Prairie County Board of Commissioners Meeting

December 30th, 2024

Prairie County Court House Commissioners Room

217 West Park St Terry, MT 59349

www.prairiecounty.org

Prairie County Board of Commissioners Todd Devlin, Christine Keltner and Dennis Teske met in regular session at 9:00 a.m. In attendance Administrative Assistant Harry McNall.

9:00 a.m. Pledge of Allegiance, call to order.

Announcement: there was a miss print on the agenda under old business, the two resolutions shown 24-15 and 24-17 should have been Resolution 25-15 and 25-17.

9:10 a.m. Road Supervisor Todd Henry joined the meeting.

Public Comment: NextEra Ross Freehan and Pete Decotas: Pete is a permitting lawyer. Ross provided the commissioners with the "Draft Development Agreement" based off of the proposed development agreement NextEra provided the commission a few months ago. (Exhibit A). This is only a proposal and starting point.

The commissioners visited with Todd Henry about road conditions, and winter projects.

10:00 a.m. Commissioners reviewed old business items and correspondence. Attached is an email from Todd Devlin, to keep within the open meeting laws. (Exhibit B).

10:15 a.m. Commissioner Devlin read the minutes from the December 18th, 2024, commissioners meeting.

10:30 a.m. Commissioner Keltner made a motion to accept the minutes from the December 18th, 2024, commissioners meeting as corrected, seconded Commissioner Teske, "all in favor" motion passed.

10:40 a.m. Commissioners Read Resolution 2025-16.

10:44 a.m. Commissioner Teske made a motion to accept and approve "Resolution No. 2025-16, A Resolution of The Prairie County Board of County Commissioners Establishing Locations for Posting Public Notice", seconded by Commissioner Keltner, "all in favor" motion passed.

10:46 a.m. Commissioners read Resolution 2025-17.

10:50 a.m. Commissioner Devlin, made a motion to accept and approve "Resolution No. 25-17 A Resolution of the Prairie County Board of County Commissioners Establishing Mileage, Lodging, and Per Diem Rates for County Business Travel", seconded by Commissioner Keltner, "all in favor" motion passed.

11:00 a.m. Clerk & Recorder Shari Robertson provided commissioners with payroll and claims.

Prairie County Voucher # 1051 $974.75

Prairie County Voucher # 1078 $30,160.64

Prairie County Voucher # 6 $6,411.19

Prairie County Voucher # 1077 $16,195.33

Prairie County Voucher # 1076 $2,124.00

Prairie County Voucher # 1075 $17,568.71

Prairie County Voucher # 1074 $62,170.79

The Commissioners reviewed and signed claims

Prairie County Voucher # 1079 $10,522.28

Prairie County Voucher # 1080 $4,302.40

Prairie County Voucher # 1073 $108.50

11:25 a.m. Commissioners composed a letter to the Montana Land Board asking them to postpone any decision on the Glendive Wind Project LLC until at least their April meeting. Exhibit C

12:00 a.m. Lunch Break

1:00 p.m. Commissioners discussed board member appointments and made phone calls to affirm interest.

Renee Pirtz, Arron Martinson and Todd Tibbetts joined the meeting.

Todd Tibbits while speaking about the land planning board pointed out statue 7-8-2707, for Land Advisory Board organization of boards.

Shari Robertson pointed out statue 76-1-211 which is for Land Planning Board.

There was a discussion on the history of the Land Planning Board for Prairie County and the difference between an Advisory Land Planning Board, and our Land Planning Board.

1:50 p.m. Shane Eaton and Chris Koppenhaver joined the meeting.

1:50 p.m. Commissioners reviewed board member position before finalization.

1:54 p.m. Commissioner Keltner made a motion to appoint the following people to the county boards, seconded by Commissioner Teske, any discussion? "all in favor" motion passed.

Airport Authority: Dale Galland & Todd Tibbetts

Cemetery Board: Darlene Strobel

Council on Aging: Bob Brubaker & Winnie Harmel

Fair Board: Travis Choat

Health Board: Dennis Teske, Colton Braddock & Paige Denny

Land Planning Board: Renee Pirtz, Lon Reukauf & Lorin Larsen

Library Board: Shenna Dorak

Predatory Animal Control Board: Cliff Householder & Tate Pehl

Salary Compensation Board: Thane Reukauf

Tax Appeal Board: Bonnie Burback

Terry TV Board: Doug Rein

Weed Board: Arron Martinson

2:00 p.m. Public Comment

Renee Pirtz, why are we in a small room? It would make sense to have more room for public comment.

