

CASE NO. 701-AT-11

SUPPLEMENTAL MEMORANDUM

FEBRUARY 2, 2012

Petitioner: **Zoning Administrator**

Prepared by: **John Hall, Zoning Administrator**
Andy Kass, Associate Planner

Champaign
County
Department of

**PLANNING &
ZONING**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Request: Amend the Champaign County Zoning Ordinance as follows:

- Part A.** Revise paragraph 6.1.4 D.1. to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.
- Part B.** Revise paragraph 6.1.4 F. as follows:
1. Revise subparagraph 6.1.4F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
 2. Delete subparagraph 6.1.4 F.1. u.
 3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and repair Agreement with the appropriate highway authority.
- Part C.** Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.
- Part D.** Add new subparagraph 6.1.4 E.7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.
- Part E.** Revise subparagraph 6.1.4 S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval.
- Part F.** Strike the requirement for "reclamation agreement" for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of "site reclamation plan" and add certain other related requirements as follows:
1. In Section 3 revise the definition of "NON-ADAPTABLE STRUCTURE" to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
 2. Make the following revisions to paragraph 6.1.1A.:
 - a. Strike references to "reclamation agreement" and replace with "site reclamation plan"
 - b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
 - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES.
 - (2) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
 - (3) Limit consideration of salvage value to be as limited by paragraph 6.1.4P.
 - c. Revise subparagraph 6.1.1A.6. to strike "120 days" and replace with "180 days" and insert "or applicant" after "landowner".
 - d. Revise paragraph 6.1.1A. to add other related requirements.
 3. Revise paragraph 6.1.4P. as follows:
 - a. Revise paragraph 6.1.4P. to strike references to "reclamation agreement" and replace with "site reclamation plan".
 - b. Delete subparagraphs 6.1.4P.3. (d), (e), and (f) and add new subparagraphs to require the following:

- (1) At the time of decommissioning a Roadway Use and Repair Agreement.
- (2) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.
- c. Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan.
- d. Insert new subparagraph 6.1.4 P.4.(b) to require the following:
 - (1) Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards.
 - (2) Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any deconstruction costs.
 - (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.
 - (4) Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.
 - (5) Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.
- e. Renumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values.
- f. Revise paragraph 6.1.4P. to add other related requirements.

*** NOTE:** The description of the Request has been simplified from the legal advertisement. See the legal advertisement included with the memorandum.

WAIVERS IN CASE 696-S-11

A copy of Resolution No. 7966 (partial) that approved Case 696-S-11 (California Ridge Wind Farm) is included as Attachment B. Parts of the proposed amendment and the relevant waivers and special conditions of approval are the following:

Part of Proposed Amendment	Related Waivers of Standard Conditions in Case 696-S-11	Related Special Conditions of Approval In Case 696-S-11
Part A	3.A.	4.L.2.
Part B 1.	3.B.	4.C.
2.	3.C.	NA
3.	NA	4.I.5.
Part C	3.D.	NA
Part D	NA	4.J.9.
Part E	3.E.	4.H.
Part F	NA	4.I.

SOIL STANDARDS FOR BACKFILLING OF EXCAVATED TOWER FOUNDATION

One suggestion at the Committee of the Whole was to include standards for the backfilling of the excavated tower foundations in the event that decommissioning is required. Proposed subparagraph 6.1.4P.3.(i) has been added. See Attachment D. These standard are loosely based on information in *Citizen's Guide to Farmland Reclamation* (included separately as Attachment E).

PROPOSED CHANGE FROM RECLAMATION AGREEMENT TO SITE RECLAMATION PLAN

The State's Attorney has recommended that the Zoning Ordinance be amended to change the current requirement for a "reclamation agreement" to a requirement simply for a site reclamation plan. This change affects both paragraph 6.1.1A. and 6.1.4P. A copy of the Reclamation Agreement for Case 696-S-11 has been included as an attachment for the Board's reference.

SPECIFYING NET SALVAGE VALUE

The Committee of the Whole requested that "salvage value" be specified in sufficient detail to ensure that all costs related to salvaging be considered. Proposed subparagraph 6.1.4P.(4) has been added that specifies "net estimated salvage value", as follows:

- (4) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the tower, the hub assembly, the bed plate, the nacelle, the turbine, the blades, the tower cabling and internal wiring, the transformers, the foundation, and access roads.

Subparagraph 6.1.4P.(4) has also been modified to refer to net estimated salvage value throughout.

FREQUENCY OF UPDATING THE FINANCIAL ASSURANCE IN LATER YEARS

Another suggestion at the Committee of the Whole was to increase the frequency of updating the financial assurance after year 13 to ever year instead of every two years. Staff recommended a two year update but the legal advertisement included the more restrictive one year update. Subparagraphj 6.1.4P.4.(d)(1) has been revised to give the Board the option of 1 or 2 years.

ATTACHMENTS

- A Case Description from the Legal Advertisement for Case 701-AT-11**
- B Resolution No. 7966 (partial) Granting A Special Use Permit Zoning Case 696-S-11 California Ridge Wind Farm**
- C Excerpts from the Illinois Administrative Code regarding IDNR Agency Action Report (included separately)**
- D Proposed Standards for Soil Backfill for Excavated Foundation**
- E *Citizen's Guide to Farmland Reclamation*. IDNR Office of Mines and Minerals. (included separately)**
- F Reclamation Agreement Case 696-S-11 (California Ridge Wind Farm) Received November 2, 2011 (Includes Base Decommissioning Cost Estimate dated October 6, 2011) (included separately)**
- G Proposed Paragraph 6.1.1A.**
- H Revised Proposed Amendment**

Attachment A. Case Description of the Legal Advertisement

Case 701-AT-11
JANUARY 27, 2012

CASE: 701-AT-11

Amend the Champaign County Zoning Ordinance as follows:

Part A. Revise paragraph 6.1.4 D.1. to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.

Part B. Revise paragraph 6.1.4 F. as follows:

1. Revise subparagraph 6.1.4F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
2. Delete subparagraph 6.1.4 F.1. u.
3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and repair Agreement with the appropriate highway authority.

Part C. Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.

Part D. Add new subparagraph 6.1.4 E.7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.

Part E. Revise subparagraph 6.1.4 S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval.

Part F. Strike the requirement for “reclamation agreement” for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of “site reclamation plan” and add certain other related requirements as follows:

1. In Section 3 revise the definition of “NON-ADAPTABLE STRUCTURE” to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
2. Make the following revisions to paragraph 6.1.1A.:
 - a. Revise existing paragraph 6.1.1A. to strike references to “reclamation agreement” and replace with “site reclamation plan”; and replace references to 6.1.1C. with references to 6.1.1A.
 - b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
 - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES.
 - (2) Replace “developer” with “applicant”.
 - (3) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
 - (4) Limit consideration of salvage value to be as limited by paragraph 6.1.4P.

Attachment A. Case Description of the Legal Advertisement

Case 701-AT-11

JANUARY 27, 2012

- (5) Require the site reclamation plan to provide for any environmental remediation require by State or Federal law.
 - c. Add new subparagraph 6.1.1A.7.e. that specifies that abandonment includes when a court of law or arbiter or mediator or any State or Federal agency charged with enforcing the law has made a finding that a non-adaptable structure or supporting structures or any related erosion controls constitutes a public nuisance or violates the law or when such State or Federal agency imposes an administrative sanction related to use of the structure or denying the a permit necessary for lawful operation.
 - d. Revise subparagraph 6.1.1A.6. to strike “120 days” and replace with “180 days” and insert “or applicant” after “landowner”.
 - e. Revise subparagraph 6.1.1 A. 11.b. to require payment of all administrative and ancillary costs associated with drawing upon the financial assurance and performing reclamation work.
 - f. Revise paragraph 6.1.1 A. 12. to require a new site reclamation plan be submitted upon transfer of any property subject to a letter of credit.
 - g. Add new subparagraphs 6.1.1 A. 13. & 14. to require:
 - (1) The applicant to provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator.
 - (2) In the event that a site reclamation plan is deemed invalid by a court of competent jurisdiction the SPECIAL USE permit shall be deemed void.
- 3. Revise paragraph 6.1.4P. as follows:
 - a. Revise paragraph 6.1.4P. to strike references to “reclamation agreement” and replace with “site reclamation plan”.
 - b. Delete subparagraphs 6.1.4P.3. (d), (e), and (f) and add new subparagraphs to require the following:
 - (1) At the time of decommissioning a Roadway Use and Repair Agreement.
 - (2) Evidence of any new, additional, or substitute financing or security agreement.
 - (3) The work in the site reclamation plan shall be done before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND FARM, after it has begun, other than in the ordinary course of business.
 - (4) Payment of any associated costs that Champaign County may incur in the event that decommissioning is actually required.
 - (5) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.
 - (6) The WIND FARM SPECIAL USE Permit shall be void if the site reclamation plan is deemed invalid by a court of competent jurisdiction.
 - (7) The obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the obligation to provide financial assurance.

Attachment A. Case Description of the Legal Advertisement

Case 701-AT-11

JANUARY 27, 2012

- (8) The liability to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.
 - (9) Permission from the Zoning Administrator before removing equipment or property credited to salvage value without concurrent replacement of something of equal or greater value.
- c. Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan and make the last sentence new subparagraph 6.1.4P.4.(c).
- d. Insert new subparagraph 6.1.4 P.4.(b) to require the following:
- (1) Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards of either maintaining the WIND FARM TOWERS free and clear of liens and encumbrances or deducting the amount of any liens or encumbrances from the salvage value credit or requiring any and all financing or financial security agreements subject to the covenant required by paragraph 6.1.1A.2; and require proof of compliance as required by the Zoning Administrator
 - (2) Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any costs of dismantling or demolishing, transportation, or other similar costs that will serve to reduce the net salvage value.
 - (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.
 - (4) Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.
 - (5) Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.
- e. Renumber existing paragraph 6.1.4 P.4.(b) to become new paragraph 6.1.4 P.4.(e) and revise to require equal annual installments of cash deposits in an escrow account.
- f. Renumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information including any changes due to inflation or change in net salvage value by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values once every three years for the first 12 years and at least every year thereafter and provide copies of the report to the Zoning Administrator; and require an anticipated life span of 25 years for a WIND FARM for purposes of financial assurance.

Attachment A. Case Description of the Legal Advertisement

Case 701-AT-11

JANUARY 27, 2012

- g. Add new subparagraph 6.1.4 P.4.(f) to protect against a downward adjustment of salvage value and an upward adjustment of decommissioning costs and require adjustment of the financial assurance accordingly.
- h. Revise subparagraph 6.1.4 P.5.(a) to strike references to “wind turbine” and replace with “WIND FARM TOWER” and insert the phrase “after it starts producing electricity.”
- i. Add the following to subparagraph 6.1.4P.5.:
 - (1) A delay in construction after construction begins, of more than 6 months.
 - (2) The appearance of a state of disrepair or imminent collapse or an imminent threat to public health and safety.
 - (3) Any WIND FARM TURBINE derelict for 6 months.
 - (4) Violation of the Special Use Permit for more than 90 days.
 - (5) Failure to maintain financial assurance as required or compromising the County’s interest.
 - (6) Any material misstatement fact or misleading omission of fact by the Applicant.
 - (7) Failure to receive design certification as required.
- j. Add new subparagraph 6.1.4P.6. to authorize the Zoning Administrator to deem a WIND FARM abandoned or some, but not all WIND FARM TURBINES and to draw upon the financial assurance to perform reclamation work for those deemed abandoned and require recalculation of decommissioning costs upon completion.
- k. Renumber existing subparagraph 6.1.4P.6. and revise to include the phrase “Site Reclamation Plan” and strike the phrase “Site Reclamation Agreement including.”

**RESOLUTION NO. 7966
RESOLUTION GRANTING A SPECIAL USE PERMIT
ZONING CASE NO. 696-S-11
California Ridge Wind Farm**

WHEREAS, the Champaign County Zoning Board of Appeals held a public hearing, made a formal recommendation for approval, and forwarded to this Board Case Number 696-S-11;

WHEREAS, the Champaign County Board finds that the Zoning Board of Appeals followed proper procedures and its Finding of Fact is supported by the manifest weight of evidence cited in the Summary of Evidence; and

WHEREAS, the Finding of Fact forwarded by the Zoning Board of Appeals demonstrates compliance of the petition in Zoning Case 696-S-11 with the criteria contained in Section 9.1.11 B. of the *Champaign County Zoning Ordinance*.

NOW, THEREFORE BE IT RESOLVED, by the Champaign County Board, Champaign County, Illinois, as follows:

1. That the Summary of Evidence, Documents of Record, Finding of Fact, and Final Determination forwarded by the Champaign County Zoning Board of Appeals in Zoning Case 696-S-11 are hereby endorsed and adopted, and incorporated herein by reference.
2. That a Special Use Permit is hereby granted to 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, for 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 specific waivers of standard conditions and special conditions of approval as listed in this Resolution, on the real estate described in the attached legal description of the participating land by Township and Section.
3. That the grant of Special Use Permit in Case 696-S-11 includes the following 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.
4. That the grant of Special Use Permit in Case 696-S-11 includes the following special conditions of approval:
- 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).
 - 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
 - (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.
- I. 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.
- 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.

PRESENTED, PASSED, APPROVED, AND RECORDED this 17th day of November, A.D. 2011.

SIGNED:

ATTEST:

C. Pius Weibel, Chair
Champaign County Board
Champaign, Illinois

Gordy Hulter, County Clerk and *Ex Officio*
Clerk of the Champaign County Board

PARTICIPATING LANDOWNERS

PART A COMPROMISE TOWNSHIP

Section 19, T21N, R14W of the 2nd P.M., Compromise Township. The following landowners are participating in the Special Use Permit:

- G & E Farms, Inc., POB 35, Gifford, IL 61847-0335
- William Pflugmacher, 333 Eiler Drive, Gifford, IL 61847-9727
- Eric Suits, 2655 CR 2600E, Penfield, IL 61862
- Louise Fruhling, 31361 N 750 East Rd, Potomac, IL 61865-6601
- Loretta Fruhling/ Fruhling Family Trust, 388 Gibbs Drive, Rantoul, IL 61866
- 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 2nd P.M., Compromise Township. The following landowners are participating in the Special Use Permit:

- 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 2nd P.M., Compromise Township. The following landowners are participating in the Special Use Permit:

- 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

Section 24, T21N, R10E of the 3rd P.M., Compromise Township. The following landowners are participating in the Special Use Permit:

- Derald and Florene Ackerman, 519 South Main Street, Gifford, IL 61847-9713

Attachment D. Proposed Standards for Soil Backfill for Excavated Foundation
Case 701-AT-11
FEBRUARY 2, 2012

Subparagraph 6.1.4P.3.(i) is proposed as follows:

- (i) The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows:
 - i.* The excavation resulting from the removal of foundation concrete shall only be backfilled with subsoil and topsoil in similar depths and similar types as existed at the time of the original WIND FARM construction except that a lesser quality topsoil or a combination of a lesser quality topsoil and a subsoil that is similar to the native subsoil may be used at depths corresponding to the native subsoil but not less than 12 inches below grade.
 - ii.* The native soils excavated at the time of the original WIND FARM construction may be used to backfill the concrete foundation excavations at the time of decommissioning provided that the soils are adequately stored throughout the operating lifetime of the WIND FARM. The methods for storing the excavated native soils during the operating lifetime of the WIND FARM shall be included in the site reclamation plan.
 - iii.* If the excavated native soils are not stored for use for backfilling the concrete foundation excavations, a qualified soil scientist or Illinois Licensed Professional Engineer shall certify that the actual soils used to backfill the concrete foundation excavations are of equal or greater quality than the native soils or that, in the case of subsoil, the backfill soil meets the requirements of this paragraph. The certification shall be submitted to the Zoning Administrator.
 - iv.* An Illinois Licensed Professional Engineer shall certify in writing that the concrete foundation excavations have been backfilled with soil to such a depth and with a minimum of compaction that is consistent with the restoration of productive agricultural use such that the depth of soil is expected to be no less than 54 inches within one year after backfilling. The certification shall be submitted to the Zoning Administrator.

Attachment G. Proposed Paragraph 6.1.1A.

Case 701-AT-11

FEBRUARY 2, 2012

6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES

A. Site Reclamation Plan for NON-ADAPTABLE STRUCTURES

1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any WIND FARM shall be a NON-ADAPTABLE STRUCTURE. The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall submit a site reclamation plan to the BOARD for the subject site.
2. The site reclamation plan shall be binding upon all successors of title to the land. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.
3. Separate cost estimates for Section 6.1.1A.4.a., 6.1.1A.4.b., and 6.1.1A.4.c. shall be provided by an Illinois Licensed Professional Engineer.
 - a. Cost estimates provided shall be subject to approval of the BOARD.
 - b. Except as provided in Section 6.1.4.P, the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.
4. The site reclamation plan shall provide for:
 - a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;
 - b. below-ground restoration, including final grading and surface treatment;
 - c. any environmental remediation required by State or Federal law;
 - d. provision and maintenance of a letter of credit, as set forth in Section 6.1.1A.5.

Attachment G. Proposed Paragraph 6.1.1A.

Case 701-AT-11

FEBRUARY 2, 2012

5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1A.4.a., Section 6.1.1A.4.b., and Section 6.1.1A.4.c, except a different amount may be required as a standard condition in Section 6.1.4P. This letter of credit, or a successor letter of credit pursuant to Section 6.1.1A.6. or 6.1.1A.12. shall remain in effect and shall be made available to the COUNTY for an indefinite term or for a different term that may be required as a standard condition in paragraph 6.1.4P.

6. One hundred eighty (180) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this Section, the Zoning Administrator shall notify the landowner or applicant in writing and request information about the landowner's or applicant intent to renew the letter of credit, or remove the NON-ADAPTABLE STRUCTURE. The landowner or applicant shall have thirty (30) days to respond in writing to this request. If the landowner's or applicant intention is to remove the NON-ADAPTABLE STRUCTURE, the landowner or applicant will have a total of ninety (90) days from the date of response to remove it in accordance with Section 6.1.1A.4.a. At the end of ninety (90) days, the Zoning Administrator shall have a period of sixty (60) days to either:
 - a. confirm that the bank has renewed the letter of credit; or
 - b. inspect the subject property for compliance with Section 6.1.1A.4.a.;
 - c. draw on the letter of credit and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to Section 6.1.1A.4.a.

7. The Zoning Administrator may find a NON-ADAPTABLE STRUCTURE abandoned in place. Factors to be considered in making this finding include, but are not limited to:
 - a. the nature and frequency of use as set forth in the application for SPECIAL USE;
 - b. the current nature and frequency of use:

Attachment G. Proposed Paragraph 6.1.1A.

