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Via Electronic Mail

July 24, 2020

Mr. Steve Kahl
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
ndpsc@nd.gov

**In re: Northern Divide Wind, LLC
Northern Divide Wind Energy Center
Case No. PU-19-376
Our Matter No. 035218-000045**

Dear Mr. Kahl:

On behalf of Northern Divide Wind, LLC (“Northern Divide Wind”), enclosed for filing in the above referenced matter are electronic copies of the Northern Divide Wind’s Certification Relating to Order Provision No. 38 with accompanying Modification Memorandum and Attachments 1-4 and corresponding GIS files.

On July 10, 2020, the Commission approved Findings of Fact, Conclusions of Law and Order granting Northern Divide Wind Certificate of Site Compatibility No. 63 for the Northern Divide Wind Energy Center (the “Project”). As discussed herein and in the accompanying filings, Northern Divide Wind proposes modifications to the Project site plan including a modification of the laydown yard and two access road shifts. Specifically, Northern Divide Wind proposes to temporarily add an additional eight acres directly adjacent to the existing laydown yard, which additional area is located entirely within tilled cropland. The first access road modification is proposed to accommodate a landowner request to better facilitate farming operations and shifts the

original access road to align with an existing two track road along an undeveloped section line. The second access road modification is proposed in response to a request from the North Dakota Department of Transportation to shift the location of an access road's driveway entrance off of a state highway. Additional details regarding the scope of the modifications are contained the filings hereto and are depicted on the maps marked as Attachments 1-3 to the Modification Memorandum. The proposed modifications occur entirely within the Project's certificated site boundary, do not impact Exclusion or Avoidance Areas, and result in negligible changes to the Project's overall impacts. As explained in the Modification Memorandum, the modifications do not produce additional wetland impacts nor do they impact native prairie or grassland areas.

Certification Relating to Order Provision No. 38 sets forth the procedural notice and filing requirements for modifications to an energy conversion facility or energy conversion site plan. The enclosed filings are submitted in accordance with the Certification Provision No. 38 and Northern Divide Wind has complied with the requirements necessary to make the proposed minor modifications to the Project's site plan. Northern Divide Wind reviewed prior surveys and conducted additional surveys over previously un-surveyed areas, the results of which are discussed in the Modification Memorandum and has certified that no known Avoidance and Exclusion Areas will be impacted by the modifications.

Order Paragraphs No. 2 and 6 set forth additional procedural requirements related to certain types of Project modifications. It is Northern Divide Wind's understanding that the additional procedural requirements related to Project modifications set forth in Order Paragraphs No. 2 and 6 are not applicable to the types of modifications proposed in this filing. Order Paragraph No. 2 sets forth limitations on the location of Project turbines stating, "Northern Divide Wind is authorized to site and construct up to 200 MW consisting of up to 74 wind turbines only in the proposed and alternative locations identified in Exhibit # 15." With respect to moving turbine locations, Order Paragraph No. 2 states that "no modifications to the turbines are permitted unless expressly approved in writing by the Commission." The remainder of Order Paragraph No. 2 authorizes Northern Divide Wind to "construct electric collection and communication lines, a substation, access roads, an operations and maintenance building, and other associated facilities as identified in the Application and supporting filings, and at the public hearing." The requirement to obtain Commission approval for modifications is limited by the language of Order Paragraph No. 2. Commission approval is specifically carved out as a requirement for modifications related to turbine shifts outside of areas designated in Exhibit #15 ("no modifications to the turbines are permitted unless expressly approved in writing by the Commission"). Notably, Order Paragraph No. 2 does not expressly require written Commission approval for other types of Project modifications. Therefore, it is Northern Divide Wind's understanding that 1) Commission approval is only required for proposed turbine shifts outside of areas designated in Exhibit #15 which is consistent with Northern Divide Wind's commitment at the Project's hearing and 2) pre-construction modifications to ancillary Project infrastructure remain subject to the procedural requirements set forth in the Certification Relating to Order Provisions.

