

DRAFT Commercial Wind Energy Conversion System (WECS) Performance Standards March 2010

(First Draft from 07-07-11)

APPENDIX V -Commercial Wind Energy Conversion System (WECS) Performance Standards

I. DEFINITIONS

The following words and terms, as used herein, shall have the following meanings: A. "Applicant" means the entity or person who has submitted to the County of Lee an application for a Special Use Permit for a WECS Project.

B. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

B. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

D. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.

- E. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the **State of Illinois**.
- F. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- G. "Shadow Flicker" means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.
- H. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- I. "Wind Energy Conversion System" ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s).
- J. "WECS Project" means the collection of WECSs and Substation(s) as specified in the Special Use Permit application, **including the land on which the WECSs are placed.**
- K. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- L. "WECS Turbine" means the support structure to which the nacelle and rotor are attached, and the nacelle and rotor.
- M. "WECS Turbine Height" means the distance from the rotor blade at its highest point to the **ground** surface surrounding the WECS foundation.

II. INFORMATION REQUIRED

- A. All applications for Special Use Permit shall be made on forms provided by the **Zoning Office** and be accompanied by the required fee.
- B. The application for Special Use Permit shall include a site plan containing the following information and meeting the following requirements:

1. The boundaries of all WECS Project parcels and participating parcels.
2. The boundaries of all non-participating parcels located within 2,640 feet of any boundary of the WECS Project parcels.
3. The names, addresses, and parcel numbers of the owners of all WECS Project parcels and participating parcels.
4. The names and addresses of the owners of all non-participating parcels that adjoin the WECS Project and participating parcels.
5. The names and addresses of the owners of all non-participating parcels that are located within 2,640' of any boundary of the WECS Project and participating parcels.
6. Existing zoning of each WECS Project parcel and all required setbacks on each WECS Project parcel.
7. The proposed location of all components of the proposed WECS Project, including but not limited to the WECS turbine, WECS tower, access roads, control facilities, construction staging area(s), maintenance facility or facilities, and all power collection and transmission systems.
8. The location of all structures located on WECS Project parcels, participating parcels, and any non-participating parcel located within 2,640 feet of any boundary of a WECS Project parcel and participating parcel.
- *9. The location of all public roads, railroad right-of-ways, restricted landing areas (RLAs), and right-of-ways located within and adjacent to the WECS Project parcels, and within 1,000 feet of, or three times the total height of a proposed WECS, whichever is greater.
10. Municipal boundaries, 1.5 mile municipal extraterritorial jurisdiction radii, civil township boundaries, county boundaries, and school district boundaries.
11. The location of all mapped wetlands (per USFWS National Wetlands Inventory) and Special Flood Hazard Areas (per the Lee County Flood Insurance Rate Maps) within the WECS Project.
- *12. Dimensional representation and maximum sizes of the structural components of the WECS construction including the base, footings, tower, and blades.

13. Schematic of electrical systems associated with the proposed WECS Project including all existing and proposed electrical connections.
 14. WECS manufacturer's specifications and installation and operation instructions, or specific WECS design information.
 15. The size and scale of the site plan shall be as determined by the County Highway Engineer. The scale map shall include a north arrow, the date, the scale, and reference to a section corner. The site plan shall include such additional information as the County Highway Engineer may require.
 16. An analysis of the project area representing the occurrence of shadow flicker and the occurrence of noise that would be created by the proposed WECS.
 17. Other information as required herein and/or reasonably required by the Zoning Administrator.
- C. The following digital geographic information shall be provided to the County IT Department in ESRI shape file format, projected to the Lee County GIS Partnership coordinate system (NAD 1983 State Plane IL West Zone):
1. WECS (point file).
 2. WECS Project parcels and participating parcels (polygon file).
 3. Non-participating parcels within 2,640' of the WECS Project and participating parcels (polygon file).
 4. Other digital information as reasonably required by the Zoning Administrator or County Engineer.
- D. No action will be taken on an application until the completed application and all supporting documentation is received by the Planning and Zoning Department.

III. DESIGN AND INSTALLATION

- A. Conformance with Approved Application and Plans
1. The Petitioner, Owner and/or Operator of the WECS Project shall construct the WECS Project in substantial accordance with submitted Special Use Permit application and all accompanying documents.
 2. The Petitioner, Owner and/or Operator shall be bound by any and all proposals and representations made under oath at the public hearing before the Zoning Board of Appeals, which shall be considered supplementary conditions of the Special Use

Permit granted by the Lee County Board, even if not directly specified herein.

3. The owner and/or operator of the WECS Project shall obtain all required permits from other governmental agencies (such as the Federal Aviation Administration) prior to commencing construction or as otherwise required by the applicable laws and regulations. Copies or evidence of such permits shall be submitted to the County on or before the issuance of the first Building Permit for any WECS.

4. The owner and/or operator of the WECS Project shall provide the following as part of its application for Special Use for the WECS Project for approval by the Lee County Planning & Zoning Department to confirm satisfaction of the conditions of this Special Use approval:

- a. The property lines of the proposed site of construction;
- b. Proposed location of the WECS, including distances from property lines and any existing or occupied residence within 2,640 feet of the WECS turbine, as verified by a registered Professional Land Surveyor;
- c. Location of all structures located on the property where the WECS is proposed;
- d. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS turbine;
- e. Location of all underground utility lines on the WECS turbine site;
- f. Dimensional representation of the structural components of the WECS tower construction including the base and footings;
- g. Schematic of electrical systems associated with the WECS turbine including all existing and proposed electrical connections;
- h. Manufacturer's specifications and installation and operation instructions or specific WECS design information;
- i. Certification by a registered Professional Engineer that the tower's design is sufficient to withstand wind load requirements for structure as defined by the International Code Council (ICC);
- j. Location of all access roads required for the WECS turbine including necessary approvals from the County Engineer for county highways and Township Highway Commissioner for township roads;
- k. A topographic map of the proposed site of construction;
- l. Proposed location of all easements necessary for the operation of the WECS (executed copies of which shall be submitted prior to issuance of Building Permit);
- m. Other information as reasonably required by the County Zoning Administrator.

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5. Each application for a **BUILDING PERMIT** for a WECS turbine shall be accompanied by a "Drainage Permit" issued by the County Engineer addressing stormwater management, drainage, soils, drain tiles, wetlands, waterways, ditches, etc. in accordance with the requirements of the *Lee County Comprehensive Stormwater Management Ordinance*.
6. Construction activity associated with WECS turbines shall not commence before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week.
7. Prior to issuance of a **BUILDING PERMIT**, the owner and/or operator of the WECS Project shall submit a certificate to the Zoning Department verifying that any power purchase contracts, power transmission contracts and other legal rights are in place. (**SUBSTITUTE WITH "RIGHT TO CONNECT PERMIT"?**)
8. Construction of the WECS Project within **Lee County** shall commence within **24** months of the date of the Special Use Permit approval by the County Board. The **ZONING BOARD OF APPEALS** may grant an extension of the foregoing time period upon the owner and/or operator of the WECS Project demonstrating reasonable justification for such a request. After construction is complete, the owner and/or operator of the WECS Project shall provide certified "as-built" drawings to the **County Zoning Administrator and the Assessor** showing the locations of the WECS turbines, roads, transmission lines, and all other improvements related to the WECS Project (collectively, the "Improvements") and a legal description of the land utilized for the Improvements. This Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use to the land utilized for the Improvements.

B. Design Safety Certification

1. AS PART OF THE BUILDING PERMIT, all components of the WECS Project shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and the American Wind Energy Association ("AWEA"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.