Case 701-AT-11

FEBRUARY 2, 2012

6.1.1 STANDARDS AND REQUIREMENTS - CONTINUED

- c. whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to the public health or safety;
 - d. whether the NON-ADAPTABLE STRUCTURE 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.
 - e. A court of law, an arbitrator, mediator, or any state or Federal agency charged with enforcing State or Federal law has made a finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-ADAPTABLE STRUCTURE relating to its use or denying the NON-ADAPTABLE STRUCTURE a permit necessary for its lawful operation.
8. Once the Zoning Administrator has made a finding that a NON-ADAPTABLE STRUCTURE is abandoned in place, the Zoning Administrator shall issue notice to the landowner or applicant at the owner's or applicant last known address that the COUNTY will draw on the performance guarantee within thirty (30) days unless the owner or applicant appeals the Zoning Administrator's finding, pursuant to Section 9.1.8 or enters into a written agreement with the COUNTY to remove such NON-ADAPTABLE STRUCTURE in accordance with Section 6.1.1A.4.a. within ninety (90) days and removes the NON-ADAPTABLE STRUCTURE accordingly.
9. The Zoning Administrator may draw on the funds to have said NON-ADAPTABLE STRUCTURE removed as per Section 6.1.1A.4.a. of the reclamation agreement when any of the following occur:

Attachment G. Proposed Paragraph 6.1.1A.

Case 701-AT-11

FEBRUARY 2, 2012

- a. no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;
- b. the landowner or applicant does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE STRUCTURE as provided in Section 6.1.1A.8.;
- c. any breach or performance failure of any provision of the reclamation agreement;
- d. 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;
- e. a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;
- f. the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.1A.6.;
- or
- g. any other conditions to which the COUNTY and the landowner or applicant mutually agree, as set forth in the reclamation agreement.

6.1.1 STANDARDS AND REQUIREMENTS - CONTINUED

10. Once the letter of credit has been drawn upon, and the site has been restored to its original condition, as certified by the Zoning Administrator, the covenant entered pursuant to Section 6.1.1A.2. shall expire, and the COUNTY shall act to remove said covenant from the record of the property at the Recorder of Deeds within forty-five (45) days.
11. The proceeds of the letter of credit may only be used by the COUNTY to:
 - a. remove the NON-ADAPTABLE STRUCTURE and return the site to its condition prior to placement of the NON-ADAPTABLE STRUCTURE, in accordance with the most recent reclamation agreement submitted and accepted in relation to the NON-ADAPTABLE STRUCTURE;

Attachment G. Proposed Paragraph 6.1.1A.

Case 701-AT-11

FEBRUARY 2, 2012

- b. pay all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work, which shall include, but not be limited to, attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposal and bidding documents required to comply with state law or Champaign County purchasing policies; and
- c. remove any covenants placed on the title in conjunction with Section 6.1.1A.

The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.

- 12. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner of record shall submit a new irrevocable letter of credit of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall submit a new site reclamation plan, pursuant to Section 6.1.1A.4.a., and, for WIND FARMS, Section 6.1.4P. Once the new owner of record has done so, the letter of credit posted by the previous owner shall be released, and the previous owner shall be released from any further obligations under the site reclamation plan.
- 13. The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.
- 14. Should the site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE permit shall be deemed void.

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

Note: Changes from the January 4, 2012, version are underlined.

Part A. Revise paragraph 6.1.4 D.1. to read as follows:

- (a) WIND FARM TOWERS, turbines, and all related construction shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energy ("GL"), or equivalent third party. Documentation of compliance must be submitted prior to receiving a Zoning Compliance Certificate for either the WIND FARM or for any single WIND FARM TOWER.

Part B.

1. Revise paragraph 6.1.4F.1. to read as follows:

1. The Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer; or Township Highway Commissioner; or municipality where relevant. Agreements with the County Engineer shall not be forwarded to the County Board before the wind farm special use permit is forwarded. All other agreements shall be executed prior to the close of the public hearing before the BOARD. The signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:

2. Delete paragraph 6.1.4F.1.u. and renumber succeeding paragraphs as required.

3. Add new subparagraph 6.1.4F.3. as follows:

3. At such time as decommissioning takes place the Applicant or its successors in interest shall enter into a Roadway Use and Repair Agreement with the appropriate highway authority.

Part C. Revise paragraph 6.1.4J. to read as follows:

- J. Standard Conditions for Endangered Species Consultation
The Applicant shall apply for consultation with the Endangered Species Program of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report or, if applicable, a copy of the Detailed Action Report submitted to the Endangered Species Program of the Illinois Department of Natural Resources and a copy of the response from the Illinois Department of Natural Resources.

Part D. Add new paragraph 6.1.4E.7. as follows:

7. Permanent Erosion and Sedimentation Control Plan

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

- (a) Prior to the approval of any Zoning Use Permit, the Applicant shall provide 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.
- (b) 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 shall be submitted and accepted by the Zoning Administrator prior to approval of any Zoning Compliance Certificate.

Part E. Revise paragraph 6.1.4S.1.(c)(3) to read as follows:

- (3) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit unless the Board authorizes a lesser separation in a special condition of approval or waiver, if required that is also consistent with any required waivers of paragraph 6.1.4C. Different locations for WIND FARM structures may be provided in the site plan for the Zoning Use Permit provided that the final locations of WIND FARM TOWERS comply with any authorized waivers or special conditions of approval of the WIND FARM County Board SPECIAL USE Permit. WIND FARM structures include WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.

Part F.

1. In Section 3 revise the definition of “non-adaptable structure” to read as follows:

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). This term shall include, but not be limited to, a WIND TURBINE TOWER and a WIND FARM TOWER.

2. Make the following revisions to paragraph 6.1.1A.:

- a. **Revise paragraph 6.1.1A. to strike references to “reclamation agreement” and replace with “site reclamation plan” and replace references to 6.1.1C. with references to 6.1.1A. and;**

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

b. Revise paragraphs 6.1.1A.1. through 5 to read as follows:

A. Site Reclamation Plan for NON-ADAPTABLE STRUCTURES

1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any WIND FARM shall be a NON-ADAPTABLE STRUCTURE. The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall submit a site reclamation plan to the BOARD for the subject site.
2. The site reclamation plan shall be binding upon all successors of title to the land. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner shall also record a covenant incorporating the provisions of the site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.
3. Separate cost estimates for Section 6.1.1A.4.a., 6.1.1A.4.b., and 6.1.1A.4.c. shall be provided by an Illinois Licensed Professional Engineer.
 - a. Cost estimates provided shall be subject to approval of the BOARD.
 - b. Except as provided in Section 6.1.4P., the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.
4. The site reclamation plan shall provide for:
 - a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;
 - b. below-ground restoration, including final grading and surface treatment;
 - c. any environmental remediation required by State or Federal law;
 - d. provision and maintenance of a letter of credit, as set forth in Section 6.1.1A.5.
5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1A.4.a., Section 6.1.1A.4.b., and Section 6.1.1A.4.c., except a different amount may be required as a standard condition in Section 6.1.4P. This letter of credit, or a

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

successor letter of credit pursuant to Section 6.1.1A.6. or 6.1.1A.12. shall remain in effect and shall be made available to the COUNTY for an indefinite term or for a different term that may be required as a standard condition in paragraph 6.1.4P.

2c. Add new subparagraph 6.1.1A.7.e. to read as follows:

- e. A court of law, an arbitrator, mediator, or any state or Federal agency charged with enforcing State or Federal law has made a finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-ADAPTABLE STRUCTURE relating to its use or denying the NON-ADAPTABLE STRUCTURE a permit necessary for its lawful operation.

2d. Revise subparagraph 6.1.1A.6. as follows:

- 6. One hundred eighty (180) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this Section, the Zoning Administrator shall notify the landowner or applicant in writing and request information about the landowner's or applicant intent to renew the letter of credit, or remove the NON-ADAPTABLE STRUCTURE. The landowner or applicant shall have thirty (30) days to respond in writing to this request. If the landowner's or applicant intention is to remove the NON-ADAPTABLE STRUCTURE, the landowner or applicant will have a total of ninety (90) days from the date of response to remove it in accordance with Section 6.1.1A.4.a. At the end of ninety (90) days, the Zoning Administrator shall have a period of sixty (60) days to either:
 - a. confirm that the bank has renewed the letter of credit; or
 - b. inspect the subject property for compliance with Section 6.1.1A.4.a.;
 - c. draw on the letter of credit and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to Section 6.1.1A.4.a.

2e. Revise paragraph 6.1.1A.11.b. to read as follows:

- b. pay all administrative and ancillary costs associated with drawing

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

upon the financial assurance and performing the reclamation work, which shall include, but not be limited to, attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposal and bidding documents required to comply with state law or Champaign County purchasing policies; and

2f. Revise paragraph 6.1.1A.12. to read as follows:

12. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner of record shall submit a new irrevocable letter of credit of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall submit a new site reclamation plan, pursuant to Section 6.1.1A.4.a., and, for WIND FARMS, Section 6.1.4P. Once the new owner of record has done so, the letter of credit posted by the previous owner shall be released, and the previous owner shall be released from any further obligations under the site reclamation plan.

2g. Add new subparagraphs 6.1.1A.13. & 14. to read as follows:

13. The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.
14. Should the site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE permit shall be deemed void.

3. Revise 6.1.4P. as follows:

- a. **Revise paragraph 6.1.4P. to strike references to "reclamation agreement" and replace with "site reclamation plan".**
- b. **Delete paragraphs 6.1.4P.3.(d), (e), and (f) and add new paragraphs 6.1.4P.3.(d) through (m) as follows:**
 - (d) A stipulation that at such time as decommissioning takes place the applicant or its successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
 - (e) A stipulation that 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.

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

- (f) A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND FARM, after it has begun, other than in the ordinary course of business. This obligation shall be independent of the obligation to pay financial assurance, and shall not be limited by the amount of financial assurance. The obligation to perform the reclamation work shall constitute a covenant running with the land
- (g) The site reclamation plan shall provide for payment of any associated costs that Champaign County may incur in the event that decommissioning is actually required. Associated costs include all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work and shall include but not be limited to attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposals and bidding documents required to comply with state law or Champaign County purchasing policies.
- (h) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches. The depth of removal of foundation concrete shall be certified in writing by an Illinois Licensed Professional Engineer and the certification shall be submitted to the Zoning Administrator.
- (i) The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows:
- i. The excavation resulting from the removal of foundation concrete shall only be backfilled with subsoil and topsoil in similar depths and similar types as existed at the time of the original WIND FARM construction except that a lesser quality topsoil or a combination of a lesser quality topsoil and a subsoil that is similar to the native subsoil may be used at depths corresponding to the native subsoil but not less than 12 inches below grade.
- ii. The native soils excavated at the time of the original WIND FARM construction may be used to backfill the concrete foundation excavations at the time of decommissioning provided that the soils are adequately stored throughout the operating lifetime of the WIND FARM. The methods for storing the excavated native soils during the operating lifetime of the WIND FARM shall be included in the site reclamation plan.
- iii. If the excavated native soils are not stored for use for backfilling the concrete foundation excavations, a qualified soil scientist or Illinois Licensed Professional Engineer shall certify that the actual soils used to backfill the concrete foundation excavations are of equal or greater quality than the native soils or that, in the case of subsoil, the

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

backfill soil meets the requirements of this paragraph. The certification shall be submitted to the Zoning Administrator.

iv. An Illinois Licensed Professional Engineer shall certify in writing that the concrete foundation excavations have been backfilled with soil to such a depth and with a minimum of compaction that is consistent with the restoration of productive agricultural use such that the depth of soil is expected to be no less than 54 inches within one year after backfilling.

- (j) A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WIND FARM SPECIAL USE Permit shall be deemed void.
- (k) A stipulation that the Applicant's obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the Applicant's obligation to provide financial assurance.
- (l) A stipulation that the liability of the Applicant's failure to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.
- (m) If the Applicant desires to remove equipment or property credited to the estimated salvage value without the concurrent replacement of the property with property of equal or greater salvage value or if the Applicant installs equipment or property increasing the cost of decommissioning after the WIND FARM begins to produce electricity, at any point, the Applicant shall first obtain the consent of the Zoning Administrator. If the Applicant's lien holders remove equipment or property credited to the salvage value the Applicant shall promptly notify the Zoning Administrator. In either of these events the total financial assurance shall be adjusted to reflect any change in total salvage value and total decommissioning costs resulting from any such removal or installation.

3c. Revise paragraph 6.1.4P.4.(a) and insert new paragraph 6.1.4P.4.(b) and renumber existing paragraphs as required as follows:

- 4. To comply with paragraph 6.1.1A.5., the Applicant shall provide financial assurance in the form of an irrevocable letter of credit and an escrow account as follows:
 - (a) At the time of Special Use Permit approval the amount of financial assurance to be provided for the site reclamation plan shall be 210% of the decommissioning cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c.

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

- (b) Salvage value may be deducted from decommissioning costs as follows:
- (1) One of the following standards shall be met:
 - i.* The Applicant shall maintain the WIND FARM TOWERS free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or
 - ii.* The Applicant shall deduct from the salvage value credit the amount of any lien or encumbrance on each WIND FARM TOWER; or
 - iii.* Any and all financing and/or financial security agreements entered into by the Applicant shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1.A.2 that the reclamation work be done.
 - (2) The Applicant shall provide proof of compliance with paragraph 6.1.4P.4.(b)(1) prior to issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.
 - (3) The Applicant shall provide in the site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
 - (4) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated salvage value.
 - (5) The deduction from the decommissioning costs for salvage value shall be capped at 70% of the total estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.
 - (6) The credit for salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above-ground portion of that WIND FARM TOWER on the subject site.

3d. Insert new subparagraph 6.1.4P.4.(c) as follows:

(c) The GOVERNING BODY has the right to require multiple letters of credit

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

based on the regulations governing federal insurance for deposits.

3e. Add new subparagraphs 6.1.4P.4.(b)(4) to read as follows:

(4) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the tower, the hub assembly, the bed plate, the nacelle, the turbine, the blades, the tower cabling and internal wiring, the transformers, the foundation, and access roads.

3f. Renumber existing paragraph 6.1.4P.4.(b) to become new paragraph 6.1.4P.4.(e) and revise the first part of the existing paragraph as follows:

(e) The applicant or WIND FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account in equal annual installments over the first 13 years of the WIND FARM operation as follows:

3g. Renumber existing paragraph 6.1.4P.4.(b)(5) to become new paragraph 6.1.4P.4.(d) and revise as follows:

- (d) The Applicant shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:
- (1) At least once every three years for the first 12 years of the financial assurance and at least once every {1 or 2} years thereafter the Applicant shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of decommissioning costs and salvage value, by including any changes due to inflation and/or change in salvage price. The Applicant shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator.
 - (2) At all times the total combined value of the irrevocable letter of credit and the escrow account shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; and an amount for any future years left in the anticipated 25 year life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.

3h. Add new paragraph 6.1.4P.4.(f) as follows:

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

- (f) Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.4P.4.(d), the amount to be placed in the escrow account pursuant to this paragraph 6.1.4P.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

3i. Revise paragraph 6.1.4P.5.(a) to read as follows:

- (a) In the event that any WIND FARM TOWER or component thereof ceases to be functional for more than six consecutive months after it starts producing electricity and the Owner is not diligently repairing such WIND FARM TOWER or component.

3j. Add the following to paragraph 6.1.4P.5.:

- (c) There is a delay in the construction of any WIND FARM TOWER of more than 6 months after construction on that WIND FARM TOWER begins.
- (d) Any WIND FARM TURBINE appears in a state of disrepair or imminent collapse and/or creates an imminent threat to the health or safety of the public or any person.
- (e) Any WIND FARM TURBINE is otherwise derelict for a period of 6 months.
- (f) The WIND FARM is in violation of the terms of the WIND FARM SPECIAL USE permit for a period exceeding ninety (90) days.
- (g) The Applicant has failed to maintain financial assurance in the form and amount required by the special use permit or compromised the COUNTY's interest in the site reclamation plan.
- (h) The COUNTY discovers any material misstatement of fact or misleading omission of fact made by the Applicant in the course of the special use permit zoning case.
- (i) The Applicant has either failed to receive a copy of the certification of design compliance required by paragraph 6.1.4D.1.(a) or failed to submit it to the County within 12 consecutive months of receiving a Zoning Use Permit regardless of the efforts of the Applicant to obtain such certification.

3k. Add new paragraph 6.1.4P.6. as follows:

Attachment H. Revised Draft Amendment

CASE: 701-AT-11
FEBRUARY 2, 2012

6. The Zoning Administrator may, but is not required to, deem the WIND FARM abandoned, or the standards set forth in Section 6.1.4P.5 met, with respect to some, but not all, of the WIND FARM TURBINES in the WIND FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to those WIND FARM TURBINES only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining WIND FARM TURBINES in the WIND FARM.

31. Renumber existing paragraph 6.1.4P.6. and revise as follows:

7. The Site Reclamation Plan shall be included as a condition of approval by the BOARD and the signed and executed irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.

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NOV 02 2012

CHAMPAIGN CO. P & Z DEPARTMENT
COPY FOR CASE 701-AT-11

RECLAMATION AGREEMENT
Case 696-S-11

KNOW ALL MEN BY THESE PRESENTS, that California Ridge Wind Energy LLC, (“Principal”) and the Landowners are firmly bound unto Champaign County, State of Illinois (“Champaign County”), as set forth in this Reclamation Agreement to satisfy requirements of the Zoning Ordinance. Principal and Champaign County are sometimes referred to in this Reclamation Agreement as a Party or collectively as the Parties. Principal is firmly bound to Champaign County in the sum of the Financial Assurance (as defined below), well and truly provided unto Champaign County and said Principal binds itself, their successors and assigns, jointly and severally by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION is such that:

WHEREAS, Champaign County has approved, or will approve, as a Special Use to the Champaign County Zoning Ordinance (“Zoning Ordinance”), the Principal's proposal to construct and install the Project. As part of the requirements for the approval of said Zoning Case, the Principal has entered into this Reclamation Agreement with Champaign County to provide for the final removal of the below ground and above-ground portions of the said Project and the structure supporting the said Project and any associated site grading and soil erosion control as may be necessary in accordance with the applicable laws and with the applicable ordinances and codes of Champaign County as related to Project decommissioning requirements.

NOW, THEREFORE, to fulfill the relevant requirements of the approval of Case 696-S-11, the conditions of this Reclamation Agreement are as follows:

- (1) This “Reclamation Agreement” shall consist of the following documents:
 - (a) This writing;
 - (b) The Decommissioning Cost Estimate. (Attachment A)
 - (c) The Decommissioning Report, to the limited extent it defines Reclamation Work. (Attachment B).
 - (d) The list of Landowners (Attachment C).
 - (e) Memorandum of Agreement (Attachment D).

These form the entire Reclamation Agreement between the Principal and Champaign County, and, supersede all prior representations between the parties, written or oral. All of these documents are as fully a part of the Reclamation Agreement as if attached to this writing or repeated within it. Any inconsistencies shall be resolved by giving priority to the documents in the order listed above. Without limitation, this shall mean that any Decommissioning Expenses and Salvage Value set forth in the Decommissioning Cost Estimate, shall prevail over conflicting values set forth in the Decommissioning Report.