With respect to Order Paragraph No. 6, its provisions govern instances where "Northern Divide Wind seeks approval for modifications to the Wind Project layout in Exhibit #15" and requires various information for previously un-surveyed areas and copies of consultation correspondence with North Dakota Game and Fish ("NDGF"). Order Provision No. 6 is applicable to modifications

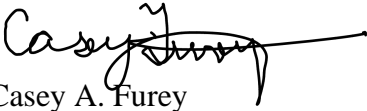
requiring Commission approval (*i.e.*, turbine relocation, Avoidance Area impacts, etc.). For the reasons set forth above, Commission approval is not required for the type of modifications Northern Divide Wind proposes herein. Additionally, the proposed modifications are of such limited nature that they result in negligible changes to the Wind Project layout in Exhibit #15.

With respect to the NDGF consultation, all modification areas were included in Northern Divide Wind's prior wildlife and avian surveys and studies. The modifications produce negligible changes to the Project's overall estimated impacts and do not otherwise impact Northern Divide Wind's offsets. Although Northern Divide Wind previously consulted with NDGF regarding its wildlife and avian studies applicable to the modification areas, Northern Divide Wind has provided NDGF with a courtesy notification of the modification filing, a copy of which is attached hereto.

Based on discussions with Commission counsel and staff, and for the reasons outlined above, Northern Divide Wind believes it has fully complied with and met the procedural requirements applicable to the proposed modifications. Northern Divide Wind respectfully requests written acknowledgment of this filing and acknowledgment that Northern Divide Wind has provided all necessary information in compliance with the provisions applicable to this filing.

Sincerely,

CROWLEY FLECK PLLP



Casey A. Furey

Enc.

cc: Tracy Davis (via e-mail)
Jerry Lein (via e-mail)
Patrick Fahn (via e-mail)
Brian Johnson (via e-mail)
John Schuh (via e-mail)

From: [Jones, Dustin](#)
To: [Greg Link](#)
Cc: [Sandy Johnson](#); [Steve Dyke](#); [Davis, Tracy C](#); [Casey A. Furey](#); [Cameron, Clay](#)
Subject: Northern Divide Wind Modification Notice
Date: Wednesday, July 15, 2020 2:46:58 PM
Attachments: [Att_03_NDDOT_Requested_Access_Road_Mod.pdf](#)
[Att_01_NDW_Laydown_Modification.pdf](#)
[Att_02_LO_Requested_Access_Road_Mod.pdf](#)

This message was received from an external email account. Please use caution when opening messages, attachments or external links from unknown senders.

Mr. Link,

Northern Divide Wind (NDW) provides notice that it proposes minor modifications to the NDW Wind Energy Center (Project). NDW is proposing to expand the laydown yard by eight acres and shift two access roads based on landowner and North Dakota Department of Transportation requests (see Attachments 1-3). The modifications

- (1) Are within the Project area previously approved by the Public Service Commission.
- (2) Are within the Project area covered by the avian, raptor, lek, and nest surveys and the whooping crane and bat habitat desktop assessments and does not change the results of those studies.
- (3) Do not change turbine locations or the agreed upon offset plan.

NDW plans to file the modifications with the Public Service Commission by July 17, 2020, after which it will be available for review on the docket.

Sincerely,

Dustin Jones | Environmental Services Project Manager
NextEra Energy Resources, LLC | 708 Main, 10th Floor | Houston, TX 77002
O: 713-951-5356 | C: 737-221-1172 | Dustin.Jones@nexteraenergy.com

facilitate storage of materials and equipment during construction and will result in no permanent impacts. Northern Divide Wind has consulted with the applicable landowner regarding the expansion and has received no objections to the proposed modification.

7. The second proposed modification is in response to a landowner request and pertains to a shift to the access road to Turbine No. 17. The proposed modification shifts the original proposed location 600 feet east to follow and align with an existing two-track road along an undeveloped section line on 101st Ave NW to better accommodate farming operations. *See* Attachment 2 to Modification Memorandum.

8. The third proposed modification is in response to a request by the North Dakota Department of Transportation (“NDDOT”) to shift an access road driveway off of Highway 40. The modification will shift the access road driveway approximately 50 feet south onto an undeveloped section line to align with 94th St NW/County Road 10. *See* Attachment 3 to Modification Memorandum.

9. The laydown yard expansion area occurs in an area previously surveyed for wetlands. Additional wetland surveys were conducted for both road shift modifications in June 2020 for areas outside of the prior wetland survey area. All proposed modifications avoid wetland impacts.

