

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

In the Matter of the Application of Freeborn  
Wind Energy LLC for a Route Permit for the  
Freeborn Wind Transmission Line in  
Freeborn County

ISSUE DATE: December 19, 2018

DOCKET NO. IP-6946/TL-17-322

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**ASSOCIATION OF FREEBORN COUNTY LANDOWNERS  
PETITION FOR RECONSIDERATION**

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Association of Freeborn County Landowners (AFCL), participant in the above-captioned docket and intervenor in the related and concurrent wind siting docket (IP6946/WS-17-410), bring this Motion for Reconsideration of the Commission's decision to grant a route permit to Invenergy's Freeborn Wind transmission project, deliberated September 20, 2018, and the Order filed on December 19, 2018. Minn. Stat. §216B.27; Minn. R. 7829.3000. AFCL requests the Commission reconsider its decision and amend its Order to deny the permit and to reflect that Invenergy/Freeborn Wind is not a public service corporation, does not have sufficient land rights to build the project, and because it is not a utility, does not have the power of eminent domain.

The Administrative Law Judge and the Commission are to address the factors set forth in the Power Plant Siting Act:

- A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;
- B. effects on public health and safety;

- C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. effects on archaeological and historic resources;
- E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. effects on rare and unique natural resources;
- G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;
- H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;
- I. use of existing large electric power generating plant sites;
- J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;
- K. electrical system reliability;
- L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;
- M. adverse human and natural environmental effects which cannot be avoided; and
- N. irreversible and irretrievable commitments of resources.

Minn. Stat. §216E.03, Subd. 7; Minn. R. 7850.4100.

The Commission's decision is an error of law because the Commission ignored or dismissed crucial information regarding Applicant's lack of land rights, fraudulent actions on the part of Applicant's employees. The Order and process was flawed because AFCL exceptions were not included with or addressed in the Staff Briefing Papers, and there was no opportunity for the Commission to consider the specifics of the AFCL exceptions; in error because it grossly misstates Robert B. Knutson's comments and documentation and did not take into account the Dept. of Commerce enforcement action of revocation of notary commission and fine of Thomas Spitzer,

documentation of which was provided by Robert Knutson and filed August 10, 2018,<sup>1</sup> and by AFCL on July 24, 2018.<sup>2</sup> There is new information that should be considered by the Commission, including responses to AFCL’s Data Requests of Freeborn County in late November, and Commerce’s responses in January 2019, that acknowledge failure of Freeborn to secure all necessary land rights and efforts to use county right-of-way, and evidence of discussions between the County and Commerce staff not assigned to the project seeking advice on use of county right of way. The other important piece of new information is the World Health Organization’s Environmental Noise Guidelines, released October 10, 2018. The Commission’s decision is also flawed due to procedural errors and the exceptional disregard of the Administrative Law Judge for Commission process, statutory requirements of notice of Prehearing Conference, the public, and specifically, for Association of Freeborn County Landowners. The Recommendation in this case reads as if we were not there.

Public participation is to be the Commission’s principle of operation:

**Subd. 2. Other public participation.**

The commission shall adopt broad spectrum citizen participation as a principal of operation. The form of public participation shall not be limited to public hearings and advisory task forces and shall be consistent with the commission's rules and guidelines as provided for in section [216E.16](#).

There was no “broad spectrum citizen participation” allowed in this docket.

AFCL asks that the Commission reconsider its Order, and that the permit be denied. In the alternative, AFLC requests that it be remanded to the Administrative Law Judge for Findings and a

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<a href="#">20188-145696-01</a>	PUBLIC	17-322	ROBERT B KNUTSON	OTHER--REQUEST TO DENY PERMIT DUE TO FRAUDULENT NOTARIZING OF LEASE AND REQUIRE RENEWAL OF ALL LEASES BY REMOVED NOTARY	08/10/2018
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<a href="#">20187-145162-02</a>	PUBLIC	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	LETTER--TO PUC RE COMMERCE ORDER REVOKING NOTARY COMMISSION OF THOMAS SPITZER INVENERGY	07/24/2018
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Recommendation consistent with the evidence regarding Freeborn Wind’s lack of land rights to build this project, and a recommendation that the permit be denied for lack o land rights, or held in abeyance until such land rights are acquired.

**I. ADMINISTRATIVE LAW JUDGE SYSTEMATICALLY AND REPEATEDLY DISREGARDED AND DISMISSED COMMENTS OF ASSOCIATION OF FREEBORN COUNTY LANDOWNERS.**

In this transmission docket, the Administrative Law Judge systematically and repeatedly disregarded and dismissed comments of Association of Freeborn County Landowners, whether oral testimony or written comments.<sup>3</sup> AFCL raised these issues in Exceptions, but the Commission failed to consider these fundamental problems. For this reason, AFCL is including our line-by-line

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<a href="#"><u>20187-145162-02</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	LETTER--TO PUC RE COMMERCE ORDER REVOKING NOTARY COMMISSION OF THOMAS SPITZER INVENERGY	07/24/2018
<a href="#"><u>20187-144869-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	MOTION--AFCL-MOTION TO SUSPEND TRANSMISSION PROCEEDING,PENDING COMMISSION ACTION ON SITING PERMIT.	07/13/2018
<a href="#"><u>20187-144769-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	LETTER--NOTICE OF DATA PRACTICES ACT REQUEST TO COMMERCE INVESTIGATIONS	07/12/2018
<a href="#"><u>20186-144263-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	MOTION--MOTION TO SUSPEND PROCEEDING OR DENY WITHOUT PREJUDICE OR CERTIFY TO COMMISSION	06/27/2018
<a href="#"><u>20186-143993-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	MOTION--MOTION TO STRIKE FREEBORN FILINGS AS UNTIMELY	06/19/2018
<a href="#"><u>20186-144003-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	MOTION--TO STRIKE OR IN THE ALTERNATIVE REOPEN	06/19/2018
<a href="#"><u>20186-144006-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	MOTION--AMENDED MOTION TO STRIKE OR IN THE ALTERNATIVE REOPEN	06/19/2018
<a href="#"><u>20186-143735-01</u></a>	17-322	DORENNE HANSEN, FOR ASSOCIATION OF FREEBORN COUNTY LANDOWNERS (AFCL)	COMMENTS--RE: TRANSMISSION LINE ROUTE AND POTENTIAL ISSUES.	06/12/2018
<a href="#"><u>20186-143738-01</u></a>	17-322	DORENNE HANSEN, FOR ASSOCIATION OF FREEBORN COUNTY LANDOWNERS (AFCL)	COMMENTS--RE: OMISSIONS AND ISSUES WITH THE TRANSMISSION LINE APPLICATION.	06/12/2018
<a href="#"><u>20186-143756-01</u></a>	17-322	ASSOCIATION OF FREEBORN COUNTY LANDOWNERS	COMMENTS	06/12/2018

exceptions within in this Petition for Reconsideration.

From the beginning, in Comments to the Commission, and following in Comments to the ALJ, AFCL has raised the issues of fraudulent notarization; inability of the project to be constructed only on participant land; misguided claims of availability of the power of eminent domain to Freeborn Wind, LLC; missing locations of eagle nests; impact of the project on Shell Rock Water Trail; lack of inclusion of county and township zoning ordinances for consideration of community concerns and impacts; the 22 foot diagonal crossing of 830<sup>th</sup> Avenue over non-participants land; the misleading minimization of magnetic field potential; conflating magnetic fields with electric fields for interference with pacemakers, etc; gathering of Iowa generated electricity into this project substation; minimal cost analysis and no identification or attribution of MISO system upgrade costs; impact on property values and marketability, and many factual and legal errors and omissions in the application, record, and the ALJ's Recommendation and adoption by the Commission. At the public hearing, AFCL requested its members and the public be provided the opportunity to testify under oath or affirmation, and encountered resistance from the Administrative Law Judge, but ultimately each of those testifying in support of AFCL was sworn.

In this docket, there is no indication that the community has been heard. The community does not consent to this project.

In addition to these issues documented in the record, there is also new information. AFCL filed Data Practices Act Requests with Freeborn County regarding the land to which Applicants do not have land-rights to build its transmission line. Freeborn County delayed considerably, and then produced the documents at an outrageous price. From these documents, it was apparent that the Dept. of Commerce had a role, and a subsequent Data Practices Act request was filed with Commerce. The results of those Data Practices Act requests are attached as Exhibit E and F.

## **II. THE PROCESS WAS FRAUGHT WITH PROCEDURAL IRREGULARITIES.**

There were significant procedural irregularities and errors as this docket proceeded forward. The Association of Freeborn County Landowners raised these issues as they occurred and/or before the Commission, and the Commission failed to take these errors into account.

AFCL chose to participate in this transmission docket as participants, not intervenors, as provided by Minn. Stat. §216E.08 and Minn. R. 1405.1800. The First Prehearing Order for this transmission case was issued after the Prehearing Conference on April 2, 2018. However, there was no notice provided of this Prehearing Conference by either the PUC or OAH.<sup>4</sup> Without notice, how does one participate?

The first and only Prehearing Order did not include the standard boilerplate language regarding participation versus intervention that is included in other Prehearing Orders:

5. It is not necessary to be an intervenor or party to participate in these proceedings. Members of the public may submit written comments during the comment periods, appear at all hearings and forums, and participate in the public hearing. The public hearing will provide an opportunity for individuals and groups to present evidence and argument on the issues in this case, and to question all persons testifying. Members of the public:

- (1) may offer testimony without or without the benefit of oath or affirmation;
- (2) are not required to pre-file their testimony;
- (3) may offer testimony or other material in written form, at or following the hearing;
- (4) may question any person testifying or who has offered pre-filed testimony, either directly or by submitting questions to the Administrative Law Judge, who will then ask the questions of the witness.

Prehearing Order, Freeborn Wind Site Permit Docket, p.2 (IP6946/TL-17-410).<sup>5</sup>

The First Prehearing Order in this Freeborn transmission docket also did not provide the

<sup>4</sup> Take a look, find it – good luck with that!

<a href="#">20179-135814-01</a>	PUBLIC	17-410	<input type="checkbox"/>	WS	OAH	ORDER--RE-SERVE FIRST PREHEARING ORDER	09/26/2017
<a href="#">20179-135781-01</a>	PUBLIC	17-410	<input type="checkbox"/>	WS	OAH	ORDER--FIRST PREHEARING ORDER	09/25/2017

standard language regarding providing testimony in a hearing “without benefit of oath or affirmation” and its weight given:

6. Oral testimony or written testimony provided without benefit of oath or affirmation, and which is not subject to cross-examination, shall be given such weight as the Administrative Law Judge deems appropriate [citing Minn. R. 1405.0800].

Id.<sup>6</sup> This language should always be included in Prehearing Orders because the ALJ and Commission assign weight to testimony, and the public would have no way of knowing or understanding the importance of testifying under oath. Why is this important? The Commission has previously questioned whether public testimony was given under oath or not, while deliberating. Offering testimony under oath is important for full inclusion and consideration – the matter of testifying under oath was raised before this public hearing began, and the ALJ did not want to offer the public the option of affirmation or swearing under oath. Despite this, during the public hearing, AFCL members and other public testifiers requested to be sworn in, and were sworn. This is not noted in the Recommendation. Swearing in of witnesses should not be an issue at public hearings, and a testifier’s request to be sworn should not be challenged.

There were additional problems. **NONE** of the typical OAH language regarding options and methods of participation appear in the transmission docket Orders, either the First Prehearing Order or the following First Prehearing Order with amended filing dates, the only Prehearing Orders filed.<sup>7</sup> The “Prehearing Order” in this docket contains only nominal scheduling information, and the barest of information regarding Notice and the public hearing. There was only

<sup>6</sup> . Prior to the beginning of the hearing, the judge was requested to offer oath and affirmation, and he was reluctant. Each AFCL member, testifying as an individual, requested to be placed under oath, and did testify under oath, as did the undersigned (which was objected to by Freeborn’s attorney!). Swearing in was also an issue at a previous hearing in another docket, indication of a systemic problem.

<sup>7</sup>

<a href="#">20185-143153-01</a>	PUBLIC	17-322	OAH	ORDER--AMENDED FIRST PREHEARING	05/17/2018
<a href="#">20184-141685-01</a>	PUBLIC	17-322	OAH	ORDER--FIRST PREHEARING	04/04/2018

the “First Prehearing Order” in its two versions, and no other orders.

The connected nature of the wind project site permit and this dependent transmission project route permit were brought to the forefront in Completeness comments and again by AFCL after the Recommendation regarding the wind site permit was issued. Freeborn Wind is waffling on this dependence and linkage between the projects:

Condition 16: Any permit issued should have a “Special Condition” that “the Project will not be constructed unless the Commission issues a Site Permit for the Freeborn Wind Farm,” and that if permitted, it may be transferred to, owned and built only by a public service corporation.

“Freeborn Wind indicates it will only construct the project if the wind farm is permitted.” (EA, at page i.) In its reply comments Freeborn Wind indicates that it “finds it necessary to clarify that it would intend to proceed with construction of the Project to support the Worth County wind turbines. Accordingly, Freeborn Wind requests that a Route Permit be granted to allow construction of the Transmission Line irrespective of the Commission’s decision in the Site Permit docket.” (Reply Comments, at page 6) Staff believes this condition is unwarranted.

Commerce-EERA Comments, 6/28/2018. Freeborn Wind has not amended its application.

On May 14, 2018, the Administrative Law Judge assigned the Freeborn Wind Project site permit (IP6946/WS-17-410) filed her Recommendation:

The Administrative Law Judge concludes that Freeborn Wind has failed to demonstrate that the proposed Project will meet the requirements of Minn. R. 7030.0040, the applicable Minnesota Noise Standards. Therefore, the Administrative Law Judge respectfully recommends that the Commission either deny Freeborn Wind’s Application for a Site Permit, or in the alternative, provide Freeborn Wind with a period of time to submit a plan demonstrating how it will comply with Minnesota’s Noise Standards at all times throughout the footprint of the Freeborn Wind Project.

Summary of Recommendations, p. 2. On May 27, 2018, following the filing of the site permit Recommendation of denial, AFCL filed a Motion to Suspend the transmission proceeding because the underlying Freeborn Wind project site permit is in limbo. In the alternative, this application should be denied without prejudice, or be Certified to the Commission for consideration. This Motion was ignored, neither granted nor denied, nor listed in the “Procedural History.” There is no



mention of the ALJ's transmission Recommendation of the transmission line's dependence on the wind project and its site permit and the impact of the ALJ's wind site permit recommendation on need or timing of transmission for Freeborn Wind.

Consideration of timing in this transmission route proceeding is not prohibited by either rule or statute. Minn. Stat. §216E.02, Subd. 2; Minn. R. 7850.4200. Because of the significance of a recommendation of permit denial or opportunity for a demonstration of compliance, the timing of this transmission project and proceeding is a material issue – the wind project and this connected transmission project should be delayed. The Commission's order, however, was to the contrary.

Disregard, discounting, and dismissal of the public and issues raised by the public is disappointing, but it is not surprising, given the minimalist Prehearing Order. Intervention is not necessary under the rules, participation is encouraged, participants have rights. To issue a Recommendation "based on the Applicant's preference" goes beyond, and is not acceptable. For decades it has been law:

The commission shall adopt broad spectrum citizen participation as a principal of operation.

Minn. Stat. §216E.08. It's a great theory, but in practice, it isn't working. In the line by line Exceptions, AFCL noted some of the specific facts and issues not incorporated, but they were not regarded as "relevant documents" by Commission staff. The Commission never had a chance to review and consider filings not deemed "relevant" by staff.

### **III. “THE APPLICANT’S PREFERENCE” IS NOT A VALID ROUTING CRITERIA!**

The ALJ's Recommendation in this this transmission docket is an error of law. Instead of adhering to the applicable statutory factors of the Power Plant Siting Act, in this transmission

docket it is the “applicant’s preference”<sup>8</sup> that rules, and the Recommendation of the ALJ was based on the “applicant’s preference.” In three instances, the Applicants was a deciding factor.

- **Given the Applicant’s preference** for the Purple Parallel Route, the Commission should **GRANT** the Route Permit for the Purple Parallel Route...<sup>9</sup> (emphasis added).
- 262. As set forth above, because the Teal, Orange, and Purple Parallel routes make use of existing ROW and generally compare favorably in terms of cost to the route alternatives, the record demonstrates that the Teal, Orange, and Purple Parallel routes best meet Minnesota’s route selection criteria. **Based on** consideration of all routing factors **and the Applicant’s preference**, the Orange Route combined with the Purple Parallel Route is the best route for the Project (emphasis added).<sup>10</sup>

Twice in the two paragraph “Recommendations” – once in each paragraph/sentence, the Applicant’s preference is the focus:

### **RECOMMENDATIONS**

The Commission should **GRANT** a Route Permit with the general and special route permit conditions for a 161 kV HVTL along the Purple Parallel Route **based on Applicant’s preference** and with Applicant’s proposed modification to narrow the route by 130th Street to match the Orange Route in this area.

In the alternative, the Commission should grant a Route Permit for the Orange Route with the general and special route permit conditions **based on the Applicant’s preference**.

Recommendation, p. 53. The ultimate Recommendation is in large part “based on Applicant’s preference.” The Commission adopted the ALJ’s Recommendation including the “based on the Applicant’s preference” statements. This is an error of law – the Applicant’s preference is not a criteria for routing a transmission line.

#### **IV. APPLICANT DOES NOT HAVE LAND RIGHTS TO BUILD THIS PROJECT AND IS ATTEMPTING TO CIRCUMVENT NON-PARTICIPANTS’ FEE INTEREST.**

The ALJ’s Recommendation, adopted by the Commission is dependent on Applicant’s

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<sup>88</sup> See ALJ Recommendation, p. 2; FOF 262 p. 51; p. 53.

<sup>9</sup> See ALJ Recommendation, p. 2.

<sup>10</sup> FOF 262 p. 51.

ability “to maintain the entire route on participating landowners’ property.”<sup>11</sup> The Commission’s order ignores determinative facts in the record. The Commission’s narrative stated that:

AFCL questioned whether Freeborn Wind has, or will obtain, the necessary property rights to build its project. It argued that the Company’s land agents acted inappropriately in securing and documenting easements, that the county lacks authority to use road easements for transmission lines, and that the law does not grant Freeborn Wind eminent domain powers to acquire easements without a landowner’s consent.

Order, p. 9. However, AFCL demonstrated that Freeborn Wind does not have all the necessary property rights, and both Freeborn Wind and AFCL entered evidence that the Company’s land agents acted inappropriately.”

Freeborn Wind repeatedly states that it has land rights sufficient to build this project, but admittedly does not have all land rights. Freeborn Wind was concerned about both its non-utility status and using the county’s road easements to build over the non-participating landowners.

Newly discovered evidence, from Data Practices Act requests to Freeborn County and the Dept. of Commerce show multiple discussions and references to discussions of these topics. See attached Exhibits E and F.

The repeated statements that Freeborn has all land rights to build this project is a false statement, and the project should not go forward. Minn. Stat. §216E.14(1).

**A. Freeborn Wind employees and contractors have not acted in good faith in securing land rights.**

In its application, Appendix A, Freeborn Wind admits an employee was fired for lying. Notice of this land agent’s firing was sent in a letter of many subjects, and copies were included in the Application, Appendix A:

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<sup>11</sup> Recommendation, p. 2.

9. We hire experienced and trustworthy professionals to spend the time at kitchen tables and in the field negotiating our land agreements. Unfortunately, a land agent working on our project in 2015 did not live up to this standard and was exposed to be blatantly lying to some landowners. He was fired as soon as we found out, as we deem this behavior completely unacceptable. I don't know what else to say about this – I'm sorry for those who were lied to. It is not ok. We are doing the best we can do rebuild trust.

See e.g., Application, Appendix A, p. 58 of 78.

Another employee fraudulently notarized a lease, notarizing a signature purporting to be that of Robert B. Knutson when he did not sign the document and was not present when it was notarized. Knutson's comments and documentation regarding this were disregarded by the ALJ and the Commission, which grossly misrepresented the situation. From the Commission's

Order:

**D. Robert B. Knutson**

Robert B. Knutson, who is a notary, alleged irregularities on the part of a person who notarized some of the leases related to the Project.

Order, p. 9.

Where did the Commission come up with this statement? Not from the record! Robert B. Knutson is not a notary – he is the landowner who filed a Complaint with the Department of Commerce, which revoked the Commission of said Notary, Thomas Spitzer, and fined him \$500. On August 10, 2018, Mr. Knutson filed a notarized statement that he was the one who made the Complaint and requested that his lease be terminated.<sup>12</sup> Exhibit A. At no time did he represent himself as a notary, and he did notify the Commission of this impropriety that affects land rights.

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<sup>12</sup>

<a href="#">20188-145696-01</a>	PUBLIC	17-322	ROBERT B KNOTSON	OTHER--REQUEST TO DENY PERMIT DUE TO FRAUDULENT NOTARIZING OF LEASE AND REQUIRE RENEWAL OF ALL LEASES BY REMOVED NOTARY	08/10/2018
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AFCL filed the Dept. of Commerce Enforcement Department’s Order on July 24.<sup>13</sup> Exhibit B.

It has recently come to AFCL’s attention that there are irregularities in Invenergy/Freeborn Wind’s leases from its contractor William Gillen. Mr. Gillen signed his easements as “a single person” on September 10, 2015; July 24, 2017; and April 10, 2018. However, his marriage license is dated 9/21/2013 and filed September 21, 2013. Mr. Gillen can easily correct this error, but given his position with Invenergy/Freeborn Wind, the fired employee early in the process, the revocation of Spitzer’s notary commission -- how many other such errors are there? The Commission should verify all claims of land rights for this project.

These questions of land rights play into the projects lack of land where the transmission route would cross a county road. The fact of non-participants’ land in Freeborn’s proposed corridor on the recommended Purple route along 830<sup>th</sup> Avenue is repeated in the Recommendation: This is the proposed alignment from the Application:



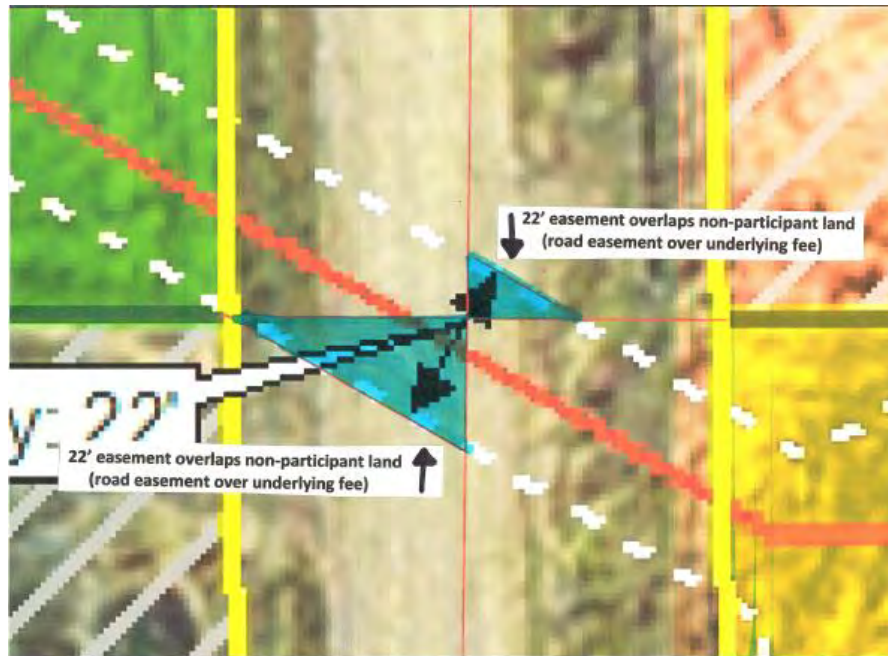
Freeborn Transmission Application, p. 18.

There is no information in the record specifically regarding the fee interests underlying the

<sup>13</sup>

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County road, and there should be, although non-participating landowners are admittedly at that intersection. The underlying fee interests of these non-participants looks like this blue shaded area:



AFCL Route Comments to ALJ, June 12, 2018. This non-participating landowner interest is also shown in the Environmental Assessment map:



Environmental Assessment, Map 6 Participating and Non-Participating Landowners, Landowner Participation, crop of Map 3 of 3.

This issue of the interests of the fee landowners was raised in the public comments, orally, and in writing, and is included in the Environmental Assessment, in narrative and noted visually in

maps, as well as the June 28, 2018 comments of Commerce.

The underlying fee interest of non-participant landowners should have been prominent in the Recommendation, because at least one landowner specifically brought this to the attention of the Administrative Law Judge. The fact of non-participants' land in the proposed corridor is also found repeatedly in the Application, as is the Applicant's attempt to skirt non-participants' land through use of improperly narrow 22 foot easement over the road. This 22 foot "easement" proposal, through making the easement as narrow as possible, runs right over the non-participants' fee interest in the property over which the county has its road easement. The Recommendation's Findings of Fact state:

53. The Purple Route Segment was proposed during scoping and follows an existing transmission line corridor. The EA studied two possibilities for this route segment: running the proposed HVTL parallel to the existing ITC Line (paralleling) (Purple Parallel) or overbuilding the proposed HVTL above the ITC Line on new structures within the existing ITC ROW (overbuilding) (Purple Overbuild). The Purple Route Segment includes a small area of the route width of this route segment, located to the east of 810th Avenue crossing 130th Street, **with two non-participating landowners**, but the Purple Parallel routing option could be constructed entirely on participants' land (emphasis added).

54. Traveling south to north, the Purple Route Segment breaks from the Teal/Orange route in the NE 1/4 of S28, T101, R20W where it continues west approximately 1,000 feet along field lines to the existing ITC Line. The route segment turns north and travels along the ITC Line for approximately one and one-quarter miles until it reaches 130th Street, where it rejoins the Teal and Orange routes. Route widths vary from 250, 400, and 600 feet. Constructing the Purple Overbuild Route south of 120th Street would cause some of the ROW to be on a nonparticipant's land. Overbuilding for the first half mile north of 120th could be done all on participating land. The remaining half mile towards 130th Street would require **two new transmission easements**. (emphasis added)

61. For certain segments, Freeborn Wind proposes to use a vertical configuration, with all conductors located on one side of the pole. **This design is needed to create the correct approach angle for the segment of turn 2 to turn 3 that uses the 22-foot wide ROW across County Road 108/830th Avenue.** For the single-circuit 161 kV vertical-designed poles, a braced post structure TSP-161 structure type will be used (emphasis added).

67. Route widths vary from 250, 400, and 600 feet for the Purple Route. The Purple Route includes a small area with **two non-participating landowners**, but

the Purple Parallel routing option could be constructed entirely on participants' land (emphasis added).

73. In one location, at the crossing of County Road 108/830th Avenue at one quarter mile south of 120th Street, **a narrowed ROW is proposed to maintain the ROW for the Project within land owned by participating landowners and within public road ROW where Freeborn Wind is seeking a utility permit from Freeborn County.** A vertical design with a **22-foot ROW** will be used on this single, short span. Freeborn Wind engineers developed a design in this limited area that can be operated in a **22-foot ROW**, which is within the 66-foot wide County Road 108 ROW. To ensure adequate clearances, Freeborn Wind proposes a special design using two dead-end structures. The two poles will be located feet apart and the **22-foot ROW** would apply only to the area between the two poles. The area needed for construction will be contained on the participating landowners' parcels. The existing distribution line will be buried in this location. **Freeborn Wind continues to talk with adjacent landowners and Freeborn County and may propose to change the design and alignment if a voluntary easement is obtained or to meet Freeborn County requirements.** When the proposed line is parallel to a roadway, Freeborn Wind does not intend to locate structures within road ROW, and poles will be placed within the private ROW adjacent to the roadway ROW (emphasis added).