(2) Definitions, as used in this Reclamation Agreement:

- (a) “Abandoned”: The Project is “Abandoned” if:

- (i) The **Project** as a whole ceases producing electricity for a period of 6 consecutive months after it first starts producing electricity and the **Principal** is not diligently attempting to continue producing electricity, or any such cessation continues for a period of 12 consecutive months, regardless of the efforts of the **Principal**.
 - (ii) Any wind turbine or component of the **Project** thereof ceases to be functional for a period of more than 6 consecutive months after it first starts producing electricity and the **Principal** is not diligently repairing such wind turbine or component, or any such cessation continues for a period of 12 consecutive months, regardless of the efforts of the **Principal**.
 - (iii) There is a delay in the construction of any component part of the **Project** of more than 6 consecutive months after construction on that component begins and the **Principal** is not diligently working to continue construction activities, or any such delay continues for a period of 12 consecutive months, regardless of the efforts of the **Principal**.
 - (iv) Any part of the **Project** appears in a state of disrepair or imminent collapse, and/or creates an imminent threat to the health or safety of the public or any person.
 - (v) The **Principal** determines any wind turbine or other component of the **Project** to be functionally obsolete, for tax purposes.
 - (vi) The **Principal's** existence as a corporate entity is dissolved.
 - (vii) Design compliance certification from Underwriter Laboratories or an equivalent third party is not secured within 6 consecutive months of completion of construction and the **Principal** is not diligently working to obtain such certification, or any such delay continues for a period of 12 consecutive months, regardless of the efforts of the **Principal**.
- (b) **"Associated Costs"**: All administrative and ancillary costs associated with drawing upon the **Financial Assurance** and performing the **Reclamation Work**, or with monitoring the **Principal's** performance and completion of the **Reclamation Work** or with enforcing this **Reclamation Agreement**, including, but not limited to:
- (i) Attorneys fees, legal fees and other liabilities incurred by **Champaign County** relating to the **Project**, to be paid by

- the **Principal** under Section (13) or Section (16)(e).
- (ii) Construction management fees and other professional service fees, incurred both before and after the **Reclamation Work**.
 - (iii) The costs to **Champaign County** of preparing requests for proposals, bid documents, or other bid documents needed to comply with state law, and/or **Champaign County's** purchasing policies, as required to prepare the **Reclamation Work**.
 - (iv) If the financial institution providing the **Financial Assurance** does not have an office within 200 miles of Urbana, Illinois, the cost to **Champaign County** for any travel to and from the institution required to implement this agreement and make use of the **Financial Assurance**, except where travel is not reasonably required for such purposes of implementation.
 - (v) Any costs related to the removal of any covenants that were placed on the title to the land as a requirement for approval in said **Zoning Case**.
 - (vi) Any increase in the cost of performing **Reclamation Work** caused by the **Principal's** exercise of its right to salvage parts of the **Project**, including, but not limited to, delays due to such exercise.
 - (vii) Any costs incurred by **Champaign County** in maintaining the **Financial Assurance** due to breach by the **Principal** of its agreement with the issuer.
- (c) "**Base Decommissioning Expense**": **Decommissioning Expense** less **Salvage Value**, calculated using the values set forth in the **Decommissioning Cost Estimate**.
 - (d) "**Champaign County**": Champaign County, State of Illinois, and its agents, employees, consultants and contractors.
 - (e) "**Decommissioning Expenses**": shall mean the costs of performing the **Reclamation Work**. Any costs incurred through a contract awarded using a competitive bidding or competitive request for proposal process required by State or Federal law, or applicable local ordinance, shall be deemed reasonable for this purpose.
 - (f) "**Decommissioning Cost Estimate**": as revised, is appended hereto as Attachment

A.

- (g) “**Decommissioning Report**”: Appendix B of the June 2011 California Ridge Wind Energy Project Decommissioning Report submitted with **Special Use Permit Application** in the **Zoning Case**, and appended hereto as Attachment B.
 - (h) “**Financial Assurance**”: an irrevocable letter of credit or successor letters of credit or an escrow account, or combination thereof, drawn upon or deposited in, as the case may be, a federally insured financial institution, in the form set forth in Section (4).
 - (i) “**Landowners**”: Those persons listed in Attachment C.
 - (j) “**Principal**”: California Ridge Wind Energy LLC,
 - (k) “**Project**”: a system as described and permitted in the **Zoning Case** in the townships of Ogden and Compromise, Champaign County, Illinois, as described in the **Special Use Permit**.
 - (l) “**Reclamation Work**”: removal and reclamation obligations described in subparagraph 6.1.1.A.4. of the **Zoning Ordinance**, including: Removal of above-ground portions of any structure on the **Project’s** site, site grading, and interim soil erosion control; below-ground restoration, including final grading and surface treatment; repairs to any public Street used for the purpose of reclamation of the same; removal of access driveways for **Champaign**; and bringing the land covered by the **Special Use Permit** into compliance with the **Zoning Ordinance**, without reliance upon the **Special Use Permit**. The **Reclamation Work** includes, without limitation, the work described in the **Decommissioning Report**. Subject to the approval of the Champaign County Board, the **Zoning Administrator** shall have the sole discretion to determine what work is necessary for this purpose.
 - (m) “**Salvage Value**” shall mean recoverable costs from the **Project**, including steel, concrete, or other basic metals, but shall not include the value of any reclaimed roadway materials.
 - (n) “**Special Use Permit**”: the permit granted in the **Zoning Case**.
 - (o) “**Zoning Administrator**”: Champaign County **Zoning Administrator**.
 - (q) “**Zoning Case**”: Champaign County **Zoning Case** 696-S-11.
 - (r) “**Zoning Ordinance**”: The **Champaign County Zoning Ordinance**, as it may be amended from time to time.
- (3) At the time of application for any zoning use permit required by the **Special Use Permit**, the **Principal** shall provide **Champaign County Financial Assurance** in accordance

with the provisions of Section 4 of this agreement, to be maintained and remain in effect for a period of twenty-five (25) years from the date the first turbine begins generating electricity.

- (4) The **Financial Assurance** shall be subject to the following:
- (a) The amount of the irrevocable letter of credit shall be 210% of the **Decommissioning Cost Estimate**.
 - (b) The **Principal** shall 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 **Project's** operation as follows:
 - (i) The **Principal** and the **Champaign County** Board shall agree on a mutually acceptable financial institution at which an escrow account shall be established.
 - (ii) **Champaign County** shall be the beneficiary of the escrow account for the purpose of the reclamation of the **Project** in the event that the **Principal** is incapable of decommissioning the **Project**.
 - (iii) The **Principal** 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.
 - (iv) The **Principal** shall 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.
 - (c) On January 1 of every third year for the first twelve years after the **Special Use Permit** is granted and every second year for the remainder of this Agreement, the **Financial Assurance** shall be adjusted as follows:
 - (i) The **Principal**, using an independent, Professional Engineer registered in the State of Illinois, shall adjust the amount of the **Financial Assurance** and **Base Decommissioning Expenses** held as part of this Agreement to ensure the **Decommissioning Cost Estimate** has been updated and reflects current, accurate information. The **Principal** shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the **Zoning Administrator**.
 - (ii) Provided, however, that at no time will the amount of the total **Financial Assurance** be less than \$25,000 per wind

turbine that is part of the **Project**, regardless of the actual amounts reflected in any updated Professional Engineer's report. Said minimum **Financial Assurance** shall be increased annually by known and documented rates of inflation since the **Project** was approved.

- (d) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the life span of the **Project** and the amount shall be equal to or exceed the following:
 - (i) the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the **Project** was approved; plus
 - (ii) an amount for any future years left in the anticipated life span of the **Project** at an assumed minimum rate of inflation of 3% per year.
- (e) Any interest accrued on the escrow account that is over and above the total value required hereby shall go to the **Principal**.
- (f) In order to provide funding for decommissioning at the time of decommissioning pursuant to paragraph 6(a), the **Principal** may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account, subject to agreement by the **Champaign County** Board to a release of the full amount of the escrow account, which agreement shall not be unreasonably withheld.

(5) If the **Principal** desires to remove equipment or property credited to the **Salvage Value** without the concurrent replacement of the property with property of equal or greater **Salvage Value**, or if the **Principal** installs equipment or property increasing the **Decommissioning Expenses** after the **Project** begins to produce electricity, at any point, the **Principal** shall first obtain the consent of the **Zoning Administrator**, which consent shall not be unreasonably withheld. If the **Principal's** lienholders remove equipment or property credited to the **Salvage Value**, the **Principal** shall promptly notify **Champaign County**. In either event, the **Financial Assurance** shall be adjusted to reflect any change in total **Salvage Value** and/or total **Decommissioning Expenses** resulting from any such removal or installation.

(6) **Principal's winding down of the Project.**

- (a) The **Principal** may voluntarily, at such time as it deems it necessary and appropriate, and only with prior notice to the **Zoning Administrator**, perform and complete or cause to be performed and completed, the **Reclamation Work**. All **Reclamation Work** shall be completed within a ninety (90) day period, or the **Principal** shall demonstrate **Reclamation Work** is diligently being processed and

moving toward completion, to the satisfaction of the **Zoning Administrator**, following the **Principal's** notification to the **Zoning Administrator**. If the work is so completed, and verified on site by the **Zoning Administrator** or his designee, the **Zoning Administrator** shall draw upon the **Financial Assurance** to pay any accrued **Associated Costs**, and then release the remainder of the **Financial Assurance** to the issuer of the **Financial Assurance**, the **Principal's** obligation to provide **Financial Assurance** under this Agreement shall cease and the **Special Use Permit** shall then expire. The **Principal's** exercise of this right shall not, in any way, limit the authority of **Champaign County** under Section (9) or Paragraph 6.1.1.8 of the **Zoning Ordinance**, and may be denied to the extent it conflicts with this authority.

- (b) The **Principal** shall perform the **Reclamation Work** prior to:
 - (i) **Abandoning the Project;**
 - (ii) Ceasing production of electricity from the **Project**, after it has begun, other than in the ordinary course of business;
 - (iii) Transferring the **Project** other than in compliance with this **Reclamation Agreement**.
- (c) The **Principal** shall be responsible for paying the costs of performing the **Reclamation Work** and for paying any **Associated Costs**. The **Principal's** obligation to perform this **Reclamation Work** and to pay **Associated Costs** shall be independent of its obligation to provide **Financial Assurance**.
- (d) The liability of the **Principal** for failure to perform the **Reclamation Agreement** or any other breach of this **Reclamation Agreement** shall not be capped by the amount of the **Financial Assurance**.

(7) **Abandonment Process.** Once the **Zoning Administrator** has made a finding the **Project** has been **Abandoned**, the **Zoning Administrator** shall issue notice to the **Principal** that **Champaign County** will draw on the **Financial Assurance** within thirty (30) days unless the **Principal** appeals the **Zoning Administrator's** finding, pursuant to Paragraph 9.1.8 of the **Zoning Ordinance** or enters a written agreement with **Champaign County** to perform the **Reclamation Work** and remove the **Project** within ninety (90) days. No such notice is required if the **Zoning Administrator** determines the **Project** poses an imminent threat to the health and safety of the public or any person.

- (a) The obligation to perform the **Reclamation Work** hereunder shall constitute a covenant running with the land. Any and all financing and/or security agreements entered into by **Principal** shall be subject to said covenant.
- (b) Any and all financing and/or security agreements entered into by **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 approval.

(8) The **Principal** shall pay any accrued **Associated Costs** upon sixty (60) days written demand from the **Zoning Administrator**.

(9) Drawing Upon the **Financial Assurance**:

(a) The **Zoning Administrator** may draw upon the **Financial Assurance** to have the **Reclamation Work** completed when any of the following occur:

- (i) The **Project** is deemed **Abandoned**, under the process set forth in Section (7), and the **Principal** has not responded to the notice from the **Zoning Administrator** within thirty (30) days of its issuance; or, having responded, has not appealed the **Zoning Administrator's** finding; or entered a written agreement to perform the **Reclamation Work** and remove the **Project**.
- (ii) The **Principal** does not enter into, or breaches any term of, a written agreement with **Champaign County** to perform the **Reclamation Work** and/or remove the **Project** and or the **Project's** supporting structures and regrade and provide soil and erosion control as provided in the approval of the **Zoning Case**.
- (iii) Any material breach or performance failure of any provision of this **Reclamation Agreement**; including, but not limited to, the failure to maintain **Financial Assurance**; the failure to replace expiring **Financial Assurance** within the deadlines set forth herein; or the removal or replacement of equipment or property from the **Project** in violation of Section (5).
- (iv) The **Principal** has filed a bankruptcy petition, or compromised **Champaign County's** interest in the **Financial Assurance** in any way not specifically allowed by this **Reclamation Agreement**.
- (v) A court of law, an arbitrator, mediator, or any state or Federal agency charged with enforcing State or Federal law has made a finding that either said **Project** or any of the facilities or structures supporting or constituting said **Project** and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination imposing an administrative sanction on the **Project** or denying the **Project** a permit necessary for its lawful operation.
- (vi) **Champaign County** discovers any material misstatement of fact, or misleading omission of fact, made by the **Principal** or its

employees or agents in the course of the **Zoning Case**, or negotiations over this **Reclamation Agreement**.

- (viii) The **Zoning Administrator** makes a determination the **Project**, or any part thereof, poses an imminent threat to public safety or any person, pursuant to Section (9)(d), regardless of whether the **Project** has been determined **Abandoned** using the process set forth in Section (7).
- (ix) Any accrued unpaid **Associated Costs** exceed \$25,000.00
- (b) **Champaign County** may draw the **Decommissioning Expenses** and all accrued **Associated Costs** from the **Financial Assurance**. No dispute as to the necessity or reasonableness of **Associated Costs** or costs of performing the **Reclamation Work** will impair the ability of **Champaign County** to draw on the **Financial Assurance**.
- (c) If **Champaign County** draws on the **Financial Assurance** to enter a contract to have any portion of the **Project** dismantled, demolished, or deconstructed, **Champaign County** will notify **Principal** and allow the **Principal** to reclaim the **Project** and related equipment and remove the dismantled, demolished, or deconstructed equipment at **Principal's** sole cost, within sixty (60) days, or such later period agreed by the **Zoning Administrator**, subject to Section (5).
- (d) **Public Safety Risk**. The **Zoning Administrator** may draw upon the **Financial Assurance** immediately, to perform any work reasonably necessary to respond to an imminent threat posed by the **Project** to the health or safety of the public or any person. The **Zoning Administrator** shall not be required to first give any notice of **Abandonment** under Section (7), or to first provide a right to remove salvage property under Section (9)(c). The **Zoning Administrator**, and other agents or contractors of **Champaign County**, shall have authority from the **Principal** and the **Landowner** to enter upon the **Project** to abate such risk. The **Principal** or **Landowner** may appeal the **Zoning Administrator's** determination of such imminent threat, under the process set forth at Paragraph 9.1.8, of the **Zoning Ordinance**, but its sole remedy shall be an adjustment to **Financial Assurance** for the remainder of the **Project**, and reinstatement of the **Special Use Permit**.
- (e) Any balance of the **Financial Assurance** that remains after the **Reclamation Work** shall be used to pay **Associated Costs** and any other liability the **Principal** owes **Champaign County** as a result of the **Project**. After these sums are paid, any remaining **Financial Assurance** shall be returned to the issuer of the **Financial Assurance**, the **Principal's** obligation to provide **Financial Assurance** under this **Reclamation Agreement** shall cease, and the **Special Use Permit** shall expire. The **Principal's** remaining obligations under this **Reclamation Agreement** shall continue.
- (f) Should **Principal Abandon** the **Project** and fail to exercise its right to remove

components of the **Project** under this **Reclamation Agreement**, any components remaining after any cure periods due and owing to a lender pursuant to the construction financing of the Project have expired, may, at **Champaign County's** sole discretion, be deemed forfeited to **Champaign County** and may be sold by **Champaign County** to recover any accrued costs of performing the **Reclamation Work** or **Associated Costs**, or any other liability owed Champaign County as a result of **Reclamation Work** on the **Project** that are not fully reimbursed by the **Financial Assurance**. The entire **Salvage Value** of the **Project** shall be applied to these debts, regardless of whether the amount exceeds the proposed **Salvage Value** used to determine the required **Financial Assurance**. Any surplus **Salvage Value** shall be returned to the **Principal** or its successors. This section shall not be construed to require **Champaign County** to take ownership of any component of the Project, and its failure to do shall not reduce any liability **Principal** owes **Champaign County** relating to the **Project**, under this **Reclamation Agreement**, or otherwise. The **Principal** and **Champaign County** agree to cooperate to enter into any documentation reasonably necessary to effect such the transactions set forth in this section.

- (g) In accordance with the provisions of the Illinois Mechanic's Lien Act, 770 ILCS 60/1 and 60/7, **Principal** agrees that, upon the occurrence of the circumstances set forth in the foregoing sub-paragraph, any contractor retained by Champaign County to perform the **Reclamation Work** shall have a lien upon the **Project** to the full extent of all costs of performing the **Reclamation Work** and **Associated Costs**, and that such lien shall be superior to any claim or lien of any other creditor, incumbrancer or purchaser.

(10) The **Principal** shall be solely liable to the issuer of the **Financial Assurance** for all costs and fees associated with issuing and maintaining the **Financial Assurance**. **Principal** shall provide **Champaign County** with current copies of its agreement with the issuer of the **Financial Assurance** (e.g., escrow agreement, letter of credit). This agreement shall provide:

- (a) **Champaign County** is authorized to draw upon the **Financial Assurance** as provided in this **Reclamation Agreement**.
- (b) **Champaign County** will be a third party beneficiary of any such agreement between **Principal** and the issuer.
- (c) **Champaign County** will be notified by the issuer directly of any lapse or default in the agreement between the **Principal** and the issuer, and provided an opportunity to cure any default by the **Principal** so as to preserve its **Financial Assurance**.
- (d) Such agreement shall be renewed on a regular basis in accordance with this **Reclamation Agreement** or survive the expiration of the **Special Use Permit** and the expiration of this **Reclamation Agreement**.

- (11) **Transfer of Interest**. This **Reclamation Agreement** shall inure to the benefit of

and shall be binding upon the parties hereto, their respective successors, assignees, and legal representatives. This **Reclamation Agreement** may not be assigned without the written consent of the other parties hereto, which consent shall not be unreasonably withheld. The **Principal** shall ensure that any sale, assignment in fact or at law, or other such transfer of the **Principal's** interest in the **Project** be subject to the following terms:

- (a) Upon any proposed change in ownership of the subject **Project**, but at least ninety (90) days prior to the legal transfer of title, the new owner shall:
 - (i) submit to the **Zoning Administrator** a new **Financial Assurance** of the same value;
 - (ii) sign a new **Reclamation Agreement** with conditions identical to this **Reclamation Agreement**.
 - (iii) provide a copy of all documents transferring ownership to the **Zoning Administrator**.
- (b) The sale, assignment in fact or at law, or such other transfer of the **Principal's** interest in the **Project** shall in no way affect or change the **Principal's** obligation to continue to comply with the terms of this **Reclamation Agreement**. Any such transfer shall include, as one of its terms, that the successor or assignee shall assume the terms, covenants and obligation of this **Reclamation Agreement**.
- (c) The **Zoning Administrator** shall release the **Financial Assurance** to the issuer only upon receipt of acceptable documentation from the new owner, and the issuer of the new owner's **Financial Assurance**, satisfying the **Zoning Administrator** of compliance with this Section (11), including but not necessarily limited to, documentation of the new **Financial Assurance**, any agreement between the new owner and the issuer of the **Financial Assurance**, and the new **Reclamation Agreement**, signed by the new owner and approved by the Champaign County Board.

