

**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-)	Case No: 18-1607-EL-BGN
Powered Electric Generation Facility in Huron and)	
Erie Counties, Ohio.)	

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Firelands Wind, LLC (“Applicant”), the City of Willard, the Board of Commissioners of Huron County (“Huron Commissioners”), the Board of Trustees of Richmond Township of Huron County (“Richmond Trustees”), the Board of Trustees of Norwich Township of Huron County (“Norwich Trustees”), local residents Tom Yingling and Kevin Erf (“Local Residents”), and the Staff of the Ohio Power Siting Board (“Staff”) (jointly referred to herein as “Signatory Parties”) submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (“Board”). Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below, and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the wind-powered electric generation facility in Huron and Erie Counties, Ohio as proposed in this proceeding.

The City of Willard, the Huron Commissioners, the Richmond Trustees, the Erie Commissioners, the Norwich Trustees, the Resident Intervenors,¹ the Local Residents, the Pro Se

¹ The Resident Intervenors are: Alvin Didion, Patricia Didion, Jane Fox, Marvin Hay, Theresa Hay, Patricia Olsen, Sheila Poffenbaugh, Walt Poffenbaugh, Christina Popa, John Popa, Lori Riedy, Charles Rogers, Kenn Rospert,

Intervenors,² and Black Swamp Bird Observatory (“BSBO”) filed motions to intervene in this proceeding, which were granted by the Administrative Law Judges (“ALJs”) on June 25 and 26, 2019, October 24, 2019, December 23, 2019, and March 5, 2020. The Report of Investigation was issued by the Staff on March 2, 2020 (“Staff Report”). The local public hearing was held August 20, 2020. The evidentiary hearing will commence on October 5, 2020.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE SIGNATORY PARTIES

A. Recommended Conditions

The proposed facility is located in Huron and Erie Counties, Ohio and its total generating capacity will not exceed 297.66 megawatts (“MWs”). Construction of the facility is expected to begin as early as 2021.

The Signatory Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

1. The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified

Dennis Schreiner, Sharon Schreiner, Donna Seaman, William Seaman, Deborah Weisenauer, Kenneth Weisenauer, and Gerard Wensink.

² The Pro Se Intervenors are: John and Missy Eberle, Joseph and Pam Jenkins, and Della and Randal Ladd.

and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report.

2. The Applicant shall comply with the requirements established by the Ohio Adm.Code 4906-4-09, regulations associated with wind farms.
3. The Applicant shall docket a detailed construction project schedule within 7 days of the date of journalization of the certificate.
4. The Applicant shall comply with the requirements established by the Ohio Adm.Code 4906-3-13 and 4906-3-14.
5. Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
6. The Applicant shall coordinate with local building code enforcement officials with regard to the construction of any new structures, or modification of any existing structures, not directly related to the operation of the generation facility.
7. At least 30 days prior to the preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design, including the facility, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically referenced electronic data. The final design shall incorporate all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate. The detailed engineering drawings of the final project design and foundation design shall account for karst topography and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs.
8. At least 30 days prior to the preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, mapping in the form of PDF and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design would be sited as certificated. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically call out any adjustments made from the siting detailed in the application.

9. The Applicant shall provide the final delivery route plan and the results of any traffic studies to Staff, the Ohio Department of Transportation, the Huron and Erie county engineer offices, and township officials 30 days prior to the preconstruction conference.
10. At least seven days prior to the start of construction, the Applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within 1 mile of the project area, parties to this case, county commissioners, township trustees, emergency responders, airports, schools, and libraries, as well as anyone who has requested updates regarding the project. This notice will provide information about the project, including contact information, a timeline for construction and restoration activities, and a copy of the complaint resolution plan. The Applicant shall file this notice on the public docket.
11. At least seven days prior to the start of facility operations, the Applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within 1 mile of the project area, parties to this case, county commissioners, township trustees, emergency responders, airports, schools, and libraries, as well as anyone who has requested updates regarding the project. This notice will provide information about the project including contact information, a timeline for the start of operations, and a copy of the complaint resolution plan. The Applicant shall file this notice on the public docket.
12. The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and an Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
13. The facility shall be operated in such a way as to assure that no more than 297.7 MW would at any time be injected into the Bulk Power System.
14. The Applicant shall continue to adhere to the Programmatic Agreement signed between the Applicant and the Ohio Historic Preservation Office to minimize impacts to cultural resources in the project area, including avoiding site 33HU0043 with collection lines and access roads. Site 33HU0043 should be clearly delineated on construction drawings to ensure no inadvertent disturbance occurs during construction.
15. The Applicant shall coordinate the timing and location of temporary closures of any multi-use trails during construction in the project area with the owner of the trails or appropriate entities prior to construction.