Shane Eaton: December 14th, 2024, Terry Tribune, read a quote from Commissioner Todd Devlin. Gave a date of December 27, 2023, and Shane was with 6 others, a year ago and informed the commissioners the wind farm was coming. He is frustrated with inaction from the commissioners. Commission doesn't have to wait; it can make a resolution on abatements now instead of later. Bonding, the county does have bonding rules, Can the county bond? Commission needs better understanding. He read another quote from the Terry Tribune from the county attorney. Ordnances is another option MCA: 7-5-201. Permit process for tall structures in Prairie County, would be another option outside of zoning, or bi-lateral agreements. Shane gave the Commissioner a copy of Ordinance No. 1-2025 draft (suggested ordinance fashioned from Madison County).

Renee Pirtz: Have you been approached by any Industry? "I have not"! She feels that if someone has been approached, they should recuse themselves. If someone has the possibility of benefiting, they should not be apart of the decision and should be on the record.

Commissioner Keltner stated she has not been approached, Commissioner Devlin had been approached in the past, not his ranch. Commissioner Teske has been approached twice, once with NextEra and another company, he explained he was not interested and that's how it ended.

Renee this is brought up because the land planning board is held at the commissioner's discretion. Cutting off the land planning board brings suspicions.

Todd Tibbetts: Thanks for your time, he has not been approached by industrial development outside of Keystone pipeline. This comment is towards Commissioner Devlin, "you seem to bow to Montana Association of Counties (MACo)". You went to Helena and got the NextEra banner taken off the website. Can you get proof from MACo that money was not exchange? Mr. Devlin you need to be concerned with MACo or you need to be concerned with Prairie County residents. Who's best interest do you have at heart?

Commissioner Devlin explained that he did tell MACo there was a problem, and they took care of it. It was their mistake not his.

Commissioner Teske: Todd has given a lot of time outside of the county in Washington DC, etc to benefit others. He trusts Todds with his life. He then read "Teddy Roosevelt the man in the arena".

Chris Koppenhaver: He stated his understanding of what was happening concerning wind turbines, is nothing happening now?

Commissioners commented that the growth policy has to be updated, and the land planning board is working on that.

Renee explained that the land planning board is moving forward.

Tracy Dion the land planning board is working on the scoping letter.

Shane Eaton: Resolution 25-15 was passed at the previous meeting. The use of the courtroom, 76-1-303 the county shall provide office and meeting places. 76-1-306 providing the board with staff. MCA 7-4-2611, the commissioner has authority to assign staff to the board.

Commissioner Devlin, certain bridges would still be closed if not for MACo, the Milwaukee bridge would not be getting done. I am the public lands chair of the National Association of Counties (NACo), and I supported Nuclear power to protect public lands. Its and advantage to Prairie County and all rural counties, because the bend over backwards for them.

Various discussions about MACo and how to support or be part of the association. What services they provide and some of the concerns of influence by supports of MACo. Many comments about MACo and what information they are providing the county commissioners.

The commissioners went to the courtroom to participate in the officials swearing in of new elected officials.

3:30 p.m. Commissioners returned to the commissioner's room and continued various discussions.

4:10 p.m. Commissioner Teske made a motion to adjourn the, second by commissioner Keltner, "all in favor" motion passed.

Signed this 30th day of December 2024

Todd Devlin

Todd Devlin, Commissioner

ATTEST: Shari Robertson

Shari Robertson, Clerk & Recorder

Exhibit B

Harry Mcnall

From: Dan Rice
Sent: Monday, December 30, 2024 9:35 AM
To: Harry Mcnall; Clerk and Recorder
Subject: Fwd: Zoning in Prairie County

Harry - The below email includes all Commissioners, and should be attached to their next minutes

Daniel Z. Rice
Prairie County Attorney
P.O. Box 564
217 W. Park Street
Terry, Montana 59349
(406)635-4529
(406)635-2026 (Fax)

The preceding e-mail message (including attachments, if any) contains information that is confidential, may be protected by the attorney-client, work product, or other applicable privilege, and may constitute non-public information or trade secrets. The e-mail is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this e-mail, please notify the sender, and destroy all copies of this transmittal. Please do not forward this message without the express approval of Daniel Z. Rice. Unauthorized use, dissemination, distribution, or reproduction of this message is strictly prohibited and may be unlawful.

