

May 14, 2020

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Via E-mail Delivery Only

Dear Darrell:

I appreciate your thorough response and the attention you gave to my letter. While we were disappointed that the County does not share our conclusion regarding vested rights, we are pleased to continue the dialogue and hopefully the additional information you requested will allow the county to revisit that issue. Responses to your questions are below:

Question #1: "RWE is already well into development of a project in Hardin County". Specifically, what steps have been taken? When? What steps are still needed to be taken?

RWE began development efforts on the Hardin County Wind Farm in 2017. Below is a non-exhaustive list of key project steps already completed:

1. May, 2017: project development efforts started at RWE. General vicinity is selected based on four primary criteria that guide siting decisions: the available wind resource; access to interconnection to the transmission grid; a workable ordinance; and reason to believe there are interested landowners.
2. June, 2017: filed MISO queue position for 200MW. Paid \$425,000 cash deposit. Provided Letter of Credit for \$800,000 for Milestone 2. Queue Position is J873.
3. September, 2017: land leasing agent hired and assigned to project.
4. October, 2017: land leasing efforts began.
5. October, 2017: MISO interconnection studies began.
6. October, 2017: Submitted Special Permit Application for MET Tower 1 to Hardin County Zoning.
7. November, 2017: first landowner payments dispersed.
8. November, 2017: informational meeting held for landowners in our target area.
9. November, 2017: Third-Party FAA/Aviation study.
10. November, 2017: Special Permit Application for Met Tower 1 approved by Hardin County Zoning Administrator.
11. December 21, 2017: erection of MET Tower 1.
12. December, 2017: MET Tower 1 operational.
13. January-December, 2018:
 - a. Land leasing continuation.
 - b. Wind data collection and analysis (speed and direction).

- c. Land payments on executed contracts.
- 14. January-December, 2019:
 - a. Land leasing continuation.
 - b. Wind data collection and analysis (speed and direction).
 - c. Land payments on executed contracts.
 - d. Completed Communications Facilities Search (Microwave, radio, cellular, TV, etc)
 - e. Environmental & Avian Studies begin.
- 15. March, 2019: Submitted Special Permit Application for MET Tower 2.
- 16. April, 2019: Attended County Board of Adjustment meeting to discuss Met Tower SPA
- 17. April, 2019: Special Permit Application for Met Tower 2 approved by Hardin County Zoning Administrator.
- 18. June, 2019: erection of MET Tower 2.
- 19. June-October, 2019: Environmental and engineering studies begin to narrow locations to more specific target sites, including avian studies, environmental assessment studies, local communications system studies, and other engineering planning studies.
- 20. October, 2019: Submitted Letter of Credit in excess of \$750,000 to MISO to continue interconnection process.
- 21. December, 2019: LiDAR installed (Light Detection and Ranging measuring equipment)
- 22. March, 2020: presentation to the Board of Supervisors regarding project facts.
- 23. May 2020: Over 150 landowners have now been signed up for project and memoranda of interests in land have been recorded with the county.

Question #2: “expected to bring over \$40 million in new tax revenue to the county”. What assumptions go into this expectation? What calculations? What is the expected revenue on an annualized basis?

The expected new tax revenue figure of ‘over \$40 million’ has been calculated using the special wind energy conversion property valuation method pursuant to Iowa Code §427B.26, which has been adopted by resolution in Hardin County. Assessed value is determined by applying the annual tiered rate to net acquisition cost. For our project, the total anticipated net acquisition cost is approximately \$230,000,000 the estimated tax rate is 0.02329294%, and a 30-year operational timeframe was applied. This calculation includes a zero percent (0%) Year One (Y1) assessment rate with an increase of 5% each following year, before it is capped at 30% in Year Seven (Y7). Working through the math should show a payment from the fifth year forward of approximately \$1.6 million per year; with the prorated second through fourth years included, the total tax revenue for the county is expected to exceed \$40 million dollars. Note this captures only direct taxes from the project itself, not additional revenues from taxable secondary transactions based on landowner revenues or other economic impacts. For many counties with wind farms, this is a significant addition to their local tax base with a predictable, long-life revenue stream that and allows new investment in roads, bridges, recreation, and public safety.

Question #3: “150 construction jobs”. Are these construction jobs going to local companies? Are preferences going to local construction workers? Specify any construction contracts in place or being negotiated with local contractors?

Final construction details are not completed yet. However, for construction of the project, RWE will contract with a competent and experienced heavy industrial contractor.

The contractor may utilize local sub-contractors based on criteria which may include performance history, safety history, years of experience, cost, and location. While the specialized expertise involved will likely require a non-local general contractor, RWE encourages the use of local workforce/contractors. Many contractors and sub-contractors open positions for application during the pre-construction timeframe as a local workforce is typically desirable. However, it is unusual to find an available workforce for all of these positions in a rural area (where most wind projects are sited) due to the seasonality of the work and experience level requirements.