2. Following the granting of a Special Use Permit, a Professional Engineer shall certify, as part of the **BUILDING PERMIT** Application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

3. New Equipment

All WECS shall be new equipment commercially available. No used, experimental or prototype equipment still in testing shall be utilized.

C. Controls and Brakes

All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

D. Electrical Components

1. All electrical components of the WECS shall conform to applicable state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

2. All electrical wires and lines used to collect power from individual WECS turbines, as well as communications lines, shall be trenched-in, installed and located underground at a depth consistent with local utility and telecommunication underground lines standards.

3. The Owner and/or Operator of the WECS Project shall provide information on underground utilities constructed and/or installed as part of the WECS Project to the "One-Call System" operated by the Joint Utility Locating Information for Excavators company, commonly known as "JULIE."

E. Color

WECS Turbines shall be painted white or gray or another non-reflective, unobtrusive color.

F. Compliance with the Federal Aviation Administration (FAA) and the Illinois Department of Transportation

The Applicant for the WECS shall comply with all applicable FAA AND IDOT requirements.

G. Aviation Safety

No WECS Turbine shall be located so as to create an airport hazard or obstruction to any existing airport, restricted landing area or heliport pursuant to *Illinois Administrative Code Title 92: Transportation, Chapter I: Department of Transportation, Subchapter b: Aeronautics, Part 14 Aviation Safety*. The applicant shall demonstrate compliance with this standard, as well as compliance with any and all applicable Federal Aviation Administration (FAA) requirements relative to the siting of a proposed WECS Project. **Illustration G-1, Restricted Landing Areas Minimum Dimensional Standards of the Illinois Administrative Code Title 92 will be enforced at 110%.**

H. Warnings

A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

I. Climb Prevention

All WECS Towers, by design, must not be climbable from the exterior of the structure.

~~I. Setbacks~~

~~1. All WECS Towers shall be set back at least 1,000 feet from any Primary Structure. The distance for the above setback shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to a Primary Structure than 1.10 times the WECS Tower Height.~~

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~~2. All WECS Towers shall be set back a distance of at least 1.10 times the WECS Tower Height from public roads, third-party transmission lines, and communication towers.~~

~~3. All WECS Towers shall be set back a distance of at least 1.10 times the WECS Tower Height from adjacent property lines. The affected adjacent property owner may waive this setback requirement.~~

~~4. The Applicant does not need to obtain a variance from the County of Lee upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.~~

J. Other Setbacks

~~1. Natural Resource Areas: All WECS at the time of application for Special Use Permit shall maintain a setback of not less than 0.5 mile from the property line of any Illinois Natural Areas Inventory Site (INAI), Natural Land Institute (NLI) site, Nature Conservancy (TNC) site, or public forest, public forest preserve, or public park.~~

~~2. Bird and Bat Migration Paths: All WECS at the time of application shall be located out of bird and bat migration pathways/corridors to which WECS construction would pose a substantial risk as identified by the required Wildlife/Avian Survey and Mitigation Plan (Section III, Paragraph P. herein). Adherence to this requirement shall be addressed in said Wildlife/Avian Survey and Mitigation Plan. Evidence supporting adherence to this requirement, which may include a letter from the Illinois Department of Natural Resources or the U.S. Department of Interior, Division of Fish and Wildlife Service, shall be provided as part of the application for Special Use Permit.~~

~~3. The Applicant does not need to obtain a variance from the County of Lee upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.~~

Setbacks

1. All WECS Turbines shall be setback a distance of at least 1.5 miles (7,920 feet) from any incorporated municipality's boundaries unless that municipality chooses to exercise its siting authority pursuant to Illinois law.

2. All WECS Turbines shall be set back at least 1,400 feet or 3.5 times the WECS Turbine height, whichever is greater, from any Primary Structure, school, church or public building located on a nonparticipating parcel. The distance for the above setback shall be measured from the point of the residence foundation closest to the WECS Turbine to the base of the WECS Tower at ground level. The WECS Project Applicant may negotiate a setback easement to reduce this setback requirement.

3. All WECS Turbines shall be set back at least 1,400 feet or 3.5 times the WECS Turbine height, whichever is greater, from the boundary of any Lot, which, as of the date of the approval of the Special Use Petition, is in a Platted Subdivision.

4. All WECS Turbines shall be set back a distance of at least 1.10 times the WECS Tower Turbine height from public roads, third party transmission lines, and communication towers.

5. All WECS Turbines shall be set back a distance of at least 1.1 times the WECS Turbine height from the property lines of a nonparticipating parcel. The WECS Project Applicant may negotiate a setback easement with an adjacent project parcel owner and/or nonparticipating parcel owner to reduce this setback requirement.

6. No setback shall be required for a WECS Turbine to a residence located on a Project Parcel.

7. The WECS Project Applicant does not need to obtain a variance from the County of Lee upon the granting of a setback easement by a parcel owner of any of the above setback requirements. Any negotiated setback easement(s) shall run with the land and be recorded with the Lee County Recorder as part of the chain of title in the deed of the parcel granting said setback easement(s).

Other Setbacks

1. Natural Resource Areas & Bird and Bat Migration Paths: All WECS at the time of application for Special Use Petition shall demonstrate that consultation has been initiated with the Illinois Department of Natural Resources (IDNR) and United States Fish and Wildlife Services (USFWS) per Section III, paragraph P of this Ordinance. Prior to issuance of the Special Use Petition, Lee County shall consider any setback recommended by these agencies, to the extent they wish to be consulted, with respect to natural resource areas such as Illinois Natural Areas Inventory Site (INAI), Natural Land Institute (NLI) site, Nature Conservancy (TNC) site, or public forest, public forest preserve, or public park or Bird and Bat Migration Paths. Also considered will be any feedback and suggestions from any managing department of a Public Forest, Public Forest Preserve or Public Park. Evidence supporting adherence to this requirement, which may include a letter from the IDNR or the USFWS, shall be provided as part of the application for Special Use Petition for the consultation to date, and prior to the issuance of the Special Use Petition.
2. The WECS Project Applicant may not negotiate a Setback Easement Agreement for any of the above "Other Setbacks" requirements.

K. Compliance with Additional Regulations

Nothing in this Special Use Permit is intended to preempt other applicable state and federal laws and regulations.

L. Use of Public Roads

1. Prior to the granting of a Special Use permit, the owner or operator of the WECS project (the Applicant) shall enter into a Road Use and Repair Agreement approved by the County Board and/or the Township Highway Commissioner as applicable. The signed and executed Road Use and Repair Agreement must provide for the following minimum provisions, requirements and conditions:
 - a. Subsequent to receiving a special use permit but prior to the issuance of a building permit, the Applicant shall provide a Traffic Impact Analysis for approval by the County Engineer or applicable Highway Commissioner. All costs for a third party engineer to develop the analysis shall be the sole responsibility of the applicant and shall contain the following information at a minimum:
 - i. Identification by name and surface type of all County or Township roads and portions thereof the Applicant intends to use during construction of the project.
 - ii. A schedule of bridges and across road culverts affected by the project and any required replacements or modifications thereto planned by the Applicant to facilitate construction of the project.
 - iii. A description of anticipated road work to be performed in advance of the project to prepare certain roads for the construction of turbines.
 - iv. Cost estimate and plan for post-construction repairs of affected roads and roadway appurtenances.

