

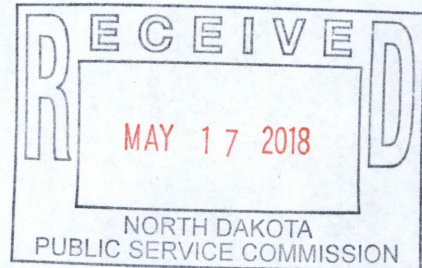


414 Nicollet Mall
Minneapolis, Minnesota 55401-1993

May 17, 2018

VIA E-MAIL AND CERTIFIED MAIL

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



**Re: Foxtail Wind, LLC Notice of Intent to Start Construction
Foxtail Wind Energy Center (Dickey County, ND)
Case No. PU-17-284**

Dear Mr. Nitschke:

In accordance with Certification Provision No. 11 of the North Dakota Public Service Commission's ("Commission") January 31, 2018 Order in Case No. PU-17-284, Foxtail Wind, LLC provides notice of its intent to start construction of the Project on May 29, 2018 in the laydown yard.

Also, enclosed are two (2) copies of the following documents:

1. The minutes of the pre-construction conference held on May 11, 2018;
2. Five (5) Permits for Conditional Use issued by the Spring Valley Township for the Project (submitted pursuant to Certification Provision No. 3).

Electronic copies of this letter and the above-referenced documents were filed with the Commission today via e-mail.

If you have any questions, please let me know.

Sincerely,

Patrick Flowers

Enclosures

cc: Jerry Lein (via e-mail – w/o encl.)
Amanuel Haile (via e-mail – w/o encl.)
Shannon Whiton (via email – w/o encl.)
Jeff Berrington (via email – w/o encl.)

Foxtail Wind, LLC
Foxtail Wind Energy Project
Case No. PU-17-284

Pre-Construction Meeting Minutes
May 11, 2018 @ 9:00 a.m. CST

Attendees:

Xcel Energy

Amanuel Haile	(612) 330-6663	amanuel.t.haile@xcelenergy.com
Zach Smith	(612) 330-6033	zachary.w.smith@xcelenergy.com
Warren Sakry	(763) 261-3676	warren.f.sakry@xcelenergy.com
Jeff Berrington	(612) 330-7530	jeff.j.berrington@xcelenergy.com
Shannon Whiton	(612) 330-5956	shannon.whiton@xcelenergy.com

North Dakota Public Service Commission

Jerry Lein	(701) 328-1035	jlein@nd.gov
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Keitu Engineering (PSC Third Party Inspector)

Jaimee Antognazzi	(701) 661-1808	jantognazzi@keitu.com
Karine Finken	(701) 667-1800	kfinken@keitu.com

Wanzek

Pete Nelson	(701) 429-3337	pnelson@wanzek.com
Matt Lentz		malentz@wanzek.com
Brendon Lamppa		blamppa@wanzek.com
Tom Badgley		thomas.badgley@matec.com

Discussion:

Jerry Lein reviewed the Commission's January 31, 2018 Order in Case No. PU-17-284 (Order) and the Certification Relating to Order Provisions – Energy Conversion Facility Siting (Certification).

Jerry noted the requirement for insurance or bond due prior to the start of construction.

Pete Nelson indicated Wanzek is planning to mobilize on or about May 29, 2018 in the laydown yard. Pete will coordinate with Jaimee Antognazzi from Keitu Engineering, third party inspector, on the date of initial topsoil removal. Inspector must be present to assure topsoil is properly segregated. Once construction has started, Xcel Energy will file monthly updates of construction activities.

Xcel Energy inquired on whether a certificate filing or an amendment would be required as a result of change in equipment as described in Provisions Nos. 4 and 5 of the Order at the site. Jerry replied a certification filing related to Order Provisions.

Additional discussion regarding certain provisions of the Certification is summarized below.

Provision No. 3: Jerry inquired on additional permits. Spring Valley Conditional Use Permits will be filed with the Commission.

Provision No. 15: Jerry discussed the topsoil removal and management requirements.

Provision No. 22: Jerry recommended videotaping roads in advance to document existing condition as a means of avoiding potential post-construction disagreements.

Provision No. 25: Jerry reminded the team to close gates to avoid letting out the cattle.

Provision No. 27: Jerry stated to file plan for tree replacement. Work with landowners in replacement plans. Commission must approve prior to replacement.

Provision No. 31: Jerry stated pre-construction engineering design drawings should be submitted prior to starting construction.

Provision No. 32: Contact Jerry and submit a written report of anything unusual (e.g., injuries, tower collapse, etc.) that occurs at the Project site.

Provision No. 34: Jerry noted that the post-construction as-built information must be filed in ESRI/GIS format.

Provision No. 35: Jerry noted the requirement to contact the Commission in the event of any damage to underground facilities during construction and emphasized the importance of calling to get a locate prior to digging, digging prior to the locate expiring, and calling for another locate if the locate expires prior to digging is complete. Jerry noted this is a hot issue with the Commission.

Provision No. 37: Jerry asked who should be contacted regarding landowner issues. Landowner issues should be directed to Sean Lawler with Xcel Energy at (612) 330-1956. Alternatively, contact Amanuel Haile with Xcel Energy at 612-330-6663.