There are, however, many sub-tasks and smaller goods and services that are typically provided locally, for example gravel, concrete, tile repair, fuel, geotechnical and others. A construction contract is not yet in place and the project encourages the Board to forward contact information for local heavy industrial construction providers as well as any potential local sub-contractors in these or other specialties.

Question #4: “6-10 new full-time jobs”. Are these new jobs going to Hardin County job-seekers? Is RWE taking applications?

RWE is not accepting applications at this time but would welcome inquiries from interested local parties. These positions will include wind turbine service technicians (median pay \$52,910/year according to the U.S. Bureau of Labor Statistics, 2019), and potentially a Wind Farm Site Manager and clerical staff. Positions will be posted for local applicants closer to the date the project will become operational. These positions will be full-time onsite positions which should interest local qualified candidates; regardless, it is anticipated that these position holders will live near to, or within a reasonable commuting distance from, the wind farm Operations & Maintenance (O&M) site in Hardin County.

Question #5: “200 MW of . . . energy to Iowa”. Does this claim mean this energy will stay in Iowa? What has been/will be done to give assurances that Iowans will be the end consumers of the energy produced in Hardin County? Historically, what is the track-record of RWE and its predecessors on this?

In my letter I stated that the project would bring many benefits, including “200 MW of additional clean, renewable, zero-fuel-cost energy to Iowa.” The RWE project will add 200 MW of renewable generation to Iowa’s generation mix. Much of the wind energy in Iowa is purchased by Iowa’s retail utilities (MidAmerican, Alliant, various rural electric cooperatives, and municipal electric services.) It is certainly possible the output from the project may be purchased by one of those entities. It is also possible that the energy will be injected by RWE on to the regional grid through a substation. This reference statement pertains to the generation capacity of the project, 200 MW, and the generation site of the project, Iowa. The power will be generated in Hardin County and will enter the electrical grid through a sub-station on the existing ITC Midwest Killdeer-Blackhawk 345 kV transmission line, which is part of the MISO Multi-

Value Portfolio 4 project. Once energy is on the grid, it joins with electrons generated elsewhere in Iowa and other states and is not traceable to a single generator – an electron is an electron. We will have a contractual responsibility to generate and provide power to the Midcontinent Independent System Operator (MISO). MISO is a not-for-profit organization that delivers safe, cost-effective electric power across 15 U.S. states and the Canadian province of Manitoba. MISO is committed to reliable, nondiscriminatory operation of the bulk power transmission system and collaborating with all stakeholders to create cost-effective and innovative solutions for our changing industry. MISO operates one of the world's largest energy markets with more than \$29 billion in annual gross market energy transactions (source: www.misoenergy.org/about). MISO is best described as electricity's 'air traffic control' system; connecting power generation to power need throughout the region. We encourage the quick review of this MISO description (MISO 80 Second Overview) provided by the organization: <https://www.youtube.com/watch?v=cEypBUCg7W0&feature=youtu.be>.

The energy market is a commodity market, very similar to grain markets utilized in the buying/selling of corn and soybeans. We generate a wind-crop: clean electricity, and we deliver it to the market: the grid. (MISO). We do this under a contract – but instead of bushels, we are contracting units of electricity (watts). Also, similar to grain, once delivered to the market we are back to the 'field' to tend to the next round of crop. One major difference is that this cycle happens continuously in our wind farm. We do not tag each watt of energy generated and delivered, just as producers of grain do not tag every bushel of corn/soybeans when delivered to the elevator. Our commodities are delivered to a central receiving point (elevator/grid) and sent to where it is needed, when it is needed by a consumer. As I noted in my prior letter, this is consistent with official state policy – the legislature certainly wanted Iowa to have the benefits of clean, renewable energy with its no-cost fuel source adding to fuel diversity in the state and preserving exhaustible fossil resources. See Iowa Code § 476.41-43, .53. But the legislature also clearly saw this as an export opportunity just like Iowa's grown and manufactured products. See Iowa Code § 476.53A (encouraging transmission development to export wind energy to markets).

The power generated by the Hardin County Wind project could be consumed by neighbors of the site, by businesses in Des Moines, by production plants in Sioux City, or by other users out of state. However, in all likelihood it will be consumed by Iowans – and likely those closest to the generation source and on the transmission line. Energized neutrons, much like other elemental components such as water, tend to travel the path with least resistance. All things equal, it also travels the shortest distance to demand, to minimize transmission losses and maximize efficiency. Our power will enter the grid system and travel to where it is needed, as determined by MISO, most likely right here in Iowa.