---------- Forwarded message ---------
From: **Todd Devlin** <mtdevlin@gmail.com>
Date: Sun, Dec 29, 2024 at 2:38 AM
Subject: Zoning in Prairie County
To: Christine <keltner@midrivers.com>, Dan Rice <pcatty@prairiecounty.org>, Lon Reukauf <lonreukauf@gmail.com>, Dennis Teske <dteske@midrivers.com>, Clerk and Recorder <cr@prairiecounty.org>

Zoning in Prairie County
Is there a justification ? Yes

Why?
1. Todd Devlin believes that Prairie County is historically a solid example of protecting our "land uses" privately and publicly managed in ways that coordinate with the Taylor Grazing Act, the Bankhead - Jones Act, the Federal Policy Management Act, BLM's own mission statement, and Prairie County's own land use plan.
2. Todd Devlin believes that all uses should be allowed when that use does not dramatically affect other existing uses listed and are not a significant hardship on future generations who will live, enjoy, and work all lands under private, state, and federal management.

3. Todd Devlin believes that it is vital to protect the long term historic uses that will assure the existence of ranching and farming as we know it by making sure that those existing uses generate a stable and long term tax base.
4. BLM's mission: "To sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations." This means that first and foremost that existing and major uses are protected. The term "principal or major uses" (listed in FLPMA) includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production. Todd Devlin believes that not only should these "principal or major uses" be protected on federally managed lands, but should be uses protected on commensurate properties as well. Further more any uses not listed as a "principal or major use" on federally managed lands would have to have Congressional approval as stated in FLPMA. And I quote: "the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action". Therefore; Prairie County must have the same ability to dictate the uses of private lands within our jurisdiction that may negatively affect any and all property directly or indirectly within the boundaries of Prairie County.
5. Executive Order 10787—Transferring Jurisdiction Over Certain Lands From the Department of Agriculture to the Department of the Interior, for Use, Administration, or Exchange Under the Taylor Grazing Act and Other Statutes (1958) ..... By virtue of the authority vested in me by section 32 (c) of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525; 7 U.S.C. 1011 (c)), and as President of the United States, and upon the recommendation of the Secretary of Agriculture, it is ordered as follows: Subject to valid existing rights, jurisdiction over the lands, to the extent indicated, in the following-described areas acquired or in the process of acquisition by the Secretary of Agriculture under the provisions of section 32 of the BankheadJones Farm Tenant Act (7 U.S.C. 1011), or transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of that act, together with title and use records, water or water rights, improvements, appurtenances, and structures acquired, constructed, or used in connection with the use and administration of such lands, is hereby transferred from the Department of Agriculture to the Department of the Interior for use, administration, or exchange under the applicable provisions of the Taylor Grazing Act (48 Stat. 1269), as amended, the Coordination and Conservation Act of March 10, 1934 (48 Stat. 401), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, or under the general land-management authority of the Secretary of the Interior as the Secretary shall determine, including the authority to grant licenses and easements upon such terms as he may deem reasonable: Provided, that twenty-five per cent of the net revenues received by the Secretary of the Interior from grazing and other uses of the transferred lands shall continue to be paid to the counties in which such lands are located for the purposes specified in section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012) in lieu of payments therefrom to the States or counties at the rates specified in section 10 of the Taylor Grazing Act (43 U.S.C. 315 i) or in any other act under which the transferred lands will be used and administered under this order: And provided further, that the transfer of jurisdiction over those lands that are in process of acquisition shall take effect upon the completion of acquisition thereof by the Secretary of Agriculture:" this included LOWER YELLOWSTONE PROJECT (MT-LU-4), Prairie County, containing approximately 391,933 acres ..... Todd Devlin concludes that all federal managed lands within Prairie County are protected under the Taylor Grazing Act for domestic livestock grazing on past homesteaded lands (LU) (Bankhead - Jones) and public domain lands. Therefore; all commensurate lands (private) must be protected for domestic livestock grazing or domestic livestock supplementation as required to protect existing or increased AUMs. Protection can be done via Prairie County applied zoning variations with emphasis on protection of domestic livestock grazing and their keepers.

