

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Lindahl Wind Project, LLC  
Lindahl Wind Farm Project – Williams County  
Siting Application

Case No. PU-15-482

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 **3rd** day of **December, 2015**, 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 a photocopy of:

**Findings of Fact, Conclusions of Law and Order**

And Original Of:

**Certificate of Site Compatibility No. 47**

The envelope was addressed as follows:

Mollie Smith  
Fredrikson & Byron P.A.  
200 South 6<sup>th</sup> Street, Suite 4000  
Minneapolis, MN 55402-1425  
**Cert. No. 7015 0640 0006 6433 1765**

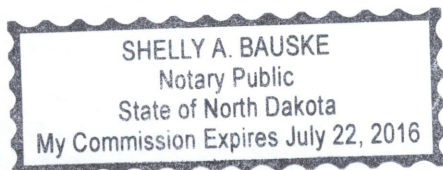
The address shown is the respective addressee's last reasonably ascertainable post office address.



Subscribed and sworn to before me  
this **3rd** day of **December, 2015**.

  
Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Lindah Wind Project, LLC  
Lindah Wind Farm Project – Williams County  
Siting Application**

**Case No. PU-15-482**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**December 2, 2015**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Mollie M. Smith, Fredrikson & Byron, P.A., 200 South 6th Street, Suite 4000, Minneapolis, MN 55402, on behalf of the Applicant, Lindahl Wind Project, LLC.

Brian D. Schmidt, Special Assistant Attorney General, North Dakota Public Service Commission.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On July 7, 2015, Lindahl Wind Project, LLC (Lindah Wind) filed an Application for a Certificate of Site Compatibility for a wind energy conversion facility (Application) known as the Lindahl Wind Farm Project (Project) to be located in Williams County, North Dakota.

On August 24, 2015, the North Dakota Public Service Commission (Commission) deemed the Application complete conditioned upon filing final wind turbine locations at least ten days before the hearing and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for October 8, 2015, at 9:00 a.m., at Neset Consulting Service, 6844 Highway 40, Tioga, North Dakota. The Notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On September 28, 2015, Lindahl Wind filed its anticipated final layout.

On October 8, 2015, the public hearing was held.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes its:

### **Findings of Fact**

1. Lindahl Wind is a Delaware limited liability company and is wholly-owned by Enel Kansas, LLC, which is a wholly-owned subsidiary of Enel Green Power North America Inc. (EGP). EGP is financially partnered with Tradewind Energy, Inc. (Tradewind), which is developing the Project.

2. Lindahl Wind has been authorized to do business in the State of North Dakota since November 3, 2014, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State on June 8, 2015 (Case No. PU-15-484).

3. Lindahl Wind proposes to construct the Project within approximately 13,000 acres of land in Williams County, North Dakota, approximately 4 miles north of the City of Tioga (Project Area). Lindahl Wind requests that the Project Area, as depicted in Hearing Exhibit No. 6, be designated as the site for the Project.

4. Lindahl Wind selected the proposed site for the Project based on a number of factors, including: the identified need, the quality of the wind resource, on-site electrical infrastructure for interconnection to the grid, landowner support, community input, agency coordination, compatibility with existing land use and environmental features, compliance with the Commission's siting criteria, compliance with Williams County's requirements, and economic considerations.

5. Section 49-22-16(4) of the North Dakota Century Code provides that a site shall not be designated that violates the rules of any state agency, and that compliance with an agency's rules shall be presumed if the agency fails to present its position with respect to the proposed facility at the public hearing. The federal, state and local departments, agencies and entities that were consulted and provided comment are as follows:

a. Federal – United States Department of Agriculture, Natural Resources Conservation Service (NRCS); United States Department of the Air Force –

Minot Air Force Base North Dakota; United States Department of the Army Corps of Engineers (USACE), North Dakota Regulatory Office; Federal Aviation Administration (FAA); United States Department of Commerce –National Telecommunications and Information Administration; United States Department of the Interior, Fish and Wildlife Service (USFWS);

b. State – North Dakota Aeronautics Commission (NDAC); North Dakota Department of Commerce; North Dakota Department of Health; North Dakota Department of Trust Lands; North Dakota Game and Fish Department; North Dakota Parks and Recreation Department; North Dakota State Water Commission; State Historical Society of North Dakota, State Historic Preservation Office (SHPO); and

c. Local – City of Tioga, North Dakota; Mountrail-Williams Electric Cooperative; Tioga Airport Authority.