Question #6: "RWE's investment in Hardin County to date has been considerable: over \$2 million in development costs have already been incurred." Please tell us how much and for what this was spent, and when.

The exact figures for the expenditures to date are, as you might expect, confidential proprietary information. That said, I don't think it will surprise you to learn that a large portion of the \$2 million figure is land costs. RWE has paid local landowners over three-quarters of a million dollars to date and is continuing to make such payments; with other costs of land acquisition included RWE has spent over \$1,000,000 on site acquisition. RWE has spent that much again (and then some) on grid interconnection costs – and the

interconnection process is location specific to the level of an interconnecting transmission line segment. While those two items already add up to over \$ 2 million, RWE has also spent nearly \$200,000 on various studies and preliminary engineering – environmental, avian, communications, aviation/FAA -- and also into the six-figures on the construction and operation of the two Met towers that were permitted by the county. This does not include the significant number of smaller expenses (which nonetheless add up), nor any capitalized expenses for internal payroll or overhead allocated to this capital project. Notably, these investments in the project far exceed the amounts Iowa courts have previously found to be sufficient expenses in reliance to vest rights in existing zoning and building regulations.

Question #7: “applying all new setbacks would decrease the available acreage from 2,000 to just 67 acres where it is certain RWE could build [and still less than 200 acres with limited waivers]”. Can you provide a detailed map and other records to verify this claim?

Preparing full details would both take a significant amount of time and would involve confidential information – both proprietary to RWE, and regarding private, bilateral negotiations with our landowners whose privacy we take very seriously.

That said, we can provide some representative examples that show why and how the new setbacks have such dramatic effects. The biggest reduction is fairly straightforward: the impact of increased setbacks from property lines multiples rapidly. If a setback from a point – a residence, for example – is increased, the effect is linear and additive. Because setbacks from property lines apply to all four sides of a parcel, however, the impact is geometric. To use round numbers just as an example, if you start with a 40-acre square, and you apply a 500’ set back from each property line, the remaining space is now 15.4 acres. If you double the set back to 1,000’, however, the impact much more than doubles: only 2.35 acres remain – a reduction of 85% just from this single factor. As a wind turbine siting matter, however, the reduction would often be more than 85% because as size shrinks, so does flexibility – there may be terrain factors, wind resource factors, environmental factors, agreements with the landowners to maximize existing uses, constructability all of which can be worked around if you had 15 acres instead of just two but which now may mean a location is not viable at all, or only in a very small space. This setback effect is then compounded as the project is further boxed in by other increasing setbacks. It should be clear, however, that the 97% figure in my letter is a very credible number just from the simple math of reducing the setback on a generic 40 acre square – that one calculation of a single zoning impact resulted in an 85% reduction all by itself, without getting into any site specific issues or other details of siting a wind turbine.

A real-world example is shown visually in the attached diagrams, which are an actual sample of a one square mile area of the proposed project. A zoomed out overview is provided to show that this is likely not the most constrained mile; it does, however, show parcels with a variety of participating and non-participating parcels around the perimeter (in this sample, which is a representative look at how different setbacks impact the space, the reduction is approximately 95% -- from 174 acres under the existing ordinance down to just 8 acres under the proposed amendments).

That should address all of the questions you raised. We continue to believe that this is a good project that will bring substantial benefits to the county, and to Iowa. The project would become much more challenging, however, under the proposed amendments to your wind ordinance. We believe the information provided above more than meets the criteria under Iowa law for the project to be vested under the existing regulations. To the extent the county disagrees with that analysis, I would invite you to explain why – I am happy to go back to my client and discuss your position. It would be preferable for both of our clients to avoid the expense and potential delay of litigating the issue if talking through it would get us to the same place. (And I was a little surprised the county was quick to say it would take on the resource commitment to litigate this issue given the county has been aware of the project for years and has permitted two Met towers in furtherance of the project under the existing regulations.) Absent such new information, however, given that your letter raised the prospect of litigation I want to be clear that we are confident in our legal position, we believe the facts above strongly support a finding that the project is vested, and should this end up in court we anticipate a favorable ruling. That said, I hope this additional information demonstrates RWE's commitment to working with the county in good faith, to providing the information that we can, and to being helpful to you and the Board in considering wind issues in Hardin County – and that it moves us toward a more amiable resolution. RWE would like to reiterate its willingness to employ its experience and expertise to assist the county in revising the proposed wind ordinance to facilitate the development of future wind projects in Hardin County.

To that end, now that we have rounded up the information responsive to your questions, we will get you some additional comments on the draft ordinance (beyond the couple of examples in my original letter) as soon as possible.

Should you have any further questions, or if you believe a further discussion would be useful, please feel free to contact me.

Respectfully,

/s/ Bret A. Dublinske

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Enclosure