

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **6011 Greenwich**                     )  
**Windpark, LLC** for a Certificate of Environmental                     )  
Compatibility and Public Need to Site Wind-Powered                     ) Case No. 13-0990-EL-BGN  
Generation Facilities in Huron County, Ohio.                     )

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**JOINT STIPULATION AND RECOMMENDATION**

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**I. INTRODUCTION**

6011 Greenwich Windpark, LLC (“Greenwich” or “Applicant”), the Staff of the Ohio Power Siting Board (“OPSB Staff”), and the Ohio Farm Bureau Federation (“Ohio Farm Bureau”)<sup>1</sup>, who represent all parties to this proceeding, submit the Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (“Board” or “OPSB”). Ohio Administrative Code (“OAC”) Rule 4901-1-30 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 (“Parties”), and to recommend that the Board approve and adopt this Stipulation as part of its Opinion and Order in this proceeding, resolving all matters pertinent to the certification and construction of up to 25 wind turbines for a total generating capacity of up to 60 megawatts (“MW”) in Huron County, near Greenwich, Ohio (the “Facility”).<sup>2</sup>

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;

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<sup>1</sup>The Ohio Farm Bureau filed its motion to intervene on January 9, 2014 and it was granted on March 10, 2014.

<sup>2</sup> The Facility is more fully described in Greenwich’s Application filed with the Board on December 23, 2013.

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.

The Parties have engaged in settlement discussions related to the topics raised in the Staff Report issued by the Board Staff on April 18, 2014. This Stipulation represents the culmination of these discussions, and the Parties acknowledge that this agreement is amply supported by the record and thus entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the Facility.

## **II. STIPULATION AND RECOMMENDATION**

### **A. Recommended Conditions**

The proposed project area covers approximately 4,650 acres of leased land in Huron County, near Greenwich, Ohio. The project itself involves the construction of up to 25 turbines with a nameplate capacity of 2.4 MW, for a total generating capacity of up to 60 MW. Construction of the Facility is expected to begin in mid-2015.

The 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 and/or clarified in supplemental filings, replies to data requests, and recommendations in this *Staff Report of Investigation*.
2. That the Applicant shall not commence construction of the Facility until it has a signed Interconnection Service Agreement with PJM, which includes construction, operation, and maintenance of system upgrades necessary to reliably and safely integrate the proposed generating Facility into the regional transmission system. The Applicant shall provide a letter stating that the Agreement has been signed or a copy of the signed Interconnection Service Agreement to the OPSB Staff.
3. The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the primary contractor

and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction meetings for each stage of construction.

4. All changes outside the environmental survey areas and any changes within environmentally-sensitive areas shall be subject to staff review and approval prior to construction in those areas and shall be provided to staff in hard copy and as geographically-referenced electronic data.
5. Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.
6. The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.
7. As the information becomes known, the Applicant shall provide to Staff the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
8. Prior to the commencement of construction activities 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.
9. At least 30 days before 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, temporary and permanent access roads, any crane routes, 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 include 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.

10. If construction has commenced at a turbine location and it is determined that the location is not a viable turbine site, that site shall be restored to its original condition within 30 days.
11. The Applicant shall avoid, where possible, or minimize to the maximum extent practicable, any damage to field tile drainage systems and soils resulting from construction, operation, and/or maintenance of the facility in agricultural areas. A log of all field tile drainage systems damaged resulting from the construction, operation, and/or maintenance of the facility shall be maintained with coordinates of each location. Damaged field tile systems shall be promptly repaired to at least original conditions at the Applicant's expense. If applicable, excavated topsoil shall be segregated and restored in accordance with the Applicant's lease agreement with the landowner. Severely compacted soils shall be plowed or otherwise de-compacted, if necessary, to restore them to original conditions unless otherwise agreed to by the landowner.
12. That prior to commencement of construction, the Applicant shall finalize a Phase I cultural resources survey program for archaeological work at turbine locations, access roads, substations, collection lines and laydown areas acceptable to Staff. If the resulting survey work discloses a find of cultural or archaeological significance, or a site that could be eligible for inclusion on the National Register of Historic Places, then the Applicant shall submit an amendment, modification, or mitigation plan for Staff's acceptance. Any such mitigation effort, if needed, shall be developed in coordination with the Ohio Historic Preservation Office with input from applicable local preservation officials and submitted to Staff for review and acceptance.
13. That prior to the commencement of construction, the Applicant shall conduct a targeted architectural survey of the project area. The Applicant shall finalize a work program that outlines areas to be studied in the project area in coordination with OPSB Staff and the Ohio Historic Preservation Office. If the architectural survey discloses a find of cultural or architectural significance, or a structure that could be eligible for inclusion on the National Register of Historic Places, then the Applicant shall submit an amendment, modification, or mitigation plan for Staff's acceptance. Any such mitigation effort, if needed, shall be developed in coordination with the Ohio Historic Preservation Office with input from applicable local preservation officials and submitted to Staff for review and acceptance.
14. No commercial signage or advertisements shall be located on any turbine, tower, or related infrastructure. If vandalism should occur, the Applicant shall remove or abate the damage within 30 days of discovery or as extended by OPSB Staff for good cause shown, to preserve the aesthetics of the project. Any abatement other than the restoration to pre vandalism condition is subject to review by Staff to ensure compliance with this condition.
15. The facility shall be operated so that the facility noise contribution does not result in noise levels at the exterior of any currently existing non-participating sensitive receptor

