Book 2011 Page 487
Document 2011 487 Type 06 006 Pages 4
Date 2/04/2011 Time 2:25:32PM
Rec Amt $24.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by: Kathleen K. Law, 700 Walnut, Suite 1600, Des Moines, IA 50309; 515-283-3116
Return to: Steve Dryden, 4800 Mills Civic Pkwy, Ste. 207, West Des Moines, IA 50265

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

This is an Agreement between Community Savings Bank, whose address is P.O. Box 77, Edgewood, IA 52042 ("CSB") and Elk Wind Energy LLC, an Iowa limited liability company, its successors and assigns ("Elk Wind"), whose address is 4800 Mills Civic Pkwy, Ste. 207, West Des Moines, IA 50265.

The parties are making this agreement for the following reasons:

A. Charles V. Robinson and Debra Sue Robinson, husband and wife is the owner ("Owner") of the real property legally described on attached **Exhibit A at Page 4** (the "Property").

B. CSB has an interest in some or all of the Property by virtue of that certain Assignment for Security Purposes Only dated July 6, 1994, filed July 8, 1994 and recorded in Book 133 at Page 225 of the Delaware County Records (the "Instrument") by which Owner assigned its vendee's interest in that certain Real Estate Contract recorded in Book 126 at Page 116 of the Delaware County Records.

C. Owner and Elk Wind are the parties to a Wind Farm Easement Agreement ("Easement Agreement"), as that document may be amended or supplemented from time to time, pertaining to all or part of the Property (the "Easement Properties"). The Easement Properties are shown on **Exhibit B** (to be replaced by **Exhibit C** at a later date) to a Memorandum of Wind Farm Easements ("Memorandum") that will be recorded in the public records together with this document.

D. Effectiveness of the Easement Agreement is conditioned on receipt by Elk Wind of all subordination and non-disturbance agreements from lenders and holders of other liens, encumbrances, or interests in the Property as necessary to assure Elk Wind's undisturbed use and enjoyment of the Easement Properties according to the terms of the Easement Agreement. CSB desires to cooperate with and assist Owner to make the Easement Agreement effective.

E. CSB wishes to enter into this Agreement to confirm CSB's consent to the terms of the Easement Agreement as well as the subordination of CSB's interest in the Property to the Easements granted in the Easement Agreement. The parties also wish to confirm Elk Wind's

possession and rights in the Easement Properties will not be disturbed except as specifically agreed below.

NOW, THEREFORE, in consideration of the above and mutual benefit to the parties, CSB and Elk Wind agree as follows:

1. **SUBORDINATION.** Whatever right, title, lien, estate and interest CSB now has or may hereafter acquire in the Property by virtue of the Instrument shall be junior, inferior and subordinate to the rights of Elk Wind, its successors and assigns, under the Easement Agreement.

2. **NON-DISTURBANCE.** So long as the Easement Agreement is in full force and effect CSB shall not disturb Elk Wind's use and possession of the Easement Properties, nor shall CSB disturb any other rights in the Property granted Elk Wind in the Easement Agreement, or do anything that would materially interfere with the construction, operation and maintenance of the Wind Farm.

3. **NOTICES.** Any notice or communication required or permitted under this Agreement shall be given in accordance with the procedure in the recorded Memorandum addressed to Elk Wind at the address in the Memorandum and to CSB at the address set forth above (as those addresses may be updated of record).

4. **SUCCESSORS AND ASSIGNS**. This Agreement shall inure to the benefit of and shall be binding upon Elk Wind and CSB, and their respective heirs, personal representatives, successors and assigns.

Community Savings Bank

By: Arlyn D Maifeld S.V.P.

Printed Name: Arlyn D. Maifeld

STATE OF IOWA, Delaware **COUNTY, SS:**

This instrument was acknowledged before me on January 24th 2011 by Arlyn D. Maifeld as Senior Vice President of Community Savings Bank.

Notarial Officer

Seal

AARON THEISEN
COMMISSION NO. 764858
MY COMMISSION EXPIRES
9/27/11

Elk Wind Energy LLC

By: _____

Printed Name: Stephen F. Dryden
Title: Authorized Representative

STATE OF IOWA, Delaware **COUNTY, ss:**

This instrument was acknowledged before me on this 19 day of January, 2011, by Stephen F. Dryden as an Authorized Representative of Elk Wind Energy LLC.



Seal

_____
Notarial Officer

EXHIBIT A

Legal Description of the Property

The Southeast Quarter of the Southwest Quarter (SE 1/4 of SW 1/4), and all that part of the West One-Half of the Southeast Quarter (W 1/2 of SE 1/4), lying South of New Vienna and State Line Road, in Section 19, Township 90 North, Range 4 West, Delaware County, Iowa.