16. The Applicant shall avoid all impacts to category 3 wetlands through facility design, horizontal directional drilling or other methods.
17. Prior to construction, the Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required.
18. The Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. Sensitive areas may include, but are not limited to, wetlands and streams, and locations of threatened or endangered species. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction. The environmental specialist shall have authority to stop construction to assure that unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present.
19. The Applicant shall contact Staff, the Ohio Department of Natural Resources (“ODNR”), and the U.S. Fish and Wildlife Service (“USFWS”) within 24 hours if state or federal listed species are encountered during construction, operation, or monitoring activities. Activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff and the appropriate agencies. If the Applicant encounters any listed plant or animal species prior to construction, the Applicant will notify Staff of the location and how impacts would be avoided during construction.
20. The Applicant shall comply with all operational measures detailed in the technical assistance letter for avoidance of Indiana and northern long-eared bat take issued by the USFWS. The technical assistance letter includes feathering of turbines during periods of risk to these species. Summertime feathering measures identified in the technical assistance letter for the Indiana bat, including feathering within specified distances of documented roost trees, shall also be applied to the northern long-eared bat. The Applicant shall comply with the operational measures detailed within the technical assistance letter for the life of the project or until an incidental take permit has been obtained for the project.
21. Turbines shall be feathered below manufacturer’s cut-in speed during the summer season from May 16 through July 31, as a measure to minimize bat strikes at operating turbines.
22. Sixty days prior to the first turbine becoming operational, the Applicant shall submit a post-construction avian and bat monitoring plan for the ODNR Division of Wildlife (“DOW”) and Staff review and confirmation that it complies with this condition. The Applicant’s plan shall be consistent with ODNR-approved,

standardized protocol, as outlined in the ODNR's On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio. This includes having a sample of turbines that are searched daily. Collectors of bird and bat carcasses for the purpose of post-construction monitoring shall obtain the appropriate carcass collection permits. The post construction monitoring shall begin within two weeks of operation of the first turbine and be conducted for a minimum of two seasons (April 1 to November 15), which may be split between calendar years. If monitoring is initiated after April 1 and before November 15, then portions of the first season of monitoring shall extend into the second calendar year (e.g., start monitoring on July 1, 2019 and continue to November 15, 2019; resume monitoring April 1, 2020 and continue to June 30, 2020). The second monitoring season may be waived at the discretion of the ODNR and Staff. The monitoring start date and reporting deadlines will be provided in the DOW approval letter.

23. If Staff and the ODNR, in consultation with the USFWS, determine that significant mortality, as defined in ODNR's approved, standardized protocols, has occurred to birds and/or bats due to construction or operation of the facility, the ODNR and Staff will notify the Applicant. As soon as possible and no longer than 30 days after receiving notification of the significant mortality, Applicant shall implement practices to rectify the significant mortality, which will include development and submission of a mitigation plan or adaptive management strategy to Staff and the ODNR for review to confirm compliance with this condition. Operation activities that could adversely impact the identified animals shall be modified to minimize risk until the mitigation plan or adaptive management strategy is agreed upon.
24. The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for removal of any trees greater than or equal to three inches in diameter, unless coordination efforts with the ODNR and the USFWS allows a different course of action.
25. Prior to any in-water work, the Applicant shall provide information to Staff and the ODNR indicating that no mussel impacts would occur at stream crossings. If this is not possible, then the appropriate survey(s) shall be performed in coordination with the ODNR and Staff. If mussels found in the project area cannot be avoided, as a last resort, a professional malacologist shall collect and relocate the mussels to suitable and similar habitat. All surveys, assessments, and relocation plans shall be completed in accordance with the Ohio Mussel Survey Protocol and provided to Staff and the ODNR for review to ensure compliance with this recommendation.
26. The Applicant shall conduct no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat.
27. Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 through July 31. Mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows a different course of action.