6. After receiving an initial consultation letter, NDAC and the Tioga Airport Authority expressed concerns about the Project's location in relation to the Tioga Airport. After receiving additional information about the Project, NDAC and the Tioga Airport Authority determined that their concerns would be addressed if the Project complies with applicable regulations and obtains Determinations of No Hazard from the FAA on the final Project layout. Lindahl Wind presented testimony that the Project will comply with applicable regulations and that Determinations of No Hazard will be obtained from the FAA on the final Project layout.

7. The City of Tioga expressed concerns about the Project, including turbine reliability and safety, consideration of oil activity in the area, and the location of the Project in relation to the City's planned jurisdiction extension. The City also wanted to know what benefits the Project would provide to the City.

8. In response to the City's concerns, Lindahl Wind reduced the Project Area to the currently proposed site, which increased the distance of the Project boundary from the City from approximately two miles to approximately four miles. In addition, Lindahl Wind committed to not placing Project facilities on the parcel located in Tioga Township as depicted in Exhibit # 6, which is included in the Project Area to meet Williams County's setback requirements.

9. The City remained concerned and on February 23, 2015 sent a letter to Williams County Planning and Zoning stating its objection to the Project while acknowledging its lack of jurisdiction to approve or deny the Project. Williams County issued its Conditional Use Permit on July 7, 2015 and the City did not appear at the Commission's October 8, 2015 public hearing.

10. Agency consultations and comments are noted in Appendix F of the Application and in the exhibits and the testimony presented at the public hearing. With the exceptions noted above, no objections to the proposed Project were raised by any state or federal agencies or local governmental entities.

11. Section 49-22-16(2) of the North Dakota Century Code provides that no energy conversion facility site shall be designated that violates any local land use, zoning or building rules, regulations or ordinances. Lindahl Wind has obtained a conditional use permit for the Project from Williams County, and will comply with applicable county zoning ordinance requirements.

### Project Design

12. The Project will have a nameplate capacity of up to 150 MW, and the Project layout proposed by Lindahl Wind will consist of up to 75 wind turbines and related equipment, with the final number of turbines determined by the capacity of the turbine model(s) selected.

13. Lindahl Wind is currently considering five turbine models, or a turbine model with similar characteristics: the Vestas V100-2.0; the Vestas V100-2.2; the Vestas V110-2.0 and two types of the Vestas V117-3.3. Lindahl Wind may select a combination of V100 or V110 and V117-3.3 MW turbines. V117-3.3 turbines would only be installed at certain proposed locations (as depicted in Hearing Exhibit No. 7) to ensure that the Project meets turbine spacing requirements, the Commission's sound requirement, and the Project's shadow flicker target, with an up to 2.2 MW turbine installed at the other locations used. Depending on turbine availability, off-taker preference, and economic considerations, among other factors, Lindahl Wind may select a turbine model(s) other than those currently under consideration.

14. In addition to turbines, associated Project facilities constructed within the Project Area will include access roads, an underground 34.5 kV electrical collection and communication system, up to four permanent meteorological towers (met towers), an operations and maintenance (O&M) building, and a collector substation where voltage will be increased to 115 kV for transmission to the physical point of interconnection at the existing Lindahl Switching Station. Other temporary facilities required for the Project's construction phase include a concrete batch plant, laydown areas for equipment, intersection improvements, crane pads and working pads, and staging areas.

15. Foundation size and design will be finalized based on the results of the geotechnical analyses conducted once the turbine model(s) is/are selected.