**SPRING VALLEY TOWNSHIP
DICKEY COUNTY, NORTH DAKOTA**

PERMIT FOR CONDITIONAL USE

Permit Number: 18-01

Date: March 20, 2018

Permit issued to: Foxtail Wind LLC

For: Batch plant to provide for ease of access and use during construction and to produce all the cement needed for turbine foundations.

The applicant has met all requirements of Spring Valley Township's Zoning Regulation:

Yes: X

No: _____

Applicant is required to meet the conditions described below:

Foxtail Wind LLC (hereafter "Permittee") has applied for conditional use permits from Spring Valley Township (hereafter "Township") in Dickey County (hereafter "County") related to the development of a laydown yard, batch plant, switchyard, collector substation, and collection lines (hereafter "Project") within the Township. Approval of this permit for the batch plant is subject to the following conditions stipulated below.

General Conditions

The following conditions refer to general requirements of the Township's Zoning Regulation pursuant to section 6.10.4 that are relevant to this Project.

- Prior to commencing any work, the Permittee shall designate a representative and provide contact information to the Township for the Permittee's representative. The Permittee's representative must have authority to represent and bind the Permittee.
- At least forty-five (45) days prior to beginning construction, the Permittee shall provide the Township with a final site plan designating all facility locations as well as site access points and road crossings. The Permittee shall include the transportation route for equipment and materials, including specifying all final routes designated as heavy haul routes.
- At the Project sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend in with the natural setting and existing environment.
- At the Project sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the Township.

RB

- The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Project's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
- The Permittee shall ensure that, following completion of construction of the Project, Township roads will be repaired or restored to a condition at least equal to the condition prior to construction of such Project.
- Permittee shall post all signs other than those for traffic control in compliance with section 6.3 of the Zoning Regulation at its own expense.
- Within one hundred and eighty (180) days of termination or abandonment of leases or easements for Project in the Township, the Permittee shall cause, at its expense, removal of all structures to a depth of four feet below preconstruction grade.
- In the event of a change in ownership or controlling interest Project or the transfer of the permit, any successors and assigns of the original Permittee shall comply with the requirements and conditions of such permit for the duration of operation of a Project permitted in the Township. Within thirty (30) days of such change in ownership or controlling interest of any entity owning the Project, the parties to the transaction shall notify the Township by letter and provide the name, legal address and phone number of the Permittee and responsible contact person. The letter shall be signed by the authorized representatives or agents of both the original Permittee and the entity to which the Permit is being transferred. In the event of a change in the controlling interest of Permittee to Northern States Power Company (dba Xcel Energy), the 30-day notice requirement for provision of the letter shall be waived.

Conditions Relating to Road Conditions and Maintenance

- **Final haul route map.** Permittee shall provide a final haul route map to the Township with forty-five (45) days before construction begins on the project.
- **Safety and maintenance.** By agreeing with the terms of the conditional use permits, Permittee acknowledges the Township's safety and maintenance concerns and agrees to take appropriate action to address safety risks and maintenance issues identified by the Township or through the Permittee's investigation at all locations on the heavy haul roads identified in the final haul route map before commencement of construction on the Project.
- **Road usage.** Except as specifically provided otherwise, equipment and commercial vehicles associated with the Project and vehicles driven by employees, contractors or agents of Permittee must limit their use to those roads designated as "heavy haul" routes in the final haul route map submitted to the Township forty-five (45) days prior to commencement of construction. Permittee shall include language implementing this condition in all contracts. Employees or agents of Permittee and its contractors and their respective employees and agents may use other roads only to meet with township residents at non-Project site locations.
- **Dust control on designated heavy haul routes.** Treatment for dust control at all construction sites and on all County and Township roads in Spring Valley Township designated as heavy haul routes

shall be provided by application of magnesium chloride using Road Saver¹, or an equivalent product, at the manufacturer's specified strength, and supplemented by use of water trucks. Determination of the timing of the initial magnesium chloride application during each construction season, and of the need for any additional magnesium chloride applications during the same construction season, shall be made through consultation between the Permittee's Construction Site Manager and the Township's Road Supervisor. The final decision regarding timing and frequency of magnesium chloride applications shall rest with the Township Road Supervisor.

