

Recorded: 11/22/2023 at 11:55:02.0 AM
County Recording Fee: \$47.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$50.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 2944

Prepared By: Kelli J. Orton, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309; (515) 242-2400
Return To: Mehul Mehta, c/o Greenbacker Renewable Energy Corporation, 230 Park Avenue, Suite 1560, New York, NY 10169
Previously Recorded Documents: Book 2011, Page 555; Book 2011, Page 3664

MEMORANDUM OF SECOND AMENDMENT TO WIND FARM EASEMENT AGREEMENT (Elk Wind Farm)

This Memorandum of Second Amendment to Wind Farm Easement Agreement (the “**Memorandum**”) is executed this 25th day of October, 2023, by and between James F. Funke and Elaine Funke, husband and wife, and the Michael J. Funke Revocable Trust (collectively, “**Owner**” or “**You**”) and Elk Wind Energy LLC, an Iowa limited liability company (“**Elk**” or “**We**”).

WHEREAS, James Funke aka James C. Funke (“**Original Owner**”), and Elk entered into a Wind Farm Easement Agreement dated on or about December 22, 2010, as evidenced by a certain Memorandum of Wind Farm Easement Agreement recorded in the Office of the Recorder of Delaware County, Iowa (the “**Recorder’s Office**”), on February 10, 2011 at Book 2011, Page 555, and as amended by a certain Supplemental Exhibit recorded in the Recorder’s Office on November 15, 2011 at Book 2011, Page 3664 (collectively, the “**Agreement**”), and as amended by a certain First Amendment to Wind Farm Easement Agreement dated September 16, 2022 (the “**First Amendment**”) covering certain real property referred to in the Agreement as “**Your Property**”, as legally described on **Exhibit A**, attached hereto and incorporated herein. Capitalized terms used but not defined in this Second Amendment have the meanings given to them in the Agreement; and

WHEREAS, Original Owner conveyed Your Property to You in August of 2018. The Funke Revocable Trust conveyed Your Property to You in June 2022 and You are the successor in interest to Original Owner under the Agreement; and

WHEREAS, Under the terms of the Agreement, Elk has constructed the Wind Farm; and

WHEREAS, Elk is planning to perform work at the Wind Farm to upgrade certain components of the Wind Energy Facilities, which may include, without limitation, installing longer turbine blades (the “**Repowering**”). The planning process, market conditions, availability of labor and supplies, and financing are among the factors that influence whether and when Elk will undertake the Repowering. However, Elk currently expects to commence the Repowering before the end of 2023; and

WHEREAS, Owner and Elk entered into an amendment to the Easement on October 25, 2023
(the “**Second Amendment**”).

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Exhibit E**, attached hereto and incorporated herein, shall replace Exhibit C.
2. The “Term” of the Turbine Site Easement and the Met Tower Site Easement has been extended for one additional 25 year term (the “Renewal Term”) to begin at the end of the Term. The Construction Easement, Access Easement, Collection Facilities Easement, Overhang Easement, Wind Non-Obstruction Easement, Noise Easement, Light and Shadow Easement and Studies Easement shall continue so long as any of the Wind Energy Facilities in the Wind Farm exist, including replacements, unless terminated earlier in writing by Elk.
3. All notices or other communications required or permitted by the Agreement shall be made to the addresses below:

If to Owner: James F. Funke
 1071 Laser Rd.
 Edgewood, IA 52042

Michael J. Funke Revocable Trust
c/o Michael J. Funke
228 Bailey Drive
Manchester, IA 52057

If to Elk: Elk Wind Energy LLC
 c/o Greenbacker Renewable Energy Corporation
 230 Park Avenue, Suite 1560
 New York, NY 10169
 Attention: General Counsel

4. Other terms of the Amendment are as set forth in the Amendment.
5. This Memorandum may be executed in one or more counterparts or using counterpart signature and acknowledgment pages, all of which, when taken together, shall constitute one instrument.

[Remainder of page left intentionally blank; signature pages follow]

IN WITNESS WHEREOF, the parties hereto have signed this Memorandum on the date first written above.

