

IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT
LIVINGSTON COUNTY, ILLINOIS

PLEASANT RIDGE WIND ENERGY LLC)
)
Plaintiff)
)
v.)
)
LIVINGSTON COUNTY, ILLINOIS and)
LIVINGSTON COUNTY BOARD)
)
Defendants.)

FILED IN CIRCUIT COURT
LIVINGSTON COUNTY, ILLINOIS

OCT 09 2015

No. *Debra K. Bremer*
CIRCUIT CLERK

15-MR-142

COPY

**COMPLAINT FOR DE NOVO REVIEW, DECLARATORY JUDGMENT
AND OTHER RELIEF**

Now comes Plaintiff, Pleasant Ridge Wind Energy LLC (“PRWE”), by its attorneys, Jeep & Blazer, LLC, and for its Complaint against Defendants, Livingston County, Illinois (the “County”) and the Livingston County Board (the “County Board”), states:

Allegations Common to All Counts

Nature of the Action

1. This action is brought pursuant to §5-12012.1 of the Illinois Counties Code, 55 ILCS 5/5-12012.1, for *de novo* judicial review of the County Board’s arbitrary denial, in violation of PRWE’s due process rights, of a special use permit application (the “Application”) filed by PRWE in connection with the development of the Pleasant Ridge Wind Energy Project (the “Project”), a 134-turbine wind energy conversion project, proposed to be developed in the townships of Pleasant Ridge, Forrest, Fayette, Eppards Point, Indian Grove, Chatsworth, Charlotte, Belle Prairie and Avoca in the County.

The Parties

2. PRWE is a Delaware limited liability company with its principal place of business in Chicago, Illinois. PRWE is a subsidiary of Invenenergy Wind Development North America LLC.

Both PRWE and Invenergy Wind Development North America LLC are affiliates of Invenergy LLC (“Invenergy”).

3. Invenergy is a leading clean energy company focused on the development, ownership, operation and management of large-scale electricity generation assets in the North American, European and Asian markets. Invenergy’s electric generation assets primarily include large scale wind energy and clean natural-gas fueled electric generating facilities.

4. Invenergy is North America's largest independent wind power generation company. Invenergy has developed and placed into service over 58 wind projects across the United States and in Canada and Europe, totaling over 5,700 Megawatts (“MW”). Invenergy has developed more than \$8 billion worth of projects in wind, solar, natural gas and storage, with an associated equity of more than \$2.8 billion in these projects. This includes more than \$1.25 billion of wind, solar, natural gas and storage in Illinois, with an associated equity of more than \$350 million in these Illinois projects:

- a. Bishop Hill Wind, Henry County
- b. White Oak Wind, McLean County
- c. Grand Ridge Wind, LaSalle County
- d. Grand Ridge Solar, LaSalle County
- e. Grand Ridge Energy Storage, LaSalle County
- f. California Ridge Wind, Vermilion and Champaign Counties
- g. Nelson Energy Center, Natural Gas, Lee County

5. Founded in 2001, Invenergy has an excellent track record in the energy industry and a highly experienced management team. The members of Invenergy’s senior management team have an average of approximately 25 years of experience in diverse areas of the energy

market, including development, engineering, construction, finance, operations, asset management and energy trading and contracting. Invenenergy is headquartered in Chicago, Illinois and has North American regional offices located in Denver, Colorado and Toronto, Canada.

6. The County is a non-home rule county organized and operating pursuant to the provisions of the Illinois Counties Code, 55 ILCS 5/1-1001. Pursuant to 55 ILCS 5/5-12020, counties are empowered to establish standards and regulate the siting of wind farms in unincorporated areas, outside the zoning jurisdiction of municipalities. Pursuant to that authority, the County has adopted Part II, Chapter 56, Article VIII of its Code of Ordinances, governing the permitting of wind energy conversion systems (the “Wind Ordinance”).

7. The County Board is the County’s governing body, and is empowered to issue special use permits (“SUPs”) pursuant to 55 ILCS 5/5-12009.5. The County Board consists of 24 members, divided into three Districts of eight members each, Districts 1, 2 and 3. A map reflecting the geographic boundaries of the County Board Districts, and identifying the County Board members for each District, is attached hereto as Exhibit A.

Wind Energy Development in Illinois and the County

8. There are currently one or more wind energy projects operating in eighteen Illinois counties, including the County. The first utility scale wind farm began operation in Illinois in 2003. Illinois ranks fifth in the nation for installed wind capacity, with 3667 megawatts of power generated by 2245 wind turbines in 45 wind projects.

9. Pursuant to §1-75(c) of the Illinois Power Agency Act, 20 ILCS 3855/1-75(c), the Illinois state renewable portfolio standard (“RPS”) requires investor-owned electric utilities, and later alternative retail electric suppliers, to generate 25% of their 2025 electricity from renewable resources. The Illinois RPS is one of the strongest state standards in the country. Wind energy has

historically been the renewable resource chosen to meet RPS requirements, fulfilling 86% of RPS requirements through 2011.

10. Between 2009 and 2012, the County, through the County Board, approved SUPs for the development of three wind farms: (1) the Streator Cayuga Ridge Wind Project, a 150-turbine, 300 megawatt wind farm located approximately five miles south east of the center of Odell, Illinois; (2) the Streator Deer Run Wind Project, a 165-turbine, 346.5 megawatt wind farm proposed to be located in parts of Esmen, Newtown and Sunbury Townships; and (3) the Minonk Wind Farm, a 200 megawatt wind farm consisting of 100 turbines, 75 in Woodford County and 25 in the County. The Streator Cayuga Ridge and Minonk projects were built and have been operating in the County for several years. When the Streator Cayuga Ridge project reached commercial operation in March, 2010, it was the largest wind project in Illinois.

11. During the same period, the County Regional Planning Commission (“RPC”) also consistently found that wind energy projects are consistent with the County’s Comprehensive Plan. See, for example, August 4, 2010 RPC Report regarding the Streator Deer Run Wind Project, attached to PRWE’s Comprehensive Plan Compatibility Study, a copy of which is attached hereto as Exhibit B.

The Project

12. PRWE filed the Application with the County on August 20, 2014. PRWE thereafter refined the Project parameters and also determined that certain aspects of the Application required updating or supplementation. Therefore, on October 15, 2014, PRWE submitted supplemental information to the County, in accordance with §56-616(c) of the Wind Ordinance.

13. The Project would consist of up to 136 GE 1.79-100 or 1.72-103 wind turbines, generating up to 250 megawatts of power. Associated facilities would include graveled roads to

access each turbine and above and below surface electrical cabling to collect and transmit the power to a Project substation as well as a generator tie line to a Commonwealth Edison substation.

14. The Project encompasses an area of approximately 58,300 acres. Approximately 36,400 acres of land are under contract with landowners to host Project facilities. The area was selected based on wind resources, land use and proximity to existing transmission infrastructure.

15. Only a portion of the Project area would actually host wind power facilities. The land occupied by Project facilities would be less than one-half of one percent of the total participating Project area, assuming 136 turbines and associated access roads are constructed. The area of direct land use for the turbines and access roads would be approximately 123 acres, based on an average of approximately 0.90 acres of land for each turbine and associated 16 foot-wide gravel access road. Approximately 10 to 20 acres of land would be required for the operations and maintenance building and Project substation.