- **Dust control on roads not designated as heavy haul routes.** For those Township and County roads within the Township, which are located east of North Dakota Highway 56 and which are not designated as heavy haul routes, the Permittee shall first seek to minimize dust-related impacts on residences, livestock, pasture and forage crops by implementing the above referenced road usage measures for vehicles and equipment associated with the Project. If additional measures are determined to be necessary, the Permittee shall provide dust control using either magnesium chloride treatment or watering trucks, or a combination of the two, on as-needed, site-specific basis. Determination of a need for and the type of dust control on roads not designated as heavy haul routes shall be made through consultation between the Permittee's Construction Site Manager and the Township Road Supervisor, and the final decision shall rest with the Township Road Supervisor.
- **Speed limit.** Permittee's vehicles shall be limited to a top speed of 25 miles per hour for all trucks, equipment and vehicles associated with Foxtail Wind, LLC and its contractors on Township and County roads east of North Dakota Highway 56. Permittee shall post all traffic control signs at its own expense and in compliance with State of North Dakota's requirements.
- **Road Investigation.** Prior to beginning any construction, Foxtail Wind, LCC and its contracted engineers will inspect and strictly assess all designated roads in the manner provided in the final County Road Use and Maintenance Agreement. At its own expense, Permittee will provide the Township and the County Engineer with documentation such as cross section surveys, centerline profile, culvert condition inventory, etc., (and other means to determine the condition of all roads before and after the Project). A Preconstruction survey documenting the preconstruction condition of all Designated Roads to be used during construction of the Project shall be provided to the Township. This information will also be made available to the County Engineer to review for accuracy and clarity and will be considered as the record of the preconstruction condition of the roads unless the Township or the County Engineer provides Permittee with a written objection within seven (7) working days after receipt of such documenting material.
- **Location requiring special consideration.** Permittee recognizes that there is a significant risk of collapse and potential serious injury or death on the north side of Dickey County 5 (91st Street, SE) along the water east of the intersection with 70th Avenue, SE (S ½ of SW ¼ of Section 2) and will take additional steps to assure the location is safe and in good conditions throughout the Project.

¹ A data sheet for U.S. Magnesium's Road Saver product can be found at:
<http://climatecontrolprofessionals.com/wp-content/uploads/2011/01/RoadSaver-MSDS.pdf>

- **Maintenance.** Spring Valley Township will continue its own routine blading of Township roads. However, Permittee shall itself or through its agents, perform additional maintenance as necessary on all roads designated above for dust control, during and at the completion of the construction to maintain roads in original or better than pre-Project condition. Materials used must be approved by the Township. The Permittee is responsible for the cost of materials and labor for this additional roadwork.
- **Trenching roadways prohibited.** No installation of any project component may be accomplished by trenching through roadways. The crossing must be accomplished by boring and not by excavation. The Permittee shall provide forty-eight (48) hours of notice to the Township prior to boring. The minimum depth of any boring shall be 48 inches below the road surface. The Permittee is responsible to and shall complete any roadwork or traversing through roadways at the Permittee's expense in a safe and prudent manner and in accordance with the Dickey County Commission Regulations. Any damages resulting from the boring, whether or not the fault of Permittee, are the responsibility of Permittee.
- **Repair and final inspection.** At the end of the Project, Permittee shall perform a post-construction inventory of the roads in the Township. Permittee shall make any or all repairs necessary to return the roads to a pre-construction (or better) condition, at its sole cost and expense as documented in the comparison of the Pre-Construction Inventory and Post-Construction Inventory. In the event the Parties are unable to agree upon the required repairs needed to return the roads to preconstruction condition, the Parties agree to select an Independent Third-Party Engineer who will determine the repairs required.

3-20-18

Date



Chairman

Spring Valley Township Board of Supervisors

**SPRING VALLEY TOWNSHIP
DICKEY COUNTY, NORTH DAKOTA**

PERMIT FOR CONDITIONAL USE

Permit Number: 18-02

Date: March 20, 2018

Permit issued to: Foxtail Wind LLC

For: Laydown yard to provide temporary staging site for all construction materials necessary for building the wind generation facility.

The applicant has met all requirements of Spring Valley Township's Zoning Regulation:

Yes: X

No: _____

Applicant is required to meet the conditions described below:

Foxtail Wind LLC (hereafter "Permittee") has applied for conditional use permits from Spring Valley Township (hereafter "Township") in Dickey County (hereafter "County") related to the development of a laydown yard, batch plant, switchyard, collector substation, and collection lines (hereafter "Project") within the Township. Approval of this permit for the laydown yard is subject to the following conditions stipulated below.

General Conditions

The following conditions refer to general requirements of the Township's Zoning Regulation pursuant to section 6.10.4 that are relevant to this Project.

- Prior to commencing any work, the Permittee shall designate a representative and provide contact information to the Township for the Permittee's representative. The Permittee's representative must have authority to represent and bind the Permittee.
- At least forty-five (45) days prior to beginning construction, the Permittee shall provide the Township with a final site plan designating all facility locations as well as site access points and road crossings. The Permittee shall include the transportation route for equipment and materials, including specifying all final routes designated as heavy haul routes.
- At the Project sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend in with the natural setting and existing environment.
- At the Project sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the Township.

RB

- The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Project's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
- The Permittee shall ensure that, following completion of construction of the Project, Township roads will be repaired or restored to a condition at least equal to the condition prior to construction of such Project.
- Permittee shall post all signs other than those for traffic control in compliance with section 6.3 of the Zoning Regulation at its own expense.
- Within one hundred and eighty (180) days of termination or abandonment of leases or easements for Project in the Township, the Permittee shall cause, at its expense, removal of all structures to a depth of four feet below preconstruction grade.
- In the event of a change in ownership or controlling interest Project or the transfer of the permit, any successors and assigns of the original Permittee shall comply with the requirements and conditions of such permit for the duration of operation of a Project permitted in the Township. Within thirty (30) days of such change in ownership or controlling interest of any entity owning the Project, the parties to the transaction shall notify the Township by letter and provide the name, legal address and phone number of the Permittee and responsible contact person. The letter shall be signed by the authorized representatives or agents of both the original Permittee and the entity to which the Permit is being transferred. In the event of a change in the controlling interest of Permittee to Northern States Power Company (dba Xcel Energy), the 30-day notice requirement for provision of the letter shall be waived.