28. Construction in northern harrier preferred nesting habitat types shall be avoided during the species' nesting period of May 15 through August 1. Mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows a different course of action.
29. Prior to construction, if impacts to potential suitable habitat for the Blanding's turtle, Kirtland's snake, and smooth greensnake are proposed, the Applicant shall obtain an ODNR-approved herpetologist to conduct habitat suitability surveys to determine if suitable habitat exists within the project area. If suitable habitat is determined to be present, the Applicant shall avoid impacts to suitable habitat by doing one of the following:
 - a. Avoid the area determined to be suitable habitat along with an appropriate buffer determined by the ODNR.
 - b. Obtain an ODNR-approved herpetologist to conduct a presence/absence survey. If either species is determined to be present, the Applicant shall continue to coordinate with the ODNR to assure that impacts are avoided.
 - c. Obtain an ODNR-approved herpetologist to develop and implement an avoidance/minimization plan.
30. Should construction be delayed beyond five years of the date of the certificate, certain wildlife surveys may be required to be updated as determined by Staff and the ODNR.
31. The Applicant shall develop and implement an Eagle Conservation Plan prior to the start of turbine construction. The Eagle Conservation Plan shall be developed in coordination with the USFWS and in accordance with the USFWS Eagle Conservation Plan Guidance document and 2016 Revised Eagle Take Permit Regulations (50 CFR 22). The Eagle Conservation Plan shall be developed in coordination with the USFWS prior to the start of turbine construction. Additionally, the Applicant shall apply for an Eagle Take Permit from the USFWS prior to the project becoming operational. Further correspondence with the USFWS shall be provided to Staff and filed on the docket to confirm compliance with this condition, within seven days of receipt; but in no event, less than 30 days prior to turbine construction.
32. The Applicant shall notify Staff at (866) 270-6772 or contactOPSB@puco.ohio.gov within 30 minutes of the discovery of any extraordinary event unless notification within that time limit is impracticable under the circumstances. Extraordinary events include, but are not limited to tower collapse, turbine failure, thrown blade or hub, collector or feeder line failure, injury to any person, property damaged by ice throw, or nacelle fire. A written report shall be submitted to staff within 30 days detailing the incident and corrective actions to be taken to avoid, prevent, mitigate, or minimize a recurrence. Where additional related information is obtained after

the 30-day written report is submitted, the Applicant shall make a supplemental report as soon as practicable.

33. The facility shall be operated so that the cumulative nighttime sound level at any nonparticipating sensitive receptor within one mile of the project boundary will not exceed 5 dBA over the project area ambient nighttime average sound level (Leq), except during daytime operation that is in accordance with Ohio Adm.Code 4906-4-09(F)(2).
34. At least 30 days prior to construction, the Applicant shall docket a shadow flicker study showing that cumulative shadow flicker impacts will not exceed 30 hours per year at any non-participating sensitive receptor.
35. At least 30 days prior to construction, the Applicant shall submit to Staff relevant portions of the turbine manufacturer's turbine restart procedures due to vibration, ice accumulation, lightning storm, collector or feeder line failure.
36. The Applicant shall only construct the Vestas V150, Siemens Gamesa SG145, or Nordex N149 wind turbine models that have tip heights from between 591 feet to 602 feet at turbine location T82.
37. At least 30 days prior to the preconstruction conference, the Applicant shall conduct a microwave path study that identifies all existing microwave paths that intersect the wind farm project, and a worst-case Fresnel zone analysis for each path. A copy of this study shall be provided to the path licensee(s), for review, and to Staff for review and confirmation that the Applicant is complying with this condition. The assessment shall conform to the following requirements:
 - a. An independent and registered surveyor, licensed to survey within the state of Ohio, shall determine the exact locations and worst-case Fresnel zone dimensions of all known microwave paths or communication systems operating within the project area, including all paths and systems identified by the electric service providers that operate within the project area. In addition, the surveyor shall determine the center point of all turbines within 1,000 feet of the worst-case Fresnel zone of each system, using the same survey equipment.
 - b. Provide the distance in feet between the nearest rotor blade tip of each surveyed turbine identified within section (a) above and the surveyed worst-case Fresnel zone of each microwave system path.
 - c. Provide a map of the surveyed microwave paths, center points, and boundaries at a legible scale.
 - d. Describe the specific, expected impacts of the project on all paths and systems considered in the assessment.