ELK:
ELK WIND ENERGY LLC,
an Iowa limited liability company

By: [Signature]
Name: Charles Wheeler
Title: Authorized person

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF New York)
) ss.
COUNTY OF New York)

On Sept 6, 2023, before me, Maria Rojas, a Notary Public, personally appeared Charles Wheeler, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New York that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

MARIA ROJAS
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01RO0005486
Qualified in New York County
My Commission Expires 04/13/2027
[SEAL]

[Signature]
Signature

OWNER:



James F. Funke
James F. Funke

Elaine Funke
Elaine Funke

ACKNOWLEDGMENT

STATE OF IOWA)
) ss.
COUNTY OF Delaware)

This instrument was acknowledged before me on 11-17, 2023, by James F. Funke and Elaine Funke, husband and wife.

Mary Fisher
Signature of Notary Public



MICHAEL J. FUNKE REVOCABLE TRUST

By: Michael J. Funke
Michael Funke, Trustee

ACKNOWLEDGMENT

STATE OF IOWA)
) ss.
COUNTY OF Delaware)

This instrument was acknowledged before me on 11-17, 2023, by Michael as Trustee of the Michael J. Funke Revocable Trust.

Mary Fisher
Signature of Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF YOUR PROPERTY

Parcel 1: The South One-half of the Southwest Quarter (S 1/2 SW 1/4) of Section Seven (7), Township Ninety (90) North, Range Four (4) West of the 5th P.M., Delaware County, Iowa; Except the railroad right of way, AND Parcel 2: The East One-half of the Southeast Quarter (E 1/2 SE 1/4) of Section Twelve (12) EXCEPT that portion thereof lying North of 120th Street; AND The North One-half of the Northeast Quarter of the Northeast Quarter (N 1/2 NE 1/4 NE 1/4) of Section Thirteen (13), Except the railroad right of way, all in Township Ninety (90) North, Range Five (5) West of the 5th P.M., in Delaware County, Iowa, AND Parcel 3: All of Chicago, Milwaukee, St. Paul and Pacific Railroad Company's 100 foot wide right-of-way across the SE 1/4 SE 1/4, Section 12, and NE 1/4 NE 1/4, Section 13, Township 90 North, Range 5 West, Delaware County, Iowa.

Net Acreage of Parcel per Assessor's Records: 105.30

EXHIBIT E

220TH AVE
(Publicly Dedicat

EASEMENT DESCRIPTION:
A PART OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 07, TOWNSHIP 90 NORTH, RANGE 04 WEST OF THE 5TH P.M., DELAWARE COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