- b. Subsequent to receiving a special use permit but prior to the issuance of a Building Permit, the Applicant shall provide a security instrument in form and amount that is acceptable to the County Engineer and/or applicable Highway Commissioner. The security instrument shall be based on the estimate of cost for post-construction repair work developed in the Traffic Impact Analysis.
- c. All pre construction road and bridge improvements as determined in the Traffic Impact Analysis shall be approved by the County Engineer or applicable Highway Commissioner. All costs associated with the preconstruction improvements shall be the sole responsibility of the Applicant.
- d. The Applicant shall obtain a Utility Installation Permit from the County Engineer or applicable Highway Commissioner and comply in all respects with the rules and regulations contained therein. All roadway crossings shall be bored and identified with permanent identification markers. Iridescent marker tape shall be placed above any utilities that are trenched within the Right of Way.
- e. Subsequent to receiving a Special Use permit but prior to the issuance of a building permit, the Applicant shall provide liability insurance in form and amount acceptable to the County Engineer and/or applicable Highway Commissioner.
- f. Subsequent to receiving a Special Use but prior to the issuance of a building permit, the Applicant shall become a member of Joint Utility Locating Information for Excavating ("JULIE").
- g. Applicant shall obtain a driveway access permit from the County engineer or applicable Highway Commissioner for all access points onto the highways.
- h. The Applicant shall be financially responsible for the design and construction of any intersection alterations necessary to accommodate wind turbine component deliveries.
- i. The Applicant shall make all reasonable efforts to minimize the impact of the project on local traffic including restricting construction traffic exclusively to those routes designated in the Traffic Impact Analysis.
- j. All temporary construction signing shall comply with the Illinois Department of Transportation's most current standards and with the Manual on Uniform Traffic Control Devices.
- k. The Applicant shall pay a one time permit fee for all over size/weight vehicles, driveway access and utility work in the amount of \$4,500 per turbine located within the County, but in no case less than \$20,000. All fees shall be deposited in the County Highway Fund before a building permit will be issued. Road Districts may also have fees as deemed appropriate by the respective Highway Commissioner.
- l. If roads degrade throughout the project, the Applicant, with the approval of the County Engineer and applicable Highway Commissioner, shall cause necessary remedies to be implemented to ensure safe passage of the motoring public.
- m. The Applicant shall reimburse the County or applicable Road District, for all reasonable inspection, observation and coordination costs, including, but not limited to engineering and

legal fees. The reimbursements shall include all phases of the project from Road Agreement negotiations through post road repair work.

- n. The applicant shall not engage in construction activities on County or Road District roads during the spring weight limit posting season.
- o. The applicant shall be solely responsible for all damages to the roadways resulting from wind farm and associated construction. Roadways shall be restored to a condition that is equal to or better than preconstruction conditions. Repairs shall conform to the IDOT Standard Specifications for Road and Bridge Construction and the Bureau of Local Roads and Streets Manual and any updates thereto.
- p. During the construction phase of the project, the applicant shall ensure that roadways are safe and passable for the motoring public and shall respond promptly to the concerns of the County Engineer and/or applicable Highway Commissioner.
- q. Upon completion of turbine construction, the Applicant shall fund and cause to prepare a road survey to record conditions at this time. The survey shall also take into account the amount useful life removed from the pavements (degradation damage), irrespective of visually notable damage. The County Highway Department or applicable Road District shall be entitled to compensation for the degradation damage using generally accepted pavement design formulas in the State of Illinois.
- r. The road agreement shall be limited to the construction of the project only. If the Applicant desires to use County and/or road District Roads for future maintenance work on the project, for demolition or decommissioning of the project as a whole or of individual turbines or for the development of another project, another roads agreement with the County and/or applicable Road District shall be required.

~~1. The Owner or Operator of the WECS Project shall provide dust control measures as may be commercially and reasonably required by the County during construction, and shall repair any roads or other infrastructure damaged by the WECS Project construction or maintenance. Any road or bridge damage or repairs resulting from the construction or maintenance of the WECS Project, as determined by the County Engineer or Township Highway Commissioner, the installation, maintenance or removal of same, must be completed to the satisfaction of the County Engineer or Township Highway Commissioner. Further, a Letter of Credit in an amount to be fixed by the County Engineer or Township Highway Commissioner may be required by the County Engineer or Township Highway Commissioner to insure the County or Township that future repairs are completed to the commercially reasonable satisfaction of the applicable unit of government.~~

~~2. Road Use and Risk Assessment Plan and Road Impact Requirements.~~

~~a. An application for a Special Use for a WECS shall include a road use and risk assessment plan containing the following information and meeting the following requirements:~~

~~(1) A description and map of all public roads to be used in connection with the construction of the WECS Project, including a description of how and when such roads will be used in connection with the construction of the WECS Project.~~

~~(2) — A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public roads.~~

~~(3) — A complete assessment of the proposed use of public roads in connection with the construction of the WECS Project, including the adequacy of turning radii; the ability of the roads to sustain loads without damage; the need to remove (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to roads or other property; any reasonably foreseeable costs the County or any Township Road District may incur in connection with the use of public roads, including but not limited to costs relating to traffic control, public safety, or damage to roads or property.~~

~~(4) — A traffic control and safety plan relating to the use of public roads in connection with the construction of the WECS Project.~~

~~(5) — Any additional information the County Engineer may request relating to the use of public roads in connection with the construction and/or operation of the WECS Project.~~

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~~b. — The County Engineer, in cooperation with any affected Township Highway Commissioner(s), will evaluate the road use and risk assessment plan with assistance from such consultants it deems appropriate. The County and/or Township(s) may document the condition of all roads to be used in connection with the construction of the WECS Project in such manner as it deems appropriate. The County may require changes to the road use and risk assessment plan it deems appropriate to protect public safety, to protect public roads, and to address anticipated costs to the County and any Township associated with applicant's use of public roads.~~

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~~e. — The County may require the applicant to enter into an agreement relating to the use of public roads. The County may require the applicant to provide a deposit or letter of credit in an amount the County determines appropriate to secure any obligations under the agreement, including but not limited to any obligation relating to alterations or improvements to roads needed in connection with applicant's use of public roads, and the reimbursement of the County and/or any affected Township for any costs the road use and risk assessment indicates the County and/or any Township may incur in connection with applicant's use of the public roads.~~

M. Repair of Drainage Facilities

The Owner or Operator shall repair any and all field tiles damaged by the WECS project construction and maintenance activities within **ten working days** of the date of receipt of notification by the Owner or Operator, **or as otherwise agreed by the Owner or Operator**, and shall repair damage to other drainage facilities, including but not necessarily limited to waterways and drainage ditches, as soon as reasonably possible, but in any event within six (6) months of the date of receipt of notification by the Owner or Operator.

N. Engineering Best Management Practices to Control Stormwater, Siltation and Erosion

The Owner and/or Operator shall utilize established and accepted engineering Best Management Practices to manage

stormwater, siltation and erosion during construction.

O. Blasting

No blasting shall occur in connection with the construction of the WECS Project unless the Owner and/or Operator has provided prior notification to the property owner, any abutting property owners, property owners within 1,500' of the blasting site, officials of the Township in which the blasting is to occur, and the **Lee County Zoning Administrator**. All blasting shall be done in accordance with all applicable State and Federal laws and regulations.

P. Wildlife/Avian Survey and Mitigation Plan

The Applicant of the WECS Project Special Use shall commission and submit to the County's Zoning Department at the time of **the Building Permit** application, a wildlife assessment (impact study), conducted by a qualified wildlife expert having not less than ten (10) years of experience conducting wildlife assessments, indicating possible risks to local wildlife, habitat and migratory birds. Additionally, Applicant shall consult with the Illinois Department of Natural Resources (IDNR) regarding the WECS Project's potential impact on local wildlife. Applicant's wildlife expert shall also develop a mitigation plan, if applicable, that addresses and/or mitigates risks to wildlife, migratory birds and affiliated habitat raised by the IDNR.