89. The Orange and Purple Parallel routes have the least impact on nonparticipating landowners. Freeborn Wind has, through voluntary agreements, obtained the rights necessary to construct the Project along the Teal, Orange, and Purple Parallel routes on participants' land **except for a road crossing associated with 830 Avenue.** Freeborn Wind is **seeking a utility permit from Freeborn County for this road crossing to keep the transmission line entirely within participating landowner property or public ROW** (emphasis added).

152. Prior to construction, Freeborn Wind will coordinate with the applicable local and state road jurisdictional authorities to **obtain the necessary permits for road access and public road ROW use.** For example, Freeborn Wind is seeking a **utility permit from Freeborn County for the crossing of County Road 108/830th Avenue at one-quarter mile south of 120th Street, where Freeborn Wind has proposed a narrowed ROW in order to maintain the ROW for the Project within land owned by participating landowners and within public road ROW.** Freeborn Wind has had multiple constructive discussions with Freeborn County Staff and Shell Rock Township officials, and is confident a thorough Three Part Agreement will be reached that will address all of these issues.

The Findings of Fact repeatedly refer to Freeborn's efforts in "seeking a utility permit from Freeborn County for this road crossing to keep the transmission line entirely within participating landowner property or public ROW." Recommendation, FOF 89; see also FOF 73, 152. In the same vein, Commerce Comments state, "Freeborn Wind, in its reply comments, indicates that it is



negotiating a Three Part Agreement “to address issues related to utility permits for use of public [right-of-way], including the 108/830th Avenue crossing.” (Reply Comments, at 8).” No mention is made regarding authority for such an agreement. There is no mention of the township road. The record does not contain any information regarding whether the county owns the 830<sup>th</sup> and 108th road Right of Way in fee, or whether the County has an easement for the roads. The record does not contain any information regarding notice to the non-participating landowners regarding Freeborn’s efforts in “seeking a utility permit from Freeborn County for this road crossing,” and/or whether landowners have been invited or participated in these discussions regarding their land. Further, there is no evidence in the record to support the notion that the County or Township have rights to convey an easement to the utility. There is no example in the record of County or Township road easement having any authority or permission to site a transmission line on this non-participant land. This is why the county has been seeking guidance and approval from staff at Commerce. Exhibits E and F.

New information shows that Freeborn Wind was concerned about this and raised it with the County and Commerce. A Data Practices Act Request to the County revealed documentation of several discussions between Freeborn Wind and the County, and between County staff and Dept. of Commerce employees, including Larry Hartman, not assigned to this project, who advised the County on legal issues regarding both utility status and use of private easements by Freeborn Wind. Exhibit E, Freeborn County Data Practices Act response (selected). A follow up Data Practices Act Request to the Dept. of Commerce reflects Freeborn Wind’s continued concern about land rights at 380<sup>th</sup> Avenue, but there were, apparently, no records of Larry Hartman’s discussions with county staff. Attachment F, Dept. of Commerce Data Practices Act response (selected).

It is at best not appropriate for Commerce staff not assigned to the project to be opining about legal issues and/or encouraging county facilitation of Freeborn Wind encroachment onto non-participant’s land. It appears that the County and Commerce/Hartman are working hard to

pave the way for Freeborn Wind, that government staff is promoting and facilitating the project, to roll right over the non-participant landowners who do not want transmission on their land.

On the other hand, there is law that holds that while a county, township, or city may have an easement for the road, non-participants' have a fee interest in the land beneath the road:

*The general rule applicable to the question is this: If a deed bounds the land upon a street or highway, title passes to the center thereof, subject to the public easement, if there be nothing in the deed, or the location of the land, or the relation of the parties showing a different intention; but where a deed expressly makes the near external line of the highway or street the boundary line of the tract conveyed, and no other language is used indicating a contrary intention, no title to the street passes to the grantee.*

**Pratt v. Quirk**, 119 Minn. 316, 319, 138 N.W. 38, 39 (1912). The Applicant may attempt to take this land by eminent domain<sup>14</sup> or through the county or township, not only because it is not a utility, but “if forced to bring an inverse condemnation action to protect his rights, [a party] may be entitled to recover attorney fees and costs. *See* Minn. Stat. § 117.195, subd. 2 (1994) (when proceeding dismissed or discontinued, owner may recover reasonable costs and expenses from petitioner); **State v. Miller Home Dev., Inc.**, 243 Minn. 1, 9, 65 N.W.2d 900, 904-05 (1954) (when state brought proceeding to condemn land and right of access appurtenant to land, but abandoned that part of proceeding involving right of access, landowners entitled to costs incurred in defending that taking).” In the Matter of the Condemnation of Certain Lands in the City of White Bear Lake by the City of White Bear Lake Housing and Redevelopment Authority.<sup>15</sup>

The matter of the fee interest extending to the centermost point of the road was also an issue in a recent CapX 2020 eminent domain case, which was provided to all parties in a prior AFCL finding<sup>16</sup>. The landowner's Buy the Farm claim was challenged by the utility, claiming its parcels were not contiguous, but the court found that they were contiguous, meeting under the road.

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<sup>14</sup> Application, p. 1.

<sup>15</sup> In the Matter of the Condemnation of Certain Lands in the City of White Bear Lake by the City of White Bear Lake Housing and Redevelopment Authority, C4-96-744, November 12, 1996 (Unpublished)(online: <https://mn.gov/law-library-stat/archive/ctappub/9611/c496744.htm>).

<sup>16</sup> See AFCL Exceptions, end of document, eDocket #[20186-143686-01](#).

Applicants may choose to ignore landowners' fee interest at their risk.

Encroachment on landowners is also an issue for the Gold Route. The Findings of Fact note that the Gold Route traverses non-participants' land and note impacts:

28. On January 25, 2018, DOC-EERA filed comments summarizing the EA scoping process and informing the Commission of the route and route segments that DOC-EERA intended to recommend for inclusion in the scoping decision for the EA. DOC-EERA considered the comments submitted during the scoping process regarding the various alternatives proposed. DOC-EERA identified the "Purple Route" and the "Gold Route" segments as alternative routes that co-locate or parallel the Project with existing transmission infrastructure. DOC-EERA recommended that the Deputy Commissioner of Commerce include in the scoping decision the original route proposed by Freeborn Wind (which it calls the "Teal Route"), the Orange Route (which limits the route to participating landowners' property), and the Purple Route. DOC-EERA did not recommend the Gold Route be included in the scope due **to impacts to non-participating landowners and other issues** (emphasis added).

**87. The Gold Route would have the most impact on non-participating landowners because it would require placing the Project on non-participants' land. Impacts to nonparticipating landowners along the Gold routing options are unavoidable, and will be long-term and significant** (emphasis added)

Recommendation, FoF 28, 87 (citations omitted).

The Gold Route was specifically not recommended by Commerce-EERA or the ALJ due to routing over non-participants' land. The same rejection must also apply to the Purple Route and Orange Route modification. Further, there is no evidence in the record to support a finding that the County and/or Township have authority to grant an easement for transmission, and there is no evidence in the record to support a finding that they will. Freeborn Wind, LLC does not have the power of eminent domain. The Commission should not approve the Freeborn transmission project because it encroaches over non-participants' land.

## **V. FREEBORN WIND IS ALREADY NOT IN COMPLIANCE WITH PERMIT**

The site permit requires that Invenergy/Freeborn Wind maintain current contact information for Complaints and Complaint Reporting. Freeborn gives the address of 120 East Main Street in

Glennville, Minnesota, but that office is now empty. Freeborn Wind must correct the address.

Also, a Post Office Box is not an office.

**VI. AFCL'S EXCEPTIONS POINT OUT FATAL FLAWS IN ALJ RECOMMENDATION AND COMMISSIONS ORDER.**

The AFCL Exceptions are attached below, and included, among other things, procedural errors and objections to the ALJ's multiple statements in Findings giving great weight to "the Applicant's preference," because "the Applicant's preference" is not a factor for routing. Exceptions also pointed out in technicolor, as above, the Applicant's lack of land rights sufficient to build the project. Other details stand out:

- Insufficient notice was paid to the bald eagle nests, and there is nothing in the Recommendation or Order about nesting bald eagles.
- Construction noise regulation was in Recommendation, but it is not addressed in the permit, and there are no standards beyond "practical," which is not defined, and would be very different for neighbors v. contractors. Construction is limited to daytime working hours "to the extent practicable" which is not defined, and in the summer, from 5:30 a.m. to 10 p.m., or more?
- Crossing the Shell Rock Water Trail is environmentally unsound and not justified.
- More issues are raised in the line-by-line Exceptions, below. AFCL hopes that this is regarded as a "relevant document."

**VII. NEW INFORMATION HAS BECOME AVAILABLE THAT THE COMMISSION SHOULD CONSIDER.**

New information has become available that the Commission should consider.

**A. Data Practices Act Requests show confusion and Freeborn Wind efforts to gain access to county easements for transmission – an admission that it does not have sufficient land rights for the project – and Freeborn County seeks guidance on its legal issue from Commerce staff.**


As above, there is new information from Data Practices Act Requests, the responses from Freeborn County and the Dept. of Commerce. The documents produced by both the County and Commerce show acknowledgement of easement and land acquisition problems through the stated

questions and concerns of Freeborn Wind regarding use of the County’s road easements for transmission, and concern about utility status and eminent domain, not available to a non-utility, trying to find a way to get the transmission line across 803th Avenue.

The Freeborn County responses show that the County was seeking and receiving advice from Commerce’s Larry Hartman regarding use of county road easements for transmission and Freeborn’s utility status.

**B. World Health Organization addresses Wind Turbine Noise.**

For the first time, the World Health Organization has addressed the issue of wind turbine noise and offered precautionary noise guidelines. Exhibit G (selected). This is a conditional strength guideline, with sufficient support from the WHO scientists to be included in this year’s Environmental Noise Guideline. The 45 dB noise limit is in line with that found in Wisconsin for wind turbines, and is lower than that of Minnesota. Wis. PSC Code Ch. 128; Minn. R. Ch. 7030.

 Wind turbine noise	
Recommendation	Strength
<p>For average noise exposure, the GDG conditionally recommends reducing noise levels produced by wind turbines below <b>45 dB <math>L_{\text{day}}</math></b>, as wind turbine noise above this level is associated with adverse health effects.</p>	Conditional
<p>No recommendation is made for average night noise exposure <math>L_{\text{night}}</math> of wind turbines. The quality of evidence of night-time exposure to wind turbine noise is too low to allow a recommendation.</p>	
<p>To reduce health effects, the GDG conditionally recommends that policy-makers implement suitable measures to reduce noise exposure from wind turbines in the population exposed to levels above the guideline values for average noise exposure. No evidence is available, however, to facilitate the recommendation of one particular type of intervention over another.</p>	Conditional

AFCL asks that the Commission review the WHO Environmental Noise Guidelines and consider these voluntary limitations on noise for the Freeborn Wind project, to be discussed in more detail in

that docket's Reconsideration Petition.

**VIII. THE COMMISSION SHOULD RECONSIDER ITS DECISION. THE ROUTE PERMIT SHOULD BE DENIED, PENDING DEMONSTRATION THAT ALL LAND RIGHTS NEEDED HAVE BEEN ACQUIRED.**

AFCL asks that the Commission reconsider its Order, and that the permit be denied. In the alternative, AFCL requests that it be remanded to the Administrative Law Judge for Findings and a Recommendation consistent with the evidence regarding Freeborn Wind's lack of land rights to build this project, and a recommendation that the permit be denied for lack of land rights, or held in abeyance until such land rights are acquired. The Applicant must demonstrate that it has land rights for the entire project and not encroach on non-participants' land. Beyond that, in respect for affected landowners, Association of Freeborn County Landowners takes no position as to the route of the project. Overall, AFCL's position is clear: The community does not consent to this project.

Respectfully submitted,

January 8, 2019



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Carol A. Overland #254617  
Attorney for AFCL  
Legalelectric  
1110 West Avenue  
Red Wing, MN 55066  
(612) 227-8638  
[overland@legalelectric.org](mailto:overland@legalelectric.org)

## LINE BY LINE EXCEPTIONS

These are Exceptions of Association of Freeborn County Landowners, and are not all inclusive. Omission of an exception is not acceptance or agreement with any Finding.

AFCL asks that this transmission permit Recommendation be rejected in its entirety. If a wind site permit (IP6946/WS-17-410) should be approved at some point in the future, this transmission docket should be then remanded and set for rehearing. In the alternative, the application should be put on hold, until land rights are secured and a decision is made to grant the Freeborn Wind project site permit (IP6946/WS-17-410), and then remanded and set for rehearing.

Nonetheless, AFCL offers these Exceptions:

### SUMMARY OF RECOMMENDATIONS

The Administrative Law Judge concludes that Freeborn Wind has partially satisfied the criteria set forth in Minnesota law for a Route Permit and that both the Orange Route and the Orange Route with the Purple Parallel Segment (Purple Parallel Route) meet the routing criteria and minimize impacts to the human and natural environments.

~~Given the Applicant's preference for the Purple Parallel Route, the Commission should **GRANT** the Route Permit for the Purple Parallel Route with the modification the Applicant proposed to maintain the entire route on participating landowners' property. That modification would narrow the route at 130th street to match the Orange Route in this area. (invalid due to consideration and weight of "Applicant's preference.")~~

~~Given the Recommendation of the Administrative Law Judge in the wind siting case which this transmission line is to serve, Applicant's preference for the Purple Parallel Route, the Commission should not GRANT the Route Permit unless and until a site permit is granted for the Freeborn Wind Project and the transmission route has been demonstrated to be routed only on participants land. The Administrative Law Judge in this transmission docket recommends ~~for~~ the Purple Parallel Route with the modification the Applicant proposed to maintain the entire route on participating landowners' property. That modification would, however, improperly narrow the route at 130th street to match the Orange Route in this area.~~

In the alternative, the Administrative Law Judge recommends the Commission should grant a Route Permit for the Orange Route but should not GRANT the Route Permit unless and until a site permit is granted for the Freeborn Wind Project and the transmission route has been demonstrated to be routed only on participants land.

### FINDINGS OF FACT

2. As part of Invenergy's various generation projects, including wind farms, natural gas facilities, solar projects, and battery storage, Invenergy has, in other states, built 401

miles of transmission lines greater than 69 kV and continues to operate 251 miles of those lines.<sup>5</sup>

5. Freeborn Wind has entered into an agreement with Xcel Energy whereby Xcel Energy will acquire Freeborn Wind upon conclusion of all development activities and subsequently construct, own, and operate the Project.<sup>10</sup> On September 21, 2016, Freeborn Wind entered into a Purchase and Sale Agreement (PSA) with Xcel Energy, and Invenergy.<sup>11</sup> The Commission approved the Purchase and Sale Agreement on September 1, 2017.<sup>12</sup> Xcel Energy's acquisition of Freeborn Wind was part of a 1,550 MW wind portfolio proposed by Xcel Energy and approved by the Commission.<sup>13</sup> Thus, no Certificate of Need is required, and no Certificate of Need has been issued. Xcel Energy will assume the obligations of Freeborn Wind, whether made by the company or imposed by the Commission.<sup>14</sup> Permits, ownership and operation will continue under the Freeborn Wind, LLC, organization.:

7. The Commission's rules establish two tracks for the permitting of HVTL. The "full permitting process" includes preparing an environmental impact statement (EIS) and holding a contested case hearing.<sup>18</sup> The "alternative permitting process" in practice generally applies to modestly sized projects that are not contested or controversial.<sup>19</sup> It requires an EA instead of an EIS and a public hearing instead of a contested case hearing.<sup>20</sup> This permitting proceeding is controversial.

15. Fifteen public comments were received during the initial and reply comment periods on the completeness of the Application. The comments were largely related to the potential impacts of the Project and requested the appointment of an advisory task force.<sup>35</sup> The Association of Freeborn County Landowners (AFCL) raised completeness issues including organizational form of Freeborn Wind; issues of timing; Minnesota's policy of non-proliferation; viewshed; a listing of eagle nests; no disclosure of eagle and transmission collision potential; County and Township land use plans; routing over non-participants; lack of cost analysis; lack of attribution and apportionment of system upgrade costs; conflicting interconnection information; and requested that "[b]ecause this project and the Freeborn Wind project<sup>36</sup> are tied and dependent, these two dockets should be joined as one, ideally the pre-existing 17-410."<sup>37</sup> The dockets were not joined.

17. On November 2, 2017, DOC-EERA filed a letter stating that Freeborn Wind's reply comments provided the requested information, including Freeborn's statement that it has acquired all land needed for the project and that it has the power of eminent domain.<sup>39</sup>

19. On November 8, 2017, Commission Staff filed Briefing Papers for the November 16, 2017, Commission meeting.<sup>41</sup> Staff recommended that the Commission refer this matter to an Administrative Law Judge for a "summary proceeding" which would involve findings of fact, conclusions of law, and a recommendation.<sup>42</sup> On November 16, 2017, Staff filed amended decision options to provide an option to "combine this application with Docket IP6946/17-410" as requested by AFCL.<sup>43</sup> The interdependent nature of this



transmission docket and the wind project siting docket is noted in light of the AJL's Recommendation in Docket IP6946/17-410.

25. On January 2 and January 3, 2018, three individuals filed public comments.<sup>50</sup> On January 3, 2018, AFCL filed 10 pages of comments, raising issues regarding use of eminent domain; future development and relationship to the land; property values and marketability; MISO interconnection and size/spec of line questions; policy of non-poliferation; existing local corridors; no prohibition of consideration of size, type, and timing; 16 proposed permit conditions and an alternate route (expressly stated as not acceptance of that route).<sup>51</sup>

28. On January 25, 2018, DOC-EERA filed comments summarizing the EA scoping process and informing the Commission of the route and route segments that DOC-EERA intended to recommend for inclusion in the scoping decision for the EA.<sup>54</sup> DOC-EERA considered the comments submitted during the scoping process regarding the various alternatives proposed.<sup>55</sup> DOC-EERA identified the "Purple Route" and the "Gold Route" segments as alternative routes that co-locate or parallel the Project with existing transmission infrastructure.<sup>56</sup> DOC-EERA recommended that the Deputy Commissioner of Commerce include in the scoping decision the original route proposed by Freeborn Wind (which it calls the "Teal Route"), the Orange Route (which limits the route to participating landowners' property), and the Purple Route.<sup>57</sup> DOC-EERA did not recommend the Gold Route be included in the scope due to impacts to non-participating landowners and other issues.<sup>58</sup> Impacts to landowners on any route option are unavoidable, and will be long-term and significant.

31.5 On February 15, 2015, the Commission filed "Public Comment Batch One" which contained 16 comments supporting the project, from those with a stated interest such as a participant, a business/contractual interest, or a wind developer/financier.

34. On April 2, 2018, a prehearing conference was held before Administrative Law Judge Jim Mortenson. There is no eFiled notice of this prehearing conference. On April 4, 2018, the Administrative Law Judge issued the First Prehearing Order, establishing a schedule for the proceedings.<sup>67</sup> On May 17, 2018, the Administrative Law Judge issued an Amended First Prehearing Order.<sup>68</sup>

43. Minn. Stat. § 216B.243, subd. 2 (2016) states that "no large energy facility" shall be sited or constructed in Minnesota without the issuance of a Certificate of Need by the Commission.<sup>86</sup> The proposed Project is not classified as a "large energy facility" under Minn. Stat. §§ 216B.243 and 216B.2421, subd. 2(3) (2016).<sup>87</sup> While the Project is an HVTL with a capacity of 100 kV or more, it is not more than 10 miles long in Minnesota and it does not cross a state line.<sup>88</sup> Therefore, a Certificate of Need is not required for the Project.<sup>89</sup> Because no Certificate has been issued, there is no prohibition of consideration of size, type, and timing.<sup>1</sup>

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<sup>1</sup> Minn. Stat. §216E.02, Subd. 2; Minn. R. 7850.4200.

48. The Project is located entirely within Shell Rock Township in Freeborn County, Minnesota.<sup>100</sup> This transmission project is expressly designed to serve the Freeborn Wind project, located in Shell Rock, London, Hayward and Oakland townships in Minnesota's Freeborn County, as well as the Iowa Freeborn Wind project in Worth County, Iowa.<sup>2</sup> All of the Freeborn Wind project's Minnesota and Iowa generation will be sent through a collector system to the project substation, and through this transmission line to the Glenworth substation.

52. In response to comments at the scoping meeting that the route width should be located entirely on land owned by participating landowners, "EERA staff provided Freeborn Wind with a route alternative that also moves the route width to participating landowners' property . . . In response, Freeborn Wind suggested that an adapted EERA route replace the proposed route and be included in the scoping decision. Freeborn Wind proposed a reduced route width for a more precise route location and a slight expansion in the route width for the half-mile segment south of 130th Street to allow for potential colocation with the existing ITC Line, should the company be able to secure easement agreements to obtain adequate right-of-way."<sup>102</sup> Freeborn Wind proposed a new route with the same alignment as the Teal Route, but with a narrower route width that attempts to avoids non-participants' land through use of a 22 foot wide diagonal crossing of a county and township road intersection. This narrowed easement does encroach on the corners of non-participants land. This route is identified as the Orange Route. The Orange Route is not constructible. The Orange Route follows the same alignment as the Teal Route with route widths varying from 225, 250, and 400 feet.<sup>103</sup>

53. The Purple Route Segment was proposed during scoping and follows an existing transmission line corridor.<sup>105</sup> The EA studied two possibilities for this route segment: running the proposed HVTL parallel to the existing ITC Line (paralleling) (Purple Parallel) or overbuilding the proposed HVTL above the ITC Line on new structures within the existing ITC ROW (overbuilding) (Purple Overbuild).<sup>106</sup> The Purple Route Segment includes a small area of the route width of this route segment, located to the east of 810th Avenue crossing 130th Street, with two non-participating landowners,<sup>107</sup> but the Purple Parallel routing option could be constructed entirely on participants' land.<sup>108</sup> As an LLC, Freeborn Wind does not have the power of eminent domain. The Purple Parallel route is not constructible.

54. Traveling south to north, the Purple Route Segment breaks from the Teal/Orange route in the NE 1/4 of S28, T101, R20W where it continues west approximately 1,000 feet along field lines to the existing ITC Line. The route segment turns north and travels along the ITC Line for approximately one and one-quarter miles until it reaches 130th Street, where it rejoins the Teal and Orange routes. Route widths vary from 250, 400, and 600 feet.<sup>109</sup> Constructing the Purple Overbuild Route south of 120th Street would cause some of the ROW to be on a nonparticipant's land. Overbuilding for the first half mile north of 120th could be done all on participating land. The remaining half mile towards 130th Street would require two new transmission easements.<sup>110</sup> As an LLC, Freeborn Wind does not have the power of eminent domain. Without the two new

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<sup>2</sup> See Freeborn Wind application, PUC Docket IP6946/WS-17-410.

transmission easements, this route is not constructible.

61. For certain segments, Freeborn Wind proposes to use a vertical configuration, with all conductors located on one side of the pole.<sup>120</sup> This design is needed to create the correct approach angle for the segment of turn 2 to turn 3 that uses the 22-foot wide ROW across County Road 108/830th Avenue.<sup>121</sup> For the single-circuit 161 kV vertical-designed poles, a braced post structure TSP-161 structure type will be used.<sup>122</sup> Any route attempting to utilize the 22-foot wide ROW encroaches on non-participant land and is not constructible.

67. Route widths vary from 250, 400, and 600 feet for the Purple Route.<sup>132</sup> The Purple Route includes a small area with two non-participating landowners,<sup>133</sup> but there is no documentation in the record that the Purple Parallel routing option could be constructed entirely on participants' land.<sup>134</sup> As an LLC, Freeborn Wind does not have the power of eminent domain. Without the landowner easements, this route is not constructible.

70. Contrary to Minnesota's policy of route non-proliferation,<sup>3</sup> the entire length of the proposed Project will require new ROW.<sup>137</sup>

73. In one location, at the crossing of County Road 108/830th Avenue at one quarter mile south of 120th Street, a narrowed ROW is proposed to maintain the ROW for the Project within land owned by participating landowners and within public road ROW where Freeborn Wind is seeking a utility permit from Freeborn County. A vertical design with a 22-foot ROW will be used on this single, short span. Freeborn Wind engineers developed a design in this limited area that can be operated in a 22-foot ROW, which is within the 66-foot wide County Road 108 ROW. To ensure adequate clearances, Freeborn Wind proposes a special design using two dead-end structures. The two poles will be located 123 feet apart and the 22-foot ROW would apply only to the area between the two poles. The area needed for construction will be contained on the participating landowners' parcels. The existing distribution line will be buried in this location. Freeborn Wind continues to talk with adjacent landowners and Freeborn County and may propose to change the design and alignment if a voluntary easement is obtained or to meet Freeborn County requirements.<sup>140</sup> As an LLC, Freeborn Wind does not have the power of eminent domain. There is no information in the record regarding authority of Freeborn County to enter into an agreement regarding the 22-foot ROW. Without landowner agreements, this is not constructible. When the proposed line is parallel to a roadway, Freeborn Wind does not intend to locate structures within road ROW, and poles will be placed within the private ROW adjacent to the roadway ROW.<sup>141</sup>

76. Total Project costs are estimated to be approximately \$3.8-8.05 million, depending on which route option is approved and a variety of other factors, including

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<sup>3</sup> People for Environmental Enlightenment & Responsibility (PEER), Inc. v. Minnesota Environmental Quality Council, 266 N.W.2d, 858, 868 (Minn. 1978); Minn. Stat. §216E.03, Subd. 7(e).

timing of construction, cost of materials, and labor.<sup>144</sup> Total costs are summarized below in Table 1:<sup>145</sup> \* Total includes the cost to construct the entire HVTL, not just the route segment. (chart makes no sense, applies to oranges comparison)

78. The permittee for the Project is Freeborn Wind Energy LLC. Freeborn Wind is currently owned by Invenergy, LLC. Should the Commission issue a route permit for the project, Freeborn Wind will be transferred from Invenergy to Xcel Energy, and Freeborn Wind, LLC would own and operate the transmission line. Freeborn Wind, LLC, is not a public service corporation.<sup>147</sup>

87. The Gold Route would have the most impact on non-participating landowners because it would require placing the Project on non-participants' land. Impacts to nonparticipating landowners along the Gold routing options are unavoidable, and will be long-term and significant, as they would be with any route.<sup>157</sup>

88. The Purple Overbuild Route would also require constructing the Project on nonparticipants' land, and impacts are unavoidable and will be long-term and significant.<sup>158</sup>

89. The Orange and Purple Parallel routes have the least impact on nonparticipating Landowners, only because there are fewer non-participating landowners. The impacts will be the same, unavoidable, long-term, and significant, no matter what route is chosen. Freeborn Wind has, through voluntary agreements, obtained the rights necessary to construct the Project along the Teal, Orange, and Purple Parallel routes on participants' land except for a road crossing associated with 830 Avenue.<sup>159</sup> Freeborn Wind is seeking a utility permit from Freeborn County for this road crossing to keep the transmission line entirely within participating landowner property or public ROW.<sup>160</sup> As an LLC, Freeborn Wind does not have the power of eminent domain.