that exceed the project area ambient nighttime LEQ (46 dBA) by five dBA. During daytime operation only (7:00 a.m. to 10:00 p.m.), the facility may operate at the greater of: (a) the project area ambient nighttime LEQ (46 dBA) plus five dBA; or, (b) the validly measured ambient LEQ plus five dBA at the location of the sensitive receptor. After commencement of commercial operation, the Applicant shall conduct further review of the impact and possible mitigation of all facility-related noise complaints through its complaint resolution process.

16. The facility shall be operated so that the facility shadow flicker contribution does not result in shadow flicker levels that exceed 30 hours per year for any non-participating sensitive receptor. The Applicant shall confirm with staff that minimization measure or mitigation has been completed for the two receptors that the model and site specific analysis showed to be in excess of 30 hours per year of shadow flicker. The analysis shall show how modeled shadow flicker impacts have been reduced to 30 or fewer hours per year for each such receptor. The analysis shall be provided to Staff at least 30 days prior to the preconstruction conference, for review and confirmation that it complies with this condition. This analysis may incorporate shadow flicker reductions from trees, vegetation, buildings, obstructions, turbine line of sight, operational hours, wind direction, sunshine probabilities, and other mitigation confirmed by Staff to be in compliance with this condition. After commencement of commercial operation, the Applicant shall conduct further review of the impact and possible mitigation of all facility-related shadow flicker complaints through its complaint resolution process.
17. General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving, hoe ram, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. If the Applicant seeks to conduct construction activities on a temporary basis between the hours of 7:00 p.m. or from dusk when sunset occurs after 7:00 p.m. to 7:00 a.m., that will involve noise increases above ambient levels, the Applicant shall submit for Staff approval a plan that includes, but is not limited to, the following, a description of planned construction activities, the length of time for the temporary construction, noise model results for affected non-participating receptors, a list of affected nonparticipating receptors, a mitigation plan for non-participating receptors that will be impacted by noise increases above ambient levels, and a plan for noise monitoring at affected non-participating receptors. The Applicant shall notify property owners or affected tenants within the meaning of OAC Rule 4906-5-08(C)(3), of upcoming construction activities including potential for nighttime construction activities.
18. The Applicant shall develop a complaint resolution process that shall include procedures for responding to complaints during construction and operation of the facility. The complaint resolution process shall include procedures by which complaints can be made by the public, how complaints will be tracked by the Applicant, steps that will be taken to interact with the complainant and respond to the complaint, steps that will be taken to verify the merits of the complaint, and steps that will be taken to mitigate valid

complaints. Mitigation, if required, shall consist of either reducing the impact so that the facility contribution does not exceed the requirements of the certificate, or other means of mitigation reviewed by Staff for confirmation that it complies with this condition.

