

February 27, 2020

Ms. Tanowa Troupe, Secretary  
Ohio Power Siting Board  
Docketing Division  
180 East Broad Street, 11<sup>th</sup> Floor  
Columbus, Ohio 43215-3797

**Re: Case No. 18-1607-EL-BGN - In the Matter of the Application of Firelands Wind, LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Wind-Powered Electric Generation Facility in Huron and Erie Counties, Ohio.**

**Second Supplemental Response to Seventh Data Request from Staff of the Ohio Power Siting Board**

Dear Ms. Troupe:

Attached please find Firelands Wind, LLC's ("Applicant") second supplemental response to the Seventh Data Request from the staff of the Ohio Power Siting Board ("OPSB Staff"). The Applicant provided this response to OPSB Staff on February 27, 2020.

We are available, at your convenience, to answer any questions you may have.

Respectfully submitted,

/s/ Christine M.T. Pirik

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Cc: Craig Butler  
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Ms. Tanowa Troupe  
 Firelands Wind, LLC  
 Case No. 18-1607-EL-BGN  
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## CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to these cases. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below this 27th day of February, 2020.

/s/ Christine M.T. Pirik

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4825-7480-7222 v2 [59714-18]

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Firelands Wind, )  
LLC for a Certificate of Environmental Compatibility )  
and Public Need to Construct a Wind-Powered ) Case No: 18-1607-EL-BGN  
Electric Generation Facility in Huron and Erie )  
Counties, Ohio. )

**FIRELANDS WIND, LLC'S  
SECOND SUPPLEMENTAL RESPONSE TO THE  
SEVENTH DATA REQUEST  
FROM THE STAFF OF THE OHIO POWER SITING BOARD**

On January 31, 2019, as supplemented on March 18, 2019, April 11, 2019, July 10, 2019, and September 12, 2019, as revised on October 4, 2019, Firelands Wind, LLC (“Applicant”) filed an application (“Application”) with the Ohio Power Siting Board (“OPSB”) proposing to construct a wind-powered electric generation facility in Huron and Erie Counties, Ohio.

On February 4, 6, 10, 13, 2020, the Staff of the OPSB (“OPSB Staff”) provided the Applicant with OPSB Staff’s Seventh Data Request. On February 13, 2020, the Applicant submitted its response to the Seventh Data Request; however, at the time of submittal, the response to Question 1 was being finalized, thus, the Applicant noted that it would provide the response to OPSB Staff once it was completed. The supplemental response to the Seventh Data Request from the OPSB Staff was submitted on February 20, 2020. Now comes the Applicant providing the following second supplemental response to the Seventh Data Request from the OPSB Staff, which updates the response to Question 1.1.

**1. List of permits, approval, etc. listed in application. Update Status.**

**I. Impact to Landmarks and Mitigation Plans (page 206)**

**Response:** See **Attachment 1** for the Programmatic Agreement between the State Historic Preservation Office ("SHPO") and the Applicant.

Respectfully submitted,

/s/ Christine M.T. Pirik

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(Counsel agree to receive service by email.)

***Attorneys for Firelands Wind, LLC***

**PROGRAMMATIC AGREEMENT**  
**Between**  
**Firelands Wind, LLC**  
**and the**  
**Ohio State Historic Preservation Office**  
**for the Administration of**  
**Wind Energy Projects**  
**Huron and Erie Counties, Ohio**

**WHEREAS**, Firelands Wind, LLC, ("Firelands Wind") has proposed to construct the Emerson Creek Wind Project ("Emerson Creek") in Huron and Erie Counties;<sup>1</sup> and

**WHEREAS**, Firelands Wind filed an Application for a Certificate of Environmental Compatibility and Public Need with the Ohio Power Siting Board ("OPSB") on February 2, 2018 (OPSB Case No. 18-1607-EL-BGN) ("Emerson Creek Wind Generation") and an Application for a Certificate to Build and Operate an Electric Transmission Line ("Emerson Creek T-Line") on August 27, 2019 for Emerson Creek (OPSB Case No. 19-1073-EL-BTX);<sup>2</sup> and

**WHEREAS**, constructing the Emerson Creek Wind Generation and T-Line projects may affect cultural resources, including "landmarks" as that term is defined in Ohio Administrative Code ("OAC") 4906-4-08(D), 4906-4-09(C), and 4906-5-07(E); and