(12) One hundred twenty (120) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this **Reclamation Agreement**, the **Zoning Administrator** shall notify the **Principal** in writing and request information about the **Principal's** intent to renew the letter of credit, or remove the **Project**. The **Principal** shall have thirty (30) days to respond in writing to this request. If the **Principal's** intention is to remove the **Project**, the **Principal** shall have a total of ninety (90) days, or reasonably agreed upon timeframe, from the initial notification to remove the **Project** and perform the **Reclamation Work**. At the end of ninety (90) days, or reasonably agreed upon timeframe, the **Zoning Administrator** shall have a period of thirty (30) days to either:

- (a) Confirm that the **Financial Assurance** has been renewed; or
- (b) Inspect the subject property to ensure the **Reclamation Work** has been performed.

At the end of this period, if the **Financial Assurance** has not been renewed and the **Reclamation**

Work has not been performed, the **Zoning Administrator** may draw on the **Financial Assurance** and have the **Reclamation Work** performed

(13) The **Principal** shall reimburse **Champaign County** for all attorneys fees and legal fees incurred by **Champaign County** except to the extent of the intentional or willful and wanton misconduct of **Champaign County**, both before and after the **Reclamation Work**, in connection with the performance of the **Reclamation Work**; and, if any action at law or in equity, is brought by **Champaign County** to enforce this **Reclamation Agreement** and **Champaign County** prevails in such litigation, **Champaign County** shall be entitled to receive from the **Principal** reasonable attorneys' fees and costs incurred, in addition to any other relief to which **Champaign County** may be entitled.

(14) Consideration. The **Principal's** consideration for this **Reclamation Agreement** shall include the stipulation of **Champaign County** that the **Principal** has complied with the requirement of Paragraphs 6.1.1.A.4.. and 6.1.4.P of the **Zoning Ordinance**, for so long as the **Principal** has complied with this **Reclamation Agreement**. The **Landowners'** consideration for this **Reclamation Agreement** shall include the economic viability of the **Principal**, and the decreased risk of abandonment of derelict equipment on their property, and other good and valuable consideration.

(15) In no event shall **Champaign County** be obliged by this **Reclamation Agreement** to the **Landowners** to perform any **Reclamation Work** for the benefit of the **Landowners**.

(16) Other requirements:

- (a) **Principal** shall notify **Champaign County** by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the **Principal** as debtor, within ten days of commencement of the proceedings.
- (b) **Principal** agrees that the sale, assignment in fact or at law, or such other transfer of **Principal's** financial interest in the **Project** and related equipment shall in no way affect or change **Principal's** obligation to continue to comply with the terms of this **Reclamation Agreement**. Any successor or assignee of **Principal** shall assume the terms, covenants and obligations of this Agreement and agree to be jointly and severally liable with the **Principal** for the **Reclamation Work** and all other reclamation liability for the **Project**.
- (c) **Principal** and the **Landowners** hereby authorize **Champaign County** the right of entry onto the **Project** premises for the purpose of inspecting the methods of reclamation, monitoring compliance with this **Reclamation Agreement**, confirming the **Principal's** assurances the **Project** has not been **Abandoned**. Upon **Abandonment**, the **Principal** and **Landowners** shall provide **Champaign County** and its prospective consultants and contractors access to the site of the **Project** for purposes of inspecting the site, and performing the **Reclamation Work**, if necessary.

- (d) **Forum Selection.** The parties agree that any disputes arising out of, related to, or connected with this **Reclamation Agreement** shall be litigated, if at all, solely in the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois. The parties stipulate that jurisdiction and venue for any such disputes lies in this Court.
- (e) **Principal** shall defend, indemnify and hold harmless **Champaign County** from and against any and all claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including reasonable attorneys', investigators' and consulting fees, court costs and litigation expenses suffered or incurred by **Champaign County**, arising from any and all legal disputes, in law or equity, relating to **the Zoning Case**; and the actions or omissions of **Champaign County** or the **Principal** under this **Reclamation Agreement** or the **Special Use Permit**; whether such claims are brought by the **Landowners**, neighboring landowners, their respective assigns, successors in interest, third parties, or others, except to the limited extent such claims arise from the intentional or willful and wanton misconduct of **Champaign County**.
- (f) **No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of any party to this **Reclamation Agreement** to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- (g) **Severability.** Should any provision of this **Reclamation Agreement** be held to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.
- (h) **Notices.** When any notice to the **Principal** is required by this **Reclamation Agreement**, it shall be deemed sent as of the date it is sent by registered or certified mail to the following address:

California Wind Energy LLC
Attention: General Counsel
1 South Wacker Drive, Suite 1900
Chicago, Illinois 60606

Principal may change this address with thirty (30) days' notice by notifying the **Zoning Administrator** by registered or certified mail to the following address:

Champaign County Zoning Administrator
1776 East Washington

Urbana, Illinois 61801

Notice to **Landowners** may be sent to the addresses set forth in Attachment C.

- (i) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed counterpart of a signature page to this **Reclamation Agreement** by telecopier shall be as effective as delivery of a manually signed counterpart to this **Reclamation Agreement**.
- (j) **Commencement of Project.** This **Reclamation Agreement** shall be void if substantial construction of the **Project** is not commenced on or before March 1, 2013.
- (k) **Governing Law.** This **Reclamation Agreement** shall be governed by and interpreted in accordance with the laws of the State of Illinois (the state in which this **Reclamation Agreement** is deemed to have been executed and delivered), irrespective of any conflict of laws provisions.
- (l) **Memorandum of Agreement.** A Memorandum of this **Reclamation Agreement**, substantially in the form of Attachment D hereto, shall be recorded with the Champaign County Recorder of Deeds by the **Principal** at its expense within thirty (30) days after the execution of this **Reclamation Agreement** and a copy of the recorded Memorandum shall be delivered to the **Zoning Administrator** within sixty (60) days of the execution of this **Reclamation Agreement**.
- (m) This **Reclamation Agreement** shall survive the termination of the Special Use Permit.

(18) The signatory on behalf of California Ridge Wind Energy LLC has been authorized by California Ridge Wind Energy LLC to enter into this agreement.

[signature page to follow]

PRINCIPAL:

California Ridge Wind Energy LLC

By: _____
Name: _____
Its: _____
Date: _____

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Personally came before me this ____ day of _____,
2011, _____, who executed the foregoing instrument, and acknowledged
the same, on behalf of California Ridge Wind Energy LLC.

(S E A L)

Name: _____
Notary Public, State of Illinois
My Commission Expires: _____

COUNTY:

Champaign County, State of Illinois

By: _____
Name: _____
Its: _____
Date: _____

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

Personally came before me this ____ day of _____,
2011, _____, who executed the foregoing instrument, and acknowledged
the same, on behalf of Champaign County, State of Illinois.

(S E A L)

Name: _____
Notary Public, State of Illinois
My Commission Expires: _____

ATTACHMENT A

California Ridge Wind Project - Base Decommissioning Cost Estimate

Item	Description	Units	Quantity per Unit	\$ / Unit	Total
<u>Decommissioning Expense</u>					
1	Overhead and Management	Lump Sum		\$250,000	\$250,000
2	Mobilization and demobilization	Lump Sum		\$350,000	\$350,000
3	Civil - Roads and Pads				
4	Crane pad installation, removal, transportation and disposal (2)	Lump Sum		\$28,400	\$28,400
5	Roadway removal and disposal	Lump Sum		\$257,200	\$257,200
6	Site Restoration & Decommissioning	Lump Sum		\$310,900	\$310,900
7	Civil - Public Roads				
8	Road Repairs (1)	Lump Sum		\$300,000	\$300,000
9	Foundation Removal				
10	Concrete demolition for 54" depth of pedestal (pedestal only removal)	30 turbines		\$10,000	\$300,000
11	Disposal and backfill for turbines	30 turbines		\$3,500	\$105,000
12	Tower & Transformer Removal				
13	Crane and disassembly of tower sections	30 turbines		\$63,000	\$1,890,000
14	Deconstruction into salvagable pieces	30 turbines		\$52,500	\$1,575,000
15	Demolition, transport and dumping for blades & nacelle cover (3)	30 turbines		\$2,000	\$60,000
16	Transport to recycler (4)				
17	Steel	30 turbines		\$7,500	\$225,000
18	Copper	30 turbines		\$3,000	\$90,000
19	Transformer (load onto recycler transport only-Refurbisher hauls to his shop)	30 turbines		\$1,000	\$30,000
			Total Decommissioning Cost		\$5,771,500
<u>Salvage Value For Recoverable Materials (5)</u>					
20	Tower	30 turbines	253 tons	\$323	\$2,451,086
21	Nacelle	30 turbines	22 tons	\$323	\$213,955
22	Hub	30 turbines	101 tons	\$323	\$979,659
23	Anchor Bolts	30 turbines	2 tons	\$323	\$19,380
24	Copper (6)	30 turbines	6.5 tons	\$5,776.00	\$1,126,320
25	Transformer	30 turbines	1 transformer	\$2,500	\$75,000
			Total Salvage Value		\$4,865,400
<u>Base Decommissioning Cost</u>					
			Base Decommissioning Cost		\$906,100

(1) Pre-construction work will be performed to upgrade roads in order to support turbines, foundations and access roads construction. Since foundations will mostly remain in-situ, upgrades and repairs should be negligible considering the upgrades being performed upfront and typical maintenance to occur over 25 years. Turbines, blades, towers and the foundation pedestals equate to approximately one third of the entire turbine assembly; the bottom portion of the foundation is the majority of the weight associated with road upgrades.

ATTACHMENT B

June 2011

CALIFORNIA RIDGE WIND ENERGY PROJECT DECOMMISSIONING REPORT

CHAMPAIGN COUNTY, ILLINOIS

Invenergy

Prepared for:

California Ridge Energy LLC
c/o Invenergy Wind LLC
One South Wacker Drive
Suite 1900
Chicago, IL 60606

Prepared by

HDR Engineering, Inc.
701 Xenia Avenue South
Minneapolis, MN 55416



Table of Contents

CALIFORNIA RIDGE WIND ENERGY 1

 SYSTEM DESCRIPTION 1

 DECOMMISSIONING SEQUENCE 1

WIND TURBINES 1

 WIND TURBINE TECHNICAL DATA 1

 METALS SALVAGE 2

 WIND TURBINE TRANSFORMERS 2

 Wind Turbine Transformer Design/Decommissioning 2

 WIND TURBINE FOUNDATIONS 3

 Wind Turbine Spread Foundation Design/Decommissioning 3

 ACCESS ROADS 3

 Typical Access Road Construction Details 3

 Access Road Decommissioning and Public Street Repair 3

 CRANE PADS 4

 CABLES 5

 Cable Wire and Trench Typical Installation 5

 Cable Wire and Trench Decommissioning 5

 EARTHWORK AND TOPSOIL RESTORATION 5

SUMMARY OF DECOMMISSION COSTS 6

 FINANCIAL ASSURANCE 6

CONCLUSION 8

REFERENCES 8

FIGURES

- Figure 1 -Typical Wind Turbine Generator
- Figure 2 -Typical Foundation Designs Section
- Figure 3 -Typical access road section

CALIFORNIA RIDGE WIND ENERGY

SYSTEM DESCRIPTION

The California Ridge Wind Energy, LLC (Project), is proposed to be a 200 Megawatt (MW) wind energy conversion system in Vermilion and Champaign counties, located north of the town of Royal and south of the cities of Gifford and Potomac, Illinois. The proposed wind farm will consist of the following primary components:

Item	Number	Unit measure
Wind Turbines	134	Each
Wind Turbine Foundations	134	Each
Step-Up Transformers	134	Each
Access Roads	198,026	Lineal Foot (estimate)
Medium Voltage Cable	425,937	Lineal Foot (estimate)
<i>Note: The exact number of turbines and lengths of access roads and medium voltage cables may change prior to construction. The lengths provided here are based on a May 2011 layout. California Ridge Wind Energy will provide as-built plans to the counties following construction.</i>		

DECOMMISSIONING SEQUENCE

In the event the Project requires decommissioning and removal, the following sequence for removal of the components will be used:

- Remove Rotors and Turbines
- Remove Towers and Internals
- Remove Collection Step-Up Transformers
- Partial Remove Wind Turbine Foundations
- Remove Access Roads

After removal of all equipment and materials the area will be regraded and topsoil will be restored.

WIND TURBINES

WIND TURBINE TECHNICAL DATA

The Project will use 134 GE 1.6-100 50/60 Hz (690 Volt electric power) Wind Turbines manufactured by General Electric for a system generating capacity of approximately 214 MW (figure 1). The towers are painted monopole tubular steel, white in color, with a hub height of 100 meters (328 feet). The project will use 100 meter (328 foot) diameter rotors. Each turbine and rotor will reach a total height of 150 meter (492 feet) above ground surface.

Properly maintained wind turbines have a minimum life of 20 years (Ton van de Wekken 2007). At the end of the project life, depending on market conditions and project viability, the wind turbines may be “re-powered” with new nacelles, towers, and/or blades. Alternatively, the wind turbines may be decommissioned and removed. The major components of the wind turbines (the tower, the nacelle, and blades) are modular items that allow for ease of construction and disassembly during decommissioning or replacement. Each tower is made up of approximately 253 tons of painted steel which is potentially salvageable. The nacelle has an overall unit weight of approximately 40 tons and is constructed of a combination of salvageable steel and various other materials. Portions of the components within the nacelle and generators can also be salvaged for scrap.

METALS SALVAGE

Based on the construction details presented for the GE 1.6-100 turbine and associated tower and components, it was assumed that the tower and nacelle will yield approximately 80% salvageable materials. Since the hub assembly and bed plate are of manufactured steel, it is anticipated that the hub assembly will yield 100 percent salvageable metallic materials. Copper estimates were derived from manufacturers' cable descriptions, from the down tower cabling and internal wiring. Since the rotor/blades are constructed of predominantly non-metallic materials (fiberglass reinforced epoxy and carbon fibers), no salvage value for the rotor blades was used to develop the decommissioning cost estimate.

The current market value of steel, based on *Steelonthenet.com* (June 2011), is approximately \$380 per ton. Assuming only the steel from each turbine assembly and tower will be salvaged the salvage value of each turbine and tower assembly is estimated to be approximately \$124,465 each. Turbine salvage values could range from \$40,688 to \$174,652 given that market values fluctuate and the price of steel historically has shifted from \$106 to \$455 per ton.

The market value of copper has fluctuated dramatically this past year. As of December 2009, the price is approximately \$4.14 per pound (\$8,280 per ton). Therefore, estimated salvage value for copper is approximately \$53,820 per turbine. The total value for both copper and steel would be approximately \$180,785 per turbine. The table below summarizes the potential salvage value per turbine.

Item	Unit	Price/unit	Price per Turbine
Tower (80% steel)	252.95 Ton	\$380	\$76,897
Nacelle (80% steel)	27.6 Ton	\$380	\$8,390
Hub (100% steel) and bed plate	101.1 Ton	\$380	\$38,418
Anchor Bolts	2.0 Ton	\$380	\$760
Total Steel price			\$124,465
Copper	6.5 Ton	\$8,280	\$53,820
Transformers	1 each	\$2,500	\$2,500
Grand Total			\$180,785

The estimated 2011 cost of erecting a turbine tower, hub, blades, and nacelle is approximately \$98,000. Therefore, the dismantling costs will be approximately \$98,000 per turbine location in 2011 costs. When the cost to transport the salvage unit is included, the total cost of dismantling the turbines and removing them from the site will be approximately \$129,000 per turbine. The removal costs are summarized in the conclusions of this report. The remainder of this report addresses the decommissioning costs for the surface and subsurface components.

WIND TURBINE TRANSFORMERS

Wind Turbine Transformer Design/Decommissioning

Each turbine step-up transformer sits adjacent to the turbine and is approximately 6 feet high and 6 feet wide. Each transformer will be disconnected, removed from site, and disposed of according to environmental and other regulatory conditions current at the time of the decommissioning. Salvagers have indicated that they would remove the transformers for a \$2,500 credit per turbine. After decommissioning activities, the transformer pad areas will be scarified, as necessary and in consultation with the landowner, and the land restored as near as practicable to its original condition with native seed and soils.

WIND TURBINE FOUNDATIONS

Wind Turbine Spread Foundation Design/Decommissioning

Each octagonal spread foundation pedestal and base is required by Vermilion County to be removed to a depth of 36 inches below the proposed final ground surface. The upper 54 inches of the turbine foundation will be removed by a jack hammer mounted on a bobcat or excavator. Complete off-site removal for demolition and disposal of the removed portions of the foundations is required per the lease agreement between the Project and the landowners hosting turbines. For the purpose of this report, the cost of removal and disposal off site is used to estimate the decommissioning costs of the foundations.

There is essentially no salvage value to the turbine foundations. The spread footing foundation design will consist of a solid reinforced concrete circular pedestal with dimensions of approximately 17 feet diameter, and an overall pedestal height of approximately 4 feet, 6 inches. Below the foundation pedestal is the foundation base section, an estimated octagonal geometry that is approximately 60 feet across the flat sides of the octagon, with an overall base thickness of 8 feet, 6 inches. The base sits on the supporting sub-grade approximately 12 feet below finish grade. A typical spread footing design is shown in Figure 2. The removal and disposal of the foundations are estimated as follows:

Activity	Cost	Unit
Mobilization and Excavation - Assume 1 Foundation per Day	\$2,500	per Foundation
Concrete Demolition - Assume 1/2 of a Foundation Pedestal per Day	\$10,000	per Foundation
Disposal/Backfill - Assume 1 Foundation per Day	\$3,500	per Foundation
Subtotal	\$16,000	per Foundation
Total Estimated Cost for 134 Foundation Removals	\$2,144,000	Total

ACCESS ROADS

Typical Access Road Construction Details

For the purposes of this report, the total length of access roads for the Project has been estimated at 198,026 linear feet, or 37.5 miles. The typical access road detail is included as Figure 3. The final access roads to each turbine will be approximately 16 feet wide with enlarged areas at the turbine sites and at intersections with connecting public roads. The existing soils will be excavated, shaped, and graded to match the typical contour of the land adjacent to the access road and compacted prior to construction of the roads. The construction of the access roads may consist of a geotextile fabric placed on a prepared subgrade with 6 inches of aggregate base (pit run gravel) and 6 inches of aggregate surface course Type B (CA-6), resulting in the estimated quantities as shown below:

Item	Number	Unit
Geotextile Fabric	352,046	Square Yards
Aggregate Base Course	58,674	Cubic Yards
Aggregate Surface Course	58,674	Cubic Yards

Access Road Decommissioning and Public Street Repair

Access road decommissioning will involve the removal and transportation of the aggregate materials from the site to a nearby site where the aggregate can be processed for salvage. It is possible that the local townships or farmers may accept this material without processing to use on their local roads; however, for the purpose of this report it is assumed that the materials will be removed and hauled to a reprocessing

site within 25 miles of the wind farm site. Any public streets damaged due to the reclamation process shall be repaired.

The decommissioning will also involve the removal and proper disposal of the geotextile fabric. It is assumed that during excavation of the aggregate a large portion of the geotextile will be “picked up” and sorted out of the aggregate at the aggregate reprocessing site. Geotextile fabric that is remaining, or large pieces that can readily be removed from the excavated aggregate, will be disposed of off site at a landfill.