95. Freeborn Wind committed to take steps to comply with all applicable Minnesota noise standards.<sup>170</sup> For example, noise from intermittent and infrequent construction activities will be mitigated by the distance of the activity from a receptor (e.g., construction activities will not be near residences, farmsteads, etc.), using sound control devices on vehicles and equipment, conducting construction activities during daylight hours as much as possible during normal business hours, and not running vehicles and equipment when not needed.<sup>171</sup> When exceedences occur, the activity must stop. Compliance with noise standards shall be a condition of the permit.

99. Aesthetic impacts are associated with residents viewing the HVTL from their homes, residents traveling in the project area, recreationalists along the Shell Rock River and Shell Rock Water Trail, and nonresidents traveling through the Project Area. Residents and recreationalists generally have a higher sensitivity to potential aesthetic impacts than temporary observers.<sup>179</sup>

120. The results of these studies can be summarized, generally, as follows:

- Over time, there is a consistent pattern with about half of the studies

finding negative property value effects and half finding none.

- When effects have been found, they tend to be small; almost always less than 10 percent and usually in the range of three percent to six percent. A 3 or 6 or 10% impact on a typical \$150-300k home with acreage would not be “small” to that homeowner, and a 3 or 6 or 10% impact on a \$1.2 million dollar farm is significant amount of money. This loss would also represent a loss in property tax revenue.

- Where effects are found, they decay rapidly as distance to the lines increases and usually disappear at about 200 feet to 300 feet.

- Two studies investigating the behavior of the effect over time find that, where there are effects, they tended to dissipate over time.<sup>218</sup>

122. There is no evidence in the record that shows a property value guarantee is or is not warranted for the Project.

134. ~~Magnetic-Electric~~ fields may interfere with implantable electromechanical medical devices, such as pacemakers, defibrillators, neurostimulators, and insulin pumps.<sup>231</sup> However, interference from magnetic fields in pacemakers is not observed until 2,000 mG—a field strength greater than that associated with transmission lines.<sup>232</sup>

152. Prior to construction, Freeborn Wind will coordinate with the applicable local and state road jurisdictional authorities to obtain the necessary permits for road access and public road ROW use.<sup>255</sup> For example, Freeborn Wind is seeking a utility permit from Freeborn County for the crossing of County Road 108/830th Avenue at one-quarter mile south of 120th Street, where Freeborn Wind has proposed a narrowed ROW in order to maintain the ROW for the Project within land owned by participating landowners and within public road ROW.<sup>256</sup> As an LLC, Freeborn Wind does not have the power of eminent domain. There is no evidence in the record demonstrating that Freeborn Wind has had multiple constructive discussions with Freeborn County Staff and Shell Rock Township officials, and there has been no notice of any meetings with Shell Rock Township officials.<sup>4</sup>and is confident a thorough Three Part Agreement will be reached that will address all of these issues.<sup>257</sup>

242. The Gold Route and Purple Route co-locate the Project with existing transmission lines for their entire lengths.<sup>403</sup> The Teal Route and Orange Route do not share ROW with an existing transmission line route; however, a significant portion 21% of these routes follow existing roadways.<sup>404</sup> Agricultural field boundaries are not existing transportation, pipeline, and electrical transmission right of way.

246. The evidence on the record does not demonstrates that it will be most cost-effective to collect all energy generated in Minnesota and Iowa and transmit to the Minnesota project substation and to- construct the Project along the Teal, Orange, or Purple Parallel routes to the new Glenworth substation in Minnesota.<sup>408</sup> Absent a

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<sup>4</sup> There are only 3 voting supervisors, and any meeting of more than two requires publication of notice under Open Meeting Law.

Minnesota wind siting permit, there is no evidence in the record regarding cost effectiveness of this transmission project.

255. The PPSA presumes irreversible and irretrievable commitments of resources, such as land for the project lost for production, a permanent change in vista with transmission lines, and establishment of a transmission corridor where there once was none. Project will require minimal commitments of resources that are irreversible and irretrievable. Only Others include construction resources, such as concrete, steel, and hydrocarbon fuels, will be irreversibly and irretrievably committed to this Project. During construction, vehicles necessary for these activities would be deployed on site and would need to travel to and from the construction area, consuming hydrocarbon fuels. Other resources would be used in pole construction, pole placement, and other construction activities.<sup>417</sup>

~~262. As set forth above, because the Teal, Orange, and Purple Parallel routes make use of existing ROW and generally compare favorably in terms of cost to the route alternatives, the record demonstrates that the Teal, Orange, and Purple Parallel routes best meet Minnesota's route selection criteria. Based on consideration of all routing factors and the Applicant's preference, the Orange Route combined with the Purple Parallel Route is the best route for the Project. (invalid due to weight given to "the Applicant's preference.") (There is no analysis in this summary section of the PEER and Minn. Stat. §216E.03, Subd. 7(e) non-proliferation factor.)~~

266. The EA process is the alternative environmental review approved for high voltage transmission lines.<sup>420</sup> The Commission is required by the rule to determine the "completeness" of the EA.<sup>421</sup> An EA is complete if it and the record address the issues and alternatives identified in the Scoping Decision. Adequacy of the EA should also be determined for MEPA compliance. Minn. Stat. §116D.04.

## **CONCLUSIONS OF LAW**

12. The evidence on the record demonstrates that, in addition to the Special Route Permit Conditions referenced above, the general Route Permit conditions are appropriate for the Project, including a requirement of compliance with MPCA noise standards.

~~The Commission should **GRANT** a Route Permit with the general and special route permit conditions for a 161 kV HVTL along the Purple Parallel Route **based on Applicant's preference** and with Applicant's proposed modification to narrow the route by 130th Street to match the Orange Route in this area. (invalid due to weight and consideration of "Applicant's preference.")~~

~~In the alternative, the Commission should grant a Route Permit for the Orange Route with the general and special route permit conditions **based on the Applicant's preference.** (invalid due to consideration and weight of "Applicant's preference.")~~

**STATE OF MINNESOTA**  
**BEFORE THE**  
**MINNESOTA PUBLIC UTILITIES COMMISSION**

**Nancy Lange**  
**Dan Lipschultz**  
**Matt Schuerger**  
**Katie Sieben**  
**John A. Tuma**

**Chair**  
**Commissioner**  
**Commissioner**  
**Commissioner**  
**Commissioner**

In the Matter of the Application of Freeborn  
Wind Farm, LLC for a Large Wind  
Energy Conversion System Site Permit for the  
84 MW Freeborn Wind Farm in Freeborn  
County.

**PUC Docket No. IP-6946/WS-17-410**

In the Matter of the Application of Freeborn  
Wind Energy LLC for a Route Permit for the  
Freeborn Wind Transmission Line in  
Freeborn County

**PUC Docket No. IP-6946/TL-17-322**

---

**AFFIDAVIT OF CAROL A. OVERLAND**  
**IN SUPPORT OF ASSOCIATION OF FREEBORN COUNTY LANDOWNERS**  
**PETITION FOR RECONSIDERATION**

---

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF GOODHUE    )

Carol A. Overland, after duly affirming on oath, states and deposes as follows:

1. I am an attorney in good standing, licensed in the State of Minnesota, Lic. No. 254617, and have extensive experience in utility regulatory proceedings in many venues.
2. I am representing the Association of Freeborn County Landowners in both of the above-captioned proceedings.



3. I offer the Exhibits below in support of Association of Freeborn County Landowners' Petition for Reconsideration in the siting docket and the transmission docket.

**INFORMATION THE COMMISSION IGNORED – IRREGULARITIES AND ILLEGALITIES – LAND RIGHTS MUST BE INDEPENDENTLY VERIFIED**

4. Attached as Exhibit A is a true and correct copy of Robert B. Knutson's notarized eDockets filing dated August 10, 2018.
5. Attached as Exhibit B is a true and correct copy of Carol A. Overland's eDockets filing dated July 24, 2018. In that filing is a copy of the Order revoking the notary Commission of Thomas Spitzer dated June 26, 2018.

**IRREGULARITIES – LAND RIGHTS MUST BE INDEPENDENTLY VERIFIED**

6. Attached as Exhibit C is a true and correct copy of three easements and easement amendments signed by William Glen Gillen, identified as "a single person." The initial Grant of Easement was dated July 24, 2015; the First Amendment of Easement was dated July 31, 2017; and the Second Amendment of Easement was dated April 10, 2018. Each of these three agreements was signed by William Glen Gillen as "a single person." The July 31, 2017 and April 10, 2018 agreements were notarized by Thomas Spitzer, prior to revocation of his notary commission.
7. Attached as Exhibit D is a true and correct copy of William Glen Gillen's marriage license dated September 21, 2013. A search of District Court files does not show any record of a divorce for William Glen Gillen's since that time.

**NEW INFORMATION**

8. A Data Practices Act to Freeborn County revealed that County staff had been seeking and receiving advice from Larry Hartman, Commerce, about utility status of Freeborn Wind and power of eminent domain, and the use by Freeborn Wind of county road easements for transmission. Attached as Exhibit E is a true and correct copy of emails received in response to the AFCL Data Practices Act request to Freeborn County.
9. The Freeborn County Data Practices Act responsive emails that discuss use of the County Road for the transmission easement, over non-participant's land established a trail to Larry Hartman of Commerce, and AFCL sent a Data Practices Act Request to the Dept. of Commerce for any documents in its possession regarding the Freeborn Wind transmission easement and county road easement, and the utility status of Freeborn Wind and the power of eminent domain. Attached as Exhibit F is a true and correct copy of selected emails referencing easements and right of way, utility status, and discussions



10. Other directly relevant new information has surfaced since the Commission's meeting. On October 10, 2018, the World Health Organization released its Environmental Noise Guidelines. Attached as Exhibit G is a true and correct copy of selected pages of the World Health Organization report, those related to wind noise, pages 77-86. The full report is available online at: <http://www.euro.who.int/en/media-centre/sections/press-releases/2018/press-information-note-on-the-launch-of-the-who-environmental-noise-guidelines-for-the-european-region>

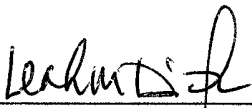
Further your affiant sayeth naught.

Dated: January 8th, 2019



Carol A. Overland MN Lic. 254617  
Attorney for Association of Freeborn  
County Landowners  
Legalelectric  
1110 West Avenue  
Red Wing, MN 55066  
(612) 227-8638  
[overland@legalelectric.org](mailto:overland@legalelectric.org)

Signed and sworn to before me this  
8<sup>th</sup> day of January, 2019



Notary Public



# **Exhibit A**

**eFiled Notarized Letter from Robert B. Knutsen**

**Commerce Enforcement Complaint re: Invenergy's Thomas Spitzer**

August 10, 2018 – eDockets # 20188-145697-01

## EXECPTIONS TO RECOMMENDATION

August 10, 2018

PUC Docket 17-322

PUC Docket 17-410

Dear Public Utility Commissioners,

I am the person who filed a complaint against Thomas Spitzer for falsely notarizing my signature. When I was not present, he notarized a signature as mine that was not mine.

He was removed from his office as a notary in the state of Minnesota and he was fined by the MN Commerce Department.

I ask the following of the PUC:

- Review all leases notarized by Thomas Spitzer;
- Declare my lease invalid because I didn't sign it and it's fraudulent;
- Require Freeborn Wind to renew leases with all parties with a lease notarized by Thomas Spitzer; and
- Deny the transmission and the siting permit because of fraudulent land acquisition practices.

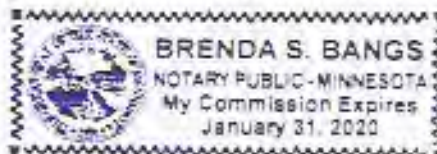
Robert B Knutson  
76901 150th St  
Albert Lea MN 56007  
507-402-1250  
[Lknutson@deskmedia.com](mailto:Lknutson@deskmedia.com)

Robert B Knutson  
8-10-18

Notary  
State of MN  
Freeborn County

Subscribed to and sworn before me  
this 10 day of August 2018  
by Robert B Knutson

Brenda S Bangs



# **Exhibit B**

**eFiled Letter - Commerce Enforcement Action Order**

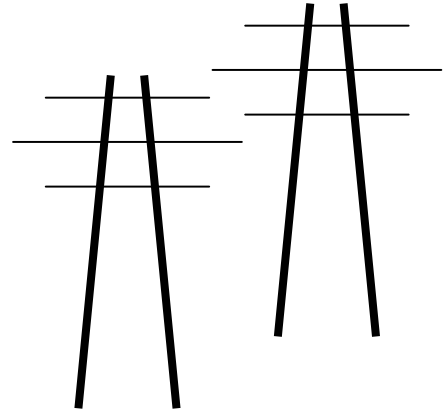
**Invenergy's Thomas Spitzer**

July 24, 2018 – eDockets #20187-145162-01

# Legalelectric, Inc.

**Carol Overland** Attorney at Law, MN #254617  
Energy Consultant—Transmission, Power Plants, Nuclear Waste  
overland@legalelectric.org

1110 West Avenue  
Red Wing, Minnesota 55066  
612.227.8638



July 24, 2018

Dan Wolf  
Executive Secretary  
Public Utilities Commission  
121 – 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

via eFiling and eService only

RE: Order - Commerce Enforcement Action – Invenergy’s Thomas Spitzer  
Commerce Enforcement Action and Order Revoking Commission and Fine  
Freeborn Wind, LLC - MPCU Docket: IP-6946/WS-17-410; IP-6946/WS-17-322

Dear Mr. Wolf:

On behalf of Association of Freeborn County Landowners, I attach a copy of a Commerce Enforcement Action Order regarding Thomas Spitzer, revoking his notary commission and assessing a \$500 fine.<sup>1</sup> AFCL awaits further information from the Commerce investigation file through the Data Practices Act earlier this month.

Thomas Spitzer notarized leases for Invenergy and because he notarized improperly, sufficient for his commission to be revoked, this calls into question the validity of at least one, and perhaps more, land leases for the Freeborn Wind Project.

AFCL requests that the Commission make a direct request and obtain the primary documentation from Commerce for review prior to consideration of the Freeborn Wind site permit.

Thank you for your consideration of these matters.

Very truly yours,

Carol A. Overland  
Attorney at Law

<sup>1</sup>Online at: <https://www.cards.commerce.state.mn.us/CARDS/security/search.do?documentId={9DE2F4F8-D4CE-46E0-99F5-EC586625586A}>

JUN 26 2018

Rec'd \$

500

File: 49913/lr

STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE

In the Matter of  
Thomas S Spitzer  
Notary Commission #31080307

CONSENT ORDER

TO: Thomas Spitzer  
24800 41<sup>st</sup> NE  
Wilton, ND 58579

Commissioner of Commerce Jessica Looman (Commissioner) has determined as follows:

The Commissioner has advised Thomas Spitzer (Respondent) that she is prepared to commence formal action pursuant to Minn. Stat. § 45.027 (2016), and other applicable law, against Respondent based on allegations that Respondent affixed his signature and notary stamp to a document without witnessing the actual signing of the document by another person in violation of Minn. Stat. § 359.085 subd. 3 (2016).

Respondent acknowledges that he has been advised of his rights to a hearing in this matter, to present argument to the Commissioner and to appeal from any adverse determination after a hearing, and Respondent hereby expressly waives those rights. Respondent further acknowledges that he has been represented by legal counsel throughout these proceedings, or has been advised of his right to be represented by legal counsel, which right he hereby expressly waives.

Respondent has agreed to informal disposition of this matter without a hearing as provided under Minn. Stat § 14.59 (2016) and Minn. R. 1400.5900 (2016).

The following Order is in the public interest.

**NOW, THEREFORE, IT IS HEREBY ORDERED**, pursuant to Minn. Stat. § 45.027, subd. 6 (2016), that Respondent shall pay to the state of Minnesota a civil penalty of \$500.

**IT IS HEREBY ORDERED**, pursuant to Minn. Stat. §§ 45.027, subd. 7 and 359.12 (2016), that Respondent is removed from his office as a notary in the state of Minnesota.

**IT IS HEREBY ORDERED**, pursuant to Minn. Stat. § 359.12 (2016), that Respondent shall surrender his official notary stamp and deliver it to the Commissioner within five days of the effective date of this order.

This Order shall be effective upon signature on behalf of the Commissioner.

Dated: 6-29-2018

JESSICA LOOMAN  
Commissioner

By:



MARTIN FLEISCHHACKER  
Minnesota Department of Commerce  
Assistant Commissioner of Enforcement  
85 Seventh Place East, Suite 280  
Saint Paul, Minnesota 55101  
651-539-1600

**CONSENT TO ENTRY OF ORDER**

The undersigned, Thomas Spitzer ("Respondent"), states that he has read the foregoing Consent Order; that he knows and fully understands its contents and effect; Respondent acknowledges that he has been advised of his rights to a hearing in this matter, to present argument to the Commissioner and to appeal from any adverse determination after a hearing, and Respondent hereby expressly waives those rights. Respondent further acknowledges that he has been represented by legal counsel throughout these proceedings, or has been advised of his right to be represented by legal counsel, which right he hereby expressly waives; and he consents to entry of this Order by the Commissioner. It is further understood that this Consent Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either express or implied.

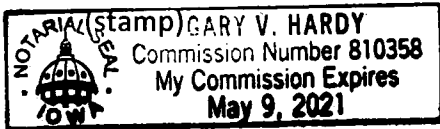
Respondent

By: *Thomas S. Spitzer*  
Thomas S. Spitzer

STATE OF IOWA  
COUNTY OF Worth

This instrument was acknowledged before me this 21<sup>st</sup> day of June, 20 18,  
by Gary V. Hardy.

*Gary V. Hardy*  
(Signature of notary officer)



My commission expires: 5-9-21



# **Exhibit C**

## **William Gillen Easements and Easement Amendments**

Signed as “a single person”

OFFICE OF COUNTY RECORDER  
FREEBORN COUNTY, MINNESOTA



Document A- 524349

Certified, Filed, and/or Recorded on:

October 28, 2016 11:15 AM

KELLY CALLAHAN

FEE: \$46.00

FREEBORN COUNTY RECORDER

By: NH

The space above this line is reserved for recording purposes.

**GRANT OF EASEMENTS**

THIS GRANT OF EASEMENTS (this "Agreement") is made, dated and effective as of July 24, 2015 (the "Effective Date"), between **William Gillen, a single person** (together with his successors, assigns and heirs, "Owner"), and INVENERGY WIND DEVELOPMENT LLC, a Delaware limited liability company (together with its transferees, successors and assigns, "Grantee"), and in connection herewith, Owner and Grantee agree, covenant and contract as set forth in this Grant of Easements.

1. Grant of Easement and Profits. For good and valuable consideration, the receipt of which is hereby acknowledged by Owner, Owner hereby grants, bargains, sells, conveys and warrants to Grantee an exclusive easement for wind energy purposes and for any and all activities related thereto upon, over, across, through and under the real property of Owner located in the County of Freeborn, State of Minnesota and legally described on Exhibit A attached hereto and incorporated herein (the "Property"), together with the right to all rents, royalties, credits and profits derived from wind energy purposes upon, over and across the Property.

The Easement Premises are that portion of the Property shown on Exhibit B which shall consist horizontally three hundred and sixty degrees (360°) from any point where any Windpower collection Facilities are or may be located at any time from time to time (each such location referred to as a "Site") and for a distance from each Site to the boundaries of the Easement Premises together vertically through all space located above the surface of the Easement Premises, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from each point along the exterior boundary of the Easement Premises through each Site to each point and on and along such line to the opposite exterior boundary of the Easement Premises.

2. Wind Energy. Under this Grant of Easements, "wind energy purposes" means converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted, together with any and all activities related thereto, including, without limitation:

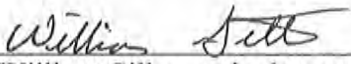
(a) determining the feasibility of wind energy conversion and other power generation on the Property, including studies of wind speed, wind direction and other meteorological data, extracting soil samples, and erecting anemometers;

(b) constructing, laying down, installing, using, replacing, relocating and removing from time to time, and maintaining and operating, wind turbines, overhead and

IN WITNESS WHEREOF, Owner and Grantee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

**OWNER:**

William Gillen, a single person

  
\_\_\_\_\_  
William Gillen, a single person

**GRANTEE:**

INVENERGY WIND DEVELOPMENT LLC,  
a Delaware limited liability company

  
By: \_\_\_\_\_  
Name: Kevin Parzyck  
Title: Vice President, Development

**This Document Drafted By:**

Invenergy Wind Development LLC  
Attn: Michael Svedeman  
One South Wacker Drive  
Chicago, IL 60606 312-224-1400

**Recording Requested By and  
When Recorded Return to:**

Invenergy Wind Development LLC  
c/o Invenergy LLC  
Attn: Land Administration  
One South Wacker Drive  
Chicago, IL 60606 312-224-1400

ACKNOWLEDGMENT

STATE OF MINNESOTA            )  
  ) SS.  
COUNTY OF *Freeborn*            )

Personally came before me this 10 day of September, 2015  
William Gillen, who executed the foregoing instrument, and  
acknowledged the same. a single person

(SEAL)



Name: David Lee Johnson  
Notary Public, State of Minnesota  
My Commission: January 31, 2020

ACKNOWLEDGMENT

STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF COOK     )

Personally came before me this 23 day of September  
2015, Kevin Parzyck, the Vice President of Invenergy Wind Development LLC, who executed  
the foregoing instrument, and acknowledged the same, on behalf of Invenergy Wind  
Development LLC, a Delaware limited liability company.

(SEAL)



Name: Samia K. Atasi  
Notary Public, State of Illinois  
My Commission: 4/9/19

**EXHIBIT A**  
**The Property**

Schedule of Locations:

<u>Parcel Number</u>	<u>County</u>	<u>Township/ Range</u>	<u>Section</u>	<u>Acreage</u>
020140051	Freeborn	101/20	14	40.00
			<b>Total</b>	<hr/> 40.00

Legal Description:

NW 1/4 NW 1/4 of Section 14, Township 101 North, Range 20 West containing 40.00 acres more or less.

OFFICE OF COUNTY RECORDER  
FREEBORN COUNTY, MINNESOTA



Document A- 528580

Certified, Filed, and/or Recorded on:

August 17, 2017 9:20 AM

KELLY CALLAHAN

FEE: \$46.00

FREEBORN COUNTY RECORDER

By: NH

DRAFTED BY AND UPON RECORDING RETURN TO:  
INVENERGY WIND DEVELOPMENT LLC  
ONE SOUTH WACKER DRIVE, SUITE 2020  
CHICAGO, IL 60606

THE SPACE ABOVE THIS LINE IS RESERVED FOR RECORDING PURPOSES.

**FIRST AMENDMENT TO AGREEMENT REGARDING EASEMENTS**

THIS FIRST AMENDMENT TO AGREEMENT REGARDING EASEMENTS (this "Amendment") is made as of July 31, 2017 by and between William Gillen, a single person (together with his successors, assigns and heirs, "Owner") and Invenergy Wind Development LLC, a Delaware limited liability company (together with its transferees, successors and assigns "Grantee") and in connection herewith, Owner and Grantee agree, covenant and contract as set forth in this Amendment

**WITNESSETH:**

WHEREAS, Grantee and Owner are parties to that certain Agreement Regarding Easements dated July 24, 2015 as evidenced by that certain Grant of Easements recorded on October 28, 2016 as Document No. A-524349 in the official records of Freeborn County, Minnesota (collectively, the "Agreement"), as such property is more particularly described in Schedule A hereto.

WHEREAS, Grantee and Owner desire to amend the Agreement on the terms and conditions as provided below.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Grantee and Owner hereby agree that the Agreement shall be amended as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated herein by this reference.
2. **Exhibit C.** Exhibit C of the Agreement Regarding Easements is amended as shown on Schedule B hereto. Schedule B will be removed prior to recording, and the removal thereof shall not affect the validity hereof.

IN WITNESS WHEREOF, the parties hereto having due authorization on behalf of their respective entities have executed this Amendment as of the day and year set forth above.

Owner:

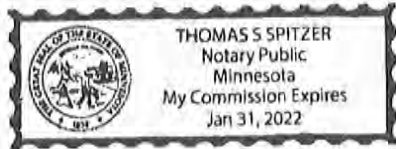
*William Gillen*  
William Gillen

Grantee: ~~Invenegy~~ Wind Development LLC

By: *[Signature]*  
Its: Vice President

STATE OF MINNESOTA )  
  ) ss.  
COUNTY OF Freeborn )

On the 24<sup>th</sup> day of July 2017 before me, a Notary Public, in and for said County personally appeared William Gillen, a single person, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be his free act and deed.



*Thomas Spitzer*  
Notary Public

STATE OF Illinois )  
  ) ss.  
COUNTY OF Cook )

The foregoing instrument was acknowledged before me this 31 day of July, 2017, by Ken E Parzyk the Vice President of Invenegy Wind Development LLC, a Delaware limited liability company, on behalf of the limited liability company.



*Samia K Atasi*  
Notary Public



OFFICE OF COUNTY RECORDER  
FREEBORN COUNTY, MINNESOTA



Document A- 531971

Certified, Filed, and/or Recorded on:

April 16, 2018 1:25 PM

KELLY CALLAHAN

FEE: \$46.00

FREEBORN COUNTY RECORDER

By: NH

DRAFTED BY AND UPON RECORDING RETURN TO:  
INVENERGY WIND DEVELOPMENT LLC  
ONE SOUTH WACKER DRIVE, SUITE 1800  
CHICAGO, IL 60606

THE SPACE ABOVE THIS LINE IS RESERVED FOR RECORDING PURPOSES.

**SECOND AMENDMENT TO AGREEMENT REGARDING EASEMENTS**

THIS SECOND AMENDMENT TO AGREEMENT REGARDING EASEMENTS (this "Amendment") is made as of April 10, 2018 by and between **William Gillen; a single person** (together with its transferees, successors and assigns, "Owner") and Invenergy Wind Development LLC, a Delaware limited liability company (together with its transferees, successors and assigns "Grantee") and in connection herewith, Owner and Grantee agree, covenant and contract as set forth in this Amendment

**WITNESSETH:**

WHEREAS, Grantee and Owner are parties to that certain Agreement Regarding Easements dated July 24, 2015 as evidenced by that certain Grant of Easements recorded on October 28, 2016 as Document No. A-524349, and amended by that First Amendment to Agreement Regarding Easements dated July 31, 2017, recorded on August 17, 2017 as Document No. A-528580 in the official records of Freeborn County, Minnesota (collectively, the "Agreement"), as such property is more particularly described in Schedule A hereto.

WHEREAS, Grantee and Owner desire to amend the Agreement on the terms and conditions as provided below.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Grantee and Owner hereby agree that the Agreement shall be amended as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated herein by this reference.



IN WITNESS WHEREOF, the parties hereto having due authorization on behalf of their respective entities have executed this Amendment as of the day and year set forth above.

Owner:

William Gillen  
William Gillen

Grantee: ~~Invenergy~~ Wind Development LLC

By: Kevin E. Parzyck  
Its: Vice President

STATE OF Minnesota )  
 ) ss.  
COUNTY OF Fuelton )

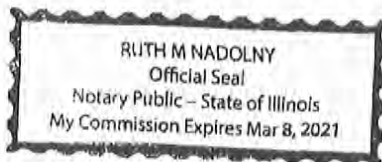
On the 5th day of April, 2018 before me, a Notary Public, in and for said County personally appeared William Gillen, a single person, to me known to be the same person(s) described in and who executed the within instrument, who acknowledged the same to be his/her/their free act and deed.