19. Applicant shall prepare a construction and maintenance access plan based on final plans for the Facility, access roads, and types of equipment to be used. At least 30 days prior to commencement of construction, Applicant shall submit the plan to OPSB Staff for review and acceptance. The plan shall consider the location of streams, wetlands, wooded areas, and sensitive plant species, as identified by the ODNR DOW, and shall explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan shall provide specific details on all wetlands, streams, and/or ditches to be crossed by the Facility, including those where construction or maintenance vehicles and/or Facility components such as access roads cannot avoid crossing the waterbody. In such cases, specific discussion of the proposed crossing methodology for each wetland and stream crossing (such as culverts), and post-construction site restoration, will be included. The plan shall include the measures to be used for restoring the areas around all temporary access points, and a description of any long-term stabilization required along permanent access routes. The plan shall include a detailed frac-out contingency plan for stream and wetland crossings that are expected to be completed via horizontal directional drilling (HDD).
20. At least 30 days prior to commencement of construction, the Applicant shall submit this plan to Staff, for review and confirmation that it complies with this condition. The plan shall identify all areas of proposed vegetation clearing for the facility, specify the extent of clearing and describe how clearing will be done (so as to minimize removal of woody vegetation), and describe how trees and shrubs (along access roads at construction staging areas, during maintenance operations, and in proximity to any other facilities) would be protected from damage.
21. For both construction and maintenance, the Applicant shall limit, to the greatest extent possible, the use of herbicides in proximity to surface waters. Individual treatment of tall growing woody plant species is preferred, while general, widespread use of herbicides during initial clearing or maintenance should only be used where no other options exist, and with prior approval from the Ohio EPA. Prior to commencement of construction, the Applicant shall submit a plan to Staff for review and confirmation that it complies with this condition, describing the planned herbicide use for all areas in or near any surface waters during initial project construction and/or maintenance.
22. The Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas, as mutually agreed upon between the Applicant and Staff, and as shown on the Applicant's final approved construction plan. Sensitive areas include, but are not limited to, areas of vegetation clearing, designated wetlands and streams, and locations of threatened or endangered species or their identified habitat. 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.

23. The Applicant shall contact Staff, ODNR, and the USFWS within 24 hours if state or federal species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having jurisdiction over the facility with respect to wildlife from exercising their legal authority over the facility consistent with law.
24. Construction in Northern harrier preferred habitat types shall be avoided during the species' nesting period of May 15 to August 1.
25. The Applicant shall adhere to seasonal cutting dates (October 1 through March 31) to avoid clearing of habitat when breeding birds would be present and during bat maternity season.
26. Turbine blades shall be feathered (i.e., remain stationary or nearly stationary) at least until the manufacturer-set cut-in speed is reached, as a measure to minimize bat strikes at operating turbines.
27. Staff recommends that the Applicant consult with DOW to determine which streams in the project area could provide suitable habitat for mussels and follow DOW recommendations to minimize impacts to streams as it relates to mussels. If common or state-listed mussels are located during construction activities, the Staff recommends that DOW immediately be consulted for further action.
28. Sixty days prior to the first turbine becoming commercially operational, the Applicant shall submit a post-construction avian and bat monitoring plan for DOW and OPSB Staff review and acceptance. The Applicant shall also provide the monitoring plan to and seek confirmation from the USFWS. The Applicant's plan shall be consistent with ODNR approved, standardized protocol, as outlined in ODNR's On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio. The Applicant shall obtain the necessary permits from ODNR and USFWS to collect bat and migratory bird carcasses. The post-construction monitoring shall begin within two weeks of operation 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 will extend into the second calendar year (e.g., start monitoring on July 1 and continue to November 15; resume monitoring April 1 and continue to June 30). The Applicant may request that the second monitoring season be waived at the discretion of ODNR and OPSB Staff. The monitoring start date and reporting deadlines shall be provided in the DOW approval letter and the OPSB concurrence letter. If it is determined that significant mortality, as defined in ODNR's approved, standardized protocols, has occurred to birds and/or bats, the Applicant understands that the DOW and OPSB Staff will require the

Applicant to develop a mitigation plan. If required, The Applicant shall submit a mitigation plan to the DOW and OPSB Staff for review and approval within 30 days from the date reflected on ODNR letterhead, in coordination with OPSB Staff, in which the DOW is requiring the Applicant to mitigate for significant mortality to birds and/or bats. Mitigation initiation timeframes will be outlined in the DOW approval letter and the OPSB concurrence letter.