Conditions Relating to Road Conditions and Maintenance

- **Final haul route map.** Permittee shall provide a final haul route map to the Township with forty-five (45) days before construction begins on the project.
- **Safety and maintenance.** By agreeing with the terms of the conditional use permits, Permittee acknowledges the Township's safety and maintenance concerns and agrees to take appropriate action to address safety risks and maintenance issues identified by the Township or through the Permittee's investigation at all locations on the heavy haul roads identified in the final haul route map before commencement of construction on the Project.
- **Road usage.** Except as specifically provided otherwise, equipment and commercial vehicles associated with the Project and vehicles driven by employees, contractors or agents of Permittee must limit their use to those roads designated as "heavy haul" routes in the final haul route map submitted to the Township forty-five (45) days prior to commencement of construction. Permittee shall include language implementing this condition in all contracts. Employees or agents of Permittee and its contractors and their respective employees and agents may use other roads only to meet with township residents at non-Project site locations.
- **Dust control on designated heavy haul routes.** Treatment for dust control at all construction sites and on all County and Township roads in Spring Valley Township designated as heavy haul routes

shall be provided by application of magnesium chloride using Road Saver¹, or an equivalent product, at the manufacturer's specified strength, and supplemented by use of water trucks. Determination of the timing of the initial magnesium chloride application during each construction season, and of the need for any additional magnesium chloride applications during the same construction season, shall be made through consultation between the Permittee's Construction Site Manager and the Township's Road Supervisor. The final decision regarding timing and frequency of magnesium chloride applications shall rest with the Township Road Supervisor.

- **Dust control on roads not designated as heavy haul routes.** For those Township and County roads within the Township, which are located east of North Dakota Highway 56 and which are not designated as heavy haul routes, the Permittee shall first seek to minimize dust-related impacts on residences, livestock, pasture and forage crops by implementing the above referenced road usage measures for vehicles and equipment associated with the Project. If additional measures are determined to be necessary, the Permittee shall provide dust control using either magnesium chloride treatment or watering trucks, or a combination of the two, on as-needed, site-specific basis. Determination of a need for and the type of dust control on roads not designated as heavy haul routes shall be made through consultation between the Permittee's Construction Site Manager and the Township Road Supervisor, and the final decision shall rest with the Township Road Supervisor.
- **Speed limit.** Permittee's vehicles shall be limited to a top speed of 25 miles per hour for all trucks, equipment and vehicles associated with Foxtail Wind, LLC and its contractors on Township and County roads east of North Dakota Highway 56. Permittee shall post all traffic control signs at its own expense and in compliance with State of North Dakota's requirements.
- **Road investigation.** Prior to beginning any construction, Foxtail Wind, LCC and its contracted engineers will inspect and strictly assess all designated roads in the manner provided in the final County Road Use and Maintenance Agreement. At its own expense, Permittee will provide the Township and the County Engineer with documentation such as cross section surveys, centerline profile, culvert condition inventory, etc., (and other means to determine the condition of all roads before and after the Project). A Preconstruction survey documenting the preconstruction condition of all Designated Roads to be used during construction of the Project shall be provided to the Township. This information will also be made available to the County Engineer to review for accuracy and clarity and will be considered as the record of the preconstruction condition of the roads unless the Township or the County Engineer provides Permittee with a written objection within seven (7) working days after receipt of such documenting material.
- **Location requiring special consideration.** Permittee recognizes that there is a significant risk of collapse and potential serious injury or death on the north side of Dickey County 5 (91st Street, SE) along the water east of the intersection with 70th Avenue, SE (S ½ of SW ¼ of Section 2) and will take additional steps to assure the location is safe and in good conditions throughout the Project.

¹ A data sheet for U.S. Magnesium's Road Saver product can be found at:

<http://climatecontrolprofessionals.com/wp-content/uploads/2011/01/RoadSaver-MSDS.pdf>

- **Maintenance.** Spring Valley Township will continue its own routine blading of Township roads. However, Permittee shall itself or through its agents, perform additional maintenance as necessary on all roads designated above for dust control, during and at the completion of the construction to maintain roads in original or better than pre-Project condition. Materials used must be approved by the Township. The Permittee is responsible for the cost of materials and labor for this additional roadwork.
- **Trenching roadways prohibited.** No installation of any project component may be accomplished by trenching through roadways. The crossing must be accomplished by boring and not by excavation. The Permittee shall provide forty-eight (48) hours of notice to the Township prior to boring. The minimum depth of any boring shall be 48 inches below the road surface. The Permittee is responsible to and shall complete any roadwork or traversing through roadways at the Permittee's expense in a safe and prudent manner and in accordance with the Dickey County Commission Regulations. Any damages resulting from the boring, whether or not the fault of Permittee, are the responsibility of Permittee.
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3-20-18
Date



Chairman
Spring Valley Township Board of Supervisors

**SPRING VALLEY TOWNSHIP
DICKEY COUNTY, NORTH DAKOTA**

PERMIT FOR CONDITIONAL USE

Permit Number: 18-03

Date: March 20, 2018

Permit issued to: Foxtail Wind LLC

For: Collector substation to aggregate the energy produced by each individual wind turbine in the wind energy facility for transportation to the grid.