The ZBA Hearings and Recommendation

16. In accordance with 55 ILCS 5/5-12009.5 and 12020, the Application was referred to the County Zoning Board of Appeals (“ZBA”) for evidentiary hearings. Hearings commenced on November 17, 2014 and continued through June 4, 2015, encompassing 34 hearing sessions, a deliberative session and a formal decision session.

17. During the course of the hearings, PRWE presented evidence and testimony from eleven witnesses, including several experts in such varied fields as acoustics, neurology, epidemiology, biology, real estate and economics. The ZBA also admitted 234 exhibits tendered by PRWE into the hearing record.

18. PRWE presented direct and substantial evidence confirming that the Project met every requirement established by the Wind Ordinance and special use criteria, similar to the three prior wind projects that the County had previously approved.

19. Nevertheless, the ZBA, many of whose current members were also members when the prior wind projects in the County were approved, ultimately recommended that the County Board deny the Application. That recommendation ignored and was contrary to the substantial evidence that PRWE had presented. Examples include the following:

- a. On the issue of potential substantial negative impacts on real estate values, PRWE presented expert testimony and reports, resulting over 50,000 transactions, confirming no statistically significant negative impact on property values from wind projects. PRWE also submitted a survey of all of the County Assessors in all 18 Illinois Counties that host wind farms, including the County. The Assessors unanimously confirmed that there has been no negative impact on property values from wind turbines in any of their counties. In addition, PRWE established that a real estate witness presented by opponents to the Project had submitted false, and falsified, information to the ZBA. Nevertheless, during the deliberation session on June 2, 2015, Michael Cornale (“Cornale”), the Acting ZBA Chairman, ignored all of the evidence and stated that:

I always have been and will always continue to be, after hours of testimony from everyone, questioning property value. Statistics don't provide me with valuable property value guarantee -- property value conclusions. It just doesn't work. Home sales are the only thing that I feel are good indicators of property value.

- b. On the issue of the Project's operational compliance with noise limits established by the Illinois Pollution Control Board ("IPCB"), PRWE presented expert testimony and evidence from an experienced acoustical expert confirming that the Project would in fact meet those limits. Project opponents presented no expert testimony at the hearings to rebut the evidence that the Project would comply with noise limits. On the contrary, the County retained its own independent expert, Patrick Engineering, who issued a report confirming the Project's "full compliance with the IPCB regulations". Nevertheless, another ZBA member, Joan Huisman ("Huisman"), stated that:

The only other issue I had was regarding the noise section of our ordinance, the noise levels, and if I understood the testimony correctly, I think there's -- there are maybe just a handful of receptors that do not as predicted meet the Illinois Pollution Control Board standards which I think would be in violation of our own ordinance.

I'm not sitting here saying that I'm an expert on any of this stuff and that I have memorized verbatim what we were told or that I even got to read every piece of paper that we were handed. I might have read the front cover, but I didn't get through all of them.

20. There are numerous other examples of the ZBA's blatant disregard of the evidence. PRWE is informed and believes that this disregard results both from a failure to consider or read the evidence and, at least in part, from the decision by some or all of the ZBA members to recommend denial of the Application even before the hearings began.

The County Board's Decision

21. The County Board first met to vote on the ZBA's recommendation on June 11, 2015. A motion was presented to accept the ZBA's recommendation, which would result in a denial of the Application. In response to requests for clarification by some County Board members about the nature of the vote, the County Board Chairman, Martin Fannin ("Fannin"), repeatedly and correctly confirmed that a "yes" vote on the motion would mean that the ZBA's recommendation was accepted and the Application was denied. In total, Fannin provided 11 distinct confirmations of this guidance to fellow County Board members. Fannin and 11 other members voted against the motion. The resultant 12-12 tie meant that the motion failed for want of a majority.

22. A second motion was then presented to direct Fannin and the County's counsel to develop a set of special conditions that would be part of a motion to approve the Application at the County Board's next regular meeting. That motion passed by a vote of 14 to 10, with Fannin voting in favor.

23. The next morning, on June 12, 2015, mere hours after he had repeatedly and correctly instructed his fellow County Board members about the nature of the vote, Fannin was interviewed on a local radio program and, in a complete about-face, he claimed that he had had a "brain fart" when he voted, and that he had in fact intended to vote in favor of the ZBA recommendation. This was despite the fact that he had repeatedly explained the nature of the vote during the meeting.

24. The County Board next met on July 16, 2015. The same initial motion made at the June 11 meeting, to accept the ZBA's recommendation, was again made. Several members spoke before the vote. One of the members reminded the rest of "a basic premise of zoning decisions",

that, “Special uses are to be granted unless the applicant can’t meet the...ordinance.” Referring to opposition from some local residents, including efforts to influence County Board members, that same member stated that, “It’s not a referendum...This vote should follow the law...I can’t find significant or substantial deficiencies in the application.”

25. Nevertheless, by a 13 to 9 vote (with 2 members absent), the County Board now accepted the ZBA’s recommendation, resulting in a denial of the Application. Four of the 13 who voted with the majority, including Fannin, had previously voted in favor of the second motion made on June 11 – to authorize the preparation of special conditions as a precursor to an approval motion.

26. Apart from the ZBA’s failure to consider the evidence presented during the hearings, and its apparent pre-determination of its vote before the hearings began, a number of County Board members who voted to accept the ZBA’s recommendation did so for reasons having nothing to do with PRWE’s compliance with the requirements for issuance of a SUP. On the night of the July 16 vote, these publicly-stated reasons included:

- a. That “landowners who no longer want to participate can’t get out of agreements”; and
- b. Showing “respect to the ZBA’s recommendation”.

27. Beyond the foregoing, PRWE is informed and believes that several votes in opposition to the Application, as with the ZBA, resulted from factors having nothing to do with the evidence presented at the hearings.

28. PRWE is informed and believes that at least some of the negative votes resulted from intense political and/or personal pressure from local opponents to the Project, as reflected in

the comments in ¶23 above. PRWE is informed and believes that Fannin was one of the County Board members who succumbed to this pressure.

29. PRWE is also informed and believes that at least some of the negative votes resulted from lobbying efforts by one County Board member, Carolyn Gerwin (“Gerwin”).

30. Gerwin is a principal of an organization known as Illinois Wind Watch, the primary anti-wind organization in Illinois.

31. Gerwin is also a leading member of the Illinois Tea Party, whose platforms include rejection of evidence of climate change and the benefits of renewable energy, and opposition to the Federal Production Tax Credit applicable to the development of wind energy projects.

32. In her dual roles, Gerwin has been part of a nationwide campaign of anti-wind activism aimed at halting or impeding wind energy development. Examples of Gerwin’s anti-wind activities include the following:

- a. In 2011 Gerwin protested against wind energy at a wind forum in Champaign, Illinois. The protest was organized by Cindy Ihrke, a member of Energize Illinois, to oppose government initiatives to promote wind energy in Illinois. Gerwin and other anti-wind advocates protested at an Earth Day event hosted by Rep. Naomi Jakobsson and co-sponsored by the Sierra Club and Prairie Rivers Network.
- b. In 2012, Gerwin was one of 30 wind energy opponents who attended an anti-wind meeting in Washington DC organized by the American Tradition Institute. Other organizations that attended included Americans for Prosperity and American Legislative Exchange Council – both anti-wind entities funded by the Koch brothers. Participants included members of

conservative groups such as Committee for a Constructive Tomorrow and Tea Party Patriots.

Gerwin was quoted at the meeting as stating that, “Everybody is amateur and everybody is learning from the ground up and re-inventing the wheel and the discussion among some of us was as to whether or not we could be a little more efficient and share resources and information...I’d like to see us develop a nationwide network of wind warriors that can be mobilized on very short notice.”