**WHEREAS**, applicants for certificates for electric generation and transmission facilities under OAC 4906-4 and 4906-5 must identify cultural resources, provide an evaluation of impacts by such facilities on such resources, and describe plans to avoid, minimize, or mitigate any adverse effects to such resources; and

**WHEREAS**, OPSB is coordinating with the Ohio State Historic Preservation Office ("SHPO") pursuant to Ohio Revised Code ("R.C.") § 149.53, and Firelands Wind is working with SHPO to fulfill its duties under the OAC as a certificate applicant to provide plans to avoid, minimize, or mitigate any adverse effects of Emerson Creek on cultural resources, including "landmarks" under the OAC.

**NOW, THEREFORE**, Firelands Wind and SHPO have agreed to carry out their respective duties under R.C. § 149.53 and OAC 4906-5, in accordance with the following stipulations:

**STIPULATIONS**

**I. Roles and Responsibilities**

- A.** SHPO shall be responsible for providing technical assistance and guidance as needed and reviewing project documentation, in accordance with SHPO's assigned duties under the Ohio Revised Code and Ohio Administrative Code.

<sup>1</sup> A map of the area is attached and incorporated into this Programmatic Agreement as Appendix 1.

<sup>2</sup> Collectively, these projects shall be referred to as "Emerson Creek."



- B. Firelands Wind shall be responsible for consulting with consulting parties and preparing documentation for the SHPO and maintaining records on projects.
- C. Firelands Wind shall utilize persons meeting the applicable Professional Qualification Standards set forth in the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* to conduct identification of cultural resources.

## **II. Archaeological and Cultural Resource Review Phasing**

### **A. Phase 1: Complete archaeological and historic/architectural surveys**

Archaeological surveys for the Emerson Creek Wind Generation certificate application were initiated in December 2020 and approximately 370 acres (23%) of high probability areas where facilities are proposed have been completed to date. Firelands Wind plans to complete surveys in spring 2020 and anticipates submitting a technical report based on these surveys to SHPO by June 2020.

Historic/architectural surveys for the Emerson Creek Wind Generation certificate application were initiated in January 2020 and will be completed in February 2020. Firelands Wind anticipates submitting a technical report based on these surveys in March 2020.

Archaeological surveys for the Emerson Creek T-Line certificate application have been completed. Firelands Wind anticipates submitting a technical report based on these surveys to SHPO in February 2020.

Historic/architectural surveys for the Emerson Creek T-Line certificate application were initiated in January 2020 and will be completed in February 2020. Firelands Wind anticipates submitting a technical report based on these surveys in April 2020.

### **B. Phase 2: Evaluate "landmarks" through research and analysis**

As part of Firelands Wind's compliance efforts before the OPSB regarding consultation and coordination with SHPO, the cultural resources identified by surveys described in Section II.A of this PA will be recorded as stipulated in the SHPO-approved survey plans and subsequently evaluated according to the eligibility criteria for listing in the National Register of Historic Places (NRHP). See 36 C.F.R. § 60.4. Technical reports will include recommendations for NRHP eligibility, as well as evaluations of the effects of Emerson Creek on identified cultural resources, if any. If a cultural resource is determined to be eligible for listing in the NRHP and avoidance of adverse impacts is not feasible, a mitigation plan will be submitted for SHPO review.

### **C. Phase 3: Develop a plan for avoiding, minimizing, or mitigating adverse effects to cultural resources, including "landmarks."**

Firelands Wind will make every effort to avoid adverse effects on cultural resources, including "landmarks" as that term is used in OAC 4906-5-07(E), by adjusting project facilities. If avoidance is not feasible, Firelands Wind will work with SHPO to develop a minimization/mitigation plan that will be memorialized in a Memorandum of Agreement



(MOA) and may include the following mitigation treatment strategies: additional survey work, thematic or multiple property studies, NRHP nominations, offset funding for restoration of local landmarks, support for local preservation organizations, heritage tourism projects, development of education materials and lesson plans, and website development. It is anticipated that these or similar mitigation treatment strategies will be appropriate for Emerson Creek. Nevertheless, the results of the surveys and evaluations described above in Stipulation II.A and II.B will be used to develop appropriate and meaningful mitigation for adverse effects to cultural resources eligible for listing on the NRHP. See OAC 4906-5-07(E)(4).