16. Each turbine will communicate directly with the Supervisory Control and Data Acquisition (SCADA) system for performance monitoring, energy reporting, and troubleshooting.

17. Construction of the Project is anticipated to begin either in the fourth quarter of 2015 or the spring of 2016. Commercial testing is anticipated to take place starting in August 2016, with commercial operations beginning by the end of 2016.

18. The estimated cost for construction of the Project is approximately \$248.5 million.

## Siting Criteria

19. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in North Dakota Administrative Code Section 69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. With the exception of prime farmland and unique farmland, an energy conversion facility shall not be sited within an Exclusion Area. The exception for prime and unique farmland is if the Commission finds the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. In accordance with the Commission's Selection Criteria, a site shall be approved if it is demonstrated that any significant adverse effects resulting from the location, construction, and operation of the energy conversion facility will be at an acceptable minimum or that the effects will be managed and maintained at an acceptable minimum. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the proposed energy conversion facility in accordance with N.D. Admin. Code § 69-06-08-01(6).

### Exclusion Areas

20. With respect to general Exclusion Areas, prime farmland and farmland of statewide importance are present within the Project Area. The Project will avoid such land to the maximum extent practicable and is expected to permanently impact less than 0.6% of such land in the Project Area. The Commission finds the prime farmland and farmland of statewide importance that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production.

21. Additional Exclusion Areas within the Project Area are: areas less than one and one-tenth times the height of the turbine from interstate or state roadway right of way; areas less than one and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway; areas less than one and one-tenth times the height of the turbine from a one hundred fifteen kilovolt or higher transmission line; and areas one and one-tenth times the height of the turbine from the property line of a nonparticipating landowner. No turbines will be sited in these areas.

### Avoidance Areas

22. With respect to Avoidance Areas, cultural resources are present within the Project Area, but the Project will be sited to avoid cultural resource sites.

23. Wetlands are present within the Project Area, but the Project will be sited to avoid wetlands except where there is no reasonable alternative and then to minimize permanent impacts to the extent practicable.

24. Some trees and shrubs are located within the Project Area, but the Project will be sited to minimize tree removal to the extent practicable. Tree or shrub removal and replacement will be coordinated with landowners and conducted in accordance with the Commission's tree and shrub mitigation specifications.

#### Selection and Policy Criteria

25. The Project and its associated facilities are anticipated to permanently occupy and disturb up to approximately 62.9 acres of land, or up to approximately 0.5% percent of the total Project Area, during the life of the Project. Lindahl Wind will continue to work with landowners to minimize land use disruptions from the siting of the facilities. No impacts to irrigation or the quality of the agricultural land are anticipated.

26. Lindahl Wind submitted evidence to demonstrate that any significant adverse effects resulting from the location, construction, and operation of the Project as they relate to the Selection Criteria set forth in Section 69-06-08-01(5) of the North Dakota Administrative Code will be at an acceptable minimum or managed and maintained at an acceptable minimum.

27. Lindahl Wind submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible to meet the Policy Criteria set forth in Section 69-06-08-01(6) of the North Dakota Administrative Code.

28. During construction, the Project will likely result in a temporary increase in traffic on county and township roads. The increase in traffic during construction is not expected to be at a volume that will disrupt residents or travel in the Project Area. County and township roads will be restored in accordance with the Certification Relating to Order Provisions – Energy Conversion Facility Siting, dated October 2, 2015. During operation, no adverse effects to transportation facilities or networks are anticipated.

29. The proposed Project is not anticipated to have significant adverse impacts on the ability of the affected area to provide community services, such as housing, health care, educational services, police and fire protection, water and sewer, or solid waste management.

30. The Project is anticipated to benefit the local economy through the creation of construction and operation and maintenance jobs; easement payments to landowners; state and local tax revenue; and local expenditures for equipment, fuel, operating supplies, products and services.