More specifically, Applicant shall submit the wildlife assessment/impact study and mitigation plan (if applicable) to the IDNR for review and consultation. Should the IDNR choose to comment on said herein, all comments shall be forwarded to the Planning & Zoning Department in writing.

If the IDNR determines that the submitted mitigation plan is insufficient to effectively address the risk to local wildlife and habitat or the County requires clarification on any study, plan, or comment herein referred to in this Section or no IDNR comments are provided to the Zoning Department, then the County may select and hire a qualified wildlife expert having not less than ten (10) years experience conducting wildlife assessments (impact studies) and mitigation plans to review the wildlife assessment (impact study) and mitigation plan submitted by the Applicant. All costs associated with the wildlife expert selected and hired by the County shall be paid for by the Applicant. Should it be found by the County's wildlife expert that the mitigation plan is deficient, such deficiency shall be addressed by the Applicant's wildlife expert to the satisfaction of the County's wildlife expert. Moreover, should the County's wildlife expert find that the mitigation plan (or the lack of a mitigation plan) by the Applicant's wildlife expert is deficient or not acceptable, then the Applicant shall mitigate the wildlife concern(s) in accordance with the recommendations of the County's wildlife expert. The mitigation plan (including any recommendation(s) listed therein) shall be subject to the same enforcement powers of any other performance standard contained herein.

3 IV. OPERATION

A. General Operational and Maintenance Requirements

1. The operation of the WECS project shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting or the risk of fire, explosion or other accident and shall not be detrimental to the public health, safety and/or general welfare of the immediate neighborhood or community at large.
2. The Owner and/or Operator of the WECS project shall repair, maintain and replace the WECS and/or WECS components consistent with sound utility practice as needed to keep the WECS Project in good repair and operational condition.

B. Maintenance

1. The Owner or Operator of the WECS project shall submit, on an annual basis, a summary of the operation and maintenance reports to the County of

Lee. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.

2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require recertification under of the Special Use Permit. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity to determine whether the physical modification requires re-certification.

C. Interference

1. The Applicant, Owner and/or Operator shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS project the Applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint, and shall use commercially reasonable efforts to mitigate any problems on a case-by-case basis.

2. If, after construction of the WECS project, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, the Owner or Operator shall respond to the complaint within 10 working days after being notified by a property owner within a one (1) mile radius around the project boundary, and shall use commercially reasonable efforts to mitigate any problems on a case-by-case basis.

D. Coordination with Local Fire Protection District(s)

1. The Applicant, Owner or Operator shall submit to the local fire protection district(s) a copy of the site plan.
2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire protection district's emergency response plan. The WECS Owner/Operator shall work with cooperate with any and all local rescue authorities to provide training (at Owner's and/or Operator's expense) to personnel who can assist with a rescue from a WECS.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire, life safety and/or emergency response laws and regulations.

E. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

~~F. Shadow Flicker~~

- ~~1. Shadow flicker affecting any adjoining property owner that is not a participant in the WECS project, the Owner or Operator of the WECS project shall use commercially reasonable efforts to remedy the problem on a case-by-case basis by undertaking measures such as trees and/or vegetation plantings, or awning installation.~~
- ~~2. If the Owner or Operator receives a verified complaint about shadow flicker visible from within any home owned by someone who is not participating in the wind farm, then the Owner or Operator shall program any and all WECS causing the shadow flicker to shut down during the period of time that such shadow flicker is anticipated to occur.~~
- ~~3. Shadow flicker shall not be allowed to occur on any road or street intersection.~~

F. Shadow Flicker

1. Prior to approval of a Wind Energy Conversion System, the Petitioner must present to the Zoning Board of Appeals, a Model Study presenting the average number of hours shadow flicker may appear on a Primary Structure of a non-participating property owner. Shadow flicker shall not exceed ten (10) hours per year on any Primary Structure using the Model Study information.
2. Shadow flicker affecting any adjoining property owner that is not a participant in the WECS project, the Owner or Operator of the WECS project shall use commercially reasonable efforts to remedy the problem on a case-by-case basis by

undertaking measures such as trees and/or vegetation plantings, or awning installation.

3. If the Owner or Operator receives a verified complaint about shadow flicker exceeding ten (10) hours per year, visible from within any home occupied by someone who is not participating in the wind farm, then the Owner or Operator shall program any and all WECS causing the shadow flicker to shut down during the period of time that shadow flicker is anticipated to occur.

G. Lighting

The WECS project shall use minimal lighting. No tower lighting other than normal security lighting shall be permitted except as the best available technology allowed by the FAA.

H. Stray Voltage

The Owner and/or Operator of the WECS Project shall minimize to the maximum practical extent possible the impact of any stray voltage caused by the operation of the WECS Project.

I. Advertising Material and Signage

No advertising material and/or signage other than warning, equipment identification, or ownership information shall be allowed on the WECS. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waving, fluttering or revolving devices on the WECS, but not including any meteorological devices.

J. Protection of Surface Water and Groundwater Resources

The Owner and/or Operator of the WECS Project shall operate the WECS Project so as not to cause surface water or groundwater contamination.

K. Report of Bird Kills

The owner and/or operator of the WECS Project shall catalogue and annually report to the Illinois Department of Natural Resources all birds and bats that are discovered to have been injured or killed by the WECS Turbines. The annual report of bat and bird injuries and deaths shall include species, number, and dates when the injured or killed bird or bat was discovered. The County reserves the right to hire a third-party to conduct a study, at the expense of the owner/operator.

~~L. Noise. (SEE ATTACHED NOISE REGULATION OPTIONS" "B" and "C")~~

~~The owner and/or operator of the WECS Project shall comply with all applicable codes and ordinances regulating sound generation, including, but not limited to the requirements of the Illinois Pollution Control Board (35 Illinois Administrative Code Part 900 and 901). In the event that any sound levels from a WECS are found to be in excess of permissible levels at the residence of any non-participating landowner pursuant to the Illinois Pollution Control Board requirements, the WECS owner and/or operator shall take such measures as are necessary to bring sound levels down to a level that is in conformance with the aforementioned Illinois Pollution Control Board requirements.~~

~~Complaints regarding WECS noise shall be address by the following procedure:-~~

~~1. The owner/operator of the WECS shall respond within five (5) business days after notified of a noise complaint by any non-participating property owner within one (1) mile of a WECS.~~

~~2. The tests shall be performed by a qualified independent acoustical consultant acceptable to the complainant and the Ogle County. Sound measurements shall be conducted in accordance with 35 Illinois Administrative Code Part 910 (Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901).~~

~~3. Testing shall commence within ten (10) working days of the request. If testing cannot be initiated within ten (10) days, the WECS(s) in question shall be shut down until the testing can be started.~~

~~4. A copy of the test results shall be sent to the property owner and the Ogle County Planning or Zoning Department within thirty (30) days of test completion.~~

~~5. If a Complaint is made, the presumption shall be that it is reasonable. Ogle County shall undertake an investigation of the alleged operational violation by a qualified individual mutually acceptable to Ogle County.~~

~~a. The reasonable cost and fees incurred by Ogle County in retaining said qualified individual shall be reimbursed by the owner of the WECS.~~