- c. In April 2013 Gerwin submitted a letter to the Ways and Means Committee of the U.S. House of Representatives lobbying against extension of the PTC. Gerwin asserted that the PTC, and the wind industry in general, is the subject of “’green’ hype and relentless lobbying”, and that “the United States should stop wasting valuable resources on wind energy.”
- d. In September 2013, Gerwin submitted a post on Bloomington-Normal News Nobody Reports (BLNNEWS) where she referred to wind energy as a “horrendous waste of time and money”.
- e. In a newspaper article highlighting the 2012 election of the Livingston County Board, Gerwin referred to wind turbines as “get rich quick schemes”, and stated that she would not vote for any major new project that has not been approved by the public.

33. PRWE is informed and believes that, like the ZBA, Gerwin never intended to vote in favor of the Application, regardless of the evidence, and that she strenuously, and successfully, lobbied other County Board members to vote with her.

Count I – *De Novo* Review

1-33. PRWE adopts and realleges paragraphs 1 through 33 of the Allegations Common to all Counts as paragraphs 1 through 33 of this Count I.

34. 55 ILCS 5/5-12012.1(a) provides, in relevant part, that, “Any decision by the county board of any county, home rule or non-home rule, in regard to any petition or application for a special use, variance, rezoning, or other amendment to a zoning ordinance shall be subject to de novo judicial review as a legislative decision, regardless of whether the process in relation thereto is considered administrative for other purposes.”

35. 55 ILCS 5/5-12012.1(b) provides that, “The principles of substantive and procedural due process apply at all stages of the decision-making and review of all zoning decisions.”

36. The foregoing facts, among others, establish that the County Board majority’s ultimate adoption of the ZBA’s recommendation, and denial of the Application, was arbitrary, unreasonable, bears no substantial relation to the public health, safety and welfare, and violated PRWE’s rights to substantive and procedural due process.

Wherefore, PRWE prays for judgment in its favor as follows:

1. For a declaration that the County Board’s denial of the Application was arbitrary, unreasonable, bears no substantial relation to the public health, safety and welfare, and violated PRWE’s rights to substantive and procedural due process.; and
2. For such other relief as the Court deems appropriate under the circumstances.

Count II – Injunctive Relief

1-36. PRWE adopts and realleges paragraphs 1 through 36 of Count I as paragraphs 1 through 36 of this Count II.

37. The record from the ZBA hearings, including the findings and recommendations of the County's independent consulting expert, Patrick Engineering, confirms that PRWE complied with all of the requirements of the Wind Ordinance.

38. The County Board did not under those circumstances have the discretion to deny the Application, particularly for reasons having nothing to do with the evidence presented.

39. PRWE will suffer irreparable harm, and has no adequate remedy at law, if the County Board's denial of the Application is allowed to stand.

Wherefore, PRWE prays for judgment in its favor as follows:

1. For a mandatory injunction directing the County and the County Board to comply with its zoning standards, and specifically with the requirements of the Wind Ordinance, and approve the Application.
2. For such other relief as the Court deems appropriate under the circumstances.

Pleasant Ridge Wind Energy LLC

By: 
One of its attorneys

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EXHIBIT A



2015 County Board Members

- District #1**

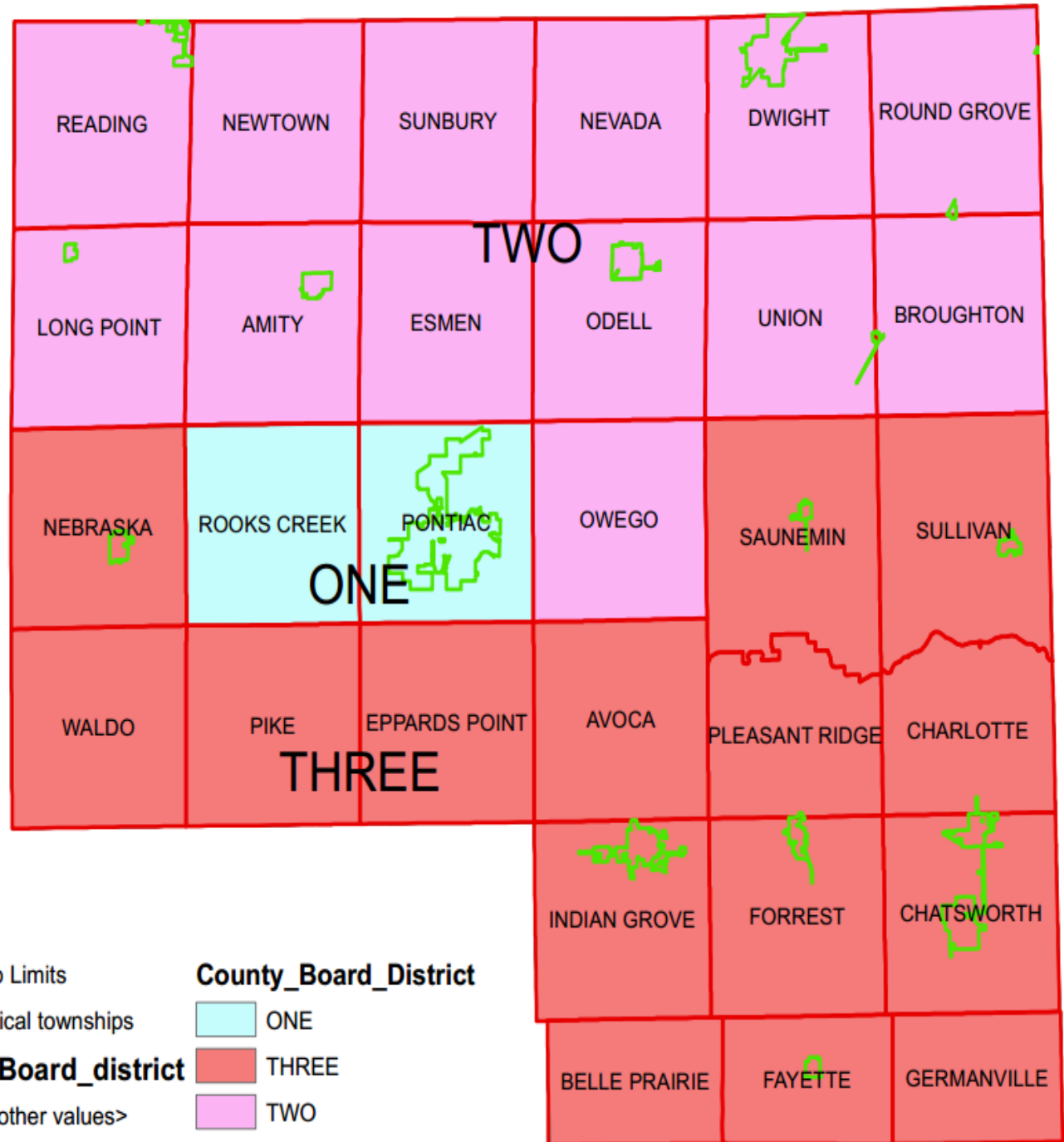
Kathy Arbogast
 James Carley
 Kelly Cochran-Cohlman
 Marty Fannin, *Board Chair*
 Carolyn Gerwin
 Mike Ingles
 William Mays
 John (Jack) Vietti