### **III. Project Review and Concurrence**

Provided that Firelands Wind follows the phasing approach in Section II of this PA, and subject to this PA's terms, SHPO's execution of this PA constitutes its concurrence regarding avoidance or mitigation of adverse effects to cultural resources by the Projects.

### **IV. Technical Assistance and Educational Activities**

Staff in SHPO's Resource Protection and Review (RPR) Department will provide technical assistance and consultation as requested by Firelands Wind, or as proposed by the SHPO, in order to assist Firelands Wind in carrying out the terms of this PA.

### **V. Post-Review Discovery**

- A.** An Unanticipated Discoveries and Effects Plan will be developed and implemented, to be used if archaeological or cultural resources, including human skeletal remains or funerary objects are discovered during construction or if unanticipated effects to cultural resources occur after project construction.
- B.** The Unanticipated Discoveries Plan shall provide that if cultural resources are discovered during or unanticipated effects on such resources found after project construction, Firelands Wind will follow the process established at 36 CFR § 800.13. In all cases of discovery of unanticipated effects, Firelands Wind will contact SHPO as soon as practicable and provide sufficient information so that SHPO can provide meaningful comments and recommendations.
- C.** The Unanticipated Discoveries Plan shall also provide that if human remains are discovered during the development or construction of Emerson Creek, construction will cease in the area of the discovery. Firelands Wind will contact the County Sheriff and/or County Coroner immediately and will contact the SHPO within 48 hours of discovery. Firelands Wind will also consult with SHPO, the County Sheriff, and/or the County Coroner to develop and carry out a treatment plan for the care and disposition of human remains.
- D.** When human remains are determined to be of American Indian origin, the treatment plan will also be developed in consultation with appropriate federally recognized American Indian tribes. Firelands Wind shall request assistance from SHPO to arrange with appropriate federal authorities to conduct meaningful and respectful discussion with tribal representatives.




## **VI. Dispute Resolution**

Should any signatory to this PA object to actions proposed herein or dispute the meaning of this PA's terms, the disputing signatory shall serve all other signatories with notice of its objection or dispute and shall consult to resolve the objection or dispute. If the objection or dispute cannot be resolved within 30 days of service of the notice of objection or dispute, then SHPO may make a final decision on the dispute and advise Firelands Wind to proceed accordingly.

## **VII. Duration, Amendment, and Effect**

This PA will continue in full force until December 31, 2020, provided that its cessation shall not affect the continued application of the Unanticipated Discoveries Plan referenced in Stipulation V above. At the request of any signatory, this PA may be reviewed for amendments at any time. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with SHPO. Execution of this PA by Firelands Wind and SHPO constitutes final concurrence by SHPO for purposes of OPSB review of the Projects' certificate applications and implementation of this PA's terms is evidence that Firelands Wind has fulfilled its duties as an applicant with respect to cultural resources under the Ohio Revised Code and Ohio Administrative Code.

**SIGNATORIES:**

  
\_\_\_\_\_  
**Ken Young**  
**COO of Apex Clean Energy Holdings, LLC,**  
**sole member of Apex GCL, LLC, sole member**  
**of Firelands Wind, LLC**

