Book 2021 Page 714
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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Aaron Thuesen
7311 E. Mendo Blvd
Spirit Lake IA 51360

Prepared by: Kathleen Law, 700 Walnut, Suite 1600, Des Moines, IA 50309; 515-283-3116
Return to: Felix Friedman, PO Box 439, 7 Ellefson Drive, De Soto, IA 50069-7729

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

This is an Agreement between Kenneth J. Wilgenbusch, whose address is 825 Tanglewood Drive, Manchester, IA 52057 ("**Wilgenbusch**") and Independence Wind Energy LLC, an Iowa limited liability company, and its successors and assigns ("**Independence Wind**"), whose address is PO Box 439, 7 Ellefson Drive, De Soto, IA 50069-7729.

The parties are making this agreement for the following reasons:

A. Francis Donald Hilby Disclaimer Trust, contract seller, subject to the interests of Ricky J. Hilby and Roni L. Hilby, husband and wife, as contract purchasers, is the owner ("**Owner**") of the real property legally described on attached Exhibit A at Page 4 (the "**Property**").

B. Wilgenbusch has an interest in some or all of the Property by virtue of Manure Application Agreement recorded at **Book 2004, Page 1449** of the Delaware County records (the "**Instrument**").

C. Owner and Independence 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) as described in the Memorandum of Wind Farm Easement Agreement ("**Memorandum**") that will be recorded in the public records together with this document.

D. Effectiveness of the Easement Agreement is conditioned on receipt by Independence 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 Independence Wind's undisturbed use and enjoyment of the Easement Properties according to the terms of the Easement Agreement. Wilgenbusch desires to cooperate with and assist Owner to make the Easement Agreement effective.

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

and Independence Wind agree as follows:

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

2. **NON-DISTURBANCE.** So long as the Easement Agreement is in full force and effect Wilgenbusch shall not disturb Independence Wind's use and possession of the Easement Properties, nor shall Wilgenbusch disturb any other rights in the Property granted Independence 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 Independence Wind at the address in the Memorandum and to Wilgenbusch at the address set forth above (as those addresses may be updated by notices given pursuant hereto).

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

Kenneth J. Wilgenbusch

STATE OF ~~Iowa~~ Delaware **COUNTY, SS:**

This record was acknowledged before me on February 15, 2021 by Kenneth J. Wilgenbusch.

Kevin Lehs
Notary Public in and for said State

STAMP



INDEPENDENCE WIND ENERGY LLC, an Iowa limited liability company

By: Matthew C. Garwood

Matthew C. Garwood, Authorized Representative

STATE OF IOWA, Polk COUNTY, ss:

This record was acknowledged before me on February 19th, 2021, by Matthew C. Garwood as Authorized Representative of Independence Wind Energy LLC, an Iowa limited liability company.

Notary Public in and for said State

STAMP

AARON THEISEN
COMMISSION NO. 797120
MY COMMISSION EXPIRES
09/01/2021

EXHIBIT A

Legal Description of the Property

Parcel 1: The East One-half (E 1/2) of the Southwest Quarter (SW 1/4) of Section 27, Township 88 North, Range 6, West of the 5th P.M., Delaware County, Iowa, subject to highways and easements of record.

Parcel 2: The West one-half (W 1/2) of the Southwest Quarter (SW 1/4) of Section 27, Township 88 North, Range 6 West of the 5th P.M., Delaware County, Iowa, subject to highways and easements of record.