

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 CERTIFIED 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 **17th day of December 2018**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

- **Order**

The envelope was addressed as follows:

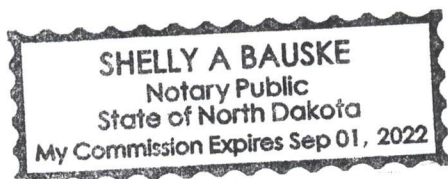
Mollie Smith  
Fredrikson & Byron, P. A.  
200 South Sixth Street Suite 4000  
Minneapolis, MN 55402-1425  
**Cert. No. 7018 0680 0001 3737 6960**

The address shown is the respective addressee's last reasonably ascertainable mailing address.

Subscribed and sworn to before me  
this **17th day of December 2018**.



SEAL

  
Notary Public

**STATE OF NORTH DAKOTA  
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**ORDER**

**December 13, 2018**

On April 25, 2012, the Public Service Commission (Commission) issued its Findings of Fact, Conclusions of Law and Order (Order) granting Certificate of Site Compatibility 29 (Certificate) to Meadowlark Wind I LLC (Meadowlark) for the New Frontier Wind Energy Project, located in McHenry County, North Dakota.

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

On November 2, 2018, Meadowlark Wind, LLC (Meadowlark) filed a request for setback determination and variance.

On November 6, 2018, Meadowlark filed additional support for its request for the setback determination and requested that the Commission amend its May 10, 2017 Order of Continuing Suitability.

On November 8, 2018, the Commission issued a Notice of Intent to Amend Order and Notice of Opportunity for Hearing. The issues to be considered were identified as:

1. Whether the Commission has the authority to grant a variance to the turbine setback area and, if so, should one be granted for the placement of T26.
2. Whether T6 complies with the Order of Continuing Suitability.
3. Whether Meadowlark's proposed amendments to the Order of Continuing Suitability will continue to produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
4. Whether Meadowlark's proposed amendments will continue to be compatible with the environmental preservation and the efficient use of resources, and
5. Whether Meadowlark's proposed amendments will continue to minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that the energy needs are met and fulfilled in an orderly and timely fashion.

On November 15, 2018, the Commission held an Informal Hearing to discuss the request in the Commission Hearing Room, 12<sup>th</sup> Floor, State Capital, Bismarck, North Dakota.

### **Discussion**

Meadowlark is a foreign corporation with a principal office located at STE 1200 10423, 101 St. NW Edmonton, AB T5H OE9. Meadowlark's registered agent is C T Corporation System, 120 W Sweet Ave, Bismarck, ND 58504-5566.

The Order of Continuing Suitability provided, among other things, that Meadowlark site turbines at least 1,400 feet from currently occupied residences and that Meadowlark comply with the siting criteria set forth in the version of Section 69-06-08-01 of the North Dakota Administrative Code in effect May 10, 2017.

Turbines T26 and T32 were constructed within one and one-tenth times the height of the turbine from an interstate or state roadway right-of-way. T26 was constructed 10.7 feet into the setback. T32 was constructed approximately 103 feet into the setback.

Turbine T6 was constructed within one and one-tenth times the height of the turbine from a one hundred fifteen kilovolt or higher transmission line.

Turbines T24 and T8 were constructed within 1,400 feet from two occupied residences. T24 was constructed approximately 5 feet into the setback and T8 was constructed approximately 35 feet into the setback.

In Meadowlark's Request for Setback Determination, Meadowlark requested a variance for the placement of T26 and a clarification of compliance for T6. In its request to amend, Meadowlark requested that two provisions of the Order of Continuing Suitability be amended: (1) that the voluntary setback commitment in Order Paragraph 4.b be amended to allow turbines T6 and T26 to remain in the location constructed; and (2) that the voluntary setback commitment in Order Paragraph 4.c be amended to allow home owners to waive the 1,400 foot setback from occupied residences.

At the informal hearing, Meadowlark withdrew its request for a variance. Meadowlark presented testimony and exhibits to support its request to amend the Order of Continuing Suitability, including evidence that granting the motion will avoid environmental and landowner impacts. Meadowlark also presented evidence that the current locations of the turbines would not adversely impact public safety.

Meadowlark provided waivers demonstrating landowner agreement to the placement of turbines T8 and T24 within a 1,400 foot setback from currently occupied residences. Meadowlark also submitted a letters from the landowners supporting the current placement of turbines T6 and T26 and expressing concern of additional impacts

to their properties if Meadowlark is required to move T6 and T26. Meadowlark also confirmed that it is in the process of moving T32.

During the informal hearing, Staff acknowledged that a 1,400 foot setback from inhabited residences is a guideline and that there have been other wind turbines sited within the 1,400 foot guidelines.

Based upon the facts presented, Meadowlark's proposed amendments to the Order of Continuing Suitability will continue to produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota; Meadowlark's proposed amendments will continue to be compatible with the environmental preservation and the efficient use of resources; and Meadowlark's proposed amendments will continue to minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that the energy needs are met and fulfilled in an orderly and timely fashion.

Therefore, the Commission makes the following:

#### **Order**

The Commission's May 10, 2017 Order of Continuing Suitability, ordering paragraph 4 is modified as follows:

4. Meadowlark shall comply with the following requirements:
  - a. Meadowlark shall construct no more than 49 turbines and no more than 102 MW within the designated site.
  - b. Meadowlark shall comply with the siting criteria set forth in the version of Section 69-06-08-01 of the North Dakota Administrative Code in effect as of May 10, 2017, subject to the following: (1) T26 may be located 530 feet from the State Highway right-of-way 41 measured from the center of the base of the turbine tower upon execution of a written agreement with the North Dakota Department of Transportation; and (2) T6 may be located 526 feet from the Great River Energy transmission line measured from the center of the base of the turbine tower upon execution of a written agreement with Great River Energy. Copies of the executed agreements must be provided to the Commission.
  - c. Meadowlark shall site turbines 1,400 feet from occupied residences, unless Meadowlark obtains and provides to the Commission a signed waiver from each owner of an occupied residence.
  - d. Meadowlark shall site Project turbines so as to meet a shadow flicker goal of 30 hours per year or less at each currently occupied residence, considering

site-specific conditions, unless a written acknowledgment is obtained from the landowner.

- e. Meadowlark shall use commercially reasonable efforts to install an aircraft detection and lighting system or other suitable lighting technology on the Project by December 31, 2019 or upon commencement of operation, whichever is later.
- f. Meadowlark has executed and shall comply with the March 10, 2017 Certification Relating to Order Provisions – Wind Energy Conversion Facility, with the accompanying Tree and Shrub Mitigation Specifications.

**PUBLIC SERVICE COMMISSION**

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