

Lein, Jerry R.

From: Todd Simmons (MP) <tsimmons@mnpower.com>
Sent: Tuesday, May 29, 2018 4:07 PM
To: Lein, Jerry R.
Subject: Keith & Deanna Kessler Settlement Letter for Bison 4 construction items
Attachments: 18-05-29 Kessler.pdf

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Good Afternoon Jerry,

Here is a copy of the letter Minnesota Power is sending to Keith & Deanna Kessler today regarding the Bison 4 construction items. I'll be sure to add the response letter and a summary of the conversation I had with Keith earlier today regarding the Bison 4 construction items as well as the T441 location item.

Thank you,
Todd

Todd Simmons | Minnesota Power
General Manager Renewable Operations
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Your message is ready to be sent with the following file or link attachments:

18-05-29 Kessler.pdf

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- 22 I-15-0195 Filed 05/29/2018 Pages: 5
E-mail with attached letter from Minnesota Power to Keith & Deanna Kessler
Allete, Inc.
Todd Simmons
- 137 PU-13-127 Filed 05/29/2018 Pages: 5
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Allete, Inc.
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May 29, 2018

VIA OVERNIGHT COURIER

Keith and Deanna Kessler
6001 26th Street S.W.
Glen Ullin, ND 58631

Re: Settlement Proposal
Minnesota Power – Bison 4 Wind Farm

Dear Keith & Deanna Kessler

Thank you for getting together Friday, May 11, to discuss the construction issues with Minnesota Power's Bison 4 Wind Project as well as your concerns related to the location of one of the Bison 4 turbines, T441. We appreciate that you have been participating landowners in the Bison 4 development and the relationship we've developed over the past few years.

Following our meeting I reached out to North Dakota Public Service Public Utilities Analyst Jerry Lein to share with him that we had met to review your counter proposal to Minnesota Power's last offer to resolve these matters.

Mr. Lein noted that, though he appreciated we have been discussing a tailored plan to address all of your concerns, it is Minnesota Power's obligation to resolve the outstanding Bison 4 construction items. Mr. Lein conveyed that each of the construction related items identified in the May 2017 meeting and on record with the PSC needs to be addressed by Minnesota Power (a copy of the Memorandum listing these items is enclosed). Minnesota Power has a plan to resolve each of the construction related items and we look forward to working with you to address your concerns. Pursuant to our conversation earlier today, I am disappointed that you do not want Minnesota Power on your property to remedy these issues. If the timing for this work is not ideal, let's discuss when Minnesota Power can complete these items.

As for your counter proposal to either remove Tower 441 or enter into a long term easement of fifty years at a value of four turbines per year or approximately \$3,500,000, Minnesota Power cannot accept either proposal.

The Bison 4 Wind Project was appropriately permitted to locate Tower 441 where it is. At the time of siting turbines for the Bison 4 development, the building that has since been



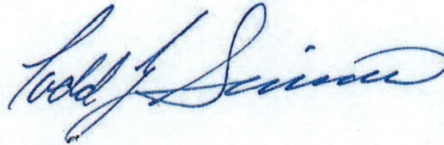
Mr. and Mrs. Kessler
Page 2
May 29, 2018

remodeled was not occupied and was in disrepair. Because that structure wasn't being lived in, the setback requirement of 1400' did not apply to that building. Additionally, at no time, including at the PSC's public hearing on the Bison 4 wind project development, were issues raised regarding either the location of Tower 441 or plans to remodel and inhabit the abandoned building. Minnesota Power is not responsible for the choice made to move to the turbine by renovating and living in that building.

We are very far apart in terms of expectations for what it would take to resolve this issue. Over the past year, Minnesota Power has communicated two very reasonable offers, both of which have been rejected. We appreciate that you do not want to sell the property or remove the building and acknowledge your dissatisfaction.

As a part of resolving the Bison 4 construction items we would like to propose our plan to fix the outstanding issues (a copy of the Memorandum listing these items at 1-3 is attached at Attachment A and a proposed plan to remediate the issues in Attachment B). Let's work together to get these items completed soon.

Yours truly,

A handwritten signature in blue ink, appearing to read "Todd J. Simmons". The signature is fluid and cursive, with the first name "Todd" being particularly prominent.

Todd Simmons

TS:sr
Attach

Attachment A:

MEMORANDUM

To: File Case No. I-195
Fr: John Shuh and Jerry Lein
Da: May 15, 2017
Re: Kessler Complaint re Bison 4 Project
Summary of Issues

On Friday, April 14, we visited the Keith Kessler Ranch in response to complaints from the Kesslers regarding reclamation issues on their land and a turbine placed too close to a residence now occupied by their son. Present for the site visit were Mr and Mrs Kessler along with ALLETE ROW agents Wade Isaacson and Scott Monroe. What follows is a summary of issues:

1. There are areas with washouts, ruts, rocks, weeds and other minor reclamation issues including a need for further de-compaction and reseeding along portions of crane walk paths. Mr. Kessler provided the attached map of his property detailing where these areas requiring further attention are located
2. MN Power replaced several segments of fence wire but there are numerous remaining areas with splices in fencing wire that Mr. Kessler believes should be replaced with new fencing.
3. There was a cattle guard on an access road to Turbine #441 that was not working because it had not been installed properly. There was also a question concerning whether a fence should be routed around or across the 441 turbine pad.
4. Turbine #441 is located within approximately 1200 feet of a residence occupied by the Kessler's son resulting in noise, shadow flicker and other issues at the residence. The residence was not occupied when Bison 4 was sited and constructed. Mr and Mrs Kessler state they informed the ROW agents before the turbine was sited that they did not want turbines near that residence because their son was planning to occupy it.

Attachment B

Below is the proposed approach for work to be done to fix the Bison 4 construction issue items:

- Washouts, ruts, rocks, weeds and other minor reclamation issues. De-compaction and reseeding needed along crane walk paths.
 - Remediation plan:
 - Washout areas graded smooth with skid-steer and topsoil added where necessary.
 - Rocks resulting from ground disturbance picked up.
 - Weeds controlled with herbicide.
 - Crane walk paths/collector line routes needing de-compaction and reseeding would be disked, topsoil added where necessary and reseeded. Temporary fencing would likely be required to restrict livestock from damaging new vegetation
 - Prior to work beginning, the work plan should be reviewed by Mr. Kessler and/or third-party engineering firm.
- Fencing with splices
 - Remediation plan:
 - New wire would be installed with zero splices.
- Cattle-guard not working effectively (a) and fence/cattle-guard routing across T441 crane pad
 - Remediation plan:
 - (a): The wings for this cattle-guard were moved inward to restrict cattle from walking across the support beam into the adjacent pasture.
 - (b): The fence/cattle-guard would be re-routed in-line with the property line and across the crane pad for T441. The cattle-guard may be replaced with a double swing-gate depending on Kessler's preference.