Exhibit B

6. Todd Devlin believes that all improvements for agriculture (examples: structures, fences, domestic livestock and wildlife water, domestic water supplies that man made or natural, etc) be protected as highest priority in the realm of zoning.
7. Todd Devlin believes that pristine view has value not only for its view but also protects wild and domestic species habitat. This in turn protects existing major uses listed above. Any proposed uses not listed should only be approved after applicate shows little to no impact to existing uses listed above.
8. Prairie County must prioritize protection of renewable uses listed over all other uses listed or not and only approving uses with little to no negative impacts to renewable uses listed
9. Authority? Conditional Use Permit? Demands or requirements must be reasonable. Design a check list. Does it affect domestic livestock grazing ? Does it affect fish and wildlife? Does it affect mineral exploration and production? Does affect ROWs? Does affect outdoor recreation? Does it affect view shed?
10. Recorded and well organized public hearings and written comment

~~Exhibit~~ Exhibit C

Prairie County
Montana

Board of County Commissioners
P.O. Box 125 • 217 Park St W • Terry, MT 59349
Phone: (406) 635-5575 • Fax: (406) 635-5576

DATE: 12/30/2024

DNRC Headquarters
1539 Eleventh Ave.
Helena, MT 59601

Dear Montana Land Board Members

The Prairie County Commissioner Todd Devlin, Christine Keltner and Dennis Teske respectively ask that you postpone any decision on the Glendive Wind Project LLC, until your April 2025 meeting. The Prairie County Land Planning Board is in the process of updating our Growth Policy and would like to have that in place before your decision.

Sincerely,

Todd Devlin

Todd Devlin, Commissioner Chair

Christine W. Keltner

Christine Keltner, Commissioner

Dennis Teske, Commissioner

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this ___ day of _____, 2025 (the "Effective Date"), by and between the Board of County Commissioners ("Commissioners") for _____ County, Montana ("County") and Glendive Wind, LLC, a Delaware limited liability company ("Developer"). The County and Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Developer proposes to construct and operate a wind turbine electrical generation facility project with an approximate size of 800 megawatts of installed nameplate capacity, commonly referred to as the Glendive Wind Project, to be located within Prairie, Dawson, McCone, Garfield, and Rosebud Counties, consisting of wind turbine generators, meteorological towers, substations, collection lines, access roads, temporary construction areas, operation and maintenance facilities, and other infrastructures relating thereto (the "Wind Project"); and

WHEREAS, Developer has or will enter into certain lease agreements, easement agreements, and forms of landowner consent documents (individually, a "Lease" and, collectively, the "Leases") with the participating landowners within the Wind Project area (the "Landowners"); and

WHEREAS, Developer, as a new member of the local business community, wishes to demonstrate good citizenship through this Agreement by (1) developing and operating the Wind Project pursuant to the terms of the Definitive Agreements, defined below, and (2) supporting local employment and businesses; and

WHEREAS, the County intends, through this Agreement, to address the orderly development, construction, operation, and maintenance of the Wind Project in the County, pursuant to the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and promises herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledge, the Parties agree as follows:

SECTION I. RECITALS

The recitals set forth above constitute a material part of this Agreement and are incorporated herein. The Parties confirm the accuracy, truth and validity of said recitals.

SECTION II. COUNTY APPROVAL AND FUTURE COOPERATION

A. COUNTY CONSENTS AND APPROVALS. Unless otherwise provided herein, whenever the consents or approvals of the County, or any of its employees, consultants, attorneys, officers, agents, or representatives are required to be secured or obtained by Developer under the provisions of this Agreement, the same shall not be unreasonably conditioned, withheld, or delayed unless otherwise set forth in the Definitive Agreements. The County will reasonably cooperate with Developer in the development, construction, operation, maintenance, and decommissioning of the Wind Project and issue all permits, approvals, and authorizations required by local regulations or other law, if any, provided Developer files compliant applications, pays all applicable fees, and complies with all the requirements specified in this Agreement and is not otherwise in default under the terms of the Definitive Agreements.

B. FUTURE COOPERATION. The Parties shall cooperate with one another on an ongoing basis and shall make every reasonable effort (including the holding of hearings or meetings and the adoption of such resolutions as may be necessary) to further the implementation of this Agreement and the Definitive Agreements (as defined below) and the intentions of the Parties as reflected by the provisions of this Agreement and the Definitive Agreements. Without limiting the foregoing, in the event that the County adopts any zoning or other laws after the Effective Date that would make the development, construction, operation, repair, replacement, and maintenance of the Wind Project a nonconforming use under such zoning or other laws, or that would otherwise materially interfere with such development, construction, operation, repair, replacement, and maintenance of the Wind Project, or the decommissioning of the Wind Project, the County agrees that it will take such actions, adopt such ordinances and do such other things as are necessary to exempt or exclude the Wind Project from such zoning or other laws.