Thomas Spitz  
Notary Public

STATE OF Illinois )  
 ) ss. 1-31-2022  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 10th day of April, 2018, by Kevin E. Parzyck the Vice President of Invenergy Wind Development LLC, a Delaware limited liability company, on behalf of the limited liability company.



Ruth M. Nadolny  
Notary Public

3-8-2021

**SCHEDULE A  
TO  
SECOND AMENDMENT  
TO AGREEMENT REGARDING EASEMENTS**

**LEGAL DESCRIPTION OF OWNER'S PROPERTY**

The Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Fourteen (14), Township One Hundred One (101) North, Range Twenty (20) West of the Fifth Principal Meridian, Freeborn County, Minnesota.

Tax Parcel ID No. 02.014.0051

# **Exhibit D**

## **William Gillen Marriage License**

Filed October 10, 2013

NOT FOR LEGAL PURPOSES

STATE OF IOWA  
IOWA DEPARTMENT OF PUBLIC HEALTH  
CERTIFICATE OF MARRIAGE  
Marriage Ceremony Performed In the State of Iowa

114-

LICENSE COUNTY: WORTH  
NUMBER: 28141

PARTY A - NAME BEFORE MARRIAGE FIRST MIDDLE LAST SUFFIX, if any		LAST NAME PRIOR TO ANY MARRIAGE
18. Melinda Marie Bartz		19. Berg
PARTY A - NAME AFTER MARRIAGE FIRST MIDDLE LAST SUFFIX, if any		
19. Melinda Marie Bartz Gillen		
21. Iowa	22. Worth	23. Northwood
24. December 10, 1961		25. Female
26. Allen Jene Berg		27. Marsha Rae Fox
PARTY B - NAME BEFORE MARRIAGE FIRST MIDDLE LAST SUFFIX, if any		LAST NAME PRIOR TO ANY MARRIAGE
28. William Glen Gillen		29. Gillen
PARTY B - NAME AFTER MARRIAGE FIRST MIDDLE LAST SUFFIX, if any		
29. William Glen Gillen		
31. Minnesota	32. Freeborn	33. Glenville
34. October 23, 1963		35. Male
36. Jacob Gregory Gillen		37. Ruth Schwistal
13a. <i>Melinda Bartz Gillen</i>		13b. <i>William Glen Gillen</i>
13c. <i>September 21 2013</i>		
14. <i>09/21/2013</i>		14b. <i>Worth</i>
		14c. <i>Kensett</i>
14d. <i>No</i>		
15a. <i>Rev Thomas E. Martin</i>		15b. <i>P.O. BOX 38, KENSETT, IA 50498</i>
16a. <i>Tamera Patterson</i>		16b. <i>Adam Bartz</i>
17a. <i>Liz Kerison</i>		17b. <i>OCTOBER 10, 2013</i>

PLEASE PRINT NAMES OF:  
OFFICIANT REV. THOMAS E. MARTIN  
FIRST WITNESS Tamera Patterson  
SECOND WITNESS Adam Bartz

NOT FOR LEGAL PURPOSES

# **Exhibit E**

## **Data Practices Act Request Responses**

Requested November 21, 2018

### **Freeborn County**

References to discussions with Commerce's Larry Hartman p. 10, 13, 19.

## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Tuesday, November 29, 2016 3:21 PM  
**To:** John Kluever  
**Subject:** Re: Wind energy informational workshop

Most of my company will be gone by then so I should be there...

Thanks.  
Sue

On Nov 29, 2016, at 3:16 PM, John Kluever <[John.kluever@co.freeborn.mn.us](mailto:John.kluever@co.freeborn.mn.us)> wrote:

Chicago guy(s) here for the workshop on 12/28 at 9:00.

---

**From:** John Kluever  
**Sent:** Tuesday, November 29, 2016 3:16 PM  
**To:** 'Litchfield, Daniel'  
**Cc:** Svedeman, Michael  
**Subject:** RE: Wind energy informational workshop

Thanks for the call and look forward to seeing you on 12/28 at 9:00.

---

**From:** Litchfield, Daniel [<mailto:DLitchfield@invenergyllc.com>]  
**Sent:** Monday, November 28, 2016 12:11 PM  
**To:** John Kluever  
**Cc:** Svedeman, Michael  
**Subject:** Wind energy informational workshop

Hi John,

I just left you a voicemail about an idea for a wind energy workshop. It partially came from a meeting with Commissioner Belshan a few weeks ago. I asked if we should come present to a Commissioners' meeting and he said no, but maybe a workshop. I'm wondering what he meant by that. We are considering our own concept for a workshop/informational forum and I'd appreciate your opinion on a few matters.

Dan Litchfield | Senior Manager, Project Development  
Invenergy LLC | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) T 312-582-1057 | C 773-318-1289 | F 312-224-1444

<image001.jpg>

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## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Friday, November 04, 2016 2:37 PM  
**To:** 'Dan Belshan'  
**Cc:** John Kluever  
**Subject:** Xcel Wind  
**Attachments:** Xcel Wind Farm initial mtg w PW 102616.docx; tentative boundary as of 102616 per invenergy.pdf

Hi Dan,

Here is the information on Xcel that we have...let us know if there is more going on out there that we should be involved in now.

Thanks. And enjoy this awesome weather!!

sue

Susan G. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

# NOTE TO FILE

## *Xcel Wind Farm Development Meeting*

1:30 pm, Wednesday @ FCHD

October 26, 2016

John Kluever and Sue Miller met with Dan Litchfield, Invenergy (see contact info below) for an introductory meeting with Public Works. Previously, John Kluever and Wayne Sorensen have met with representatives of Invenergy regarding future development in the southeast corner of Freeborn County.

### **Area and Plan:**

Proposed is the construction of 200 Mega Watt Wind Farm (2 mW towers ~ 100 towers).

Area will include parts of Riceland, Hayward, Oakland, London, Shell Rock and Worth County.

Substation to serve this area is south of the City of Glenville

### **Tentative Timeline:**

Acquisition – Completed by Jan/Feb 2017

Layout/Permitting – Beginning in Spring 2017; completed in 2017 including the County developer agreement.

Construction – Earliest in 2018. Latest in 2020.

### **Invenergy**

[www.invenergyllc.com](http://www.invenergyllc.com)

Dan Litchfield, Sr. Mgr, Business Development

office: 312.582.1057 cell: 773.318.1289

[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com)

One South Wacker Drive, Suite 1800  
Chicago, IL 60606

### **General Discussion:**

Tower siting and haul roads have not been determined as landowner lease agreements are about 60% of what they would need to move forward. Landowner dinners have been held and most of the town boards have been visited for introductory meetings. No laydown yard has been sited. It has not been determined if rail will be used or not, but certainly this area has good highway access so Invenergy stated that is more probable.

Invenergy will work with Xcel Power Company as the eventual owner. Invenergy will do all the siting and permitting including the county developer agreement with haul roads, etc; but not including building permits and access permits. Xcel will do the building permits and access permits. Xcel will also hire the contractors and run the actual construction. Concern was expressed from the County on the perspective that Xcel should be a signatory to the developers agreement citing a previous project and the problems with a large pipeline constructed in the County with the contractors unawareness and lack of contractual inclusion of County requirements in third party negotiated agreements and permits.

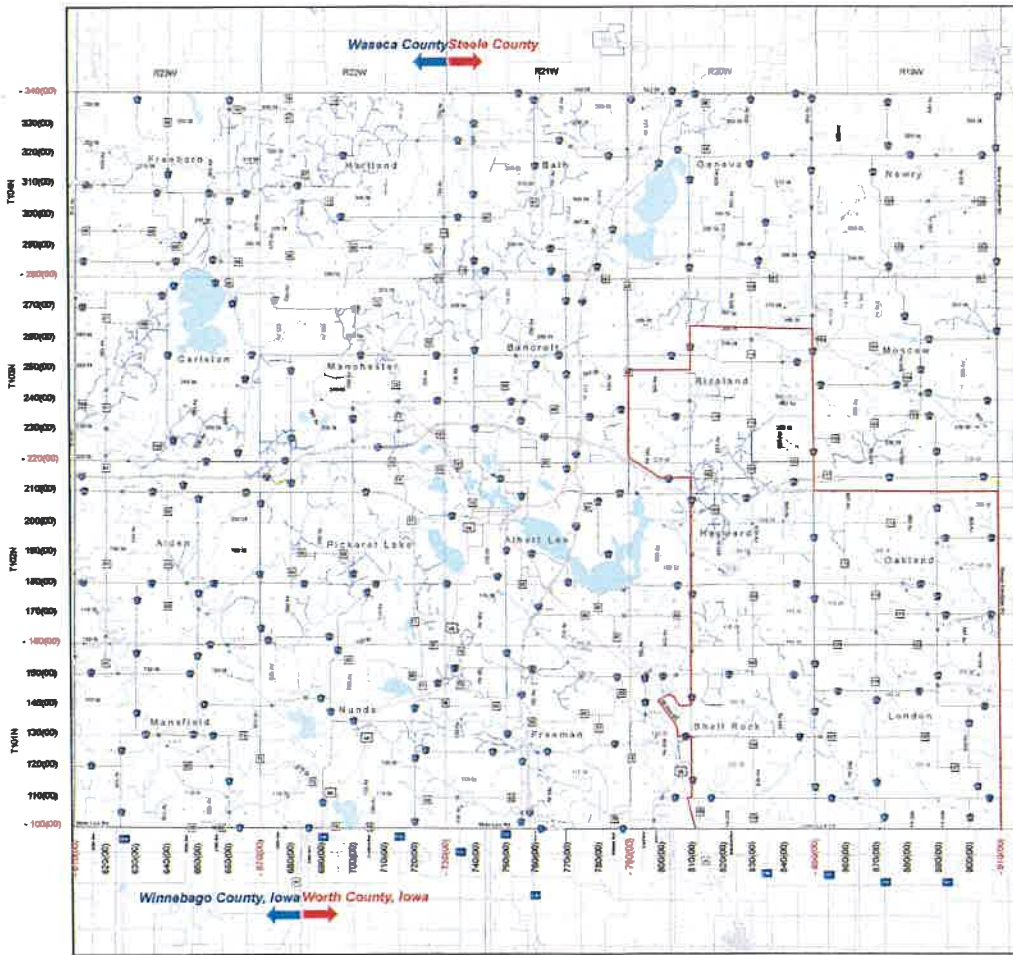
Discussion about environmental impacts and communication impacts from the towers and construction also yielded Invenergy's knowledge and mapping of existing conditions but admitted that communications can be one of the biggest post construction complaints. Invenergy has not done a project in Minnesota but has completed projects in VanWert and Pauling counties in Ohio. As in Ohio, a repeated theme from landowners is the concern for agricultural drainage. John Kluever also noted the need to include the County agricultural drainage system in the discussion.

### **Next steps:**

- Public Works should dust off Township agreements in order to offer to the townships the option of designation of their road authority to the County for project purposes.
- Public Works should contact County Engineer in Ohio counties mentioned, maybe even check with Fred to see what he knows of the Ohio projects.
- Public Works should reach out to Rich in Worth County to see their level of involvement and understand their road agreements if any.

*end-----*





Date: 11/02/16  
 File: 7.10.14.18

## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Sent:** Tuesday, October 25, 2016 10:19 AM  
**To:** Sue G. Miller  
**Subject:** tomorrow

Hi Sue,

Are we on track for tomorrow at 1:30? I don't intend to take too much of your time – just want to introduce myself and our project, show you where we are working and discuss your experience with wind farm construction in the county and lessons learned.

Dan Litchfield | Senior Manager, Project Development  
Invenergy LLC | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) T 312-582-1057 | C 773-318-1289 | F 312-224-1444



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## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Wednesday, October 05, 2016 1:09 PM  
**To:** John Kluever  
**Subject:** Re: Freeborn Wind Farm

I asked and Daniel said he has already met with you and Wayne but I think it would be good if you are available as we both know certain folks will be asking you a lot of questions?!

On Oct 5, 2016, at 12:44 PM, John Kluever <[John.kluever@co.freeborn.mn.us](mailto:John.kluever@co.freeborn.mn.us)> wrote:

Ok, do you want me there? Sounding like this is having more traction all the time.

Sent from my iPhone

On Oct 5, 2016, at 12:25 PM, Sue G. Miller <[Sue.Miller@co.freeborn.mn.us](mailto:Sue.Miller@co.freeborn.mn.us)> wrote:

Fyi – Mr. Litchfield will be meeting with me on 10/26 at 1:30 pm here in my office. Wanted you to be up to date so you could relay to the Commissioner of that district. Note: Mr. Litchfield said they plan to begin the conversations with the townships next week I think.

sue

---

**From:** Litchfield, Daniel [<mailto:DLitchfield@invenergyllc.com>]  
**Sent:** Wednesday, September 28, 2016 3:01 PM  
**To:** Sue G. Miller  
**Cc:** Svedeman, Michael  
**Subject:** Freeborn Wind Farm

Hello Ms. Miller,

Michael Svedeman and I are developing a new wind farm in the southeastern corner of Freeborn County. The project has been under development for quite a while, but we are starting to get busier on it and hope to get into permitting next year. I don't believe our team has met with you before and if you have some time available, I would like to have an introductory meeting and learn about your experience with wind in the County and how we can best prepare our project to meet your requirements. Are you available on Tuesday, October 11?

Sincerely,

Dan Litchfield | Senior Manager, Project Development  
Invenergy LLC | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) T 312-582-1057 | C 773-318-1289 | F 312-224-1444

<image001.jpg>

## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Sent:** Wednesday, September 28, 2016 3:01 PM  
**To:** Sue G. Miller  
**Cc:** Svedeman, Michael  
**Subject:** Freeborn Wind Farm

Hello Ms. Miller,

Michael Svedeman and I are developing a new wind farm in the southeastern corner of Freeborn County. The project has been under development for quite a while, but we are starting to get busier on it and hope to get into permitting next year. I don't believe our team has met with you before and if you have some time available, I would like to have an introductory meeting and learn about your experience with wind in the County and how we can best prepare our project to meet your requirements. Are you available on Tuesday, October 11?

Sincerely,

Dan Litchfield | Senior Manager, Project Development  
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## Sue G. Miller

---

**From:** John Kluever  
**Sent:** Thursday, September 08, 2016 9:23 AM  
**To:** Sue G. Miller  
**Cc:** Wayne Sorensen  
**Subject:** RE: Wind Farm

No maps or anything to that level. This was just another check in visit as they have been doing periodically over the past year or two.

If what he says holds to form, I would guess more substantive conversations, documents, plans, developers agreements, etc... all start to take place next year if they begin the permit process as he stated and wish to be fully operational by end of 2019

They are still keeping everyone close (i.e. ask if he could ID the buyer for the project and he politely said no).

---

**From:** Sue G. Miller  
**Sent:** Thursday, September 08, 2016 9:15 AM  
**To:** John Kluever  
**Cc:** Wayne Sorensen  
**Subject:** RE: Wind Farm

Did he provide a revised map of the wind farm footprint? We have several projects in this neck of the woods in the next couple years....

---

**From:** John Kluever  
**Sent:** Thursday, September 08, 2016 8:06 AM  
**To:** Sue G. Miller  
**Cc:** Wayne Sorensen  
**Subject:** Wind Farm

Chicago guy (Dan) from Invenergy was here yesterday to update the proposed wind farm project:

What he said was:

- Signing buyer agreement for the project in the near future;
- Secure all the land/property owners by the end of 2016;
- Begin permit process in 2017; and
- Looking at being fully operational at end of 2019 (when the current federal tax credits run out)

All for now and stay tuned to this local station for more updates as they come available. Now back to our regular broadcasting.

## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Sent:** Wednesday, March 08, 2017 3:59 PM  
**To:** Sue G. Miller  
**Cc:** Svedeman, Michael  
**Subject:** ROW permits

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Sue,

I understand that you are out of the office this week. When you get a moment, would you be able to call or email me back to answer some questions about the use of County ROW easements for running collection lines?

I spoke with Sandy at your office and she was very helpful but deferred some questions to you.

The approval process is pretty straightforward – the road maintenance engineer visits the site to inspect and if he signs off, then you could approve. The typical charge is \$100 per site permit. If we are seeking a route and not a specific site, the permit fee would be commensurately higher. She said the turnaround time is usually a couple days or weeks and you are the approver, but you sometimes take more complex applications to the Board of Commissioners. What would trigger that review? Sandy said the concept of getting a permit in the near term but not building for several years shouldn't be a problem, as long as we state our plans at the time of application.

One question: are you able to grant sub-easements of your easement, as an alternative to the ROW permit?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

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## Sue G. Miller

---

**From:** Michal Hanson <[michal@CO.MOWER.MN.US](mailto:michal@CO.MOWER.MN.US)>  
**Sent:** Thursday, March 09, 2017 1:54 PM  
**To:** Sue G. Miller  
**Subject:** RE: ROW permits

Well then I screwed up too ☺ But...

These wind projects are done as "turn key" where a contractor builds it and then a company like xcel take it. So I consider them public utilities.

---

**From:** Sue G. Miller [<mailto:Sue.Miller@co.freeborn.mn.us>]  
**Sent:** Thursday, March 09, 2017 12:41 PM  
**To:** Michal Hanson  
**Subject:** Re: ROW permits

Yes that is my question. I forwarded the email below to Larry Hartman asking if I screwed up on Bent Tree by treating these lines as a public utility and if Invenergy would be considered a public utility or ultimately XCel.

On Mar 9, 2017, at 12:21 PM, Michal Hanson <[michal@CO.MOWER.MN.US](mailto:michal@CO.MOWER.MN.US)> wrote:

I would say an emphatic no to granting "sub-easements".

I do not see where there would be any advantage to the county...or whether you even could grant them for that matter.

I would also say that they (or will be after constructed) a public utility....

Are those your questions?

---

**From:** Sue G. Miller [<mailto:Sue.Miller@co.freeborn.mn.us>]  
**Sent:** Thursday, March 09, 2017 9:44 AM  
**To:** Michal Hanson  
**Subject:** Fwd: ROW permits

Mike, read below please. Also, can you send me your fee schedule? Much appreciated!  
Sue

Begin forwarded message:

**From:** "Sue G. Miller" <[Sue.Miller@co.freeborn.mn.us](mailto:Sue.Miller@co.freeborn.mn.us)>  
**Date:** March 8, 2017 at 4:02:06 PM CST

To: Michal Hanson <[michal@co.mower.mn.us](mailto:michal@co.mower.mn.us)>

Subject: Fwd: ROW permits

I defer to your vast experience with Alliant, they are a public utility so that is how we treated permitting the electrical collection lines, right or wrong?

How have you handle this element of wind farm construction?

Begin forwarded message:

**From:** "Litchfield, Daniel" <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Date:** March 8, 2017 at 3:59:00 PM CST  
**To:** "Susan G. Miller ([sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us))" <[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)>  
**Cc:** "Svedeman, Michael" <[MSvedeman@invenergyllc.com](mailto:MSvedeman@invenergyllc.com)>  
**Subject:** ROW permits

Hi Sue,

I understand that you are out of the office this week. When you get a moment, would you be able to call or email me back to answer some questions about the use of County ROW easements for running collection lines?

I spoke with Sandy at your office and she was very helpful but deferred some questions to you.

The approval process is pretty straightforward – the road maintenance engineer visits the site to inspect and if he signs off, then you could approve. The typical charge is \$100 per site permit. If we are seeking a route and not a specific site, the permit fee would be commensurately higher. She said the turnaround time is usually a couple days or weeks and you are the approver, but you sometimes take more complex applications to the Board of Commissioners. What would trigger that review? Sandy said the concept of getting a permit in the near term but not building for several years shouldn't be a problem, as long as we state our plans at the time of application.

One question: are you able to grant sub-easements of your easement, as an alternative to the ROW permit?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC @danlitch



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## Sue G. Miller

---

**From:** Hartman, Larry (COMM) <larry.hartman@state.mn.us>  
**Sent:** Thursday, March 09, 2017 3:16 PM  
**To:** Sue G. Miller  
**Subject:** RE: Future Freeborn County Wind Farm

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sue: Thank you for your inquiry. However, without more information I am unable to respond. It would be helpful to discuss this matter on the phone in order to provide an appropriate response. Please contact me at your convenience.

Larry B. Hartman  
[Larry.hartman@state.mn.us](mailto:Larry.hartman@state.mn.us)  
Tel: 651-539-1839

---

**From:** Sue G. Miller [mailto:Sue.Miller@co.freeborn.mn.us]  
**Sent:** Thursday, March 09, 2017 3:08 PM  
**To:** Hartman, Larry (COMM) <larry.hartman@state.mn.us>  
**Subject:** Future Freeborn County Wind Farm

Good Morning Mr. Hartman:

You were very helpful in the past with the planning and implementation of the Bent Tree Wind Farm in Freeborn County. I was hopeful that you could assist me with responding to the email below.

With the County's experience on Bent Tree, we permitted the underground electrical collection system as a public utility able to be placed in the road right easement. Upon initial meetings the Invenergy, we proposed the same process. This is the second phone call/email questioning our process and now I am wondering if the County didn't handle this correctly with Bent Tree.

The core question would be: are these underground electric collection lines considered a public utility allowable in the public right of way?

I would so appreciate your guidance. We have a new county attorney who has previously focused his career on the criminal side and is not immediately knowledgeable in this area.

Thank you so much!

sue

Begin forwarded message:

**From:** "Litchfield, Daniel" <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Date:** March 8, 2017 at 3:59:00 PM CST  
**To:** "Susan G. Miller ([sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us))" <[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)>  
**Cc:** "Svedeman, Michael" <[MSvedeman@invenergyllc.com](mailto:MSvedeman@invenergyllc.com)>  
**Subject:** ROW permits

Hi Sue,

I understand that you are out of the office this week. When you get a moment, would you be able to call or email me back to answer some questions about the use of County ROW easements for running collection lines?

I spoke with Sandy at your office and she was very helpful but deferred some questions to you.

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One question: are you able to grant sub-easements of your easement, as an alternative to the ROW permit?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 |  
[@InvenergyLLC](#) [@danlitch](#)

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**Via Certified Mail**

March 31, 2017

Susan Miller, Engineer  
 Highway Department  
 3300 Bridge Avenue  
 Albert Lea, MN 56007

**RE: Freeborn Wind Farm, Freeborn County, Minnesota**

Dear Susan Miller:

Freeborn Wind Energy LLC, a wholly-owned subsidiary of Invenergy LLC, is proposing a wind energy project in Freeborn County, Minnesota and Worth County, Iowa called the Freeborn Wind Farm (Project). The purpose of this letter is to request agency comments and gather additional information regarding the Minnesota-portion of the Project Boundary as indicated in the attached Figure 1. Comments and information we receive will be included in the Site Permit Application for a Large Wind Energy Conversion System we will be submitting to the Minnesota Public Utilities Commission (MPUC).

The locations of turbines, access roads, collection lines, crane paths and related facilities are being finalized. The following sections are located within the Project Boundary in Minnesota.

**Table 1 Sections within the Freeborn Wind Farm Project Boundary**

<b>County</b>	<b>Civil Township Name</b>	<b>Township</b>	<b>Range</b>	<b>Sections</b>
Freeborn	Hayward	102	20	12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36
Freeborn	London	101	19	13, 14, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33
Freeborn	Oakland	102	19	7, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22
Freeborn	Shell Rock	101	20	1, 2, 8, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36



The Project would include a nameplate wind energy capacity of up to 100 megawatts (MW) in Minnesota. Project facilities include:

- Wind turbines and associated equipment;
- Gravel access roads to turbine sites and necessary modification to existing roads;
- Buried electric collection lines;
- Overhead electric collection lines;
- An operations and maintenance facility;
- A Project substation and
- Permanent meteorological towers.

Temporary facilities for the Project include staging areas for construction of the Project, two temporary meteorological towers that are currently in place, temporary batch plant area, and improvements to public and private roads for delivery of materials and equipment.

Please respond with any comments and/or questions within 30 days of receipt of this letter so that we can address, as appropriate, and include them within the MPUC Site Permit Application.

Should you require additional information, please feel free to contact me at [dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com), 312.582.1057, or Freeborn Wind Energy LLC, c/o Invenergy LLC, One South Wacker Drive, Suite 1800, Chicago, IL 60606.

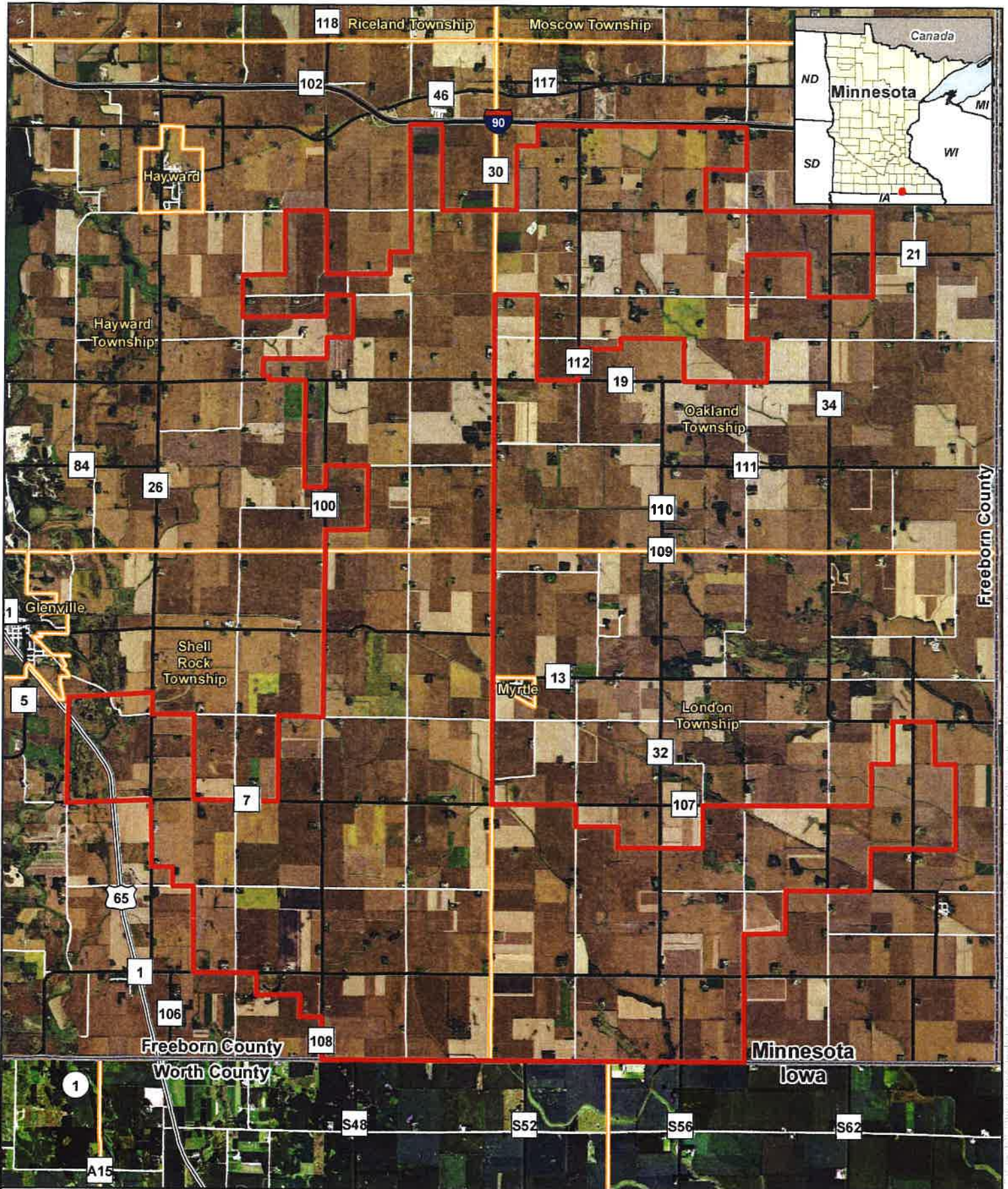
Sincerely,

**Freeborn Wind Energy LLC**

Dan Litchfield  
Senior Manager, Project Development

Enc.            Figure 1 Project Boundary Map





0 0.75 1.5 Miles  
 1 inch = 1.5 miles

**Merjant**  
 FREEBORN  
 For Environmental Review Purposes Only

**Figure 1**  
**Freeborn Wind Farm**  
**Project Boundary**  
**Freeborn County, MN**

Project Boundary

SOURCE: AERIAL PHOTOGRAPHY COURTESY OF THE FREEBORN COUNTY BOARD OF SUPERVISORS.