38. All existing licensed microwave paths, and licensed communication systems shall be subject to avoidance or mitigation. The Applicant shall complete avoidance or mitigation measures prior to commencement of construction for impacts that can be predicted in sufficient detail to implement appropriate and reasonable avoidance and mitigation measures. After construction, the Applicant shall mitigate all observed impacts of the project to microwave paths, and licensed communication systems within seven days or within a longer time period acceptable to Staff. Avoidance and mitigation for any known point-to-point microwave paths, and licensed communication systems shall consist of measures acceptable to Staff, the Applicant, and the affected path owner, operator, or licensee. If interference with an omni-directional or multi-point system is observed after construction, mitigation would be required only for affected receptors.
39. At least 30 days prior to the preconstruction conference, the Applicant shall design and hold a training session to inform local aviation stakeholders (including, but not limited to, the Willard Airport) of the changes to flight procedures and altitudes outlined in the Federal Aviation Administration ("FAA") determination of no hazard letter.
40. The Applicant will not construct turbine locations T-80, T-81, T-82, and T-83.
41. The Applicant shall meet all recommended and prescribed FAA Determination of No Hazard letter requirements to construct an object that may affect navigable airspace for the remaining turbines.
42. At least 30 days prior to the preconstruction conference, the Applicant shall file in this docket a copy of the FAA Determination of No Hazard letter for the meteorological towers.
43. The Applicant shall file in this docket copies of the FAA temporary construction permits for any work activity involving construction cranes when they are received, but no later than seven days prior to crane deployment.
44. If the Applicant receives certification as a Qualified Energy Project in a given county under Ohio Revised Code ("R.C.") 5727.75, the Applicant will comply with all requirements under R.C. 5727.75 in that county, including, but not limited to, entering into a road use maintenance agreement, providing training and equipment to local first responders, and engaging in a university program.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, the City of Willard, the Huron Commissioners, the Richmond Trustees, the Norwich Trustees, the Local Residents, and the Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

1. Applicant Exhibit 1: Application filed on January 31, 2019.
2. Applicant Exhibit 2: Supplement to Application filed on March 18, 2019.
3. Applicant Exhibit 3: Second Supplement to Application filed on April 11, 2019.
4. Applicant Exhibit 4: Third Supplement to Application filed on July 10, 2019.
5. Applicant Exhibit 5: Revised Fourth Supplement to Application filed on October 4, 2019.
6. Applicant Exhibit 6: Application part 8 of 17 updated filed January 24, 2020.
7. Applicant Exhibit 7: Response to First Set of Interrogatories filed on October 9, 2019.
8. Applicant Exhibit 8: Response to Second Set of Interrogatories filed on October 17, 2019.
9. Applicant Exhibit 9: Response to Third Set of Interrogatories filed on November 26, 2019.
10. Applicant Exhibit 10: Response to Fourth Set of Interrogatories filed on January 21, 2020.
11. Applicant Exhibit 11: Response to Fifth Set of Interrogatories filed on February 4, 2020.
12. Applicant Exhibit 12: Response to Sixth Set of Interrogatories filed on February 11, 2020.
13. Applicant Exhibit 13: Response to Seventh Set of Interrogatories filed on February 13, 2020.
14. Applicant Exhibit 14: Supplemental Response to Sixth Set of Interrogatories filed on February 14, 2020.
15. Applicant Exhibit 15: Supplemental Response to Seventh Set of Interrogatories filed on February 20, 2020.
16. Applicant Exhibit 16: Response to Eighth Set of Interrogatories filed on February 20, 2020.
17. Applicant Exhibit 17: Second Supplemental Response to Seventh Set of Interrogatories filed on February 27, 2020.