SECTION III. DEVELOPMENT REQUIREMENTS

A. DEFINITIVE AGREEMENTS. In connection with this Agreement, Developer shall enter into the following agreements with the County (collectively, the "Definitive Agreements"):

1. A Road Use Agreement ("Road Use Agreement") in the form of Exhibit A.

2. A Decommissioning Agreement ("Decommissioning Agreement") in the form of Exhibit B.

3. A Contribution Agreement ("Contribution Agreement") in the form of Exhibit C.

4. An Impact Fee Agreement ("Impact Fee Agreement") in the form of Exhibit D.

B. LANDOWNER PARTICIPATION.

1. All wind turbines and related structures within the County shall be located on public rights of way or property that is owned by Developer, or an affiliate thereof, or property for which Developer or its affiliate has or will have executed a lease, easement, right of way, or other agreement with the applicable landowner.

2. Prior to construction, Developer shall make commercially reasonable efforts to enter into good-neighbor agreements with non-participating landowners that own property adjacent to Landowners' property on which assets of the Wind Project are located.

C. SITING, SETBACKS, AND EXCLUSION ZONES.

1. Siting. Developer shall site, and the County hereby approves, wind turbines not closer than:
   a. 5,280 feet -- from an occupied residential non-participating dwelling currently in existence in the County unless otherwise agreed to by the non-participating landowner;
   b. A distance equal to the height of the wind turbine, including tower, turbine and blades (i.e. its "Tip Height"), multiplied by 1.1 -- from a non-participating property line currently in existence in the County, unless otherwise agreed to by the non-participating landowner;
   c. A distance equal to the blade length plus ten (10) meters -- from a property line currently in existence in the County which separates a Landowner's property from a second, different Landowner's property, unless otherwise agreed to by both Landowners.
   d. A distance set at the Landowner's discretion – from property line(s) separating multiple contiguous parcels owned by the same Landowner, provided, however, that a wind turbine's foundation may never overlap across a property line.

2. Public Roads. All wind turbines shall be set back at least 1.1 multiplied by Tip Height from public roads, as measured from the base of the tower to the nearest point on any County, Township, State or Federal road currently in existence in the County. For the avoidance of doubt, this provision shall not apply to private roads (including private roads constructed by Developer to access wind turbines).

3. Incorporated Municipal Boundaries. All wind turbines shall be setback at least 1 mile from incorporated municipal boundaries currently in existence in the County.

4. Measuring Distances. All setback distances identified in this Agreement shall be measured from the base of the tower to the nearest point of the structure or boundary,

as applicable.

5. Above-ground Collection Lines and Developer-Owned Transmission Line Tower Setbacks.

a. Above-ground collection lines and Developer-owned transmission line towers shall be setback at least 1.1 times the height of the transmission line tower measured from base of the tower to the nearest outside wall of such structure from any non-participating occupied residential dwelling currently in existence in the County and may not be located in a County right of way, but above-ground transmission line wires may cross (and be located in) County right of ways as set forth in the Road Use Agreement or other crossing agreement.

b. Collection lines will be located within Leases or easements on Landowner's property, or located underground on public right of way crossings as approved by the County in compliance with the Road Use Agreement or other crossing agreement.

c. The setbacks and height requirements set forth in this Agreement can be modified with written consent of the County.

6. Footings. Prior to construction, a structural professional engineer licensed in the State of Montana agreed upon by both Parties shall certify that the footing designs to be used to erect the wind turbines meet applicable industry safety standards.

7. ADLS. Towers will be lighted in accordance with the requirements of the Federal Aviation Administration ("FAA"). Developer shall submit and diligently pursue FAA approval of an application for the implementation of an aircraft detection lighting system ("ADLS") for the Project. If approved by the FAA, Developer will install and utilize an ADLS for the Wind Project in compliance with FAA guidance and instructions.