Freeborn Wind Energy LLC  
c/o Invenergy LLC  
One South Wacker Drive, Suite 1800  
Chicago, IL 60606

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Highway Department  
Susan Miller  
Engineer  
3300 Bridge Avenue  
Albert Lea, MN 56007



56007-424600

## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Monday, April 10, 2017 8:26 AM  
**To:** Wayne Sorensen; John Kluever  
**Subject:** RE: Two more questions

I did talk with Larry Hartman at the PUC and he confirmed the status.

Thanks Wayne!

---

**From:** Wayne Sorensen  
**Sent:** Monday, April 10, 2017 8:22 AM  
**To:** Sue G. Miller; John Kluever  
**Subject:** RE: Two more questions

It appears this “mega” company probably has various divisions that are proceeding to try and get their ducks in a row. To my knowledge the State permit has not been formally applied for though, so I am still guessing 2018 construction.

That being said, they do appear to be putting the cart ahead of the horse. I agree with Sue that the developers agreement should be started.

Wayne

---

**From:** Sue G. Miller  
**Sent:** Monday, April 10, 2017 7:53 AM  
**To:** John Kluever; Wayne Sorensen  
**Subject:** FW: Two more questions

I am of the opinion that these folks need to formally initiate the developers agreement. This feels like the cart ahead of the horse or a divide and conquer type approach versus the holistic project management I believe we strive to execute.

Let me know your thoughts.....I have been fielding a few calls from Townships and also believe a comprehensive approach would be beneficial to them as well.

sue

---

**From:** Birmingham, Daniel [<mailto:DBirmingham@invenergyllc.com>]  
**Sent:** Monday, April 10, 2017 7:49 AM  
**To:** Sue G. Miller  
**Cc:** Svedeman, Michael; Litchfield, Daniel; Halley, Nicholas; Leon, Andrew; Correa, Esteban  
**Subject:** RE: Two more questions

Good morning Sue,

I am following up on Dan’s behalf to introduce Nick, Andy, and Esteban (copied) from Invenergy’s construction and electrical engineering teams. They had some specific questions regarding the required documentation for the ROW permit along T-236/840<sup>th</sup> or CSAH 30/850<sup>th</sup> that you discussed with Dan last week. I will defer to them but wanted to make the introduction.



Thanks,

Daniel

---

**From:** Litchfield, Daniel  
**Sent:** Wednesday, April 5, 2017 9:50 AM  
**To:** Halley, Nicholas <[NHalley@invenergyllc.com](mailto:NHalley@invenergyllc.com)>  
**Cc:** Birmingham, Daniel <[DBirmingham@invenergyllc.com](mailto:DBirmingham@invenergyllc.com)>; Svedeman, Michael <[MSvedeman@invenergyllc.com](mailto:MSvedeman@invenergyllc.com)>  
**Subject:** FW: Two more questions

FYI below, both on electrical routes and roads.

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

---

**From:** Sue G. Miller [<mailto:Sue.Miller@co.freeborn.mn.us>]  
**Sent:** Wednesday, April 05, 2017 8:46 AM  
**To:** Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Cc:** [loren.lair@yahoo.com](mailto:loren.lair@yahoo.com)  
**Subject:** Re: Two more questions

Hi Dan-

CSAH 30 will need to be widened/regarded at some point in future but transportation funding in Minnesota is in flux right now so not defined dates.

The County has not met with the townships to see if they would want to work with the County as their road authority agent for the purposes of this project only. The County did act as the agent for the townships on the previous Wind Farm development project and it worked well.

I would imagine that the same public utilities question raised by the County would apply to use of the township right of way for electrical lines as well since the same Statutes apply.

Sue

On Apr 5, 2017, at 7:55 AM, Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)> wrote:

Good morning Sue,

Are there any impending plans to widen or do other major work on County Highway 30/850th ave?

T-236/840th ave may be a better solution as we have a majority of private ROW asking that corridor. Should I ask the townships directly about that or also work with you on a ROW permit?

Dan Litchfield  
773-318-1289

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## Sue G. Miller

---

**From:** Halley, Nicholas <NHalley@invenergyllc.com>  
**Sent:** Monday, April 10, 2017 8:59 AM  
**To:** Birmingham, Daniel; Sue G. Miller  
**Cc:** Svedeman, Michael; Litchfield, Daniel; Leon, Andrew; Correa, Esteban  
**Subject:** RE: Two more questions

Hello Sue,

I think it would be best to have a short call with the team. What time works for you this week?

Kind Regards,

**Nicholas C. Halley** | Senior Project Manager  
Invenergy LLC | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[nhalley@invenergyllc.com](mailto:nhalley@invenergyllc.com) | D +1 312-582-1256 | M +1 614-507-1937 | @InvenergyLLC

---

**From:** Birmingham, Daniel  
**Sent:** Monday, April 10, 2017 7:49 AM  
**To:** Sue G. Miller <Sue.Miller@co.freeborn.mn.us>  
**Cc:** Svedeman, Michael <MSvedeman@invenergyllc.com>; Litchfield, Daniel <DLitchfield@invenergyllc.com>; Halley, Nicholas <NHalley@invenergyllc.com>; Leon, Andrew <ALEon@invenergyllc.com>; Correa, Esteban <ECorrea@invenergyllc.com>  
**Subject:** RE: Two more questions

Good morning Sue,

I am following up on Dan's behalf to introduce Nick, Andy, and Esteban (copied) from Invenergy's construction and electrical engineering teams. They had some specific questions regarding the required documentation for the ROW permit along T-236/840<sup>th</sup> or CSAH 30/850<sup>th</sup> that you discussed with Dan last week. I will defer to them but wanted to make the introduction.

Thanks,

Daniel

---

**From:** Litchfield, Daniel  
**Sent:** Wednesday, April 5, 2017 9:50 AM  
**To:** Halley, Nicholas <NHalley@invenergyllc.com>  
**Cc:** Birmingham, Daniel <DBirmingham@invenergyllc.com>; Svedeman, Michael <MSvedeman@invenergyllc.com>  
**Subject:** FW: Two more questions

FYI below, both on electrical routes and roads.

**Dan Litchfield** | Senior Manager, Project Development  
Invenergy | One South Wacker Drive, Suite 1800, Chicago, IL 60606

**From:** Sue G. Miller [<mailto:Sue.Miller@co.freeborn.mn.us>]

**Sent:** Wednesday, April 05, 2017 8:46 AM

**To:** Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>

**Cc:** [loren.lair@yahoo.com](mailto:loren.lair@yahoo.com)

**Subject:** Re: Two more questions

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Dan Litchfield  
773-318-1289

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## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@inenergyllc.com>  
**Sent:** Wednesday, April 12, 2017 10:32 AM  
**To:** Sue G. Miller  
**Cc:** Brusven, Christina; Leon, Andrew; Svedeman, Michael; Birmingham, Daniel; Halley, Nicholas  
**Subject:** Freeborn wind farm ROW permit discussion

Hi Sue,

I'd like to set up a phone call with our team and anyone else on the County's side to discuss our potential use of public ROW along either township or county roads. We'd like to cover the definition of public utility and issues around that, and also understand a bit better what you would want to see in an eventual permit application. We are available on Friday from 10:30-11:30. Would that work for you? I'll send a calendar event with a call-in #.

**Dan Litchfield** | Senior Manager, Project Development  
**Inenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@inenergyllc.com](mailto:dlitchfield@inenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InenergyLLC  
@danlitch

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**VIA UPS**

April 27, 2017

Susan G. Miller, Engineer  
Highway Department  
3300 Bridge Avenue  
Albert Lea, MN, 56007

**RE: Freeborn Wind Energy Proposed Transmission Line Project  
Notice of Availability for Meeting**

Dear Susan G. Miller:

Freeborn Wind Energy LLC ("Freeborn Wind"), a wholly-owned subsidiary of Invenergy LLC ("Invenergy"), is proposing the Freeborn Wind Farm, a wind energy project in Freeborn County, Minnesota and Worth County, Iowa ("Project"). You should have recently received a letter from me requesting input regarding the Project for the purposes of its upcoming Minnesota Public Utilities Commission ("MPUC") Site Permit Application.

The Project will also include the construction of an approximately seven-mile long 161 kilovolt ("kV") transmission line from the Project Substation in Shell Rock Township to the interconnection point located at the existing Glenworth Substation just southeast of Glenville, Minnesota in Shell Rock Township as well. A map of the proposed route for the transmission line is included with this letter.

Freeborn Wind is currently gathering information in preparation for filing a Route Permit Application for a High Voltage Transmission Line ("Route Permit") to the MPUC under its alternative review procedures. This Route Permit process would be separate but more or less contemporaneous with the Project's Site Permit application, thus this separate letter seeking comment. We would appreciate any input you have regarding the proposed transmission line, and we would be happy to meet with you to discuss the transmission line if desired.

Please respond with any comments and/or questions to me at [dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com), 773-318-1289, or Freeborn Wind Energy LLC, c/o Invenergy LLC, One South Wacker Drive, Suite 1800, Chicago, IL 60606.

We would appreciate hearing from you by May 15, 2017 to ensure that we have adequate time to address questions or concerns in our Route Permit Application.

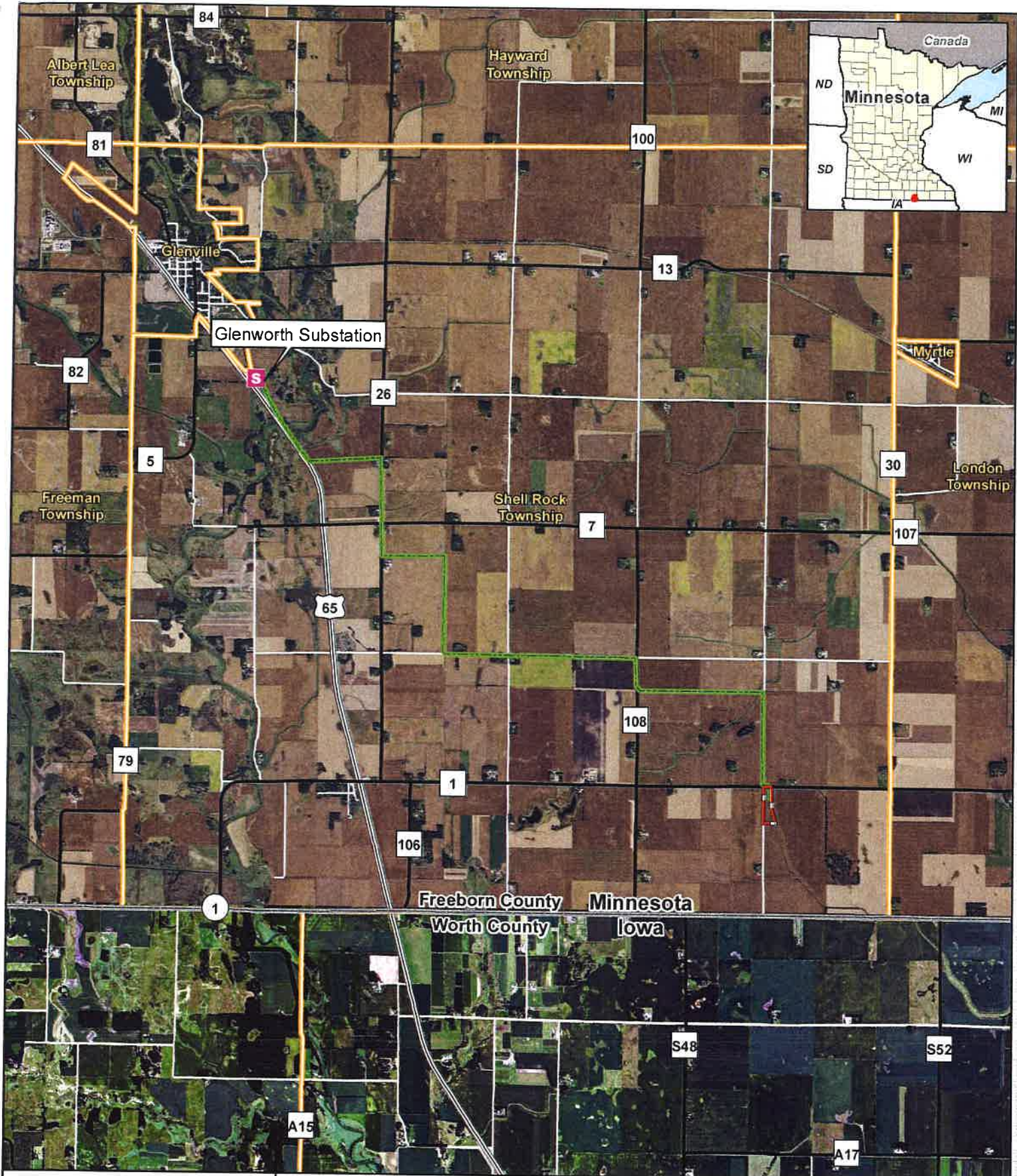
Sincerely,

**Freeborn Wind Energy LLC**

Dan Litchfield  
Senior Manager, Project Development  
Enc. Freeborn Wind Proposed Transmission Line Route Map

Enc. Freeborn Wind Proposed Transmission Line Route Map





0 0.5 1 Miles

1 inch = 1 miles

**Freeborn** **Merjert**

For Environmental Review Purposes Only

**Figure 1**  
**Freeborn Wind**  
**Proposed Transmission Line Route Map**  
**Freeborn County, MN**

- Existing Substation
- Proposed Transmission Line
- Proposed O&M and Project Substation
- City/Township Boundary



## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Sent:** Friday, June 16, 2017 9:09 AM  
**To:** glenmath@frontiernet.net; Christopher Shoff; ccmikelee@yahoo.com; dbelshan@clear.lakes.com  
**Cc:** Hayley Pirsig; Sue G. Miller; Kelly Callahan  
**Subject:** RE: Freeborn wind farm update

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

The application for our proposed wind farm is now online:

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={F76DF730-2CD0-4517-A7B8-31F1DE48E1E9}&documentTitle=20176-132804-01>

We don't have a docket page yet, but will in about a week and in the meantime if you want to see what was posted, you can also search eDockets by entering 17-410 for the wind farm: [https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showeDocketsSearch&showE\\_docket=true&userType=public](https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showeDocketsSearch&showE_docket=true&userType=public)

As we detail in the application, we are proposing 42 turbines in Freeborn County that would occupy only 33 acres of farmland and would produce almost \$400,000 per year in new local tax revenue.

Please let me know if you have any questions.

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

---

**From:** Litchfield, Daniel  
**Sent:** Friday, June 02, 2017 10:51 AM  
**To:** glenmath@frontiernet.net; christopher.shoff@co.freeborn.mn.us; ccmikelee@yahoo.com; 'dbelshan@clear.lakes.com' <dbelshan@clear.lakes.com>  
**Cc:** 'hayley.pirsig@co.freeborn.mn.us' <hayley.pirsig@co.freeborn.mn.us>; Susan G. Miller (sue.miller@co.freeborn.mn.us) <sue.miller@co.freeborn.mn.us>; 'kelly.callahan@co.freeborn.mn.us' <kelly.callahan@co.freeborn.mn.us>  
**Subject:** Freeborn wind farm update

Dear Freeborn County Commissioners,

When we last met I pledged to get our permit application filed by June 1 and I wanted to let you know that we have missed that date. I do hope to file the application with the state by the end of next week, so it is not a significant delay. If you have any questions, please ask.

Sincerely,

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606



[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

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## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:37 AM  
**To:** 'Litchfield, Daniel'  
**Cc:** Kelly Callahan  
**Subject:** RE: Freeborn wind farm road agreement discussions

Tuesday, July 25<sup>th</sup> would only work for me as I am booked for MnDOT Disaster Review committee on July 28. Does 1 pm work for you? We can meet out here at the Highway shop, 3300 Bridge Avenue in our conference room. I will try to see if others can attend as well.

Thanks Dan!  
sue

---

**From:** Litchfield, Daniel [mailto:DLitchfield@invenergyllc.com]  
**Sent:** Monday, July 10, 2017 7:42 PM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan  
**Subject:** RE: Freeborn wind farm road agreement discussions

Sure. Tuesday-Friday could work just fine for me. Any preference?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

---

**From:** Sue G. Miller [mailto:Sue.Miller@co.freeborn.mn.us]  
**Sent:** Monday, July 10, 2017 8:52 AM  
**To:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Cc:** Kelly Callahan <Kelly.Callahan@co.freeborn.mn.us>  
**Subject:** Re: Freeborn wind farm road agreement discussions

I will be out of the office most of that week for meetings out of town. Can we look at the following week?

On Jul 7, 2017, at 3:42 PM, Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)> wrote:

Hi Sue,

I will be back in your area the week after next. Would you, Kelly and possibly Wayne Sorensen (if he is going to be involved) like to meet on Thursday the 20<sup>th</sup> to discuss a first draft 3-part agreement?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606

[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 |  
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## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

Good Morning folks:

Dan Litchfield from Invenergy would like to meet on Tuesday July 25<sup>th</sup> with County staff. I have proposed 1 pm in the Freeborn County Highway Conference room.

What would you all think of meeting later this week to review and discuss internally first. Anytime on Thursday morning would work for me or most of the day Friday, but if on Friday, can we do it out here at the Hwy shop as we are short staffed and I need to be a little more accessible.

I placed the most recent southern MN wind farm development documents in a folder on the Common drive under Invenergy/SW MN. Every iteration yields a better agreement ☺

Thanks.

sue

Susan g. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** Litchfield, Daniel <DLitchfield@inverenergyllc.com>  
**Sent:** Monday, July 17, 2017 10:56 AM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan  
**Subject:** Re: Freeborn wind farm road agreement discussions

Good morning Sue and Kelly,

Yes, Tuesday 7/25 at 1 PM at Sue's office will work for me. I'll block that time off and we can be in touch later this week to create an agenda for the meeting. I may have some folks from Xcel interested in joining too if that's ok. They are very interested in a smooth handover from us and extending you their assurances they will be a good neighbor and take care of the public infrastructure, etc.

Dan Litchfield  
773-318-1289

----- Original message -----

**From:** "Sue G. Miller" <Sue.Miller@co.freeborn.mn.us>  
**Date:** 7/17/17 10:37 AM (GMT-06:00)  
**To:** "Litchfield, Daniel" <DLitchfield@inverenergyllc.com>  
**Cc:** Kelly Callahan <Kelly.Callahan@co.freeborn.mn.us>  
**Subject:** RE: Freeborn wind farm road agreement discussions

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Thanks Dan!  
sue

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**From:** Litchfield, Daniel [mailto:DLitchfield@inverenergyllc.com]  
**Sent:** Monday, July 10, 2017 7:42 PM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan  
**Subject:** RE: Freeborn wind farm road agreement discussions

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**Inverenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@inverenergyllc.com](mailto:dlitchfield@inverenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InverenergyLLC  
@danlitch

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**Sent:** Monday, July 10, 2017 8:52 AM

**To:** Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Cc:** Kelly Callahan <[Kelly.Callahan@co.freeborn.mn.us](mailto:Kelly.Callahan@co.freeborn.mn.us)>  
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## Sue G. Miller

---

**From:** Wayne Sorensen  
**Sent:** Monday, July 17, 2017 1:16 PM  
**To:** Sue G. Miller; Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Subject:** RE: Invenergy Meetings

Kelly,

Do you wish for me to participate? Going forward I will not be involved, but perhaps some of my experience would be helpful.

Either way let me know.

Thanks, Wayne

PS. Thursday before 10:30 would not work

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
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**Cc:** Wayne Sorensen  
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I placed the most recent southern MN wind farm development documents in a folder on the Common drive under Invenergy/SW MN. Every iteration yields a better agreement 😊

Thanks.

sue

Susan g. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** David Walker  
**Sent:** Monday, July 17, 2017 1:49 PM  
**To:** Sue G. Miller; Kelly Callahan; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** RE: Invenergy Meetings

Good Afternoon,

I would be happy to participate in the meeting. I MAY be available on July 25<sup>th</sup>. Jury trials are scheduled on that date. If they all settle, the day will be open for me.

I am available late Thursday morning this week and Friday afternoon.

Please advise.

David

David Walker  
Freeborn County Attorney



### Freeborn County Attorney's Office

411 South Broadway Avenue

Albert Lea, MN 56007

(507) 377-5192

[www.co.freeborn.mn.us/attorney](http://www.co.freeborn.mn.us/attorney)

---

**From:** Sue G. Miller  
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**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

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sue

Susan g. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** Kelly Callahan  
**Sent:** Monday, July 17, 2017 2:01 PM  
**To:** Sue G. Miller; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** RE: Invenergy Meetings

Thursday (earlier in the AM – I have an 11:30 speaking engagement) or Friday works for me.

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

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Thanks.

sue

Susan G. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co-freeborn.mn.us](mailto:sue.miller@co-freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** Kelly Callahan  
**Sent:** Monday, July 17, 2017 2:05 PM  
**To:** Wayne Sorensen; Sue G. Miller; David Walker; Wayne Sorensen; Winston Beiser  
**Subject:** RE: Invenergy Meetings

I would appreciate that if possible, since you were involved with the Bent Tree project.

---

**From:** Wayne Sorensen  
**Sent:** Monday, July 17, 2017 1:16 PM  
**To:** Sue G. Miller; Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Subject:** RE: Invenergy Meetings

Kelly,

Do you wish for me to participate? Going forward I will not be involved, but perhaps some of my experience would be helpful.

Either way let me know.

Thanks, Wayne

PS. Thursday before 10:30 would not work

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

Good Morning folks:

Dan Litchfield from Invenergy would like to meet on Tuesday July 25<sup>th</sup> with County staff. I have proposed 1 pm in the Freeborn County Highway Conference room.

What would you all think of meeting later this week to review and discuss internally first. Anytime on Thursday morning would work for me or most of the day Friday, but if on Friday, can we do it out here at the Hwy shop as we are short staffed and I need to be a little more accessible.

I placed the most recent southern MN wind farm development documents in a folder on the Common drive under Invenergy/SW MN. Every iteration yields a better agreement 😊

Thanks.

sue

Susan G. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN

## Sue G. Miller

---

**From:** Winston Beiser  
**Sent:** Monday, July 17, 2017 3:31 PM  
**To:** Sue G. Miller; Kelly Callahan; David Walker; Wayne Sorensen  
**Cc:** Wayne Sorensen  
**Subject:** RE: Invenergy Meetings

Either day works for me as of now.

Winston Beiser

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

Good Morning folks:

Dan Litchfield from Invenergy would like to meet on Tuesday July 25<sup>th</sup> with County staff. I have proposed 1 pm in the Freeborn County Highway Conference room.

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Thanks.

sue

Susan G. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188



# WIDSETH SMITH NOLTING

JOB 7/11/17 Brd Mtg (Wind)

JOB NO. 95338

CALCULATED BY \_\_\_\_\_ DATE \_\_\_\_\_

CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_

Ordinance 1141' Required setbacks

Plan for this project  
 Have 6 towers  
 < 1500'  
 1 is a participating landowner  
 2 may have good neighbor agreement

1139' w/ participating  
 1348' - Schumacher  
 1366'  
 1399'

1476'  
 1495'

42 towers total in Freedom County

discussions @ 7/11/17 10:00 am  
 County Board Meeting under Commissioner Items  
 would eliminate this tower to > setbacks due to other setbacks

1000 Tower Hanson  
 + 45 towers - 17 towers within 1500' from PUC docket

PUC application says 1126' ~~1000'~~

FC Ordinance 26-51 say 1000' setbacks

142 turbines?

## Sue G. Miller

---

**From:** David Walker  
**Sent:** Tuesday, July 18, 2017 2:35 PM  
**To:** Sue G. Miller  
**Subject:** Invenergy Meetings

Sue,

...just to confirm:

Meeting #1: Thursday, July 20 at 10:30, County Atty conference rm

Meeting #2: Tuesday, July 25 at 1:00, County Atty conference rm (but I may be in a Jury trial)

Right?

David

---

**From:** Kelly Callahan  
**Sent:** Monday, July 17, 2017 2:05 PM  
**To:** Wayne Sorensen; Sue G. Miller; David Walker; Wayne Sorensen; Winston Beiser  
**Subject:** RE: Invenergy Meetings

I would appreciate that if possible, since you were involved with the Bent Tree project.

---

**From:** Wayne Sorensen  
**Sent:** Monday, July 17, 2017 1:16 PM  
**To:** Sue G. Miller; Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Subject:** RE: Invenergy Meetings

Kelly,

Do you wish for me to participate? Going forward I will not be involved, but perhaps some of my experience would be helpful.

Either way let me know.

Thanks, Wayne

PS. Thursday before 10:30 would not work

---

**From:** Sue G. Miller  
**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
**Subject:** Invenergy Meetings

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I placed the most recent southern MN wind farm development documents in a folder on the Common drive under Invenergy/SW MN. Every iteration yields a better agreement 😊

Thanks.

sue

Susan g. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Tuesday, July 18, 2017 3:04 PM  
**To:** David Walker  
**Subject:** Re: Invenergy Meetings

Meeting on Tuesday July 25 is out at highway. Will be a larger group with Invenergy and Xcel folks attendance.

On Jul 18, 2017, at 2:34 PM, David Walker <[David.Walker@co.freeborn.mn.us](mailto:David.Walker@co.freeborn.mn.us)> wrote:

Sue,

...just to confirm:

Meeting #1: Thursday, July 20 at 10:30, County Atty conference rm

Meeting #2: Tuesday, July 25 at 1:00, County Atty conference rm (but I may be in a Jury trial)

Right?

David

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Either way let me know.

Thanks, Wayne

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**Sent:** Monday, July 17, 2017 10:54 AM  
**To:** Kelly Callahan; David Walker; Wayne Sorensen; Winston Beiser  
**Cc:** Wayne Sorensen  
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Thanks.

sue

Susan G. Miller  
Freeborn County Engineer  
3300 Bridge Avenue  
Albert Lea, MN  
[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)  
(507) 377-5188

## Sue G. Miller

---

**From:** Winston Beiser  
**Sent:** Thursday, July 20, 2017 11:40 AM  
**To:** Kelly Callahan; Sue G. Miller; David Walker; Wayne Sorensen  
**Subject:** Wind Farm Development Agreement items 5-15-15  
**Attachments:** Wind Farm Development Agreement items 5-15-15.docx

Here are some items I put together after consulting with Morreim Drainage on some lessons learned from the Bent Tree experience.