In determining salvage value for the road materials, it was assumed that 75 percent of the aggregate surface course can ultimately be salvaged for future use as aggregate base course. It was also assumed that 50 percent of the aggregate base course could be reused as aggregate base course and that the remaining materials would be viable for general fill in non-structural fill areas. The geotextile fabric would not be suitable for use after removal so was not considered to have a salvage value. The following salvage values are used for the road materials assuming they will be picked up and hauled from the process site by others:

Removal Items	Cost	Unit
Reprocessed Aggregate to be used as Base Course	\$5.30	per Cubic Yard
Remaining Aggregate to be used as Fill	\$1.60	per Cubic Yard

The only scenario that could offer a lower cost for removal and salvage of the aggregate would be disposal at a nearby site that needed inert fill. There are no known sites in the area. Therefore, the decommissioning cost of the roads is based upon removal and salvage of the aggregate for use as base course or inert fill within a 25-mile radius of the wind farm site. The estimated costs for access road decommissioning would be as follows:

Removal Items	Quantity	Cost	Salvage	Net Cost
Geotextile Fabric (Square Yards)	352,046	\$176,023	-	\$176,023
Aggregate Base Course (Cubic Yards) (Reprocessed as Aggregate Base Course)	29,337	\$357,914	\$155,487	\$202,427
Aggregate Base Course (Cubic Yards) (Reprocessed as Fill)	29,337	\$357,914	\$46,939	\$310,974
Aggregate Surface Course (Cubic Yards) (Reprocessed as Aggregate Base Course)	44,006	\$536,870	\$233,231	\$303,640
Aggregate Surface Course (Cubic Yards) (Reprocessed as general fill in non-structural fill areas)	14,669	\$178,957	\$23,470	\$155,487
Totals		\$1,607,678	\$459,127	\$1,148,551

CRANE PADS

Crane pads will be approximately 60 feet by 40 feet and consist of compacted native material and approximately 1 foot of base fill. Crane pad aggregate will be removed and pad areas will be filled and scarified after decommissioning activities. The restoration will be performed in consultation with the landowner and pad sites will be restored as near as practicable to their original condition with native seed and soils. The estimated costs for crane pad decommissioning would be as follows:

Removal Items	Quantity	Cost	Salvage	Net Cost
Geotextile Fabric (Square Yards)	35,733	\$17,867	-	\$17,867
Aggregate Base Course (Cubic Yards) (Reprocessed as Aggregate Base Course)	2,978	\$36,329	\$15,782	\$20,547
Aggregate Base Course (Cubic Yards) (Reprocessed as Fill)	2,978	\$36,329	\$4,764	\$31,564
Aggregate Surface Course (Cubic Yards) (Reprocessed as Aggregate Base Course)	5,956	\$72,658	\$31,564	\$41,093
Aggregate Surface Course (Cubic Yards) (Reprocessed as general fill in non-structural fill areas)	1,489	\$18,164	\$2,382	\$15,782
Totals		\$181,347	\$54,493	\$126,853

CABLES

Cable Wire and Trench Typical Installation

All cable trenches will be a minimum of 48 inches below the ground surface. In all cable locations outside of access roads, the trenches are backfilled with on-site earthen materials with at least 6 inches of topsoil. At roads, the cables will be in conduits which are a minimum of 48 inches below the final surface. The estimated total medium voltage cable length is 425,937 lineal feet.

Cable Wire and Trench Decommissioning

Since the cables will be located well below the ground surface and will not impose an obstacle to farm activities, physical removal of the cables is not considered to be required to restore the former use of the ground.

EARTHWORK AND TOPSOIL RESTORATION

Once all of the aboveground improvements are removed, the remaining work to complete Project decommissioning will consist of shaping and grading of the areas to as near as practicable to their original contour prior to construction of the turbine sites and access roads.

It is estimated that approximately 64,630 cubic yards of earthwork and topsoil will be necessary for restoration. Based upon the typical cost for this type of work within the Vermilion and Champaign county area, and the assumption that earth and topsoil can be found within 25 miles of the wind farm site, the following estimate of decommissioning cost for earthwork and topsoil restoration is provided:

Item	Quantity (Cubic Yards)	Cost per Cubic Yard	Total Cost
Earth Fill (cubic yards) (access roads, crane pad and foundation pedestal areas)	64,630	\$10.60	\$685,078
Topsoil (cubic yards) and seed planting	64,630	\$10.60	\$685,078

SUMMARY OF DECOMMISSION COSTS

The following is a summary of the total estimated costs for Project decommissioning. This estimate was developed using the various cost resources listed below:

- R.S. Means
- HDR Historical Data
- Vendor Quotes
- Current/Historic Commodity Prices
- Estimator Judgment

Salvage Value	
Turbine Component Salvage Value (134 Turbines x \$180,785)	\$24,225,217
Decommissioning Costs	
Turbine Removal (134 x \$129,000)	\$17,286,000
Turbine Foundation Removal	\$2,144,000
Access Roadway Removal	\$1,148,551
Crane Pad Removal	\$126,853
Cable Removal	\$0
Earthwork and Topsoil	\$1,370,154
Subtotal	\$22,075,559
Salvage Less Decommissioning	\$2,149,658
Net Salvage Value per Turbine (134 Total)	\$16,042

The estimated total decommissioning costs of the Project can be completely recovered by the salvage and resale value of the turbine components. These values are based on estimated 2011 costs and do not assume any inflation costs or market fluctuations.

FINANCIAL ASSURANCE

To ensure accuracy in the material quantities outline above, HDR recommends that this report and the final engineering drawings be reviewed by our office prior to operation of the Project to verify final material quantities.

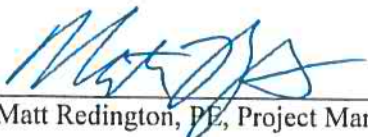
For Champaign County, financial assurances shall be 210% of an independent professional engineer's cost estimate to complete the decommissioning, or less, if specifically authorized by the County Board. The form of financial assurance will be a letter of credit. California Ridge Wind Energy LLC shall 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 Project operation as described by Champaign County Ordinance No. 848, Section 6.1.4.P. During the lifespan of the wind farm the amount of the irrevocable letter of credit shall be increased as necessary to reflect actual rates of inflation. The financial assurance will further provide that the terms of the Decommissioning Plan be binding upon California Ridge Wind Energy LLC and any successors, assigns, or heirs; and that the County will have access to the site, pursuant to reasonable notice, to effect or complete the decommissioning, if required. In order to provide funding for decommissioning at the time of decommissioning, California Ridge Wind Energy LLC 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. California Ridge Wind Energy LLC shall comply with Champaign County Zoning Ordinance No. 848, 6.1.4 P Standard Condition for Decommissioning Plan and Site Reclamation Agreement

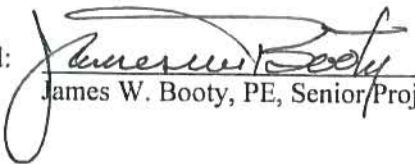
CONCLUSION

I certify that this report is an accurate representation of the anticipated decommissioning costs (or salvage value) at this preliminary stage of development and was prepared in accordance with industry standards of care for engineering evaluations of this type and contains no intentional false statements or misrepresentations.

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of Illinois.

Signed: 
Matt Redington, PE, Project Manager

Matthew Redington
Date 6/27/11 Reg. No. 062-062941

Signed: 
James W. Booty, PE, Senior/Project Engineer



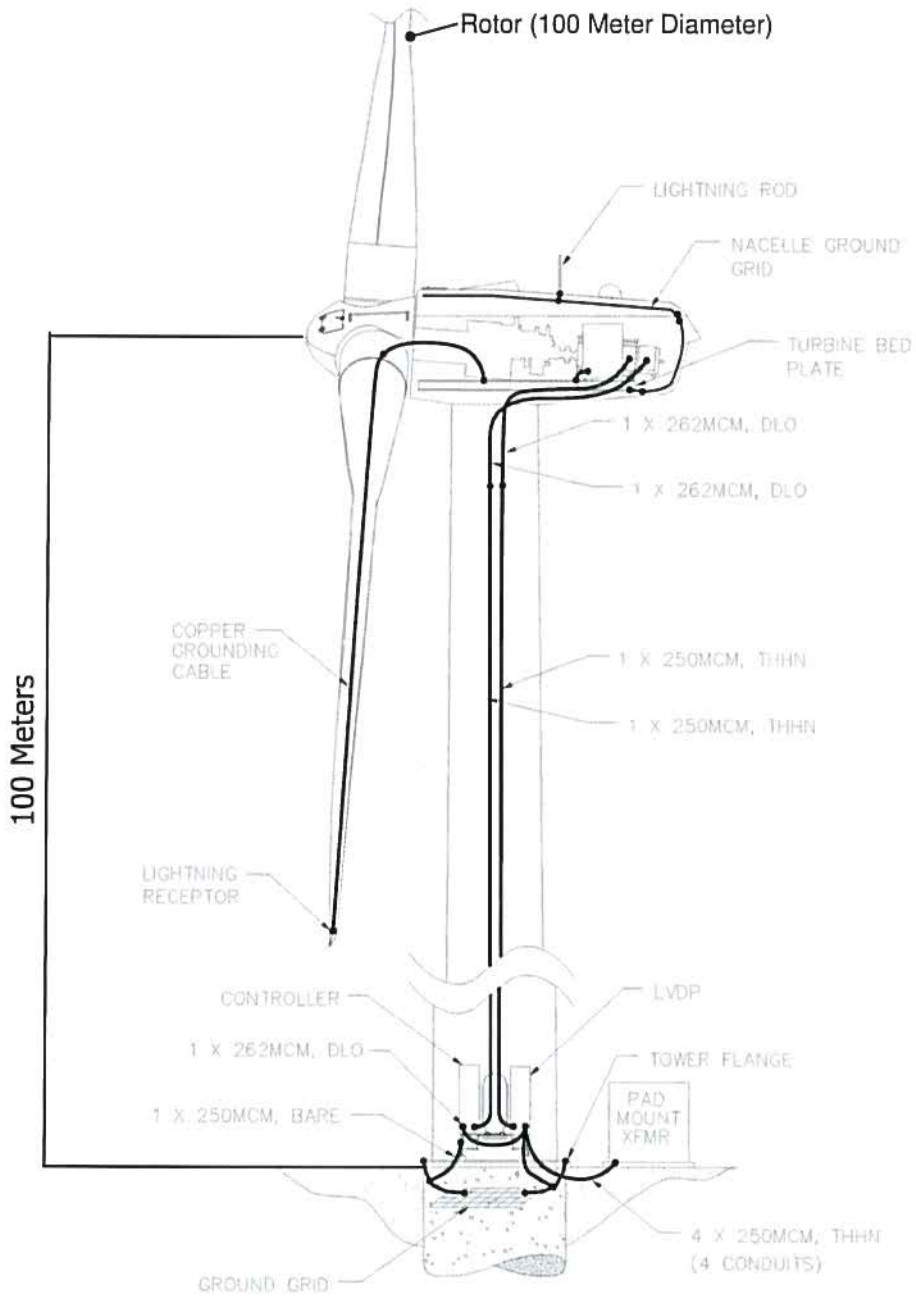
REFERENCES

GE Energy Commercial Documentation Wind Turbine Generator Systems 1.6-100 – 50 & 60 Hz, Weights and Dimensions; 2010 (1.6-100 xxHz_GD_all Comp_ContrDocWSDxxx00.doc)

Ton van de Wekken, KEMA Nederland B.V. 2007. *Distribution Generation and Renewables*. Wind Farm Case Study.

Steelmaking Commodity Prices, World steel raw materials & energy prices. Steelonthe net.com, accessed June 6, 2011.
http://www.steelonthenet.com/commodity_prices.html

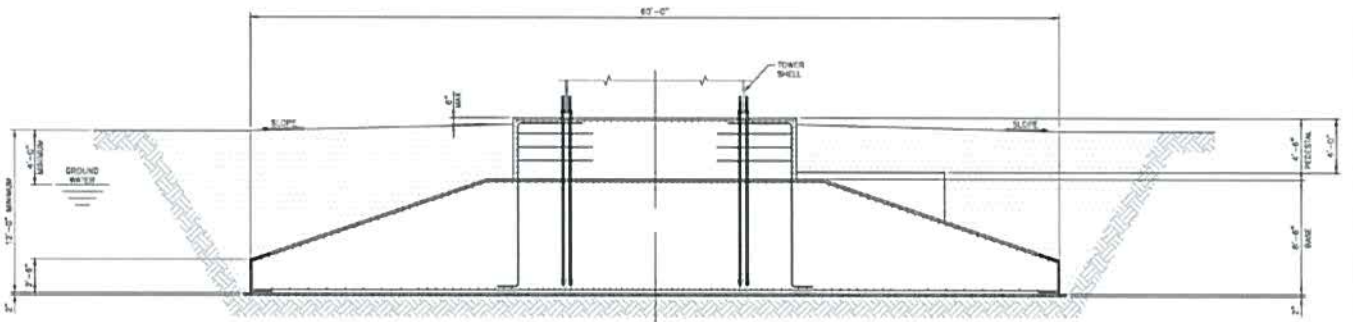
**FIGURE 1
 INVENERGY WIND LLC
 CALIFORNIA RIDGE DECOMMISSIONING PLAN
 TYPICAL WIND TURBINE GENERATOR**



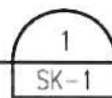
Note: Referenc Image from Technical Documentation,
 Wind Turbine Generator Systems, GE.



**FIGURE 2
 INVENERGY WIND LLC
 CALIFORNIA RIDGE DECOMMISSIONING PLAN
 TYPICAL FOUNDATION SECTION**



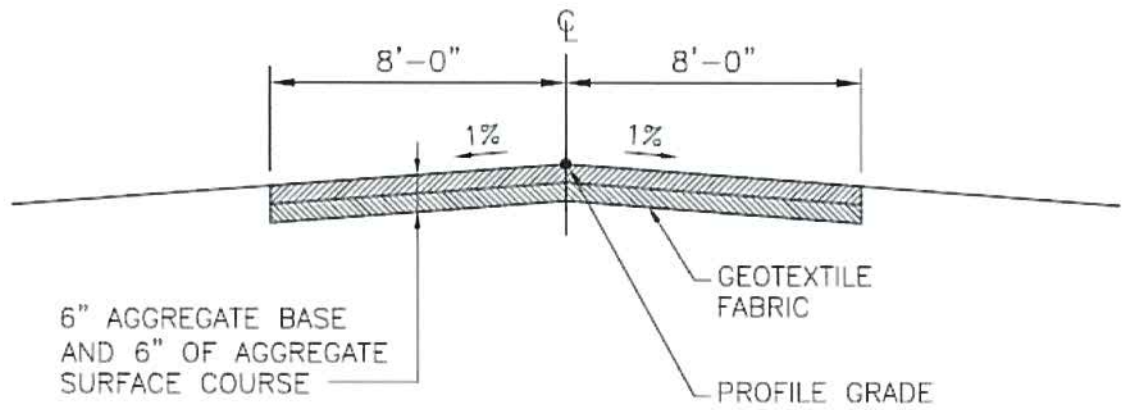
TYPICAL FOUNDATION SECTION
 SCALE: NONE



Map Document: (\\mspp-gis-file\GIS\Proj\Invenergy\98073_CaliforniaRidge\map_docs\mxd\Decommissioning_CaliforniaRidge_DecommissioningFig2.mxd) 6/7/2011 1:42:40 PM

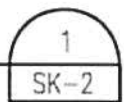


**FIGURE 3
INVENERGY WIND LLC
CALIFORNIA RIDGE DECOMMISSIONING PLAN
TYPICAL ACCESS ROAD SECTION**



TYPICAL ACCESS ROAD— SECTION A

SCALE: NONE



Map Document: (\\mspb-gis-file\GIS\Proj\Invenergy\98073_CaliforniaRidge\map_docs\mxd\Decommissioning\CaliforniaRidge_Decommissioning\Fig3.mxd) 11/20/2009 5:04:29 PM



ATTACHMENT C

California Ridge Wind Energy Project
Champaign County Landowners

	A	B
1	GIS - APN (PIN) - (NEW PIN)	OWNER
2	061228400007	JOHNSON ROY P
3	171808400005	LOSCHEN RANDALL & DEANNA
4	061130300001	EDWARDS ANNETTE BRYA
5	061230300006	BUHR VERNON
6	061130400001	CLIFFORD ROSEANN
7	061130300003	FISCUS JOHN & KAY
8	061131200002	FOSTER LARRY
9	061231100003	FRERICHS LARRY
10	061130100007	FRERICHS LOIS A
11	061130300004	FRERICHS HERBERT & LOIS
12	061219400002	FRUHLING LORETTA
13	061219300005	FRUHLING LOUISE
14	061219100002	G & E FARMS INC
15	171806100001	HARMS MARVIN J & BERNITA A
16	061232300001	HEEREN WENDY M
17	061229100001	HOVELN EDGAR E
18	061230400001	HOVELN EDGAR E
19	061130400003	IDEUS MARVIN
20	061036200008	IDEUS ROYCE
21	061230200001	JARBOE MICHAEL D
22	061219400004	JOHNSON ROY P
23	061036400006	KOPMANN JUDITH
24	061036200003	KOPMANN LEROY W
25	061233176001	LEE THOMAS G
26	061228300004	ONEIL MICHAEL P
27	061228400002	ONEIL MICHAEL P
28	061229300003	HOVELN GARY D TRUSTEE
29	061024100003	ACKERMAN DERALD
30	061024300003	ACKERMAN DERALD
31	061221300003	ACKERMAN DERALD
32	171805400004	ALBERS ANNA A
33	171805400003	ALBERS CARL W
34	061229200003	ALBERS DICK
35	061229300001	ALBERS DICK
36	061229200004	ALBERS FARM
37	171805200004	ALBERS FARMS
38	061220400009	BABB MICHAEL
39	061228200009	BABB MICHELE
40	061131200003	BLUE JOHN G
41	061230300007	BLUE JOHN G

California Ridge Wind Energy Project
Champaign County Landowners

	A	B
42	061230400006	BLUE JOHN G
43	171804400004	BRITT INEZ K
44	061229400009	BRUINIUS FAMILY LTD PART
45	171806300006	MCCARTNEY MARLYS
46	061228200002	BUCK STEVE
47	061228200008	BUCK STEVE
48	061229100004	BUCK THOMAS H
49	061025100004	BUHR RUSSELL & MARILYN
50	061025200005	BUHR VERNON & WILMA
51	171807200008	BUHR VERNON R
52	061025300003	BUSBOOM MAURY
53	171809300003	BUSBOOM GLEN L
54	171809300004	BUSBOOM GLEN L
55	171809300005	BUSBOOM GLEN L & BILLIE J
56	061025300002	BUSBOOM LUELLA
57	061228300001	CAIN STEPHEN
58	061230200002	CAIN DANIEL J
59	061233200010	CARTER ROGER N
60	061025400001	TATE FARM #3
61	061025400002	TATE FARM #3
62	061131100001	TATE FARM #3
63	171808100001	FRANZEN ALBERT J
64	061229100002	FRANZEN THEA TRUST
65	061219400003	FRERICHS GREGORY L
66	171805300004	FRERICHS DOUGLAS
67	171805300005	SHEARIN DANIEL
68	171805300006	FRERICHS DOUGLAS A
69	061219300004	FRUHLING JOHN
70	061220100001	G AND E FARMS INC.
71	061220300002	GATES MARSHA S
72	061025100008	GRONEWALD ROGER
73	171706400004	HARMS DELORES ANN TRUSTEE
74	171706400005	HARMS DELORES ANN TRUSTEE
75	171808300002	HENDERSON BEN & JILL
76	171808400004	HENDERSON BEN & JILL
77	061025200003	HINRICHS ERNA M
78	171706300002	HINRICHS TRUST MILDRED
79	171706400002	HINRICHS TRUST MILDRED
80	061228200007	HOVELN CLAAS E
81	061228200006	HOVELN GARY
82	061233200002	HOVELN HAROLD E.
83	061130100004	IDEUS ALFRED & LORINE