8. Sound Levels and Ice Throw.

a. Unless otherwise agreed to by the landowner, sound levels are not to exceed 50 dBa Leq, measured at the nearest outside wall of a non-participating occupied residential dwelling currently in existence in the County.

b. Unless otherwise agreed to by the Landowner, sound levels are not to exceed 55 dBa Leq at the nearest external wall of a Landowner's occupied residential dwelling currently in existence in the County.

c. Developer will collect meteorological data from on-site permanent meteorological towers, in-site anemometers, and other relevant

meteorological sources that will be used to determine if ice accumulation is occurring. Developer will ensure that this control measure will either automatically shut down the wind turbine(s) in icing conditions or Developer will manually shut down the wind turbine(s) if icing conditions are identified. Developer will not return the wind turbine(s) to normal operation until control measures no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern.

d. Upon a complaint related to shadow flicker or sound filed under the Complaint Resolution Agreement by a citizen of the County whose primary occupied residence is located within one mile of the nearest Wind Project turbine, Developer will produce a shadow flicker report and/or and sound report to the complaining County resident.

9. Shadow Flicker, Advertising, and Color.

a. Unless otherwise agreed to by the landowner, shadow flicker shall not exceed a cumulative 30 hours/year at non-participating occupied dwellings currently in existence in the County.

b. No logo or advertisement shall be located on turbines unless approved in advance by the County.

c. Turbine coloring shall conform to aviation safety regulations and shall have a non-reflective matte finish.

10. Insurance. Prior to the commencement of construction, Developer shall provide proof of insurance coverage.

11. Emergency Services, Fire Protection, and Hazardous Materials.

a. Developer or its affiliate will work in cooperation with the County emergency management authorities to establish standards for fire protection and emergency response.

b. Developer or its affiliate will work in cooperation with the County emergency management authorities to establish standards for the proper storage and handling of hazardous materials, if any, used in the construction or operation of the Wind Project.

c. Developer or its affiliate will work in cooperation with the County to establish

911 addresses for each wind turbine.

d. Developer will maintain additional emergency procedures as set forth in the Road Use Agreement.

e. Prior to construction, Developer shall enter into an additional development agreement with the Eastern Plains Economic Development Corporation ("EPEDC") that includes Developer making a contribution to be used for the benefit of the County's emergency management services in a manner determined by the Commissioners (e.g., county EMS, fire, law enforcement).

12. Sponsorship Fund. In addition to the contribution to the EPEDC, Developer shall establish a sponsorship fund as set forth in the Contribution Agreement by which Developer shall make an annual contribution of $10,000 to be used for the benefit of County residents in a manner determined by the County's residents.

13. Disclosure of Environmental Studies. Developer will provide to the County (upon written request) copies of any non-confidential and publicly available environmental summaries conducted on the Wind Project area.

14. Updates to County Residents. From the Effective Date of this Agreement until the Wind Project begins commercial operations, Developer shall provide a quarterly update to County residents. Such update shall be provided at a regularly scheduled meeting of the Commissioners on a date to be determined in coordination with the Commissioners. During the periods between updates, Developer shall maintain a point of contact to which County residents may direct questions and concerns. Developer shall make commercially reasonable efforts to promptly respond to questions and address concerns.

15. New and Expanding Industry Tax Abatement. Developer has previously submitted an application to the County for abatement of certain property taxes pursuant to Mont. Code Ann. §§ 15-24-1401, 1402. The County acknowledges and agrees that, contemporaneously with the execution of this Agreement and the Definitive Agreements, the County has approved Developer's application for tax abatement by a duly authorized and executed resolution of the Commissioners.

16. Impact Fee. Developer acknowledges that the County has subjected the Wind Project to an impact fee as set forth in the Impact Fee Agreement, pursuant to Mont. Code Ann. § 15-24-3004, *et seq*.

17. Manufacturer and Interconnection Specifications.

a. All wind turbines and related structures within the County shall be installed

in material compliance with manufacturer recommended specifications.

b. The maximum Tip Height of all wind turbines in the Wind Project for the Term shall be 600 feet. Developer may replace wind turbines as required or in the ordinary course, but any replacement wind turbine shall comply with the height limitation as set forth in this paragraph.