Thanks,

Winston Beiser



WINSTON BEISER, DRAINAGE INSPECTOR  
Government Center, P.O. Box 1147, 411 S. Broadway  
Albert Lea, Minnesota 56007  
Telephone 507/379-2962                      Fax 507/377-5175  
Cell 507/320-0552                              Home 507/265-3416



WINSTON BEISER, DRAINAGE INSPECTOR  
 Government Center, P.O. Box 1147, 411 S. Broadway  
 Albert Lea, Minnesota 56007  
 Telephone 507/379-2962 Fax 507/377-5175  
 Cell 507/320-0552 Home 507/265-3416

7-19-2017

By Winston Beiser

## Wind Farm Development Agreement

Items to include with a Wind Farm Development Agreement

- 1- The electric collector lines should be installed with a "chain trencher" and all collector lines must have a minimum 5.5 feet of cover over the collector line. A shallower cover could be allowed where it is determined that the County Tile is at that depth and a shallower installation of the collector line would avoid the lines being at the same depth. When a shallow large main tile is crossed the County Drainage Authority can require the collector line be bored under the main tile. *Typical*
- 2- The developer would employ a local Tile Drainage Contractor to have a person / repair crew on site at the time of any installation of collector lines so that the identification of cut tile lines would be immediately flagged and Geo Tagged and repaired by a crew of the local Tile Contractor immediately. *2' below recorded grade?*
- 3- All County Ditches that are crossed with a collector line would be bored to a sufficient depth to allow for future ditch cleaning and a possible deeper flow line of the County Ditch. *how to define*  
*IMPROVEMENT*
- 4- To lessen soil compaction and tile line damage on the crane paths between turbine towers, the developer would utilize moveable crane mats while moving cranes between towers. *Private issue*
- 5- Before the developer applies for a permit for the exact location of each tower the developer must work with the Drainage Authority or their designated Drainage Inspector to determine if there is a main tile line 8" or larger underneath or very close to the footprint of the tower and then relocate the tower away from that main tile. This would not apply to small regular tile laterals. When the contractor is digging the hole for the turbine pad and pinches off a tile line the contractor must identify the exact location and the size and type of tile line pinched off *gis conflict points*

*at conflict areas only*

*gis conflict points*

*Private issue*

*gis conflict points*

tough sell?

6- In reference to Construction Related Damages to county and private tile lines, the developer would retain a local Tile Contractor to repair any undiscovered damage for 10 years afterwards instead of 5 years.

7- The County Board can choose to direct a person to represent the Private Ditch and Tile systems of the affected landowners in the wind farm footprint to coordinate with the Developer the same provisions as with the County Ditch and Tile systems.

8- Developer is required to bury a "tracer wire" with all fiber optic communication lines installed within the Wind Farm. *standard*

Board has authority on private systems

landowners should be protecting themselves within their own agreement

## Sue G. Miller

---

**From:** Sue G. Miller  
**Sent:** Thursday, July 20, 2017 2:40 PM  
**To:** 'Litchfield, Daniel'  
**Cc:** Kelly Callahan; David Walker  
**Subject:** RE: Freeborn wind farm road agreement discussions

Hi Dan,

Mr. Walker has confirmed that he will not be able to be in attendance.

Thank you!

sue

---

**From:** Litchfield, Daniel [mailto:DLitchfield@inenergyllc.com]  
**Sent:** Thursday, July 20, 2017 10:15 AM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan; David Walker  
**Subject:** RE: Freeborn wind farm road agreement discussions

Sue –

When do you think you can confirm whether the County Attorney will attend? Is that Mr. Walker, copied here? I ask because I would welcome his attendance and if he is able to attend, I'd like to bring our attorney as well.

**Dan Litchfield** | Senior Manager, Project Development  
**Inenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@inenergyllc.com](mailto:dlitchfield@inenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InenergyLLC  
@danlitch

---

**From:** Sue G. Miller [mailto:Sue.Miller@co.freeborn.mn.us]  
**Sent:** Wednesday, July 19, 2017 10:40 AM  
**To:** Litchfield, Daniel <DLitchfield@inenergyllc.com>  
**Cc:** Kelly Callahan <Kelly.Callahan@co.freeborn.mn.us>; David Walker <David.Walker@co.freeborn.mn.us>  
**Subject:** RE: Freeborn wind farm road agreement discussions

Hi Dan –

I received your voicemail regarding confirmation of next week's meeting. Kelly and I for sure will be able to meet with you and Xcel folks. Our County Attorney may be in a jury trial so his attendance is tentative at this point.

Regarding agenda for the meeting, I would assume this meeting to be considered the initial discussion regarding the formulation of a developers agreement. In the coming weeks, the County will need to meet with townships to see if they would like the County to act on their behalf as road authority for the purposes of the project. Any documents you have regarding tower siting, access requests, utility requests, drainage system impacts, etc. would be great so we can get a draft agreement for all to review.

See you next week.

sue

---

**From:** Litchfield, Daniel [<mailto:DLitchfield@invenergyllc.com>]  
**Sent:** Monday, July 17, 2017 10:56 AM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan  
**Subject:** Re: Freeborn wind farm road agreement discussions

Good morning Sue and Kelly,

Yes, Tuesday 7/25 at 1 PM at Sue's office will work for me. I'll block that time off and we can be in touch later this week to create an agenda for the meeting. I may have some folks from Xcel interested in joining too if that's ok. They are very interested in a smooth handover from us and extending you their assurances they will be a good neighbor and take care of the public infrastructure, etc.

Dan Litchfield  
773-318-1289

----- Original message -----

**From:** "Sue G. Miller" <[Sue.Miller@co.freeborn.mn.us](mailto:Sue.Miller@co.freeborn.mn.us)>  
**Date:** 7/17/17 10:37 AM (GMT-06:00)  
**To:** "Litchfield, Daniel" <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Cc:** Kelly Callahan <[Kelly.Callahan@co.freeborn.mn.us](mailto:Kelly.Callahan@co.freeborn.mn.us)>  
**Subject:** RE: Freeborn wind farm road agreement discussions

Tuesday, July 25<sup>th</sup> would only work for me as I am booked for MnDOT Disaster Review committee on July 28. Does 1 pm work for you? We can meet out here at the Highway shop, 3300 Bridge Avenue in our conference room. I will try to see if others can attend as well.

Thanks Dan!  
sue

---

**From:** Litchfield, Daniel [<mailto:DLitchfield@invenergyllc.com>]  
**Sent:** Monday, July 10, 2017 7:42 PM  
**To:** Sue G. Miller  
**Cc:** Kelly Callahan  
**Subject:** RE: Freeborn wind farm road agreement discussions

Sure. Tuesday-Friday could work just fine for me. Any preference?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

---

**From:** Sue G. Miller [<mailto:Sue.Miller@co.freeborn.mn.us>]  
**Sent:** Monday, July 10, 2017 8:52 AM  
**To:** Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>

Cc: Kelly Callahan <[Kelly.Callahan@co.freeborn.mn.us](mailto:Kelly.Callahan@co.freeborn.mn.us)>

Subject: Re: Freeborn wind farm road agreement discussions

I will be out of the office most of that week for meetings out of town. Can we look at the following week?

On Jul 7, 2017, at 3:42 PM, Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)> wrote:

Hi Sue,

I will be back in your area the week after next. Would you, Kelly and possibly Wayne Sorensen (if he is going to be involved) like to meet on Thursday the 20<sup>th</sup> to discuss a first draft 3-part agreement?

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 |  
@InvenergyLLC @danlitch

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87340 135th St  
Glenville, MN 56036

MINNEAPOLIS MN 553

18 JUL 2013 PM 7.1



Ferguson County Highway Dept.  
3300 Bridge Ave.  
Albert Lea, MN 56007

56007-424800





**London Township**

**90314 2<sup>nd</sup> St.**

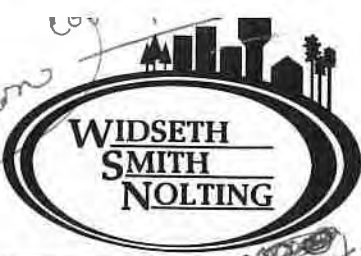
**Glenville, MN 56036**

Sue Miller,

Thank you, but at this time London Township has decided to decline the County's road ordinance written up for the Freeborn Wind Farm Project. We will be following our own ordinance relating to the Oversize Truck Use, Resolution #17-1, written up by Messerli & Kramer PA. For any questions or comments, please contact Daniel Schleck at 612.672.3683.

Thanks,

London Township Board of Supervisors



WV110  
 JOB Freeborn ~~End~~ Development 1pm  
Construction 202-0 JOB NO. July 25  
 CALCULATED BY \_\_\_\_\_ DATE Kelly 1:10 pm  
 CHECKED BY \_\_\_\_\_ DATE asleep by 1:45 pm

Sue Kelly Winston  
 Manage Contractors

Sarah X  
 Cox  
 Tricia X  
 (community relations)  
 Local governments

Chad  
 Bowling XCEL  
 (Land Rights)  
 Reason w/ the  
 landowners  
 w/ in the  
 project

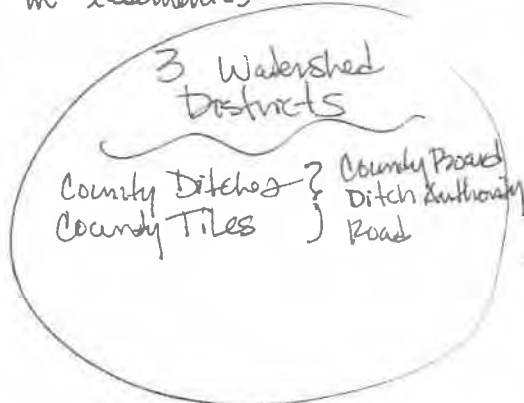
Emanuel X  
 (Construction)

Dan L. I  
 (Developer)

- Introductions
- Project facilities
- Public ROW (gaps in easements)
- Road Agreement
- O&M yard

Concerns

- agreements w/ Inmanenergy to XCEL to Contractor XYZ
- crane walks



Δ from Bent tree

more spread out  
 larger turbines

Robot...

WB ?

- private tiles
  - size warranty & use of local
  - Dan in the lease
- Wouldn't be opposed.

true up  
 \* crushed tile on crane paths  
 Dan to Winston

County tiles

placement of the pads

Abrahms farm  
 Ellingson Drainage

Statman County ND

gaps in ROW  
 Dam circle

- log and trap
  - St John Av (trap)
  - T-69
  - CSAH 30
- Use of ROW

Winston > depth for collector line should be at 5' to 5.5'



JOB \_\_\_\_\_

JOB NO. \_\_\_\_\_

CALCULATED BY \_\_\_\_\_ DATE \_\_\_\_\_

CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_

WB wants a chain trencher  
and at 5' to 5' 5"  
and Morrison - shouldn't recommend

(\*) turbine 31

CL 3 / CL 4 Wetland

2.9 Roto diameters → ordinance

118 planned

110 → 2dB quieter

} possibility  
of  
variance

yellow line above ground transmission line

3 part agreement

Road

Drainage

Development

} \*



JOB \_\_\_\_\_

JOB NO. \_\_\_\_\_

CALCULATED BY \_\_\_\_\_ DATE \_\_\_\_\_

CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_

August 10 Public Hearing

July 6 completeness

July 13 reply

Aug 10 - hearing on completeness

Sept / Oct public hearing  
w/ ~~Open~~ public comment period

---

Early September; next meeting w/ us

(\*) She to send letter to all 4 twps.  
Ask to attend August twp mtgs  
Ask for yea or nca to twp resolution  
before early October 2017

## Sue G. Miller

---

**From:** Rich Brumm <richard.brumm@worthcounty.org>  
**Sent:** Tuesday, July 25, 2017 12:56 PM  
**To:** Sue G. Miller  
**Subject:** Re: wind  
**Attachments:** Invenergy Road Agreement - Worth County\_61773198(4)-c.docx;  
freeborn\_roadagreements\_ia\_11x17l\_20170720.pdf

Sue,

This is the latest and probably final version of the agreement.

Rich

On Tue, Jul 25, 2017 at 11:29 AM, Sue G. Miller <[Sue.Miller@co.freeborn.mn.us](mailto:Sue.Miller@co.freeborn.mn.us)> wrote:

Hi Rich:

Wondering what you have agreed to for road use agreements with the Freeborn Wind Development. Can you give me a call to discuss sometime?

Thanks.

sue

Susan g. Miller

Freeborn County Engineer

3300 Bridge Avenue

Albert Lea, MN

[sue.miller@co.freeborn.mn.us](mailto:sue.miller@co.freeborn.mn.us)

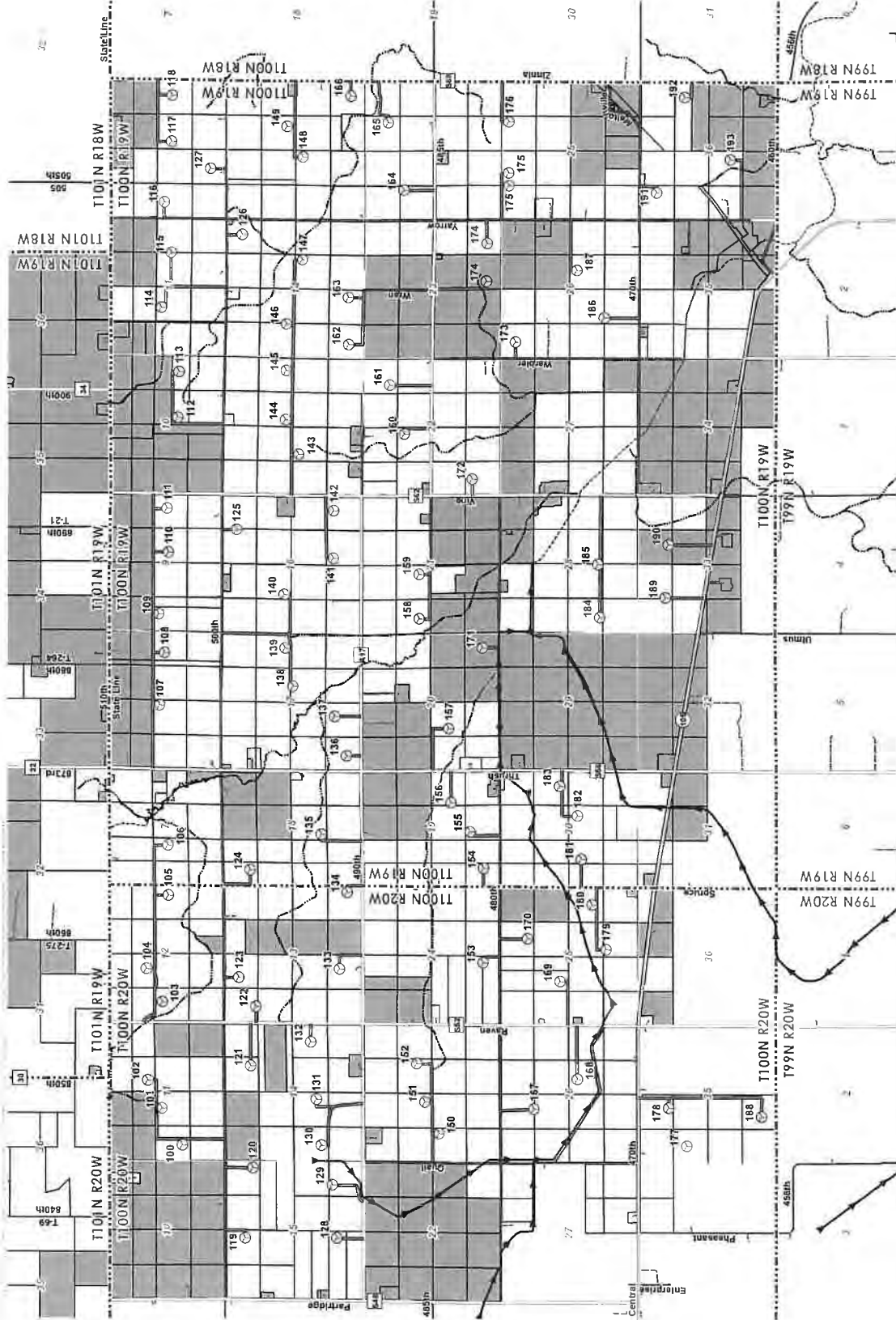
[\(507\) 377-5188](tel:(507)377-5188)

--  
Richard C. Brumm, PE  
County Engineer  
Mitchell Co. 641-732-5849  
Worth Co. 641-324-2154



**Legend**

- Proposed Turbine Location (JA)
- Proposed Access Road
- Participating Property
- Non-Participating Property
- Section Line
- Township/Range Boundary
- Road Classification
  - US/State Route
  - County Road
  - Local Road
  - Dirt/Unpaved Road
- Stream Type (NHD)
  - 334 Connector
  - 336 Ditch
  - 460 Stream
  - 558 Artificial Path



# Road Agreement Summary

Freeborn Wind Energy Project | Worth County, Iowa

Rev 00  
July 20, 2017





**ROAD AND DRAINAGE EASEMENT AND MAINTENANCE  
AGREEMENT  
Recorder's Cover Sheet**

**Preparer Information:** Jennifer Hodge Burkett  
(Name & Address of Preparer) 505 East Grand Avenue, Ste. .200  
Des Moines, IA 50309  
515-242-8900

**Taxpayer Information:** \_\_\_\_\_  
(Name & Address of Owner) \_\_\_\_\_  
\_\_\_\_\_

**Return Document To:** **Jennifer Hodge Burkett**  
505 East Grand Avenue, Ste. 200  
Des Moines, IA 50309

**Grantors:** Board of Supervisors of Worth County, Iowa and  
Board of Supervisors as Trustees of Drainage Districts in Worth County, Iowa

**Grantees:** Freeborn Wind Energy LLC

**Legal Description:** See Exhibit B

**Document or instrument number of previously recorded documents:** N/A

**ROAD AND DRAINAGE EASEMENT AND MAINTENANCE  
AGREEMENT**

**THIS ROAD AND DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT** (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by and among Freeborn Wind Energy LLC, a Delaware limited liability company ("Freeborn Wind"), the Board of Supervisors of Worth County, Iowa ("Board of Supervisors", "Worth County" or "County"), and the Board of Supervisors of Worth County, Iowa as Trustees of Drainage Districts in Worth County, Iowa ("Trustees") (to the extent the Drainage Districts in Worth County, Iowa are applicable, "Worth County" or the "County" shall include both the Board of Supervisors and the Trustees; Freeborn Wind and County are sometimes referred to individually as a "Party" or collectively as the "Parties").

**RECITALS:**

- A. Freeborn Wind desires to develop, construct and operate a wind-powered electrical generating facility in Worth County (the "Project") with all necessary associated facilities such as underground power collection lines and access roads.
- B. The Parties agree that it is in the best interest of each to memorialize the rights, obligations, and responsibilities of the Parties with respect to Freeborn Wind's use of Worth County roads and rights-of-way during construction and operation of the Project, as well as potential repair of Worth County public drainage infrastructure.

**AGREEMENT:**

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement hereby stipulate and agree as follows:

- 1. **Planning**
  - a. Preliminary Site Plan. Exhibit A is a preliminary plan for construction of aboveground facilities in Worth County. At least ninety (90) days prior to the start of construction, Freeborn Wind shall meet with the County Engineer (the "pre-construction meeting") to present a final plan for use of public roads (the "Haul Roads"), including temporary modifications to the roads such as widened intersections. Freeborn Wind shall advise the County Engineer of plans for heavily-laden vehicles and/or equipment over Worth County's public roads, and in the event the County Engineer identifies a reasonable safety concern regarding the load-bearing capacity of any road or structure, said road or structure shall not be used for the transportation of any heavily laden vehicles or equipment until the safety concern has been alleviated. Such alleviation can include a mutually agreeable alternate route or temporary upgrades to the deficient road or

structure, and such alternates shall not be unreasonably conditioned or delayed.

- b. Initial Evaluation. At the pre-construction meeting, the parties shall decide upon a scope of work for evaluating the condition of the roads and Drainage Infrastructure immediately prior to construction, which Freeborn Wind shall carry out at its expense. Freeborn Wind shall present a complete copy of the evaluation (the "Initial Evaluation") to the County Engineer prior to starting construction.
- c. Later changes. The parties recognize that despite good faith efforts, additional information may later reveal needs to modify some portions of the plans for use of public roads and crossing of Drainage Infrastructure and the parties agree to collaborate in good faith to address any changes necessary to such plans.

2. **Use of Rights-of-Way and Drainage Infrastructure**

a. Use. The Parties anticipate and acknowledge that in connection with the construction, operation and maintenance of electric collection lines, conductors, cables and other equipment appurtenant thereto (collectively, the "Facilities"), Freeborn Wind will use Worth County road rights-of-way and the County grants Freeborn Wind an easement to use such road rights-of-way as set forth in this Agreement. It is further anticipated that all right-of-way crossings of paved roadways will be by underground borings perpendicular to the rights-of-way, plus or minus thirty (30) degrees. All underground borings across any right-of-way shall commence and terminate outside of the right-of-way. No boring shall be made across a right-of-way at the intersection of rights of way. Trenching across gravel roadways may be approved with permission of the County Engineer. The County also grants Freeborn Wind an easement to cross rights-of-way to walk heavy lift construction cranes from one turbine site to another, and the Trustees grant Freeborn Wind an easement to maintain the Facilities along, over, through or across the public drainage infrastructure owned by drainage districts managed by the Worth County Board of Supervisors as Trustees (the "Drainage Infrastructure"). The parties intend that this agreement, and the grants contained herein, shall constitute an easement and shall satisfy the requirements for an easement in Iowa Code Chapter 468.

b. Ownership. The Facilities installed pursuant to this Agreement shall remain the property of Freeborn Wind. Notwithstanding the foregoing, Freeborn Wind shall have the right to sell, assign, or lease all or portions of its Facilities to other parties and, in that event, such other parties shall, with Freeborn Wind or, in the event of a total assignment or transfer, in lieu of Freeborn Wind, have the right, in the manner and to the same extent above, to operate the Facilities in, along, under, and across said rights-of-way and Drainage Infrastructure. Freeborn Wind, its successors or assigns, shall, at all times and at its sole cost and expense, maintain the Facilities in good condition and repair, ordinary wear and tear excepted.

c. Termination. In the event the Project is terminated by Freeborn Wind, Freeborn Wind shall remove all the Facilities above four feet below grade in, along, and across certain rights of way in Worth County within twenty four months of such termination.

### **3. Obligations of Freeborn Wind**

a. Road Repair Obligations. Throughout the construction of the Project, Freeborn Wind shall maintain public road infrastructure in a safe condition for passage by the public. At the conclusion of construction, Freeborn Wind, at its expense, shall repair any damage to the Haul Roads due to any cause connected with the Project, but excluding repair caused by the County's negligence or intentional misconduct, to as-good or better than the condition they were in prior to construction, as documented in the Initial Evaluation (the "Road Repair Obligations"). The Parties shall rely upon the Initial Evaluation for purposes of determining the type of repair required. Upon completion of the repair, Freeborn Wind and the County Engineer will jointly inspect the repair to determine if it has been completed in accordance with the standard set forth in this Section. In the event a hazardous road condition exists that presents a likely safety hazard to the motoring public (a "hazardous road condition") and is not promptly corrected by Freeborn Wind after receipt of notice of the same, the County Engineer may make emergency road repairs or order emergency road repairs to be performed by qualified contractors, and Freeborn Wind shall promptly reimburse Worth County for reasonable emergency road repair costs. Except in the case of emergency road repair, Freeborn Wind shall notify the County Engineer's Office forty-eight (48) hours in advance of any road repair project and/or the closing or partial closing of any road in connection with the road repair project. Weather permitting, the final Road Repair Obligations shall be completed to the reasonable satisfaction of the County Engineer within six (6) months after the completion of construction of the Project as determined by Freeborn Wind, or as soon thereafter as weather conditions permit, or as mutually agreed upon by the Parties. Road repair shall include restoration of original configuration (as documented in the Initial Evaluation) of ditches, slopes, embankments or fills within the right-of-way unless special circumstances dictate otherwise and specific approval has been requested by Freeborn Wind and granted by the County Engineer. In the event it becomes necessary to remove or displace any traffic control device along the transportation routes, the same shall be reinstalled by Freeborn Wind at their original locations and restored to their original condition. All materials and construction methods shall be equal to or better than the standards established by AASHTO for "utilities within highway right of way." All warning and work zone signs shall comply with the "Uniform Manual for Traffic Control Devices." Road closures shall only be allowed after notification to the County Engineer in person or by telephone.

b. Emergency Services. To the extent Freeborn Wind's construction or operation of the Project results in an increase in expenses for emergency services provided by Worth County (e.g., increased emergency personnel

training and equipment), Freeborn Wind agrees to pay directly to the County its allocable share of such increased expenses as determined in good faith by the Parties with reference to documentation supporting such increase in expenses.

c. Drainage Infrastructure. If Drainage Infrastructure is damaged by Freeborn Wind, Freeborn Wind shall restore the Drainage Infrastructure to its Pre-existing Condition. Notwithstanding the foregoing, to the extent required by Iowa Code Section 468.186, if Freeborn Wind's actions disturb or cause replacement of any portion of a tile drain less than twenty inches in diameter and a portion of such drain will remain wholly or partially exposed after the project has been completed, the portion which is to remain exposed and not less than three feet of such drain immediately on either side of the portion which is to remain exposed, shall be replaced either with steel pipe of not less than sixteen gauge or polyvinyl chloride pipe conforming to current industry standards regarding diameter and wall thickness. For the purposes of this Agreement, "Pre-existing Condition" shall mean the flow capacity existing immediately prior to Freeborn Wind commencing construction of the Project. Freeborn Wind is responsible for all expenses related to repairs, relocations, reconfigurations, and replacements to the Drainage Infrastructure in accordance with this Agreement.

**4. Obligations of Worth County.** Worth County agrees to furnish Freeborn Wind with any and all road construction and maintenance records it has on the Haul Roads and any drainage district maps within sixty (60) days upon written notice from Freeborn Wind. Worth County agrees to make the County Engineer or his designee available to perform his obligations as set forth herein. Worth County shall give timely notification to Freeborn Wind of any conditions which come to its attention and may give rise to damage to the Drainage Infrastructure, a Road Repair Obligation or which would constitute a "hazardous road condition" as described in Paragraph 3(a) above. On a negotiated case by case basis, Worth County will perform snow removal on its Schedule B roads that are required to access wind turbine access roads.

**5. Cooperation.** Freeborn Wind and the County agree to communicate and cooperate in good faith concerning the safe construction and operation of the Project and preventing or correcting any hazardous road condition that may be created by the Project.

**6. Indemnification.** Freeborn Wind agrees to defend, indemnify, and hold harmless Worth County and its supervisors, trustees, administrators, employees, and representatives (collectively the "Indemnified Party") against any and all losses, damages, claims, expenses, including reasonable attorneys' fees, and liabilities for physical damage to the property of Worth County and for physical injury to any person, to the extent the same is a result of any activities or operations of Freeborn Wind, its agents and employees, on the property of the County for the performance or non-performance of its duties pursuant to this Agreement except to the extent caused by the negligence or intentional misconduct of the County. Furthermore, Freeborn Wind agrees to defend, indemnify, and hold harmless the Indemnified

ROAD AND DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT, Page 5 of 12 Pages.

Party from any third party claims arising out of terms and conditions of this Agreement, except to the extent that such claims are caused by the negligence or intentional misconduct of the County. This indemnification obligation shall survive the termination of this Agreement.