10. The laydown yard expansion area was previously evaluated for cultural and tribal resources under the Project’s prior surveys. Additional cultural surveys were conducted for both road shift modification in June 2020 for areas outside of the prior survey area. The Project modifications do not impact cultural or tribal resources per a joint Class III Cultural Resources. Concurrence from the State Historic Preservation Office was received on July 13, 2020. *See* Attachment 4 to Modification Memorandum.

11. The Project modifications are within areas covered by the Project’s prior wildlife and avian studies. The proposed modifications are located in cropland and do not result in any new impacts to native prairie or unbroken grasslands. The modifications result in negligible changes to overall Project impacts and do not impact Northern Divide Wind’s offset plan.

12. In accordance with Certification Provision Nos. 38(A)-(C):

- A. Activities associated with the Project’s site plan modifications will not affect any known Exclusion or Avoidance areas.
- B. Project construction will occur wholly within the geographic location for which Northern Divide Wind previously obtained a site certificate. Maps and GIS shapefiles of the site modifications are enclosed.
- C. Northern Divide Wind will continue to comply with all applicable conditions and protections in the siting laws and rules and the Order previously issued for the Project.

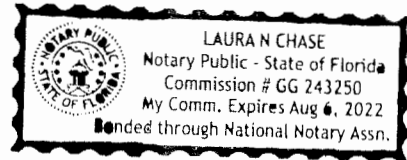
Anthony Pedroni

Anthony Pedroni
Vice President
Northern Divide Wind, LLC

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

On this 23rd day of July, 2020, before me personally appeared Anthony Pedroni, known to me to be the Vice President and an authorized representative of the limited liability company that is described in and that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

Laura N Chase
Notary Public



Memorandum

To	North Dakota Public Service Commission
Subject	Case Number PU-19-376 Northern Divide Wind Energy Center Modifications of Energy Conversion Facility Site Plan
From	Northern Divide Wind, LLC
Date	July 21, 2020

Introduction

Pursuant to Certification Relating to Order Provision Number 38, Northern Divide Wind, LLC (Northern Divide Wind) submits to the North Dakota Public Service Commission (Commission) this supporting documentation for proposed modifications to the Northern Divide Wind Energy Center (Project) Project Site Plan (Attachments 1 through 5). The Project Site Plan modifications include an expansion to laydown yard and two access road shifts.

Project Site Plan Modification

The laydown yard expansion adds an additional eight acres to the laydown yard footprint shown in the Project Application, and is located immediately adjacent and west of the laydown yard presented in the Project Application (Attachment 1). The laydown yard presented in the Project Application will still be utilized by the Project during construction, and the associated operations and maintenance building and substation will remain unchanged. Northern Divide Wind has communicated with the applicable landowner regarding the expansion and no objections were received. The Burke County Planning and Zoning Board and County Commission met on April 21, 2020 and approved the temporary zoning change for the requested laydown yard expansion.

The two access road shifts are the results of requests by a landowner and the North Dakota Department of Transportation (NDDOT). The landowner requested modification pertains to a shift to the access road to turbine 17 approximately 600 feet east to better facilitate farming operations by following the existing two-track road along the undeveloped section line on 101st Ave NW (Attachment 2). The NDDOT requested an access road modification to the access road driveway off of Highway 40 approximately 50 feet south onto the undeveloped section line to align with 94th St NW/County Road 10 (Attachment 3).

The laydown yard expansion is within the previously surveyed areas for wetlands, cultural, and tribal resources. The two access road shifts were surveyed for wetlands and cultural resources on June 1, 2020 by AECOM. AECOM utilized the same methodology outlined in the Project's January 2020 Wetlands and Other Waters Delineation Report. One existing wetland delineation was expanded, and one new wetland delineation was completed. Both wetland boundaries are outside of the construction easement and the modifications will not result in temporary or permanent impacts to wetlands (see ND-C02_WETLAND on Attachment 2 and ND-H01-WETLAND on Attachment 3).

The Project modifications do not impact cultural or tribal resources per a Class III Cultural Resources survey. The cultural resources surveys were completed on June 1, 2020 by AECOM. AECOM utilized the same methodology outlined in the Project's February 3, 2020 Archaeological Survey Report Summary. No new sites were documented during surveys. Concurrence on the Class III Cultural Resources survey from the North Dakota State Historic Preservation Office (SHPO) was received on July 13, 2020 (Attachment 4).

