

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - SOUTH DAKOTA**

### **Matter of Ehlebracht**

**Supreme Court of South Dakota - August 3, 2022 - N.W.2d - 2022 WL 3097464 - 2022 S.D. 46**

Intervenors impacted by potential wind energy farm appealed Public Utilities Commission's (PUC) approval of siting permit for wind energy farm.

The Circuit Court affirmed, and intervenors appealed.

The Supreme Court held that:

- PUC correctly applied legal standard requiring an applicant to comply with all applicable laws and rules;
- Application adequately complied with requirement that it include a "forecast" of the impact that the facility would have on solid waste management facilities;
- Adoption of noise levels set forth in amended county ordinance did not pose any danger to the health, safety, or welfare of the inhabitants living near the project;
- Applicant's failure to commission a field study to measure the ambient sound that existed naturally in area of proposed wind energy farm prior to construction did not indicate that applicant failed to meet its burden to show that the facility would not substantially impair the health, safety or welfare of the inhabitants;
- Applicant met its burden to show that the facility would not substantially impair the health, safety or welfare of the inhabitants as it related to the topic of infrasound; and
- Applicant was not required to submit an air quality study.