**7. Insurance.** Freeborn Wind shall at all times during construction and operation of the Project, carry: (i) Worker's Compensation insurance in accordance with the laws of the State of Iowa and Employer's Liability insurance, (ii) Commercial General Liability insurance with minimum limit of \$5,000,000 per occurrence, and (iii) Automobile Liability insurance with minimum limit of \$1,000,000 per occurrence. Certificates of insurance will be provided to County upon written request to Freeborn Wind.

**8. Compliance with Laws.** Freeborn Wind shall at all times comply with all federal, state, and local laws, statutes, ordinances, rules, regulations, judgments, and other valid orders of any governmental authority with respect to Freeborn Wind's activities associated with the Project and shall obtain all permits, licenses, and orders required to conduct any and all such activities.

**9. Entire Agreement.** It is mutually understood and agreed that this Agreement constitutes the entire agreement between the Parties and supersedes any and all prior oral or written understandings, representations, or statements, and that no understandings, representatives, or statements, verbal or written, have been made which modify, amend, qualify, or affect the terms of this Agreement. This Agreement may not be amended except in writing and executed by both Parties.

**10. Default.** Any failure by a Party to perform a material obligation hereunder which is not remedied within thirty (30) days after receipt by the defaulting Party of written notice of such failure shall be deemed a default under this Agreement and, in such case, the non-defaulting Party shall be entitled to pursue any remedies available at law or in equity, including terminating this Agreement and collecting reasonable attorneys' fees from the defaulting Party. Notwithstanding the foregoing, so long as the defaulting Party has initiated and is diligently working to cure, the defaulting Party's cure period shall extend for a time period reasonably sufficient for the default to be remedied.

**11. Relationship of the Parties.** The duties, obligations, and liabilities of each of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or constructed to create an association, joint venture, fiduciary relationship, or partnership between the Parties hereto or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. The Parties shall not have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act or be an agent or representative of, or otherwise to bind, the other Party.

**12. Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto, their respective successors, assignees and legal representatives.

(i) Assignment Requiring Consent. This Agreement may not be assigned without the written consent of the other Parties and such consent shall not be unreasonably withheld, conditioned or delayed.

(ii) Permitted Assignment. Notwithstanding subparagraph (i) above, Freeborn Wind shall be entitled to assign this Agreement, in whole or in part, without the prior written consent of the County to any affiliate of Freeborn Wind, to any purchaser of any portion of the assets of Freeborn Wind, or to any person or entity providing financing to Freeborn Wind or any such affiliate or any collateral agent or security trustee acting on behalf of any such person or entity (each a "Permitted Assignment"). Any such assignment that is a collateral assignment for financing purposes will not relieve Freeborn Wind of its obligations under this Agreement. In the event of a Permitted Assignment, Freeborn Wind shall, not more than sixty days after such assignment, provide written notice to the County of the name, address, entity type and state of incorporation of the assignee, as well as the name and address of the assignee's registered agent in the State of Iowa. It is understood, however that any assignee shall be bound by the terms and conditions contained within this agreement.

**13. Notices.** Notices, requests, demands, and other communications shall be sent to the following addresses:

*If to Freeborn Wind:*

Freeborn Wind Energy LLC  
c/o INVENERGY WIND DEVELOPMENT LLC  
Attn: Dan Litchfield  
One South Wacker Drive  
Suite 1900  
Chicago, IL 60606  
dlitchfield@invenergyllc.com  
773-318-1289

*If to Worth County:*

Worth County Engineer Richard Brumm  
1000 Central Ave  
Northwood, IA 50459  
engineer@worthcounty.org  
641-324-2154

All notices shall be in writing. Any notice shall be deemed to be sufficiently given (i) on the date, if delivered in person; (ii) five (5) days after being sent by United States registered or certified mail, postage prepaid, return receipt requested; or (iii) on the next Business Day if sent by overnight delivery service (e.g. Federal Express) to the notified Party at its address set forth above. These addresses shall remain in effect unless another address is

substituted by written notice. Notices may be sent via email transmission the email addresses provided, however, notice sent via email shall be followed by notice delivered by personal service or by registered or certified mail, return receipt requested, or by overnight delivery.

**14. Relevant Law.** Any and all disputes arising under this Agreement and/or relating to the actual development and/or construction of the Project shall be resolved pursuant to the laws of the State of Iowa.

**15. Disputes.** Should a dispute arise between the Parties on whether hazardous road conditions exist as defined in Section 2a, such determination shall be made by an independent civil engineer licensed in Iowa and selected by the mutual agreement of the Parties (the "Independent Engineer"). If the parties cannot agree on an independent engineer, they each shall select an independent engineer and the two independent engineers shall select a third independent engineer within thirty days, and this third independent engineer shall be the independent engineer for settling such disputes. Compensation for work performed by the Independent Engineer shall be shared equally by the Parties.

**16. Waiver of Breach.** No waiver of a breach of this Agreement shall be deemed a waiver of any subsequent breach.

**17. Severability.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to public policy or unenforceable for any reason, such finding shall not invalidate any other provision of this Agreement and such provision shall be replaced with a suitable and equitable provision in order to carry out, so far as may be valid and enforceable, the extent of such provision that has been found to be contrary to public policy or unenforceable.

**18. Binding Effect.** This Agreement shall bind the assigns and successors of the respective Parties hereto to the same full degree and extent as the Parties themselves are hereby bound.

19. **Mortgagee Protection.** In the event that any mortgage is entered into by Freeborn Wind, then the mortgagee shall, for so long as its mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this section. Freeborn Wind shall send written notice to Worth County of the name and address of any such mortgagee; provided that failure of Freeborn Wind to give notice of any such mortgagee shall not constitute a default under this Agreement and shall not invalidate such mortgage, however it is understood that any successor in interest to Freeborn Wind, be it a mortgagee, or other entity, shall be bound by the terms and conditions set forth in this agreement.

(a) **Mortgagee's Right to Possession, Right to Acquire and Right to Assign.** A mortgagee of Freeborn Wind shall have the absolute right: (i) to assign its security interest; (ii) to enforce its lien and acquire Freeborn Wind's rights, including without limitation rights to the permit to install, construct,



operate, repair, replace, remove, inspect and perpetually maintain the Facilities, by any lawful means; (iii) to take possession of and operate the Facilities or any portion thereof, to exercise all of Freeborn Wind's rights hereunder, and to perform all obligations to be performed by Freeborn Wind hereunder, or to cause a receiver to be appointed to do so; and (iv) following exercise of its rights under applicable mortgage, to assign or transfer Freeborn Wind's rights to a third party. The County's consent shall not be required for any of the foregoing.

(b) Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any default of Freeborn Wind, the County shall give notice of Freeborn Wind's failure to perform to each mortgagee, of which it has notice, concurrently with delivery of such notice to Freeborn Wind. In the event the County gives such notice of failure to perform, the following provision shall apply:

i) The mortgagee shall have the same period after receipt of the notice of failure to perform to remedy the failure to perform, or cause the same to be remedied, as is given to Freeborn Wind, plus, in each instance, sixty (60) days, provided that such 60-day period shall be extended for the time reasonably required to complete such cure, including the time required for the mortgagee to perfect its right to cure failure to perform by obtaining possession (including possession by a receiver) or by instituting foreclosure proceedings, and provided the mortgagee acts with reasonable and continuous diligence. The mortgagee shall have the absolute right to substitute itself for Freeborn Wind and perform the duties of Freeborn Wind hereunder for purposes of curing such failure to perform. The County expressly consents to such substitution, agrees to accept such performance, and authorize the mortgagee (or its employees, agents, representatives or contractors) to enter upon the County roads to complete such performance with all the rights, privileges and obligations of the original Freeborn Wind hereunder.

(c) No Waiver. No payment made to the County by a mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Agreement; and a mortgagee, having made any payment to the County pursuant to the County's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the day and year first above written.

BOARD OF SUPERVISORS  
/

FREEBORN WIND ENERGY LLC

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
County Clerk

BOARD OF SUPERVISORS, AS TRUSTEES OF  
DRAINAGE DISTRICTS IN WORTH COUNTY, IOWA

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
County Auditor

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of Freeborn Wind Energy LLC, a Delaware limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_

My commission expires: \_\_\_\_\_

STATE OF IOWA    )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage Districts in Worth County, Iowa.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA    )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage Districts in Worth County, Iowa.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA    )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage Districts in Worth County, Iowa.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A**

**EXHIBIT B**  
**LEGAL DESCRIPTION**

T100N, R20W, Sections 10-15, 23-26 and 35.

T100N, R19W, Sections 7-30, 34-36

## Sue G. Miller

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**From:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Sent:** Thursday, July 27, 2017 10:56 AM  
**To:** Sue G. Miller; Kelly Callahan; Winston Beiser  
**Cc:** Amanuel Haile (amanuel.t.haile@xcelenergy.com); Ruberg, Brittini J; Peterson, Chad T; Rosenfeld, Trisha A; Cox, Sarah  
**Subject:** Freeborn Wind Farm 3-part agreement discussion  
**Attachments:** L060\_final turbines\_FOR FILING.zip; L060\_final\_roads\_rev02.zip; Freeborn.zip; Freeborn\_RPA\_Data\_for\_Review\_20170720.zip; L058\_collection.zip; L058\_crane paths.zip

Dear Sue, Kelly and Winston,

Thank you so much for your time on Tuesday. I look forward to continued, productive discussions.

Attached are shape files per Sue's request.

I look forward to Sue's feedback from the townships and a potential next meeting in early September. I think we may have a state-run Public Information Meeting for the project mid-September, so maybe we could schedule our next meeting for that morning when we will all be in town anyway. I will let you know when a date is set. I think we can pencil in September 16, but that is far from final.

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC  
@danlitch

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# **Exhibit F**

## **Data Practices Act Request Responses**

Requested November 30, 2018

**Minnesota Department of Commerce**

Received January 3, 2019



**Subject:** November 30 Freeborn DPA Response  
**From:** "Wachtler, John (COMM)" <john.wachtler@state.mn.us>  
**Date:** 1/3/2019, 12:15 PM  
**To:** "'Carol A. Overland'" <overland@legalectric.org>

Hello Carol.

Sorry for the delay getting back to on your Freeborn data practices act request of November 30, 2018. I have attached five emails between Andrew Levi (EERA staff) and Invenegy regarding eminent domain generally. But these are the only documents that we found that are responsive to your DPA request

We do not, however, have any notes, email or correspondence between Commerce staff and Freeborn County officials.

Mr. Hartman does remember talking to someone at the county, but does not have any notes and doesn't remember any details.

Please feel free to get back to me with any questions though.

John

**John Wachtler**  
Energy Program Director  
Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 500, Saint Paul, MN 55101  
P: 651-539-1837  
C: 651-724-1063

Logo

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**From:** Carol A. Overland <overland@legalectric.org>  
**Sent:** Thursday, December 13, 2018 12:06 PM  
**To:** Wachtler, John (COMM) <john.wachtler@state.mn.us>  
**Subject:** Fwd: FW: Wind Farm Info.

Here's everything they sent.

References to Hartman are in Packet 2, p. 10, 13, and 19. Not much in writing, but a request to call, and a statement that he was called and that he "confirmed" who knows what. The discussion is both about public utility and the easement on the corner of the problematic route.

----- Forwarded Message -----

**Subject:**FW: Wind Farm Info.  
**Date:**Wed, 21 Nov 2018 17:44:16 +0000  
**From:**Tom Jensen <Tom.Jensen@co.freeborn.mn.us>  
**To:**Carol A. Overland <overland@legalectric.org>  
**CC:**Dorenne Hansen <dhansen078@gmail.com>

Thomas Jensen

To: "Levi, Andrew (COMM)" <andrew.levi@state.mn.us>

Still going strong in the small hearing room. I'll let you know when we wrap up.

Attached is what I'd like to discuss if you have the opportunity and inclination to preview it.

Dan Litchfield

773-318-1289

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**Subject:** Eminent Domain

**From:** "Levi, Andrew (COMM)" <andrew.levi@state.mn.us>

**Date:** 9/18/2017, 3:30 PM

**To:** "Litchfield, Daniel" <DLitchfield@invenergyllc.com>

**CC:** "Wachtler, John (COMM)" <john.wachtler@state.mn.us>

Dan—

Thank you for the opportunity to review a draft public notice. I've discussed the notice with my supervisor and others within Commerce.

We find that Minn. R. 7850.2100, Subp. 3(J) requires applicants to clearly state their eminent domain authority. The draft notice neither states nor implies Freeborn Wind Energy LLC's power of eminent domain to acquire land necessary for the project. As such, we question whether this notice constitutes a "bona fide attempt to comply" with the obligation to inform the public of the project.

We discussed several examples, including [Odell Transmission](#), [Prairie Rose](#), and [Bull Moose](#). The landowner letters in those dockets clearly state the extent of the applicant's authority.

This issue is unavoidable and will be discussed during scoping. It is a necessary component of alternative development provided in Minn. R. 7850.3700. EERA staff evaluates proposed alternatives based on several factors, one of which is feasibility. Easement acquisition certainly plays into that.

If you have further questions regarding this issue, I suggest you contact my supervisor, John Wachtler, at (651) 539-1837 or [john.wachtler@state.mn.us](mailto:john.wachtler@state.mn.us).

— Andrew

**Andrew Levi**, Environmental Review Specialist  
Energy Environmental Review and Analysis  
85 Seventh Place East, Suite 280 | Saint Paul, MN 55101  
P: (651) 539-1840 | F: (651) 539-0109



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**Subject:** call

**From:** "Levi, Andrew (COMM)" <andrew.levi@state.mn.us>

**Date:** 9/18/2017, 1:57 PM

**To:** "Litchfield, Daniel" <DLitchfield@invenergyllc.com>

I received your telephone message. I hope to send you an email later today regarding that section. In the meantime, attached here are several minor changes mostly related to contact information. Are you attaching Figure 1 as the overview map?

—Andrew

—ForwardedMessage.eml

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**Subject:** RE: Route Alternatives  
**From:** "Litchfield, Daniel" <DLitchfield@invenergyllc.com>  
**Date:** 1/17/2018, 10:37 AM  
**To:** "Levi, Andrew (COMM)" <andrew.levi@state.mn.us>

Good morning Andrew,

Below are responses to your questions in red. Please let me know if you require any additional clarification or information. As noted below, I will follow up shortly with your requested shape file.

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC @danlitch

---

**From:** Levi, Andrew (COMM) [mailto:andrew.levi@state.mn.us]  
**Sent:** Tuesday, January 16, 2018 11:48 AM  
**To:** Litchfield, Daniel <DLitchfield@invenergyllc.com>  
**Subject:** RE: Route Alternatives

Dan.

Thank you for this.

Please be sure to provide me any additional response you might have regarding Freeborn Wind Energy's review of route or route segment alternatives. For example, AFCL proposes the use of the Barton Switching Station or the Hayward Substation on pages 7 and 8 of their comments. The project's initial interconnection plan had been to connect to Hayward, but we moved the interconnection point to Glenworth, in part to avoid additional wildlife activity near Hayward substation and Albert Lea Lake. MISO was ok with this move because the electrical performance of the Hayward and Glenworth interconnections are similar. The ITC Midwest 161 kV line is from the Worth County substation to Glenworth, then up to Hayward. So there were no significant technical issues presented by this move. Now we have a completed, signed GIA for the Project to connect at Glenworth. Changes to that plan cannot be made at this time.

The Barton substation has a very different electrical performance, and a switch to that substation would not be possible. Also, the Barton substation is in the center of a competitor's wind project, and securing easements necessary to access that substation, at the center of the wind farm, would be impractical at best. Finally, from a timing standpoint, we have executed a Generator Interconnection Agreement with MISO and ITC for our connection to Glenworth and, even if those other substation locations were viable alternative interconnection points (which they are not), a switch at this time would irreparably harm the Project from a cost and schedule standpoint. We would have to terminate a viable GIA to Glenworth (with very low interconnection costs) and start the process anew into Barton. This process would likely require 2 or more years to conclude and cannot be commenced until March 2018. The conclusions could be very negative, for example, that an interconnection into Barton requires substantial network upgrades that make the project economically not viable. Indeed, the mature interconnection position into Glenworth is a major reason why the project was selected by Xcel Energy for its self-build program. Freeborn's excellent access to electrical markets via the Glenworth substation is a prime piece of evidence that it is an ideal site for a wind energy generating facility. For these reasons, Freeborn Wind strongly opposes consideration of any route with a differing end point.

Additionally, I have several follow-up questions. Please don't search for the answers; if you don't know or the answer is "no" that's okay.

How wide is the right-of-way for the ITC Midwest LLC 69 kV line? Would the right-of-way need to be widened to accommodate underbuilding the proposed line? Did you contact ITC Midwest? If so, what did they say about underbuilding or right-of-way sharing? Attached is an example easement that appears to underlie the ITC Midwest LLC 69 kV line. It does not specify a ROW width, but it does specify that it can clear trees to 50' on either side of the land. Yes, we have been in contact with ITC Midwest and they are willing to consider a colocation.

Please provide answers to the above questions for the Dairyland Cooperative Line. You mentioned it would require taller poles and cost more money: Can you tell me anything about how tall the poles would need to be? And how much more expensive? Our very rough estimate is 20-30 feet taller and probably 50% more expensive.

Could you please provide a shapefile of the proposed 1.1x tip height setback from proposed turbines 22 and 23. Yes. Our project engineer is traveling today so I cannot get that for you right away. Will send it as soon as I can. Rich Davis will have shapefiles of all our proposed facilities, including turbine locations. When I can get ahold of our engineer, I will ask him to create a new shapefile that shows the proposed alternate route, presumably with a transmission line alignment centered on the route width, and then a 110' turbine height setback on either side of that.

Thank you.

—Andrew

**Andrew Levi**, Environmental Review Specialist  
[Energy Environmental Review and Analysis](#)  
85 Seventh Place East, Suite 280 | Saint Paul, MN 55101  
P: (651) 539-1840 | F: (651) 539-0109



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**From:** Litchfield, Daniel [<mailto:DLitchfield@invenergyllc.com>]  
**Sent:** Friday, January 12, 2018 10:45 AM  
**To:** Levi, Andrew (COMM) <[andrew.levi@state.mn.us](mailto:andrew.levi@state.mn.us)>  
**Subject:** RE: Route Alternatives

Dear Andrew,

Attached are:

1. Memo discussing the alternate routes
2. Modified route width for proposal #2
3. Participating land shapefiles for the entire area

Please contact me at your convenience if you would like to discuss our response

**Dan Litchfield** | Senior Manager, Project Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC @danlitch

---

**From:** Levi, Andrew (COMM) [<mailto:andrew.levi@state.mn.us>]  
**Sent:** Monday, January 08, 2018 3:03 PM  
**To:** Litchfield, Daniel <[DLitchfield@invenergyllc.com](mailto:DLitchfield@invenergyllc.com)>  
**Cc:** Levi, Andrew (COMM) <[andrew.levi@state.mn.us](mailto:andrew.levi@state.mn.us)>  
**Subject:** Route Alternatives

Dan—

*Please review and provide a response at your earliest convenience. Let me know you received this. Note: The response will be attached to Commerce comments to the Commission.*

—Andrew

\* \* \*

DATE: January 9, 2018

TO: Dan Litchfield, Project Manager  
Freeborn Wind Energy LCC

FROM: Andrew Levi, Environmental Review Manager  
Minnesota Department of Commerce

RE: Route alternatives identified during scoping

Minnesota Rule 7850.3700, subpart 2, requires that Commerce provide applicants with an opportunity to respond to each request that an alternative be included in the environmental assessment. The following route and route segment alternatives were proposed. Shapefiles are attached. (I may forward additional alternatives based on my continued review of comments.)

### Route Alternative 1

The Association of Freeborn Wind Landowners (AFCL) proposed this alternative route to limit land used by the proposed project to only participating landowners. AFCL provided a map as part of their written comments (**Pages from eDockets - AFCL**). When transferring this map to ArcGIS software,

staff maintained a 400-foot route width, and ensured the route width was entirely on participating landowner's property (**Map 1**).

## Route Alternative 2

Staff proposes this alternative. It addresses those issues identified in Route Alternative 1. Staff's alternative differs from Route Alternative 1 inasmuch that staff only modified the proposed route where it overlapped onto non-participating landowner's property—staff did not modify the proposed centerline. (**Map 2**)

## Route Segment Alternative 1

Ms. Stephanie Richter proposed this alternative route segment to mitigate transmission line proliferation in the project area. She requests the proposed project be routed parallel to existing transmission lines. Staff defines paralleling as immediately adjacent to the existing line (either with or without right-of-way sharing). Ms. Richter provided a map at the public hearing (**Stephanie Richter Document**).

Staff developed Route Segment Alternative 1 (**Map 3**) based on Ms. Richter's comments. This route segment alternative begins west of 820th Avenue at approximately mile three of the proposed line from south to north. The segment alternative continues west from the proposed route. It then travels north along the existing 69 kV line. At 140th Street it turns west until it rejoins the proposed route just south of the Glenworth Substation.

Staff modified the 400-foot route width to 600 feet near the communications tower to allow for the line to pass to the west of the tower. Staff requests that both paralleling and underbuilding be analyzed along the entire route segment.

**Andrew Levi**, Environmental Review Specialist  
[Energy Environmental Review and Analysis](#)  
85 Seventh Place East, Suite 280 | Saint Paul, MN 55101  
P: (651) 539-1840 | F: (651) 539-0109



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**Subject:** response to inquiry #3  
**From:** "Litchfield, Daniel" <DLitchfield@invenergyllc.com>  
**Date:** 5/4/2018, 5:05 PM  
**To:** "Levi, Andrew (COMM)" <andrew.levi@state.mn.us>

Andrew,

Here you go. Have a great weekend.

**Dan Litchfield** | Director, Renewable Development  
**Invenergy** | One South Wacker Drive, Suite 1800, Chicago, IL 60606  
[dlitchfield@invenergyllc.com](mailto:dlitchfield@invenergyllc.com) | M 312-224-1400 | D 312-582-1057 | C 773-318-1289 | @InvenergyLLC

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— Attachments: —

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37.4 KB

Freeborn Notice of Route Permit Application Submission_62178690(3)-c.DOCX	22.1 KB
ForwardedMessage.eml	34.7 KB
ForwardedMessage.eml	37.4 KB
Freeborn Notice of Route Permit Application Submission_62178690(3)-c+AL.docx	24.0 KB
ForwardedMessage.eml	349 KB
Doc 203489.pdf	195 KB
ForwardedMessage.eml	547 KB
HEI - Freeborn Wind Transmission Line Noise Response to MN Inquiry 20180502.pdf	116 KB
Information Inquiry 3 response.pdf	129 KB
FBW-A-T009-5-THI-161S-JX.pdf	146 KB

# **Exhibit G**

## **World Health Organization Environmental Noise Guidelines**

Selected -- pages 77-86.

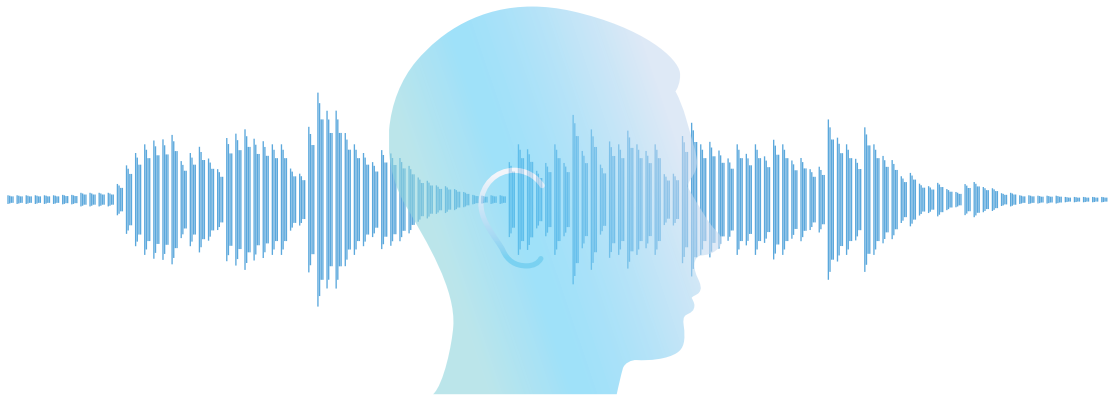
Released October 10, 2018



**World Health  
Organization**

REGIONAL OFFICE FOR **Europe**

ENVIRONMENTAL  
**NOISE**  
GUIDELINES  
for the European Region







### 3.4 Wind turbine noise

#### Recommendations

For average noise exposure, the GDG **conditionally** recommends reducing noise levels produced by wind turbines below **45 dB  $L_{den}$** , as wind turbine noise above this level is associated with adverse health effects.

To reduce health effects, the GDG **conditionally** recommends that policy-makers implement suitable measures to reduce noise exposure from wind turbines in the population exposed to levels above the guideline values for average noise exposure. No evidence is available, however, to facilitate the recommendation of one particular type of intervention over another.



#### 3.4.1 Rationale for the guideline levels for wind turbine noise

The exposure levels were derived in accordance with the prioritizing process of critical health outcomes described in section 2.4.3. For each of the outcomes, the exposure level was identified by applying the benchmark, set as relevant risk increase to the corresponding ERF. In the case of exposure to wind turbine noise, the process can be summarized as follows (Table 36).

**Table 36. Average exposure levels ( $L_{den}$ ) for priority health outcomes from wind turbine noise**

Summary of priority health outcome evidence	Benchmark level	Evidence quality
<b>Incidence of IHD</b> Incidence of IHD could not be used to assess the exposure level.	5% increase of RR	No studies were available
<b>Incidence of hypertension</b> Incidence of hypertension could not be used to assess the exposure level.	10% increase of RR	No studies were available
<b>Prevalence of highly annoyed population</b> Four studies were available. An exposure–response curve of the four studies revealed an absolute risk of 10%HA (outdoors) at a noise exposure level of 45 dB $L_{den}$ .	10% absolute risk	Low quality
<b>Permanent hearing impairment</b>	No increase	No studies were available
<b>Reading skills and oral comprehension in children</b>	One-month delay	No studies were available

In accordance with the prioritization process, the GDG set a guideline exposure level of 45.0 dB  $L_{den}$  for average exposure, based on the relevant increase of the absolute %HA. The GDG stressed that there might be an increased risk for annoyance below this noise exposure level, but it could not state whether there was an increased risk for the other health outcomes below this level owing to a lack of evidence. As the evidence on the adverse effects of wind turbine noise was rated low quality, the GDG made the recommendation conditional.

Next, the GDG considered the evidence for night noise exposure to wind turbine noise and its effect on sleep disturbance (Table 37).

**Table 37. Night-time exposure levels ( $L_{\text{night}}$ ) for priority health outcomes from wind turbine noise**

Summary of priority health outcome evidence	Benchmark level	Evidence quality
<b>Sleep disturbance</b> Six studies were available; they did not reveal consistent results about effects of wind turbine noise on sleep.	3% absolute risk	Low quality

Based on the low quantity and heterogeneous nature of the evidence, the GDG was not able to formulate a recommendation addressing sleep disturbance due to wind turbine noise at night time.

The GDG also looked for evidence about the effectiveness of interventions for wind turbine noise exposure. Owing to a lack of research, however, no studies were available on existing interventions and associated costs to reduce wind turbine noise.

Based on this assessment, the GDG therefore provided a conditional recommendation for average noise exposure ( $L_{\text{den}}$ ) to wind turbines and a conditional recommendation for the implementation of suitable measures to reduce noise exposure. No recommendation about a preferred type of intervention could be formulated; nor could a recommendation be made for an exposure level for night noise exposure ( $L_{\text{night}}$ ), as studies were not consistent and in general did not provide evidence for an effect on sleep.