The applicant has met all requirements of Spring Valley Township's Zoning Regulation:

Yes: X

No:

Applicant is required to meet the conditions described below:

Foxtail Wind LLC (hereafter "Permittee") has applied for conditional use permits from Spring Valley Township (hereafter "Township") in Dickey County (hereafter "County") related to the development of a laydown yard, batch plant, switchyard, collector substation, and collection lines (hereafter "Project") within the Township. Approval of this permit for the collector substation is subject to the following conditions stipulated below.

General Conditions

The following conditions refer to general requirements of the Township's Zoning Regulation pursuant to section 6.10.4 that are relevant to this Project.

- Prior to commencing any work, the Permittee shall designate a representative and provide contact information to the Township for the Permittee's representative. The Permittee's representative must have authority to represent and bind the Permittee.
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- At the Project sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the Township.

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- The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Project's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
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- Within one hundred and eighty (180) days of termination or abandonment of leases or easements for Project in the Township, the Permittee shall cause, at its expense, removal of all structures to a depth of four feet below preconstruction grade.
- In the event of a change in ownership or controlling interest Project or the transfer of the permit, any successors and assigns of the original Permittee shall comply with the requirements and conditions of such permit for the duration of operation of a Project permitted in the Township. Within thirty (30) days of such change in ownership or controlling interest of any entity owning the Project, the parties to the transaction shall notify the Township by letter and provide the name, legal address and phone number of the Permittee and responsible contact person. The letter shall be signed by the authorized representatives or agents of both the original Permittee and the entity to which the Permit is being transferred. In the event of a change in the controlling interest of Permittee to Northern States Power Company (dba Xcel Energy), the 30-day notice requirement for provision of the letter shall be waived.

Conditions Relating to Road Conditions and Maintenance

- **Final haul route map.** Permittee shall provide a final haul route map to the Township with forty-five (45) days before construction begins on the project.
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- **Road usage.** Except as specifically provided otherwise, equipment and commercial vehicles associated with the Project and vehicles driven by employees, contractors or agents of Permittee must limit their use to those roads designated as "heavy haul" routes in the final haul route map submitted to the Township forty-five (45) days prior to commencement of construction. Permittee shall include language implementing this condition in all contracts. Employees or agents of Permittee and its contractors and their respective employees and agents may use other roads only to meet with township residents at non-Project site locations.
- **Dust control on designated heavy haul routes.** Treatment for dust control at all construction sites and on all County and Township roads in Spring Valley Township designated as heavy haul routes

shall be provided by application of magnesium chloride using Road Saver¹, or an equivalent product, at the manufacturer's specified strength, and supplemented by use of water trucks. Determination of the timing of the initial magnesium chloride application during each construction season, and of the need for any additional magnesium chloride applications during the same construction season, shall be made through consultation between the Permittee's Construction Site Manager and the Township's Road Supervisor. The final decision regarding timing and frequency of magnesium chloride applications shall rest with the Township Road Supervisor.

- **Dust control on roads not designated as heavy haul routes.** For those Township and County roads within the Township, which are located east of North Dakota Highway 56 and which are not designated as heavy haul routes, the Permittee shall first seek to minimize dust-related impacts on residences, livestock, pasture and forage crops by implementing the above referenced road usage measures for vehicles and equipment associated with the Project. If additional measures are determined to be necessary, the Permittee shall provide dust control using either magnesium chloride treatment or watering trucks, or a combination of the two, on as-needed, site-specific basis. Determination of a need for and the type of dust control on roads not designated as heavy haul routes shall be made through consultation between the Permittee's Construction Site Manager and the Township Road Supervisor, and the final decision shall rest with the Township Road Supervisor.
- **Speed limit.** Permittee's vehicles shall be limited to a top speed of 25 miles per hour for all trucks, equipment and vehicles associated with Foxtail Wind, LLC and its contractors on Township and County roads east of North Dakota Highway 56. Permittee shall post all traffic control signs at its own expense and in compliance with State of North Dakota's requirements.
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- **Location requiring special consideration.** Permittee recognizes that there is a significant risk of collapse and potential serious injury or death on the north side of Dickey County 5 (91st Street, SE) along the water east of the intersection with 70th Avenue, SE (S ½ of SW ¼ of Section 2) and will take additional steps to assure the location is safe and in good conditions throughout the Project.