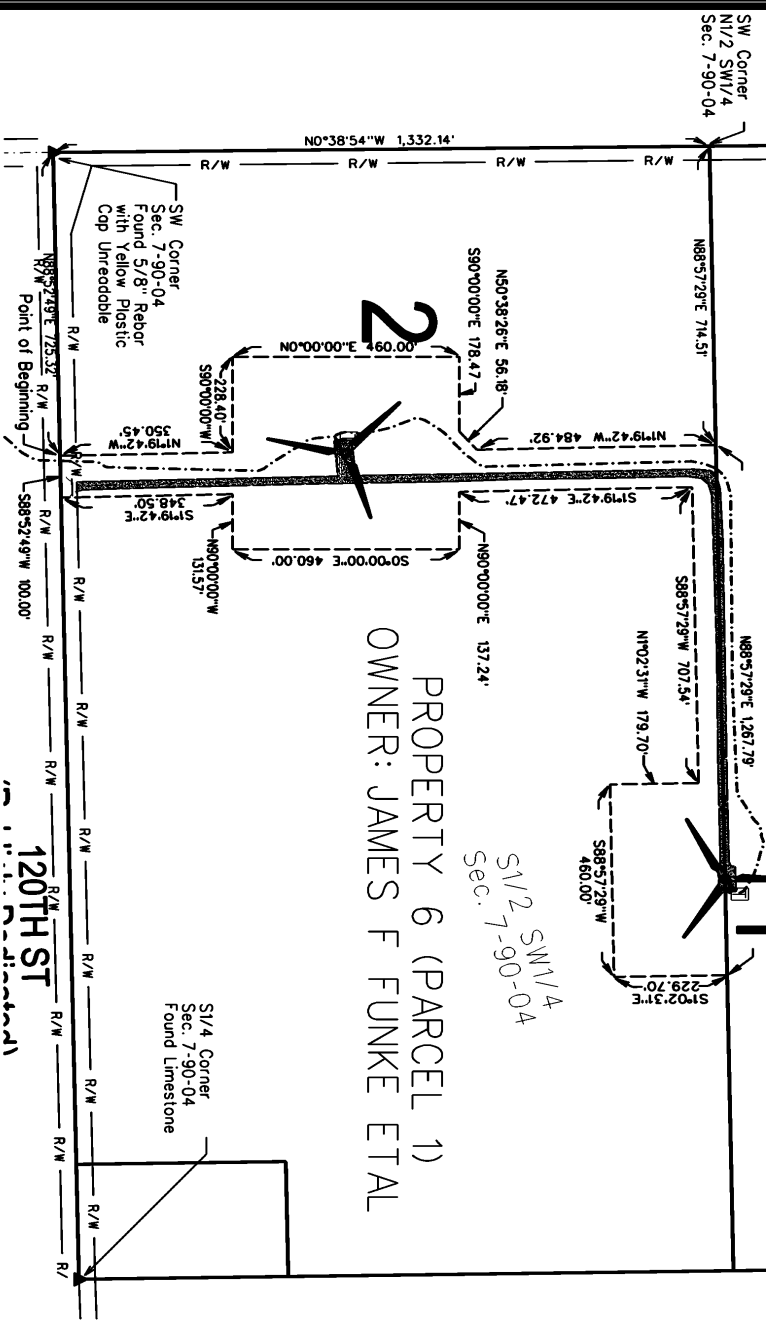
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 7; THENCE NORTH 88°52'49" EAST ALONG THE SOUTH LINE OF SAID SOUTH 1/4, A DISTANCE OF 725.32 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°19'42" WEST, 350.45 FEET; THENCE SOUTH 90°00'00" WEST, 228.40 FEET; THENCE NORTH 00°00'00" EAST, 460.00 FEET; THENCE SOUTH 90°00'00" EAST, 178.47 FEET; THENCE NORTH 50°38'26" EAST, 56.18 FEET; THENCE NORTH 01°19'42" WEST, 484.92 FEET TO THE NORTH LINE OF SAID SOUTH 1/2 OF THE SOUTHWEST 1/4; THENCE NORTH 88°57'29" EAST ALONG SAID NORTH LINE, 1267.79 FEET; THENCE SOUTH 01°02'31" EAST, 229.70 FEET; THENCE SOUTH 88°57'29" WEST, 179.70 FEET; THENCE SOUTH 01°02'31" WEST, 179.70 FEET; THENCE SOUTH 88°57'29" WEST, 707.54 FEET; THENCE SOUTH 01°19'42" EAST, 472.47 FEET; THENCE NORTH 90°00'00" EAST, 137.24 FEET; THENCE SOUTH 00°00'00" EAST, 460.00 FEET; THENCE NORTH 90°00'00" WEST, 131.57 FEET; THENCE SOUTH 01°19'42" EAST, 348.50 FEET TO SAID SOUTH LINE OF SAID SOUTHWEST 1/4; THENCE SOUTH 88°52'49" WEST ALONG SAID SOUTH LINE, 100.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 10.11 ACRES (440,539 S.F.).

Right-of-Way

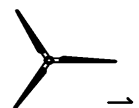
N1/2 SW1/4
Sec. 7-90-04

S1/2 SW1/4
Sec. 7-90-04

PROPERTY 6 (PARCEL 1)
OWNER: JAMES F FUNKE ETAL



LEGEND



TURBINE WITH NUMBER

EASEMENT LINE

COLLECTION LINE

PROPERTY BOUNDARY

ACCESS ROAD/GRAVEL LIMITS

TRANSFORMER

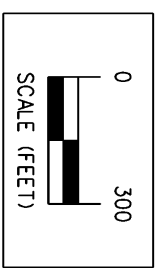
JUNCTION BOX

COLLECTION LINE SPICE LOCATIONS

TILE REPAIR LOCATION

NOTES

1) UNDERGROUND COLLECTION LINES SPICE LOCATIONS AND TILE CROSSINGS WERE PROVIDED BY MPNELEVEL. THE ABOVE-GROUND JUNCTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED.