- District #2**

Jason Bunting
 William Flott
 David Heath
 Daryl Holt
 Ronald Kestner
 Joe Steichen
 Robert Weller
 Bob Young

- District #3**

Vicki Allen
 Justin Goebel
 William Peterson
 Paul Ritter
 Mark Runyon
 Tim Shafer
 Stanley Weber
 John Yoder



Legend

Corp Limits

Political townships

County Board district

<all other values>

County Board District

ONE

THREE

TWO

EXHIBIT B

**Comprehensive Plan
Compatibility Study
Pleasant Ridge Energy Project
Livingston County, Illinois**




Prepared for:
Pleasant Ridge Energy LLC
One South Wacker Drive
Suite 1000
Chicago, Illinois 60606

Prepared by:
Stantec Consulting Services Inc.
1165 Scheuring Road
De Pere, Wisconsin 54115

Project No: 193702946
November 12, 2014

Signatures

This document entitled Comprehensive Plan Compatibility Study, Pleasant Ridge Energy Project, Livingston County, Illinois was prepared by Stantec Consulting Services Inc. ("Stantec") for the account of Pleasant Ridge Energy LLC (the "Client") and the applicable regulatory agencies. Any reliance on this document by any other third party is strictly prohibited. The material in it reflects Stantec's professional judgment in light of the scope, schedule and other limitations stated in the document and in the contract between Stantec and the Client. The opinions in the document are based on conditions and information existing at the time the document was published and do not take into account any subsequent changes. In preparing the document, Stantec did not verify information supplied to it by others. Any use which a third party makes of this document is the responsibility of such third party. Such third party agrees that Stantec shall not be responsible for costs or damages of any kind, if any, suffered by it or any other third party as a result of decisions made or actions taken based on this document.

Prepared by 
Fay Simer, Planner

Reviewed by 
JoAnne J. Blank


Reviewed by 
David A. Rautmann, P.E.

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August 4, 2010 Determination by the County Regional Planning Commission

1.0 INTRODUCTION

Pleasant Ridge Energy, LLC (Pleasant Ridge), is proposing to develop a wind energy project, the Pleasant Ridge Wind Farm Project (Project) within Livingston County, Illinois. Pleasant Ridge requested that Stantec Consulting Services Inc. (Stantec) review the proposed project for compatibility with Livingston County's 2020 Comprehensive Plan (Plan) and the community goals expressed in the Plan. The Plan articulates a strong community desire to support and preserve the agricultural economy and way of life in Livingston County. A review and analysis of the proposed project confirms that the development of wind energy facilities such as proposed by Pleasant Ridge is consistent with the goals and objectives outlined within the Plan. Leases allowing placement of wind turbines and associated facilities on agricultural properties provide a stable revenue stream to the landowners while allowing agricultural practices to continue. This revenue promotes the continued existence of agricultural land use in the area and provides an opportunity to pass family farms along to future generations.

This report presents Stantec's review of the Plan's objectives and summarizes the conclusions drawn regarding consistency of the proposed Project with Plan objectives. The following documents were included in the review:

- Livingston County's 2020 Comprehensive Plan (adopted 2004)
- Livingston County Zoning Map and Zoning Ordinance
- Review of the preliminary Pleasant Ridge Wind Energy Application for Special Use including preliminary Project material and information such as Project maps, noise analyses, shadow flicker analysis, safety plan, decommissioning plan, and communications studies.
- Prior Livingston County action with respect to other wind energy project applications

2.0 PROJECT BACKGROUND

2.1 PROJECT DESCRIPTION

Pleasant Ridge, an affiliate of Invenergy, LLC (Invenergy) is proposing to construct and operate the Project in Livingston County (the County). The Project will consist of up to 136 GE 1.79-100 or 1.72-103 model turbines, generating up to 250 megawatts (MW) of power. Associated facilities include graveled roads to access each turbine and above and below surface electrical cabling to collect and transmit the power to a Project substation, as well as a generator tie line to a Commonwealth Edison substation.

The Project will be located in Livingston County, southeast of the City of Pontiac, Illinois and encompasses an area of approximately 58,300 acres. Approximately 36,400 acres of land are under contract with landowners to host Project facilities. The lands proposed to host wind turbines will continue to be actively farmed during operation of the wind farm. Wind turbines and access roads will directly affect approximately 123 total acres of land, which represents less than one-half of one percent of the total participating land within the Project area.

2.2 PROJECT LOCATION

The Project is proposed to be located in the northern portion of Livingston County, within the townships of Pleasant Ridge, Forrest, Fayette, Eppards Point, Indian Grove, Chatsworth, Charlotte, Belle Prairie and Avoca (Figure 1). The total land area of the County is approximately 668,200 acres (1,044 square miles), of which over 98 percent (656,275 acres) is considered farmland¹. The population density of Livingston County is 38 persons per square mile. It is historically one of the top five agricultural producing counties in the state of Illinois, with the second highest number of acres in soybean production².

The Project boundary encompasses an area of approximately 58,300 acres; approximately 98 percent of which is in agricultural land use (Figure 2).

The City of Pontiac is the Livingston County Seat and is located approximately 1.7 miles northeast of the Project area. The nearest turbine is more than four miles from the Pontiac city limits. The Town of Forrest is adjacent to the Project on the western side, and the Town of Chatsworth lies to the east of the Project.

Topography within the Project area is relatively flat and interspersed with small streams and drainage features. Small residential parcels and farmsteads dominate the landscape, with no large areas of developed lands. The Project area is substantially within unincorporated Livingston County. Pleasant Ridge has entered into a Cooperation Agreement with the Village of Forrest

¹ 2012 Census of Agriculture – County Data; USDA National Agriculture Statistics Service

² SOYILLINOIS – Livingston County, Illinois Statistics; Illinois Soybean Association (Source: USDA NASS-IL STATS 2007); http://www.ilsoy.org/_data/files/countystats/livingston.pdf

(Forrest), pursuant to which Pleasant Ridge has agreed not to erect any wind turbines within one-half mile of the Forrest Village Limits, and Forrest has in turn deferred to the County's zoning jurisdiction with respect to turbines between one-half and one and one-half miles from the Forrest Village limits. The Project therefore falls within the jurisdiction of the County's zoning requirements and land use plan. Other nearby communities include the Village of Strawn and the Town of Chatsworth. The Cities of Fairbury and Pontiac are within two miles of the Project boundary.

2.3 ZONING DESIGNATION

The Project area property is predominantly zoned "Agriculture" by Livingston County and planned for future "Agricultural" use. Wind energy conversion systems (WECS, or turbines) fall within Section 56-82 (35) "Special Uses" of the Agricultural District (Division 2) of the Livingston County Zoning Ordinance.

3.0 REVIEW OF LIVINGSTON COUNTY'S COMPREHENSIVE PLAN

The Livingston County Comprehensive Plan 2020 Update (revised 2004) identifies goals and objectives within seven categories: agriculture, residential, commercial and industrial, environmental and natural resources, open space and recreation, utilities, and transportation. This report summarizes these goals and assesses the effect of the Pleasant Ridge Project on these goals. In addition, we review elements of the Land Use Plan included in the Comprehensive Plan for consistency with the Pleasant Ridge Project.

The Plan purposes stated in Section 3.2 of the Plan are:

- to preserve prime farmland;
- to promote the wise and practical use of property;
- to save taxpayers money (through cost-effective allocation of public services and utilities);
- to maintain or improve the county's quality image;
- to preserve the county's natural resources;
- to build on the County's natural and economic assets; and
- to lead to improved land use regulations.