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- **Maintenance.** Spring Valley Township will continue its own routine blading of Township roads. However, Permittee shall itself or through its agents, perform additional maintenance as necessary on all roads designated above for dust control, during and at the completion of the construction to maintain roads in original or better than pre-Project condition. Materials used must be approved by the Township. The Permittee is responsible for the cost of materials and labor for this additional roadwork.
- **Trenching roadways prohibited.** No installation of any project component may be accomplished by trenching through roadways. The crossing must be accomplished by boring and not by excavation. The Permittee shall provide forty-eight (48) hours of notice to the Township prior to boring. The minimum depth of any boring shall be 48 inches below the road surface. The Permittee is responsible to and shall complete any roadwork or traversing through roadways at the Permittee's expense in a safe and prudent manner and in accordance with the Dickey County Commission Regulations. Any damages resulting from the boring, whether or not the fault of Permittee, are the responsibility of Permittee.
- **Repair and final inspection.** At the end of the Project, Permittee shall perform a post-construction inventory of the roads in the Township. Permittee shall make any or all repairs necessary to return the roads to a pre-construction (or better) condition, at its sole cost and expense as documented in the comparison of the Pre-Construction Inventory and Post-Construction Inventory. In the event the Parties are unable to agree upon the required repairs needed to return the roads to preconstruction condition, the Parties agree to select an Independent Third-Party Engineer who will determine the repairs required.

Additional Conditions Applicable to the Collector Substation

- **Restoration or replacement of existing easements.** Permittee acknowledges that the location of the substation and switch yard in section 11-130-66 will destroy an existing right of way that crosses the site of the proposed substation and switchyard. In recognition of that, Permittee will provide a perpetual, legally-binding easement that ensures an equivalent alternative ingress, egress and right-of-way to landowners Mark and Shelda Flaten (NW ¼ of the SE ¼ of Section 11) and Bradford Crabtree and Renee Gopal (SW ¼ of the SE ¼ of Section 11) and their grantees, tenants, heirs, successors, and assigns.
- **Lighting.** Permittee shall limit all lighting after construction on all Project components including the substation and switchyard, to the minimum necessary for safety and maintenance purposes in a manner consistent with the rural and scenic character of the location and its natural nighttime conditions. Lighting luminaires shall focus downward, be fully shielded, and installed to reduce or eliminate reflection and glare. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system.¹

¹ Further guidance for such lighting can be found at http://www.darksky.org/wp-content/uploads/bsk-pdf-manager/16_MLO_FINAL_JUNE2011.PDF

3-20-18
Date



Chairman
Spring Valley Township Board of Supervisors

**SPRING VALLEY TOWNSHIP
DICKEY COUNTY, NORTH DAKOTA**

PERMIT FOR CONDITIONAL USE

Permit Number: **18-04**

Date: March 20, 2018

Permit issued to: Foxtail Wind LLC

For: Switchyard to serve as offtaker's interconnection to the grid that connects the energy from the collector substation to the grid's transmission system.

The applicant has met all requirements of Spring Valley Township's Zoning Regulation:

Yes: X

No:

Applicant is required to meet the conditions described below:

Foxtail Wind LLC (hereafter "Permittee") has applied for conditional use permits from Spring Valley Township (hereafter "Township") in Dickey County (hereafter "County") related to the development of a laydown yard, batch plant, switchyard, collector substation, and collection lines (hereafter "Project") within the Township. Approval of this permit for the switchyard is subject to the following conditions stipulated below.

General Conditions

The following conditions refer to general requirements of the Township's Zoning Regulation pursuant to section 6.10.4 that are relevant to this Project.

- Prior to commencing any work, the Permittee shall designate a representative and provide contact information to the Township for the Permittee's representative. The Permittee's representative must have authority to represent and bind the Permittee.
- At least forty-five (45) days prior to beginning construction, the Permittee shall provide the Township with a final site plan designating all facility locations as well as site access points and road crossings. The Permittee shall include the transportation route for equipment and materials, including specifying all final routes designated as heavy haul routes.
- At the Project sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend in with the natural setting and existing environment.
- At the Project sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the Township.

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- The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Project's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
- The Permittee shall ensure that, following completion of construction of the Project, Township roads will be repaired or restored to a condition at least equal to the condition prior to construction of such Project.
- Permittee shall post all signs other than those for traffic control in compliance with section 6.3 of the Zoning Regulation at its own expense.
- Within one hundred and eighty (180) days of termination or abandonment of leases or easements for Project in the Township, the Permittee shall cause, at its expense, removal of all structures to a depth of four feet below preconstruction grade.
- In the event of a change in ownership or controlling interest Project or the transfer of the permit, any successors and assigns of the original Permittee shall comply with the requirements and conditions of such permit for the duration of operation of a Project permitted in the Township. Within thirty (30) days of such change in ownership or controlling interest of any entity owning the Project, the parties to the transaction shall notify the Township by letter and provide the name, legal address and phone number of the Permittee and responsible contact person. The letter shall be signed by the authorized representatives or agents of both the original Permittee and the entity to which the Permit is being transferred. In the event of a change in the controlling interest of Permittee to Northern States Power Company (dba Xcel Energy), the 30-day notice requirement for provision of the letter shall be waived.