~~b. Funds for this assessment shall be paid or put into an escrow account prior to the study and payment shall be independent of the study findings.~~

~~6. After the investigation, if Ogle County reasonably concludes that operational violations are shown to be caused by the WECS(s), the licensee/operator/owner shall use reasonable efforts to mitigate such problems on a case by case basis including such measures as not operating during the nighttime or other noise sensitive period if such operation was the cause of the complaints.~~

L. Noise Level

A. The applicant shall have a third party, qualified professional approved by the Lee County Engineer or Lee County Zoning Administrator, (after submission of resume and relevant work experience) conduct an appropriate analysis of the noise impact to nearby properties. The sound pressure level generated by a

WECS Project shall comply with all Illinois Pollution Control Board (IPCB) noise regulations as outlined in Title 35: Environmental Protection, Subtitle H: Noise, Chapter I: Pollution Control Board, Parts 900, 901, and 910, which outline limitations and measurement procedures, and specifically address the prohibition of noise pollution in the State of Illinois. A modeling analysis of the proposed site shall be included in the application predicting the sound pressure in accordance with the best available practices. An additional appropriate night time ambient sound pressure study must be done before construction commences. After the WECS Project is completed and operational, a third party shall complete a sound pressure analysis of the existing conditions and specifically compiling information, if any, requested by the Lee County Board. Prior to the first anniversary of the commercial operations date, a third party approved by the Lee County Engineer and Lee County Zoning Administrator shall complete a sound pressure analysis to address any complaints, if any, received by the Lee County Zoning Administrator within the first year of operation.. These analyses shall be completed and returned to the Lee County Zoning Office within sixty (60) days. The applicant must immediately cease any violation of the IPCB regulations unless said violation is excused and waived in writing by the affected landowners and occupants. All analyses and studies are subject to the approval of the Lee County Engineer or the Lee County Zoning Administrator.

B. Complaint Resolution:

The Owner/Operator of the WECS Project shall respond to complainant property owner(s) and Lee County within five (5) business days after notified in writing of a sound/noise complaint by any property owner(s) within the project boundary and a one mile (1) radius beyond any WECS location. If the written complaint is not resolved to the satisfaction of the complainant within twenty (20) business days of the complaint being filed through reasonable efforts to mitigate the complaint, then Section XII, VIOLATIONS AND PENALTIES; COMPLAINTS AND MODIFICATION, SUSPENSION OR REVOCATION OF WECS PERMIT shall be enforced.

V. LIABILITY INSURANCE

A. The owner/operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring owner/operator, project parcel owners and participating parcel owners against loss or liability caused by owner's and /or operator's occupation and use of property under the lease, in an amount not less than five million U.S. dollars (\$5,000,000.00) of combined single limit liability coverage per occurrence, accident or incident, with a ten million (U.S.) dollar (\$10,000,000.00) per aggregate, with a deductible of no more than twenty five thousand dollars (\$25,000.00). Lee County shall be named as an additional insured on said policy. maintain a current general liability policy .

B. Worker's compensation coverage in an amount required by Illinois law. Owner/operator shall require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.

C. Certificates of insurance evidencing. The insurer will provide notice to the County in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis.

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VI. DECOMMISSIONING PLAN

~~The Owner of the WECS Project shall ensure that the WECS Project facilities are properly decommissioned upon the end of the project life or project abandonment. An application for a Special Use Permit for a WECS shall include a "Decommissioning and Site Restoration Plan" containing the information and meeting the requirements in this section. The Plan shall be updated and resubmitted every five (5) years.~~

~~A. The "Decommissioning and Site Restoration Plan" shall provide for the removal of all physical material pertaining to the WECS Project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the WECS Project's facilities and improvements to as near as practicable to the same condition that existed immediately before construction of such improvements, and repair or replacement of any damage to public roads and bridges that may occur as a result of traffic associated with decommissioning.~~

~~B. The "Decommissioning and Site Restoration Plan" shall provide for the decommissioning of the site upon the expiration or revocation of the WECS Project Special Use Permit, or upon the abandonment of the WECS Project, or any individual WECS unit. The WECS Project or any individual WECS unit shall be deemed abandoned if its operation is ceased for 12 consecutive months unless an extension of the one year period is granted by action of the Zoning Board of Appeals for good cause shown.~~

~~C. The "Decommissioning and Site Restoration Plan" shall include provisions for financial security to secure completion of decommissioning and site restoration, in form and amount satisfactory to the County. A letter of credit, cash on deposit with the County, or cash held in escrow pursuant to an agreement acceptable to the County, shall be acceptable security. The amount of the financial security shall be equal to the estimated cost of completing the decommissioning and site restoration in accordance with the approved plan, as approved by the County. The "Decommissioning and Site Restoration Plan" shall also include the following:~~

~~1. The anticipated life of the WECS Project;~~

~~2. The estimated decommissioning costs in current U.S. dollars;~~

~~3. How said estimate was determined;~~

~~4. The method of ensuring that the funds will be available for decommissioning and restoration;~~

~~5. The manner in which the WECS Project will be decommissioned and the site restored;~~

~~6. A CPI or a percentage adjustment.~~

~~7. Written authorization from the WECS Project Owner and all owners of all Project Parcels for the County to access the Project Parcels and implement the decommissioning and site restoration plan, in the event the WECS Project owner fails to implement the plan. The written authorization shall be in a form approved by the County.~~

~~D. The required financial security, pursuant to an agreement acceptable to the County, shall be provided to the County prior to issuance of a Zoning Certificate for any portion of the WECS Project.~~

Q. Provisions for Decommissioning or Abandonment of WECS:

1. Petitioner shall ensure that the WECS facilities are properly decommissioned within twelve (12) months of the end of the project life or facility abandonment. Petitioner's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable the same condition that existed immediately before construction of such improvements.

2. WECS owner or operator shall provide annual certification report (WECS Annual Operating Report) of how many days each WECS unit was available for operation. When any WECS unit has been inoperable for more than 90 consecutive days, owner or operator shall report to the County Zoning Administrator the following information:

- a. Date unit became inoperable
- b. Expected date of return to service

3. Failure to file a WECS Annual Operating Report within 425 days of the date of initial commercial operation or the last filed WECS Annual Operating Report shall be cause for the County Zoning Administrator to request the ZBA convene a public hearing to determine whether abandonment of the WECS facilities has occurred. WECS owner/operator shall be provided opportunity to present evidence demonstrating that the WECS facilities are operable and not abandoned.

4. Any WECS unit which has been inoperable for 365 consecutive days or 425 total days in two consecutive

calendar years shall be presumed inoperable and abandoned. A determination or finding of presumed inoperability/abandonment by the County Zoning Administrator is grounds for the Zoning Board of Appeals (ZBA) to conduct a public hearing to consider revocation of the Special Use Permit covering the WECS unit in question. The County Zoning Administrator shall notify owner or operator and the WECS site landowner of his intention to seek revocation of the Special Use authority at least 30 days prior to issuance of a notice of public hearing by the ZBA of such recommendation. WECS owner/operator shall be provided opportunity to present evidence demonstrating that the WECS facilities are operable and not abandoned.

Any ZBA recommendation to revoke Special Use authority for the inoperable/abandoned WECS facilities shall be forwarded to the full County Board for consideration of the recommended revocation of the Special Use Permit. Revocation of Special Use authority for one or more WECS units does not revoke Special Use authority approval for other WECS facilities approved by a common, original Special Use Permit.