18. Compliance with Laws. Developer and its affiliates shall comply with all federal and state laws and regulations applicable to the construction and operation of the Wind Project, including:

a. Federal Aviation Administration and Department of Defense statutes and regulations, including those pertaining to wind turbine lighting and the review of the impact of siting or modification of wind turbines and other structures for air navigation;

b. Occupational Safety and Health Administration statutes and regulations;

c. United States Fish and Wildlife Service statutes and regulations, including those pertaining to impacts on endangered or threatened species or habitats;

d. U.S. Army Corps of Engineers statutes and regulations, including those pertaining to impacts on wetlands;

e. Environmental Protection Agency statutes and regulations, including those pertaining to environmental impacts;

f. Federal Communication Commission statutes and regulations, including those pertaining to wireless communications impacts;

g. Consultations with the Montana Department of Natural Resources and Conservation, including those pertaining to impacts on endangered or threatened species or habitats;

h. Consultations with the Montana Department of Environmental Quality, including those pertaining to environmental impacts and decommissioning;

i. Consultations with the Montana Department of Public Health and Human Services, including those pertaining to any environmental impacts;

j. Consultations with the Montana Historical Society pertaining to surveys of any historical sites that may be located within the Wind Project area;

k. Consultations with the Montana Department of Transportation, including those pertaining to road use and transportation; and

l. Any other applicable regulations promulgated by these and any other federal and state agencies.

19. Compliance with Warranties. All wind turbines shall be installed and operated so as to maintain applicable turbine manufacturer warranties.

20. Notices. All notices, requests and other communications provided for herein (including any modifications, or waivers or consents under this Agreement) shall be given or made in writing (including by electronic mail) delivered to the intended recipient at the address set forth below or, as to any Party, at such other address as shall be designated by such Party in a notice to the other Party. Except as otherwise provided herein, all notices and communications shall be deemed to have been duly given when transmitted by electronic mail with confirmation of receipt received, personally delivered, or in the case of a mailed notice, upon receipt, in each case given or addressed as provided herein.

To Developer:
Glendive Wind, LLC
Attn: Ross Feehan
700 Universe Boulevard,
Juno Beach, FL 33408
Phone: (561) 608-4030
Email: ross.feehan@nexteraenergy.com

With copy, which shall not constitute notice, to:
Crowley Fleck PLLP
Attn: Lucas H. Forcella
P.O. Box 2529
Billings, MT 59103
Phone: (406) 255-7211
Email: lforcella@crowleyfleck.com

To County:
_____ County, Montana
Attn: County Attorney
_____
_____, MT _____
Phone: (406) _____
Email: _____

21. Term. Unless extended by mutual agreement of the Parties, earlier terminated, or the Wind Project ceases to be in commercial operation, the terms set forth in this Agreement and all County approvals relating thereto shall extend for a period of 30 years from the commercial operation date of the Wind Project, at which point the Parties shall enter into good faith negotiations to extend the terms of this Agreement.

SECTION IV. REPRESENTATIONS AND WARRANTIES

A. COUNTY. The County represents and warrants that:

1. the County has all necessary power and authority to execute and deliver this Agreement and to perform its obligations hereunder;

2. upon execution and delivery by the County and Developer, this Agreement shall be a valid, legal, binding and enforceable obligation of the County enforceable against the County in accordance with its terms, subject to any applicable laws of bankruptcy, insolvency or reorganization, laws affecting the enforcement of creditors' rights generally, and general principals of equity;

3. no approval or consent from any other person or entity is required for the County's execution of this Agreement; and

4. this Agreement is executed by duly authorized representatives of the County who are fully authorized to execute this Agreement on behalf of the County.

B. DEVELOPER. Developer represents and warrants that:

1. Developer has all necessary power and authority to execute and deliver this Agreement and to perform its obligations hereunder;

2. upon execution and delivery by Developer and the County, this Agreement shall be a valid, legal, binding and enforceable obligation of Developer enforceable against Developer in accordance with its terms, subject to any applicable laws of bankruptcy, insolvency or reorganization, laws affecting the enforcement of creditors' rights generally, and general principals of equity;

3. no approval or consent from any other person or entity is required for Developer's execution of this Agreement; and

4. this Agreement is executed by a duly authorized representative of Developer, who is fully authorized to execute this Agreement on behalf of Developer.

SECTION V. DEFAULT PROVISIONS

A. If either Party fails to observe or perform any material condition or provision of this Agreement for sixty (60) days after receiving written notice of such failure from the other Party (the "Cure Period"), then the aggrieved Party shall have the right to terminate this Agreement upon thirty (30) days prior notice to the other Party and to pursue any remedy available to it at law or in equity; provided however, that for so long as the delinquent Party is diligently attempting to cure such failure and the failure is, in the aggrieved Party's discretion, reasonably capable of being cured, a default under this Section V shall not be deemed to have occurred.