## Cultural Resources

31. Lindahl Wind completed a Class II architectural history reconnaissance survey for the Project. Lindahl Wind also completed a Class I literature search for the Study Area, as well as a Class III cultural resource inventory of all areas in the Project Area that will be impacted by construction activities, including all turbine locations, permanent met tower locations, substation site, O&M building site, access roads, collection line locations and crane paths. Lindahl Wind has submitted its Class III cultural resources inventory report to SHPO for review, and will obtain and file a copy of SHPO's response regarding the Class III report with the Commission prior to beginning construction of the Project.

32. In the event that the Project layout changes from the layout provided in Hearing Exhibit No. 6, Lindahl Wind will complete Class III cultural resource survey work for any previously unsurveyed areas, per SHPO's guidance; will submit the findings to SHPO for review; and will obtain and file with the Commission a copy of SHPO's response prior to beginning construction in those areas.

33. Project facilities will avoid identified cultural resource sites and cultural resources are not expected to be impacted by the Project.

## Wetlands, Woodlands, and Wildlife

34. Woodlands comprise less than 0.05% of the total Project Area. If trees or shrubs are impacted by the Project, Lindahl Wind will comply with the Commission's tree and shrub mitigation specifications.

35. A wetland delineation was completed for the Project. In the event the Project layout changes, Lindahl Wind will complete a wetland delineation of any previously unsurveyed areas, as necessary. Lindahl Wind will minimize permanent wetland impacts from the Project to the extent practicable, and will obtain any permits required from the USACE.

36. The Project will avoid permanent impacts to USFWS wetland easement basins.

37. Lindahl Wind conducted environmental studies of the Project Area, and impacts to wildlife are anticipated to be minimal. Among the studies conducted were a raptor nest field survey of the Project Area, and a Stage 1 Initial Site Assessment of Eagle Use/Risk (see Hearing Exhibit No. 16). No nests were identified. Per data obtained from the NDGFD, no eagle nests were identified within twenty miles of the Project Area (see Hearing Exhibit No. 17). Lindahl Wind will continue to coordinate with the USFWS to determine potential mitigation/minimization measures. Lindahl Wind will also prepare a Bird and Bat Conservation Strategy prior to operation of the Project, which will outline specific conservation and minimization measures. In addition, Tradewind (the Project developer) is a member of the Wind Energy Whooping Crane Action Group that, in coordination with the USFWS and nine state wildlife agencies, is developing a Programmatic Habitat Conservation plan covering the whooping crane, interior least tern, piping plover, and lesser prairie chicken.

### Sound and Shadow Flicker Analyses

38. A sound analysis was conducted for the Project. The analysis demonstrates that sound levels for the Project will comply with the Commission's Avoidance Area requirement that sound levels within 100 feet of an inhabited residence or community building not exceed 50 dBA unless a waiver is obtained (Avoidance Area Sound Requirement).

39. A detailed shadow flicker analysis was conducted for the Project, using realistic modeling assumptions. Based on the shadow flicker analysis, potential shadow flicker levels are expected to be below 30 hours per year at all residences.

### Additional Mitigative Measures

40. Lindahl Wind has agreed to the measures to mitigate potential Project impacts identified in the attached Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, dated October 2, 2015.

41. In addition to those siting measures set forth above, Lindahl Wind has agreed to the following:

- a. Lindahl Wind will construct no more than 75 turbines within the Project Area;
- b. Lindahl Wind will construct no more than 150 MW within the Project Area;
- c. Lindahl Wind will comply with Williams County's turbine setback requirements of at least 1,400 feet from currently occupied residences;
- d. Lindahl Wind will site turbines at least 500 feet from existing oil and gas wellhead and tank battery locations;
- e. Lindahl Wind will site turbines and permanent met towers so as to comply with a setback of at least 0.5 mile from the McGregor Dam Wildlife Management Area, per NDGFD's recommendation; and
- f. Lindahl Wind will not site Project facilities within the area around the Fuller Waterfowl Production Area excluded from coverage under the Great Plains Programmatic Habitat Conservation Plan.