Conditions Relating to Road Conditions and Maintenance

- **Final haul route map.** Permittee shall provide a final haul route map to the Township with forty-five (45) days before construction begins on the project.
- **Safety and maintenance.** By agreeing with the terms of the conditional use permits, Permittee acknowledges the Township's safety and maintenance concerns and agrees to take appropriate action to address safety risks and maintenance issues identified by the Township or through the Permittee's investigation at all locations on the heavy haul roads identified in the final haul route map before commencement of construction on the Project.
- **Road usage.** Except as specifically provided otherwise, equipment and commercial vehicles associated with the Project and vehicles driven by employees, contractors or agents of Permittee must limit their use to those roads designated as "heavy haul" routes in the final haul route map submitted to the Township forty-five (45) days prior to commencement of construction. Permittee shall include language implementing this condition in all contracts. Employees or agents of Permittee and its contractors and their respective employees and agents may use other roads only to meet with township residents at non-Project site locations.
- **Dust control on designated heavy haul routes.** Treatment for dust control at all construction sites and on all County and Township roads in Spring Valley Township designated as heavy haul routes

shall be provided by application of magnesium chloride using Road Saver^{®1}, or an equivalent product, at the manufacturer's specified strength, and supplemented by use of water trucks. Determination of the timing of the initial magnesium chloride application during each construction season, and of the need for any additional magnesium chloride applications during the same construction season, shall be made through consultation between the Permittee's Construction Site Manager and the Township's Road Supervisor. The final decision regarding timing and frequency of magnesium chloride applications shall rest with the Township Road Supervisor.

- **Dust control on roads not designated as heavy haul routes.** For those Township and County roads within the Township, which are located east of North Dakota Highway 56 and which are not designated as heavy haul routes, the Permittee shall first seek to minimize dust-related impacts on residences, livestock, pasture and forage crops by implementing the above referenced road usage measures for vehicles and equipment associated with the Project. If additional measures are determined to be necessary, the Permittee shall provide dust control using either magnesium chloride treatment or watering trucks, or a combination of the two, on as-needed, site-specific basis. Determination of a need for and the type of dust control on roads not designated as heavy haul routes shall be made through consultation between the Permittee's Construction Site Manager and the Township Road Supervisor, and the final decision shall rest with the Township Road Supervisor.
- **Speed limit.** Permittee's vehicles shall be limited to a top speed of 25 miles per hour for all trucks, equipment and vehicles associated with Foxtail Wind, LLC and its contractors on Township and County roads east of North Dakota Highway 56. Permittee shall post all traffic control signs at its own expense and in compliance with State of North Dakota's requirements.
- **Road investigation.** Prior to beginning any construction, Foxtail Wind, LCC and its contracted engineers will inspect and strictly assess all designated roads in the manner provided in the final County Road Use and Maintenance Agreement. At its own expense, Permittee will provide the Township and the County Engineer with documentation such as cross section surveys, centerline profile, culvert condition inventory, etc., (and other means to determine the condition of all roads before and after the Project). A Preconstruction survey documenting the preconstruction condition of all Designated Roads to be used during construction of the Project shall be provided to the Township. This information will also be made available to the County Engineer to review for accuracy and clarity and will be considered as the record of the preconstruction condition of the roads unless the Township or the County Engineer provides Permittee with a written objection within seven (7) working days after receipt of such documenting material.
- **Location requiring special consideration.** Permittee recognizes that there is a significant risk of collapse and potential serious injury or death on the north side of Dickey County 5 (91st Street, SE) along the water east of the intersection with 70th Avenue, SE (S ½ of SW ¼ of Section 2) and will take additional steps to assure the location is safe and in good conditions throughout the Project.

¹ A data sheet for U.S. Magnesium's Road Saver product can be found at:

<http://climatecontrolprofessionals.com/wp-content/uploads/2011/01/RoadSaver-MSDS.pdf>

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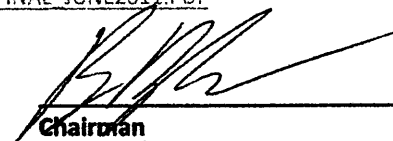
- **Maintenance.** Spring Valley Township will continue its own routine blading of Township roads. However, Permittee shall itself or through its agents, perform additional maintenance as necessary on all roads designated above for dust control, during and at the completion of the construction to maintain roads in original or better than pre-Project condition. Materials used must be approved by the Township. The Permittee is responsible for the cost of materials and labor for this additional roadwork.
- **Trenching roadways prohibited.** No installation of any project component may be accomplished by trenching through roadways. The crossing must be accomplished by boring and not by excavation. The Permittee shall provide forty-eight (48) hours of notice to the Township prior to boring. The minimum depth of any boring shall be 48 inches below the road surface. The Permittee is responsible to and shall complete any roadwork or traversing through roadways at the Permittee's expense in a safe and prudent manner and in accordance with the Dickey County Commission Regulations. Any damages resulting from the boring, whether or not the fault of Permittee, are the responsibility of Permittee.
- **Repair and final inspection.** At the end of the Project, Permittee shall perform a post-construction inventory of the roads in the Township. Permittee shall make any or all repairs necessary to return the roads to a pre-construction (or better) condition, at its sole cost and expense as documented in the comparison of the Pre-Construction Inventory and Post-Construction Inventory. In the event the Parties are unable to agree upon the required repairs needed to return the roads to preconstruction condition, the Parties agree to select an Independent Third-Party Engineer who will determine the repairs required.