2/26/20  
\_\_\_\_\_  
**Date**

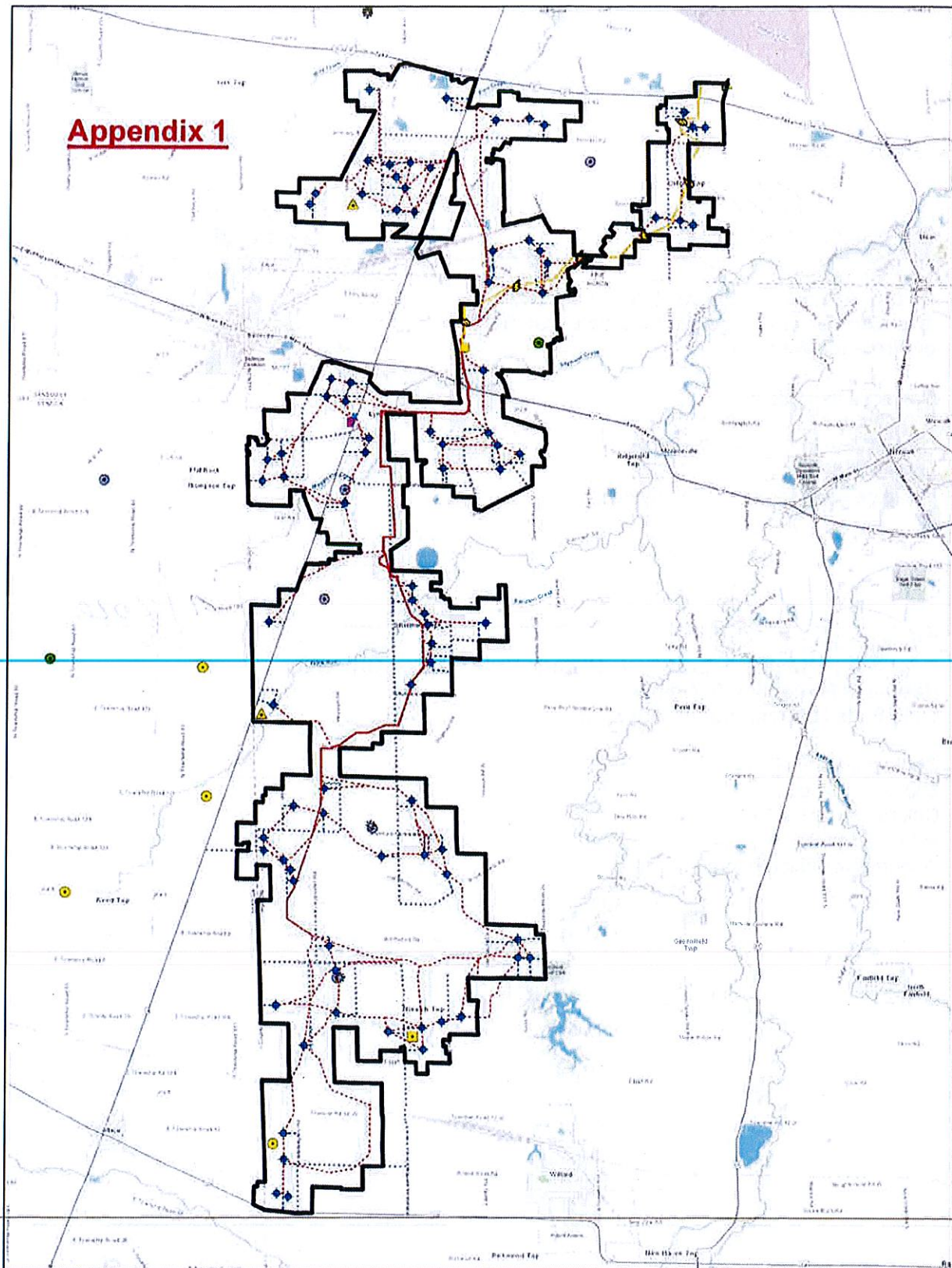
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**Diana Welling**  
**Department Head & Deputy State Historic Preservation Officer for**  
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**Ohio State Historic Preservation Office**

2/27/2020  
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**Date**

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# Appendix 1



- |                        |                               |
|------------------------|-------------------------------|
| Project Boundary       | Private Access Road           |
| Turbines               | Public Road                   |
| Point of Interconnect  | MetTower, Decommissioned      |
| Project Substation     | MetTower, Operating Normal    |
| Gentle Line            | MetTower, Proposed            |
| Laydown Yard           | PermanentMet, Proposed        |
| O and M                | PwrPerformanceTower, Proposed |
| Substation             | Sodar, Decommissioned         |
| Underground Collection |                               |

## Emerson Creek Wind

Date: 3/15/2020 Author: GIB

Emerson Creek Wind N.E. 1/4 Sec 21 T15N R15E S15E  
 Project: Emerson Creek Wind  
 Scale: 1:100,000  
 Date: 3/15/2020

CONFIDENTIAL

0 1 2 Mile



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**in**

**Case No(s). 18-1607-EL-BGN**

Summary: Response - Second Supplemental Response to Seventh Data Request from Staff of the Ohio Power Siting Board electronically filed by Christine M.T. Pirik on behalf of Firelands Wind, LLC