29. At least 60 days prior to the first turbine becoming operational, the Applicant shall obtain a technical assistance letter from the USFWS. The technical assistance letter shall include feathering of turbines during low wind speed conditions at night during migratory seasons. This documentation shall be reviewed by Staff to confirm compliance with this condition.
30. The Applicant shall complete a full detailed geotechnical exploration and evaluation at each turbine site to confirm that there are no issues to preclude development of the wind farm. The geotechnical exploration and evaluation shall include borings at each turbine location to provide subsurface soil properties, static water level, rock quality description= (RQD), percent recovery, and depth and description of the bedrock contact and recommendations needed for the final design and construction of each wind turbine foundation, as well as the final location of the transformer substation and interconnection substation. The Applicant must fill all boreholes, and borehole abandonment must comply with state and local regulations. The Applicant shall provide copies of all geotechnical boring logs to Staff and to the ODNR Division of Geological Survey prior to construction.
31. The Applicant shall adhere to a setback distance of at least 1.1 times the total height of the turbine structure, as measured from its tower's base (excluding the subsurface foundation) to the tip of its highest blade, from any gas or hazardous liquid pipeline in the ground at the time of commencement of construction.
32. The Applicant shall comply with the turbine manufacturer's most current safety manual and shall maintain a copy of that safety manual in the O&M building of the facility.
33. At least 30 days before the preconstruction conference, the Applicant shall submit to Staff for review and confirmation that it complies with this condition, a proposed emergency and safety plan to be used during construction, to be developed in consultation with the fire department(s) having jurisdiction over the area.
34. Before the first turbine is operational, the Applicant shall submit to Staff for review and confirmation that it complies with this condition, a fire protection and medical emergency plan to be used during operation of the facility, which shall be developed in consultation with the first responders having jurisdiction over the area.
35. The Applicant shall instruct workers on the potential hazards of ice conditions on wind turbines and install and utilize an ice warning system that may include an ice detector



installed on the roof of the nacelle, manufacturer warranted ice detection software for the wind turbine controller, or an ice sensor alarm that triggers an automatic shutdown.

36. Within six months of commencement of operation of the facility. The Applicant shall register the as-built locations of all underground collection lines with the Ohio Utilities Protection Service. The Applicant shall also register with the Ohio Oil and Gas Producers Underground Protection Service, if it operates in the project area. Confirmation of registration(s) shall be provided to Staff.
37. Should site-specific conditions warrant blasting, the Applicant shall submit a blasting plan, at least 60 days prior to blasting, to Staff for review and confirmation that it complies with this condition. The Applicant shall submit the following information as part of its blasting plan:
  - A. The name, address, and telephone number of the drilling and blasting company.
  - B. A detailed blasting plan for dry and/or wet holes for a typical shot. The blasting plan shall address blasting times, blasting signs, warnings, access control, control of adverse effects, and blast records.
  - C. A plan for liability protection and complaint resolution.
38. The blasting contractor shall utilize two blasting seismographs that measure ground vibration and air blast for each blast. One seismograph shall be placed at the nearest dwelling and the other placed at the discretion of the blasting contractor.
39. At least 30 days prior to the initiation of blasting operations, the Applicant must notify, in writing, all residents or owners of dwellings or other structures within 1,000 feet of the blasting site. The Applicant or explosive contractor shall offer and conduct a pre-blast survey of each dwelling or structure within 1,000 feet of each blasting site, unless waived by the resident or property owner. The survey must be completed and submitted to Staff at least 10 days before blasting begins.
40. Prior to the use of explosives, the Applicant or explosive contractor shall obtain all required local, state, and federal licenses/permits. The Applicant shall submit a copy of the license or permit to Staff within seven days of obtaining it from the local authority.
41. The Applicant shall monitor the microwave paths to ensure there are no adverse impacts. 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 selected route, 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 of the termini and worst-case Fresnel zone dimensions of all known microwave paths or 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. The surveyor may rely on Comsearch data for the microwave paths.
  - 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 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.
42. All existing licensed microwave paths, Doppler weather radar systems, 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, Doppler weather radar systems, 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, Doppler weather radar systems, 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.
43. Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, Ohio Department of Transportation, local law enforcement, and health and safety officials. This coordination shall be detailed as part of a final traffic plan submitted to Staff prior to the preconstruction conference for review and confirmation that it complies with this condition.
44. The Applicant shall provide the final delivery route plan and the results of any traffic studies to Staff and the County Engineer(s) 30 days prior to the preconstruction conference. The Applicant shall complete a study on the final equipment delivery route to determine what improvements will be needed in order to transport equipment to the

wind turbine construction sites. The Applicant shall make all improvements outlined in the final delivery route plan prior to equipment and wind turbine delivery. The Applicant's delivery route plan and subsequent road modifications shall include, but not be limited to, the following:

- A. Perform a survey of the final delivery routes to determine the exact locations of vertical constraints where the roadway profile will exceed the allowable bump and dip specifications and outline steps to remedy vertical constraints.
  - B. Identify locations along the final delivery routes where overhead utility lines may not be high enough for over-height permit loads and coordinate with the appropriate utility company if lines must be raised.
  - C. Identify roads and bridges that are not able to support the projected loads from delivery of the wind turbines and other facility components and make all necessary upgrades.
  - D. Identify locations where wide turns would require modifications to the roadway and/or surrounding areas and make all necessary alterations. Any alterations for wide turns shall be removed and the area restored to its preconstruction condition unless otherwise specified by the County Engineer(s).
45. The Applicant shall repair damage to government-maintained (public) roads and bridges caused by construction or maintenance activity. Any damaged public roads and bridges shall be repaired promptly to their previous condition by the Applicant under the guidance of the appropriate regulatory agency. Any temporary improvements shall be removed unless the County Engineer(s) request that they remain. The Applicant shall provide financial assurance to the counties that it will restore the public roads it uses to their condition prior to construction or maintenance. The Applicant shall also enter into a Road Use Agreement with the County Engineer(s) prior to construction and subject to Staff review and confirmation that it complies with this condition. The Road Use Agreement shall contain provisions for the following:
- A. A preconstruction survey of the conditions of the roads.
  - B. A post-construction survey of the condition of the roads.
  - C. An objective standard of repair that obligates the Applicant to restore the roads to the same or better condition as they were prior to construction.
  - D. A timetable for posting of the construction road and bridge bond prior to the use or transport of heavy equipment on public roads or bridges.
46. The facility owner and/or operator shall repair damage to government-maintained (public) roads and bridges caused by decommissioning activity. Any damaged public roads and bridges shall be repaired promptly to their pre-decommissioning state by the

facility owner and/or operator under the guidance of the appropriate regulatory agency. The Applicant shall provide financial assurance to the counties that it will restore the public roads and bridges it uses to their pre-decommissioning condition. These terms shall be defined in a road use agreement between the Applicant and the County Engineer(s) prior to construction. The road use agreement shall be subject to Staff review and confirmation that it complies with this condition, and shall contain provisions for the following:

- A. A pre-decommissioning survey of the condition of public roads and bridges conducted within a reasonable time prior to decommissioning activities.
- B. A post-decommissioning survey of the condition of public roads and bridges conducted within a reasonable time after decommissioning activities.
- C. An objective standard of repair that obligates the facility owner and/or operator to restore the public roads and bridges to the same or better condition as they were prior to decommissioning.
- D. A timetable for posting of the decommissioning road and bridge bond prior to the use or transport of heavy equipment on public roads or bridges.

47. The Applicant, facility owner, and/or facility operator shall comply with the following conditions regarding decommissioning:

- A. The Applicant, facility owner, and/or facility operator shall provide the final decommissioning plan to Staff and the county engineer(s) for review and confirmation of compliance with this condition, at least 30 days prior to the preconstruction conference. The plan shall:
  - i. Indicate the intended future use of the land following reclamation.
  - ii. Describe the following: engineering techniques and major equipment to be used in decommissioning and reclamation; a surface water drainage plan and any proposed impacts that would occur to surface and ground water resources and wetlands; and a plan for backfilling, soil stabilization, compacting, and grading.
  - iii. Provide a detailed timetable for the accomplishment of each major step in the decommissioning plan, including the steps to be taken to comply with applicable air, water, and solid waste laws and regulations and any applicable health and safety standards in effect as of the date of submittal.
- B. The Applicant, facility owner and/or facility operator shall file a revised decommissioning plan to the Staff and the county engineer(s) every 5 years from the commencement of construction. The revised plan shall reflect advancements in engineering techniques and reclamation equipment and standards. The revised

plan shall be applied to each five-year decommissioning cost estimate. Prior to implementation, the decommissioning plan and any revisions shall be reviewed by Staff to confirm compliance with this condition.