18. Applicant Exhibit 18: Certificate of Service of the November 15, 2018 Public Information Meeting, notice on property owners and entities filed on October 26, 2018, in accordance with Ohio Adm.Code 4906-3-03.
19. Applicant Exhibit 19: Proof of Publication of November 15, 2018 Public Information Meeting in the *Sandusky Register* and the *Norwalk Reflector* filed on November 6, 2018, in accordance with Ohio Adm.Code 4906-3-03.
20. Applicant Exhibit 20: Certificate of Service of the April 3, 2019 Second Public Information Meeting, notice on property owners and entities filed on March 13, 2019, in accordance with Ohio Adm.Code 4906-3-03.
21. Applicant Exhibit 21: Proof of Publication of April 3, 2019 Second Public Information Meeting in the *Sandusky Register* and the *Norwalk Reflector* filed on April 8, 2019, in accordance with Ohio Adm.Code 4906-3-03.
22. Applicant Exhibit 22: Certificate of Service of the accepted, complete application on local public officials and libraries filed on September 12, 2019, in accordance with Ohio Adm.Code 4906-3-07.
23. Applicant Exhibit 23: Second Certificate of Service of the accepted, complete application on local public officials and libraries filed on October 15, 2019, in accordance with Ohio Adm.Code 4906-3-07.
24. Applicant Exhibit 24: Third Certificate of Service of the accepted, complete application on local public officials and libraries filed on December 10, 2019, in accordance with Ohio Adm.Code 4906-3-07.
25. Applicant Exhibit 25: Supplement to Third Certificate of Service of the accepted, complete application on local public officials and libraries filed on December 17, 2019, in accordance with Ohio Adm.Code 4906-3-07.
26. Applicant Exhibit 26: Proof of Service of the accepted, complete application on all local public officials, libraries, and each owner of property crossed and/or adjacent to the proposed facility site, in accordance with Ohio Adm.Code 4906-3-09, and Proof of Publication of the accepted, complete application in the *Sandusky Register* and the *Norwalk Reflector*, in accordance with R.C. 4906.06(E), filed on January 16, 2020.
27. Applicant Exhibit 27: Proof of Second Service of the accepted, complete application on all local public officials, libraries, and each owner of property crossed and/or adjacent to the proposed facility site and Proof of Second Publication of the accepted, complete application in the *Sandusky Register* and the *Norwalk Reflector*, in accordance with Ohio Adm.Code 4906-3-09, filed on March 12, 2020.
28. Applicant Exhibit 28: Proof of Service and Proof of Publication in the *Sandusky Register* and the *Norwalk Reflector* that the procedural schedule

has been postponed, in accordance with the ALJ's March 11, 2020 Entry, filed on April 7, 2020.

