

BK: 2018 PG: 1746
Recorded: 6/1/2018 at 2:04:15.0 PM
Fee Amount: \$32.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

PLEASE RETURN TO: MIDAMERICAN ENERGY ATTN: RIGHT-OF-WAY SERVICES P.O. BOX 657 DES MOINES, IA 50303-0657
Prepared by: Ryan K. Gurwell, A&R Land Services, 1609 Golden Aspen Dr., Suite 104, Ames, IA 50010 (515)337-1197

LENDER NON-DISTURBANCE AGREEMENT

This Non-Disturbance Agreement (this "**Agreement**"), dated as of May 24, 2018, is made and entered into by and between MidAmerican Energy Company, and its successors and assigns ("**Grantee**") and Farm Credit Services of the Midlands, FLCA ("**Lender**").

RECITALS

A. Grantee and Robert L. Boyle and Marilyn J. Boyle, as Trustees of the Robert L. Boyle Living Trust, dated June 16, 2016 ("**Owner**") are parties to a WINDPARK EASEMENT AGREEMENT, as evidenced by that certain MEMORANDUM OF WINDPARK EASEMENT AGREEMENT of even date (together, "**Easement Agreement**"), as those documents may be amended or supplemented from time to time, affecting the real property described on attached Exhibit A (the "**Property**");

B. Lender is the holder of a promissory note secured by a mortgage, deed of trust, or other security instrument (the "**Mortgage**") recorded at Book 172, Page 640 and re-recorded in Book 172, Page 779 in the records of the Madison County Recorder that is a lien on all or a portion of the Property;

C. Grantee has requested that Lender agree not to disturb any rights of Grantee under the Easement Agreement with respect to the Property if Lender forecloses the Mortgage; and

D. Lender is willing to so agree on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lender covenants and agrees with Grantee that, provided (i) the Easement Agreement is in full force and effect and (ii) no event of default by Grantee exists under the Easement Agreement beyond the applicable grace period, Grantee's right to possession of the

Property, and the terms and provisions of the Easement Agreement, will not be affected or disturbed by Lender in the exercise of any of its rights under the Mortgage or of any rights otherwise available to Lender at law or in equity.

2. If a Successor Owner (as defined below) comes into possession or ownership of the Property, then such Successor Owner will (i) thereby succeed to the position of the Owner, and Grantee will attorn to the Successor Owner, under the Easement Agreement and (ii) not disturb the possession of Grantee except in accordance with the terms of the Easement Agreement or this Agreement, and the Easement Agreement will continue in full force and effect. **“Successor Owner”** means any person or entity (including, without limitation, Lender or any nominee or designee of Lender) that while this Agreement is in effect acquires possession or ownership of the Property by reason of judicial or non-judicial foreclosure of the Mortgage, any other exercise by Lender of rights and remedies available to Lender as holder of the Mortgage, or delivery of a deed to the Property in lieu of foreclosure. Notwithstanding the foregoing, a Successor Owner will not be:

(a) liable for any act, omission or default of Owner under the Easement Agreement occurring prior to Successor Owner’s possession or ownership;

(b) subject to any offsets or defenses which Grantee might have against Owner attributable to actions occurring prior to Successor Owner’s possession or ownership; or

(c) bound by any amendment, modification, waiver or forbearance of the Easement Agreement to the extent such amendment, modification, waiver or forbearance would have a material adverse effect upon any right of Successor Owner without Successor Owner’s written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

3. All notices, requests and communications under this Agreement must be in writing and will be deemed to have been duly given only if delivered personally or by nationally recognized courier service or mailed (first class postage prepaid) to the parties at the following addresses:

If to Lender: America
Farm Credit Services of the Midlands, FLCA
~~206 S. 19th St.~~ PO Box 520
~~Omaha, NE 68102~~ Perry IA 50220
Attention: _____

If to Grantee: MidAmerican Energy Company
4299 Northwest Urbandale Drive
Urbandale, Iowa 50322
Attention: Vice President- Renewable Energy

All such notices, requests and other communications will (i) if delivered personally or by nationally recognized courier to the address as provided in this Section, be deemed given upon delivery, and (ii) if delivered by mail in the manner described above to the address provided in this Section, be deemed given upon receipt. Any party may from time to time change its address or

4. This Agreement is binding upon and will inure to the benefit of the successors and permitted assigns of Lender and Grantee.

5. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Remainder of page intentionally left blank; next page is signature page]

FARM CREDIT SERVICES OF THE MIDLANDS, FLCA

By: Karen Turner

Printed Name: Karen Turner

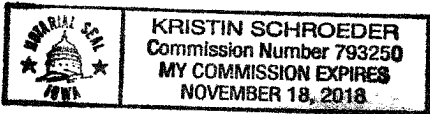
Title: Assitant Corp. Secretary

STATE OF Iowa, Dallas COUNTY) ss:

This record was acknowledged before me on May 24, 2018 by

Karen Turner as Assitant Corp Secretary
(name of person signing) (type of authority, e.g. officer, manager, trustee etc.)

of Farm Credit Services of the Midlands, FLCA.



Kristin J


Notarial Officer

My commission expires: 11-18-18

STAMP

[SIGNATURES CONTINUE ON NEXT PAGE]

MidAmerican Energy Company

By: 

Name: Adam Jablonski

Title: Project Manager

STATE OF IOWA, POLK COUNTY) ss:

This record was acknowledged before me on May 30, 2018 by Adam Jablonski as Project Manager, Renewable Energy of MidAmerican Energy Company.

Angela M. Sheeley-Gurwell
Angela M. Sheeley-Gurwell Notarial Officer

My commission expires: 9/13/20

STAMP

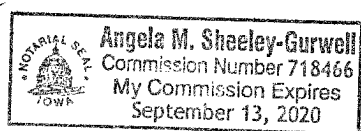


EXHIBIT A

Legal Description

Tract 1: A parcel of land in the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section Seven (7), Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, more particularly described as: Beginning at the Southeast corner of Section Seven (7), Township Seventy-six (76) North, Range Twenty-nine (29), thence along the East line of the Southeast Quarter (SE 1/4) of said Section, on an assumed bearing of N00°00'00" E a distance of 357.07 feet, thence N89°42'12" W 610.00 feet, thence S00°00'00" 357.07 feet to the South line of said Southeast Quarter (SE 1/4), thence S89°42'12" E 610.00 feet to the point of beginning, containing 5.00 acres, more or less, including public road, and 4.631 acres, more or less, excluding public road;

AND

Tract 2: The Southwest Quarter (SW 1/4) of Section Twenty-nine (29), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa;

AND

Tract 3: The East 70 1/2 acres of the Southwest Quarter (SW 1/4) and the West 19 acres of the Southeast Quarter (SE 1/4) of Section Nine (9), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa.