

**AS APPROVED- RECOMMEND APPROVAL**

**696-S-11 ON REMAND**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION**

**of**

**Champaign County Zoning Board of Appeals**

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Final Determination: **RECOMMEND APPROVAL WITH WAIVERS AND SPECIAL CONDITIONS**

Date: November 3, 2011

Petitioners: California Ridge Wind Energy LLC which is wholly owned by Invenergy Wind North America LLC and the landowners listed in the attached list of participating landowners

Request: Authorize a Wind Farm which consists of 30 Wind Farm Towers (wind turbines) in total with a total nameplate capacity of 48 megawatts (MW) of which 28 Wind Farm Towers with a total nameplate capacity of 44.8 MW are proposed in Compromise Township (Part A) and 2 Wind Farm Towers with a total nameplate capacity of 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and public road improvements, and including the following waivers of standard conditions:

1. Waive the standard condition of 6.1.4 D. 1 (a) that requires certificates of design compliance from Underwriters Laboratories (“UL”) or equivalent third party.
2. Waive the standard condition of 6.1.4 F.1. that requires a signed Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals.
3. Waive the standard condition of 6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition.
4. Waive the standard condition of 6.1.4 J. that requires the application to contain a copy of the Agency Action Report from the Illinois Department of Natural Resources Endangered Species Program.
5. Waive the standard condition of 6.1.4 S.1.(c)(3) that requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit.

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### SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 25, 2011; September 1, 2011; September 8, 2011; September 29, 2011; October 6, 2011; October 13, 2011; October 20, 2011; and November 3, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners are California Ridge Wind Energy LLC and the participating landowners.  
Regarding the petitioners:
  - A. California Ridge Wind Energy LLC is wholly owned by Invenergy Wind North America LLC, One South Wacker Drive, Suite 1900, Chicago, IL 60606, with President, Michael Polsky; Vice President, James Murphy; Vice-President, Bryan Schueler; Vice-President, James Shield; Vice-President, Kevin Parzyck; Secretary, Joseph Condo, all with offices at One South Wacker Drive, Suite 1900, Chicago, IL 60606. Invenergy is headquartered in Chicago and has 21 completed and operating wind projects and has four wind projects in construction and three other wind projects under contract and recently received approval for more than 100 wind turbines in adjacent Vermilion County as part of the overall California Ridge wind project.
  - B. The participating landowners listed in the attached list have signed grants for the use of their property for the proposed wind farm.
2. The subject property consists of approximately 10,193 acres in the following townships:
  - A. In Compromise Township the following sections are included with exceptions as described in the attached list of participating landowners and relevant properties:
    - (1) Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33 of T21N, R14W of the 2<sup>nd</sup> P.M.,
    - (2) Sections 24, 25, and 36 of T21N, R10E of the 3<sup>rd</sup> P.M.,
    - (3) Fractional Sections 30 and 31 of T21N, R11E, of the 3<sup>rd</sup> P.M.
  - B. In Ogden Township the following sections are included with exceptions as described in the attached list of participating landowners and relevant properties:
    - (1) Fractional Section 6, T20N, R11E of the 3<sup>rd</sup> P.M.,
    - (2) Fractional Sections 4, 5, 6, and 7 of T20N, R14W of the 2<sup>nd</sup> P.M.,
    - (3) Sections 8, 9, and 16 of T20N, R14W of the 2<sup>nd</sup> P.M.
3. No part of the subject property is located within the one-and-one-half miles of the Village of Royal which is a municipal zoning jurisdiction. Illinois law (55 ILCS 5/5-12020) reserves jurisdiction over wind farms and electric generating wind devices within one-and-one-half miles of a municipal zoning jurisdiction to that municipality and so Champaign County cannot authorize any wind farm development within a mile and a half of the Village of Royal.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. The proposed wind farm is in the AG-1 Agriculture Zoning District and surrounds an isolated portion of the CR Conservation Recreation Zoning District in Fractional Section 4 of Ogden Township and also the B-1 Rural Trade Center Zoning District at Dailey in Section 33 of Compromise Township. Land use within the area of the proposed wind farm consists primarily of agriculture but there are also individual single family dwellings throughout the area and an FS fertilizer plant at Dailey.

***GENERALLY REGARDING THE PROPOSED SPECIAL USE***

5. Regarding the site plan of the proposed WIND FARM, there is no single map or plan of the WIND FARM and the site plan consists of the following documents:
  - A. California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011
  - B. Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion)
  - C. Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011 Parcel
  - D. Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011

***GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS***

6. Regarding authorization for a “wind farm” in the AG-1 Agriculture Zoning District in the *Zoning Ordinance*:
  - A. The County Board amended the Zoning Ordinance by adopting revised wind farm requirements when it adopted Ordinance No. 848 on May 21, 2009. Subsequent amendments revised the definition of a WIND FARM and a WIND FARM TOWER (Ordinance No. 863 (Case 634-AT-08 Part B)) and revised the basic reclamation agreement requirements and the Restricted Land Area and Airport separations (Ordinance No. 861 (Case 658-AT-09)) and eliminated contradictory requirements related to shadow flicker (Ordinance No. 864 (Case 664-AT-10)).
  - B. Section 5.2 only authorizes “wind farm” in the AG-1 District and requires a special use permit authorized by the County Board.
  - C. Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:

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Item 6 (continued)

- (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
  - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
  - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
  - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
  - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- D. Subsection 6.1.4 contains the standard conditions for any WIND FARM which are as follows (capitalized words are defined in the Ordinance):
- (1) Requirements for what must be included in the area of the WIND FARM are in 6.1.4A.
  - (2) Paragraph 6.1.4 B. eliminates LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, and LOT COVERAGE requirements from applying to a WIND FARM.
  - (3) Paragraph 6.1.4 C. contains minimum separations for WIND FARM TOWERS from other STRUCTURES, BUILDINGS, and USES and provides for PRIVATE WAIVERS of minimum separations.
  - (4) Paragraph 6.1.4 D. contains standard conditions for the design and installation of WIND FARM TOWERS.
  - (5) Paragraph 6.1.4 E. contains standard conditions to mitigate damage to farmland.
  - (6) Paragraph 6.1.4 F. contains standard conditions for use of public streets.
  - (7) Paragraph 6.1.4 G. contains standard conditions for coordination with local fire protection districts.

Item 6.D. (continued)

- (8) Paragraph 6.1.4 H. contains standard conditions to eliminate electromagnetic interference.
  - (9) Paragraph 6.1.4 I. contains standard conditions for the allowable noise level.
  - (10) Paragraph 6.1.4 J. contains standard conditions for endangered species consultation.
  - (11) Paragraph 6.1.4 K. contains standard conditions for historic and archaeological resources review.
  - (12) Paragraph 6.1.4 L. contains standard conditions for acceptable wildlife impacts from WIND FARM construction and ongoing operation of the WIND FARM.
  - (13) Paragraph 6.1.4 M. contains standard conditions for shadow flicker caused by the rotors of the WIND FARM TOWERS.
  - (14) Paragraph 6.1.4 N. contains standard conditions for the minimum liability insurance for the WIND FARM.
  - (15) Paragraph 6.1.4 O. contains other standard conditions for operation of the WIND FARM.
  - (16) Paragraph 6.1.4 P. contains standard conditions for a decommissioning plan and site reclamation agreement for the WIND FARM and modifies the basic site reclamation requirements in paragraph 6.1.1 A.
  - (17) Paragraph 6.1.4 Q. contains standard conditions for a complaint hotline for complaints related to WIND FARM construction and ongoing operation.
  - (18) Paragraph 6.1.4 R. contains the standard condition for expiration of the WIND FARM County Board Special Use Permit.
  - (19) Paragraph 6.1.4 S. contains standard conditions establishing additional requirements for application for a WIND FARM County Board Special Use Permit that supplement the basic requirements for a special use permit application.
- E. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:

Item 6.E.(1) (continued)

- (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
  - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
- (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
  - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
  - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- F. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) DWELLING OR PRINCIPAL BUILDING, PARTICIPATING: A DWELLING on land that is leased to a WIND FARM.
  - (2) DWELLING OR PRINCIPAL BUILDING, NON- PARTICIPATING: A DWELLING on land that is not leased to a WIND FARM.
  - (3) NON-ADAPTABLE STRUCTURE: Any STRUCTURE or physical alteration to the land which requires a SPECIAL USE permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRICT (by right or by SPECIAL USE).

Item 6.F. (continued)

- (4) PRIVATE WAIVER: A written statement asserting that a landowner has agreed to waive a specific WIND FARM standard condition and has knowingly agreed to accept the consequences of the waiver. A PRIVATE WAIVER must be signed by the landowner.
  - (5) SPECIAL CONDITION is a condition for the establishment of a SPECIAL USE.
  - (6) SPECIAL USE is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
  - (7) WIND FARM: A unified development of WIND FARM TOWERS and all other necessary components including cabling, transformers, a common switching station, and maintenance and management facilities which are intended to produce electricity by conversion of wind energy and to deliver the electricity to the power grid. A WIND FARM is under a common ownership and operating control even though the individual WIND FARM TOWERS may be located on land that is leased from many different landowners. A WIND TURBINE TOWER or WIND TURBINE TOWERS that do not conform to the definitions of either a SMALL WIND TURBINE TOWER or a BIG WIND TURBINE TOWER shall by definition be considered a WIND FARM and may only be authorized as a WIND FARM.
  - (8) WIND FARM TOWER: A wind turbine nacelle and rotor and the supporting tower structure that are part of a WIND FARM development and intended to produce electricity for the power grid or any WIND TURBINE TOWER that does not conform to the definitions of either a SMALL WIND TURBINE TOWER or a BIG WIND TURBINE TOWER.
  - (9) WIND TOWER, TEST: A tower that is installed on a temporary basis not to exceed three years and that is intended for the sole purpose of collecting meteorological data regarding the wind.
- G. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;

Item 6.G. (continued)

- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- H. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION***

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
  - A. The Petitioner has testified on the application, **“The proposed use is necessary for public convenience at this location with its excellent wind resource, strong community support, parcels leased by landowners for wind development and proximity to transmission.”**
  - B. The State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State’s energy coming from renewable sources by the year 2025.
  - C. Invenergy representative Greg Leutchmann testified at the September 1, 2011, public hearing that based on wind conditions, land, layout, and maintenance the project estimates are that the annual output of the proposed wind farm will be between 38% and 44% of the full rated capacity of 48MW for the wind farm.

***GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE***

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
  - A. The Petitioner has testified on the application, **“The proposed land use will not be injurious to the District or otherwise detrimental to the public welfare as described in the Application and it will follow the local ordinance requirements.”** (Note that the



Item 8.A. (continued)

Application referred to is the 700 page *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011)

- B. Regarding surface drainage, see the discussion under item 9.
- C. Regarding the traffic conditions in the proposed WIND FARM the WIND FARM developer (Invenergy) is negotiating road use agreements with the County Engineer and also with the Compromise and Ogden Township Highway Commissioners. See the discussion under item 9.
- D. Regarding fire protection see the discussion under item 9.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, none appears to be indicated on the site plan received
- G. There is no wastewater treatment and disposal required for the proposed WIND FARM.
- J. Regarding parking, there is no required parking for the proposed WIND FARM.
- K. Regarding life safety considerations related to the proposed Special Use:
  - (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
    - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
    - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
    - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.

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Item 8.K. (continued)

- (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
  - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
  - (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
  - (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
  - (h) No part of the proposed special use permit for a WIND FARM will have to be accessible.
- L. Regarding whether or not the proposed Special Use will use any best prime farmland:
- (1) The Champaign County Zoning Ordinance and Land Resource Management Plan identify best prime farmland as farmland that has a Relative Value or Land Evaluation score of 85 or greater as identified in the Champaign County Land Evaluation and Site Assessment (LESA) System.
  - (2) The Champaign County Soil and Water Conservation District has analyzed the soils that will be used for the proposed WIND FARM and has determined the following:
    - (a) The actual wind turbine sites and access roads will use about 22 acres of farmland that has an average Land Evaluation (LE) of 81 and is not best prime farmland overall.
    - (b) If all areas likely to be disturbed are considered to consist of buffers of 40 feet for access roads and 150 feet for each turbine the total area increases to 118 acres and the LE increases to 82 but is still not best prime farmland on average.
  - (3) The *Natural Resource Report for the California Ridge Wind Farm Champaign County, Illinois* by the Champaign County Soil and Water Conservation District dated October 6, 2011, points out concerns about possible soil erosion at many of the proposed wind farm tower sites. A special condition has been proposed to

Item 8.L. (continued)

require a permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.

- M. Regarding concerns about possible affects on residential property values in the vicinity of the proposed WIND FARM, the Zoning Board of Appeals reviewed the following recent studies regard residential property values in proximity to wind farms:
- (1) The report *The Impact of Wind Power Projects on Residential Property Values in the United States: A Multi-Site Hedonic Analysis* was published in December 2009 by Ernesto Orlando Lawrence Berkeley National Laboratory and is considered the best information available regarding property value impacts of wind farms. The full report is available free of charge as a download at <http://eetd.lbl.gov/EA/EMP> and was distributed to ZBA members. The Executive Summary and the published Powerpoint presentation were also included separately with the October 6, 2011, Supplemental Memorandum. The study can be summarized as follows:
    - (a) The study analyzed data from 7,459 home sales from 10 communities surrounding 24 wind power facilities across the United States. Slide 11 in the Powerpoint presentation illustrates where the study areas were located in the US. Note the Lee County, Illinois was one study area.
    - (b) Homes in the study were located from 800 feet to over 5 miles from the nearest wind energy facility and each home was visited by the researchers to determine the site specific data such as the degree to which the wind facility may have been visible at the time of sale.
    - (c) Data analyzed in this study included: sales data, parcel data, GIS data, view data, and vista data.
    - (d) The study classified the concerns about the possible impact of wind facilities on residential property value into the following three categories:
      - i. Area Stigma which is a concern that the area in the vicinity of a wind energy facility will look more developed and advertsely affect home values in that community even if no individual home has a view of wind turbines.
      - ii. Scenic Vista Stigma which is a concern that the view of a wind energy facility may have a detrimental impact on home value if the view from that home is otherwise scenic.



Item 8.M.(2) (continued)

- (c) Parcels included in the study were those which were sold between the years 2000 – 2009. Of the 11,331 transactions only 461 of those transactions were for parcels within 3 miles to the nearest turbine. Some of the parcels were sold more than once. Within three miles, 142 parcels were sold at least twice.
  - (c) Parcel data, turbine locations, land cover data, sales data, lot size, and other relevant data were compiled using Geographic Information Systems (GIS) software. The parcels were mapped to determine the distance to the nearest turbine in order to estimate the nuisance effects of the turbines. Statistical software was also used to compile data.
  - (d) The study used a repeat sales fixed-effects hedonic analysis. This approach was used to estimate the “treatment” of effect of a parcel’s proximity to a wind turbine.
  - (f) The study findings are summarized in the Discussion section as follows:
    - i. In the two counties with the most geographic area inside Adirondack Park it was found that wind turbines typically had a negative impact on property values.
    - ii. In the third county that had only a small portion of its area inside Adirondack Park the study found no effect on property values because of wind turbines.
- N. See Section 12 for a summary of evidence regarding whether any requested waiver of standard conditions will be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare.
- O. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

***GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT***

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conforms to all applicable regulations and standards and preserves the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

Item 9. (continued)

- A. The Petitioner has testified on the application, “**Reference Section 3.4; Section 4.1.1; and Appendix H of the Application.**” (Note that the Application referred to is the 700 page *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011)
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) WIND FARM is authorized only by the County Board and only by Special Use Permit in the AG-1 Agriculture Zoning District.
  - (2) There is no required parking.
  - (3) Requirements for what must be included in the area of the WIND FARM Special Use Permit are in subparagraph 6.1.4 A.1. At this time the area of the WIND FARM Special Use Permit includes all of the relevant parcels of the participating landowners. A waiver of the standard condition of 6.1.4 A. 1.(e) that requires the special use permit area to include a minimum of 40 feet wide area for electrical lines has been requested and is discussed on p. 3-9 of the *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011, as follows (waiver #1):
    - (a) During construction California Ridge will encounter field conditions which occasionally require rerouting of collection systems amongst a property.
    - (b) Some relevant information will not be known until immediately before or during construction and will require adjustment and relocation of underground cable installations.
    - (c) Authorizing the requested waiver will allow adjustments up to until and during construction to ensure field conditions and landowner concerns are accounted for in the final wind farm design and construction.
    - (d) As proposed, the area of the WIND FARM Special Use Permit will be much larger than the minimum area intended by the requirements of 6.1.4A.1. and there is no waiver required.
  - (4) Subparagraph 6.1.4 A.2. identifies certain areas where a WIND FARM Special Use Permit shall not be located.
    - (a) Item 6.1.4 A.2.(a) requires a WIND FARM to be more than one and one half miles from an incorporated municipality with a zoning ordinance. The Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011, indicates that no part of the WIND FARM is proposed closer than 1.5 miles from the Village of Royal.

Item 9.B.(4) (continued)

- (b) Item 6.1.4 A.2.(b) requires a wind farm to be a minimum of one mile from the CR District. The Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011, indicates that no part of the WIND FARM is proposed closer than 1.5 miles from the Village of Royal.
- (4) Paragraph 6.1.4 B. eliminates LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, and LOT COVERAGE requirements from applying to a WIND FARM.
- (5) Paragraph 6.1.4 C. contains minimum separations for WIND FARM TOWERS from other STRUCTURES, BUILDINGS, and USES and provides for PRIVATE WAIVERS of minimum separations. The *Special Use Permit Application* received July 1, 2011, discussed the proposed separations on pages 3-8 and 3-9 and illustrated the proposed separations in Figure 3-5 Participating Properties and Champaign County Required Setbacks. The proposed WIND FARM complies with all minimum separations in paragraph 6.1.4 C. including the wind turbine manufacturer's recommendations.

Review of apparent WIND FARM TOWER locations by the Zoning Administrator indicates that in many locations WIND FARM TOWERS appear to be closer to adjacent participating properties than allowed by minimum separations. Minimum separations can be waived by means of PRIVATE WAIVERS. The only private waivers in the WIND FARM are the waivers agreed to by the PARTICIPATING landowners and those waivers have been documented and are in the chain of title of deed.

- (6) Paragraph 6.1.4 D. contains standard conditions for the design and installation of WIND FARM TOWERS. Compliance with paragraph 6.1.4 D. can be summarized as follows:
  - (a) Subparagraph 6.1.4 D. 1 (a) requires certificates of design compliance from Underwriters Laboratories ("UL") or equivalent third party. The *Special Use Permit Application* received July 1, 2011, did not include a certificate of design compliance. Invenergy representative Greg Leutchmann testified the September 29, 2011, public hearing that the design certification would be from TUV NORD. The Supplemental Memorandum dated August 25, 2011, reviewed the required waiver of 6.1.4 D.1(a) and proposed a special condition to require this certification as a condition for a Zoning Compliance Certificate.
  - (b) Subparagraph 6.1.4 D. 1 (b) requires certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design are within accepted standards. The *Special Use Permit Application* received July 1, 2011, discussed this requirement on pages 3-4

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Item 9.B.(6) (continued)

- and 4-3. A special condition has been proposed to ensure compliance with this requirement
- (c) Subparagraph 6.1.4 D. 2. establishes minimum requirements for controls and brakes. The *Special Use Permit Application* received July 1, 2011, reviews controls and brakes on p. 4-2 and meets the requirements.
  - (d) Subparagraph 6.1.4 D. 3. establishes minimum requirements for electrical components. The *Special Use Permit Application* received July 1, 2011, reviews electrical components on p. 4-1 and meets the requirements.
  - (e) Subparagraph 6.1.4 D. 4. establishes a requirement for monopole construction. The *Special Use Permit Application* received July 1, 2011, reviews the proposed tower on p. 4-2 and illustrates the proposed tower on p. 4-4 and meets the requirement.
  - (f) Subparagraph 6.1.4 D. 5. establishes a requirement for the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) to be less than 500 feet. The *Special Use Permit Application* received July 1, 2011, reviewed the proposed tower height on p. 4-8 and it meets the requirement with a total height of 492 feet.
  - (g) Subparagraph 6.1.4 D. 6. establishes a requirement for a white or gray or another non-reflective, unobtrusive color for WIND FARM TOWERS, turbine nacelles, and blades. As depicted on p. 3-7 and in Appendix A and explained on page 1 of Appendix B of the *Special Use Permit Application* received July 1, 2011, the proposal meets the requirement.
  - (h) Subparagraph 6.1.4 D. 7. establishes a requirement for compliance with all Federal Aviation Administration (FAA) requirements. The *Special Use Permit Application* received July 1, 2011, explains on p. 5-13 that proposed WIND FARM will comply with FAA requirements.
  - (i) Subparagraph 6.1.4 D. 8. requires warnings for all pad mounted transformers. The *Special Use Permit Application* received July 1, 2011, explains on p. 3-4 that each turbine transformer will have proper voltage warning signs.
  - (j) Subparagraph 6.1.4 D. 9 requires wind farm towers to be protected by non-climbing devices 12 feet vertically from the base. The *Special Use Permit Application* received July 1, 2011, requested a waiver from this requirement on p. 4-1 and the waiver was reviewed in the Supplemental Memorandum dated August 25, 2011. The specific wording of 6.1.4 D.9



Item 9.B.(6) (continued)

requires "...devices such as fences at least six feet high with locking portals or anti-climbing devices 12 feet vertically from the base of the WIND FARM TOWER." (emphasis added) and the locking door on the outside of the smooth skinned monopole is a device that is similar so no waiver is required.

- (7) Paragraph 6.1.4 E. contains standard conditions to mitigate damage to farmland. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements and can be summarized as follows:
- (a) Subparagraph 6.1.4 E. 1. establishes a minimum depth of 4 feet for underground wiring or cabling and proposed compliance is established on p. 3-5 and p. 15 of Appendix I and in the Drainage Study (see Additional Considerations) at the back of Appendix I.
  - (b) Subparagraph 6.1.4 E. 2. establishes requirements for protection of agricultural drainage tile and proposed compliance is established on p. 29 of Appendix I and in the Drainage Study at the back of Appendix I.
  - (c) Subparagraph 6.1.4 E. 3. requires restoration for any damage to soil conservation practices and proposed compliance is established on the last few pages of the Drainage Study at the back of Appendix I.
  - (d) Subparagraph 6.1.4 E. 4. establishes requirements for topsoil replacement pursuant to any open trenching and proposed compliance is established in the Drainage Study (see Additional Considerations) at the back of Appendix I.
  - (e) Subparagraph 6.1.4 E. 5. establishes requirements for mitigation of soil compaction and rutting and proposed compliance is established in the Drainage Study (see Additional Considerations) at the back of Appendix I.
  - (f) Subparagraph 6.1.4 E. 6. establishes requirements for land leveling and proposed compliance is established in the Drainage Study (see Additional Considerations) at the back of Appendix I.
- (8) Paragraph 6.1.4 F. contains standard conditions for use of public streets. Paragraph 6.1.4F. requires the Applicant to enter into a signed Roadway Upgrade and Maintenance agreement approved by the County Engineer and State's Attorney and/or any relevant Township Highway Commissioner prior to the close of the public hearing for the use of public streets. Regarding this requirement:
- (a) Regarding the signed Roadway Upgrade and Maintenance agreement with Champaign County:

Item 9.B.(8)(a) (continued)

- i.* Champaign County Engineer Jeff Blue testified at the September 8, 2011, public hearing that the County agreement is 99% complete but it needed to be reviewed by the Champaign County State's Attorney and that the County Engineer does not have authority to sign the agreement and the agreement would need to be signed by the County Board Chair following a resolution by the County Board authorizing signature but that he will recommend approval of the agreement when it is forwarded.
  - ii.* A Draft Champaign County-California Ridge Wind Roads Agreement was received October 5, 2011. The Draft County Roads Agreement complied with the requirements of 6.1.4 F. except that it was not yet signed by the County Board Chair. A waiver has been requested for the signature requirement.
  
- (b) Regarding the signed Roadway Upgrade and Maintenance agreements with the Compromise and Ogden Township Highway Commissioners:
  - i.* A letter regarding road use agreements was received on August 18, 2011, from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Ogden Township Highway Commissioner. Among other statements in the letter, the letter stated that Road Commissioners have been discussing use of township roads for the proposed California Ridge Wind farm with various representatives of Invenery since the Spring of 2009; and the Road Commissioner asked the ZBA to adhere to the terms of the Zoning Ordinance while allowing them to fulfill their duties and responsibilities as Road Commissioners.
  
  - ii.* A letter regarding road use agreements was received on September 29, 2011 from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Ogden Township Highway Commissioner. Among other statements in the letter, the letter stated that there had been more progress towards on the agreement in the past two weeks than there had been the past two years but a few issues still needed to be resolved and the Road Commissioners expected to be able to advise the ZBA at the next meeting that they have reached agreement with Invenergy.
  
  - iii.* As of the meeting on October 6, 2011, there was no signed Roadway Upgrade and Maintenance agreement approved by either the Compromise or Ogden Township Highway Commissioners.

## Item 9.B. (continued)

- (9) Paragraph 6.1.4 G. contains standard conditions for coordination with local fire protection districts. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements on pages 5-14 and 6-1.
- (10) Paragraph 6.1.4 H. contains standard conditions to eliminate electromagnetic interference. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements on pages 5-10 and 5-11.
- (11) Paragraph 6.1.4 I. contains standard conditions for the allowable noise level. It is not clear if the *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements and a waiver has been included as reviewed below:
  - (a) Subparagraph 6.1.4 I. 1. requires the noise level from each WIND FARM TOWER or WIND FARM to be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 *Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
  - (b) In a letter approved at the October 29, 2009, ZBA meeting the ZBA had requested that the County Board approve the hiring of a noise consultant to provide a qualified evaluation of wind farm noise submittals. At the November 30, 2009, the Environment and Land Use Committee voted to not hire a noise consultant to evaluate the noise studies submitted by wind farm developers.
  - (c) Regarding the Illinois Pollution Control Board (IPCB) regulations (35 *Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910):
    - i. 35 IAC 901.101 b) defines Class A land as all land used as specified by LBSC Codes 1000 through 1340, 2410 through 2455, 5200 through 5230, 5500, 6100 through 6145, 6222, 6510 through 6530, 6568 through 6600.
    - ii. Appendix B to 35 IAC 901 identifies LBSC Code 1100 as "Private Household" and as Class A under 35 IAC 901 Land Class.
    - iii. Appendix B to 35 IAC 901 does not contain the land use "wind farm" but does identify "alternative energy sources" under LBSC Code 4314 as Class C.



Item 9.B. (11) (continued)

- ii.* Regarding the existing ambient sound levels in the project area that are discussed on pages B-3 to B-9 of Appendix C of the Application:
- (i)* On p. B-3 it states the data was gathered during two 24-hour periods during the week of May 4, 2009, at two different locations in the project area.
- (ii)* Noise Monitoring Locations are indicated on Figure A-1 on page A-3 in Appendix C. Monitoring Location 1 (ML1) is indicated as being near the intersection of CR2500N and CR2600E in Compromise Township and on page B-3 the location is described as the front yard of a residence. Measuring Location 2 is at the southern boundary of the project area.
- (iii)* Figure B-1 on page B-5 of Appendix C illustrates the sound distribution at ML1 which is summarized on pages B-4 and B-5 as follows:
- The median sound levels at ML1 ranged from 33dBA to 41dBA and are indicated on Figure B-1 by triangles.
  - The triangles indicating the median sound levels on Figure B-1 are on vertical lines and the top of each line is the loudest 10% of that hour of sound and the bottom of each line is the quietest 10% of that hour.
  - On average the sound levels varied 15dB between the highest 10% and the lowest 10% and the wide variation in sound level during an hour indicates the presence of short duration or periodic loud events.
  - On p. B-3 it states that nighttime ambient sound levels were generally dominated by natural sources.
  - Page B-9 of the Application states that the existing ambient sound levels exceed three or more of the I.P.C.B. spectral noise limits during both daytime and nighttime and Table B-4 and B-5 indicate the I.P.C.B. spectral noise limits are exceeded at ML1 for nighttime sound levels for the 7 octave bands between 125 hertz and 8 kilohertz. Page B-7 states that the results are typical of those found in rural

Item 9.B. (11) (continued)

agricultural communities with high quality wind resources. The loudest nighttime ambient sound monitoring data is as follows:

- 67 dB and 56dB for locations ML1 and ML2 respectively, at the octave band center frequency 63 hertz
- 67 dB and 48dB for locations ML1 and ML2 respectively, for the octave band center frequency 125 hertz
- 58 dB and 43dB for locations ML1 and ML2 respectively, for the octave band center frequency 250 hertz
- 56 dB and 47 dB for locations ML1 and ML2 respectively, for the octave band center frequency 500 hertz
- 58 dB and 42dB for locations ML1 and ML2 respectively, for the octave band center frequency 1,000 hertz
- 53 dB and 42 dB for locations ML1 and ML2 respectively, for the octave band center frequency 2,000 hertz
- 44 dB and 39 dB for locations ML1 and ML2 respectively, for the octave band center frequency 4,000 hertz
- 35 dB and 32 dB for locations ML1 and ML2 respectively, for the octave band center frequency 8,000 hertz

(iv) In testimony at the September 1, 2011, public hearing Timothy Casey, Senior Environmental Scientist with HDR Engineering, Inc. testified that at each of the two monitoring locations 13 of the 24 hours of sound measurements exceeded the I.P.C.B. noise limits due to the sound of the wind blowing.

iii. Regarding the Cadna-A computer software that was utilized to model the noise results:

(i) Cadna-A computer software was proposed to be utilized by at least one of the prospective noise consultants who submitted proposals in response to the Champaign County RFP in October 2009 pursuant to the ZBA request for a noise consultant to review wind farm submittals.

## Item 9.B. (11) (continued)

- (ii) Timothy Casey, Senior Environmental Scientist with HGR Engineering, Inc. testified at the September 1, 2011, public hearing that he has validated that Cadna-A results are in very close agreement to manual computations.
- iv. Timothy Casey, Senior Environmental Scientist with HDR Engineering, Inc. testified at the September 1, 2011, public hearing that HDR used very conservative assumptions in modeling the noise of the wind farm so that the computer model would overestimate noise levels, as follows:
- (i) HDR imported a digital terrain file into the noise software so that the noise model is based on the actual three dimensional topography.
- (ii) HDR picked the loudest noise emission of the wind turbine which is representative of a 31 miles per hour wind speed so that the computer model produced a one hour average noise based on a wind of 31 miles per hour which is unrealistic because the wind does not blow uniformly for one hour.
- (iii) HDR assumed the wind blows from every direction and not just the predominant direction indicated in the meteorological data and that is unrealistic but results in noise levels that a little bit higher.
- (iv) HDR input the site specific topography, locations of 260 houses and turbines, the loudest noise emission data for the GE turbine, and assumed a 31 mile per hour wind blowing in all directions uniformly for one hour and they found that the highest calculated noise level among the 260 homes complied with the daytime and nighttime noise limits.
- v. Table 4 in Appendix C of the Application states the wind turbine sound emissions data that were provided by General Electric, the turbine manufacturer. The data reported in Appendix C is reported as sound on the "A" scale and it is not clear how that relates to the applicable sound limits. As reported in Appendix C the data provided was the following:
- 82.5 dBA for the octave band center frequency 31.5 hertz
  - 92.2 dBA for the octave band center frequency 63 hertz
  - 95.9 dBA for the octave band center frequency 125 hertz

Item 9.B. (11) (continued)

- 95.2 dBA for the octave band center frequency 250 hertz
  - 95.5 dBA for the octave band center frequency 500 hertz
  - 99.9 dBA for the octave band center frequency 1,000 hertz
  - 99.3 dBA for the octave band center frequency 2,000 hertz
  - 90.5 dBA for the octave band center frequency 4,000 hertz
  - 71.6 dBA for the octave band center frequency 8,000 hertz
- vi.* The discussion on p. 6 of Appendix C of the *Application* states “Project-related sound levels were calculated at 260 residences (the noise-sensitive receptors) in the Champaign County portion of the Project area.” The reported sound levels are apparently not at the property line.
- vii.* Tables 5 and 6 in Appendix C summarize the daytime and nighttime sound analysis modeling results for the relevant octave bands for the residence with the highest noise level and compares those results to the maximum allowable sound level. The modeling results are lower than the maximum allowable sound level for all octave bands. The nighttime summary analysis shows that the highest sound level predicted is below the maximum allowable by at least 1 dB. The highest predicted nighttime sound levels are the following:
- 68 dB for the octave band center frequency 31.5 hertz
  - 64 dB for the octave band center frequency 63 hertz
  - 53 dB for the octave band center frequency 125 hertz
  - 43 dB for the octave band center frequency 250 hertz
  - 38 dB for the octave band center frequency 500 hertz
  - 40 dB for the octave band center frequency 1,000 hertz
  - 34 dB for the octave band center frequency 2,000 hertz
  - 15 dB for the octave band center frequency 4,000 hertz
  - 0 dB for the octave band center frequency 8,000 hertz
- viii.* Note that the sound levels at both the 31.5 hertz and the 1,000 hertz octave band centers are only 1dB lower than the maximum allowable of 69dB and 41dB respectively and these two octave band centers appear to be critical for determining compliance. Recall that the wind turbine data provided by GE indicated that the turbine generates 82.5 dBA at the 31.5 hertz octave band center and 99.9dBA at the 1,000 hertz octave band center.
- ix.* Appendix C in Appendix C gives the noise modeling results on an average hourly basis (Leq) for all receptors and the maximum allowable sound level is never exceeded at any octave band. Regarding the results in Appendix C in Appendix C:



## Item 9.B. (11) (continued)

- (i) I.P.C.B. noise regulations do not regulate Leq and it is not clear how Leq compares to the IPCB noise regulations.
  - (ii) The noise results submitted in the Application indicate that only 9 receptors are within approximately 3 decibels or less of the maximum noise limit and the other 251 receptors are below the limit by more than 3 decibels.
- x. Regarding overall compliance with the Ordinance requirement for allowable noise level:
  - (i) The I.P.C.B. noise standard is a property line noise standard that appears to apply to land and not just to buildings but there is disagreement about that and the I.P.C.B. noise regulations are not regularly enforced by any state agency and so there is no official to answer to that question. The discussion on p. 6 of Appendix C of the *Application* states “Project-related sound levels were calculated at 260 residences (the noise-sensitive receptors) in the Champaign County portion of the Project area.” Thus, the noise data provided is at the dwelling and not at the property line.
  - (ii) The petitioner submitted evidence indicating that for larger properties the I.P.C.B. noise regulations do not apply at the dwelling.
  - (iii) For residential properties less than 5 acres in area the difference between the sound level at the property line versus the sound level at the dwelling may not differ by much given the small distance involved but the data provided in the noise analysis is difficult to compare for the following reasons:
    - The noise analysis does not give the location of any predicted sound level but it is likely that the greatest sound level occurs where the least separation is reported. However, many receptors are proximal to more than one turbine and that would affect sound level.
    - The noise analysis was conducted assuming a different turbine layout than the current site plan. The Parcel Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011,

Item 9.B. (11) (continued)

indicates that turbines 20 and 21 have been relocated from their former positions new turbine 22.

- The noise analysis uses sound levels based on both the A-weighted scale (dBA) and the nonweighted dB scale and it is not clear if direct comparisons between the two scales are valid.
- Sound levels in the 8 octave band centers are also converted to hourly average noise levels ( $L_{eq}$ ) and it is not clear how that resulting average compares to the I.P.C.B. maximum noise level.

- (iv) The smallest separation between a dwelling and a proposed WIND FARM TOWER is between turbine # 22 and a dwelling on the west side of CR 2600E in Section 32 Range 14 West of Compromise Township that is indicated as a participating dwelling on the map Champaign County Non-Participating Dwelling Separation Summary received July 29, 2011. The separation of this participating dwelling is not dimensioned on the Champaign County Non-Participating Dwelling Separation Summary map but the separation of the non-participating dwelling to the east is dimensioned and proportional scaling indicates that the participating dwelling is proposed to be approximately 1,070 feet from turbine #22. In Appendix C of Appendix C this dwelling should be the receptor with the highest sound results which is receptor C\_R0046. Regarding the results reported for C\_R0046:
- The greatest reported nighttime sound level at the 31.5 hertz octave of 68 dB (67.6 before rounding) likely occurred at this location. The average reduction in sound level from the turbine data of 82.5dBA at 31.5 hertz to the predicted 68dB at the dwelling is about 1 dB per each 71.8 feet of distance.
  - The greatest reported nighttime sound level at the 1,000 hertz octave of 40 dB (39.9 before rounding) also likely occurred at this location and if so the average reduction in sound level from the 99.9 dBA turbine data is about 1 dB per each 17.8 feet of distance.

Item 9.B. (11) (continued)

- (v) It is difficult to generalize whether or not the noise analysis complies with the requirement as applied to smaller lots and a waiver is required.
- (vi) In a letter dated October 6, 2011, Tim Casey, HDR Acoustics Program Manager, clarified that the correct values for the A-weighted equivalent value of the I.P.C.B. noise limits are 61dBA for daytime and 51 dBA for nighttime.
- (vii) Comparing the existing ambient sound levels at ML1 with the highest predicted sound levels and the maximum allowed sound levels under the I.P.C.B, noise regulations reveals the following:
  - The highest predicted sound levels were based on very conservative assumptions and only occurred at 2 of the 260 receptors and are more than 3 dB greater than (and therefore distinguishable from) the median ambient sound level during every hour of the day.
  - The highest predicted sound levels are more than 6dB greater (an apparent doubling) than the median ambient sound level during 13 hours of the day. This is only true for the two dwellings with the highest predicted sound levels.
  - The highest 10% of short duration or periodic loud events captured in the ambient noise study exceed the highest predicted sound levels during approximately 18 hours of the day.
  - In general, higher sound levels are predicted for the 49 dwellings located in and around the area of the proposed special use permit as compared to the sound levels predicted for the remaining 211 dwellings in the noise study.

Item 9.B. (11) (continued)

- (viii) A letter dated November 3, 2011, was received from Timothy Casey, Senior Environmental Scientist with HDR Engineering, Inc. which can be summarized as follows:
- the purpose of the letter is to explain the basis of a single modeled receptor per residence in the noise model HDR prepared for the California Ridge project.
  - the modeled receptor is representative of the residential portion of the larger parcel including the residence itself and it therefore adequately and appropriately represents the entire residential portion of residential lots in the study area.
- (ix) At the public hearing on November 3, 2011, the Zoning Board of Appeals **ELIMINATED** the waiver of standard condition 6.1.4I.

- (12) Paragraph 6.1.4 J. contains standard conditions for endangered species consultation. Regarding compliance with 6.1.4 J.:
- (a) Paragraph 6.1.4 J. contains standard conditions for endangered species consultation and requires submission of a copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources.
- (b) See the August 25, 2011, Supplemental Memorandum for a general discussion and requested a waiver regarding the Agency Action Report.
- (c) In a July 13, 2011, email to John Hall, Keith Shank, Division of Ecosystems and Environment, Illinois Department of Natural Resources, stated as follows:
- i. His letter to Champaign County dated September 21, 2009, which was identical to the letter dated December 4, 2009, would substitute for an Agency Action Report and the consultation was not out of date but that conditions had changed regarding the Indiana Bat and the Mudpuppy Salamander and an updated consultation was necessitated.
  - ii. Consultation is technically not complete until the authorizing agency (Champaign County) stated its response to the IDNR recommendations.

Item 9.B. (12) (continued)

- (d) A second letter from Keith M. Shank regarding an additional consultation and Endangered Species Consultation Program Natural Heritage Database Review #1002516 dated August 18, 2011, states as follows:
- i. The Department recommends Invenergy undertake mist-netting and telemetry surveys in the vicinity of the project area to better document the numbers and relative abundances of bat species occurring in the area, placing an emphasis on the Indiana Bat and its seasonal movements.
  - ii. The Department recommends the County require at least one post-construction fall migration season bat mortality study to document levels of bat mortality resulting from the project's operation.
  - iii. Champaign County must notify the Department of its decision regarding this recommendation and which of the following the County will require:
    - (i) Proceed with the action as originally proposed; or
    - (ii) Require the action to be modified per Department recommendations (please specific which measures if not all will be required); or
    - iii. Forgo the action.
- (e) Regarding the IDNR recommendations dated August 18, 2011:
- i. Regarding the second part of the IDNR recommendation dated August 18, 2011, recommending post-construction mortality studies, post-construction mortality studies are a requirement of the Ordinance and the discussion on pages 5-23 and 5-24 of the *Special Use Permit Application* received July 1, 2011, appears to be consistent with the Ordinance.
  - ii. Regarding the first part of the IDNR recommendation dated August 18, 2011, recommending mist-netting and telemetry surveys to better document the numbers and relative abundances of bat species occurring in the area, placing an emphasis on the Indiana Bat and its seasonal movements:
    - (i) In an email dated August 23, 2011, Keith Shank of the IDNR stated that Invenergy has performed the Blackball Mine Emergence Study to evaluate the movement of reproductive female Indiana bats but that study doesn't do anything to quantify the risk to or from Indiana Bats roosting along the Middle Fork.

Item 9.B. (12) (continued)

- (ii) In the email dated August 23 ,2011, Keith Shank of the IDNR noted that IDNR recommendations are advisory and Champaign County may proceed as seems best to it.
  
- (13) Paragraph 6.1.4 K. contains standard conditions for historic and archaeological resources review. The *Special Use Permit Application* received July 1, 2011, demonstrated substantive compliance with these requirements as follows:
  - (a) By consulting with the Illinois Historic Preservation Agency as evidenced by letters dated March 4, 2009, and March 11, 2010, from Anne Haaker, Deputy State Historic Preservation Officer.
  
  - (b) By proposing to do conduct both a Phase I archaeological survey and an architectural survey of all structures within the Project Area and submitting the results to the Illinois Historic Preservation Agency as stated on pages 5-39 and 5-40 of the *Application*.
  
  - (c) In a phone call on September 19, 2011, Mr. Joseph S. Phillippe, Chief Archaeologist of the Illinois Historic Preservation Agency, stated to the Zoning Administrator that the California Ridge Wind Farm in Champaign County has complied with all recommendations of the Illinois Historic Preservation Agency.
  
- (14) Paragraph 6.1.4 L. contains standard conditions for acceptable wildlife impacts from WIND FARM construction and ongoing operation of the WIND FARM. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements as follows:
  - (a) Subparagraph 6.1.4 L. 1. establishes a requirement that the WIND FARM shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife to a sustainable level of mortality. Proposed compliance is established as follows:
    - i. On p. 15 of Appendix D when it states that Indiana bats are not likely to be roosting, foraging, or migrating within the Project planning area
  
    - ii. As summarized in Table 8 in Appendix E Biological Screening Report.
  
    - iii. As summarized in the Executive Summary and the Conclusion of Appendix F Wildlife Baseline Studies for the California Ridge Wind Farm Final Report.
  
    - iv. As reviewed and proposed on pages 5-18 through 5-39 of the *Special Use Permit Application* received July 1, 2011.

Item 9.B. (14) (continued)

- (b) Subparagraph 6.1.4 L. 2. establishes a requirement that a qualified professional, such as an ornithologist or wildlife biologist, shall conduct a pre-construction site risk assessment study to estimate the impacts of the construction and operation of the proposed WIND FARM on birds and bats. Proposed compliance is established as follows:
    - i. As summarized in the Chiropteran Risk Assessment Summary of Appendix D Chiropteran Risk Assessment: Proposed California Ridge Wind Energy Generation Facility.
    - ii. As summarized in the Executive Summary and the Conclusion of Appendix F Wildlife Baseline Studies for the California Ridge Wind Farm Final Report.
    - iii. As summarized in the Executive Summary and the Summary of Appendix L Investigations of Bat Activity at the Proposed California Ridge Wind Energy Generation Facility.
    - iv. As reviewed and proposed on pages 5-18 through 5-39 of the *Special Use Permit Application* received July 1, 2011.
  - (c) Subparagraph 6.1.4 L. 3. establishes a requirement that a qualified professional, such as an ornithologist or wildlife biologist, shall also conduct a post-construction mortality monitoring study to quantify the mortality impacts of the WIND FARM on birds and bats. Proposed compliance is established as reviewed and proposed on pages 5-18 through 5-39 of the *Special Use Permit Application* received July 1, 2011, particularly pages 5-22 through 5-24 wherein post-construction monitoring is discussed.
- (15) Paragraph 6.1.4 M. contains standard conditions for shadow flicker caused by the rotors of the WIND FARM TOWERS. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements as follows:
- (a) Appendix G of the Application is a shadow flicker assessment prepared using the WindPro software package. Figure 3 Predicted Shadow Flicker maps the proposed turbines and existing receptors and the predicted hours per year of shadow flicker in the project area.
  - (b) As reviewed on pages 5-3 and 5-5 including Figure 5-1 illustrating the predicted shadow flicker for one turbine over the course of a year. As stated on p. 5-4 and illustrated in Figure 3 in Appendix G, no home experiences more than 30 hours of shadow flicker over the course of a year.

Item 9.B. (continued)

- (16) Paragraph 6.1.4 N. contains standard conditions for the minimum liability insurance for the WIND FARM. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements in section 4.3.3 on page 4-9 of the *Application* although it should be clarified that the WIND FARM will be in compliance with the minimum liability insurance requirements even after construction ceases.
- (17) Paragraph 6.1.4 O. contains other standard conditions for operation of the WIND FARM. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements in section 4.3.5 on page 4-9 of the *Application*.
- (18) Paragraph 6.1.4 P. contains standard conditions for a decommissioning plan and site reclamation agreement for the WIND FARM and modifies the basic site reclamation requirements in paragraph 6.1.1 A. Compliance with paragraph 6.1.4 P. can be summarized as follows:
  - (a) Regarding the proposed Reclamation Agreement:
    - i. No Reclamation Agreement was submitted with the Application on July 1, 2011.
    - ii. A Draft Reclamation Agreement was received on August 30, 2011, and forwarded to the State's Attorney for review.
    - iii. The State's Attorney review comments were emailed to the petitioner on September 23, 2011.
    - iv. A revised Reclamation Agreement was received on September 28, 2011.
    - v. A revised Reclamation Agreement was received on October 6, 2011, with a Revised Base Decommissioning Cost Estimate and responses to questions about the decommissioning cost estimate.
    - vi. Further revised Reclamation Agreements were received on October 13, 2011; October 18, 2011; October 19, 2011; October 20, 2011; and November 2, 2011.
    - vii. The current proposed Reclamation Agreement was received on November 2, 2011 after the case was remanded from the Champaign County Board Committee of the Whole. The compliance with the Ordinance requirements are reviewed below and an overall summary is provided at the end of this part.



Item 9.B. (18) (continued)

- (b) Subparagraph 6.1.4 P.1. of the Ordinance requires a signed site Reclamation Agreement conforming to the requirements of paragraph 6.1.1 A. of the Ordinance and the remainder of 6.1.4 P. of the Ordinance. Compliance with the requirements of paragraph 6.1.1 A. of the Ordinance can be summarized as follows:
- i.* Subparagraph 6.1.1A.1. of the Ordinance requires that the Reclamation Agreement shall be binding upon all successors of title to the land. The Reclamation Agreement received on 10/20/11 and the contracts between California Ridge Wind Energy LLC and the landowners firmly binds the landowners to the County.
  - ii.* Subparagraph 6.1.1A.2. of the Ordinance requires that each landowner shall record a covenant incorporating the provisions of the Reclamation Agreement on the deed of the lot. The recorded easement between California Ridge Wind Energy LLC and each landowner fulfills that requirement.
  - iii.* Subparagraph 6.1.1A.3. of the Ordinance requires separate cost estimates provided by an Illinois Licensed Professional Engineer for removal of above-ground and below-ground portions as identified in subparagraph 6.1.1 A. 4. of the Ordinance that are subject to approval of the Board. Appendix B of the petitioner's Application contains cost estimates that are provided by an Illinois Licensed Professional Engineer and a Revised Base Decommissioning Cost Estimate was received on 10/06/11 with responses to questions about the decommissioning cost estimate. Regarding the revised decommissioning cost estimates received on 10/06/11:
    - (i)* Construction management costs are likely to be incurred by the County should the County ever undertake decommissioning. The revised Base Decommissioning Cost Estimate received on 10/06/11 includes costs for overhead, management, and mobilization.
    - (ii)* The cost for removal of the concrete foundation to a depth of 54 inches has been included which exceeds what is required by many Illinois counties.
    - (iii)* The cost for the disposal of the WIND TURBINE blades has been included.

Item 9.B. (18) (continued)

(iv) The Decommissioning Plan states that the 2011 cost of erecting a 1.6 MW 100 meter turbine tower, hub, nacelle, and blades is approximately \$98,000 and therefore uses \$98,000 for the cost of removal and another \$31,000 for transport of the salvage unit for a total of \$129,000 per turbine. The Revised Base Decommissioning Cost Estimate received on 10/06/11 divides the \$129,000 into more detail regarding the costs of disassembly, deconstruction, demolition, and transport. The cost for public road repairs was reduced to \$300,000 from the original \$750,000 and footnote 1 explains that road repairs should be minor given the conditions of roads and the fact that the bottom portion of the foundation (concrete) is the majority of the weight associated with road upgrades. The November 2009 Decommissioning Plan for the Ripley-Westfield Wind Farm in Chautauqua County, New York included a cost of \$80,000 for removal of 1.5 MW 80 meter turbine towers by Barnhart Crane & Rigging Company and assumed a dismantle approach to scrapping rather than a demolition approach. A letter from the Barnhart Company included in the Decommissioning Plan stated that a dismantle and scrap project should be "significantly less expensive" than installation and that a demolition approach to removal might have even lower costs. The independent engineer replied as follows to an inquiry from the Zoning Administrator regarding the cost for turbine removal:

"It is envisioned that the turbine would be deconstructed and hauled to a marshaling yard (10-15 acre area) that is nearby. This is similar to erecting the units but in reverse. Actual costs will depend on the methods used. The blades would be taken to the marshaling yard and broken down into smaller pieces able to be hauled in smaller trucks to the landfill."

(v) The Draft Reclamation Agreement uses a scrap value for steel of \$323 per ton that is the 5-year average as reported by [www.Steelonthenet.com](http://www.Steelonthenet.com) and that is lower than the scrap value estimated in Appendix B of the petitioner's Application. Champaign County steel recyclers are currently quoting approximately \$250 per ton for structural steel that is in proper sizes for recycling. The independent engineer replied as follows to an inquiry from the Zoning Administrator regarding the difference between the scrap

Item 9.B. (18) (continued)

values included in the decommissioning cost versus scrap values in Champaign County:

“Chicago mills are quoting heavy melt between \$415 and \$420 per ton on September 9, 2011. We can’t speak to what local recyclers are paying since we haven’t seen a quote with them or discussed with them. Are they paying true scrap price or are they quoting heavy melt price? Also, the price would be a result of negotiation on a project and would most likely be bid to multiple scrap recyclers (local and beyond). A demolition contractor would only utilize a local recycler if they would be getting a price that made economic sense for them. For the scale and amount of high grade structural steel that is available from this project, a higher price that what is quoted for Champaign County would be achievable. \$323 per ton is reasonable and the reclamation agreement addresses that the 5-year average can be revised based upon an engineer’s judgment.”

- (vi) Footnotes 3 and 4 indicate that the blades and nacelle cover would be transported to a local landfill in the Danville area and recyclable materials would be transported in smaller trucks to steel mills along the Mississippi or East Chicago and truck size will be limited by the roadway load limits in place at the time of decommissioning.
  - (vii) Footnote 6 indicates that the scrap value for copper that is used is the 5-year average price from USGS.
- iv. Subparagraph 6.1.1A.5. of the Ordinance requires submission of an irrevocable letter of credit in the amount of 150% of the cost estimated required by 6.1.1A.3. and subparagraph 6.1.4 P.4.a. of the Ordinance increases that to 210%. As reviewed below the Draft Reclamation Agreement received on 10/20/11 is compliant with 6.1.4 P.4.a. and is therefore compliant with 6.1.1 A. 5. of the Ordinance if approved by the Board.

Item 9.B. (18) (continued)

- v. Subparagraph 6.1.1A.6. of the Ordinance establishes a time period prior to the expiration of the irrevocable letter of credit during which the Zoning Administrator shall contact the landowner regarding the intent to renew the letter of credit and the landowner shall reply within a certain amount of time. Paragraph 12 of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.1A.6. of the Ordinance.
  
- vi. Subparagraph 6.1.1A.7. of the Ordinance establishes 4 factors to be considered in determining if a NON-ADAPTABLE structure (WIND FARM TOWER in this instance) is abandoned in place and 6.1.1 A.9. of the Ordinance establishes 7 conditions when the Zoning Administrator may draw upon the letter of credit and jointly these 11 circumstances comprise when the Zoning Administrator may draw upon the letter of credit. Paragraph (9) of the Draft Reclamation Agreement received on 10/20/11 complies with these 11 circumstances which are as follows (Note that the definition of “abandoned” in the Draft Reclamation Agreement also applies):
  - (i) Subparagraph 6.1.1A.7. of the Ordinance establishes the following factors to be considered in making a determination that a NON-ADAPTABLE structure is abandoned in place and these factors include, but are not limited to the following:
    - the nature and frequency of use as set forth in the application for SPECIAL USE;
    - the current nature and frequency of use;
    - whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to the public health or safety;
    - whether the NON-ADAPTABLE STRUCUTURE has been maintained in a manner which allows it to be used for its intended purpose, with no greater effects on surrounding properties and the public as a whole than was originally intended.
  
  - (ii) Subparagraph 6.1.1A.9. of the Ordinance establishes the following conditions when the Zoning Administrator may draw upon the letter of credit:
    - no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;

Item 9.B. (18) (continued)

- the land owner does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE STRUCTURE as provided in Section 6.1.1C.8. (should be 6.1.1A.8.)of the Ordinance;
- any breach or performance failure of any provision of the reclamation agreement;
- the owner of record has filed a bankruptcy petition, or compromised the COUNTY's interest or the letter of credit in any way not specifically allowed by the reclamation agreement;
- a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;
- the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.1C6 of the Ordinance; or
- any other conditions to which the COUNTY and the land owner mutually agree, as set forth in the reclamation agreement.

(iii) Subparagraph 6.1.1A.8. of the Ordinance requires the Zoning Administrator to notify the owner prior to drawing on the performance guarantee. Paragraph (7) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.1A.8 of the Ordinance.

(iv) Subparagraph 6.1.1A.10. of the Ordinance requires the covenant to be removed from the property within 45 days of the site being restored. Paragraph (9)(e) Draft Reclamation Agreement received on 10/20/11 provides that the special use permit shall expire after the site has been restored but it is not clear when or if the recorded easement between the landowner and California Ridge Wind Energy LLC ever expires.

(v) Subparagraph 6.1.1A.11. of the Ordinance requires the balance of any proceeds remaining after the site has been reclaimed to be returned to the issuer of the credit. Paragraph (9)(e) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.1A.11 of the Ordinance.

Item 9.B. (18) (continued)

- (vi) Subparagraph 6.1.1A.12. of the Ordinance requires a new wind farm owner of record to submit a new irrevocable letter of credit prior to transfer of title and the release of the credit posted by the previous owner thereafter. Paragraph (11) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.1A.12 of the Ordinance.
  
- (c) Subparagraph 6.1.4 P. 2. of the Ordinance requires that in addition to the costs listed in subparagraph 6.1.1 A. 4. of the Ordinance, the Reclamation Agreement shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the WIND FARM and all costs related to removal of access driveways. The costs reported in the Decommissioning Report in Appendix B of the petitioner's Application does not include the costs for any street repairs but does include the cost of removal of access driveways. The Revised Base Decommissioning Cost Estimate received 10/06/11 attached to the Draft Reclamation Agreement includes a street repair cost of \$10,000 per turbine which is \$300,000 for the entire wind farm. The reduction is explained in footnote 1 of the Revised Base Decommissioning Cost Estimate as being related to the pre-construction work to upgrade the public roads and the fact that the majority of the weight associated with road upgrades is to accommodate concrete trucks for the foundation most of which will remain in place after decommissioning.
  
- (d) Subparagraph 6.1.4 P. 3. of the Ordinance requires the Site Reclamation Agreement to also include the following:
  - i. Subparagraph 6.1.4 P.3.(a) of the Ordinance requires a stipulation that the applicant shall notify the GOVERNING BODY by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the applicant as debtor, within ten days of commencement of the proceeding. Paragraph (16)(a) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3(a) of the Ordinance.
  
  - ii. Subparagraph 6.1.4 P.3.(b) of the Ordinance requires a stipulation that the Applicant shall agree that the sale, assignment in fact or at law, or such other transfer of Applicant's financial interest in the WIND FARM shall in no way affect or change Applicant's obligation to continue to comply with the terms of this Agreement. Any successor or assignee shall assume the terms, covenants and obligations of this Agreement and agrees to assume all reclamation liability and responsibility for the WIND FARM. Paragraph (16)(b)

Item 9.B. (18) (continued)

of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3(b) of the Ordinance.

- iii.* Subparagraph 6.1.4 P.3.(c) of the Ordinance requires authorization for the GOVERNING BODY and its authorized representatives for right of entry onto the WIND FARM premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary. Paragraph (16)(c) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3.(c) of the Ordinance.
  - iv.* Subparagraph 6.1.4 P.3.(d) of the Ordinance requires a standard choice-of-law provision stating that the agreement is controlled by Illinois law. Paragraph (16)(d) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3.(d) of the Ordinance.
  - v.* Subparagraph 6.1.4 P.3.(e) of the Ordinance requires a standard indemnification clause that indemnifies the county with respect to any and all liability arising out of the agreement. Paragraph (17)(e) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3.(e) of the Ordinance.
  - vi.* Subparagraph 6.1.4 P.3.(f) of the Ordinance requires a standard severability provision. Paragraph (16)(e) of the Draft Reclamation Agreement received on 10/20/11 complies with 6.1.4 P.3.(f) of the Ordinance.
- (e) Subparagraph 6.1.4 P. 4. of the Ordinance requires the amount of the irrevocable letter of credit required in paragraph 6.1.1 A. 5. of the Ordinance to be as follows:
- i.* Subparagraph 6.1.4 P.4.(a) of the Ordinance requires at the time of approval the amount of the irrevocable letter of credit shall be 210% of an independent engineer's cost estimate to complete the work described in Section 6.1.1 A. 4. a. of the Ordinance or less if specifically authorized by the Board. The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits. The Draft Reclamation Agreement received on 10/20/11 proposes a letter of credit that is 210% of the cost estimate but includes salvage value and so must be specifically authorized by the Board.

Item 9.B. (18) (continued)

- ii.* Subparagraph 6.1.4 P.4.(a) of the Ordinance also requires that the GOVERNING BODY (County Board) has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits. In paragraph (4)(b) of the Draft Reclamation Agreement received on 10/20/11 the provision for multiple letters of credit has been stricken which indicates that the letter of credit will not be protected for any amount beyond the FDIC limit which at this time is \$250,000.
- iii.* Subparagraph 6.1.4 P.4.(b) of the Ordinance requires the applicant or WIND FARM owner to gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account over the first 13 years of the WIND FARM operation as follows:

  - (i)* Subparagraph 6.1.4 P.4.(b)(4) of the Ordinance requires the applicant or WIND FARM owner to make annual deposits to the escrow account over a 12 year period and shall simultaneously provide a replacement irrevocable letter of credit that is reduced accordingly. Paragraph (4)(b) of the Draft Reclamation Agreement received on 10/20/11 is in compliance.
  - (ii)* Subparagraph 6.1.4 P.4.(b)(5) of the Ordinance requires at all times the total combined value of the irrevocable letter of credit and the escrow account to be increased annually as necessary to reflect actual rates of inflation over the life span of the WIND FARM and the amount shall be equal to or exceed the following:

    - the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; plus
    - an amount for any future years left in the anticipated life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.
- iv.* Paragraph (4)(d) of the Draft Reclamation Agreement received on 10/20/11 requires that the Financial Assurance shall be adjusted every third year for the first 12 years and every second year thereafter so that the Decommissioning Expenses reflect any change in the Consumer price Index.



Item 9.B. (18) (continued)

- v. Subparagraph 6.1.4 P.4.(b)(1) of the Ordinance requires that the applicant or WIND FARM owner and the GOVERNING BODY (County Board) shall agree on a mutually acceptable financial institution at which an escrow account shall be established. The Draft Reclamation Agreement received on 10/20/11 does not provide for a mutually acceptable financial institution but no waiver has been requested.
- vi. Subparagraph 6.1.4 P.4.(b)(7) of the Ordinance requires that in order to provide funding for decommissioning at the time of decommissioning, the WIND FARM applicant or WIND FARM owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the GOVERNING BODY agreeing to a release of the full amount of the escrow account. This requirement relates to what may be authorized and is not a requirement that must be in the Reclamation Agreement.
- vii. Subparagraph 6.1.4 P.4.(b)(3) of the Ordinance requires the applicant or WIND FARM owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record, pursuant to the Secured Transactions Article of the Uniform Commercial Code, 810 ILCS 9/101 et seq. Paragraph (4)(c) of the Draft Reclamation Agreement received on 10/20/11 appears to conform to the requirement of 6.1.4 P.4.(b)(3)
- viii. The Draft Reclamation Agreement received on 10/20/11 complies with the other requirements of subparagraph 6.1.4 P.4.(b) of the Ordinance that are as follows:
  - (i) The GOVERNING BODY shall be the beneficiary of the escrow account for the purpose of the reclamation of the WIND FARM in the event that the WIND FARM owner is incapable of decommissioning the WIND FARM, as authorized in paragraph (9)(b) of the Draft Reclamation Agreement received on 10/20/11.
  - (ii) Any interest accrued on the escrow account that is over and above the total value required by subparagraph 6.1.4 P. 3. (b) (4) of the Ordinance shall go to the WIND FARM owner, as authorized in paragraph (4)(e)(vii) of the Draft Reclamation Agreement received on 10/20/11.

**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

Item 9.B. (18) (continued)

- (f) The Draft Reclamation Agreement received on 10/20/11 also complies with subparagraph 6.1.4 P.5. of the Ordinance that requires that in addition to the conditions listed in subparagraph 6.1.1 A. 9. the Zoning Administrator may also draw on the funds for the following reasons:
  - i.* In the event that any wind turbine or component thereof ceases to be functional for more than six consecutive months and the Owner is not diligently repairing such wind turbine or component.
  - ii.* In the event that the Owner declares any wind turbine or other component to be functionally obsolete for tax purposes.
- (g) Subparagraph 6.1.4 P.6. of the Ordinance requires that the Site Reclamation Agreement shall be included as a condition of approval by the BOARD and the signed and executed Site Reclamation Agreement including the irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval. This requirement does not have to be incorporated into the Reclamation Agreement but has been included as a special condition of approval.
- (h) The assessment of compliance with the Ordinance requirements can be summarized as follows:
  - i.* Subparagraph 6.1.1A.3. of the Ordinance requires the Board to approve the cost estimates provided by an Illinois Licensed Professional Engineer. The costs indicated in the Base Decommissioning Cost Estimate received 10/20/11 should be identified in a special condition regarding the Reclamation Agreement.
  - ii.* The Draft Reclamation Agreement received on 10/20/11 does not propose a specific amount for the letter of credit but the amount is based on the Base Decommissioning Cost Estimate that is Attachment A to the Draft Reclamation Agreement.
  - iii.* The Draft Reclamation Agreement received on 10/20/11 does not provide for multiple letters of credit based on the regulations governing federal insurance for deposits as 6.1.4 P.4.(a) of the Ordinance gives the County Board the right to require. If the County Board would prefer to require multiple letters of credit based on the regulations governing federal insurance for deposits and the if the petitioner refuses to revise the Draft Reclamation Agreement received on 10/20/11 in that way a waiver will be required but no waiver of 6.1.4 P.4.(a) was included in the legal advertisement. The

## Item 9.B. (18) (continued)

Board should include some mention of this Ordinance requirement in a special condition regarding the Reclamation Agreement.

- iv.* Subparagraph 6.1.4 P.4.(b)(1) of the Ordinance requires that the applicant or WIND FARM owner and the GOVERNING BODY (County Board) shall agree on a mutually acceptable financial institution at which an escrow account shall be established. The Draft Reclamation Agreement received on 10/20/11 does not provide for a mutually acceptable financial institution and a waiver is required that was not part of the legal advertisement. The Board should include some mention of this Ordinance requirement in a special condition regarding the Reclamation Agreement.
- (i) The State's Attorney has reviewed the Draft Reclamation Agreement received on 10/20/11. The State's Attorney's still has concerns regarding financial lien holders being in a superior position to the County in the case of wind farm abandonment and continues to discuss this with the petitioner's counsel. Financial lien holders may be able to "cherry pick" salvageable value from the wind farm and if significant enough could reduce the salvageable value to a point where the Financial Assurance might not cover the remaining decommissioning costs.
- (j) The Revised Reclamation Agreement received on October 20, 2011, exceeds the Ordinance requirement by guaranteeing a minimum Financial Assurance of \$25,000 per turbine even when salvage value exceeds decommissioning costs. Paragraph (4)(c)(ii) establishes the minimum amount and provides for that amount to be updated with known inflation.
- (k) The only substantive change to the Revised Draft Reclamation Agreement received on November 2, 2011, is the addition of paragraphs (7)(a) and (b) which do the following:

  - i. The obligation to perform the Reclamation Work is made a covenant running with the land and that makes any and all financing and/or security agreements entered into by the Principal subject to that covenant.
  - ii. Any and all financing and/or security agreements entered into by the Principal shall expressly provide that they are subject to the foregoing covenant. Evidence of the same must be submitted to the Zoning Administrator prior to any Zoning Use Permit.

Item 9.B. (18) (continued)

- (l) The State's Attorney has advised that the Revised Draft Reclamation Agreement received on November 2, 2011, is a clear improvement over the previous Drafts but it does not eliminate all concerns about superior collateral position nor is it possible to eliminate all concerns about superior collateral position.
  - (19) Paragraph 6.1.4 Q. contains standard conditions for a complaint hotline for complaints related to WIND FARM construction and ongoing operation. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements in section 4.2.4 on page 4-8 of the *Application*.
  - (20) Paragraph 6.1.4 R. contains the standard condition for expiration of the WIND FARM County Board Special Use Permit. The *Special Use Permit Application* received July 1, 2011, demonstrated compliance with these requirements in section 4.3.2 on page 4-9 of the *Application* although it is likely that the road agreements with the County and the townships will establish a shorter time period for expiration.
  - (21) Paragraph 6.1.4 S. contains standard conditions establishing additional requirements for application for a WIND FARM County Board Special Use Permit that supplement the basic requirements for a special use permit application. Compliance with these requirements is demonstrated as follows:
    - (a) The *Special Use Permit Application* received July 1, 2011.
    - (b) Parcel Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion; included separately).
    - (c) Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011 (included separately).
- C. Regarding compliance with the *Stormwater Management Policy*:
- (1) Regarding the requirement of stormwater detention:
    - (a) The subject property is less than 16% impervious areas in total.
    - (b) Section 4.3 of the Stormwater Management Policy requires stormwater detention for any part of a lot with more than an acre of impervious area within any rectangular area of 90,000 square feet but there is no part of the proposed WIND FARM that will have that much impervious area in such a small area.
    - (c) The proposed WIND FARM is exempt from the requirement for a stormwater drainage plan with detention.

Item 9.C. (continued)

- (2) Regarding the requirement to protect agricultural field tile, see the review of compliance with paragraph 6.1.4 E. that contains standard conditions to mitigate damage to farmland.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations the subject property is not located in the Special Flood Hazard Area.
- E. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District:
  - (1) The proposed use is a WIND FARM that is consistent with the essential character of the AG-1 Agriculture District because it is only authorized in the AG-1 District.
- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE***

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
  - A. WIND FARM may be authorized by the County Board in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
    - (1) A proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to the following findings:
      - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
      - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
    - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
      - (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

Item 10.A.(2) (continued)

- (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
    - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
  - (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- B. See Section 12 for a summary of evidence regarding whether any requested waiver of standard conditions will be in harmony with the general intent and purpose of the Ordinance.
- C. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
  - (1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
  - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
  - (3) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
    - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.
  - (4) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

Item 10.C.(4) (continued)

- (a) In regards to the value of nearby properties, it is unclear what impact the proposed SUP will have on the value of nearby properties.
  - (b) With regard to the value of the subject property,
- (5) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.
- (6) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (7) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
  - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.
- These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.
- (9) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and

Item 10.C.(9) (continued)

STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (10) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is not relevant to the proposed Special Use Permit because it relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and none of the current structures or the current use existed on the date of adoption.

- (11) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

- (12) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

- (13) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.



Item 10.C. (continued)

- (14) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

All of the project area is located in the AG-1 Agriculture District and is, by definition, a rural use.

- (15) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

All of the project area is located in the AG-1 Agriculture District which is the only zoning DISTRICT in which WIND FARM is authorized.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE***

11. The proposed Special Use is an existing NONCONFORMING USE because it is an existing business that has been in operation without all necessary approvals. The Petitioner has testified on the application, “N/A”

***GENERALLY REGARDING OTHER CONSIDERATIONS RELATED TO THE WAIVERS OF STANDARD CONDITIONS***

12. Regarding the necessary waivers of standard conditions:

- A. Waive the standard condition of 6.1.4 D. 1 (a) that requires certificates of design compliance from Underwriters Laboratories (“UL”) or equivalent third party. The following are relevant considerations:

- (1) The certificate of design compliance from Underwriters Laboratories (“UL”) or an equivalent third party is intended to document that the wind farm turbines meet relevant industry safety standards.
- (2) The manufacturer has not yet received a certificate of compliance for this model of turbine.
- (3) The applicant should be able to provide the certificate of design compliance before the wind farm begins commercial operation.
- (4) The Zoning Administrator must authorize a Zoning Compliance Certificate for the wind farm before the wind farm begins commercial operation and a special condition has been proposed to require the submission of a certificate of design compliance as a prerequisite to receiving a Zoning Compliance Certificate.

Item 12. (continued)

- B. Waive the standard condition of 6.1.4 F.1. that requires a signed Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals. The following are relevant considerations:
- (1) Subparagraph 6.1.4F.1. requires the Applicant to enter into a signed Roadway Upgrade and Maintenance agreement approved by the County Engineer and State's Attorney and/or any relevant Township Highway Commissioner prior to the close of the public hearing.
  - (2) There is no signed Roadway Upgrade and Maintenance agreement approved by either the County Engineer and State's Attorney or the Compromise or Ogden Township Highway Commissioners.
  - (3) Appendix H of the *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011, states that a Road Use and Repair Agreement is still being negotiated with the Champaign County Engineer and the Compromise and Ogden Township Highway Commissioners. The *Application* did not request this waiver.
  - (4) A letter regarding road use agreements was received from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Ogden Township Highway Commissioner, on August 18, 2011. The letter can be summarized as follows:
    - (a) the Highway Commissioners have been discussing the use of township roads for the construction of the California Ridge Wind Farm with Invenenergy since the Spring of 2009;
    - (b) they remain optimistic that the terms of an agreement can be reached within the next few weeks;
    - (c) they request that the ZBA adhere to the terms of the Zoning Ordinance while allowing them to fulfill their responsibilities as Highway Commissioners.
  - (5) At the September 8, 2011, public hearing County Engineer Jeff Blue testified that the County road agreement was ready for referral to the State's Attorney and that he could recommend the County Board to approve the County road agreement in its present form.
  - (6) A special condition has been proposed to require County Board approval of the County road agreement prior to the County Board decision in this special use permit.

Item 12. (continued)

- C. Waive the standard condition of 6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition. Requested by Invenergy on p. H-1 in Appendix H of the *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011. The following are relevant considerations:
- (1) From Appendix H of the *Application*:
    - (a) A Road Use and Repair Agreement is still being negotiated with the Champaign County Engineer and the Compromise and Ogden Township Highway Commissioners.
    - (b) The intent of the Road Use and Repair Agreement is to insure that roads used in connection to the wind farm are in as good a condition after the wind farm construction as they were before the wind farm construction.
    - (c) Implementation of upgrade requirements called for by the Bureau of Local Roads and Streets Manual would entail substantial widening and reconstruction of a number of roads and that would impose a significant financial burden on California Ridge to the extent that it would jeopardize the financial viability of the wind farm.
    - (d) Pursuant to the Illinois Highway Code, a Township Highway Commissioner does not have the authority to unilaterally agree to the widening or alternation of township roads.
  - (2) Repairing or rebuilding roads is not necessarily the same as an upgrade.
  - (3) The IDOT Bureau of Local Roads Manual, 2006 edition, and the IDOT *Standard Specifications for Road and Bridge Construction*, which may be referred to collectively as the BLR standards, are the standard requirements for road and bridge construction in the rural areas of the State of Illinois and are intended to ensure that road and bridge construction provides minimum public safety.
  - (4) The County Engineer and the relevant Township Highway Commissioner are responsible to ensure public safety, efficiency, and other relevant public considerations, on all streets (roads) within their respective jurisdictions.
  - (5) It is anticipated that other unforeseen situations besides widening of right of way might arise during WIND FARM development for which any BLR standard might pose unique or peculiar problems that must be addressed by the Applicant and the relevant street authority.

AS APPROVED ON REMAND- RECOMMEND APPROVAL

Item 12. C. (continued)

- (6) Waiving the requirement for compliance with the BLR standards without some means to ensure public safety would not be consistent with the Ordinance requirement to prevent injury to the neighborhood or injury to the public health, safety, and welfare.
- (7) Waiving the requirement for compliance with the BLR standards subject to the discretion of the relevant street maintenance authority should ensure adequate public safety while providing the necessary flexibility to meet the peculiar conditions that may arise during WIND FARM development.
- (8) The Ordinance requires the Applicant to enter into a signed Roadway Upgrade and Maintenance Agreement with each relevant street maintenance authority prior to the close of the public hearing. Each Road Agreement should refer to the BLR standards but provide that the street maintenance authority has the authority to exercise discretion in application of the BLR standards.
- (9) A special condition has been proposed that would limit the requested waiver so as to ensure adequate public safety.

D. Waive the standard condition of 6.1.4 J. that requires the application to contain a copy of the Agency Action Report from the Illinois Department of Natural Resources Endangered Species Program. The following are relevant considerations:

- (1) Subparagraph 6.1.4 J. requires the application to contain a copy of the Agency Action Report from the Illinois Department of Natural Resources Endangered Species Program.
- (2) As requested by Invenergy on pages 5-19 and 5-20 of the *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011:
  - (1) California Ridge consulted with the Illinois Department of Natural Resources (IDNR) and a letter dated December 4, 2009, was received from the IDNR and included in Appendix J. In the letter Keith Shank stated "The Department's consultation process for this proposal is terminated."
  - (3) In the letter dated December 4, 2009, from the IDNR Keith Shank also stated that the consultation was only valid for a two-year period and if the proposed action was not implemented in that time a new consultation will be necessary.
  - (4) In a July 13, 2011, email to John Hall, Keith Shank, Division of Ecosystems and Environment, Illinois Department of Natural Resources, stated as follows:

## Item 12. D.(continued)

- (a) His letter to Champaign County dated September 21, 2009, which was identical to the letter dated December 4, 2009, would substitute for an Agency Action Report and the consultation was not out of date but that conditions had changed regarding the Indiana Bat and the Mudpuppy Salamander and an updated consultation was necessitated.
  - (b) Consultation is technically not complete until the authorizing agency (Champaign County) stated its response to the IDNR recommendations.
- (5) A second letter from Keith M. Shank regarding an additional consultation and Endangered Species Consultation Program Natural Heritage Database Review #1002516 dated August 18, 2011, states as follows:
- (a) The Department recommends Invenergy undertake mist-netting and telemetry surveys in the vicinity of the project area to better document the numbers and relative abundances of bat species occurring in the area, placing an emphasis on the Indiana Bat and its seasonal movements.
  - (b) The Department recommends the County require at least one post-construction fall migration season bat mortality study to document levels of bat mortality resulting from the project's operation.
  - (c) Champaign County must notify the Department of its decision regarding this recommendation and which of the following the County will require:
    - (1) Proceed with the action as originally proposed; or
    - (2) Require the action to be modified per Department recommendations (please specify which measures if not all will be required); or
    - (3) Forgo the action.
- (6) Regarding the IDNR recommendations dated August 18, 2011:
- (a) Regarding the second part of the IDNR recommendation dated August 18, 2011, recommending post-construction mortality studies, post-construction mortality studies are a requirement of the Ordinance and the discussion on pages 5-23 and 5-24 of the *Special Use Permit Application* received July 1, 2011, appears to be consistent with the Ordinance.
  - (b) Regarding the first part of the IDNR recommendation dated August 18, 2011, recommending mist-netting and telemetry surveys to better document the numbers and relative abundances of bat species occurring in the area, placing an emphasis on the Indiana Bat and its seasonal movements:

Item 12. D. (continued)

- (1) In an email dated August 23, 2011, Keith Shank of the IDNR stated that Invenergy has performed the Blackball Mine Emergence Study to evaluate the movement of reproductive female Indiana bats but that study doesn't do anything to quantify the risk to or from Indiana Bats roosting along the Middle Fork.
  - (2) In the email dated August 23 ,2011, Keith Shank of the IDNR noted that IDNR recommendations are advisory and Champaign County may proceed as seems best to it.
- E. Waive the standard condition of 6.1.4 S.1.(c)(3) that requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit. The following are relevant considerations:
- a. Subparagraph 6.1.4 I. 1. requires that noise levels must be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations. Paragraph 6.1.4 I. is titled "standard conditions for allowable noise level" and does not use the term "noise impact(s)" and generally refers to noise "levels".
  - b. Subparagraph 6.1.4 S.1.(c)(3) requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit.
  - c. The applicant has requested that the special use permit allow greater flexibility in adjusting the final location of WIND FARM TOWERS provided that the applicable noise regulations are not exceeded. The requested flexibility could result in somewhat greater noise levels than indicated in Appendix C of the *Application* but the noise level at any residence would not be greater than allowed under the IPCB regulations
  - d. A special condition has been proposed that would limit the flexibility in adjustment of the final location of WIND FARM TOWERS.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:
  - A. Regarding the specific limits on the number and type of wind turbines, the maximum proposed height of WIND TURBINE TOWERS, and the overall nameplate capacity:  
**This special use permit authorizes a WIND FARM as follows:**
    1. **The type of wind turbine authorized is the General Electric 1.6-100 wind turbine with a hub height of 100 meters (328 feet) and a rotor diameter of 100 meters (328 feet).**

Item 12. E. (continued)

- (1) In an email dated August 23, 2011, Keith Shank of the IDNR stated that Invenergy has performed the Blackball Mine Emergence Study to evaluate the movement of reproductive female Indiana bats but that study doesn't do anything to quantify the risk to or from Indiana Bats roosting along the Middle Fork.
  - (2) In the email dated August 23 ,2011, Keith Shank of the IDNR noted that IDNR recommendations are advisory and Champaign County may proceed as seems best to it.
- F. Waive the standard condition of 6.1.4 S.1.(c)(3) that requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit. The following are relevant considerations:
- a. Subparagraph 6.1.4 I. 1. requires that noise levels must be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations. Paragraph 6.1.4 I. is titled "standard conditions for allowable noise level" and does not use the term "noise impact(s)" and generally refers to noise "levels".
  - b. Subparagraph 6.1.4 S.1.(c)(3) requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit.
  - c. The applicant has requested that the special use permit allow greater flexibility in adjusting the final location of WIND FARM TOWERS provided that the applicable noise regulations are not exceeded. The requested flexibility could result in somewhat greater noise levels than indicated in Appendix C of the *Application* but the noise level at any residence would not be greater than allowed under the IPCB regulations
  - d. A special condition has been proposed that would limit the flexibility in adjustment of the final location of WIND FARM TOWERS.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:
  - A. Regarding the specific limits on the number and type of wind turbines, the maximum proposed height of WIND TURBINE TOWERS, and the overall nameplate capacity:

**This special use permit authorizes a WIND FARM as follows:**

    1. **The type of wind turbine authorized is the General Electric 1.6-100 wind turbine with a hub height of 100 meters (328 feet) and a rotor diameter of 100 meters (328 feet).**

Item 13.A. (continued)

2. **The maximum overall height of each WIND FARM TOWER shall be 492 feet.**
  
3. **The maximum number of WIND TURBINE TOWERS (wind turbines) is 30 with a total nameplate capacity of not more than 48 megawatts (MW) of which not more than 28 WIND FARM TOWERS with a total nameplate capacity of not more than 44.8 MW are proposed in Compromise Township (Part A) and not more than 2 WIND FARM TOWERS with a total nameplate capacity of not more than 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and related work on specified public roads (highways).**

The above special condition is required to ensure that:

The constructed WIND FARM is consistent with the special use permit approval.

B. Regarding the approved site plan:

**The approved site plan consists of the following documents:**

1. **California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011**
2. **Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion**
3. **Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011 Parcel**
4. **Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011**

The above special condition is required to ensure that:

The constructed WIND FARM is consistent with the special use permit approval.

C. Regarding the requested waiver of the standard condition of 6.1.4 F.1. that requires a signed Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals, the following special condition makes it clear that a signed Roadway Upgrade and Maintenance Agreement shall be required prior to any County Board decision on this special use permit:

**The County Board shall not make a final decision in Case 696-S-11 until it has authorized the County Board Chair to sign the Roadway Upgrade and Maintenance Agreement recommended by the County Engineer and received copies of all necessary signed township road agreements.**

The above special condition is required to ensure that:

All relevant highway jurisdictions are allowed to fulfill their responsibilities without unduly delaying a final decision in Case 696-S-11.



Item 13. (continued)

- D. Regarding the waiver of the standard condition 6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition:  
**The Roadway Upgrade and Maintenance Agreements shall require road repair work to be performed in accordance with the IDOT Bureau of Local Roads Manual, 2006 edition, and the IDOT *Standard Specifications for Road and Bridge Construction*, but the relevant street jurisdiction may, on a case by case basis, exercise their discretion to waive the BLR standards so long as public safety is not compromised.**

The above special condition is required to ensure that:

Road use agreements ensure adequate public safety but also provide necessary flexibility in road repair work.

- E. Regarding the authorized hours of construction of the proposed WIND FARM:  
**Construction activities to build the WIND FARM shall generally only occur during the weekday daytime hours of 7AM to 10PM but never on Sunday, provided, however, that construction activities may occasionally commence earlier in the day if required but not earlier than 5AM. Those construction activities include but are not limited to the following:**
1. **Construction of access roads**
  2. **Delivery and unloading of WIND FARM equipment and materials**
  3. **Excavation for and construction of WIND FARM TOWER foundations**
  4. **Installation of WIND FARM wiring**
  5. **Assembly of WIND FARM turbines**
  6. **Erection of WIND FARM TOWERS**

The above special condition is required to ensure that:

The affects of WIND FARM construction on neighbors is consistent with the special use permit approval.

- F. The Ordinance does not impose an ultimate limit on shadow flicker and neighbors who are predicted to receive no more than 30 hours of shadow flicker per year at the time of the special use permit public hearing (unless mitigated in some way) expect that the actual shadow flicker will not be much different. The following special condition will ensure that the actual shadow flicker will not be much different than the amount indicated in the public hearing:  
**No NON- PARTICIPATING DWELLING or other PRINCIPAL STRUCTURE shall receive more than 45 hours of shadow flicker per year.**

The above special condition is required to ensure that:

The actual shadow flicker cast on non-participating neighbors is similar to the anticipated shadow flicker that was presented in the public hearing.

Item 13. (continued)

- G. Regarding the standard condition 6.1.4 R. that provides for expiration of the special use permit:

**This special use permit shall expire on the following dates and/ or for the following reasons:**

- 1. If no zoning use permit application has been received by the Department of Planning and Zoning by 4:30PM on March 1, 2013, which is consistent with the expiration deadline in the Roadway Upgrade and Maintenance Agreements and the approved Reclamation Agreement; or**
- 2. Upon completion of all decommissioning and reclamation requirements of the WIND FARM Reclamation Agreement and the subsequent release of the financial assurance required by 6.1.4 P. following the requirements of a written agreement with the COUNTY.**

The above special condition is required to ensure that:

The ultimate limits of the special use permit are clearly defined and consistent with the Ordinance requirements and the special use permit approval.

- H. The following conditions will help ensure that WIND FARM TOWERS are located and constructed in conformance with the approved site plan:

- 1. The Zoning Administrator shall not approve a Zoning Use Permit for construction of a WIND FARM TOWER if the location indicated on the Zoning Use Permit site plan differs from that in the approved site plan for the special use permit as follows:**
  - (a) The Zoning Use Permit location shall not differ more than 500 feet from the approved site plan for the special use permit except that a WIND FARM TOWER more than 1,500 feet from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be approved to be less than 1,350 feet from that same STRUCTURE on a Zoning Use Permit; and provided that**
  - (b) A WIND FARM TOWER that is 1,500 feet or less from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be located less than 90% of that distance to the same STRUCTURE on a Zoning Use Permit; and provided that**
  - (c) A new noise analysis meeting the requirement of 6.1.4 I. shall be submitted with the Zoning Use Permit for any WIND FARM TOWER with a new location that is less than 1,500 from a non-participating PRINCIPAL STRUCTURE; and provided that**

Item 13.H. (continued)

- (d) **No separation to a non-participating property or PRINCIPAL STRUCTURE shall be less than the minimum required by the Ordinance.**
- 2. **Prior to excavation for any WIND FARM TOWER footing:**
  - (a) **The Applicant shall notify the Zoning Administrator when each WIND FARM TOWER location has been identified and marked on the ground so that the Zoning Administrator or a representative can verify that the location is consistent with the approved site plan in the special use permit case.**
  - (b) **The Zoning Administrator shall issue a WIND FARM TOWER Foundation Permit after verifying that the WIND FARM TOWER location is consistent with the approved site plan.**
  - (c) **The Applicant shall not excavate any WIND FARM TOWER footing until the WIND FARM TOWER Foundation Permit has been approved.**

The above special conditions are required to ensure that:

The WIND FARM TOWERS are located in general conformance with the assertions and studies documented in the California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011, and that the Applicant has some flexibility for optimizing location based on circumstances at each WIND FARM TOWER site.

I. Regarding the approved Reclamation Agreement:

**A Reclamation Agreement is required at the time of application for a zoning use permit that complies with the following:**

- 1. **The Revised Draft Reclamation Agreement received on 11/02/11 with all required signatures including a guaranteed minimum amount of \$25,000 per turbine that shall be updated annually to reflect the known rate of inflation.**
- 2. **The expenses and values, including salvage value, as listed in the Base Decommissioning Cost Estimate received 10/06/11 and that is Attachment A to the Draft Reclamation Agreement received on 11/02/11.**
- 3. **An irrevocable letter of credit. If required by the County Board the letter of credit shall be provided as multiple letters of credit based on the regulations governing federal insurance for deposit as authorized in 6.1.4 P. 4. (a) of the Ordinance.**

Item 13.I. (continued)

4. **An escrow account that is at a mutually acceptable financial institution that is either identified in the County Board determination of this special use permit or included as a special condition of that determination, as authorized in 6.1.4 P. 4. (b)(1) of the Ordinance.**
5. **At such time as decommissioning takes place the applicant or it's successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.**
6. **The Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.**

The above special conditions are required to ensure that:

The special use permit complies with Ordinance requirements and as authorized by waiver.

- J. Regarding specific submittals required prior to the approval of a zoning use permit to authorize construction of the WIND FARM:

**The following submittals are required prior to the approval of any zoning use permit for a WIND FARM TOWER:**

1. **Certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design of each WIND FARM TOWER is within accepted professional standards, given local soil and climate conditions, as required by 6.1.4 D.1.(b).**
2. **A Transportation Impact Analysis provided by the applicant that is acceptable to the County Engineer and the State's Attorney; and for highways in Compromise Township is acceptable to the Compromise Township Highway Commissioner; and for highways in Ogden Township is acceptable to the Ogden Township Highway Commissioner, as required by 6.1.4 F. 2..**
3. **A signed Reclamation Agreement in conformance with all special conditions and waivers included in the special use permit approval.**
4. **A copy of the Recorded Covenant pursuant to 6.1.1 A.2.**
5. **The telephone number for the complaint hotline required by 6.1.4 Q.**

Item 13. J. (continued)

6. **A site plan for the installation of the specific WIND FARM TOWER indicating the specific proposed location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
7. **A copy of the approved access permit for the access road by the relevant highway jurisdiction.**
8. **A copy of any required permits for use of public highways by overweight vehicles.**
9. **A permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**

The above special condition is required to ensure that:

The WIND FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

- K. The following special condition makes it clear that a Zoning Compliance Certificate will be required to document that each WIND FARM TOWER was constructed in conformance with the approved site plan:

**A Zoning Compliance Certificate shall be required for each WIND FARM TOWER prior to the WIND FARM going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**

1. **An as-built site plan of each specific WIND FARM TOWER indicating the specific as-built location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all WIND FARM TOWER sites and access roads prepared by an Illinois Licensed Professional Engineer.**
3. **A copy of the approved as-built access road by the relevant highway jurisdiction.**

Item 13. (continued)

The above special condition is required to ensure that:

The WIND FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

- L. The following special condition makes it clear that a Zoning Compliance Certificate will be required to document that the entire WIND FARM complies with the specific requirements that apply to the overall WIND FARM as follows:

**The California Ridge WIND FARM shall not begin commercial production of energy until the Zoning Administrator has approved a Zoning Compliance Certificate for the entire California Ridge WIND FARM based on submission and acceptance of all of the following:**

1. **A Zoning Compliance Certificate has been approved for all WIND FARM TOWERS approved in the Special Use Permit.**
2. **A copy of a certificate of design compliance for the General Electric 1.6-100 wind turbine has been received from Underwriters Laboratories (“UL”) or an equivalent third party such as TUV NORD Group, as authorized in 6.1.4 D. 1 (a).**
3. **Documentation of compliance with all required post-WIND FARM construction requirements has been received from the relevant highway jurisdictions.**
4. **The Zoning Administrator has verified that informational signs have been erected at each WIND FARM accessway as follows:**
  - a. **The purpose of the signs shall be to publicize the telephone number of the WIND FARM complaint hotline required by 6.1.4 Q.**
  - b. **The minimum size of each sign shall be 2 feet by 2 feet.**

The above special condition is required to ensure that:

WIND FARM turbines are certified to meet relevant industry safety standards and the entire WIND FARM complies with the special use permit approval before it begins commercial operation.

- M. Regarding specific requirements that apply even after the WIND FARM goes into commercial operation:

**The Applicant or Owner or Operator of the WIND FARM shall comply with the following:**

1. **Cooperate with local fire protection districts to develop the districts emergency response plan as required by 6.1.4 G.2.**

Item 13.M. (continued)

2. **Take all reasonable steps to resolve complaints of interference caused by the WIND FARM to microwave transmission providers, local emergency service providers (911 operators), and broadcast residential television as required by 6.1.4 H.**
3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.4 I.6.**
4. **Complete all post-WIND FARM construction mortality studies on birds and bats as required by 6.1.4 L.3. and as proposed in the *California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011* particularly pages 5-22 through 5-24, and submit written reports to the Environment and Land Use Committee at the end of the first two years of WIND FARM operation and cooperate with the Environment and Land Use Committee in resolving mortality concerns that might arise as required by 6.1.4 L. 3(e).**
5. **Maintain a current general liability policy as required by 6.1.4 N.**
6. **Submit annual operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.4 O.1.**
7. **Maintain compliance with the approved Reclamation Agreement including replacement irrevocable commercial letters of credit as required in the Reclamation Agreement.**
8. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.4 Q.**

The above special condition is required to ensure that:

The future requirements for the Applicant or Owner or Operator of the WIND FARM are clearly identified.

**DOCUMENTS OF RECORD**

1. *California Ridge Wind Energy Project Champaign County Special Use Permit Application* received July 1, 2011
2. Signed special use permit application for Case 696-S-11 received on July 11, 2011
3. List of all recorded grants of easement to Invenergy Wind Development LLC from all participating landowners for development of a wind farm, received on July 28, 2011
4. Parcel Status Summary Map with Setbacks, California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011
5. Map titled Champaign County Non-Participating Dwelling Separation Summary, California Ridge Wind Energy Project, Champaign and Vermilion Counties, Illinois, received July 29, 2011
6. Preliminary Memorandum with attachments:
  - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B
  - B California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011 (paper copy distributed only to ZBA members)
7. Letter regarding road use agreements from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Odgen Township Highway Commissioner, received on August 18, 2011
8. Supplemental Memorandum dated August 17, 2011, with attachments:
  - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B
  - B Case maps (Location & Zoning)
  - C Parcel Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion; included separately)
  - D Excerpts from California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011(included separately):
    - (1) pages 2-1 to 2-9, 3-1
    - (2) pages 3-4, 3-5, 3-8, 3-9
    - (3) pages 3-11, 4-1 to 4-6 and 4-8
    - (4) pages 4-9, 4-10 and 5-1 to 5-4
    - (5) pages 5-6, 5-8 to 5-11 and 5-13, 5-14, 5-15
    - (6) Appendix B California Ridge Wind Energy Project Decommissioning Report
    - (7) Appendix H Road Use and Repair Agreement
    - (8) Appendix K Reclamation Agreement
    - (9) Figure 3-2. Project Location and Preliminary Site Layout
    - (10) Figure 3-5 Participating Properties and Champaign County Required Setbacks
    - (11) Figure 4-3 Road Use Plan



- (12) Figure 5-1 Shadow Effect Likely Hours per Year of Shadow Flicker
  - (13) Appendix C Figure A-2 Sound Contours
  - E Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011 (included separately)
  - F Letter regarding road use agreements from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Odgen Township Highway Commissioner, received on August 18, 2011
9. Supplemental Memorandum dated August 25, 2011, with attachments:
    - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B
    - B Table of Necessary Waivers
    - C Relevant Considerations For Necessary Waivers
    - D Excerpts from Part 901 of the Illinois Pollution Control Board (IPCB) noise regulations (35 *Illinois Administrative Code* Subtitle H: Noise Part 901)
  10. Map titled California Ridge Setback Summary: Champaign County, California Ridge Wind Energy Project, Champaign and Vermilion Counties, Illinois, received August 25 21, 2011
  11. Parcel Status Summary Map with Setbacks, California Ridge Wind Energy Center, Champaign and Vermilion Counties, Rev. 07, dated August 25, 2011, received August 25, 2011
  12. Letter regarding Endangered Species Consultation Program Natural Heritage Database Review #1002516 dated August 18, 2011, from Keith M. Shank, Division of Ecosystems and Environment, Illinois Department of Natural Resources, received August 25, 2011
  13. Resume of Timothy Casey, Senior Environmental Scientist, received August 25, 2011
  14. Copy of Powerpoint presentation slides for August 25, 2011 by Greg Leuchtman
  15. Handout titled *Fifteen Bad Things with Windpower- and Three Reasons Why* submitted by William Ingram on August 25, 2011
  16. Unsigned letter from Gerry Meyer dated May 8, 2011, to Kim and Darrell Cambron regarding the Forward I Invenergy wind farm in Brownville, Wisconsin, submitted by Kim Cambron on August 25, 2011
  15. Flyer (handout) from Illinois Wind Watch submitted by Kim Cambron on August 25, 2011
  16. Draft Reclamation Agreement received August 30, 2011

17. Supplemental Memorandum dated September 1, 2011, with attachments:
  - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B Fifteen Bad Things with Windpower- and Three Reason Why handout from Bill Ingram at the August 25, 2011, public hearing
  - C Erratum received August 2, 2011, to the California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011
  - D Draft Reclamation Agreement received August 30, 2011
  - E Compliance With Subsection 6.1.4 Not Requiring Waivers
  - F Memorandum dated August 26, 2011, from Petitioner's Attorney Michael S. Blazer (included separately)
  - G Minutes of public hearing on August 25, 2011 (included separately)
18. Copy of Powerpoint presentation slides for September 1, 2011 by Greg Leuchtmann
19. *Properly Interpreting the Epidemiologic Evidence about the Health Effects of Industrial Wind Turbines on Nearby Residents*”, by Carl V. Phillips, PhD, submitted by Kim Cambron on September 1, 2011.
20. Handouts submitted by Kim Schertz on September 1, 2011:
  1. Trouble in the Wind-Bureau Valley Turbine Costs Skyrocket \$35,000 in Year Six
  2. San Gorgonio Pass Monthly Wind Production Numbers
  3. Caught in the Turbine: Some Aren't So Excited to see the Region filled with New WFs
  4. Decommissioning Myths
  5. The Rest of the Story – What I Learned at the Wind Conference
  6. Tilting at Windmills
  7. As the Turbine Blades Turn
  8. For the Sake of Green or Greed
  9. Decommissioning Costs and Scrap Value: Beech Ridge Wind Energy Facility
  10. Wind Energy's Ghosts
  11. Misquoted? Tell the DEC, USFSW
  12. Wind Farm Officials Emphasize Safety: Landowners Meet with Bent Tree Reps
  13. Potential Road Damage from Loads Needed for Each Wind Turbine Tower
  14. Black Prairie WF ZBA Hearing Notes 10/09 Eric Schmidt
  15. County Board OK's Landscape Work for Soldiers and Sailors
  16. Wind Farm Dispute May be on Road to Court
  17. County to Take Legal Action
  18. Wind Farm Work Leaves Roads in Bad Shape
  19. Repairing a Wind Turbine
  20. The Money is Not Enough
  21. The Anatomy of a Sucker
  22. Wind turbines, Health, Ridgelines and Valleys

23. Study Says Wind Farm is too Loud
  24. Like Chinese Water torture – Turbine Complaints Focus on Noise
  25. Wind Turbines Too Noisy, Internal Ontario Government Memo Says
  26. Turbines Declared a Nasty Neighbor as Secret Buyout is Revealed
  27. For Those Near, the Miserable Hum of Clean Energy
  28. Noise Measurements – Twin Groves Wind Farm 4-23-07
  29. Living with the Twin Groves Wind Farm – Local Residents Speak Out
  30. Title: Rene Taylor Testimony Before Union, WI Planning Commission
  31. Horizon Energy’s Railsplitter Zoning Hearing, Logan Co, IL 6-28-08
  32. Shepherds Flat Wind Farm: What’s the cost to Taxpayers?
  33. Taxpayers United of America: Taxpayer Organization Charges Wind Turbine Promotion as a Scam and Stealth Tax
- 
21. Supplemental Memorandum dated September 8, 2011, with attachments:
    - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
    - B Email from Mary L. Mann, 2778 CR2550N, Penfield to Stan James, Champaign County Board member from District 3
    - C Draft minutes of public hearing on September 1, 2011 (included separately)
  22. Copy of Powerpoint presentation slides for September 8, 2011 by Greg Leuchtmann
  23. Handouts submitted by Darrell Cambron on September 8, 2011:
    1. Court constricts West Virginia wind farm to protect bats
    2. The Indian Law Blog
    3. Maryland Court Order – Animal Welfare Institute versus Beech Ridge Energy LLC
    4. Wind Turbine Noise – What Audiologists Should Know from the July August 2010 edition of *Audiology Today*
    5. Green Backlash: The Wind Turbine Controversy
    6. Affidavit of Michael A. Nissenbaum, MD
    7. Ann Wirtz and Jason Wirtz versus Invenergy LLC
  24. Photographs of wind farm project area near the home of Deanne Sims submitted by Deanne Sims on September 8, 2011
  25. Handouts submitted by Kim Cambron on September 8, 2011:
    1. Signed Original Letter dated May 8, 2011, from Gerry Meyer
    2. Summary of New Evidence: Health Effects We Feel From Living Near Industrial Wind Turbines August, 2011
    3. Caribou threatened by wind farms, expert says
    4. Silence Is Golden
    5. Wind Farms don’t provide the perfect energy solution
    6. Wind farm fight draws Capitol response