ELK WIND PROJECT

EXHIBIT E - PROPERTY 6 - JAMES F FUNKE ETAL

DELAWARE COUNTY, IA

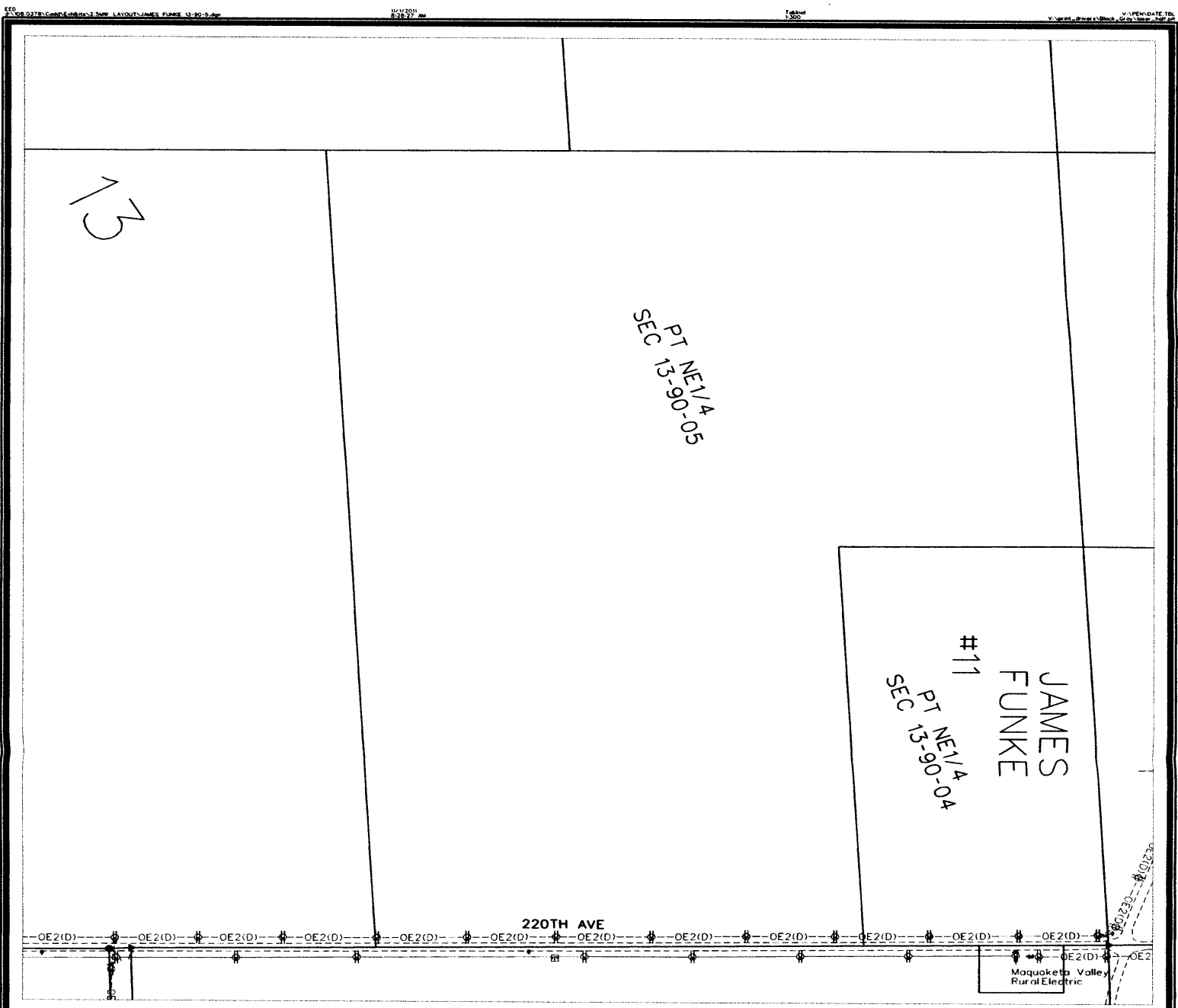
SNYDER & ASSOCIATES, INC.

2727 S.W. SNYDER BLVD.
ANKENY, IOWA 50023
515-984-2020 | www.snyder-associates.com

MARK	REVISION	DATE	BY
Engineer:	Checked By: EJM	Scale: 1"= 300'	
Technician: SDB	Date: 04/03/23	Field Bk:	Pg:
Project No: 1190762		Sheet 1 of 1	

SNYDER & ASSOCIATES

Project No: 1190762
Sheet 1 of 1

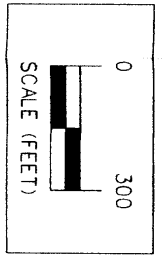


LEGEND

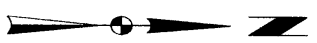
- TURBINE WITH NUMBER
- EASEMENT LINE
- COLLECTION LINE
- PROPERTY BOUNDARY
- ACCESS ROAD/GRAVEL LIMITS
- LINEAL FOOTAGE OF ACCESS ROAD
- TRANSFORMER
- JUNCTION BOX
- COLLECTION LINE SPLICE LOCATIONS
- TILE REPAIR LOCATION

NOTES

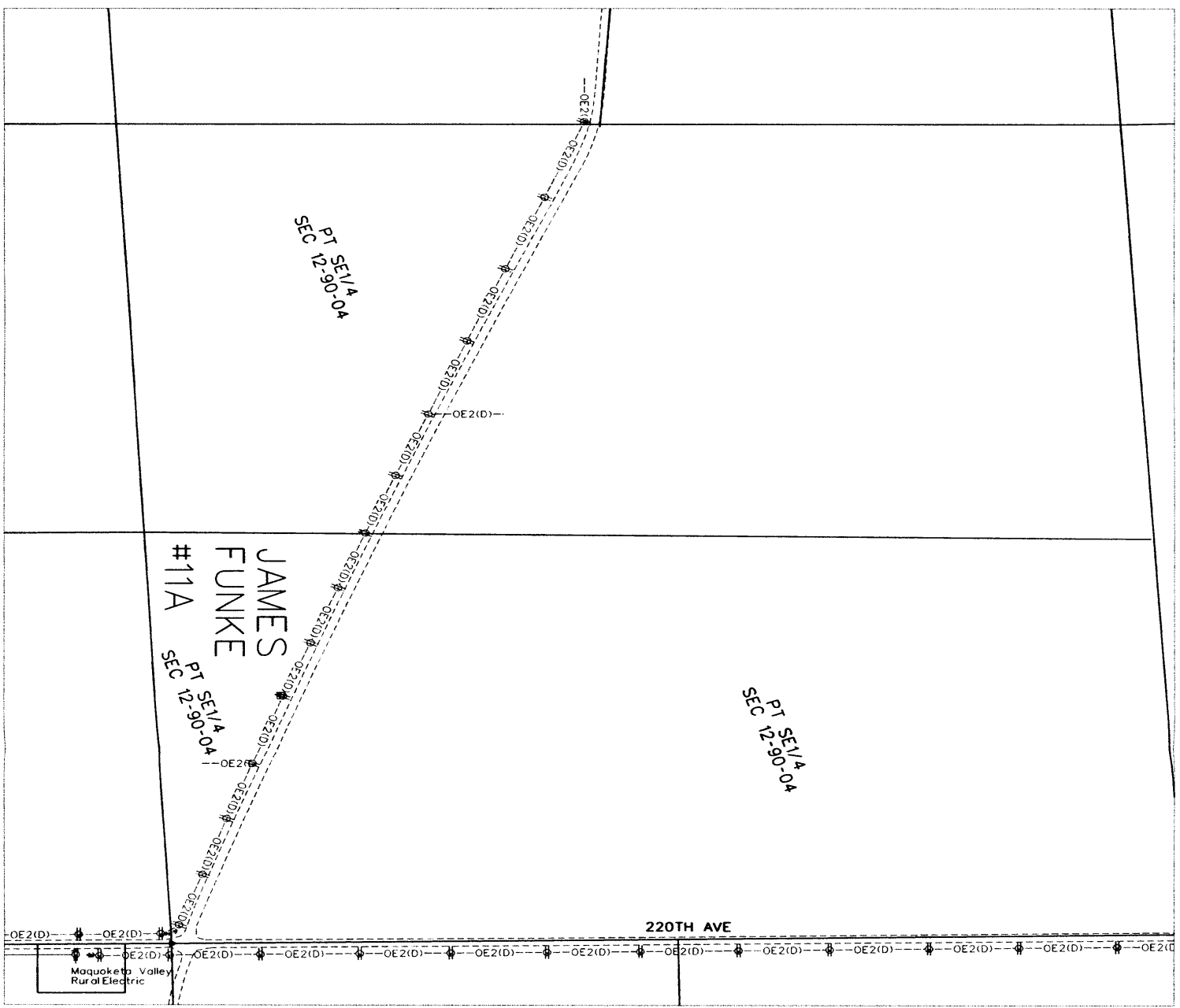
- 1) UNDERGROUND COLLECTION LINES, SPLICE LOCATIONS AND TILE CROSSINGS WERE PROVIDED BY MINKLE LEVEL. THE ABOVE-GROUND JUNCTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED.
- 2) THE DIMENSIONS SHOWN ON THE EXHIBIT C DRAWINGS ARE MEASURED HORIZONTALLY, WITH NO CONSIDERATION TO SLOPE OR ELEVATION.
- 3) THE LINEAL FEET (L.F.) SHOWN ON THE COLLECTION LINE CONTAINS THE CUMULATIVE AMOUNT OF CABLE ON THE PROPERTY SHOWN IN THE EXHIBIT.
- 4) THE ACCESS ROAD IS DIMENSIONED FROM THE TURBINE TO THE PROPERTY LINE OR PUBLIC RIGHT-OF-WAY LINE, AS APPLICABLE.
- 5) THE FIELD SURVEY WAS PERFORMED IN LATE SEPTEMBER AND EARLY OCTOBER OF 2011.