Additional Conditions Applicable to the Switchyard

- **Restoration or replacement of existing easements.** Permittee acknowledges that the location of the substation and switch yard in section 11-130-66 will destroy an existing right of way that crosses the site of the proposed substation and switchyard. In recognition of that, Permittee will provide a perpetual, legally-binding easement that ensures an equivalent alternative ingress, egress and right-of-way to landowners Mark and Shelda Flaten (NW ¼ of the SE ¼ of Section 11) and Bradford Crabtree and Renee Gopal (SW ¼ of the SE ¼ of Section 11) and their grantees, tenants, heirs, successors, and assigns.
- **Lighting.** Permittee shall limit all lighting after construction on all Project components including the substation and switchyard, to the minimum necessary for safety and maintenance purposes in a manner consistent with the rural and scenic character of the location and its natural nighttime conditions. Lighting luminaires shall focus downward, be fully shielded, and installed to reduce or eliminate reflection and glare. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system.1

¹ Further guidance for such lighting can be found at http://www.darksky.org/wp-content/uploads/bsk-pdf-manager/16_MLO_FINAL_JUNE2011.PDF

3-20-18
Date


Chairman
Spring Valley Township Board of Supervisors

**SPRING VALLEY TOWNSHIP
DICKEY COUNTY, NORTH DAKOTA**

PERMIT FOR CONDITIONAL USE

Permit Number: *18-05*

Date: March 20, 2018

Permit issued to: Foxtail Wind LLC

For: Collection lines to transport energy generated at each individual wind turbine to the collector substation for eventual delivery to the grid.

The applicant has met all requirements of Spring Valley Township's Zoning Regulation:

Yes: X

No:

Applicant is required to meet the conditions described below:

Foxtail Wind LLC (hereafter "Permittee") has applied for conditional use permits from Spring Valley Township (hereafter "Township") in Dickey County (hereafter "County") related to the development of a laydown yard, batch plant, switchyard, collector substation, and collection lines (hereafter "Project") within the Township. Approval of this permit for the collection lines is subject to the following conditions stipulated below.

General Conditions

The following conditions refer to general requirements of the Township's Zoning Regulation pursuant to section 6.10.4 that are relevant to this Project.

- Prior to commencing any work, the Permittee shall designate a representative and provide contact information to the Township for the Permittee's representative. The Permittee's representative must have authority to represent and bind the Permittee.
- At least forty-five (45) days prior to beginning construction, the Permittee shall provide the Township with a final site plan designating all facility locations as well as site access points and road crossings. The Permittee shall include the transportation route for equipment and materials, including specifying all final routes designated as heavy haul routes.
- At the Project sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend in with the natural setting and existing environment.
- At the Project sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the Township.

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- The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Project's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
- The Permittee shall ensure that, following completion of construction of the Project, Township roads will be repaired or restored to a condition at least equal to the condition prior to construction of such Project.
- Permittee shall post all signs other than those for traffic control in compliance with section 6.3 of the Zoning Regulation at its own expense.
- Within one hundred and eighty (180) days of termination or abandonment of leases or easements for Project in the Township, the Permittee shall cause, at its expense, removal of all structures to a depth of four feet below preconstruction grade.
- In the event of a change in ownership or controlling interest Project or the transfer of the permit, any successors and assigns of the original Permittee shall comply with the requirements and conditions of such permit for the duration of operation of a Project permitted in the Township. Within thirty (30) days of such change in ownership or controlling interest of any entity owning the Project, the parties to the transaction shall notify the Township by letter and provide the name, legal address and phone number of the Permittee and responsible contact person. The letter shall be signed by the authorized representatives or agents of both the original Permittee and the entity to which the Permit is being transferred. In the event of a change in the controlling interest of Permittee to Northern States Power Company (dba Xcel Energy), the 30-day notice requirement for provision of the letter shall be waived.

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- **Road usage.** Except as specifically provided otherwise, equipment and commercial vehicles associated with the Project and vehicles driven by employees, contractors or agents of Permittee must limit their use to those roads designated as "heavy haul" routes in the final haul route map submitted to the Township forty-five (45) days prior to commencement of construction. Permittee shall include language implementing this condition in all contracts. Employees or agents of Permittee and its contractors and their respective employees and agents may use other roads only to meet with township residents at non-Project site locations.
- **Dust control on designated heavy haul routes.** Treatment for dust control at all construction sites and on all County and Township roads in Spring Valley Township designated as heavy haul routes

shall be provided by application of magnesium chloride using Road Saver^{®1}, or an equivalent product, at the manufacturer's specified strength, and supplemented by use of water trucks. Determination of the timing of the initial magnesium chloride application during each construction season, and of the need for any additional magnesium chloride applications during the same construction season, shall be made through consultation between the Permittee's Construction Site Manager and the Township's Road Supervisor. The final decision regarding timing and frequency of magnesium chloride applications shall rest with the Township Road Supervisor.

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3-20-18
Date



Chairman
Spring Valley Township Board of Supervisors