- C. The Applicant, facility owner and/or facility operator shall, at its expense, complete decommissioning of the facility, or individual wind turbines, within 12 months after the end of the useful life of the facility or individual wind turbines. If no electricity is generated for a continuous period of 12 months (assuming no force majeure or impediment beyond the facility owner's and/or facility operator's control) and no payments have been made to landowners during the 12 month period, or if the Board deems the facility or turbine to be in a state of disrepair warranting decommissioning, and the facility owner and/or operator is unable to reasonably restore the Facility or specified individual turbine(s) to a normal state of operation, the wind energy facility or individual wind turbines will be presumed to have reached the end of its useful life. The Board may extend the useful life period for the wind energy facility or individual turbines for good cause as shown by the facility owner and/or facility operator. After notice and hearing, the Board may also require decommissioning of individual wind turbines due to health, safety, wildlife impact, or other concerns based on scientifically verifiable information that prevent the turbine from operating within the terms of the Certificate and that Applicant, facility owner and/or facility operator have been unable to correct within a reasonable period, not to exceed three months.
- D. Decommissioning shall include the removal and transportation of the wind turbines off site. Unless otherwise mutually agreed upon by the Applicant, facility owner and/or facility operator and the landowner, decommissioning shall also include the removal of: i) buildings, cabling, electrical components, access roads, and any other associated facilities; and ii) all physical material pertaining to the facility and associated equipment shall be removed to a depth of at least 36 inches beneath the soil surface and transported off site. The disturbed area shall be restored to the same physical condition that existed before erection of the facility. Damaged field tile systems shall be repaired to the satisfaction of the property owner.
- E. During decommissioning, all recyclable materials, salvaged and non-salvaged, shall be recycled to the furthest extent practicable. All other non-recyclable waste materials shall be disposed of in accordance with state and federal law.
- F. The facility owner and/or facility operator shall not remove any improvements made to the electrical infrastructure if doing so would disrupt the electric grid, unless otherwise approved by the applicable regional transmission organization and interconnection utility.
- G. Subject to confirmation of compliance with this condition by Staff, and seven days prior to the preconstruction conference, an independent, registered Professional Engineer, licensed to practice engineering in the state of Ohio, shall be retained by the Applicant, facility owner, and/or facility operator to estimate

the total cost of decommissioning in current dollars, without regard to salvage value of the equipment. Said estimate shall include: (1) an identification and analysis of the activities necessary to implement the most recent approved decommissioning plan including, but not limited to, physical construction and demolition costs assuming good industry practice and based on ODOT's Procedure for Budget Estimating and RS Means material and labor cost indices or any other publication or guidelines approved by Staff; (2) the cost to perform each of the activities; (3) an amount to cover contingency costs, not to exceed 10 percent of the above calculated reclamation cost. Said estimate will be converted to a per-turbine basis (the "Decommissioning Costs"), calculated as the total cost of decommissioning of all facilities as estimated by the Professional Engineer divided by the number of turbines in the most recent facility engineering drawings. This estimate shall be conducted every five years by the facility owner and/or facility operator.

- H. The Applicant, facility owner and/or facility operator shall post and maintain for decommissioning, at its election, funds, a surety bond, or similar financial assurance in an amount equal to the per-turbine Decommissioning Costs multiplied by the sum of the number of turbines constructed and under construction. The funds, surety bond, or financial assurance need not be posted separately for each turbine so long as the total amount reflects the aggregate of the Decommissioning Costs for all turbines constructed or under construction. For purposes of this condition, a turbine is considered to be under construction at the commencement of excavation for the turbine foundation. The form of financial assurance or surety bond shall be a financial instrument mutually agreed upon by the Board and the Applicant, the facility owner, and/or the facility operator. The financial assurance shall ensure the faithful performance of all requirements and reclamation conditions of the most recently filed and approved decommissioning and reclamation plan. At least 30 days prior to the preconstruction conference, the Applicant, the facility owner, and/or the facility operator shall provide an estimated timeline for the posting of decommissioning funds based on the construction schedule for each turbine. Prior to commencement of construction of each individual turbine, the Applicant, the facility owner, and/or the facility operator shall provide a statement from the holder of the financial assurance demonstrating that adequate funds have been posted for the scheduled construction of each individual turbine. Once the financial assurance is provided, the Applicant, facility owner and/or facility operator shall maintain such funds or assurance throughout the remainder of the applicable term and shall adjust the amount of the assurance, if necessary, to offset any increase or decrease in the Decommissioning Costs.
- I. The decommissioning funds, surety bond, or financial assurance shall be released by the holder of the funds, bond, or financial assurance when the Applicant, facility owner and/or facility operator has demonstrated, and the Board concurs, that decommissioning has been satisfactorily completed, or upon written approval of the Board, in order to implement the decommissioning plan.