The Project modifications are within the area covered by the avian, raptor, lek, and nest surveys and the whooping crane and bat habitat desktop assessments and does not change the results of those studies. There are no new impacts to native prairie or unbroken grasslands as the Project modifications are located in cropland. The laydown yard expansion modification is temporary and will not result in permanent impacts. No new Exclusion or Avoidance Areas were located in the additional survey areas. The Project modifications do not impact the Commission's Exclusion and Avoidance Criteria as presented in Tables 3-1 and 3-2 of the Project Application. The Project

modifications result in negligible changes to the total Project impacts calculations presented in Table 1-4 of the Project Application (Docket No. 1).

Conclusion













The Project modification complies with the Commission's Exclusion, Avoidance, Selection, and Policy Criteria and is consistent with the Project's Findings of Fact, Conclusions of Law and Order.

Attachments:

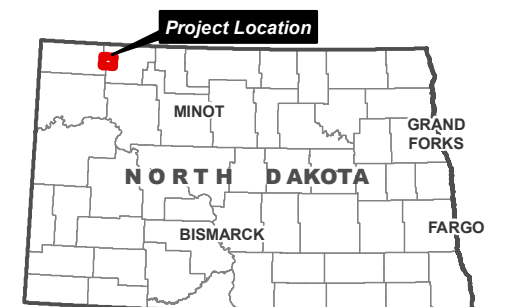
1. Laydown Yard Expansion Map
2. Landowner Requested Access Road Modification Map
3. NDDOT Requested Access Road Modification Map
4. SHPO Concurrence
5. Electronic submittal of GIS shapefiles