The Plan states that the three major land uses in the county's unincorporated areas are agriculture (largest land use), residential and open space. One of the Plan's primary goals is the protection of prime farmland. Section 3.5 of the Plan is devoted to the Land Use Plan. It reviews the county's seven major land use categories and discusses planning goals and objectives for each.

A summary of each land use category is provided below, along with an assessment as to whether the Pleasant Ridge Project will be compatible with the County's goals. The assessment concludes that the Project is consistent with the Land Use Plan and supports the overarching goals and objectives identified by the County in the Plan.

3.1 AGRICULTURAL LAND

Goals and Objectives: The County will strive to preserve the most productive and suitable land areas for agricultural and associated uses.

The Plan identifies eleven objectives that support this goal. These objectives emphasize the County's rural character; recognizing the importance of agriculture to the economy and as a way of life; encouraging agricultural use of prime farmland; the continuation of farming operations; and supporting preservation and expansion of agricultural related businesses.

Assessment:

The Plan emphasizes and promotes the protection of prime farmland, stating that conversions to other uses have the greatest impact on the area's rural character and the economic stability of the agricultural community. The majority of the Pleasant Ridge Project falls on land designated as prime farmland soils or soils of statewide importance according to the Natural Resource Conservation Service (NRCS) soil survey³. The construction of wind turbines and ancillary support facilities would utilize less than one half of one percent of farmlands within the Project area, leaving the remaining 99.5 percent for agricultural or other use.

Through a proposed Agricultural Impact Mitigation Agreement (AIMA) with the County, Pleasant Ridge proposes to ensure that it will mitigate damage to topsoil and to soil conservation practices (e.g. terraces) during Project construction. Excavated topsoil will be stored separately from subsoil and replaced following construction. Pleasant Ridge will address any drainage issues related to the Project within 45 days' written notice to landowners. Furthermore, all underground cables associated with the Project will be buried at least five feet deep within agricultural lands comprised of soils that are classified as prime farmland soils. Access roads will be constructed so as not to negatively impact surface drainage. Access roads are often advantageous to farmers providing easy access to remote areas of their properties.

The Project creates opportunities to preserve agricultural land use within the Project area by creating income-generating opportunities for farmers. The Plan states: "Agriculture is a key element in the County's economic base. The county will remain open to the enhancement of this key economic base considering property development that may be related to the processing of agricultural products [...] and possibly create jobs and income for Livingston County Residents." The County has affirmed through previous approval of other projects that wind energy use is consistent with and complementary to agricultural uses. Those prior projects include the existing Streator Cayuga Ridge South Project, and the Streator Deer Run Wind Farm approved in 2010. (See Appendix A, August 4, 2010 determination by the County Regional Planning Commission that the Deer Run Wind Farm was consistent with the Plan.) Lease payments from Pleasant Ridge to property owners may facilitate continued farming operations by individuals who otherwise could not afford to continue this use of their property.

The Project's use is consistent with the County's agricultural preservation goals through its limited impact on land use and the increased opportunity to sustain agricultural use on impacted properties. The proposed AIMA spells out measures to minimize the impacts on farmland, and support the economic vitality of this agricultural region.

3.2 RESIDENTIAL

Goals and objectives: The County will strive to provide opportunities for an adequate amount of housing to serve the diverse needs of residents and recognize that new residential development

³ Livingston County NRCS Soil Survey

should be encouraged in areas which can be served conveniently and economically by the appropriate service facilities.

The Plan emphasizes that development occur within or adjacent to existing population centers, that housing options be varied, and that new residential areas be free from incompatible land uses.

Assessment:

The Pleasant Ridge Project will have minimal impact on residential uses in the County. The Project is located on agricultural properties at least one and one-half miles from all population centers except Forrest, which has entered into a Cooperation Agreement as discussed above.

Residential setbacks required by the Zoning Ordinance will be met, in accordance with County regulations, according to information provided by Pleasant Ridge. The Project's final design will be in full compliance with the County's requirements.

3.3 COMMERCIAL AND INDUSTRIAL

Goals and Objectives: The County shall recognize that commercial and industrial land uses are a key element that foster a fiscally sound and balanced economy.

The Plan encourages a diverse mix of industries and businesses that provide a healthy tax base and employment opportunities; location of commercial and industrial activities into compatible, attractive and efficient industrial parks; and development within or in close proximity to existing population centers for availability of services and to minimize transportation needs.

Assessment:

The Project meets the objective of "promoting a diverse cross section of industries and businesses to provide a healthy tax base and employment opportunities." Wind energy offers a further diversification of the County's economic base and, according to information provided by Pleasant Ridge, the Project is anticipated to contribute millions of dollars in property taxes over the life of the Project. The Project is expected to generate up to approximately 180 construction jobs and 13 new locally-based long term operations and maintenance jobs for Livingston County. Further positive employment and economic impacts will be experienced as local spending increases.

The Project area contains minimal commercial/industrial properties or areas that are identified for future commercial/industrial uses. Construction and operation of the Project would not preclude development of commercial or industrial operations and would be consistent with the Plan.

3.4 TRANSPORTATION

Goals and Objectives: The County will strive to promote development of a diversified, integrated, economically feasible and efficient transportation network responsive to the County's needs.

The Plan supports coordinated transportation and land use planning, development of practical highway options, construction of new arterial and collector roads, and maintenance and expansion of existing facilities.

Assessment:

Construction and operation of the Project will not require new public roads. Roads within the Project area will be improved to handle the large and heavy loads required for construction of the Project. Once construction is complete, the Project is anticipated to create little demand on the public roads, as facilities require only periodic routine maintenance. Pleasant Ridge will acquire all applicable weight and size permits from relevant government agencies. Roadway Use and Repair Agreements will ensure that Pleasant Ridge repairs any damage to County or Township roads as a result of Project construction.

Our assessment is that the proposed Project would be consistent with the Plan's stated transportation goals.

3.5 UTILITY GOALS

Goals and Objectives: The County will promote the availability of utilities that are compatible with existing and future usage, as well as economically feasible and environmentally sound.

The Plan encourages the most efficient use practicable for existing utilities, encouraging the coordinated planning and development of water supply, wastewater, and other utility systems which are appropriate for existing and future development, and encouraging utility structures and lines in locations where they are most compatible with the surrounding land use and rural character of the county.

Assessment:

The Project will not place demands on existing utility infrastructure once operational. The turbines, themselves, do not require water or sewer service. The operations and maintenance building will require water, electrical and wastewater services. The Project will connect to an existing substation via an approximately nine-mile-long 345-kilovolt (kV) overhead transmission line. Pleasant Ridge has designed the Project to place the collection and overhead transmission lines to be compatible with the surrounding land uses, to the extent practicable. This includes placing the collector lines underground and buried to a depth of 60 inches in agricultural lands. According to Pleasant Ridge's draft design, the aboveground transmission line will be strung on wooden or steel single-pole structures, similar in appearance and routing of the telephone poles and other utilities currently within the Project area.

The Pleasant Ridge Project supports the Plan goal by increasing the availability of energy in a form that is compatible with the County's existing and future agricultural land use. Wind energy facilities are both economically feasible and environmentally sound; requiring minimal utility services and placing collector lines underground so as to not interfere with the agricultural land use. The Project design is consistent with the surrounding land use and rural character of the county.

3.6 OPEN SPACE AND RECREATION

Goals and Objectives: The County will promote retention of open space for a variety of uses such as recreation, wildlife habitat, historical and archaeological preservation.