7. Our life with Dekalb wind turbines
8. Health Effects We Feel From Living Near Industrial Wind Turbines
  
26. Handouts submitted by Kim Schertz on September 8, 2011:
  1. White Oak Wind Farm Map of Noise Testing Location
  2. Grand Ridge Wind Energy Project Map of Noise Testing Location
  3. Concerns about Proposed Invenergy Wind Project Draws Capacity Crowd to Meeting in Brown County
  4. Windmill Neighbors air Gripes over Noise; County Planners Grapple with Issue
  5. Jessica's Story – Sheldon, NY – Invenergy's High Sheldon wind farm
  6. Maintaining Wind Fleets: Dealing with Hidden Costs
  7. Invenergy Turbine Blade Failure – Grand Ridge – LaSalle, IL
  8. Wind Turbine Syndrome News
  9. Invenergy Grand Ridge Wind Energy Project Wind Turbine Noise Analysis LaSalle County, Illinois by HDR, May 2007
  10. Noise Measurements- Kim Schertz Carlock IL
  11. Ellsworth- Twin Groves Wind Farm
  12. Sound Evidence from ZBA Hearings- White Oak Wind (Invenergy)
  13. Email - Grand Ridge Invenergy Noise Study
  
27. Letter of opposition from Herbert N. Frerichs received September 12, 2011
  
28. Supplemental Memorandum dated September 22, 2011, with attachments:
  - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B Letter of opposition from Herbert N. Frerichs received September 12, 2011
  - C REVISED Table of Required Waivers
  - D Proposed Revisions To Compliance With Subsection 6.1.4 Not Requiring Waivers
  - E REVISED Draft Findings for Required Waivers
  - F Draft Special Conditions of Approval
  - G Draft minutes of public hearing on September 8, 2011 (included separately)
  
29. Letter dated September 23, 2011, from Attorney Glenn Stanko on behalf of Mary L. Mann, 2778 CR2500N, Penfield
  
30. Revised Draft Reclamation Agreement received September 28, 2011
  
31. Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011
  
32. Letter from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Ogden Township Highway Commissioner received September 29, 2011

33. Supplemental Memorandum dated September 29, 2011, with attachments:
- A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B Letter dated September 23, 2011, from Attorney Glenn Stanko on behalf of Mary L. Mann, 2778 CR2500N, Penfield
  - C REVISED Draft Reclamation Agreement received September 28, 2011 (included separately)
  - D REVISED Assessment of Compliance with 6.1.4 P. Standard Condition for Decommissioning Plan and Site Reclamation Agreement
  - E REVISED Table of Required Waivers
  - F Draft Findings for Waiver #6 regarding Township road agreements and Waiver #10 regarding the Reclamation Agreement
  - G Revised Draft Special Conditions of Approval
  - H Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011
  - I Letter from Marvin Johnson, Compromise Township Highway Commissioner, and Greg Frerichs, Ogden Township Highway Commissioner received September 29, 2011
  - L Preliminary Summary of Evidence, Finding of Fact, and Final Determination (included separately)
34. Court transcript of proceedings before the Illinois Pollution Control Board in *Knox vs. Turriss* on June 11, 2002, submitted by Sherry Shildt on September 29, 2011
35. Handouts submitted by Kim Schertz on September 29, 2011:
- 1. *Eight Millions Dollars- What Each Wind Job in Illinois Costs Taxpayers*
  - 2. *'Green Jobs' vs. Real Energy Jobs* from the September 2, 2011, Wall Street Journal
  - 3. Wind(less) power from the September 19, 2011, Pittsburgh Tribune Review
36. GE Energy Setback Guidelines for Wind Turbine Siting received October 4, 2011
37. Draft Champaign County-California Ridge Wind Roads Agreement received October 5, 2011
38. Supplemental Memorandum dated October 6, 2011, with attachments:
- A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B Draft Champaign County-California Ridge Wind Roads Agreement received October 5, 2011 (included separately)
  - C GE Energy Setback Guidelines for Wind Turbine Siting received October 4, 2011
  - D *The Impact of Wind Power Projects on Residential Property Values in the United States: A Multi-Site Hedonic Analysis*. Ernesto Orlando Lawrence Berkeley National Laboratory. December 2009. (CD included separately; Executive Summary also included separately)
  - E Powerpoint presentation from *The Impact of Wind Power Projects on Residential Property Values in the United States: A Multi-Site Hedonic Analysis*. Ernesto Orlando Lawrence Berkeley National Laboratory. December 2009. (included separately)

- F Letter dated October 6, 2011, from Tim Casey, HGR Acoustics Program Manager
  - G Revised Compliance With Subsection 6.1.4 I. Allowable Noise Level
  - H Letter dated October 6, 2011, to the ZBA from California Ridge Wind Energy, LLC (included separately)
  - I REVISED Draft Reclamation Agreement received October 6, 2011(included separately)
  - J Letter from James Booty dated October 6, 2011(included separately)
  - K Revised Decommissioning Costs received October 6, 2011(included separately)
39. Staff Handout Illustrating the Comparison of the Maximum IPCS Noise Limit (Single Number) With the Maximum Predicted Noise at Two Receptors with the Ambient Sound
40. Handouts submitted by Sherry Schildt on October 6, 2011:
- A Letter dated June 8, 2010, from Michael S. McCann, SRA, to Mike McLaughlin, Adams County Board
  - B Heintzelman, Martin D. and Carrie M. Tuttle. *Values in the Wind: A Hedonic Analysis of Wind Power Facilities*. March 3, 2011.
  - C *Wind Energy Production: Legal Issues and Related Liability Concerns for Landowners*. Iowa State University Center for Agricultural Law and Taxation. June 20, 2011.
  - D Sketch illustrating the height of the Schildt house compared to the height of a 492 feet tall wind turbine
41. Natural Resource Report for the California Ridge Wind Farm Champaign County, Illinois by the Champaign County Soil and Water Conservation District. October 6, 2011.
42. Supplemental Memorandum dated October 13, 2011, with attachments:
- A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B email from Larry Mann received 10/13/11
  - C REVISED Draft Reclamation Agreement received October 13, 2011
  - D REVISED Assessment of Compliance with 6.1.4 P. Standard Condition for Decommissioning Plan and Site Reclamation Agreement
  - E Table of 32 Closest Dwellings and 32 Receptors With Loudest Noise Levels
  - F Revised Draft Special Conditions of Approval
  - G Excerpts from Natural Resource Report for the California Ridge Wind Farm Champaign County, Illinois by the Champaign County Soil and Water Conservation District. October 6, 2011. (included separately)
  - H Natural Resource Report for the California Ridge Wind Farm Champaign County, Illinois by the Champaign County Soil and Water Conservation District. October 6, 2011. (file on CD)
43. Exhibit 9 Decommissioning Plan for the New Grange Wind Farm received at the October 13, 2011, public hearing

44. *Removal and Restoration Costs in California: Who Will Pay?* An article by Paul Gipe from the Wind-Works.org website received at the October 13, 2011, public hearing
45. Decommissioning Agreement for Bishop Hill Energy LLC in Henry County, Illinois received October 13, 2011
46. Bishop Hill Wind Energy Center WIND ENERGY PROJECT DECOMMISSIONING REPORT HENRY COUNTY, ILLNOIS by Invenergy. March 2010. Received October 13, 2011
47. Supplemental Memorandum dated October 19, 2011, with attachments:
  - A REVISED Draft Reclamation Agreement received October 18, 2011 (annotated)
  - B REVISED Draft Reclamation Agreement received October 18, 2011 (w/ Revised Base Decommissioning Cost Estimate received 10/06/11 and Appendix B from the Application)
  - C Exhibit 9 Decommissioning Plan for the New Grange Wind Farm received at the October 13, 2011, public hearing
  - D *Removal and Restoration Costs in California: Who Will Pay?* An article by Paul Gipe from the Wind-Works.org website received at the October 13, 2011, public hearing
48. Email from Mike Blazer to Joel Fletcher and John Hall at 1:35 PM on October 20, 2011
49. Supplemental Memorandum dated October 20, 2011, with attachments:
  - A Public Notice (modified legal advertisement) for Case 696-S-11 Parts A and B dated August 17, 2011
  - B Supplemental Memorandum dated October 19, 2011 with attachments but without attachments C and D:
    - (a) REVISED Draft Reclamation Agreement received October 19, 2011 (annotated; included separately)
    - (b) REVISED Draft Reclamation Agreement received October 19, 2011 (w/ Revised Base Decommissioning Cost Estimate received 10/06/11 and Appendix B from the Application; included separately)
  - C REVISED Draft Reclamation Agreement received October 20, 2011 (annotated; included separately)
  - D REVISED Draft Assessment of Compliance with 6.1.4 P. Standard Condition for Decommissioning Plan and Site Reclamation Agreement
  - E REVISED Table of Required Waivers
  - F Draft & Preliminary Findings for Required Waivers
  - G Revised Draft Special Conditions of Approval
  - H Heintzelman, Martin D. and Carrie M. Tuttle. *Values in the Wind: A Hedonic Analysis of Wind Power Facilities*. July 15, 2011. (included separately)
  - I *Wind power sometimes hurts property values, Clarkson study says* Watertown Daily Times Wednesday, July 20, 2011.
  - J Partial Draft minutes of public hearing on October 13, 2011 (included separately)
  - K Revised Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)

50. Revised Draft Reclamation Agreement with attachments received on November 2, 2011
51. Supplemental Memorandum On Remand dated November 2, 2011, with attachments:
  - A As Approved (Recommend Denial) Revised Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 20, 2011 (included separately)
  - B Committee of the Whole Memorandum dated October 24, 2011 (without attachments)
  - C Committee of the Whole Memorandum dated November 1, 2011
  - D REVISED Draft Reclamation Agreement received November 2, 2011 with attachments (annotated; included separately)
52. Letter dated November 3, 2011, from Tim Casey, HGR Acoustics Program Manager
53. Supplemental Memorandum On Remand dated November 3, 2011, with attachments
  - A Letter dated November 3, 2011, from Tim Casey, HGR Acoustics Program Manager
54. Powerpoint slides presented by Kevin Parzyk at the public hearing on November 3, 2011



## FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 696-S-11 held on **August 25, 2011; September 1, 2011; September 8, 2011; September 29, 2011; October 6, 2011; October 13, 2011; October 20, 2011; and November 3, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN IS** necessary for the public convenience at this location because **it is advantageous to have the wind energy project at this specific location where the wind resource has been found appropriate for the use and the wind resource and the existing electrical grid are favorable for this wind farm project.**
2. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN** is so designed, located, and proposed to be operated so that it **WILL NOT** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has **ADEQUATE** traffic capacity and the entrance location has **ADEQUATE** visibility.
  - b. Emergency services availability is **ADEQUATE**.
  - c. The Special Use will be designed to **CONFORM** to all relevant County ordinances and codes.
  - d. The Special Use **WILL** be compatible with adjacent uses.
  - e. Surface and subsurface drainage will be **ADEQUATE**.
  - f. Public safety will be **ADEQUATE**.
  - g. **Noise impacts will NOT BE INJURIOUS to the District because the petitioner HAS clarified questions of compliance with the Illinois Pollution Control Board standards regarding THE NOISE STANDARD ANYWHERE WITHIN THE RECEIVING CLASS A (RESIDENTIAL) PROPERTY and BECAUSE CHAMPAIGN COUNTY SHALL ENFORCE THE ILLINOIS POLLUTION CONTROL BOARD NOISE REGULATIONS AS AUTHORIZED IN THE CHAMPAIGN COUNTY ZONING ORDINANCE INCLUDING ANY VIOLATION THAT IS FOUND TO BE CONSISTENT WITH THE NOISE STUDY INCLUDED IN THE PETITIONER'S APPLICATION.**



**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

FINDINGS OF FACT ITEM 6.A.(continued)

- (2) Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the turbine that is proposed for use in the WIND FARM, the GE 1.6 -100 wind turbine, is a relatively new wind turbine and the manufacturer is still completing the design certification process.
  - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because the wind farm has been designed around the GE 1.6 -100 wind turbine and waiting to approve the special use permit until the certificate of design compliance is available will delay wind farm construction.
  - (4) The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because the applicant is not involved in the design certification process.
  - (5) The requested waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** the minimum variation that will make possible the reasonable use of the land/structure because it will allow the WIND FARM to move ahead under construction but will not go into commercial operation without the certification of design compliance.
- B. Regarding the waiver of the standard condition 6.1.4 F.1. that requires a signed **Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals:**
- (1) The waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** in accordance with the general purpose and intent of the Zoning Ordinance and **WILL NOT** be injurious to the neighborhood or to the public health, safety, and welfare because even though the County Engineer approves of the Draft county road agreement only the County Board can authorize a signature on the road agreement and County Board action on the County road agreement prior to consideration of the Special Use Permit could provide a public perception of prejudice.
  - (2) Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because this is the first WIND FARM reviewed under the provisions of 6.1.4 and no other WIND FARM will have that burden.

FINDINGS OF FACT ITEM 6.B.(continued)

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because without the waiver the ZBA recommendation would be delayed at least one month which is an undue financial burden for the construction of the WIND FARM.
  - (4) The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because the applicant has negotiated in good faith and the County road agreement is ready for approval.
  - (5) The requested waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** the minimum variation that will make possible the reasonable use of the land/structure because it is the minimum waiver necessary to allow the WIND FARM special use permit to move ahead without delay.
- C. Regarding the waiver of the standard condition **6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition:**
- (1) The requested waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** in accordance with the general purpose and intent of the Zoning Ordinance and **WILL NOT** be injurious to the neighborhood or to the public health, safety, and welfare because:
    - i. under state law the relevant highway authority is responsible for providing both a safe and an efficient highway system and
    - ii. the special condition waives the BLR standards only when agreeable to the relevant highway authority and only so long as public safety is not compromised.
  - (2) Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
    - i. the existing rural road network must accommodate the proposed WIND FARM construction in an efficient and safe manner and
    - ii. the relevant highway authority will have the discretion to waive the BLR standards if unique circumstances are encountered in the construction of the WIND FARM or if a more efficient standard is available but
    - iii. the BLR standards can only be waived so long as public safety is not compromised.

FINDINGS OF FACT ITEM 6.C.(continued)

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because without the waiver the resulting inefficiencies could be significant enough to pose an undue financial burden for the construction of the WIND FARM even though public safety would not be enhanced.
  - (4) The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because the special conditions are related to the existing highway conditions.
  - (5) The requested waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** the minimum variation that will make possible the reasonable use of the land/structure because the special condition allows the relevant highway authority to follow the most efficient methods so long as public safety is not compromised.
- D. Regarding the waiver of the standard condition **6.1.4 J. that requires the application to contain a copy of the Agency Action Report from the Illinois Department of Natural Resources Endangered Species Program:**
1. The waiver **IS** in accordance with the general purpose and intent of the Zoning Ordinance and **WILL NOT** be injurious to the neighborhood or to the public health, safety, and welfare because
    - i. in a July 13, 2011, email to John Hall, Keith Shank, Division of Ecosystems and Environment, Illinois Department of Natural Resources, stated that his letter to Champaign County dated September 21, 2009, which was identical to the letter dated December 4, 2009, would substitute for an Agency Action Report; and
    - ii. because the letter would substitute for a Agency Action Report the submission of the letter is virtually the same thing as submitting an Agency Action Report and submitting only the letter will be no more injurious to the public health, safety, and welfare than submitting an Agency Action Report.
  - (2) Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the Applicant has consulted fully with the IDNR and it was more convenient for the IDNR to reply with a written letter rather than an Agency Action Report.

FINDINGS OF FACT ITEM 6.D.(continued)

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because if the waiver is not granted the Applicant will have to request that IDNR staff take time to prepare an Agency Action Report and the resulting delay could be significant enough to pose an undue financial burden for the construction of the WIND FARM even though no public benefit would result and IDNR would incur greater cost.
  - (4) The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because the Applicant consulted with the IDNR and the approach used in the IDNR review was the approach that IDNR wanted to use.
  - (5) The requested waiver **IS** the minimum variation that will make possible the reasonable use of the land/structure because the IDNR has made it clear that the letter that was provided to Champaign County substitutes for an Agency Action Report.
- E. Regarding the waiver of the standard condition **6.1.4 S.1.(c)(3) that requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit:**
- (1) The waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** in accordance with the general purpose and intent of the Zoning Ordinance and **WILL NOT** be injurious to the neighborhood or to the public health, safety, and welfare because there is only one allowable noise level and that is the noise level established in the Illinois Pollution Control Board (IPCB) regulations as established by 6.1.4 I.6.(a) and the requirement of 6.1.4 S.1.(c)(3) is in direct conflict with 6.1.4 I.6.(a).
  - (2) Special conditions and circumstances **DO** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because this is the first WIND FARM reviewed under the provisions of 6.1.4 and no other WIND FARM will have that burden.
  - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because the Applicant has gone to great trouble and expense to plan the WIND FARM so as to comply with the Illinois Pollution Control Board (IPCB) regulations as established by 6.1.4 I.6.(a) and not the lower noise levels that are incorrectly indicated by the reference to 6.1.4 S.1.(c)(3).

FINDINGS OF FACT ITEM 6.E.(continued)

- (4) The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because they result from a new Ordinance requirement that has not been thoroughly tested.
- (5) The requested waiver **SUBJECT TO THE PROPOSED SPECIAL CONDITION IS** the minimum variation that will make possible the reasonable use of the land/structure because it is the minimum waiver necessary to resolve the contradiction between 6.1.4 I.6.(a) and 6.1.4 S.1.(c)(3).

**7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW**

- A. This special use permit authorizes a WIND FARM as follows:**
- 1. The type of wind turbine authorized is the General Electric 1.6-100 wind turbine with a hub height of 100 meters (328 feet) and a rotor diameter of 100 meters (328 feet).**
  - 2. The maximum overall height of each WIND FARM TOWER shall be 492 feet.**
  - 3. The maximum number of WIND TURBINE TOWERS (wind turbines) is 30 with a total nameplate capacity of not more than 48 megawatts (MW) of which not more than 28 WIND FARM TOWERS with a total nameplate capacity of not more than 44.8 MW are proposed in Compromise Township (Part A) and not more than 2 WIND FARM TOWERS with a total nameplate capacity of not more than 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and related work on specified public roads (highways).**

The above special condition is required to ensure that:

The constructed WIND FARM is consistent with the special use permit approval.

- B. Regarding the approved site plan:**
- The approved site plan consists of the following documents:**
- 1. California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011**
  - 2. Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion**
  - 3. Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011**

FINDINGS OF FACT ITEM 7.(continued)

**4. Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011**

The above special condition is required to ensure that:

The constructed WIND FARM is consistent with the special use permit approval.

- C. Regarding the requested waiver of the standard condition of 6.1.4 F.1. that requires a signed Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals, the following special condition makes it clear that a signed Roadway Upgrade and Maintenance Agreement shall be required prior to any County Board decision on this special use permit:

**The County Board shall not make a final decision in Case 696-S-11 until it has authorized the County Board Chair to sign the Roadway Upgrade and Maintenance Agreement recommended by the County Engineer and received copies of all necessary signed township road agreements.**

The above special condition is required to ensure that:

All relevant highway jurisdictions are allowed to fulfill their responsibilities without unduly delaying a final decision in Case 696-S-11.

- D. Regarding the waiver of the standard condition 6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition:

**The Roadway Upgrade and Maintenance Agreements shall require road repair work to be performed in accordance with the IDOT Bureau of Local Roads Manual, 2006 edition, and the IDOT *Standard Specifications for Road and Bridge Construction*, but the relevant street jurisdiction may, on a case by case basis, exercise their discretion to waive the BLR standards so long as public safety is not compromised.**

The above special condition is required to ensure that:

Road use agreements ensure adequate public safety but also provide necessary flexibility in road repair work.

