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October 12, 2020

Mr. Steve Kahl  
Executive Secretary  
North Dakota Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480

**Re: EDF Renewable Development, Inc/Otter Tail Power Co.  
Transfer of Site Certificate - Merricourt Wind Project  
Siting Application  
Case Nos. PU-08-932 and PU-19-144**

Dear Mr. Kahl:

This is in response to the September 28, 2020, Notice of Noncompliance (*see* docket #77) filed in PU-19-144. The Notice of Noncompliance was issued following a Construction Inspection Report (the "Report") prepared for the Commission by its third-party inspector, WENCK Associates, Inc. The Report was filed in PU-19-144 on August 3, 2020, as docket #69.

By way of background, our company acquired the 150 MW Merricourt Wind Project (the "Project") from EDF Renewables Development, Inc. and certain of its affiliates ("EDF") on July 16, 2019. Since early August 2019, an affiliate of EDF has been constructing the Project under a Turnkey Engineering, Procurement and Construction (EPC) Services Agreement. As the primary contractor for our company, an affiliate of EDF, in turn, is party to an EPC agreement with Wanzek Construction, Inc. ("Wanzek"), which also has additional subcontractors at work on the Project.

The Report described concerns regarding adequate topsoil segregation and instances of soil erosion due to failing sediment fences identified during a July 21, 2020, site visit by representatives of WENCK Associates, Inc. In the days immediately following the filing of the Report, representatives of our company had several conversations with representatives of EDF and Wanzek, along with Commission staff, aimed at addressing the issues identified in the Report.

Subsequently, on August 12, 2020, our company filed a response to the Report (*see* docket #70) (the "OTP Response"). The response also attached Wanzek's responses to the Report and detailed Wanzek's commitment to addressing the issues referenced in the Report. More specifically, the Wanzek response addressed the inquiries identified in the Report and set forth specific action steps in response to each of the four recommendations included in Section 3.0 of the Report.

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Since our August 12, 2020, filing, EDF and Wanzek have been following and completing the action steps set forth in the OTP Response. In an effort to ensure successful completion of each step and correction of the issues identified, representatives of our company have continued to have frequent dialogue with EDF and Wanzek. Our company is committed to ensuring that the issues are not repeated and is more broadly insisting on their strict compliance with the project site's stormwater pollution prevention plan during construction. Our company's wind farm supervisor has been conducting and documenting weekly inspections and follow up meetings with EDF and Wanzek to ensure compliance. We are confident the action steps taken in response to the Report and the Notice of Noncompliance have addressed the topsoil segregation and soil erosion concerns identified and that the Project is being very closely monitored to avoid any similar non-compliance issues as the Project shifts toward the reclamation phase of construction.

Thank you for your attention to this matter. Please feel free to call me at (218) 739-8922 if you have any questions or concerns.

Sincerely,



*P.P.* Mark B. Bring  
Director of Legislative Affairs and  
Associate General Counsel

cc: Patrick Fahn  
Jerry Lein  
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