29. Applicant Exhibit 29: Proof of Service and Proof of Publication in the *Sandusky Register* and the *Norwalk Reflector* that the procedural schedule has been reestablished, in accordance with the ALJ's July 13, 2020 Entry, filed on July 23, 2020.
30. Applicant Exhibit 30: Proof of Second Service and Proof of Second Publication in the *Sandusky Register* and the *Norwalk Reflector* that the procedural schedule has been reestablished, in accordance with the ALJ's July 13, 2020 Entry, filed on August 19, 2020.
31. Joint Exhibit 1: The September 11, 2020, Stipulation signed on behalf of the Applicant, the City of Willard, the Huron Commissioners, the Richmond Trustees, the Norwich Trustees, the Local Residents, and the Staff.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Stipulation or imposes additional conditions or requirements upon the Signatory Parties, each party shall have the right, within 30 days of the Board's order, to file an application for rehearing with the Board. Upon the Board upholding the material modification of the Stipulation in its entry on rehearing, each party shall have the right, within 10 calendar days of the Board's order on rehearing, to file a notice of termination of, and withdrawal from, the Stipulation. Prior to any party seeking rehearing and/or terminating and withdrawing from the Stipulation pursuant to this provision, the Signatory Parties agree to convene as soon as possible to work in good faith to achieve an outcome that substantially satisfies the intent of the Board or propose a reasonable equivalent thereto to be submitted to the Board for its consideration. Upon notice of termination or withdrawal from the Stipulation by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such an event, a hearing shall go forward, and the parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.
2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue. The parties request that the Board

recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is a wholly-owned subsidiary of Apex Clean Energy Holdings, LLC, and is licensed to do business in the state of Ohio.
2. The facility qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On October 26, 2018, the Applicant filed a preapplication notification letter informing the Board of a public information meeting in this proceeding. Notice of the public information meeting was served on property owners and published in the *Sandusky Register* and the *Norwalk Reflector*. The public information meeting was held, as scheduled, on November 15, 2018.
4. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on January 31, 2019, as updated on January 24, 2020. The Application was supplemented on March 18, April 11, July 10, and October 4, 2019.
5. The City of Willard, the Huron Commissioners, the Richmond Trustees, the Erie Commissioners, the Norwich Trustees, the Resident Intervenors, the Local Residents, the Pro Se Intervenors, and BSBO were granted intervention on June 25 and 26, 2019, October 24, 2019, December 23, 2019, and March 5, 2020.
6. A second public information meeting was held on April 3, 2019, in accordance with the ALJ's March 7, 2019 entry. Notice of the second public information meeting was served on property owners and published in the *Sandusky Register* and the *Norwalk Reflector*.
7. On April 17, 2019, the Staff filed a letter stating it had received sufficient information to begin its review of the Application. On October 24, 2019, the ALJ extended the completeness review by the Staff. On December 3, 2019, the Staff filed a letter stating that it had received sufficient information to begin its review of the Application as supplemented.

8. On September 12, 2019, the Applicant filed notice that the Application fee had been submitted.
9. On September 12, October 15, and December 10, 2019, as supplemented on December 17, 2019, the Applicant filed certificates of service indicating that copies of the Application, as supplemented, were served on local public officials and libraries.
10. On December 23, 2019, as revised on December 24, 2019, the ALJ established the procedural schedule and scheduled the local public and evidentiary hearings for March 18 and April 14, 2020, respectively.
11. On January 16 and March 12, 2020, the Applicant filed proof that the first and second notices of the procedural schedule were served and published in the *Sandusky Register* and the *Norwalk Reflector*.
12. The Staff Report was filed on March 2, 2020.
13. On March 11, 2020, the ALJ suspended the procedural schedule in this proceeding based on the state of emergency declared in Executive Order 2020-01D.
14. On July 13, 2020, the ALJ issued an entry reestablishing the procedural schedule.
15. On July 23 and August 19, 2020, the Applicant filed proof that the first and second notices that the procedural schedule had been reestablished were served and published in the *Sandusky Register* and the *Norwalk Reflector*.
16. The public hearing was held on August 20, 2020.
17. On September 11, 2020, the Applicant, the City of Willard, the Huron Commissioners, the Richmond Trustees, the Norwich Trustees, the Local Residents, and the Staff filed the Stipulation.
18. The adjudicatory hearing commenced on October 5, 2020.
19. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
20. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
21. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).

22. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
23. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the wind-powered generation facility farm will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
24. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
25. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
26. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).
27. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. The Applicant is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.

5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation.

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Summary: Stipulation between Firelands, OPSB Staff, Huron County, City of Willard, Norwich & Richmond Townships, and Local Residents electronically filed by Christine M.T. Pirik on behalf of Firelands Wind, LLC