42. All setbacks applied will be measured from the center of the base of the turbine to the closest part of the applicable feature.

43. Based on the current Project layout, as depicted in Hearing Exhibit No. 6, all Project turbines are located at least 3,500 feet from currently occupied residences of nonparticipating landowners.

44. Lindahl Wind will utilize best management practices (BMPs) to minimize impacts on ground and surface water, and to prevent soil erosion. Lindahl Wind will implement the erosion control measures required under the National Pollution Discharge Elimination System (NPDES) permit and the associated Stormwater Pollution Prevention Plan. Construction of the Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils.

45. Lindahl Wind will participate in the North Dakota One-Call Excavation Notice System.

46. Lindahl Wind will coordinate with local authorities and first responders regarding emergency response measures as part of the Project commissioning activities.

47. Lightning and grounding protection for all wind farm equipment is designed and constructed to be compliant with all applicable National Electrical Code (NEC) and National Electric Safety Code (NESC) requirements.

48. In accordance with the Commission's rules, Lindahl Wind will file a decommissioning plan with the Commission prior to the commencement of operation of the Project, and decommissioning will be performed in accordance with all applicable rules and regulations.

From the foregoing Findings of Fact, the Commission now makes its:

#### **Conclusions of Law**

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.

2. The wind energy conversion facility proposed by Lindahl Wind is an energy conversion facility as defined in North Dakota Century Code Section 49-22-03(5).

3. The Application submitted by Lindahl Wind meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.

4. The location, construction, and operation of the proposed energy conversion facility will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The proposed energy conversion facility is compatible with environmental preservation and the efficient use of resources.

6. The proposed energy conversion facility location will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The Commission has jurisdiction to ensure compliance with National Electric Safety Code standards in the construction and operation of the proposed energy conversion facility.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

### **Order**

The Commission orders:

1. Certificate of Site Compatibility No. 47 for an Energy Conversion Facility is issued to Lindahl Wind Project, LLC, designating a site for a wind energy conversion facility that corresponds to the Project Area depicted in Hearing Exhibit No. 6.
2. That within the designated site, as depicted in Hearing Exhibit No. 6, Lindahl Wind is authorized to site, construct, operate, and maintain wind turbines and associated equipment, access roads, an O&M building, a substation, permanent meteorological towers, and a system of underground collection lines and communication cables, as well as any other associated facilities identified in the Application, at the hearing and in any supplemental filings.
3. Lindahl Wind shall comply with the following commitments:
  - a. Lindahl Wind will construct no more than 75 turbines within the Project Area;
  - b. Lindahl Wind will construct no more than 150 MW within the Project Area;
  - c. Lindahl Wind will comply with Williams County's turbine setback requirements of at least 1,400 feet from currently occupied residences;
  - d. Lindahl Wind will site turbines at least 500 feet from existing oil and gas wellhead and tank battery locations;
  - e. Lindahl Wind will site turbines and permanent met towers so as to comply with a setback of at least 0.5 mile from the McGregor Dam Wildlife Management Area, per NDGFD's recommendation; and
  - f. Lindahl Wind will not site Project facilities within the area around the Fuller Waterfowl Production Area excluded from coverage under the Great Plains Programmatic Habitat Conservation Plan.
4. Lindahl Wind shall file a copy of SHPO's response regarding the Class III cultural resource inventory report with the Commission prior to beginning construction of the Project.

5. If modifications are made to the Project layout, Lindahl Wind shall complete a Class III cultural resource survey for any previously unsurveyed portions of the designated site affected by Project-related construction activities, in accordance with SHPO guidance; shall submit cultural resource findings to SHPO for review; and shall obtain and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.

6. If modifications are made to the Project layout, Lindahl Wind shall complete a wetland delineation of any previously unsurveyed areas affected by Project-related activities, as necessary, and file the report with the Commission.