The County will encourage preservation of open space, preservation of lands adjacent to floodplains and waterways for open space purposes, and preservation of historic sites and landscapes.

Assessment:

Open space is defined in the Plan as "land that is valued for natural processes and wildlife, for agricultural and woodland production, for active and passive recreation, and/ or for providing other public benefits." In addition to agriculture and industrial/business elements the County views the recreation/tourism industry as the third component of the County's economic development program. The County has developed a separate Trails and Greenways Plan with designated open space/ recreation areas. The Plan places a high priority on the floodplain areas along the Vermillion River and major creeks which traverse the County.

The lands within the Project area are primarily used for agricultural purposes and the terrain is relatively level; therefore the area does not contain many large forested or natural areas. The South Fork Vermillion River is located within the western portion of the Project area. The power collection system will cross the river; however, a horizontal directional drilling (HDD) method will be used to place the cables subsurface and thus avoid impacts to the river and immediate surrounding lands. Four cemeteries are located within the Project area. No turbines are proposed to be located nearer than 2,000 feet to the cemeteries.

Coordination with the Illinois Historic Preservation Agency (IHPA) is ongoing to ensure Project compliance with regulations to protect important historical and archeological resources. The Project will be constructed on agricultural lands; therefore minimal impacts to wildlife habitat are expected. Pleasant Ridge has conducted environmental studies, including wetland, waterway, avian, bat and biological assessments. Based on review of Pleasant Ridge documents, it is expected that impacts to woodlands, rivers, or other wildlife habitat will be minimal. The Project facilities are not located within floodplains. Our assessment concludes that the proposed Project will not conflict with the open space/recreation elements proposed throughout the County.

3.7 ENVIRONMENTAL AND NATURAL RESOURCES

Goals and Objectives: Preserve ecological integrity and foster the wise and beneficial use of land, air, and water resources in the County, thereby providing every resident a healthful, clean and attractive environment in which to live work and enjoy.

The Plan recognizes the importance of water resources, floodplain and stormwater management, wastewater management, rural landscapes, natural resources, and environmental incentives.

Assessment:

Wind energy increases the availability of power without releasing carbon emissions into the air or water. Wind farm operations require minimal natural resources. Although the Pleasant Ridge Project is spaced over a large geographic area, the footprint of each individual turbine covers only a small fraction of farmland.

This Project will utilize less than one half of one percent of agricultural land in the Project area; the remaining 99.5 percent of the land use will not change. This will help preserve the agricultural and rural nature of the area. Pleasant Ridge will manage stormwater as a resource on the site during construction, and use natural features, such as vegetated swales, to control runoff. Pleasant Ridge is developing a storm water pollution prevention plan (SWPPP) and will submit a stormwater permit application, including grading, construction and drainage plans, soils information, design features, a restoration and re-vegetation plan, surface disturbance minimization and storage/disposal of excavated materials. Best Management Practices (BMP) will be used during construction and operation of the Project to protect agricultural topsoil and natural resources and to minimize erosion during and after construction.

There are no wind energy facilities to be constructed in floodplains within the Project area. Due to the relatively level terrain throughout the area and the height of the turbines, wind turbines will be visible throughout the Project area, thus potentially altering the rural landscape. Areas affected include the farmstead residences that are voluntarily leasing their lands to bring renewable energy to the area and others living within or near the Project area.

The Project will create usable power from a clean energy source that has minimal impacts on natural resources. The Project is consistent with the goal to preserve ecological integrity and foster the wise and beneficial use of land, air, and water resources in the County. The Project will not significantly affect waterways or natural resource areas and does not pollute the air, groundwater, streams, and rivers. Therefore, this assessment concludes that the proposed Project will not conflict with the environmental and natural resources goal articulated in the Plan.

4.0 REVIEW OF CHECKLIST ANALYSIS FOR PROPOSED LAND USE CHANGES

The Livingston County Land Use Plan documents a 16-point analysis to ensure consistent evaluations of proposed land use changes in the County. We have evaluated each point in the checklist and offer the following responses:

- Does the land use change fulfill a significant need in the area?

This Project does not constitute a change in land use. Wind energy facilities are compatible with current agricultural land use and potentially represent an increase in the profitability of farmland. The Project site is currently in agricultural production and will remain so throughout the duration of this Project. The proposed special use is generally consistent with the primary goal of the Plan to preserve prime agricultural land.

- Will the land use change be beneficial to the general welfare, safety, and health of the residents of the immediate area and the general population of the County?

The Project area will remain in agricultural land use. However, the Project will generate additional tax revenue for the County and income for participating property owners, while allowing existing agricultural practices to continue. Pleasant Ridge has conducted numerous studies regarding health and safety impacts to Project area residents. The Project will comply with Illinois Pollution Control Board (IPCB) regulations regarding noise. The Project will comply with County setbacks as set forth in Article VIII of the County Ordinance. The Project was designed to avoid existing microwave paths and therefore impacts to communications are expected to be minimal. Pleasant Ridge will work to remedy any unexpected communication issues attributable to the Project.

- Will the land use change constitute a precedent of an incompatible use and be a detriment to adjacent property?

The proposed Project is compatible with the current Agriculture zoning and will not affect the agricultural land use of adjoining properties. The presence of the wind turbines will not prevent participating landowners from running fully operational farms as only the land occupied by the turbine footprints would be taken out of production. The turbine and access road footprints are extremely small when compared to the Project area, as a whole (less than one half of one percent).

- Will the land use change create an isolation of the specific land use?

The Project would not isolate any land parcels or any specific land use. Agricultural production is expected to continue within the Project area during construction and operation of the wind farm.

- Will the land use change adversely influence living conditions due to the creation of a new pollution source?

Operation of wind turbines would not result in discharges of air or water pollutants. During construction, BMPs will be used to protect topsoil and to minimize soil erosion and sedimentation. Studies on the effect of noise, shadow flicker and communication obstruction indicate that the effects will be minimal, and Pleasant Ridge will work with the County to investigate and mitigate issues.

- Will the land use change adversely influence adjacent property values?

Numerous recognized studies of the effect of wind farms on property values have shown that real estate values are not detrimentally affected. The previously mentioned Streator Cayuga Ridge Wind Farm has been in operation for several years, with no measurable negative impact on surrounding property values. In addition, as also noted above, in 2010 the County Regional Planning Commission confirmed that the Streator Deer Run Wind Farm was consistent with the Plan. The proposed Project is compatible with the current Agriculture zoning and will not affect the agricultural land use of adjoining properties. Overall, recognized studies confirm that property values are not detrimentally affected by wind farms.

- Will the land use change contribute to unsafe traffic patterns or undue congestion?

Construction and operation of the Project will require some temporary and permanent improvements to existing roadways. These improvements will be completed and financed by Pleasant Ridge. Roadway Use and Repair Agreements will ensure that Pleasant Ridge repairs any damage to County or Township roads as a result of Project construction. Traffic disruptions, which are a normal consequence of any major construction project, will be managed with appropriate barriers, markings, and flagging. Upon completion of Project construction, there will be minimal Project traffic associated with the routine maintenance of the turbines. No impacts to local traffic patterns or traveler safety are expected to occur.

- Will the land use change alter the population density pattern and increase the load on public facilities?