ISSUE DATE: 10-31-2011



	RPM ACCESS - ELK WIND PROJECT- EXHIBIT C		DATE BY																
	JAMES FUNKE PT NE1/4 13-90-05		REVISION																
	SNYDER & ASSOCIATES		DELAWARE COUNTY, IOWA																
1761 MADISON AVENUE COUNCIL BLUFFS, IOWA 51903 712-322-3202	ATLANTIC, IA 713-343-8905 CEDAR RAPIDS, IA 319-362-8984	MARYVILLE, MO 860-882-8888 ST. JOSEPH, MO 816-384-5222	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Engineer:</td> <td>Checked By: EJM</td> <td>Date: 10-03-2011</td> <td>Scale: 1"= 300'</td> </tr> <tr> <td>Technician: EED</td> <td>Field Blk:</td> <td>Pg:</td> <td></td> </tr> <tr> <td>Project No: 1080378</td> <td colspan="3"></td> </tr> <tr> <td>File No:</td> <td colspan="3"></td> </tr> </table>	Engineer:	Checked By: EJM	Date: 10-03-2011	Scale: 1"= 300'	Technician: EED	Field Blk:	Pg:		Project No: 1080378				File No:			
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Project No: 1080378																			
File No:																			
Sheet 1 of 1	Sheet 1 of 1																		

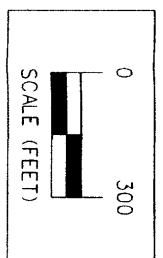


LEGEND

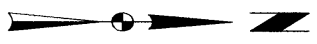
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NOTES

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- 4) THE ACCESS ROAD IS DIMENSIONED FROM THE TURBINE AS APPLICABLE.
- 5) THE FIELD SURVEY WAS PERFORMED IN LATE SEPTEMBER AND EARLY OCTOBER OF 2011.



ISSUE DATE: 10-31-2011



RPM ACCESS - ELK WIND PROJECT- EXHIBIT C

JAMES FUNKE PT SE1/4 12-90-05

DELAWARE COUNTY, IOWA

SNYDER & ASSOCIATES

1751 MADISON AVENUE
 COUNCIL BLUFFS, IOWA 51503
 712-322-3202

ATLANTIC, IA 712-343-8505
 CEDAR RAPIDS, IA 515-694-2020
 319-362-8594

HARRYSVILLE, MO 660-852-8886
 ST. JOSEPH, MO 816-394-6222

MARK	REVISION	DATE	BY

Engineer: EED Checked By: EJM Scale: 1" = 300'
 Technician: EED Date: 10-03-2011 Field By: Pg:
 Project No: 1080378
 File No: Sheet 1 of 1

1080378
 Sheet 1 of 1