7. In the event Project modifications occur that are not covered by its current sound analysis, Lindahl Wind shall conduct a sound analysis and file a report with the Commission to ensure that the Project complies with the Commission's Avoidance Area Sound Requirement.

8. Lindahl Wind 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 otherwise agreed to by the landowner. In the event Project modifications occur that are not covered by its current shadow flicker analysis, Lindahl Wind shall conduct a shadow flicker analysis and file a report with the Commission to ensure this requirement is met.

9. The October 2, 2015 Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Mitigation Specifications (Hearing Exhibit No. 11) is incorporated by reference and attached to this Order.

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Randy Christmann**  
Commissioner

*ABSENT*  
\_\_\_\_\_  
**Julie Fedorchak**  
Chairman

  
\_\_\_\_\_  
**Brian P. Kalk**  
Commissioner

# **PUBLIC SERVICE COMMISSION**

## **STATE OF NORTH DAKOTA**

### **Certificate of Site Compatibility Number 47**

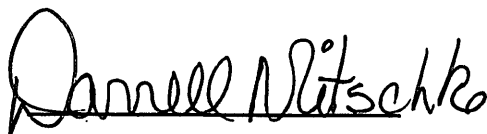
*This is to certify that the Commission has designated an energy conversion facility site for Lindahl Wind Project, LLC's Lindahl Wind Farm Project consisting of up to 150 MW of total wind turbine generating capacity and associated facilities in Williams County, North Dakota.*

*The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Finding of Fact, Conclusion of Law and Order of the Commission in Case No. PU-15-482 dated December 2, 2015 and is subject to the conditions and limitations noted in the order.*

*Bismarck, North Dakota, December 2, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Lindahi Wind Project, LLC  
Lindahi Wind Farm Project – Williams County  
Siting Application

Case No. PU-15-482

CERTIFICATION RELATING TO ORDER PROVISIONS  
ENERGY CONVERSION FACILITY SITING

I am David Post, a representative of Lindahi Wind Project, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
4. Company understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by

order of the Commission if deemed necessary to protect further the public or the environment.

7. Company is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Company agrees to comply with all decommissioning rules adopted by the Commission.

**Construction:**

8. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
9. Company understands and agrees that all cultural resource mitigation plans must be approved by the North Dakota State Historic Preservation Office prior to the start of any fieldwork and construction activity in the affected area.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a monthly basis.
11. Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
12. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
13. Company understands and agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.
14. Company understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography.

15. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
16. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
17. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission.
18. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.

**Restoration and Maintenance:**

19. Company agrees that it shall, as soon as practicable upon the completion of the construction of the energy conversion facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
20. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
21. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
22. Company will fulfil its obligation for reclamation and maintenance of the approved site continuing throughout the life of the energy conversion facility.
23. Company will repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.

24. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
25. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
26. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
27. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
28. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

**Communication with Landowners and PSC:**

29. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person, a tower collapse, or a catastrophic turbine failure.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in or near the approved site of any critical habitat of threatened or endangered species that Company becomes aware of and which were not previously reported to the Commission.
32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the energy conversion facility, or of any plans to modify the site plan for the energy conversation facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the site approved by the Commission and the facility design specifications for the construction of the energy conversation facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the site approved by the Commission and the facility design specifications for the construction of the energy conversation facility showing the location of the

energy conversion facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.

34. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.
35. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
36. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

Dated this 2 day of October, 2015.

Lindahll Wind Project, LLC

By \_\_\_\_\_

Its VP BUSINESS DEVELOPMENT

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Lindahl Wind Project, LLC**  
**Lindahl Wind Farm Project – Williams County**  
**Siting Application**

**Case No. PU-15-482**

**Tree and Shrub Mitigation Specifications**

**Inventory**

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (*e.g.*, *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), must be inventoried before cutting. The inventory must record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation

population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

#### **Clearing for Construction**

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

#### **Replacement**

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.
12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-

noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
14. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.
15. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
16. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).