5. In the case of revocation of Special Use Permit authority for WECS facilities by the County Board, the County Zoning Administrator shall notify the WECS owner or operator and the landowner that an updated Decommissioning Plan must be submitted to the County Zoning Officer within 60 days of the certified revocation date.

All decommissioning and restoration work conducted pursuant to revocation of the Special Use Permit by the County Board shall be completed in a timely manner not to exceed 240 days after the date of the revocation order by the County Board. Up to 180 days of additional time to accomplish decommissioning and restoration may be granted by the County Zoning Administrator if the Zoning Administrator determines that additional time is in the best interests of the County, landowners and area highway authorities.

6. Prior to issuance of building permits for any WECS facilities the owner or operator shall submit a WECS Decommissioning Plan to the County Zoning Administrator. Said plan, prepared by an independent Illinois Certified Professional Engineer, shall be acceptable to the County Engineer and County Zoning Administrator, such acceptance not to be unreasonably withheld, and shall include the following information:

- a. Description of the circumstances that will trigger decommissioning.
- b. Description of the methodology and cost to remove all above ground WECS facilities covered by the approved SUP.
- c. Description of methodology and cost to remove all below ground WECS facilities covered by the approved SUP to a depth of four feet below grade.
- d. Methodology and cost to restore all areas used for construction, operation and access to a condition supporting land use similar to the land use prior the WECS construction.
- e. A schedule of work and a list of permits necessary to accomplish the work.
- f. Methodology to identify and manage any hazardous or special materials.
- g. The net salvage value of all WECS equipment and materials removed.
- h. Certification that all decommissioning and restoration work will be performed in accordance with any standards and conditions of the applicable WECS Project Road Agreement.
 - i. Proof that the necessary amount or form of financial security has been received by the County, that names Lee County as beneficiary. The amount of security shall be equal to the positive difference, if any, between the total cost of all decommissioning and restoration work and the net salvage value of all removed WECS equipment or materials and increased over the operation of the WECS project per Section 7 below, plus 10% contingency. To determine that amount, the WECS owner will provide a list of at least two construction/ demolition companies capable of completing a decommissioning of the proposed WECS project to the Zoning Administrator and the County Engineer. The WECS owner may chose a company from the provided list to prepare a bid estimate to complete said decommissioning and the county may choose one company from the provided list or another company of their choice. All costs to secure the bids will be borne by the WECS owner. The County Engineer and the Zoning Administrator will review the two bids and decide if one is acceptable, if not a third company can be asked to bid. The County Engineer and the Zoning Administrator will then decide to accept one of the bids to determine the amount of financial

security to be received.

- j. The Decommissioning Plan shall be binding upon the WECS owner at the time of submission and any subsequent owner of the WECS facilities.
- k. Confirmation by affidavit that the obligation to decommission the WECS is included in the lease agreement for every parcel included in the Petition.
- l. The amount of the financial security as outlined in Section 8 below.

7. The amount of the financial security shall cover the projected cost to secure completion of decommissioning and site restoration net of salvage value of any equipment or materials (the “Estimated Decommissioning Cost”), in form and amount satisfactory to the County.

- a. The amount of the financial security shall be equal to the Estimated Decommissioning Cost in accordance with the approved Special Use Permit.
- b. Financial security shall be collected over the first fifteen years of operation. An Annual Financial Security Amount shall be defined as the Estimated Decommissioning Cost divided by 15.
- c. The initial Annual Financial Security Amount shall be in place prior to issuance of the building permits. At the end of each year of operation, an additional Annual Financial Security Amount shall be added to that being held by the County.
- d. Prior to the completion of every fifth (5th) year of operation, and every fifth (5th) year for the life of the project, the owner shall provide an updated Decommissioning Plan to the Zoning Administrator with an updated Estimated Decommissioning Cost.

If this revised sum is greater than the prior Estimated Decommissioning Cost projected sum of all decommissioning and restoration work less salvage value of any equipment or materials, then the owner shall provide any difference in the prior Annual Financial Security Amounts within 60 days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum and the remaining projected operational duration.

If at any point, during the life of the project, the Annual Financial Security Amounts paid to date exceed the new Estimated Decommissioning Cost, then the County shall reimburse or reduce the total Annual Financial Security Amounts within 60 days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum.

As an example, should the initial Estimated Decommissioning Cost equal \$1,500,000, then the following Annual Financial Security Amounts would need to be in the County’s possession:

Project Date	Est. Total Decommissioning Cost	Annual Financial Security Amount	Total Financial Security being held by County
Prior to Building Permit	\$1,500,000	\$100,000 (15 years left on project operation)	\$100,000
End of Years 1-4	\$1,500,000	\$100,000 each year	\$500,000 (end of Year 4).
End of Year 5	\$1,000,000	\$50,000 (\$1,000,000 Total less \$500,000 already in County possession = \$500,000 left to provide over 10 years left on project operation)	\$550,000
End of Year 6-9	\$1,000,000	\$50,000 each year	\$750,000
End of Year 10	\$1,500,000	\$150,000 (\$1,500,000 Total less \$750,000 already in County possession = \$750,000 left to provide over 5 years left on project operation)	\$900,000
End of Year 11-14	\$1,500,000	\$150,000 each year	\$1,500,000
End of Year 15	\$1,250,000	(\$250,000) refund from County to owner due prior overestimate of total cost).	\$1,250,000

- e. Any interest accruing to the financial security will be included in the calculation of Total Financial Security being held by the County for the purposes of decommissioning, and may therefore be used to offset contributions made by the WECS owner towards the Estimated Decommissioning Cost.
- f. Once the project has been fully decommissioned in accordance with the requirements of this section, any remaining security shall be reduced or returned to the WECS owner.

8. If the WECS owner desires to decommission any WECS facilities said owner shall notify the County Zoning Officer prior to commencing any decommissioning work. WECS owner shall submit an updated Decommissioning Plan to the County Zoning Administrator. The County Zoning Administrator shall determine, within 15 business days whether the submitted plan complies with all applicable requirements.

10/5/2011

VII. ABANDONMENT

The WECS Project owner or the landowner of a WECS or multiple WECS shall notify the Lee County Zoning Department when the WECS Project or any individual WECS unit is no longer in operations pursuant to Section VI above. The date that the WECS project or individual WECS unit becomes inoperable is to be established between the Owner/Operator and the Zoning Board of Appeals. Within twelve (12) months of cessation of operations, unless the Zoning Board of Appeals grants an extension of time for good cause shown, the approved "Decommissioning and Site Restoration Plan" pursuant to Section VII above shall be implemented.

VIII. HOME SELLER PROTECTION PROGRAM

The Owner and/or Operator of the WECS Project shall, for a ~~ten five~~-year period from the date of the WECS Project building permit, ~~that the WECS Project is placed into service~~, maintain a Home Seller Protection Program ("Program") covering loss in value directly attributable, upon the sale of such home, to the WECS Project for those houses which (a) are not located within the WECS Project area identified in the Petition for Special Use Permit, (b) have an outside wall of the primary residential structure which is located within 1 mile (5,280') of a WECS turbine erected by the Petitioner/Owner/Operator and (c) are located in Ogle-Lee County. This Program shall only apply to those persons owning eligible homes ("home owner"), as set forth above, on and/or prior to the date the WECS Project Special Use Permit is approved by the Ogle Lee County Board and shall not apply to those who have purchased existing homes or constructed new homes after the Ogle Lee County Board has approved the said WECS Project Special Use Permit.

The definitions of the following terms shall be utilized in the interpretation of this Program:

"Home Owner" means the legal entity, individual or individuals holding title to any property containing a dwelling or legal entity, individual beneficiary or beneficiaries of a trust which holds title to any property containing a dwelling on the in-service date of the Ogle-Lee County Board approval of the WECS Project Special Use Permit.