NORTHERN DIVIDE WIND ENERGY CENTER BURKE COUNTY NORTH DAKOTA

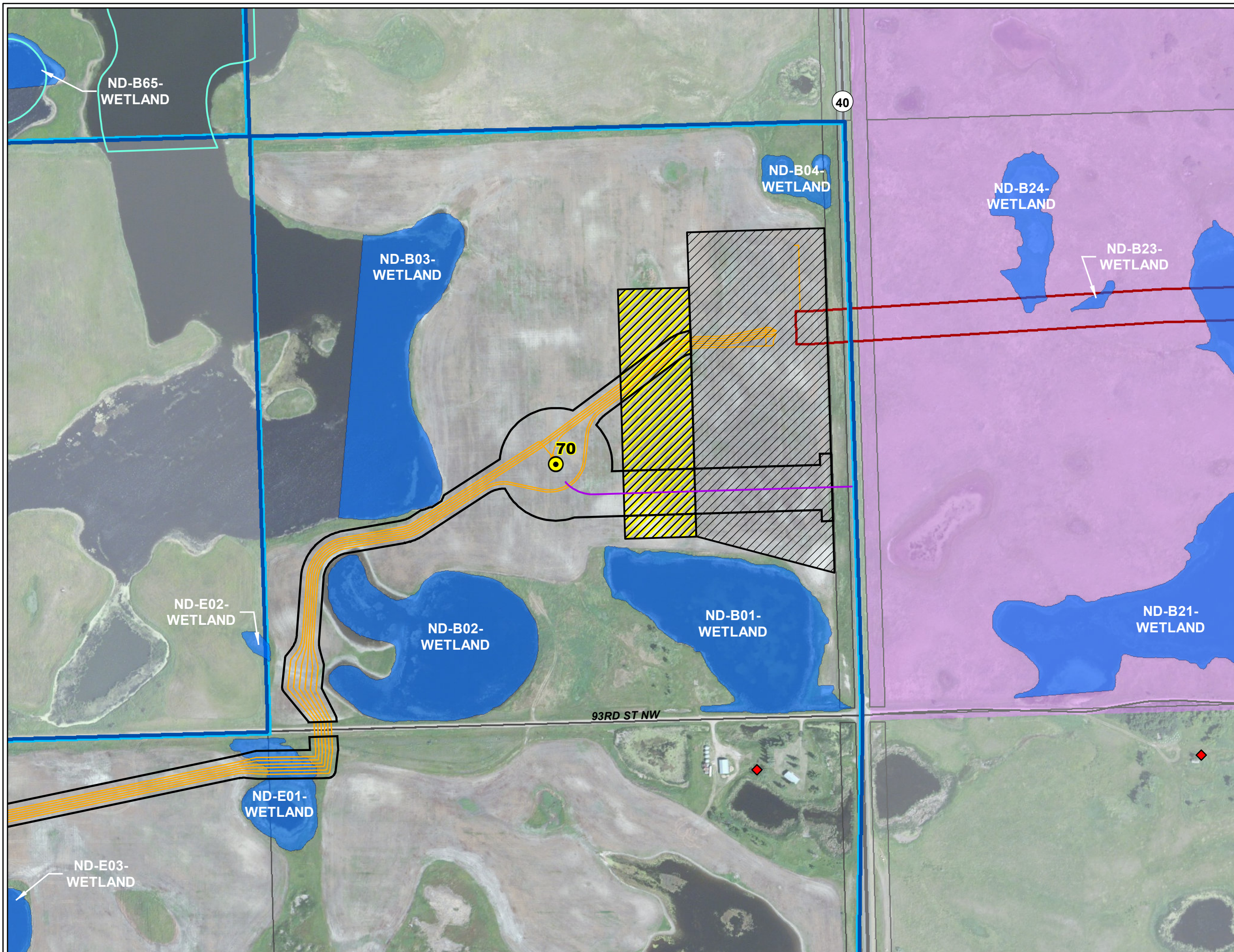
LEGEND

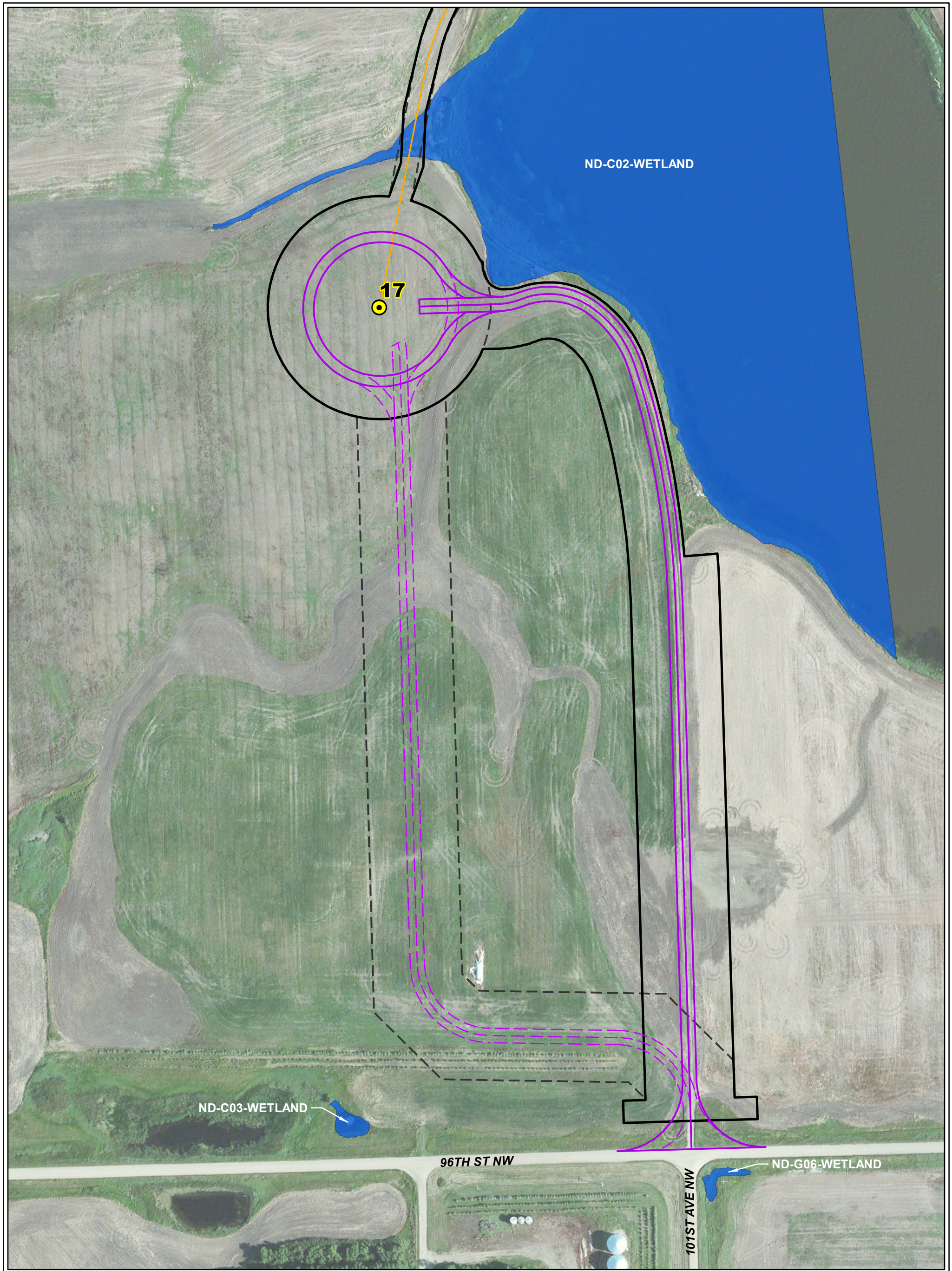
-  Primary Turbine
-  Access Road
-  Collection Line
-  Laydown Yard, O&M Building & Substation
-  Laydown Yard Expansion
-  Construction Easement
-  Northern Divide Wind Energy Center Project Area
-  Northern Divide 345-kV Transmission Line Corridor
-  Delineated Wetland
-  USFWS Wetland Easement
-  State Trust Land
-  Historical Resource