California Ridge Wind Energy Project
Champaign County Landowners

	A	B
84	061036100009	IDEUS EARL
85	061036100010	IDEUS EARL
86	061036200001	IDEUS EARL
87	061036200006	IDEUS EARL
88	061130100005	IDEUS MARVIN & PAM
89	061130200007	IDEUS MARVIN & PAMELA
90	061130200008	IDEUS MARVIN & PAMELA
91	061233300002	JARBOE MICHAEL D TRUST &
92	061233300003	JARBOE MICHAEL D TRUST &
93	061233400001	JARBOE MICHAEL D TRUST &
94	061233400002	JARBOE MICHAEL D TRUST &
95	061130100011	JOHNSON ROY P
96	061131300001	KOPMANN JUDITH E
97	061233126002	LONG ROBERT G
98	061232300002	LOSCHEN DELORES & ARNOLD E
99	061232300003	LOSCHEN ARNOLD E & DELORES
100	061232400001	LOSCHEN ARNOLD & DELORES A
101	061232400002	LOSCHEN ARNOLD E & DELORES
102	171805400005	LOSCHEN ARNOLD A.& DELORES
103	171805400009	LOSCHEN ARNOLD & DELORES
104	061232200001	LOSCHEN BRIAN A
105	171805200006	LOSCHEN MARK
106	171804300002	LUDWIG JOHN & ERNA
107	171808100006	LUDWIG JOHN & ERNA
108	171808200001	LUDWIG JOHN & ERNA
109	171808200002	LUDWIG JOHN
110	171808200003	LUDWIG JOHN & ERNA
111	061233151001	MADIGAN DENNIS D
112	061025100003	MENNENGA DARRELL & MARILYN
113	171807200004	OSTERBUR LAVERNE I
114	171807200005	OSTERBUR LOUIS M
115	171807400003	OSTERBUR LOUIS M
116	171805300002	CARLSON JULIE CO TRUSTEE
117	171806400010	CARLSON JULIE CO TRUSTEE
118	171806400011	CARLSON JULIE CO TRUSTEE
119	171806400012	OSTERBUR IRREV TRUST
120	171706400006	OSTERBUR HERBERT J & BETTY
121	171706400007	OSTERBUR HERBERT J
122	171816200002	GREEN HELEN
123	061219200002	PFLUGMACHER ROBERT
124	061230300004	PFLUGMACHER ROBERT
125	061230400003	PFLUGMACHER ROBERT

California Ridge Wind Energy Project
Champaign County Landowners

	A	B
126	061219200003	PFLUGMACHER WILLIAM E
127	061231200007	POLLOCK LAVEDA TRUST
128	171806200003	SAGE REKA
129	171805100001	SAGE WAYNE
130	171806200002	SAGE WAYNE L
131	171809200009	SATTLER JOAN R
132	171809100001	SCOTT ROBERT P
133	061230400005	E & J FARMS
134	061230300008	SJUTS EVELYN M
135	061231400001	SJUTS EVELYN M.
136	061219200004	SUITS ERIC J
137	061228100002	SUITS JEFFERY
138	061228100003	SUITS KENNETH E
139	061024300002	SUITS KENNETH
140	061221300004	SUITS KENNETH
141	061229200001	SUITS KENNETH E
142	061221300001	SUITS KENNETH E
143	061231100004	UDOVICH CARL & JANE
144	061231200005	UDOVICH CARL A & JANE
145	061231200006	UDOVICH CARL A & JANE
146	061025100009	UKEN DAVID D & DANITA M
147	061131400002	WALKER DOUGLAS
148	061229400008	WERNER VELMA
149	171806300005	FLESSNER SYLVIA

ATTACHMENT D

MEMORANDUM OF AGREEMENT

**MEMORANDUM
OF AGREEMENT**

NOTICE IS HEREBY GIVEN that a Reclamation Agreement was entered into by and between Champaign County, Illinois and California Ridge Wind Energy, LLC which imposed obligations upon California Ridge Wind Energy LLC to provide for the final removal, upon abandonment, of the below ground and above-ground portions of the California Ridge Wind Energy Project (the "Project") and the structure supporting the said Project and any associated site grading and soil erosion control as may be necessary in accordance with the applicable laws and with the applicable ordinances and codes of Champaign County as related to Project decommissioning requirements and affecting real estate in the following sections of Champaign County, Illinois:

Sections:

TO BE INSERTED

California Ridge Wind Energy LLC

Date: _____, 2011

By: _____
Kevin Parzyck

THIS DOCUMENT PREPARED BY:

California Ridge Wind Energy LLC
1 S. Wacker Drive, Suite 1900
Chicago, IL 60606
312-224-1400

AND RETURN TO:

Same

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER c: ENDANGERED SPECIES
PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS

The General Assembly's Illinois Administrative Code database includes only those rulemakings that have been permanently adopted. This menu will point out the Sections on which an emergency rule (valid for a maximum of 150 days, usually until replaced by a permanent rulemaking) exists. The emergency rulemaking is linked through the notation that follows the Section heading in the menu.

- [Section 1075.10 Purpose](#)
- [Section 1075.20 Definitions](#)
- [Section 1075.30 Actions Reviewed and Exempted](#)
- [Section 1075.40 Consultation Process](#)
- [Section 1075.50 Special Circumstances](#)
- [Section 1075.60 Emergencies](#)
- [Section 1075.70 Public Involvement](#)
- [Section 1075.80 Alternative Action Guidelines](#)

AUTHORITY: Implementing and authorized by Section 11(b) of the Illinois Endangered Species Protection Act [520 ILCS 10/11(b)] and Section 17 of the Illinois Natural Areas Preservation Act [525 ILCS 30/17].

SOURCE: Adopted at 14 Ill. Reg. 19839, effective December 3, 1990; amended at 19 Ill. Reg. 594, effective January 9, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389.

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
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PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS
SECTION 1075.10 PURPOSE

Section 1075.10 Purpose

The purpose of this Part is:

- a) To establish a consultation process between the Department and agencies of State and local governments of Illinois concerning impacts on State endangered and threatened species and Natural Areas by actions authorized, funded, or carried out by those agencies which are authorized by Section 11(b) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1991, ch. 8, par. 341) [520 ILCS 10/11] and Section 17 of the Illinois Natural Areas Preservation Act [525 ILCS 30/17].
- b) To provide a consultation procedure designed to assist agencies of State and local governments in the evaluation of proposed actions for the purpose of addressing the adverse impacts to endangered or threatened flora or fauna as listed by the Illinois Endangered Species Protection Board, or to the essential habitat of such species or to Natural Areas.
- c) To promote the conservation of threatened and endangered species and Natural Areas by establishing the following policy: the avoidance of adverse impacts is a priority of action; when avoidance is not practicable, adverse impacts should be minimized; and when practicable alternatives do not exist and an adverse impact is likely to occur, compensation shall be requested.
- d) This Part provides details for the following:
 - 1) actions requiring review and those exempted;
 - 2) filing of the Agency Action Report;
 - 3) filing of the Detailed Action Report;
 - 4) preparation of the biological opinion;
 - 5) emergencies;
 - 6) public involvement opportunities; and
 - 7) alternative action guidelines.

(Source: Amended at 19 Ill. Reg. 594, effective January 9, 1995)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER c: ENDANGERED SPECIES
PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS
SECTION 1075.20 DEFINITIONS

Section 1075.20 Definitions

The following terms will be used throughout this Part:

"Action" – construction, land management, or other activities that are authorized, funded, or performed in whole or in part by agencies of State and local governments and that will result in a change to the existing environmental conditions or may affect listed endangered or threatened species or their essential habitat or Natural Areas.

"Adverse Impact" – a direct or indirect alteration of the physical or biological features of the air, land or water which may affect the survival, reproduction or recovery of a listed species or that may diminish the viability of a Natural Area.

"Agency" – includes all agencies, boards and commissions which are under the jurisdiction of State or local governments.

"Agency Action Report" – a report submitted to the Department by agencies proposing an action(s) requiring consultation. The information required to be submitted shall be sufficient to determine the presence or absence of a threatened or endangered species or Natural Area in the vicinity of the proposed action.

"Biological Opinion" – the component of the Detailed Action Report prepared by the Department, when a valid record of an occurrence for a threatened or endangered species or Natural Area exists within the vicinity of a proposed action. This opinion will conclude whether the action will jeopardize the listed species present, destroy or adversely modify their essential habitat or adversely modify a Natural Area.

"Conservation" – utilization of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which the protection provided by the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1991, ch. 8, par. 331 et seq.) [520 ILCS 10] are no longer necessary. These methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, habitat acquisition, habitat management restoration, and maintenance and propagation.

"Cumulative Effects" – direct and indirect effects of a proposed action(s) together with the identifiable effects of actions that are interrelated or interdependent with the action. Indirect effects are those that are caused by the action but are later in time or farther in distance. Interrelated actions are those that are a part of a larger action. Interdependent actions are those that have independent utility apart from the action.

"Department" – means the Department of Natural Resources.

"Detailed Action Report" – a written report that is prepared by an agency when a threatened or endangered species or Natural Area has been identified within the vicinity of a proposed action. This report shall contain sufficient information to make a judgement regarding the potential adverse impacts to a listed species or its essential habitat or a Natural Area.

"Essential Habitat" – is the physical and biological environment that is required to maintain viable populations of a listed species in order to ensure the survival and recovery of that species.

"Jeopardize" – to engage in an action which would reduce the likelihood of the survival or recovery of a listed species or would result in the destruction or adverse modification of the essential habitat of such a species or which would result in the destruction or adverse modification of a Natural Area.

"Listed Species" – is any species of plant or animal which has been listed as endangered or threatened by the Illinois Endangered Species Protection Board or the U.S. Fish and Wildlife Service.

"Natural Area" – is any area of land in public or private ownership which is registered under the Illinois Natural Areas Preservation Act [525 ILCS 30] or is identified in the Illinois Natural Areas Inventory.

"Vicinity" – the area surrounding the action, as determined by the life history requirements of the species of concern or proximity to a Natural Area.

(Source: Amended at 19 Ill. Reg. 594, effective January 9, 1995)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER c: ENDANGERED SPECIES

**PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS**

SECTION 1075.30 ACTIONS REVIEWED AND EXEMPTED

Section 1075.30 Actions Reviewed and Exempted

- a) Actions Requiring Review for Consultation – Any construction, land management or other activity authorized, funded or performed by a State agency or local unit of government that will result in a change to the existing environmental conditions and/or may have a cumulative, direct or indirect adverse impact on a listed species or its essential habitat or that otherwise jeopardizes the survival of that species and/or may have a cumulative, direct or indirect adverse impact on a Natural Area shall be evaluated through the consultation process. This includes but is not limited to the following:
- 1) the alteration, removal, excavation or plowing of non-farmed, non-cultivated areas, or dredging of soil, sand, gravel, minerals, organic matter, vegetation, or naturally occurring materials of any kind;
 - 2) the changing of existing drainage characteristics or sedimentation patterns;
 - 3) the grading or removal of materials that would alter existing topography;
 - 4) the creation of new, or the increase in existing permanent barriers to the
 - 5) a discharge of pollutants into the air, water, or on the land;
 - 6) the application of chemicals to the air, water, or on the land;
 - 7) preliminary plats, plans and permits; and
 - 8) an application for rezoning from a non-urban classification to an urban classification (e.g. from agricultural to residential) or a change from one urban classification to another on land not used in its entirety for the original classification.
- b) Actions Not Requiring Review – Actions authorized, funded or performed by State agencies or local units of government not resulting in a land-disturbing activity or not directly or indirectly affecting an endangered or threatened species or a Natural Area are not required to be evaluated by the consultation process. Such actions

shall involve activities not listed in Section 1075.30(a) (e.g. acquisition of equipment or rehabilitation of an existing structure).

- c) **Actions Exempted** – The following actions are exempt from the consultation process unless it is evident that there will be an adverse impact to a listed species or its essential habitat or to a Natural Area:
- 1) mowing within maintained highway rights-of-way;
 - 2) routine resurfacing and application of oil and gravel to existing roads and highways that do not require widening of the road or shoulder;
 - 3) construction activities required for the maintenance or repair of existing structures;
 - 4) actions in those areas with a Department-approved management plan, where the proposed actions are consistent with the Plan and are undertaken to maintain or improve natural ecosystem conditions or to re-establish pre-settlement vegetation conditions. This includes such actions as prescribed burns, spot application of herbicides, brush clearing and other appropriate natural resource management activities. Where a listed species is known to be present, management for its survival and recovery shall be a priority;
 - 5) actions within highway rights-of-way, unless specifically notified by the Department, that adjoin land used for agricultural or urban purposes, except those portions of the right-of-way adjacent to borrow pits, railroads, streams, wetlands, lakes, or other natural areas and open space;
 - 6) maintenance of existing lawns, yards and ornamental plantings;
 - 7) annual, routine cultivation of existing agricultural lands; and
 - 8) change of zoning requests for land currently zoned, developed, and used in its entirety for commercial, industrial or residential purposes.
- d) **Memorandums of Understanding** – the Department may enter into an agreement with an agency, referred to as a Memorandum of Understanding (MOU) which allows the development of an expedited review process, the review of comprehensive plans and natural resource ordinances, or exempts from the consultation process those actions commonly performed by that agency and that have no adverse impact to a listed species or its essential habitat or a Natural Area.
- 1) The Memorandum of Understanding shall expire in 1 to 3 years, based on the type of activity or the frequency with which it is performed. At the time of renewal, the agency shall submit a report evaluating the following:
 - A) whether the actions exempted avoided, minimized or created an adverse impact to a listed species and its essential habitat or a Natural Area; and
 - B) if the technology of the exempted action has changed to such an

extent that the action should no longer be exempted.

- 2) The Memorandum of Understanding shall be available for review from the Department upon request.
- e) If more than two years elapses between the review and approval of the proposed action and implementation, the Department shall have an opportunity to review the Agency Action Report again to determine whether a listed species or Natural Area is present.
- f) Compliance with this Part does not relieve the agency from applicable state or federal laws or regulations.

(Source: Amended at 19 Ill. Reg. 594, effective January 9, 1995)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
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PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS
SECTION 1075.40 CONSULTATION PROCESS

Section 1075.40 Consultation Process

As authorized by Section 11(a) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1991, ch. 8, par. 341) [520 ILCS 10/11] and by Section 17 of the Illinois Natural Areas Preservation Act [525 ILCS 30/17], state and local units of government shall evaluate, through a consultation process with the Department, whether actions authorized, funded, or carried out by them, as defined in Section 1075.30, are likely to jeopardize the continued existence or recovery of Illinois listed endangered or threatened species or are likely to result in the destruction or adverse modification of the essential habitat of such species or are likely to result in the adverse modification of a Natural Area. The proposed action shall not commence until the completion of the consultation process. This consultation process shall consist of the following:

- a) After identifying a specific action included in Section 1075.30, an agency shall complete and submit the Agency Action Report to the Department. This shall be submitted as early in the planning process as may be practicable and prior to approval of preliminary plat, design, permit, plan, or project approval. The purpose of this report is to identify the specific location of the project in order to determine if a listed species or Natural Area is located within the vicinity of the proposed action. The Agency Action Report shall include but not be limited to the following:
 - 1) name and address of agency proposing the action;
 - 2) the responsible person within that agency;
 - 3) the precise location of the proposed action in sufficient detail to determine the presence or absence of a listed species or Natural Area;
 - 4) a brief description of the proposed action; and
 - 5) the starting and ending dates of the proposed action.
- b) The Department shall review the Agency Action Report and determine whether a valid record of occurrence for a listed species or a Natural Area exists within the vicinity of the proposed action. The agency shall receive one of two responses from the Department within 30 calendar days of receipt of the Agency Action Report:

- 1) If no listed species or their essential habitat or Natural Areas have been identified in the vicinity of the proposed action, a letter will be sent indicating that further consultation is not necessary.
 - 2) If a listed species or a Natural Area is identified within the vicinity of the project, the agency will be sent a letter explaining the continuation of the consultation process and a Detailed Action Report.
- c) The agency shall complete the Detailed Action Report, and submit it to the Department. Sufficient information must be provided about the proposed action to determine the potential indirect, direct and cumulative adverse impacts to the listed species present or its essential habitat or to the Natural Area. The Detailed Action Report shall include, but is not limited to the following components:
- 1) name and address of agency proposing the action;
 - 2) responsible person within the agency;
 - 3) a detailed map indicating the precise location of the proposed action;
 - 4) a detailed description of the proposed action, including any direct or indirect alteration or destruction of the vegetation, changes anticipated to air or water quality, alteration of the topography, or any other detail that might jeopardize the listed species or its essential habitat or cause adverse modification of the Natural Area;
 - 5) starting and ending dates of the proposed project; and
 - 6) discussion of alternatives which were considered.
- d) Upon completing the portion of the Detailed Action Report involving the proposed project, the agency shall provide background information on the listed species or Natural Area present. The direct and indirect effects of the proposed action on the listed species and its essential habitat or on the Natural Area including cumulative effects shall be analyzed by the agency. The Department shall assist units of local government, upon request, if the unit of local government does not have the expertise to provide the required data and does not have the resources to provide outside experts.
- e) Upon completion, the agency shall submit the Detailed Action Report to the Department for the formulation of a biological opinion as to whether the proposed action, taken with its cumulative effects, will jeopardize the listed species present or have an adverse impact on its essential habitat or cause adverse modification of the Natural Area. The biological opinion shall be completed within 60 calendar days of receipt of a completed Detailed Action Report. The biological opinion shall result in one of the following conclusions:
- 1) the action may promote the conservation of a listed species or its essential habitat or enhance the protection of the Natural Area, in which case the consultation process is terminated;

- 2) the action is not likely to jeopardize a listed species or its essential habitat or cause adverse modification of the Natural Area, in which case the consultation process is terminated; or
 - 3) the proposed action is likely to jeopardize a listed species or its essential habitat or cause adverse modification of the Natural Area, in which case the consultation process shall continue.
- f) If the biological opinion concludes that the proposed action is likely to have an adverse impact, recommendations to avoid these impacts shall be provided to the agency by the Department.
 - g) A meeting shall be scheduled with representatives of the agency and the Department to discuss practicable alternatives to the proposed action that would avoid, minimize, or compensate for the impacts.
 - h) After the consultation meetings have taken place to discuss practicable alternatives, the agency shall notify the Department in writing, stating its decision to proceed, modify, or forgo the action, and which, if any, of the alternatives included in the Detailed Action Report it is adopting.
 - i) If the Department disagrees with the agency's decision, it shall notify the agency in writing within 10 days.
 - j) It is desirable that disagreements which arise over an agency's response or procedural questions be resolved quickly and at the lowest possible level of agency involvement. For most actions, areas of disagreement should be resolved by middle and upper level management of the Department and agency involved. However, where there is failure to reach agreement, it may be necessary to refer the matter to the agency head for resolution.