"Sale" means the transfer of the ownership by a home owner where the home owner is willing to sell and the purchaser is willing to purchase the real property in an arms length transaction at a certain price.

For those home owners electing to participate in this Program, the procedure shall be as follows:

A. Before the WECS Project ~~is building permit is granted~~, a copy of this Home Seller

Protection Program, an election form to participate in the Program and a copy of the Grant of Right of First Refusal shall be sent by Owner/Operator by certified mail, return receipt requested, to each home owner, as determined by OgleLee County Assessment records, located within one mile of a WECS erected by Owner/Operator. The home owner must sign an election form to participate in the Program and provide said copy of written election to the WECS Project Owner/Operator and the OgleLee County Zoning Administrator.

B. The home owner must grant a "Right of First Refusal" to the WECS Project Owner/Operator on a form provided by the WECS Project Owner/Operator. Failure of an eligible home owner under this Program to provide the WECS Project Owner/Operator with "right of first refusal" shall constitute a forfeiture of all rights and entitlements provided under this Program. Said "Right of First Refusal" shall provide that the home owner shall disclose the terms, within three days of receipt of offer, of any accepted offer home owner receives from a third party to purchase home. WECS Project Owner/Operator will have 10 days after receipt of offer to elect to purchase the home on terms identical to those offered by the third party. Within 7 days of notification of the election to purchase, the parties will enter into a formal contract of sale. If the WECS Project Owner/Operator fails to give notice then the home owner may dispose of the home as they see fit. If the home owner fails to provide notice of the third party offer, the opportunity to participate in the home seller protection program shall be forfeited.

C. At such time as the home owner decides to place an eligible home on the market for sale, the home owner shall be listed with a realtor or auctioneer to be agreed upon by the home owner and WECS Project Owner/Operator. If listed with a realtor, said realtor shall list the home at 110% of the fair market value of the home without the WECS Project as determined by sections D through H.

D. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject real estate. Each party shall be responsible for the cost of hiring said appraiser to conduct the real estate appraisal.

E. Each appraiser shall determine ~~the diminution in value, if any, to the home caused by the proximity to the WECS Project by determining~~ 1) the fair market value of the home assuming no WECS Project was constructed, and 2) the current fair market value. If the fair market value of the home assuming no WECS project is greater than the current fair market value, the difference shall be the diminution in value caused by the proximity to the WECS Project.

F. If one of the diminution in values submitted is no more than ten percent (10%) higher than the other, the diminution in values shall be averaged to establish the average diminution value and the fair market values without the WECS project shall be averaged to establish the fair market value without the WECS.

G. If one of the diminution in values submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report (see paragraph E above) setting forth his opinion as to the diminution value for the home. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.

H. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median ~~diminution in value appraisal~~ of the three appraisers shall constitute the diminution value, and the median fair market value without the WECS project shall constitute the fair market value without the WECS project.

I. Upon sale of a home for an amount less than the fair market value without the WECS project, the WECS Project Owner/Operator shall pay the lesser of the difference between the sale price and the fair market value without the WECS project or the diminution in value.

J. For a ~~ten~~ five-year period from the date ~~of that~~ the WECS Project building permit is placed into service, eligible home owners, as established above, that have unsuccessfully marketed real property for a minimum of one hundred and fifty (150) days with no documented offer of purchase may elect to sell said home to the WECS Project

Owner/Operator. The WECS Project Owner/Operator or agent shall purchase said home (real property) for the fair market value as established in the procedure set forth as follows:

1. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject home. Each party shall be responsible for the cost of hiring said appraiser to conduct the home appraisal.
2. Each appraiser shall determine the fair market value of the home assuming no WECS Project was proposed and/or constructed.
3. If one of the appraisals submitted is no more than ten percent (10%) higher than the other, the appraisal values shall be averaged to establish the average appraisal value. If one of the appraisals submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report setting forth his opinion as to the fair market value for the home, assuming no WECS Project was proposed and/or constructed. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.
4. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median appraisal of the three ~~appraiser appraisals~~ shall constitute the fair market value.

If home has been unsuccessfully marketed for ~~450~~ 300 days, purchase of the home by the WECS Project Owner/Operator or Agent shall be completed within 30 days of the determination of the average appraisal value or three appraisal median unless extended by mutual consent of both the home owner and the WECS Project Owner/Operator

~~The Owner and/or Operator of the WECS Project shall, for a five year period from the date that the WECS Project is placed into service, maintain a Home Seller Protection Program ("Program") covering loss in value directly attributable, upon the sale of such home, to the WECS Project for those houses which (a) are not located within the WECS Project area identified in the Petition for Special Use Permit, (b) have an outside wall of the primary residential structure which is located within 1 mile (5,280') of a WECS turbine erected by the Petitioner/Owner/Operator and (c) are located in Ogle County. This Program shall only apply to those persons owning eligible homes ("home owner"), as set forth above, on and/or prior to the date the WECS Project Special Use Permit is approved by the Ogle County Board and shall not apply to those who have purchased existing homes or constructed new homes after the Ogle County Board has approved the said WECS Project Special Use Permit.~~

~~The definitions of the following terms shall be utilized in the interpretation of this Program:-~~

~~"Home Owner" means the legal entity, individual or individuals holding title to any property containing a dwelling or legal entity, individual beneficiary or beneficiaries of a trust which holds title to any property containing a dwelling on the in service date of the Ogle County Board approval of the WECS Project Special Use Permit.~~

~~"Sale" means the transfer of the ownership by a home owner where the home owner is willing to sell and the purchaser is willing to purchase the real property in an arms length transaction at a certain price.~~

~~For those home owners electing to participate in this Program, the procedure shall be as follows:-~~

~~A. Before the WECS Project is placed into service, a copy of this Home Seller Protection Program, an election form to participate in the Program and a copy of the Grant of Right of First Refusal shall be sent by Owner/Operator by certified mail,~~

~~return receipt requested, to each home owner, as determined by Ogle County Assessment records, located within one mile of a WECS erected by Owner/Operator. The home owner must sign an election form to participate in the Program and provide said copy of written election to the WECS Project Owner/Operator and the Ogle County Zoning Administrator.~~

~~B. The home owner must grant a "Right of First Refusal" to the WECS Project Owner/Operator on a form provided by the WECS Project Owner/Operator. Failure of an eligible home owner under this Program to provide the WECS Project Owner/Operator with "right of first refusal" shall constitute a forfeiture of all rights and entitlements provided under this Program. Said "Right of First Refusal" shall provide that the home owner shall disclose the terms, within three days of receipt of offer, of any accepted offer home owner receives from a third party to purchase home. WECS Project Owner/Operator will have 10 days after receipt of offer to elect to purchase the home on terms identical to those offered by the third party. Within 7 days of notification of the election to purchase, the parties will enter into a formal contract of sale. If the WECS Project Owner/Operator fails to give notice then the home owner may dispose of the home as they see fit. If the home owner fails to provide notice of the third party offer, the opportunity to participate in the home seller protection program shall be forfeited.~~

~~C. Home shall be listed with a realtor or auctioneer to be agreed upon by the home owner and WECS Project Owner/Operator. If listed with a realtor, said realtor shall list the home at 110% of the fair market value of the home without the WECS Project.~~

~~D. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject real estate. Each party shall be responsible for the cost of hiring said appraiser to conduct the real estate appraisal.~~