*Contractor will bore all wetlands and roads.
Known archaeology sites are not depicted
due to confidentiality.*



ATTACHMENT 1 LAYDOWN YARD EXPANSION MAP










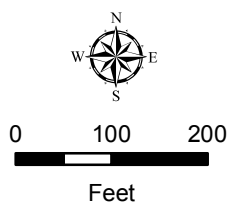


**NORTHERN DIVIDE
WIND ENERGY CENTER
BURKE COUNTY
NORTH DAKOTA**

**ATTACHMENT 2:
LANDOWNER REQUESTED
ACCESS ROAD
MODIFICATION MAP**

LEGEND

-  Turbine
-  Collection Line
-  Access Road - June 2020
-  Access Road - November 2019
-  Construction Easement - November 2019
-  Construction Easement - June 2020
-  Delineated Wetland




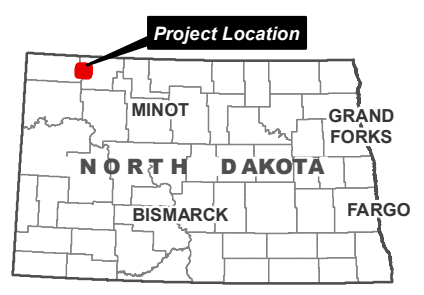
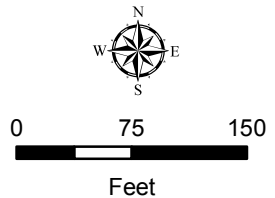


**NORTHERN DIVIDE
WIND ENERGY CENTER
BURKE COUNTY
NORTH DAKOTA**

**ATTACHMENT 3:
NDDOT REQUESTED
ACCESS ROAD
MODIFICATION MAP**

LEGEND

-  Access Road - June 2020
-  Access Road - November 2019
-  Construction Easement - June 2020
-  Construction Easement - November 2019
-  Delineated Wetland



Attachment 4. SHPO Concurrence



July 13, 2020

Principal Investigator Melinda McCarthy
AECOM
1000 East Calgary Ave, Suite 1
Bismarck, ND 58501

ND SHPO Ref: 19-0490 Northern Divide Wind Energy Center in Burke and Mountrail Counties, North Dakota

Dear Principal Investigator McCarthy,

We reviewed the addendum for ND SHPO Ref: 19-0490 Northern Divide Wind Energy Center in Burke and Mountrail Counties, North Dakota titled Northern Divide Wind Energy Center and Transmission Line Addendum: A Class III Cultural Resource Inventory in Burke County, North Dakota by Melinda McCarthy & Christina Huling of AECOM and concur there are no significant sites in the area covered by the report.

Thank you for the opportunity to review this project under North Dakota cultural resources consultation. This letter does not serve as federal agency consultation or SHPO consultation for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (36 CFR Part 800), or the National Environmental Policy Act, as amended, (42 U.S.C. §§ 4321- 4347).

If you have any questions please contact Lorna Meidinger, Historic Preservation Specialist at (701) 328-2089 or lbmeidinger@nd.gov

Sincerely,

for Bill Peterson, Ph.D.
Director, State Historical Society of North Dakota

19-0490

Attachment 5. Electronic submittal of GIS shapefiles

[Submitted electronically]