- E. Regarding the authorized hours of construction of the proposed WIND FARM:  
**Construction activities to build the WIND FARM shall generally only occur during the weekday daytime hours of 7AM to 10PM but never on Sunday, provided, however, that construction activities may occasionally commence earlier in the day if required but not earlier than 5AM. Those construction activities include but are not limited to the following:**

- 1. Construction of access roads**
- 2. Delivery and unloading of WIND FARM equipment and materials**
- 3. Excavation for and construction of WIND FARM TOWER foundations**
- 4. Installation of WIND FARM wiring**
- 5. Assembly of WIND FARM turbines**



FINDINGS OF FACT ITEM 7.(continued)

**6. Erection of WIND FARM TOWERS**

The above special condition is required to ensure that:

The affects of WIND FARM construction on neighbors is consistent with the special use permit approval.

- F. The Ordinance does not impose an ultimate limit on shadow flicker and neighbors who are predicted to receive no more than 30 hours of shadow flicker per year at the time of the special use permit public hearing (unless mitigated in some way) expect that the actual shadow flicker will not be much different. The following special condition will ensure that the actual shadow flicker will not be much different than the amount indicated in the public hearing:

**No NON- PARTICIPATING DWELLING or other PRINCIPAL STRUCTURE shall receive more than 45 hours of shadow flicker per year.**

The above special condition is required to ensure that:

The actual shadow flicker cast on non-participating neighbors is similar to the anticipated shadow flicker that was presented in the public hearing.

- G. Regarding the standard condition 6.1.4 R. that provides for expiration of the special use permit:

**This special use permit shall expire on the following dates and/ or for the following reasons:**

1. **If no zoning use permit application has been received by the Department of Planning and Zoning by 4:30PM on March 1, 2013, which is consistent with the expiration deadline in the Roadway Upgrade and Maintenance Agreements and the approved Reclamation Agreement; or**
2. **Upon completion of all decommissioning and reclamation requirements of the WIND FARM Reclamation Agreement and the subsequent release of the financial assurance required by 6.1.4 P. following the requirements of a written agreement with the COUNTY.**

The above special condition is required to ensure that:

The ultimate limits of the special use permit are clearly defined and consistent with the Ordinance requirements and the special use permit approval.

- H. The following conditions will help ensure that WIND FARM TOWERS are located and constructed in conformance with the approved site plan:

1. **The Zoning Administrator shall not approve a Zoning Use Permit for construction of a WIND FARM TOWER if the location indicated on the Zoning Use Permit site plan differs from that in the approved site plan for the special use permit as follows:**

FINDINGS OF FACT ITEM 7.H.(continued)

- (a) **The Zoning Use Permit location shall not differ more than 500 feet from the approved site plan for the special use permit except that a WIND FARM TOWER more than 1,500 feet from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be approved to be less than 1,350 feet from that same STRUCTURE on a Zoning Use Permit; and provided that**
  - (b) **A WIND FARM TOWER that is 1,500 feet or less from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be located less than 90% of that distance to the same STRUCTURE on a Zoning Use Permit; and provided that**
  - (c) **A new noise analysis meeting the requirement of 6.1.4 I. shall be submitted with the Zoning Use Permit for any WIND FARM TOWER with a new location that is less than 1,500 from a non-participating PRINCIPAL STRUCTURE; and provided that**
  - (d) **No separation to a non-participating property or PRINCIPAL STRUCTURE shall be less than the minimum required by the Ordinance.**
2. **Prior to excavation for any WIND FARM TOWER footing:**
- (a) **The Applicant shall notify the Zoning Administrator when each WIND FARM TOWER location has been identified and marked on the ground so that the Zoning Administrator or a representative can verify that the location is consistent with the approved site plan in the special use permit case.**
  - (b) **The Zoning Administrator shall issue a WIND FARM TOWER Foundation Permit after verifying that the WIND FARM TOWER location is consistent with the approved site plan.**
  - (c) **The Applicant shall not excavate any WIND FARM TOWER footing until the WIND FARM TOWER Foundation Permit has been approved.**

The above special conditions are required to ensure that:

The WIND FARM TOWERS are located in general conformance with the assertions and studies documented in the California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011, and that the Applicant has some flexibility for optimizing location based on circumstances at each WIND FARM TOWER site.

FINDINGS OF FACT ITEM 7.(continued)

I. Regarding the approved Reclamation Agreement:

**A Reclamation Agreement is required at the time of application for a zoning use permit that complies with the following:**

- 1. The Revised Draft Reclamation Agreement received on 11/02/11 with all required signatures including a guaranteed minimum amount of \$25,000 per turbine that shall be updated annually to reflect the known rate of inflation.**
- 2. The expenses and values, including salvage value, as listed in the Base Decommissioning Cost Estimate received 10/06/11 and that is Attachment A to the Draft Reclamation Agreement received on 11/02/11.**
- 3. An irrevocable letter of credit. If required by the County Board the letter of credit shall be provided as multiple letters of credit based on the regulations governing federal insurance for deposit as authorized in 6.1.4 P. 4. (a) of the Ordinance.**
- 4. An escrow account that is at a mutually acceptable financial institution that is either identified in the County Board determination of this special use permit or included as a special condition of that determination, as authorized in 6.1.4 P. 4. (b)(1) of the Ordinance.**
- 5. At such time as decommissioning takes place the applicant or it's successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.**
- 6. The Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.**

The above special conditions are required to ensure that:

The special use permit complies with Ordinance requirements and as authorized by waiver.

J. Regarding specific submittals required prior to the approval of a zoning use permit to authorize construction of the WIND FARM:

**The following submittals are required prior to the approval of any zoning use permit for a WIND FARM TOWER:**

- 1. Certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design of each WIND FARM TOWER is within accepted professional standards, given local soil and climate conditions, as required by 6.1.4 D.1.(b).**

FINDINGS OF FACT ITEM 7.J.(continued)

2. **A Transportation Impact Analysis provided by the applicant that is acceptable to the County Engineer and the State's Attorney; and for highways in Compromise Township is acceptable to the Compromise Township Highway Commissioner; and for highways in Ogden Township is acceptable to the Ogden Township Highway Commissioner, as required by 6.1.4 F. 2.**
3. **A signed Reclamation Agreement in conformance with all special conditions and waivers included in the special use permit approval.**
4. **A copy of the Recorded Covenant pursuant to 6.1.1 A.2.**
5. **The telephone number for the complaint hotline required by 6.1.4 Q.**
6. **A site plan for the installation of the specific WIND FARM TOWER indicating the specific proposed location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
7. **A copy of the approved access permit for the access road by the relevant highway jurisdiction.**
8. **A copy of any required permits for use of public highways by overweight vehicles.**
9. **A permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**

The above special condition is required to ensure that:

The WIND FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

- K. The following special condition makes it clear that a Zoning Compliance Certificate will be required to document that each WIND FARM TOWER was constructed in conformance with the approved site plan:  
**A Zoning Compliance Certificate shall be required for each WIND FARM TOWER prior to the WIND FARM going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**

FINDINGS OF FACT ITEM 7.K.(continued)

1. **An as-built site plan of each specific WIND FARM TOWER indicating the specific as-built location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all WIND FARM TOWER sites and access roads prepared by an Illinois Licensed Professional Engineer.**
3. **A copy of the approved as-built access road by the relevant highway jurisdiction.**

The above special condition is required to ensure that:

The WIND FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

- L. The following special condition makes it clear that a Zoning Compliance Certificate will be required to document that the entire WIND FARM complies with the specific requirements that apply to the overall WIND FARM as follows:

**The California Ridge WIND FARM shall not begin commercial production of energy until the Zoning Administrator has approved a Zoning Compliance Certificate for the entire California Ridge WIND FARM based on submission and acceptance of all of the following:**

1. **A Zoning Compliance Certificate has been approved for all WIND FARM TOWERS approved in the Special Use Permit.**
2. **A copy of a certificate of design compliance for the General Electric 1.6-100 wind turbine has been received from Underwriters Laboratories (“UL”) or an equivalent third party such as TUV NORD Group, as authorized in 6.1.4 D. 1 (a).**
3. **Documentation of compliance with all required post-WIND FARM construction requirements has been received from the relevant highway jurisdictions.**
4. **The Zoning Administrator has verified that informational signs have been erected at each WIND FARM accessway as follows:**
  - a. **The purpose of the signs shall be to publicize the telephone number of the WIND FARM complaint hotline required by 6.1.4 Q.**
  - b. **The minimum size of each sign shall be 2 feet by 2 feet.**

FINDINGS OF FACT ITEM 7.L.(continued)

The above special condition is required to ensure that:

WIND FARM turbines are certified to meet relevant industry safety standards and the entire WIND FARM complies with the special use permit approval before it begins commercial operation.

M. Regarding specific requirements that apply even after the WIND FARM goes into commercial operation:

**The Applicant or Owner or Operator of the WIND FARM shall comply with the following:**

1. **Cooperate with local fire protection districts to develop the districts emergency response plan as required by 6.1.4 G.2.**
2. **Take all reasonable steps to resolve complaints of interference caused by the WIND FARM to microwave transmission providers, local emergency service providers (911 operators), and broadcast residential television as required by 6.1.4 H.**
3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.4 I.6.**
4. **Complete all post-WIND FARM construction mortality studies on birds and bats as required by 6.1.4 L.3. and as proposed in the *California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011* particularly pages 5-22 through 5-24, and submit written reports to the Environment and Land Use Committee at the end of the first two years of WIND FARM operation and cooperate with the Environment and Land Use Committee in resolving mortality concerns that might arise as required by 6.1.4 L. 3(e).**
5. **Maintain a current general liability policy as required by 6.1.4 N.**
6. **Submit annual operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.4 O.1.**
7. **Maintain compliance with the approved Reclamation Agreement including replacement irrevocable commercial letters of credit as required in the Reclamation Agreement.**
8. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.4 Q.**

FINDINGS OF FACT ITEM 7.M.(continued)

The above special condition is required to ensure that:

The future requirements for the Applicant or Owner or Operator of the WIND FARM are clearly identified.

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. **HAVE** been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 696-S-11 is hereby **APPROVED** to the petitioners **California Ridge Wind Energy LLC** which is wholly owned by **Invenergy Wind North America LLC**, and the participating landowners listed in the attached public notice to authorize a **Wind Farm** consisting of **30 Wind Farm Towers (wind turbines)** in total with a total nameplate capacity of **48 megawatts (MW)** in the **AG-1 Zoning District** of which **28 Wind Farm Towers** with a total nameplate capacity of **44.8 MW** are proposed in **Compromise Township (Part A)** and **2 Wind Farm Towers** with a total nameplate capacity of **3.2 MW** are proposed in **Ogden Township (Part B)**, and including access roads, wiring, and public road improvements, subject waivers of standard conditions and special conditions of approval, as follows:

**I. WAIVERS OF STANDARD CONDITIONS**

- A. Waiver of the standard condition 6.1.4 D. 1 (a) that requires certificates of design compliance from Underwriters Laboratories (“UL”) or equivalent third party.**
- B. Waiver of the standard condition 6.1.4 F.1. that requires a signed Roadway Upgrade and Maintenance Agreement prior to the close of the public hearing before the Zoning Board of Appeals.**
- C. Waiver of the standard condition 6.1.4 F.1.u. that requires street upgrades be in accordance with IDOT Bureau of Local Roads manual, 2005 edition.**
- D. Waiver of the standard condition 6.1.4 J. that requires the application to contain a copy of the Agency Action Report from the Illinois Department of Natural Resources Endangered Species Program.**
- E. Waiver of the standard condition 6.1.4 S.1.(c)(3) that requires that locations of wind turbines for the zoning use permit application cannot increase the noise impact over that approved in the special use permit.**

**II. SPECIAL CONDITIONS:**

- A. This special use permit authorizes a WIND FARM as follows:**
  - 1. The type of wind turbine authorized is the General Electric 1.6-100 wind turbine with a hub height of 100 meters (328 feet) and a rotor diameter of 100 meters (328 feet).**



**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

2. **The maximum overall height of each WIND FARM TOWER shall be 492 feet.**
  3. **The maximum number of WIND TURBINE TOWERS (wind turbines) is 30 with a total nameplate capacity of not more than 48 megawatts (MW) of which not more than 28 WIND FARM TOWERS with a total nameplate capacity of not more than 44.8 MW are proposed in Compromise Township (Part A) and not more than 2 WIND FARM TOWERS with a total nameplate capacity of not more than 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and related work on specified public roads (highways).**
- B. The approved site plan consists of the following documents:**
1. **California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011**
  2. **Status Summary Map with Setbacks California Ridge Wind Energy Center, Champaign and Vermilion Counties, received July 21, 2011 (an excerpt of only the Champaign County portion**
  3. **Champaign County Non-Participating Dwelling Separation Summary map received July 29, 2011 Parcel**
  4. **Map of Conservation Recreation Zoning District and Incorporated Municipality Setback Compliance received September 29, 2011**
- C. The County Board shall not make a final decision in Case 696-S-11 until it has authorized the County Board Chair to sign the Roadway Upgrade and Maintenance Agreement recommended by the County Engineer and received copies of all necessary signed township road agreements.**
- D. The Roadway Upgrade and Maintenance Agreements shall require road repair work to be performed in accordance with the IDOT Bureau of Local Roads Manual, 2006 edition, and the IDOT *Standard Specifications for Road and Bridge Construction*, but the relevant street jurisdiction may, on a case by case basis, exercise their discretion to waive the BLR standards so long as public safety is not compromised.**
- E. Construction activities to build the WIND FARM shall generally only occur during the weekday daytime hours of 7AM to 10PM but never on Sunday, provided, however, that construction activities may occasionally commence earlier in the day if required but not earlier than 5AM. Those construction activities include but are not limited to the following:**
1. **Construction of access roads**
  2. **Delivery and unloading of WIND FARM equipment and materials**
  3. **Excavation for and construction of WIND FARM TOWER foundations**
  4. **Installation of WIND FARM wiring**

5. **Assembly of WIND FARM turbines**
  6. **Erection of WIND FARM TOWERS**
- F. **No NON- PARTICIPATING DWELLING or other PRINCIPAL STRUCTURE shall receive more than 45 hours of shadow flicker per year.**
- G. **This special use permit shall expire on the following dates and/ or for the following reasons:**
1. **If no zoning use permit application has been received by the Department of Planning and Zoning by 4:30PM on March 1, 2013, which is consistent with the expiration deadline in the Roadway Upgrade and Maintenance Agreements and the approved Reclamation Agreement; or**
  2. **Upon completion of all decommissioning and reclamation requirements of the WIND FARM Reclamation Agreement and the subsequent release of the financial assurance required by 6.1.4 P. following the requirements of a written agreement with the COUNTY.**
- H. **To ensure that WIND FARM TOWERS are located and constructed in conformance with the approved site plan:**
1. **The Zoning Administrator shall not approve a Zoning Use Permit for construction of a WIND FARM TOWER if the location indicated on the Zoning Use Permit site plan differs from that in the approved site plan for the special use permit as follows:**
    - (a) **The Zoning Use Permit location shall not differ more than 500 feet from the approved site plan for the special use permit except that a WIND FARM TOWER more than 1,500 feet from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be approved to be less than 1,350 feet from that same STRUCTURE on a Zoning Use Permit; and provided that**
    - (b) **A WIND FARM TOWER that is 1,500 feet or less from a non-participating PRINCIPAL STRUCTURE on the approved site plan for the special use permit shall not be located less than 90% of that distance to the same STRUCTURE on a Zoning Use Permit; and provided that**
    - (c) **A new noise analysis meeting the requirement of 6.1.4 I. shall be submitted with the Zoning Use Permit for any WIND FARM TOWER with a new location that is less than 1,500 from a non-participating PRINCIPAL STRUCTURE; and provided that**



6. **The Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.**
- J. The following submittals are required prior to the approval of any zoning use permit for a WIND FARM TOWER:**
1. **Certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design of each WIND FARM TOWER is within accepted professional standards, given local soil and climate conditions, as required by 6.1.4 D.1.(b).**
  2. **A Transportation Impact Analysis provided by the applicant that is acceptable to the County Engineer and the State's Attorney; and for highways in Compromise Township is acceptable to the Compromise Township Highway Commissioner; and for highways in Ogden Township is acceptable to the Ogden Township Highway Commissioner, as required by 6.1.4 F. 2..**
  3. **A signed Reclamation Agreement in conformance with all special conditions and waivers included in the special use permit approval.**
  4. **A copy of the Recorded Covenant pursuant to 6.1.1 A.2.**
  5. **The telephone number for the complaint hotline required by 6.1.4 Q.**
  6. **A site plan for the installation of the specific WIND FARM TOWER indicating the specific proposed location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
  7. **A copy of the approved access permit for the access road by the relevant highway jurisdiction.**
  8. **A copy of any required permits for use of public highways by overweight vehicles.**
  9. **A permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**

- K. A Zoning Compliance Certificate shall be required for each WIND FARM TOWER prior to the WIND FARM going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
- 1. An as-built site plan of each specific WIND FARM TOWER indicating the specific as-built location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
  - 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all WIND FARM TOWER sites and access roads prepared by an Illinois Licensed Professional Engineer.**
  - 3. A copy of the approved as-built access road by the relevant highway jurisdiction.**
- L. The California Ridge WIND FARM shall not begin commercial production of energy until the Zoning Administrator has approved a Zoning Compliance Certificate for the entire California Ridge WIND FARM based on submission and acceptance of all of the following:**
- 1. A Zoning Compliance Certificate has been approved for all WIND FARM TOWERS approved in the Special Use Permit.**
  - 2. A copy of a certificate of design compliance for the General Electric 1.6-100 wind turbine has been received from Underwriters Laboratories (“UL”) or an equivalent third party such as TUV NORD Group, as authorized in 6.1.4 D. 1 (a).**
  - 3. Documentation of compliance with all required post-WIND FARM construction requirements has been received from the relevant highway jurisdictions.**
  - 4. The Zoning Administrator has verified that informational signs have been erected at each WIND FARM accessway as follows:**
    - a. The purpose of the signs shall be to publicize the telephone number of the WIND FARM complaint hotline required by 6.1.4 Q.**
    - b. The minimum size of each sign shall be 2 feet by 2 feet.**

- M. The Applicant or Owner or Operator of the WIND FARM shall comply with the following:**
- 1. Cooperate with local fire protection districts to develop the districts emergency response plan as required by 6.1.4 G.2.**
  - 2. Take all reasonable steps to resolve complaints of interference caused by the WIND FARM to microwave transmission providers, local emergency service providers (911 operators), and broadcast residential television as required by 6.1.4 H.**
  - 3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.4 I.6.**
  - 4. Complete all post-WIND FARM construction mortality studies on birds and bats as required by 6.1.4 L.3. and as proposed in the *California Ridge Wind Energy Project Champaign County Special Use Permit Application received July 1, 2011* particularly pages 5-22 through 5-24, and submit written reports to the Environment and Land Use Committee at the end of the first two years of WIND FARM operation and cooperate with the Environment and Land Use Committee in resolving mortality concerns that might arise as required by 6.1.4 L. 3(e).**
  - 5. Maintain a current general liability policy as required by 6.1.4 N.**
  - 6. Submit annual operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.4 O.1.**
  - 7. Maintain compliance with the approved Reclamation Agreement including replacement irrevocable commercial letters of credit as required in the Reclamation Agreement.**
  - 8. Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.4 Q.**

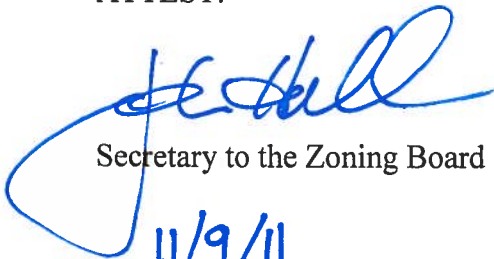
The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

A handwritten signature in black ink, appearing to read "Eric Thorsland", with a long horizontal flourish extending to the right.