~~E. Each appraiser shall determine the diminution in value, if any, to the home caused by the proximity to the WECS Project by determining the fair market value of the home assuming no WECS Project was constructed and the current fair market value.~~

~~F. If one of the diminution in values submitted is no more than ten percent (10%) higher than the other, the diminution in values shall be averaged to establish the average diminution value. If one of the diminution in values submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report (see paragraph E above) setting forth his opinion as to the diminution value for the home. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.~~

~~G. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median appraisal of the three appraiser shall constitute the diminution value.~~

~~H. Upon sale of a home for an amount less than the fair market value without the WECS project, the WECS Project Owner/Operator shall pay the lesser of the difference between the fair market value without the WECS project or the diminution in value.~~

~~I. For a five year period from the date that the WECS Project is placed into service, eligible home owners, as established above, that have unsuccessfully marketed real property for a minimum of one hundred and fifty (150) days with no documented offer of purchase may elect to sell said home to the WECS Project Owner/Operator. The WECS Project Owner/Operator or agent shall purchase said home (real property) for the fair market value as established in the procedure set forth as follows:~~

~~1. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject home. Each party shall be responsible for the cost of hiring said appraiser to conduct the home appraisal.~~

~~2. Each appraiser shall determine the fair market value of the home assuming no WECS Project was proposed and/or constructed.~~

~~3. If one of the appraisals submitted is no more than ten percent (10%) higher than the other, the appraisal values shall be averaged to establish the average appraisal value. If one of the appraisals submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report setting forth his opinion as to the fair market value for the home, assuming no WECS Project was proposed and/or constructed. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.~~

~~4. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median appraisal of the three appraiser shall constitute the fair market value.~~

~~If home has been unsuccessfully marketed for 150 days, purchase of the home by the WECS Project Owner/Operator or Agent shall be completed within 30 days of the determination of the average appraisal value or three appraisal median unless extended by mutual consent of both the home owner and the WECS Project Owner/Operator.~~

~~IX. PAYMENT OF TAXES OR PAYMENT(S) IN LIEU OF TAXES (PILOT)~~

Comment [CH1]: Have Assessor review and respond to Board

~~The owner of the WECS Project shall annually provide property taxes as required by applicable State law, provided, however, that in the event that property tax law applicable to wind energy devices change such that the total property tax amount in any given year would be less than that which would have been required under the tax laws effective as of the date of this Ordinance, then the owner of the WECS Project will provide additional funds to bring the total property tax up to the amount that would have been required if the property tax formula in place at the date of this Ordinance were in place; unless any future change in property tax laws applicable to wind energy generation devices result in a formula that would generate more tax revenue than would be generated under the property tax laws in place as of the date of this Ordinance, in which case the owner of the WECS Project shall pay property tax in accordance with the tax laws then in force.~~

X. INDEMNITY CLAUSE

The Owner and/or Operator of the WECS Project shall defend, indemnify and hold harmless the County of Lee and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney's fees arising out of the acts or omissions of the Owner and/or Operator concerning the operation of the WECS Project without limitation, whether said liability is premised on contract or on tort.

XI. REMEDIES

A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under the Special Use Permit Ordinance.

B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).

C. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the County shall subject the owners Owner and Operator to the penalties set forth in Section XII of this chapter.

D. The Owner and/or Operator of the WECS Project shall, at the Owner and/or Operator expense and in coordination with Lee County, develop a system for logging and investigating all complaints from citizens related to the WECS project. All written complaints require a documented written response within ten (10) working days of receipt of such complaints.

XII. VIOLATIONS AND PENALTIES; COMPLAINTS AND MODIFICATION, SUSPENSION OR REVOCATION OF WECS PERMIT

A. Violations of This Ordinance: It shall be unlawful to construct, materially alter or operate any WECS or part thereof in violation of any provision of this Ordinance, a WECS Permit, or a WECS Permit Agreement. Any person, firm or corporation who violates, disobeys, omits, neglects, resists enforcement of, or fails to comply with any provision of this chapter, a WECS Permit or a WECS Permit Agreement shall, upon conviction thereof, be subject to forfeitures of not less than \$250.00 and not more than \$1000.00 for each offense per day and shall pay all costs and expenses of enforcement, including attorney and other fees incurred by the County. Each tower, nacelle, or any component of the WECS may be the subject of a separate violation and further each day that a violation is permitted to exist or continue shall constitute a separate offense.

B. Complaints and Modification, Revocation or Suspension: The County Board shall retain continuing jurisdiction to modify, suspend or revoke all WECS Permits in accordance with this section. Such authority shall be in addition to the County's authority to prosecute violations and take other enforcement action.

1. In this section, "violation" means a violation of this Ordinance, or a violation of a WECS Permit issued under this Ordinance, or a violation of a WECS Permit Agreement entered into under this Ordinance.

2. The Lee County Zoning Officer shall enforce the provisions of this section through an

inspection of the WECS facility every year. The Zoning Officer is hereby granted the power and authority to enter upon the premises of the WECS at any time by coordinating a reasonable time with the Owner/Operator of the facility.

3. Any resident of the County or County official may file a written complaint with the Zoning officer alleging that a WECS Permit holder has committed or is committing a violation. Such complaints shall be forwarded to the County Zoning Board of Appeals.

4. The County Zoning Board of Appeals shall preliminarily review the complaint. In connection with its preliminary review, the Zoning Board may require the Zoning Officer, engineer, attorney or other person or persons to conduct such investigations and make such reports as the Zoning Board may direct. The Zoning Board may request information from the holder of a WECS Permit, the complainant, and any other person or entity to assist with its preliminary review.

5. Following its preliminary review, the Zoning Board of Appeals may:

a. Dismiss the complaint;

b. Refer the complaint to the Lee County States Attorney for prosecution; or

c. Conduct a hearing to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such hearing, notice of the hearing shall be given to the holder of the WECS Permit holder and the complainant, and in accordance with the Illinois Open Meeting Act. The holder of the WECS Permit and the complainant, and any other person, may appear at the hearing and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Zoning Board concludes that violations have occurred, the Zoning Board may:

1. Impose conditions on the WECS Permit to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or

2. Suspend the WECS Permit until such time as the WECS Permit holder presents a plan, satisfactory to the Zoning Board, that will discontinue the violation(s) or prevent any recurrence thereof, and on such further conditions as the Zoning Board of Appeals deems appropriate to discontinue and prevent further violations; or

3. Revoke the WECS Permit and direct decommissioning of the WECS, if the Zoning Board of Appeals concludes that no reasonable modification can be made to the WECS to discontinue or prevent violations; or

4. Refer the matter to the Lee County States Attorney for prosecution, subject to County Board approval; or

5. Take no action, if the Zoning Board of Appeals concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

6. Following any such hearing, the Zoning Board's written decision shall be furnished to the WECS Permit holder and to the complainant. An appeal from a decision of the Zoning Board of Appeals may be taken to the County Board as provided in this section.

C. Appeals

1. An appeal from the decision of the Zoning Board of Appeals may be taken to the County Board by the WECS Permit holder or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Zoning Officer within ten days after the final action of the Zoning Board of Appeals.

2. The Zoning Officer shall provide any appeal to the County Board. The County Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WECS Permit holder and the complainant.

3. The action of the Zoning Board of Appeals shall be sustained unless the County Board, by a favorable vote of the majority of all members of the County Board, reverses or modifies the Zoning Board of Appeals' determination. An appeal from a decision of the County Board shall be by judicial review, which shall be commenced within 30 days after the decision of the County Board.