#### 3.4.1.1 Other factors influencing the strength of recommendation

Other factors considered in the context of recommendations on wind turbine noise included those related to values and preferences, benefits and harms, resource implications, equity, acceptability and feasibility. Ultimately, the assessment of all these factors did not lead to a change in the strength of recommendation, although it informed the development of a conditional recommendation on the intervention measures. Further details are provided in section 3.4.2.3.

#### 3.4.2 Detailed overview of the evidence

The following sections provide a detailed overview of the evidence constituting the basis for setting the recommendations on wind turbine noise. It is presented and summarized separately for each of the critical health outcomes, and the GDG's judgement of the quality of evidence is indicated (for a detailed overview of the evidence on important health outcomes, see Annex 4). Research into health outcomes and effectiveness of intervention is addressed consecutively.

A comprehensive summary of all evidence considered for each of the critical and important health outcomes can be found in the eight systematic reviews published in the *International Journal of Environmental Research and Public Health* (see section 2.3.2 and Annex 2).

It should be noted that, due to the time stamp of the systematic reviews, some more recent studies were not included in the analysis. This relates in particular to several findings of the Wind Turbine Noise and Health Study conducted by Health Canada (Michaud, 2015). Further, some studies were omitted, as they did not meet the inclusion criteria, including, for instance, studies using distance to the wind turbine instead of noise exposure to investigate health effects. The justification for including and excluding studies is given in the systematic reviews (Basner & McGuire, 2018; Brown et al.,

2017; Clark & Paunovic, 2018; in press; Guski et al., 2017; Niewenhuijsen et al., 2017; Śliwińska-Kowalska & Zaborowski, 2017; van Kempen et al., 2018; see Annex 2 for further details).

### 3.4.2.1 Evidence on health outcomes

The key question posed was: in the general population exposed to wind turbine noise, what is the exposure–response relationship between exposure to wind turbine noise (reported as various noise indicators) and the proportion of people with a validated measure of health outcome, when adjusted for main confounders? A summary of the PICOS/PECCOS scheme applied and the main findings is set out in Tables 38 and 39.

**Table 38. PICOS/PECCOS scheme of critical health outcomes for exposure to wind turbine noise**

PECO	Description
Population	General population
Exposure	Exposure to high levels of noise produced by wind turbines (average/night time)
Comparison	Exposure to lower levels of noise produced by wind turbines (average/night time)
Outcome(s)	For average noise exposure: 1. cardiovascular disease 2. annoyance 3. cognitive impairment 4. hearing impairment and tinnitus 5. adverse birth outcomes 6. quality of life, well-being and mental health 7. metabolic outcomes
	For night noise exposure: 1. effects on sleep



**Table 39. Summary of findings for health effects from exposure to wind turbine noise ( $L_{den}$ )**

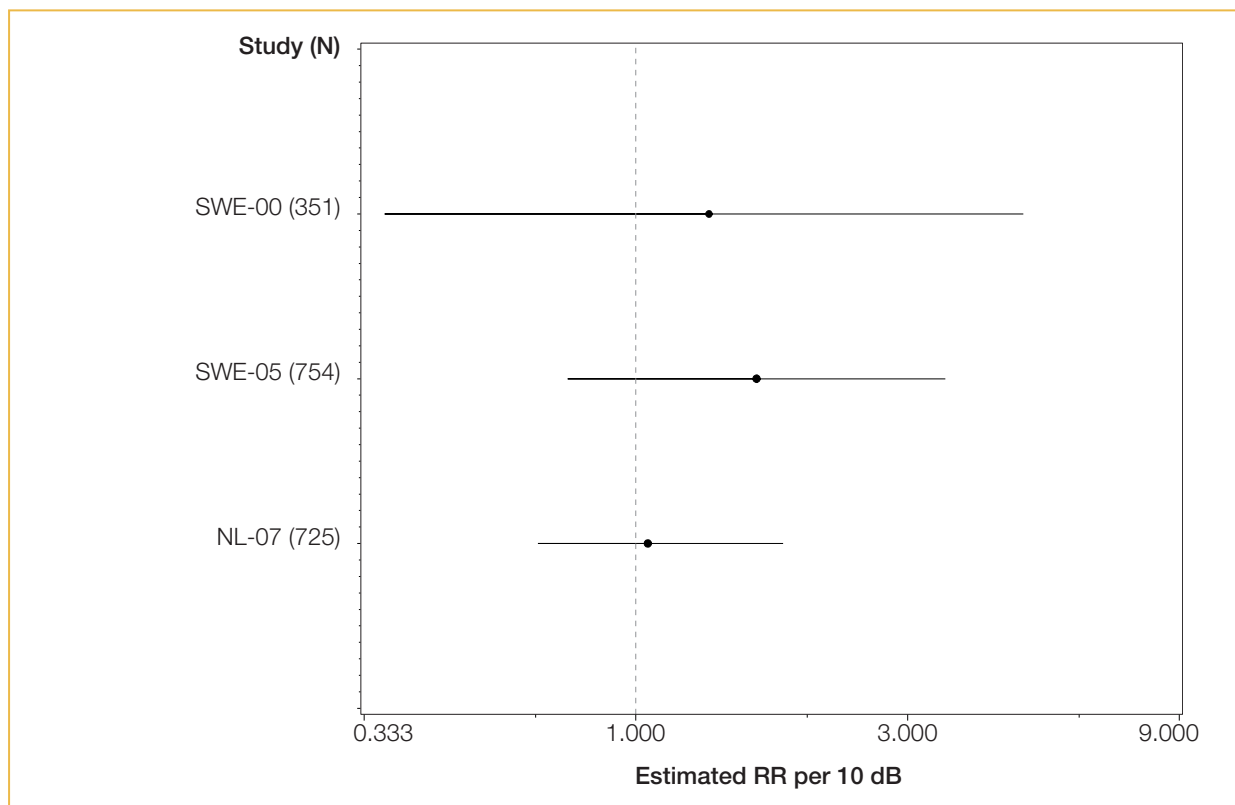
Noise metric	Priority health outcome measure	Quantitative risk for adverse health	Lowest level of exposure across studies	Number of participants (studies)	Quality of evidence
<b>Cardiovascular disease</b>					
$L_{den}$	Incidence of IHD	–	–	–	–
$L_{den}$	Incidence of hypertension	–	–	–	–
<b>Annoyance</b>					
$L_{den}$	%HA	Not able to pool because of heterogeneity	30 dB	2481 (4)	Low (downgraded for inconsistency and imprecision)
<b>Cognitive impairment</b>					
$L_{den}$	Reading and oral comprehension	–	–	–	–
<b>Hearing impairment and tinnitus</b>					
$L_{den}$	Permanent hearing impairment	–	–	–	–

## Cardiovascular disease

For the relationship between wind turbine noise and prevalence of hypertension, three cross-sectional studies were identified, with a total of 1830 participants (van den Berg et al., 2008; Pedersen, 2011; Pedersen & Larsman, 2008; Pedersen & Persson Waye, 2004; 2007). The number of cases was not reported. All studies found a positive association between exposure to wind turbine noise and the prevalence of hypertension, but none was statistically significant. The lowest levels in studies were either  $<30$  or  $<32.5 L_{den}$ . No meta-analysis was performed, since too many parameters were unknown and/or unclear. Due to very serious risk of bias and imprecision in the results, this evidence was rated very low quality (see Fig. 14).

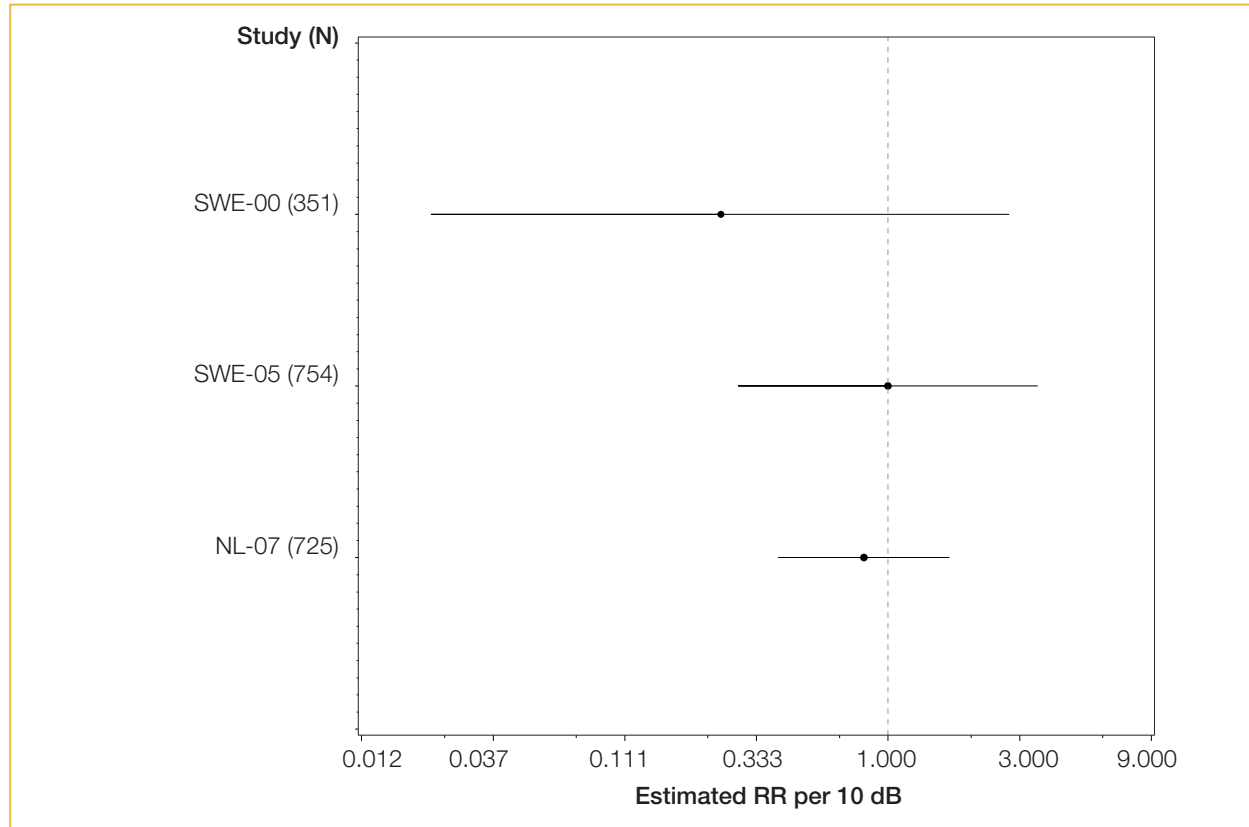
The same studies also looked at exposure to wind turbine noise and self-reported cardiovascular disease, but none found an association. No evidence was available for other measures of cardiovascular disease. As a result, only evidence rated very low quality was available for no considerable effect of audible noise (greater than 20 Hz) from wind turbines or wind farms on self-reported cardiovascular disease (see Fig. 15).

**Fig. 14. The association between exposure to wind turbine noise (sound pressure level in dB) and hypertension**



Notes: The dotted vertical line corresponds to no effect of exposure to wind turbine noise. The black dots correspond to the estimated RR per 10 dB and 95% CI. For further details on the studies included in the figure please refer to the systematic review on environmental noise and cardiovascular and metabolic effects (van Kempen et al., 2018).

**Fig. 15. The association between exposure to wind turbine noise (sound pressure level) and self-reported cardiovascular disease**



Notes: The dotted vertical line corresponds to no effect of exposure to wind turbine noise. The black circles correspond to the estimated RR per 10 dB (sound pressure level) and 95% CI. For further details on the studies included in the figure please refer to the systematic review on environmental noise and cardiovascular and metabolic effects (van Kempen et al., 2018).

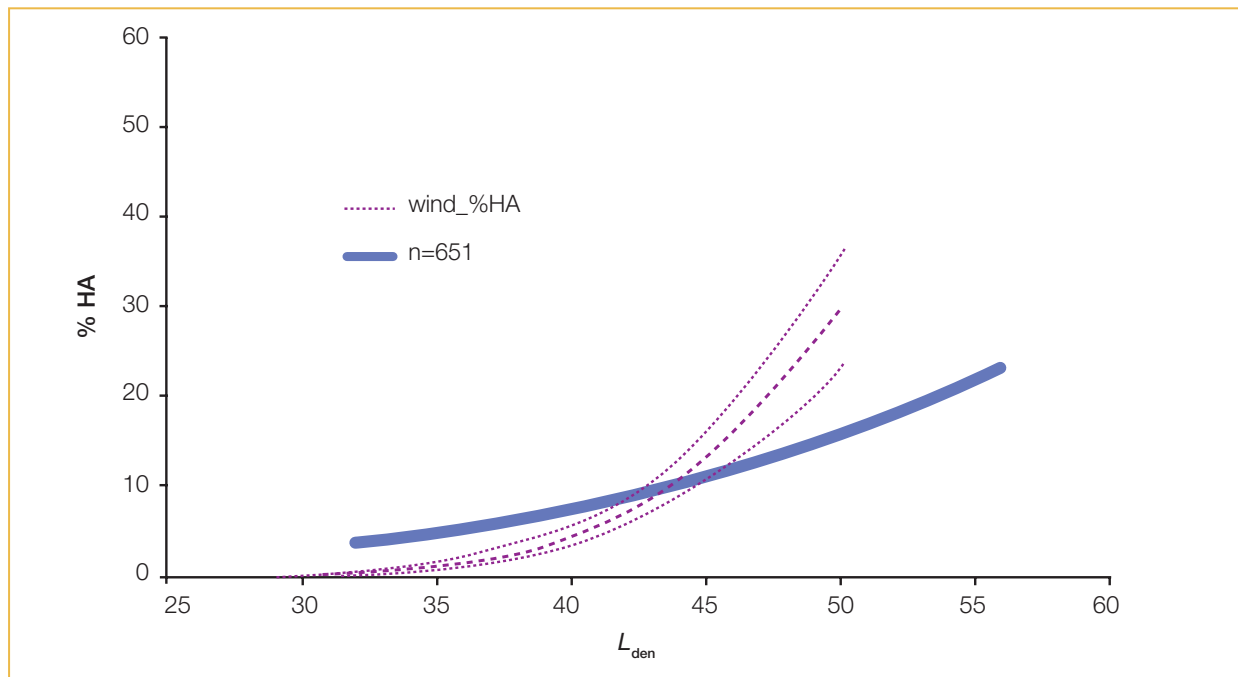
## Annoyance

Two publications containing descriptions of four individual studies were retrieved (Janssen et al., 2011; Kuwano et al., 2014). All four studies used measurements in the vicinity of the respondents' addresses; the noise exposure metrics used in the three original studies (Pedersen, 2011; Pedersen & Persson Waye, 2004; 2007) included in Janssen et al. (2011) were recalculated into  $L_{den}$ . The noise levels in the studies ranged from 29 dB to 56 dB. Different scales were used to assess annoyance, with slightly different definitions of "highly annoyed" and explicit reference to outdoor annoyance in the data used for the Janssen et al. (2011) curve. Construction of the ERFs provided in the two publications differed and they were therefore not further combined in a meta-analysis. Fig. 16 shows the %HA from the two publications. The 10% criterion for %HA is reached at around 45 dB  $L_{den}$  (where the two curves coincide). There was a wide variability in %HA between studies, with a range of 3–13%HA at 42.5 dB and 0–32%HA at 47.5 dB. The %HA in the sample is comparatively high, given the relatively low noise levels. There is evidence rated low quality for an association between wind turbine noise and annoyance, but this mainly applies to the association between wind turbine noise and annoyance and not to the shape of the quantitative relationship.



Further statistical analyses of annoyance yield evidence rated low quality for an association between wind turbine noise and %HA when comparing an exposure at 42.5 dB and 47.5 dB, with a mean difference in %HA of 4.5 (indoors) and 6.4 (outdoors). There is also evidence rated moderate quality for a correlation between individual noise exposure and annoyance raw scores ( $r = 0.28$ ).

**Fig. 16. Overlay of the two wind turbine annoyance graphs**



Notes: Overlay of the two wind turbine outdoor annoyance graphs adapted from Janssen et al. (2011, red) and Kuwano et al. (2014, blue). The Kuwano et al. curve is based on  $L_{dn}$ ; no correction for  $L_{den}$  has been applied.<sup>18</sup> For further details on the studies included in the figure please refer to the systematic review on environmental noise and annoyance (Guski et al., 2017).

### Cognitive impairment, hearing impairment and tinnitus, adverse birth outcomes

No studies were found, and therefore no evidence was available on the relationship between wind turbine noise and measures of cognitive impairment; hearing impairment and tinnitus; and adverse birth outcomes.

### Sleep disturbance

Six cross-sectional studies on wind turbine noise and self-reported sleep disturbance were identified (Bakker et al., 2012; Kuwano et al., 2014; Michaud, 2015; Pawlaczyk-Luszczynska et al., 2014; Pedersen & Persson Wayne, 2004; 2007). Noise levels were calculated using different methods, and different noise metrics were reported. Three of the studies asked how noise affects sleep; the other three evaluated the effect of wind turbine noise on sleep using questions that explicitly referred to noise (Table 40).

<sup>18</sup>  $L_{dn}$  is the day-night-weighted sound pressure level as defined in section 3.6.4 of ISO 1996-1:2016.

**Table 40. Summary of findings for health effects from exposure to wind turbine noise ( $L_{\text{night}}$ )**

Noise metric	Priority health outcome measure	Quantitative risk for adverse health	Lowest level of effects in studies	Number of participants (studies)	Quality of evidence
<b>Effects on sleep</b>					
$L_{\text{night}}$	%HSD	1.60 (95% CI: 0.86–2.94) per 10 dB increase	31 dB	3971 (6)	Low (downgraded for study limitations, inconsistency, precision)

The risk of bias was assessed as high for all six studies, as effects on sleep were measured by self-reported data. There were a limited number of subjects at higher exposure levels. A meta-analysis was conducted for five of the six studies, based on the OR for high sleep disturbance for a 10 dB increase in outdoor predicted sound pressure level. The pooled OR was 1.60 (95% CI: 0.86–2.94). The evidence was rated low quality.

### 3.4.2.2 Evidence on interventions

This section summarizes the evidence underlying the recommendation on the effectiveness of interventions for wind turbine noise exposure. The key question posed was: in the general population exposed to wind turbine noise, are interventions effective in reducing exposure to and/or health outcomes from wind turbine noise? A summary of the PICOS/PECCOS scheme applied is set out in Table 41.

**Table 41. PICOS/PECCOS scheme of the effectiveness of interventions for exposure to wind turbine noise**

PICO	Description
<b>Population</b>	<b>General population</b>
Intervention(s)	The interventions can be defined as: (a) a measure that aims to change noise exposure and associated health effects; (b) a measure that aims to change noise exposure, with no particular evaluation of the impact on health; or (c) a measure designed to reduce health effects, but that may not include a reduction in noise exposure.
<b>Comparison</b>	<b>No intervention</b>
Outcome(s)	For average noise exposure: 1. cardiovascular disease 2. annoyance 3. cognitive impairment 4. hearing impairment and tinnitus 5. adverse birth outcomes 6. quality of life, well-being and mental health 7. metabolic outcomes  For night noise exposure: 1. effects on sleep



No studies were found, and therefore no evidence was available on the effectiveness of interventions to reduce noise exposure from wind turbines.

#### **3.4.2.3 Consideration of additional contextual factors**

As the foregoing overview has shown, very little evidence is available about the adverse health effects of continuous exposure to wind turbine noise. Based on the quality of evidence available, the GDG set the strength of the recommendation on wind turbine noise to conditional. As a second step, it qualitatively assessed contextual factors to explore whether other considerations could have a relevant impact on the recommendation strength. These considerations mainly concerned the balance of harms and benefits, values and preferences, and resource use and implementation.

Regarding the balance of harms and benefits, the GDG would expect a general health benefit from a marked reduction in any kind of long-term environmental noise exposure. Health effects of individuals living in the vicinity of wind turbines can theoretically be related not only to long-term noise exposure from the wind turbines but also to disruption caused during the construction phase. The GDG pointed out, however, that evidence on health effects from wind turbine noise (apart from annoyance) is either absent or rated low/very low quality (McCunney et al., 2014). Moreover, effects related to attitudes towards wind turbines are hard to discern from those related to noise and may be partly responsible for the associations (Knopper & Ollson, 2011). Furthermore, the number of people exposed is far lower than for many other sources of noise (such as road traffic). Therefore, the GDG estimated the burden on health from exposure to wind turbine noise at the population level to be low, concluding that any benefit from specifically reducing population exposure to wind turbine noise in all situations remains unclear. Nevertheless, proper public involvement, communication and consultation of affected citizens living in the vicinity of wind turbines during the planning stage of future installations is expected to be beneficial as part of health and environmental impact assessments. In relation to possible harms associated with the implementation of the recommendation, the GDG underlined the importance of wind energy for the development of renewable energy policies.

The GDG noticed that the values and preferences of the population towards reducing long-term noise exposure to wind turbine noise vary. Whereas the general population tends to value wind energy as an alternative, environmentally sustainable and low-carbon energy source, people living in the vicinity of wind turbines may evaluate them negatively. Wind turbines are not a recent phenomenon, but their quantity, size and type have increased significantly over recent years. As they are often built in the middle of otherwise quiet and natural areas, they can adversely affect the integrity of a site. Furthermore, residents living in these areas may have greater expectations of the quietness of their surroundings and therefore be more aware of noise disturbance. Negative attitudes especially occur in individuals who can see wind turbines from their houses but do not gain economically from the installations (Kuwano et al., 2014; Pedersen & Persson Wayne, 2007; van den Berg et al., 2008). These situational variables and the values and preferences of the population may differ between wind turbines and other noise sources, as well as between wind turbine installations, which makes assessment of the relationship between wind turbine noise exposure and health outcomes particularly challenging.

Assessing resource use and implementation considerations, the GDG noted that reduction of noise exposure from environmental sources is generally possible through simple measures like insulating windows or building barriers. With wind turbines, however, noise reduction interventions are more



complicated than for other noise sources due to the height of the source and because outdoor disturbance is a particularly large factor. As generally fewer people are affected (compared to transportation noise), the expected costs are lower than for other environmental sources of noise. The GDG was not aware of any existing interventions (and associated costs) to reduce harms from wind turbine noise, or specific consequences of having regulations on wind turbine noise. Therefore, it could not assess feasibility, or discern whether any beneficial effects of noise reduction would outweigh the costs of intervention. In particular, there is no clear evidence on an acceptable and uniform distance between wind turbines and residential areas, as the sound propagation depends on many aspects of the wind turbine construction and installation.

In light of the assessment of the contextual factors in addition to the quality of evidence, the recommendation for wind turbine noise exposure remains conditional.

### **Additional considerations or uncertainties**

Assessment of population exposure to noise from a particular source is essential for setting health-based guideline values. Wind turbine noise is characterized by a variety of potential moderators, which can be challenging to assess and have not necessarily been addressed in detail in health studies. As a result, there are serious issues with noise exposure assessment related to wind turbines.

Noise levels from outdoor sources are generally lower indoors because of noise attenuation from the building structure, closing of windows and similar. Nevertheless, noise exposure is generally estimated outside, at the most exposed façade. As levels of wind turbine noise are generally much lower than those of transportation noise, the audibility of wind turbines in bedrooms, particularly when windows are closed, is unknown.

In many instances, the distance from a wind farm has been used as a proxy to determine audible noise exposure. However, in addition to the distance, other variables – such as type, size and number of wind turbines, wind direction and speed, location of the residence up- or downwind from wind farms and so on – can contribute to the resulting noise level assessed at a residence. Thus, using distance to a wind farm as a proxy for noise from wind turbines in health studies is associated with high uncertainty.

Wind turbines can generate infrasound or lower frequencies of sound than traffic sources. However, few studies relating exposure to such noise from wind turbines to health effects are available. It is also unknown whether lower frequencies of sound generated outdoors are audible indoors, particularly when windows are closed.

The noise emitted from wind turbines has other characteristics, including the repetitive nature of the sound of the rotating blades and atmospheric influence leading to a variability of amplitude modulation, which can be a source of above average annoyance (Schäffer et al., 2016). This differentiates it from noise from other sources and has not always been properly characterized. Standard methods of measuring sound, most commonly including A-weighting, may not capture the low-frequency sound and amplitude modulation characteristic of wind turbine noise (Council of Canadian Academies, 2015).

Even though correlations between noise indicators tend to be high (especially between  $L_{Aeq}$ -like indicators) and conversions between indicators do not normally influence the correlations between the noise indicator and a particular health effect, important assumptions remain when exposure to



wind turbine noise in  $L_{den}$  is converted from original sound pressure level values. The conversion requires, as variable, the statistical distribution of annual wind speed at a particular height, which depends on the type of wind turbine and meteorological conditions at a particular geographical location. Such input variables may not be directly applicable for use in other sites. They are sometimes used without specific validation for a particular area, however, because of practical limitations or lack of data and resources. This can lead to increased uncertainty in the assessment of the relationship between wind turbine noise exposure and health outcomes.

Based on all these factors, it may be concluded that the acoustical description of wind turbine noise by means of  $L_{den}$  or  $L_{night}$  may be a poor characterization of wind turbine noise and may limit the ability to observe associations between wind turbine noise and health outcomes.

### 3.4.3 Summary of the assessment of the strength of recommendations

Table 42 provides a comprehensive summary of the different dimensions for the assessment of the strength of the wind turbine recommendations.

**Table 42. Summary of the assessment of the strength of the recommendation**

Factors influencing the strength of recommendation	Decision
Quality of evidence	<p><b>Average exposure (<math>L_{den}</math>)</b> <i>Health effects</i></p> <ul style="list-style-type: none"> <li>Evidence for a relevant absolute risk of annoyance at <b>45 dB <math>L_{den}</math></b> was rated <b>low quality</b>.</li> </ul> <p><i>Interventions</i></p> <ul style="list-style-type: none"> <li>No evidence was available on the effectiveness of interventions to reduce noise exposure and/or health outcomes from wind turbines.</li> </ul> <p><b>Night-time exposure (<math>L_{night}</math>)</b> <i>Health effects</i></p> <ul style="list-style-type: none"> <li>No statistically significant evidence was available for sleep disturbance related to exposure from wind turbine noise at night.</li> </ul> <p><i>Interventions</i></p> <ul style="list-style-type: none"> <li>No evidence was available on the effectiveness of interventions to reduce noise exposure and/or sleep disturbance from wind turbines.</li> </ul>
Balance of benefits versus harms and burdens	Further work is required to assess fully the benefits and harms of exposure to environmental noise from wind turbines and to clarify whether the potential benefits associated with reducing exposure to environmental noise for individuals living in the vicinity of wind turbines outweigh the impact on the development of renewable energy policies in the WHO European Region.
Values and preferences	There is wide variability in the values and preferences of the population, with particularly strong negative attitudes in populations living in the vicinity of wind turbines.
Resource implications	Information on existing interventions (and associated costs) to reduce harms from wind turbine noise is not available.
Additional considerations or uncertainties	There are serious issues with noise exposure assessment related to wind turbines.
Decisions on recommendation strength	<ul style="list-style-type: none"> <li><b>Conditional</b> for guideline value for average noise exposure (<math>L_{den}</math>)</li> <li><b>Conditional</b> for the effectiveness of interventions (<math>L_{night}</math>)</li> </ul>