transportation  
State Highway Building  
Bismarck ND 58505

Larry.kotchman@ndsu.edu  
MR LARRY KOTCHMAN  
ND FOREST SERVICE  
MOLBERG CENTER 307 1ST STREET EAST  
BOTTINEAU ND 58318

tsteinwa@nd.gov  
Terry Steinwand  
ND GAME & FISH DEPT  
INSIDE MAIL

caboyd@nd.gov  
Clint Boyd  
ND Geological Survey

emurphy@nd.gov  
MR ED MURPHY  
ND GEOLOGICAL SURVEY

mkommer@nd.gov  
Michelle Kommer  
ND Job Service  
P.O. Box 5507 INSIDE MAIL  
Bismarck ND 58506-5507

labor@nd.gov  
  
ND Labor Department

mhumann@nd.gov  
Mike Humann  
ND Land Department

jjkringstad@ndpipelines.com  
  
ND Pipeline Authority

ndicinfo@nd.gov  
  
North Dakota Industrial Commission

melissabaker@nd.gov  
Melissa Baker  
North Dakota Parks & Rec  
1600 E Century Ave, Ste. 3 INSIDE MAIL  
Bismarck ND 58503-0649

TylerHamman@lignite.com  
Tyler Hamman  
North Dakota Transmission Authority

gerbele@nd.gov  
Garland Eberle  
State Engineer  
ND Water Commission

dglatt@nd.gov  
Dave Glatt  
State Health Department

krockema@nd.gov  
Karl Rockeman  
State Health Department

pwax@nd.gov  
Peter Wax  
State Health Department

craigjohnson@nd.gov  
Craig A. Johnson  
State Representative  
8080 17th Avenue NW  
Maxbass ND 58760-9769

dickanderson@nd.gov  
Dick Anderson  
State Representative  
1187 77th Street NE  
Willow City ND 58384

svedaa@nd.gov  
Shawn Vedaa  
State Senator  
PO Box 550  
Velva ND 58790-0550

wendy ross@nps.gov  
Wendy Ross  
Theodore Roosevelt Nat'l Park  
PO Box 7  
Medora ND 58645

sschwenke@fs.fed.us  
Sherri Schwenke  
U S Forest Service  
240 W Century Ave  
Bismarck ND 58501-1494

gjwiche@usgs.gov  
District Chief  
U S Geological Survey  
821 E Interstate Ave  
Bismarck ND 58501

cenwo-de@usace.army.mil  
District Engineer  
US Army Engineer District Omaha  
1616 Capitol Ave  
Omaha NE 68102

managementauthority@fws.gov  
US Fish & Wildlife Service  
3425 Miriam Ave  
Bismarck ND 58501

**STATE OF NORTH DAKOTA  
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**Meadowlark Wind I LLC  
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**Case No. PU-11-69**

**ORDER**

**May 15, 2018**

**Preliminary Statement**

On April 25, 2012, the North Dakota Public Service Commission (Commission) issued Certificate of Site Compatibility No. 29 to Meadowlark Wind I LLC (Meadowlark) for the New Frontier Wind Project (Project), in McHenry County, North Dakota.

On May 10, 2017, the Commission issued an Order of Continuing Suitability for Certificate No. 29.

On March 29, 2018, the Commission held an informal hearing to discuss Meadowlark's planned access road construction methodology in relation to the topsoil segregation requirement in Certification Provision No. 15 attached to and made a part of the Commission's May 10, 2017 Order of Continuing Suitability.

On April 2, 2018, Meadowlark filed a request to amend Certification Provision No. 15 of the May 10, 2017 Order of Continuing Suitability.

On April 5, 2018, the Commission issued a Notice of Opportunity for Hearing regarding Meadowlark's request to amend. On written comment was received.

On April 25, 2018, a second informal hearing was held as scheduled.

On May 3, 2018, Derrick Braaten of the Braaten Law Firm filed written comments in response to the Commission's Notice of Opportunity for Hearing.

**Discussion**

Certification provision 15 attached to and made a part of the Commission's May 10, 2017 Order of Continuing Suitability states:

15. Company understands and agrees that topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas, roadways, tower locations, and locations of associated facilities must be carefully

stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

In its April 2, 2018 filing, Meadowlark requested that, with respect to access roads, it be allowed to remove less than 12 inches of topsoil, or less than topsoil to the depth of cultivation, provided any topsoil removed is segregated from the subsoil. Meadowlark requests the amendment to permit Meadowlark to excavate approximately four inches of topsoil when constructing turbine access roads instead of removing topsoil up to 12 inches or topsoil to the depth of cultivation, whichever is greater, as required by Certification Provision 15.

Meadowlark stated it would then use a cement stabilization procedure to blend a 6% by weight mixture of Portland cement into the soil to form a stabilized subgrade over which an aggregate road surface would be installed. Meadowlark indicated that the cement is primarily composed of lime (calcium carbonate or CaOH), which is not harmful to the soil and often used as a fertilizer. Meadowlark contends that the cement substrate approach to road construction has commonly been used for years and minimizes disturbance of topsoil while conserving aggregate and truck traffic to haul the aggregate. Representatives of the McKenzie and McHenry County Soil Conservation District supported the cement stabilization procedure, opining that leaving as much topsoil in place as possible was prudent and that the approximately 6% cement powder stabilizer would not pose a problem when the road was reclaimed.

Meadowlark also referenced North Dakota Department of Transportation Standard Specifications for Road and Bridge Construction section 203.04.B which specifies to "remove topsoil to its full depth or a depth up to 6 inches, whichever is less, from all excavation and embankment areas.

Commission Staff commented that blending the cement stabilization mixture into topsoil would not be acceptable for coal mining and reclamation in North Dakota. Staff noted that soils in this region are already alkaline such that additional lime is not needed or desired. Staff was concerned the cement substrate material would not dissolve or otherwise disappear in the short term. Staff noted that it takes thousands of years for calcium carbonate in the upper topsoil profile to translocate to the lower subsoil profile.

On May 3, 2018, Derrick Braaten of the Braaten Law Firm filed written comments in response to the Commission's Notice of Opportunity for Hearing. Mr. Braaten retained Western Plains Consulting, Inc. (WPC) to review Meadowlark's proposal.

WPC points out that none of the soils in the project area are deficient in calcium and would not benefit from more calcium being added. WPC was concerned that adding more calcium to soils in the area may have an adverse impact on plant growth. WPC concluded that Meadowlark's proposal was unacceptable, and recommends that Meadowlark's proposal be rejected.


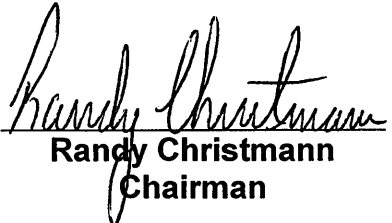

The Commission finds the DOT specifications are not applicable to wind project turbine access roads that must be reclaimed when the project has reached the end of its useful life. Further, the Commission believes removing and storing the topsoil up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, better facilitates reclamation of the access roads and productivity of the soil afterwards.

Having considered this matter, the Commission finds it is not appropriate to grant the requested exception to the Commission's topsoil segregation requirements. Therefore, the Commission issues its:

### Order

The Commission Orders Meadowlark's request to amend Certification Provision No. 15 of the Commission's May 10, 2017 Order of Continuing Suitability is DENIED.

### PUBLIC SERVICE COMMISSION

		
<hr/> <b>Brian Kroshus</b> Commissioner	<hr/> <b>Randy Christmann</b> Chairman	<hr/> <b>Julie Fedorchak</b> Commissioner