The Project is not anticipated to impact the local population density or alter the demand on public facilities. The Project is not sited near high-density residential areas, such as community subdivisions. Wind turbines do not require connection to water or sewer utilities, and therefore will not increase the demand on local public utilities. The operations and maintenance building will contain an office and bathroom facilities; therefore, it will require standard utilities, such as water, septic, and electricity.

- Will the land use change adversely affect a valuable natural resource of the County?

The Project will be constructed on private land that is used for agricultural purposes and will not impact existing green space or public recreational areas. The Project footprint is

small and will result in use of less than one half of one percent of agricultural land being used for wind energy facilities, while the remaining 99.5 percent can continue the existing agricultural use and crop production. The soil, water and other natural resources are not expected to be affected by the Project.

- Will the land use change conflict with existing commitments or planned public improvements?

There are no known conflicts with existing or planned public improvements or approved developments. The Project land use is compliant with the County's Zoning Ordinance as well as Plan elements, such as the preservation of agricultural land use.

- Will the land use change create additional environmental problems due to soils, vegetation, slope, or floodplain?

The Project was designed to avoid environmental features, such as wetlands and waterways, to the extent practicable. The Project facilities are not located in a floodplain. Access roads and towers have been sited out of wetland areas. Access roads may cross several small streams or drainage features; however, culverts will be utilized to maintain current flow patterns. Wetland and waterway impacts from the installation of the collection system will be avoided through the use of subsurface boring and installation methods. The topography within the Project area is generally level which will reduce the environmental impacts associated with steep slopes.

Most soils within the Project area are designated as prime farmland or soils of statewide importance. Topsoil from the turbine footprints may be relocated to other agricultural areas as directed by the landowners. Pleasant Ridge will decompact agricultural lands and repair or replace drain tiles damaged during construction activities.

- Is the land use change consistent with municipal plans (if applicable)?

The proposed land use is consistent with the County's Plan. No adjacent communities have conducted individual plans; therefore the Project will be subject to jurisdiction under County land use policy.

- Will the land use change result in private investment, which would be beneficial to the redevelopment of a deteriorated area?

The proposed Project represents a significant private investment within the County. It does not represent redevelopment of a deteriorated area. The Project is not expected to lead to secondary development in the area. The financial investment will consist of the cost to construct and operate the Project, tax payments to the County and direct payments to landowners hosting Project facilities. No other development is expected to occur as a result of the Project.

- Is the land use change located where the needed infrastructure services have been or can be provided?

The Project was designed to utilize existing infrastructure and the agricultural land use. Access roads to service the turbines and the collection system will be constructed by Pleasant Ridge. A nine-mile-long overhead transmission tie-in line to an existing substation will be constructed by Pleasant Ridge and represents new infrastructure.

- Is the subject property physically suitable for the purpose of the land use change?

The properties within the Project area are suitable for the Project needs without a change in the agricultural land use. The Project will require County approval prior to construction. Zoning for properties with turbines and access roads will not change. The Project area was chosen due to its predominantly agricultural land use, favorable wind resource, community support, proximity to the existing power grid and access to power markets.

- Will the relief of a hardship for an individual property owner create a detriment to public welfare?

The construction of the Project will not require any zoning variances and Pleasant Ridge has indicated it complies with the provisions of the County Zoning Ordinance. Under the County's regulations, this is considered a "special use" within the agriculture zone and is subject to additional review and criteria as detailed in Article VIII of the Zoning Ordinance.

5.0 CONCLUSION

It is the conclusion of this study that the Pleasant Ridge Project supports the long-term viability of agriculture and farming practices in the Project area. This is consistent with one of the primary objectives of the Livingston County Comprehensive Plan 2020.

Current land use within the Project boundary is predominantly agriculture and would remain so during its construction and operation. Existing utilities and infrastructure would be utilized, with a minimal increase in load. The Project will not inhibit future residential, commercial or industrial development and constitutes a beneficial use of land, air, and water resources.

As described in this report, the study concludes that the Project, as proposed, is consistent with the goals and objectives of Livingston County's 2020 Comprehensive Plan. This conclusion is based on the Plan's overall goal of preserving the agricultural nature of Livingston County and promoting the protection of prime farm land for future generations. The proposed Project permits a diversification of the agricultural use that currently exists without requiring a land use change.