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

A handwritten signature in blue ink, appearing to read "J. Hill", with a large loop on the left side.

Secretary to the Zoning Board of Appeals

11/9/11  
Date

ATTACHMENT: LIST OF PARTICIPATING LAND OWNERS AND RELEVANT PROPERTIES

PART A COMPROMISE TOWNSHIP

**Section 19, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 19, with exceptions. A total of 6 Wind Farm Towers (wind turbines) are proposed in Section 19 as follows:

- 2 Wind Farm Towers are proposed in the Northwest Quarter of Section 19 on a 209.15 acre tract owned by G & E Farms, Inc., POB 35, Gifford, IL 61847-0335;
- 1 Wind Farm Tower is proposed in the Northeast Quarter of Section 19 on a 66 acre tract owned by William Pflugmacher, 333 Eiler Drive, Gifford, IL 61847-9727;
- 1 Wind Farm Tower is proposed in the Northeast Quarter of Section 19 on a 65.63 acre tract owned by Eric Suits, 2655 CR 2600E, Penfield, IL 61862;
- 1 Wind Farm Tower is proposed in the East Half of the Southwest Quarter of Section 19 on a 30 acre parcel owned by Louise Fruhling, 31361 N 750 East Rd, Potomac, IL 61865-6601;
- 1 Wind Farm Tower is proposed in the North Half of the Southeast Quarter of Section 19 on an 80 acre parcel owned by Loretta Fruhling/ Fruhling Family Trust, 388 Gibbs Drive, Rantoul, IL 61866

Other participating landowners in Section 19 are the following:

John Fruhling, 2499 CR 2600N, Penfield, IL 61862  
Roy and Barbara Johnson, 2640 CR 2500E, Penfield, IL 61862  
Robert and Dorene Pflugmacher, 866E CR 2250N, Ogden, IL 61859-9602  
Greg Frerichs, 2506 CR2300N, Ogden IL 61859

**Section 20, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes an 80 acre tract of land in the West Half of the Northwest Quarter of Section 20 and an 80 acre tract of land in the South Half of the Southwest Quarter of Section 20 and a 157.98 acre tract of land in the Southeast Quarter of Section 20.

Participating landowners in Section 20 are the following:

Michael Babb, 2635 CR 2700E, Penfield, IL 61862  
Marsha Gates, POB 704, Tolono, IL 61880  
G & E Farms, Inc., 502 S. Main St. POB 35, Gifford, IL 61847-9713

**Section 21, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes the Southwest Quarter of Section 21. Participating landowners in Section 21 are the following:

Derald and Florene Ackerman, 519 South Main Street, Gifford, IL 61847-9713  
Kenneth and Rosetta Suits, 2738 CR 2600N, Penfield, IL 61862  
Rosetta Suits, 2738 CR 2600N, Penfield, IL 61862



**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

**Section 24, T21N, R10E of the 3<sup>rd</sup> P.M., Compromise Township.** The Special Use Permit includes the South Third of the Northwest Quarter and the Southwest Quarter. Participating landowners in Section 24 are the following:

Derald and Florene Ackerman, 519 South Main Street, Gifford, IL 61847-9713  
Kenneth and Rosetta Suits, 2738 CR 2600N, Penfield, IL 61862

**Section 25, T21N, R10E of the 3<sup>rd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 25 with exceptions. A total of 2 Wind Farm Towers (wind turbines) are proposed in Section 25 as follows:

- 2 Wind Farm Towers are proposed on an 80 acre parcel in the South Half of the Southeast Quarter of Section 25 on land owned by the Mary Ruth Elfe Revocable Trust and Charlotte R. Van Blokland Trust, aka Tate Farm #3/Busey Ag Services, 3002 West Windsor Road, Champaign, IL 61822

Other participating landowners in Section 25 are the following:

Russell and Marilyn Buhr, 2594 CR 2300E, Gifford, IL 61847-9740  
Vernon and Wilma Buhr, 2152 CR 2400N, St. Joseph, IL 61873  
Luella Busboom, 2258 CR 2500N, St. Joseph, IL 61873  
Maury Busboom, POB 131, Royal, IL 61871  
Roger and Betty Gronewald, 508 E Main POB 117, Royal, IL 61871  
Erna Hinrichs, 1037 Englewood Drive, Rantoul IL 61866  
Darrell and Marilyn Mennenga, 5205 Beech Ridge Road, Nashville, TN 37221  
David and Danita Uken, 2146 CR 2100N, St. Joseph, IL 61873

**Section 28, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 28 with exceptions. A total of 3 Wind Farm Towers (wind turbines) are proposed in Section 28 as follows:

- 1 Wind Farm Tower is proposed on a 62.54 acre parcel in the Northeast Quarter of Section 28 on land owned by Kenneth Suits, 2738 CR 2600N, Penfield, IL 61862
- 1 Wind Farm Tower is proposed on an 80 acre parcel being the East Half of the Southwest Quarter of Section 28 on land owned by Michael O'Neill, POB 236, Philo, IL 61864
- 1 Wind Farm Tower is proposed on a 70.26 acre parcel in the East Half of the Southeast Quarter of Section 28 on land owned by Roy and Barbara Johnson, 2640 CR 2500E, Penfield, IL 61862

Other participating landowners in Section 28 are the following:

Michelle Babb, 2635 CR 2700E, Penfield, IL 61862  
Alice Buck c/o Steve Buck, 609 Bayshore Drive, #9, Ft. Lauderdale, FL 33304  
Steve Buck, 609 Bayshore Drive, #9, Ft. Lauderdale, FL 33304  
Alice Cain Heirs c/o Steve Cain, POB 103, Philo, IL 61864  
Gary Hovel, 2518 CR 2600E, Penfield, IL  
Claas Hovel, 2971 CR 2700E, Penfield, IL  
Jeffrey Suits, 2703 CR 2500N, Penfield, IL 61862  
Union Pacific Railroad, 1400 Douglas, Stop 1640, Omaha, NE 61879

**Section 29, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 29, with exceptions. One Wind Farm Tower (wind turbine) is proposed in Section 29 as follows:

- 1 Wind Farm Tower is proposed on a 75 acre tract in the North Half of the Southeast Quarter of Section 29 on land owned by Velma Werner, 312 Penny Lane, Peotone, IL 60468

Other participating landowners in Section 29 are the following:

Albers Farm c/o Sandra J. King, POB 562, St. Joseph, IL 61872

Dick Albers, POB 213, Royal, IL 61871

Thomas and Patricia Buck, 2321 CR 2900N, Gifford, IL 61847

Bruinius Family Limited Partnership, 7723 W. Stuenkel Rd., Frankfort, IL 60423

Franzen Family Living Trust, 861 CR 900E, Tolono, IL 61880

Edgar and Sharon Hovel, 408 Moraine Dr., Rantoul, IL 61866

Gary Hovel, Trustee, 2518 CR 2600E, Penfield, IL 61862

Kenneth and Rosetta Suits, 2738 CR 2600N, Penfield, IL 61862

**Fractional Section 30, T21N, R11E, of the 3<sup>rd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Fractional Section 30, with exceptions. A total of 5 Wind Farm Towers (wind turbines) are proposed in Fractional Section 30 as follows:

- 1 Wind Farm Tower is proposed on a 60.86 acre parcel in the North Half of the South Half of Fractional Section 30 on land owned by Kay and John Fiscus, 105 Thomas Dr., St. Joseph, IL 61873
- 2 Wind Farm Towers are proposed on an 80 acre tract in the Southwest Quarter of Fractional Section 30 on land owned by Annette Brya Edwards c/o Busey Bank Ag Services, POB 107, Leroy, IL 61752
- 1 Wind Farm Tower is proposed on a 62.66 acre parcel in the East Half of Fractional Section 30 on land owned by Marvin and Pamela Ideus, 401 Eden Park Dr., Rantoul, IL 61866
- 1 Wind Farm Tower is proposed on an 80 acre parcel in the Southeast Quarter of Fractional Section 30 owned by Roseann Clifford, 2008 Sunview Dr., Champaign, IL 61821

Other participating landowners in Fractional Section 30 are the following:

Lois and Herbert Frerichs, POB 25, Royal, IL 61871

Alfred and Lorine Ideus, 2124 CR 2400N, St. Joseph, IL 61873

Roy and Barbara Johnson, 2640 CR 2500E, Penfield, IL 61862

**Section 30, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 30 except the Northwest Quarter. A total of 3 Wind Farm Towers (wind turbines) are proposed in this Section 30 as follows:

- 1 Wind Farm Tower is proposed on an 80 acre parcel being the West Half of the Northeast Quarter of Section 30 on land owned by the Michael and Eileen Jarboe Trust, 2792 CR 2400N, Penfield, IL 61862

**AS APPROVED ON REMAND- RECOMMEND APPROVAL**

- 1 Wind Farm Tower is proposed on a 53.33 acre parcel located in the Northeast Quarter of the Southwest Quarter and the Northwest Quarter of the Southeast Quarter of Section 30 on land owned by Robert and Dorene Pflugmacher, 866E CR 2250N, Ogden, IL 61859-9602
- 1 Wind Farm Tower is proposed on an 80 acre parcel being the West Half of the Southwest quarter of Section 30 on land owned by Vernon and Wilma Buhr, 2152 CR 2400N, St. Joseph, IL 61873

Other participating landowners in this Section 30 are the following:

John Blue, 2148 CR 2650E, Ogden, IL 61859

Daniel and Amy Cain, 2567 CR 2600E, Penfield, IL 61862

Edgar and Sharon Hovel, 408 Moraine Dr., Rantoul, IL 61866

Evelyn Suits, 2331 CR 2000E, Urbana, IL 61802

Robert and Dorene Pflugmacher, 866E CR 2250N, Ogden, IL 61859-9602

**Fractional Section 31, T21N, R11E of the 3<sup>rd</sup> P.M., Compromise Township.** The Special Use Permit includes the North Half of the Fractional Section 31 and the North Half of the Fractional Southwest Quarter of Fractional Section 31 and the East Half of the Southeast Quarter of Fractional Section 31. One Wind Farm Tower (wind turbine) is proposed in Fractional Section 31 as follows:

- 1 Wind Farm Tower is proposed on a 140 acre parcel in the Northeast Quarter of Fractional Section 31 on land owned by Larry Foster, 28012 State Route 49, Armstrong, IL 61812

Other participating landowners in Fractional Section 31 are the following:

Mary Ruth Elfe Revocable Trust and Charlotte R. Van Blokland Trust, aka Tate Farm #3/Busey Ag Services, 3002 West Windsor Road, Champaign, IL 61822

John Blue, 2148 CR 2650E, Ogden, IL 61859

Judith E. Kopmann, POB 7, Royal, IL 61871

Douglas Walker and Susan Kingston, 1111 Stockholm Rd., Paxton, IL 60957

**Section 31, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes the North Half of Section 31 and the Southwest Quarter of the Southeast Quarter of Section 31. One Wind Farm Tower (wind turbine) is proposed in this Section 31 as follows:

- 1 Wind Farm Tower is proposed on an 80 acre parcel being the East Half of the Northeast Quarter of Section 31 on land owned by the LaVeda Pollack Trust c/o Kalin Kocher, 2455 CR 2600E, Penfield, IL 61862

Other participating landowners in this Section 31 are the following:

Larry Frerichs, 2474 CR 2500E, Penfield, IL 61862

Evelyn Suits, 2331 CR 2000E, Urbana, IL 61802

Carl and Jane Udovich, 3526 Bankview Dr., Joliet, IL 60431

**Section 32, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 32 except a 1.10 acre tract of land located in the West Half

of the Northwest Quarter of Section 32. Participating landowners in Section 32 are the following:

Brian Loschen, 2692 CR 2300N, Ogden, IL 61859  
Illini FS, Inc., 1509 E. University Avenue, Urbana, IL 61802  
Union Pacific Railroad, 1400 Douglas, Stop 1640, Omaha, NE 61879  
Wendy M. Heeren Trust, 50 Maywood Dr., Danville, IL 61832  
Arnold & Delores Loschen Trusts, 2654 CR 2400N, Ogden, IL 61859

**Section 33, T21N, R14W of the 2<sup>nd</sup> P.M., Compromise Township.** The Special Use Permit includes all of Section 33, with exceptions. A total of 3 Wind Farm Towers (wind turbines) are proposed in this Section 30 as follows:

- 1 Wind Farm Tower is proposed on a 40 acre parcel being the Northeast Quarter of the Northwest Quarter of Section 33 on land owned by Robert Long, Pearl St., Bluffs, IL 62621
- 1 Wind Farm Tower is proposed on a 77.04 acre parcel in the West Half of the Northeast Quarter of Section 33 on land owned by Roger N. Carter, 2562 CR 3000N, Penfield, IL 61862
- 1 Wind Farm Tower is proposed on an 80 acre parcel being the East Half of the Northeast Quarter of Section 33 on land owned by Harold and Darlene Hovel, POB 134, Royal, IL 61871

Other participating landowners in Section 33 are the following:

Michael and Eileen Jarboe Trusts, 2792 CR 2400N, Penfield, IL 61862  
Thomas and Beverly Lee, 2308 Naples Court., Champaign, IL 61822  
Dennis Madigan Living Trust, 18877 Medford, Beverly Hill, MI 48025

**Section 36, T21N, R10E, Compromise Township.** The Special Use Permit includes all of Section 36 except the South Half of the Northwest Quarter of Section 36 and the Southwest Quarter of Section 36. A total of 3 Wind Farm Towers (wind turbines) are proposed in this Section 30 as follows:

- 1 Wind Farm Tower is proposed on a 70 acre parcel in the Northeast Quarter of the Northwest Quarter and the Northwest Quarter of the Northeast Quarter of Section 36 on land owned by Earl and Delores Ideus, 508 N. West St., Gifford, IL 61847
- 1 Wind Farm Tower is proposed on a 50 acre parcel in the North Half of the South Half of the Northeast Quarter of Section 36 on land owned by Royce and Shauna Ideus, 2229 CR 2600N, Gifford, IL 61847
- 1 Wind Farm Tower is proposed on a 157 acre parcel in the Southeast Quarter of Section 36 on land owned by Judith, Leroy and Bonita Kopmann, POB 7, Royal, IL 61871

Other participating landowners in Section 36 are the following:

Leroy and Bonita Kopmann Trust, 117 Susan Drive, Dwight, IL 60420

**PART B OGDEN TOWNSHIP**

**Fractional Section 6, T20N, R11E of the 3<sup>rd</sup> P.M., Ogden Township.** The Special Use Permit includes all of Fractional Section 6 except the Fractional Northwest Quarter of Fractional Section 6 and except the North Half of the Southwest Fractional Quarter of Fractional Section 6 and except the Northwest Quarter of the Southeast Quarter of Fractional Section 6 and except the West Half of the Northeast Fractional Quarter of Fractional Section 6. Participating landowners in Fractional Section 6 are the following:  
Delores Ann Harms Trustee, POB 87, Royal, IL 61871  
Mildred Hinrichs Trust, c/o Laveda Clem, 1982 CR 2100N, Urbana, IL 61822  
Herbert and Betty Osterbur, 302 Benjamin Street, Royal, IL 61871

**Fractional Section 6, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes all of Fractional Section 6, with exceptions. One Wind Farm Tower (wind turbine) is proposed in Fractional Section 6 as follows:

- 1 Wind Farm Tower is proposed on an 83.84 acre tract of land in the Southwest Quarter of Fractional Section 6 on land owned by Sylvia Flessner-Fulk, POB 837, St. Joseph, IL 61873

Other participating landowners in Fractional Section 6 are the following:

Darrell Bruns, c/o Marlys McCartney, 1113 Ascot Dr., Rantoul, IL 61866

Kristi Bruns, c/o Marlys McCartney, 1113 Ascot Dr., Rantoul, IL 61866

Neil Bruns, c/o Marlys McCartney, 1113 Ascot Dr., Rantoul, IL 61866

Marlys McCartney, 1113 Ascot Dr., Rantoul, IL 61866

Marvin and Bernita Harms Trust, 2592 CR 2145N, St. Joseph, IL 61873

Gene and Deanna Osterbur Irrevocable Trust c/o Julie Carlson, 3828 East Whipporwhill Lane, Byron IL 61010

Reka Sage, 2304A CR 3000N, Apt. 203, Gifford, IL 61847

Wayne and Roxie Sage, 2545 CR 2400N, Ogden, IL 61859

**Fractional Section 5, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes all of Fractional Section 5, with exceptions. One Wind Farm Tower (wind turbine) is proposed in Fractional Section 5 as follows:

- 1 Wind Farm Tower is proposed on a 78.10 acre parcel in the Fractional North Half of Fractional Section 5 on land owned by Mark Loschen, 2455 CR 2050N, St. Joseph, IL 61873

Other participating landowners in Fractional Section 5 are the following:

Anna Albers, 2304A CR 3000N, Apt. 107, Gifford, IL 61847

Albers Farm c/o Sandra J. King, POB 562, St. Joseph, IL 61872

Douglas Frerichs, 2634 CR 2300N, Ogden, IL 61859

Arnold and Delores Loschen Trusts, 2654 CR200N, Ogden IL 61859

Gene and Deanna Osterbur c/o Julie Carlson, 3828 East Whipporwhill Lane, Byron IL 61010

Wayne and Roxie Sage, 2545 CR 2400N, Ogden, IL 61859

Dan Shearin, 2431 Parklake Drive, Morris, IL 60450

**Fractional Section 4, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes a 72.8 acre tract of land located in the West Half of the West Half of Fractional Section 4 and an 80 acre tract of land located in the South Half of the Southeast Quarter of Fractional Section 4. Participating landowners in Fractional Section 4 are the following:

Inez K. Britt, 2333 CR 2800E, Ogden, IL 61859

John and Erna Ludwig Living Trusts, c/o Judith Ludwig Gorham, 409 N. Cherry St., Galesburg, IL 61401

**Fractional Section 7, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes the Northeast Quarter of Fractional Section 7, with exceptions and a 60 acre tract of land in the East Half of the Southeast Quarter of Fractional Section 7.

Participating landowners in Fractional Section 7 are the following:

Vernon and Wilma Buhr, 2152 CR 2400N, St. Joseph, IL 61873

Louis and Laverne Osterbur, 2293 CR 2600E, Ogden, IL 61859

**Section 8, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes all of Section 8 with the exception of 160 acres in the West Half of Section 8 and 60.85 acres in the Southeast Quarter of Section 8. Participating landowners in Section 8 are the following:

Albert J. Franzen, POB 206, Broadlands, IL 61816

John and Erna Ludwig Living Trust, c/o Judith Ludwig Gorham, 409 N. Cherry St., Galesburg, IL 61401

Jillene and Ben Henderson, 2651 CR 2150N, Ogden, IL 61859

Randall and Deanna Loschen, 2629 CR 1800N, Ogden, IL 61859

Union Pacific Railroad, 1400 Douglas, Stop 1640, Omaha, NE 61879

**Section 9, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes the Northwest Quarter of Section 9 and the Northeast Quarter of the Southeast Quarter of Section 9 and a 100 acre tract of land in the South Half of the Northeast Quarter and the West Half of the West Half of the Southeast Quarter of Section 9 and the East Half of the Southwest Quarter of Section 9. Participating landowners in Section 9 are the following:

Robert Scott Trust and Alsip Family Trust c/o Robert P. Scott, 107 Arrowhead Lane, Haines City, FL 33844

Robert and Joan Sattler Trusts, 207 McKinley, Milford, IL 60953

Busboom Family Trust c/o Glen L. and Billie J. Busboom, 2756 CR 2200N, Ogden, IL 61859

**Section 16, T20N, R14W of the 2<sup>nd</sup> P.M., Ogden Township.** The Special Use Permit includes an 80 acre tract of land in the East Half of the Northeast Quarter of Section 16.

Participating landowners in Section 9 are the following:

Carol Sage Peak, c/o Helen Green, 206 Ridgeview St., Danville, IL 61832.

Clifford Peak, c/o Helen Green, 206 Ridgeview St., Danville, IL 61832.  
Helen Green, 206 Ridgeview St., Danville, IL 61832.