B. Notwithstanding the foregoing, a Party's failure to observe or perform any material condition or provision of this Agreement due to an Excusable Delay shall not constitute a breach of this Agreement. For purposes of this Agreement, "Excusable Delay" means any casualty to property or persons, inclement weather, inability to secure materials, strikes or labor disputes, acts of God, acts of the public enemy or hostile or terrorist action, civil commotion, and/or governmental actions, restrictions, regulations or controls, including, without limitation, any failure or refusal of any governmental authority to timely issue any required permit or approval for development of the Wind Project or any legal action or proceeding involving any such required permit or approval (whether arising out of any existing laws or changes in laws, including any such laws relating to annexation, zoning, platting, building or other codes or ordinances applicable to development and construction of the Wind Project), or any other cause beyond the reasonable control of that Party (other than financial inability) which affects development, construction, maintenance, operation, repair, replacement or decommissioning of the Wind Project (including, without limitation, any of the foregoing which affect a Party's contractors or subcontractors).

C. Notwithstanding the foregoing, upon termination of this Agreement for default as defined above, the Development Requirements in Section III and the Road Use Agreement shall continue in full force and effect until final and complete cessation and decommissioning of the Project.

D. A default under any Definitive Agreement is a default under this Agreement and all other Definitive Agreements. The County may exercise any remedy allowed under any Definitive Agreement if a default exists that is not in a Cure Period.

SECTION VI. MISCELLANEOUS

A. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana without regard to the conflict of law principles thereof.

B. NO WAIVER. The failure of either Party to insist in any one or more instances on the performance of any of the obligations required by the other under this Agreement shall not be construed as a waiver or relinquishment of such obligation or right with respect to future

performance.

C. HEADINGS. The headings used in this Agreement are for ease of reference only and shall not in any way be construed to limit or alter the meanings of any provision hereof.

D. AMENDMENTS. This Agreement may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each Party. Any oral or verbal agreements between the Parties different from or in conflict with the provisions of this Agreement shall be null and void and of no force or effect where they are in conflict with the written provisions of this document.

E. ATTORNEY FEES: Should either Party hereto retain counsel for the purpose of enforcing or preventing the breach of any provision hereof, including but not limited to instituting any action or proceeding to enforce any provision hereof, for damages by reason of any alleged breach of any provision of this Agreement, for a declaration of such Party's rights or obligations hereunder or for any other judicial remedy, then the prevailing Party shall be entitled to be reimbursed by the other Party for all costs and expenses incurred in connection therewith, including but not limited to reasonable attorney fees for the services rendered to such prevailing Party.

F. ASSIGNMENT. This Agreement may be assigned only upon written consent of the Parties, except Developer may, upon notice to County, but without County's consent or approval, assign this Agreement to an affiliate, or mortgage, charge, pledge, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement. Notwithstanding anything to the contrary, Developer may only assign this Agreement if the assignee agrees and acknowledges in writing that such assignee shall be bound by terms and obligations of this Agreement. Upon such assignment all of Developer's rights and obligations shall inure to the benefit of and shall be binding upon Developer's assignee and its respective successors, assignees and legal representative.

G. INTERPRETATION. This Agreement was prepared with substantial input from both Parties and their respective legal counsel; no phrase, sentence, clause, provision or section of this Agreement shall be construed against a Party as a result of such Party's legal counsel having acted as the primary drafter thereof.

H. SEVERABILITY. In the event that any term or provision of this Agreement is deemed to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement. Upon a determination that any term or provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

I. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure

to the benefit of the successors, assigns, trustees and/or receivers of the Parties hereto.

J. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

K. TIME IS OF THE ESSENCE. Time is of the essence of this Agreement, and of each and every provision hereof, and the Parties shall make every reasonable effort to expedite the subject matters hereof and to perform their respective obligations.

[*signature pages follow*]

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed in their respective names by their duly authorized officers and dated their signatures as shown below.

DEVELOPER:

GLENDIVE WIND, LLC,
a Delaware limited liability company

_____

By: _____, its _____

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IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed in their respective names by their duly authorized officers and dated their signatures as shown below.

THE COUNTY:

THE BOARD OF COUNTY COMMISSIONERS OF _____ COUNTY, MONTANA

_____

Name: _____, County Commissioner

_____

Name: _____, County Commissioner

_____

Name: _____, County Commissioner

ATTEST:

_____

Name: _____, County Clerk

Reviewed and approved by:

_____

Name: _____, County Attorney

EXHIBIT A

[*forthcoming*]