(Source: Amended at 19 Ill. Reg. 594, effective January 9, 1995)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
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PART 1075 CONSULTATION PROCEDURES FOR ASSESSING IMPACTS OF AGENCY
ACTIONS ON ENDANGERED AND THREATENED SPECIES AND NATURAL AREAS
SECTION 1075.50 SPECIAL CIRCUMSTANCES

Section 1075.50 Special Circumstances

- a) When a particular action involves more than one agency, these agencies may, upon notification to the Department, fulfill their consultation requirements through a single lead agency. Factors relevant in determining appropriate lead agency include the time sequence in which agencies would become involved in the action, the magnitude of their respective involvement, and their relative expertise with respect to the environmental effects of the action.
- b) In the case of complex actions, where the Department and the agency determine that additional information is needed concerning the listed species or Natural Area and/or the action, the period for the agency to prepare the Detailed Action Report, and the Department to formulate the biological opinion, may be extended by mutual agreement. During this extension, an agency shall make no irreversible or irretrievable commitments of resources that would foreclose implementation of any reasonable and prudent alternative prior to issuance of a biological opinion.
- c) The consultation process shall be modified for the review of rezoning applications (See Section 1075.30(a)(8)):
 - 1) The Agency Action Report shall be submitted for review as required in Section 1075.40(a).
 - 2) If no listed species or Natural Area is known to be present, a letter of notification of the termination of the consultation process shall be sent within thirty days.
 - 3) If a listed species or Natural Area is identified, the information shall be provided for consideration in the decision to grant the request for rezoning. This information shall be made a matter of public record.
 - 4) The consultation process will not proceed until development of that parcel is under consideration. At that time, the agency shall submit to the Department a Detailed Action Report and continue the consultation process as defined in Section 1075.40(c) through (j).

- d) The consultation process shall be initiated or a terminated consultation process shall be reopened by the Department or the agency if:
- 1) New information reveals effects of the identified action that may adversely affect a listed species or its essential habitat or a Natural Area in a manner not previously considered; or
 - 2) The proposed action is subsequently modified such that it may adversely affect a listed species or its essential habitat or a Natural Area in a manner which was not considered in the consultation process; or
 - 3) Additional listed species or their essential habitat or Natural Areas are identified within the vicinity of the action.

(Source: Amended at 19 Ill. Reg. 594, effective January 9, 1995)



Reclaimed wheat field in Southern Illinois

Citizen's Guide to Farmland Reclamation

*A publication of the Illinois Department of Natural Resources,
Office of Mines and Minerals
Land Reclamation Division
One Natural Resources Way
Springfield, Illinois 62702-1271*

TABLE OF CONTENTS

I. Preface/Summary/Introduction.....	1	III. Mining Operations and Reclamation...6	
II. Rights and Responsibilities.....	2	Mine Operations Plan.....	6
Citizen's Rights and Landowner Responsibilities.....	2	Soil Removal and Storage.....	7
The Role of the Land Reclamation Division.....	3	Overburden Removal and Placement.....	7
The Role of the Office of Surface Mining.....	4	Mine Reclamation Plan.....	8
The Role of the Natural Resources Conservation Service (NRCS).....	4	Grading and Soil Replacement.....	8
The Role of the Illinois Department of Agriculture.....	4	Post-Mining Land Use.....	8
What is Prime Farmland?.....	4	Productivity.....	9
What is High Capability Land?.....	5	IV. Use and Management of Reclaimed Soils.....	10
What is Limited Capability Land?....	5	Erosion and Sedimentation.....	10
Prime Farmland Exemptions.....	5	Assessment of Reclaimed Land.....	11
Bond Release.....	5	Appendices	
		V. Frequently Asked Questions and Answers.....	V.1
		VI. Glossary/Keywords.....	VI.1

I. Preface/Summary/ Introduction

The development and advancement of steam powered machinery in the 1940's, transformed Illinois coal production from predominately underground to surface mining extraction. The positive results of surface mining include greater mining safety for both man and machine as well as virtually 100% recovery of the mineral. The production rate in underground mines can be limited to as little as 50% as coal is left behind for roof support and other reasons. Surface mining peaked in the mid 80's with as many as over 5000 acres per year affected. Recent trends have reversed this with 85% of the state's production produced by underground methods. Current annual affected acreage is under 1000.

The transformation from underground to surface mining also created many new reclamation challenges. Technology out paced science and society's understanding of the environmental impacts as fast moving machines became capable of moving enormous quantities of materials affecting thousands of acres each year. Even as production continued to rise, irreplaceable soils were lost and grading was minimal leaving the land useless for crop production. Clearly surface mining was having significant impacts upon the land and required attention.

Illinois passed its first reclamation law in 1962 when State policy makers had the foresight to adopt mining and reclamation laws. Major revisions occurred in 1968 and 1971. A major change was implemented in 1976 with the requirement to reestablish farmland capability with stringent topsoil and rooting medium replacement requirements. This standard, known as Rule 1104 became part of the basis for the prime farmland standards created in 1977 when Congress adopted the first national coal mining and reclamation program; the Surface Mining Control and Reclamation Act (SMCRA). This law has several fundamental concepts, including:

1. mining can and will be conducted as a temporary disturbance of the land leaving no long term negative impacts;
2. the goal of any responsible and successful mining operation is the full and complete restoration of the land to levels as productive or even more productive than before mining began; and,
3. the greater the participation of the landowner before, during and after the mining and reclamation process, the greater will be the success of reclamation.

The purpose of this *Citizen's Guide to Farmland Reclamation* is to introduce landowners to their rights and opportunities by exploring legal mandates of Illinois coal mining and reclamation laws; public participation opportunities and limitations; technical aspects of soil properties; soil handling, storage and replacement methodologies; post-mining land use options; and, the various requirements/opportunities guiding landowner decisions. As you read, look for answers to some of these frequently asked questions:

- How do I know which operator I should allow to mine my land?
- How do I know that my land will be restored properly?
- Can I have my land put back differently than it is now?
- Who will reclaim my land if the operator does not finish the job?
- How long will it be before I get my land back for my own use?

These and many more issues are explored in this brief overview.

II. Rights and Responsibilities

Citizen's Rights and Landowner Responsibilities

SMCRA, the federal mine reclamation law, assures that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary of the Interior or any state approved program, including the State of Illinois. Citizens have a right to participate at every phase of the permit application and mining process.

Citizen participation in all phases of the regulatory scheme is sought and strongly encouraged. Such participation will help ensure that the decisions and actions of the regulatory authority are grounded upon complete and full information.

The Illinois Surface Coal Mining Land Conservation and Reclamation Act (SMLCRA) is the state counterpart to the federal SMCRA. The Illinois Department of Natural Resources, Land Reclamation Division (LRD), is the regulatory authority which administers the State mining and reclamation laws.

SMLCRA provides citizens access to all information and records relating to permits, inspections, bonds and other information on which the LRD bases its decisions. However, information submitted by a coal operator which, if released, might jeopardize a coal operator's competitive position with regard to other operators is protected from public availability. This might include commercial characteristics of coal seams to be mined, trade secrets or proprietary commercial information.

Many landowners with coal reserves have questions when initially approached with an offer to mine on their property. A wide array of

information is available from a number of local, State and federal agencies, as well as some public and private resources. Any or all of these may assist the property owners in making well informed decisions regarding the course to take in recovering this important resource.

The federal Office of Surface Mining (OSM) and Natural Resources Conservation Service (NRCS), the Illinois Department of Natural Resources - Land Reclamation Division (LRD), the state Geologic Survey, the Soil and Water Conservation Districts (SWCD's), farm organizations such as Farm Bureau and others may offer valuable information.

The responsibility of the landowner is a very important one and cannot be overemphasized. Illinois and federal mine reclamation agencies will ensure that the mining laws are enforced and reclamation conditions of the permit achieved. The landowner is strongly encouraged to make himself/herself aware of how the coal business operates: how coal is mined, processed and sold; and the various provisions of mining and reclamation law and how they apply to the specific situation. He/she needs to talk to people with knowledge of the coal business. Additionally, some mining companies allow the landowner to return to farming the land prior to final bond release. In such cases, it is important that the landowner farm the reclaimed land responsibly so as not to cause erosion or other problems for the mining company which may threaten or delay the bond release process.

The LRD is one of your primary sources of information. The landowner needs knowledge to ensure that mining is a temporary disruption of existing land use that does not produce permanent, negative impacts.

Often, when considering a proposal to allow coal mining on their property, landowners will contact the LRD and ask for a reference or recommendation regarding the trustworthiness and competency of the operator. For a wide variety of reasons, primarily differing site conditions,

individual landowner desires and legal constraints, neither the LRD, OSM or any other office will be able to recommend one operator over another. These agencies can, however, answer many other questions and provide significant information allowing a landowner to make an informed decision. Listed below are some guidelines one may wish to consider.

- Get knowledgeable and competent legal assistance before engaging in any negotiations. A coal lease and “right of first refusal” are legal documents prepared by attorneys for the coal companies. To protect themselves and their property, landowners are strongly encouraged to seek legal assistance. Attorneys who understand both the coal business and the landowners’ point of view, are a valuable resource. *The Land Reclamation Division has no authority to enforce or settle disputes concerning lease agreements. These are binding legal documents which are the jurisdiction of civil courts.*
- ask the operator for a tour of land viously mined and reclaimed by that company.
- Ask the operator for a list of landowners who have allowed their land to be mined by this same company.
- Visit the LRD Springfield central or Benton field office and review any previous and/or existing permits of the operator. These documents will demonstrate the compliance and reclamation history of an operator. LRD staff are available to review and explain the documents with any interested party.

Several Illinois operators have received awards for doing some of the best reclamation in the nation. Good reclamation is the result of research, fore-thought and planning by the landowner and good mining operation by the coal operator. In other words, a good mining operation should produce good reclamation. Good mining



The landowner needs to make sure they are familiar with the regulations and the operator to avoid misunderstandings after mining.

and reclamation operations look beyond the immediate process to the future sustainability, productivity and profitability of the land.

Although money is important and is often emphasized in negotiations for a coal contract, it is by no means the only consideration. The future well-being of the land is no less important. In fact, no amount of money received can overcome a poor job of mining and reclamation. Therefore, it is important for landowners to specify in the lease any particular reclamation the landowner might desire such as soil thickness, amount of cropland restoration, erosion control structures, ponds, etc.

However, the landowner should be aware that the LRD *does not* have the authority to enforce lease agreements that are more stringent than Illinois mining law. Lease disagreements must be resolved in civil court. Landowners who approach this endeavor in a careful and deliberate manner will find themselves amply rewarded for all the time, effort and expense involved.

The Role of the Land Reclamation Division

The Illinois Department of Natural Resources - Office of Mines and Minerals- Land Reclamation Division is responsible for regulating the mining of coal and the restoration of lands

disturbed by coal extraction. This program oversees permitting, mining operations and reclamation for all operating coal mines in Illinois.

Further information may be obtained at each of the following addresses and telephone numbers:

IDNR-OMM
Land Reclamation Division
503 East Main Street
Benton, IL 62812
Phone (618) 439-9111
Fax (618) 435-6801

IDNR-OMM
Land Reclamation Division
524 South Second
Springfield, IL 62901-1787
Phone (217) 782-4970
Fax (217) 524-4819

The Role of the Office of Surface Mining (OSM)

OSM monitors implementation of the Illinois program to assure adequate permitting, inspection, and enforcement operations. This monitoring is conducted on a continuous basis through sample reviews of state actions on permits, inspections, citizen complaints, etc. OSM will also respond to written complaints from individuals after reviewing state actions. At the end of each year, OSM issues an annual report for the results of their oversight of the Illinois LRD's implementation of the approved program.

Further information on OSM activities in Illinois may be obtained at the following address and phone number:

Office of Surface Mining
575 North Pennsylvania Street
Minton-Capehart Federal Bldg., Room 301
Indianapolis, IN 46204
Phone (317) 226-6700
Fax (317) 226-6182

The Role of the Natural Resource Conservation Service (NRCS)

The NRCS is the federal agency responsible for the development, distribution and maintenance of soil surveys. The NRCS, in cooperation with other federal and state agencies, publishes soil surveys which provide descriptions of soils and mapping units. The NRCS also provides a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland descriptions. The NRCS reviews and comments on the proposed methods of soil reconstruction on prime farmland areas. The NRCS also is responsible for the development of specifications which will act as guidelines for prime farmland soil removal, storage, replacement, and reconstruction during each phase of coal mining.

The Role of the Illinois Department of Agriculture

The Illinois Department of Agriculture (IDOA) is responsible for reviewing mine permit applications on soil and agricultural issues and providing comments to LRD during the review period. Yield testing of cropland and hayland is typically done by IDOA representatives or persons under contract to them. The IDOA is also responsible for the gathering of annual county wide yield statistics which are used to adjust target yields to measure crop restoration success.

What is Prime Farmland?

Prime farmlands are those lands, as determined by the NRCS, having the best combination of physical and chemical characteristics for producing food, feed and forage. Additionally for SMCRA purposes, these soils must have been historically used for crop production to be considered as prime farmland. State and federal law requires a minimum of 48 inches of soil (topsoil and subsoil) be removed, stored and replaced on all prime farmland areas.

The operator must restore prime farmland to 100% of its pre-mining level of productivity for a minimum three (3) years of the responsibility period.

What is High Capability Land?

High Capability Lands are those lands which do not meet the requirements of prime farmland, yet are capable and suitable for crop production. These include land classified by the NRCS as being in capability class I, II, III, and IV (less than 5% slope) and also includes those prime farmland soils exempted from the prime farmland standards. The law requires that for these lands the land must be reconstructed by replacing sufficient soil to restore the land to its premining capability. Presently, in Illinois a minimum of 8 inches of topsoil and a total of 48 inches of topsoil and rooting medium must be replaced. Be aware that the term "rooting medium" may include a mixture of subsoils. High capability cropland must be restored to 90% of original productivity for a minimum of two years. Not all high capability land is reclaimed to cropland use even though the soil replacement requirements are unchanged. Land uses may include pasture, forest, and wildlife habitat.

What is Limited Capability Land?

Limited capability land, also known as non-cropland capability or low capability land are those lands other than prime or high capability. They are typically the steeper or significantly eroded soils pre-mining. These lands are typically reclaimed as water, forest, or wildlife habitat, even if they have been cropped pre-mining. The topsoil or a topsoil substitute of equal quality is replaced over a mixture of rock and soil capable of supporting the post mining vegetation. They are not reclaimed capable of growing row crops due to the slope and soil quality.

Prime Farmland Exemptions

When the NRCS determines that lands within the permit area are designated as prime farmland (PFL), the coal operator may get an exemption from prime farmland standards in one of two ways. First, the operator may request a "negative determination" requiring a demonstration that the land has not been historically used for cropland. This means that the lands have been used for cropland less than five years out of the ten years prior to acquisition for surface coal mining and reclamation operations. Other negative determination options are to demonstrate that the slope of the land is 10% or greater, the surface is very rocky, or the land is flooded during a growing season more than once in two years.

Secondly, the operator may demonstrate that the prime farmland areas are eligible for "grandfathering". This applies to an operation which was operating on August 3, 1977 and has held continuous permits since that date.

Once the land is exempted from meeting PFL standards it becomes subject to the standards of High Capability Land.

Bond Release

Prior to mining, the operator is required to provide a performance bond for the area within the permit upon which the operator will conduct mining and reclamation operations. The bond will range from a minimum of \$10,000 to several millions per permit. The final amount is calculated by the Division based upon the difficulty of reclamation should the operator fail to fully or properly restore the land and the State must complete reclamation. This bond shall be for the duration of the surface mining and reclamation operation plus an extended period of liability.

The period of extended liability starts after the last year of seeding, fertilizing, irrigation, or other work and continues for not less than 5 years.

The LRD may release bond in whole or in part (called phases), when the operator demonstrates the reclamation covered by the bond has been accomplished as required and public notice requirements have been met.

When an operator completes the backfilling, regrading, topsoiling, and drainage control of a bonded area according to the reclamation plan, as much as 60% of the bond may be released (Phase I). After revegetation has been established on the regraded mined lands, as much as 25% of the bond may be released (Phase II). For PFL, all productivity requirements must be met before Phase II can be released. Release of the remaining portion of the bond occurs when an operator has successfully completed all remaining surface mining and reclamation requirements (Phase III).

Landowners and adjacent landowners will be notified and may provide input at each stage of bond release. The LRD must conduct, in a timely manner, an inspection and evaluation of the reclamation work involved. The LRD will notify the surface owner, agent or lessee prior to the inspection.

The LRD will evaluate compliance with the approved plan including:

- restoration of the approximate original contour
- soil replacement thickness
- crop productivity records
- number of living trees or shrubs present per acre (if applicable)
- erosion control
- water quality (ground and surface water)
- plant coverage and type
- impoundment designs

Any landowner, coal operator or other potentially adversely affected party may request a review and hearing on the LRD's bond release decision before a Hearing Officer. If a party

continues to disagree, judicial review may be sought.

The landowner needs to be aware that achieving productivity may take a number of years after mining. Typically the soil is replaced the year after mining, then it is seeded to wheat or pasture grass. It may undergo one or two years of land leveling. Most areas are then deep tilled before productivity testing starts. The operator must make three successful yields, (two for high capability land) within a ten year window. One of the successful yields on cropland must be corn.

The landowner also needs to be aware that current regulations do not require an operator to request bond release even though the land may be eligible. This may affect landowner access to the land, depending on the terms of the lease. In addition, the operator may wish to retain the area under permit to facilitate access to additional mining areas.

The landowner also needs to be aware that the regulations place the responsibility of achieving the required productivity on the permittee. The Department cannot require that the permittee use the landowner to do the actual farming.

The landowner also needs to be aware that crop share agreements with the permittee are part of the coal lease and not part of the permit or subject to the jurisdiction of the LRD.

III. Mining Operations and Reclamation

Mine Operations Plan

The mine operation plan details the operator's proposal for mining coal. A description of the mining operation to be conducted, proposed life of the mine, and the information to demonstrate that the reclamation can be

accomplished must be included in the mining operation plan.

The LRD reviews a mining application for an operator's technical, legal and financial ability to complete mining and reclamation as described. No mining may begin, however, until an operator has received all applicable approvals, including the landowner's consent. This consent is part of a coal lease.

The actual mining process and techniques used to extract coal are proposed by the mine operator and must be approved by the Department prior to implementation.