FIGURES

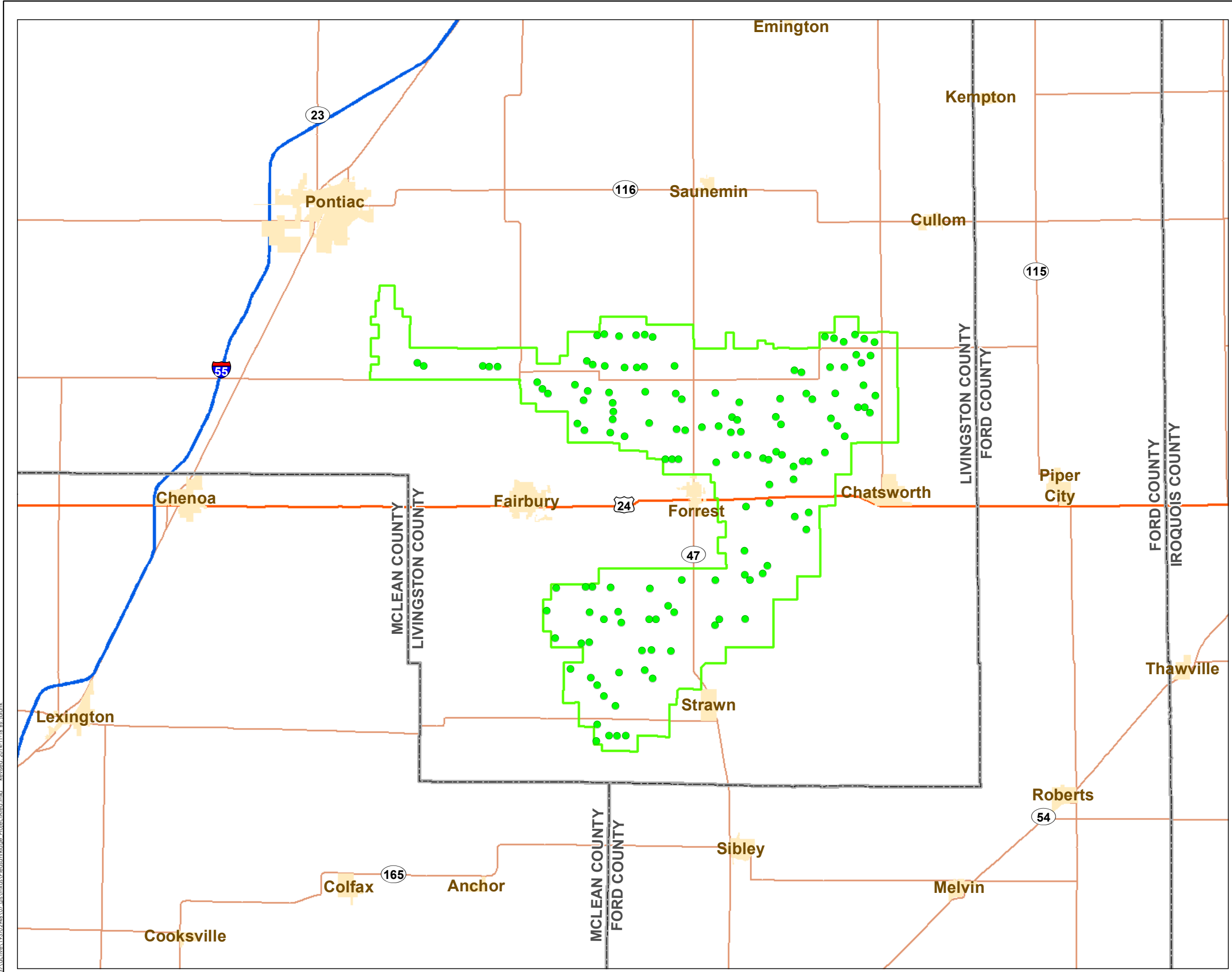


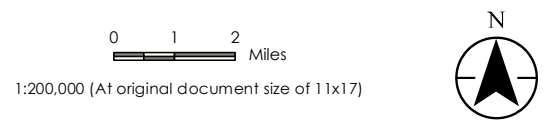
Figure No. 1

Title
Pleasant Ridge Project Location

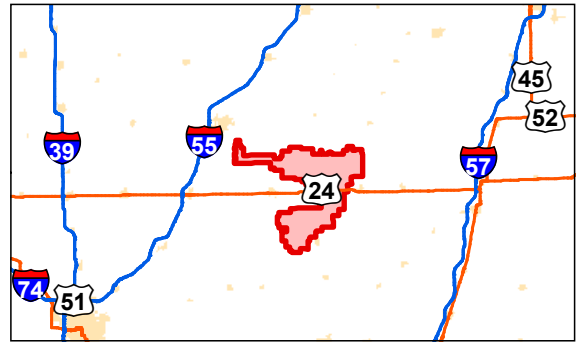
Client/Project
Invenergy
Pleasant Ridge Wind Farm

Project Location
Livingston Co., IL

193702964
Prepared by JJB on 2014-11-12
Technical Review by MP on 2014-11-12
Independent Review by STK on 2014-11-12



- Legend**
- Turbine Locations (Proposed)
 - ▭ Project Boundary
 - Municipality
 - ▭ County Boundary
 - Major Roadways**
 - Primary Limited Access or Interstate
 - Primary US and State Highways
 - Secondary State and County Highways



- Notes**
1. Coordinate System: NAD 1983 UTM Zone 16N
 2. Data Sources Include: Invenergy, Stantec, Esri



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Figure No. 2

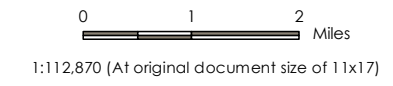
Title

Project Area Land Cover

Client/Project
 Invenergy
 Pleasant Ridge Wind Farm

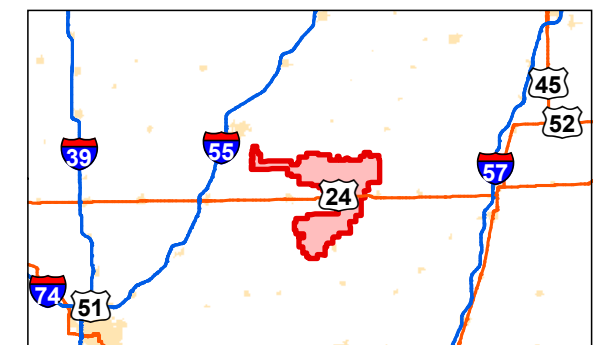
Project Location
 Livingston Co., IL

193702964
 Prepared by JJB on 2014-11-12
 Technical Review by MP on 2014-11-12
 Independent Review by STK on 2014-11-12



Legend

- Turbine Locations (Proposed)
- Project Boundary
- Municipal Boundary
- Land Cover (2010 USDA Gap Analysis)
 - AGRICULTURAL LAND: Soybeans
 - AGRICULTURAL LAND: Corn
 - AGRICULTURAL LAND: All Others
 - URBAN AND BUILT-UP LAND
 - FORESTED LAND
 - OTHER: BARREN AND EXPOSED LAND
 - WETLAND
 - OTHER: SURFACE WATER



- Notes
1. Coordinate System: NAD 1983 UTM Zone 16N
 2. Data Sources Include: Invenergy, Stantec, Esri
 3. Background: Orthophoto - USDA Land Cover Gap Analysis



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APPENDICES

Appendix A

August 4, 2010 Determination by the County Regional Planning Commission

LIVINGSTON COUNTY REGIONAL PLANNING COMMISSION

SOLID WASTE MANAGEMENT
EMERGENCY MANAGEMENT
ZONING

110 W. WATER ST., SUITE 3
PONTIAC, ILLINOIS 61764
(815) 844-7741

August 4, 2010

Zoning Board of Appeals
Livingston County, Illinois

RE: Proposed special use for wind energy conversion system by Heartland Wind LLC.
Applicant: With Heartland Wind LLC. being managed by Iberdrola Renewables Inc.
Case No.: SU-2-10

Dear Members of the Livingston County Zoning Board of Appeals:

The Livingston County Regional Planning Commission has reviewed Heartland Wind LLC.'s special use application to Livingston County for a wind energy conversion system (WECS). The proposed Heartland Wind LLC project, Case No. SU-2-10, consists of approximately 165 wind energy turbines and electrical transmission lines.

The land proposed for the wind energy turbines and other infrastructure is used for agricultural purposes and located within the Livingston County "AG" agricultural zoning district. Section 5.2 of the Livingston County Zoning Ordinance identifies windmills as a special use in the AG zoning district.

Pursuant to Section 24.8(B) of the Livingston County Zoning Ordinance, the application for a special use has been referred to this Commission for investigation as to the manner in which the proposed location and character of the special use will affect the Comprehensive Plan of Livingston County. This document constitutes the Commission's report to the Zoning Board of Appeals pursuant to Section 24.8(B) of the Livingston County Zoning Ordinance.

A primary goal under the Comprehensive Plan is to preserve and protect farmland for the continued agricultural use. The Comprehensive Plan calls for "maintaining the rural character of the County by planning for the preservation of prime agricultural land" and for "supporting the preservation and expansion of agricultural and natural resource businesses".

The proposed Heartland Wind LLC/ WECS project is located across parts of Esmen, Sunbury and Amity Townships. The project proposes to use approximately 1% of lease land for the wind farm, leaving the remaining 99% for agricultural use.

Pursuant to the Livingston County Zoning Ordinance, when a WECS project terminates, the turbines, access roads, and other infrastructure must be decommissioned and removed from the land. These areas must then be restored to their previous condition, which will allow the land to be available again for agricultural purposes.

Accordingly, while the WECS project during its proposed development will remove a small proportion of the project area from agricultural use, the proposed special use is generally consistent with the primary goal of the Comprehensive Plan to preserve prime agricultural land.


This report was prepared and approved by the Livingston County Regional Planning Commission by a vote of _____ in favor of this proposed Heartland Wind LLC WECS land use and _____ opposed to this proposed Heartland Wind LLC WECS land use, this 4th day of August, 2010.

With, the Livingston County Regional Planning Commission recommending to the Zoning Board of Appeals as a condition of approval of zoning case SU-2-10, that the applicant Heartland Wind LLC offers a good neighbor program to offset any perceived detriments to adjacent landowners not participating in the Project as mentioned under the "Will the land use change constitute a precedent of an incompatible use and be a detriment to adjacent property?" and as related to on page 11 of the Streator Deer Run wind Farm Project Land Use Consistency Evaluation Section of the Heartland Wind LLC Streator Deer Run Wind Farm Application.



Mike Haberkorn, Chairman

Livingston County Regional Planning Commission



Barbara Sancken, Secretary

Livingston County Regional Planning Commission