Soil Removal and Storage

Before mining begins, operators must plan for the replacement of topsoil and subsoil after the coal has been removed; details involving the removal, storage, replacement, and protection of the topsoil and subsoil from wind and water erosion are listed in the mine operation plan. Topsoil, which is removed in a separate layer from areas to be disturbed, is immediately re-distributed or stored on approved locations

Operations usually occur in the following manner. Scrapers remove the topsoil. Scrapers or a combination of hydraulic excavators and trucks remove the subsoil and directly redistribute it on graded overburden or stockpile it for replacement after mining. Seeding and mulching protect the



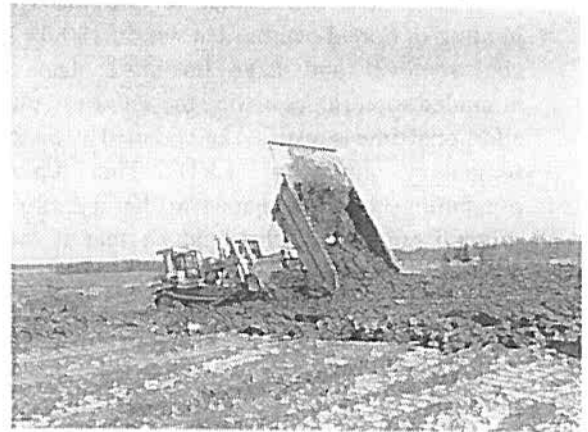
...moved to a separate location within the permit area...

topsoil from wind and water erosion. Stockpiles are marked as being topsoil or subsoil and protected with a cover of vegetation.

Careful handling of the topsoil and subsoil is crucial for reclamation because this is the medium in which the success or failure of plant growth on the reclaimed site is determined. The replaced soil profile on areas designated as prime farmland and high capability land must be a minimum of 48 inches including topsoil and subsoil.

Overburden Removal and Placement

... or replaced immediately. Replacing and grading the soil as quickly as possible enhances post-mining productivity.



After the loose soil materials and rocky overburden are removed, the coal seam is finally exposed and ready for extraction.

After the coal is removed, the coal operator places the rocky material in the bottom of the pit. Overburden can contain layers with pyrite, which when exposed to air and water, can produce acid. Mixing these layers and burying them with neutral materials in the pit, prevents acid production by blocking exposure to oxygen.

To assure that a suitable root medium is available for cropland capability, during

reclamation the subsoil layers are placed on top of the graded overburden.

Mine Reclamation Plan

A mine reclamation plan will show how overburden will be graded, subsoil and topsoil replaced and revegetated and the post mining land uses accomplished. Carefully shaping the material assures proper grade, slope, and contour design. Throughout the reclamation process, coal operators must meet detailed requirements including a timetable for the completion of each step.

Grading and Soil Replacement

Operators must plan to provide rough grading of mined overburden within 180 days of coal removal and have no more than four ungraded spoil ridges behind the active pit, unless additional time is justified and granted by the state regulatory authority, LRD. The replaced overburden must be shaped to the approximate original contour of the land so that it drains properly and the natural pre-existing drainage patterns are reestablished. Operators must grade materials from the initial pit or box cut to blend with unmined land. The landowner should be aware there is typically a raise in elevation of the mined ground due to the "swell factor" caused when the rock overlaying the coal is broken up during mining.

Operators must complete the final grading in a timely manner; usually by the fall of the year following mining. This includes any subsoil or topsoil replacement and installation of erosion control measures such as terraces, diversions, grass waterways, and drains.

After the subsoil is replaced on prime or high capability land, Land Reclamation Division specialists check for proper quality and thickness. Operators must attempt to grade replaced soil in a manner which limits compaction. The type of equipment, as well as the soil moisture content

during removal and replacement, many times will determine the productivity of the reclaimed land as they determine the physical properties of the reclaimed soil. Many operators are now using small excavating shovels in combination with end-dump trucks. This method of reclamation has resulted in less compaction of the soil materials. Compaction at any depth in the rooting media will reduce the crop yields. Loosening the deep subsoil by ripping it to depths as much as 48 inches alleviates compaction of the replaced subsoil. Planting grasses and deep rooted legumes also helps alleviate compaction through the action of root penetration.

Post-Mining Land Use

The operator must describe all land uses planned after mining, taking care to balance restoration of the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining. Where feasible and desirable, a higher and better use than previously existed may be provided. All restored prime farmland must have a post mining land use of cropland. Not all high capability land is reclaimed to cropland use even though the soil replacement requirements are unchanged. Land uses may include pasture, forest, and wildlife habitat.

Any changes from the pre-mining land use must be approved by the LRD. To change how the land will be used following mining, the operator must file an alternative land use proposal in the reclamation plan portion of the permit application. Landowners are notified of the proposed change(s) and are permitted to comment on any such proposals. The post mining land use and changes to the post mining land use are generally determined by pre-mined soil capability, pre-mine land use, landowner's preference, and local citizen and government priorities, policies, and mining technique used. The operator's reclamation plan includes comments from landowners and State and local government agencies responsible for approving or authorizing the resulting land use. Also submitted is a

discussion of the reclaimed land's capability to support a variety of alternative uses.

Coal operators may construct permanent water impoundments within the mined area, if the alternative land use proposal has been approved or if a water land use existed prior to mining, however all acreage of prime farmland must be replaced. An operator proposing to relocate prime farmland due to a water impoundment must have landowner consent. This is the only situation under the regulations where the landowner has the final say in post mining land use of their property.

Landowners should be aware that the shape of farm fields and other land uses will not be the same shape as existed pre mining. In most cases the shapes of the different land uses will be more uniform. Also even though an individual pre mining farm field is composed of prime and high capability land, it will be tested separately for reclamation success according to the productivity of the prime and high capability soils in the mining pit.

Productivity

Reclamation plans must give details on any chemical analysis of topsoil to be performed to aid vegetation establishment. Coal operators apply fertilizer or soil amendments as needed.

Most plans provide for a temporary cover crop of wheat, oats or sudangrass followed by a grass-legume mix for several years on reclaimed land to prevent soil erosion and begin to build the soil structure. In addition, many operators initiate a deep tillage operation to remove soil compaction. After this period, and before the company's reclamation responsibility starts, vegetation is established that is consistent with the post mining land use plan. In addition, for prime farmland, operators must establish row crop production.

A whole field harvest or a random harvest of the field are the most common methods used to

verify the success or failure of the vegetative growth. Yield testing is typically done by representatives of the Illinois Department of Agriculture or persons under contract to them. In addition to proof of productivity, ground cover surveys of the vegetation are used on land uses other than row cropland.

A five year vegetation liability period begins when all grading is completed and the land is planted to a crop capable of supporting the post mining land use. For prime farmland, the operator must show full restoration of 100% of the original unmined land productivity using typical crops (e.g. corn, soybeans, wheat) for a minimum three crop years of the responsibility period, which is a minimum of five (5) years. A minimum of one of the successful crops must be corn. A maximum of one year of hay and wheat each is also allowed.

High Capability Land with a post mining land use of cropland must be restored to 90% of



Deep tillage, sometimes to 48 inches, has been shown as a long lasting way to remove compaction

the original productivity for two (2) years of the responsibility period. One of these successful crops must be corn. Post mining land uses of forest and wildlife must show growth of 450 trees or 250 trees and shrubs per acre, respectively at the end of the responsibility period.

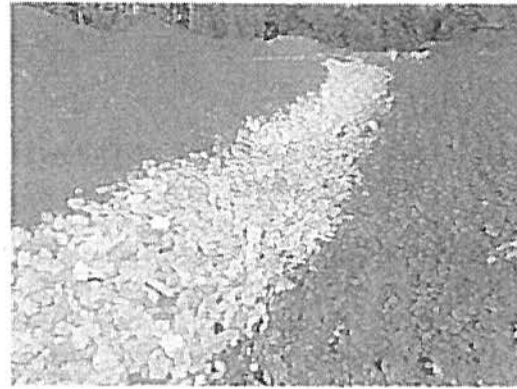
IV. Use and Management of Reclaimed Soils

Soil profiles developed under natural soil forming conditions have fairly predictable layers. Natural soil forming processes cause structure, pores and rooting zones to develop.

There are two main groups of soils mined in the state. Soils formed under forest vegetation occur in both the western and southern mining regions. These soils have light brown topsoil and subsoils with less than ideal physical and chemical characteristics. Soils formed under prairie vegetation have much thicker and much darker brown to black topsoil. The subsoils are more favorable both physically and chemically for root growth than those of forest soils. These soils are much more productive than the forest soils.

Mining and reclamation activities disrupt the soil structure or physical condition of the subsoil. After subsoil replacement the soil forming processes, pores and channels due to plant root and animal action begin to redevelop. This is a slow process. Reclaimed soils have a weak or nonexistent soil structure and more variable texture. Many of these problems are related to compaction in the reclaimed soil. Reclamation practices and moisture content at the time of soil placement greatly influences the degree of compaction.

Compacted layers limit rooting depth, reduce permeability and increase soil moisture problems. Soil moisture is most likely to be a problem in flatter landscapes and swales where compacted layers underlie a layer of more permeable soil material. Thickness of the compacted layers range from a few inches to a few feet and the compacted layer occurs anywhere from the surface down. The degree of compaction may range from slight to totally root restrictive. Compaction may occur in all soil textures, even those thought to be most desirable for plant growth such as loam and silt loam.



The success of erosion control measures will vary with different sites and must be carefully planned during reclamation.

One of the most beneficial practices to alleviate compaction is deep tillage. The depth of deep tillage may be up to 48 inches. Tillage devices include chisels and deep rippers. This equipment is most effective in breaking up compacted layers when the soil is dry. Another practice to alleviate compaction is the planting deep rooting legumes such as sweet clover and alfalfa. These practices accelerate the rate of subsoil structure development.

Erosion and Sedimentation

Planning for erosion control on reclaimed land may be more difficult than for areas on natural landscape because specifications and standards for erosion control practices are based on natural landscapes and soils. Reclaimed soils are typically more erosive. Factors which contribute to this problem are:

- Slowly permeable, compacted layers cause the upper soil layers to be saturated and more susceptible to detachment by moving water.
- Slopes are often longer and more uniform than non-mined areas. Slightly and moderately developed drainage patterns common to unmined areas are not common to reclaimed soils. Also reclaimed soils do not have the benches and flats typical of many natural landscapes. Gully erosion may be less on reclaimed areas but sheet and rill

erosion may increase in reclaimed areas.

- Structure is less developed in the reclaimed soils.

Sediment deposition patterns are often different in reclaimed areas than in natural landscapes. The LRD does require the operator to address erosion control practices. The LRD allows the operator to design and install erosion control systems in consultation with the NRCS in lieu of submitting plans to the LRD. Most operators use this procedure to meet their requirements. The use of standard erosion control practices such as cover crops and crop residue management after topsoil replacement are initially more critical on reclaimed land until soil tilth and soil/water infiltration relationships can be established.

Assessment of Reclaimed Land

Farmland is assessed in Illinois based on the soil map unit assigned to it by the NRCS. The higher the productivity of the map unit, the higher the assessed valuation. All of the minesoil map units in use today were developed over twenty years ago, prior to the current reclamation practices, particularly, deep tillage. The development of new updated soil series is a lengthy process which has not occurred to date. As a result, cropland reclaimed in recent years are classified using the older less productive minesoil map units, thus the assessed valuation is not representative of the restored productivity. For more information contact the NRCS or the LRD.

The landowner should be aware that the party that pays the property taxes while the area is under permit is dealt with in the coal lease, not the permit, and is outside the jurisdiction of the Department.

V. Frequently Asked Questions and Their Answers

1) If I was growing corn on my property before the land was mined, will I be able to grow corn on it afterwards?

Yes, if the land is classified as prime farmland. In most cases, high capability will also be returned to cropland if it was cropped before mining.

2) Can I see the coal operator's plan?

Yes. Once the complete permit application has been submitted it is public information. Copies can be reviewed at the county clerk's office in the county where the operation is located or the Land Reclamation Division of Reclamation office in Benton or Springfield.

3) How much am I allowed to participate in the permit review process?

Public participation is encouraged throughout the permit review process. In fact, public participation is encouraged from the permit process through the actual mining of the coal and reclaiming of the land. Comments are solicited from the landowner during the application process if an alternative land use is proposed. If you have any concerns or questions at any point, you are asked to contact the Land Reclamation Division.

4) Where can I get more information?

As previously indicated, all phases of the mining operation are monitored by the Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division. Professional staff in the Springfield Central Office or Benton Field Office are always available to answer general mining questions or specific questions about a mine in your area. Call (217) 782-4970 or (618) 439-9111, write or visit the office.

5) Can the LRD or OSM force a coal operator to comply with a lease agreement?

No. Individual citizens and lessors of land to be mined should be aware that the LRD has no jurisdiction over terms of a coal mine lease that are not specifically addressed by Illinois mining and reclamation law, regulations or in the approved permit.

6) If a coal operator mines on my property, do I have to approve the reclamation of my land before bond is released on my land?

No. Bond release is not dependent upon the approval of the individual landowner or concerned citizen; however, the landowner will be contacted and asked if he or she wishes to accompany the inspector during the bond release inspection. Their comments are taken into account when determining whether the land meets the success requirements of law. If an operator wishes to request bond release in phases, this may occur as many as three times for the same property.

VI. Glossary/Keywords

acid-forming materials: earthen materials that contain sulfide minerals or other minerals which, if exposed to air, water, or weather processes, form acids that may create acid mine drainage.

affected area: any land or water upon or in which mining activities are conducted or located.

A horizon: the topsoil, the uppermost mineral layer and the part of the soil in which the organic matter is most abundant and where the leaching of soluble or suspended particles is typically the greatest.

applicant: any person seeking a permit or exploration approval from the Division to conduct mining and reclamation operations.

approximate original contour (AOC): the surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area closely resembles the general surface configuration of the land prior to mining.

B horizon: the mineral layer that is typically immediately beneath the A horizon. The B horizon commonly contains more clay, iron, or aluminum than the A horizon or C horizon.

C horizon: the deepest layer of the soil profile and consists of loose material or weathered rock that is relatively unaffected by biologic activity.

coal seam: a bed or stratum of coal usually about 2-6 feet thick in Illinois.

compaction: process by which soil grains are rearranged to reduce void space and bring them into closer contact with one another, thereby increasing the bulk density.

compliance: conducting extraction and restoration activities in accordance with terms and conditions established by law.

DNR: Illinois Department of Natural Resources.

diverse vegetation: two or more plant species that provide effective and permanent vegetative cover, compatible with the post mining land use, soils and climate.

gob: rock or other coarse materials sorted out of the coal either during mining or processing.

graded overburden: all of the leveled soil and rock that lies above the coal seam.

grandfathering: a demonstration by the coal operator that an area of prime farmland should be exempt from prime farmland restoration standards because the areas were in operation prior to the Surface Mining Control and Reclamation Act of 1977 and have had continuous permits since that date.

ground cover: the area of the ground which is covered by the combined aerial parts of the vegetation and the litter that is produced naturally onsite, expressed as percentage of the total area of measurement.

historically used for cropland: lands that have been used for cropland for any five years or more out of the ten years immediately preceding the acquisition, including purchase, lease, or option, of the land for the purpose of conducting or allowing through resale, lease, or option the conduct of surface coal mining and reclamation operations.

LRD: Land Reclamation Division; one of the divisions of the Office of Mines and Minerals of the DNR. Regulates the mining and reclamation activities for the extraction of coal and oversees the restoration of land mined for coal, but abandoned prior to full and complete restoration.

land use: specific use or management-related activity, rather than the vegetation or cover of the land. The categories of land use are cropland, developed water resource, fish and wildlife habitat, forestry, industrial/commercial,

pastureland (or land occasionally cut for hay), recreation, residential, and undeveloped land.

limited capability land: land other than prime farmland or high capability land, also known as non-cropland or low capability land. Typically the steeper more eroded soils pre mining.

litter: the detached recognizable portions of the plants under evaluation that cover the ground surface.

mulch: vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing conditions suitable for seed germination and growth.

Natural Resources Conservation Service: U.S. Department of Agriculture's Natural Resources Conservation Service. Federal agency that reviews all plans of restoration of prime farmland. This agency conducts all soil survey activities. Formerly known as the Soil Conservation Service.

negative determination: a demonstration by the coal operator that an area of prime farmland should be exempt from prime farmland restoration standards because of one of the following reasons: 1) the land has not been historically used for cropland (less than five years out of the ten years prior to acquisition for surface coal mining and reclamation operations, 2) the slope of the land is 10% or greater, 3) the surface is very rocky or 4) the land is flooded during a growing season more than once in two years.

Office of Mines and Minerals: one of the offices of the DNR. Regulates reclamation of mined ground, mine safety, blasting, oil and gas production, and the reclamation of lands mined before the advent of reclamation laws.

Office of Surface Mining, Reclamation and Enforcement (OSM): U.S. Department of the Interior's Office of Surface Mining Reclamation and Enforcement. Federal agency that oversees the work of the state permitting and enforcement agency.

operator: any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from refuse piles within 12 consecutive calendar months in any one location.

overburden: all of the soil and rock that lie above the coal seam.

pH: a symbol for the degree of acidity or alkalinity of a solution. pH values from 0 to 6.5 indicate acidity and from 7.4 to 14 indicate alkalinity. A solution with a pH of 6.6 to 7.3 is considered neutral.

performance bond: surety bond, certificate of deposit, letter of credit, cash, or a combination thereof, by which a permittee assures performance of all the requirements of the permit and reclamation plan.

permit: authorization to conduct surface coal mining and reclamation operations issued by the Division under the State program.

permit area: the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Division. This area shall include all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit.

post mining land use: use of the land after mining. The mined land must be reclaimed to the use approved by the LRD in the permit application and agreed upon by the landowner in the lease agreement with the operator.

primacy: Term for the State's authority to regulate coal mining and under SMCRA. Illinois' Land reclamation Division gained authority to administer federal mining and reclamation law on June 1, 1982.

prime farmland: lands as determined by the U.S. Secretary of Agriculture (NRCS) and which have historically been used for cropland.

reclamation: actions taken to restore mined land as required by regulations to a post mining land use approved by the LRD.

reclamation specialists: staff members of the LRD that review permit applications, conduct inspections for bond release, and ensure enforcement of detailed performance standards of all phases of mining and reclamation.

regulatory program: any approved state or federal program.

revegetate: the act of planting reclaimed land with grasses, trees, crops, etc.

rooting medium: the subsoil or mixture of subsoil and substratum that meet the quality requirements of prime or high capability reclamation standards.

soil amendments: additives to the soil to enhance plant growth, such as fertilizer or agricultural lime.

soil horizon: each contrasting layer of soil parallel or nearly parallel to the land surface. Each soil horizon is differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are the A horizon, the B horizon and the C horizon.

soil productivity: the capability of a soil for producing a specific plant or sequence of plants under a physically defined set of management practices.

soil survey: a field and other investigation resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies and interprets such soils for use. A soil survey must meet the standards of the National Cooperative Soil Survey.

Soil and Water Conservation District (SWCD): a governmental subdivision of the state, organized for the purposes of carrying out erosion and sediment control activities within the county. To carry out these activities, the SWCD works in

cooperation with state and federal agencies with the consent of the land occupier.

spoil: overburden material removed from above the coal seam during surface mining.

spoil ridge: also known as "spoil bank." Designates the accumulation of overburden. The place on the surface where spoil is deposited.

subsoil: layer of soil beneath the topsoil. B horizon.

substitute soil materials: select overburden materials substituted for, or used as a supplement to, topsoil. The permittee must demonstrate that the resulting soil medium is equal to or more suitable for sustaining vegetation than the existing topsoil.

Surface Mining Control and Reclamation Act of 1977 (SMCRA): Passed by Congress to establish minimum national standards for mining and reclamation.

swale: a slight, open depression which lacks a defined channel that can funnel overland or subsurface flow into a drainage way.

topsoil: upper layer of soil, usually darker and richer than the subsoil; surface soil. A horizon.