48. At least seven days before the preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, a copy of all NPDES permits including its approved SWPPP, approved SPCC procedures, and its erosion and sediment control plan. Any soil issues must be addressed through proper design and adherence to the Ohio EPA BMPs related to erosion and sedimentation control.
49. The Applicant shall meet all recommended and prescribed FAA and ODOT Office of Aviation requirements to construct an object that may affect navigable airspace. This includes submitting coordinates and heights for all towers exceeding 200 feet AGL for ODOT Office of Aviation and FAA review prior to construction, and the non-penetration of any FAA Part 77 surfaces.
50. All applicable structures, including construction equipment, shall be lit in accordance with FAA circular 70/7460-1 K Change 2, Obstruction Marking and Lighting; or as otherwise prescribed by the FAA. This includes all cranes and construction equipment.
51. The Applicant shall remove all temporary gravel and other construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to preconstruction conditions in compliance with the NPDES permit(s) obtained for the project and the approved SWPPP created for this project.
52. The Applicant shall not dispose of gravel or any other construction material during or following construction of the facility by spreading such material on agricultural land. All construction debris and all contaminated soil shall be promptly removed and properly disposed of in accordance with Ohio EPA regulations.
53. The Applicant shall comply with fugitive dust rules by the use of water spray or other appropriate dust suppressant measures whenever necessary.

**B. Exhibits**

Subject to the terms and conditions of this Stipulation, the Applicant, Ohio Farm Bureau, and OPSB Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding, and that cross-examination is waived thereon:

1. Company Exhibit 1, the Application, as filed on December 23, 2013 and certified as complete on February 19, 2014;

2. Company Exhibit 2, a copy of the Proof of Service of the Application on local public officials and libraries along with the list of property owners and adjacent property owners, as filed on February 21, 2014;
3. Company Exhibit 3, Proofs of Publication filed on March 25, 2014 in accordance with OAC Rule 4906-5-09(A) for the publication of the description of the application and the hearing dates, published on March 12, 2014 in the *Norwalk Reflector*, and on March 18, 2014 in the *Greenwich Enterprise Review*;
4. Company Exhibit 4, Proofs of Publication filed on May 12, 2014 in accordance with OAC Rule 4906-5-09(B) for the second publication of the description of the application and the hearing dates, published on April 14, 2014 in the *Norwalk Reflector*, and on April 22, 2014 in the *Greenwich Enterprise Review*;
5. Joint Exhibit 1, this “Joint Stipulation and Recommendation” signed on behalf of the OPSB Staff, Ohio Farm Bureau, and Applicant;
6. OPSB Staff Exhibit 1, “Staff Report of Investigation,” issued on April 18, 2014.

**C. Other Terms and Conditions**

- (1) This Stipulation is expressly conditioned upon its acceptance 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 parties, each party shall have the right, within thirty (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, any Party may terminate or withdraw from the Stipulation by filing a second application for rehearing with the Board within thirty (30) days of the Board’s entry on rehearing. The second application shall be limited in scope to a party giving notice of exercising its right to terminate and withdraw from the Stipulation to the Board, and requesting an evidentiary hearing with all appertaining rights of process, as if the Stipulation had never been executed. Prior to any Party seeking rehearing or terminating and withdrawing from the Stipulation pursuant to this provision, the Parties agree to convene immediately 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 a second application for rehearing being filed giving notice of termination or withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void.
- (2) The 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 it will not use this Stipulation as 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 entering into this Stipulation.

### **III. FINDINGS**

The 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:

1. 6011 Greenwich Windpark, LLC is the sole owner of 6011 Greenwich Windpark, LLC and is a wholly owned subsidiary of Windlab Developments, USA, Ltd.
2. The Facility qualifies as a “major utility facility” defined in Ohio Revised Code Section (“R.C.”) 4906.01(B)(1)(c).
3. On April 19, 2013, the Applicant filed a pre-application notification letter and requested waivers of certain filing requirements in OAC Chapter 4906-17, including a waiver of an extensive site selection study, a waiver to allow Applicant to provide a general narrative description of vegetative cover that may be disturbed during construction, a waiver to allow Applicant to submit information and a map relating to cross-sectional views and test borings once it determines the final location of turbines and other structures, and a waiver from providing grade elevations around the turbine pedestals and a map showing modifications in grade elevations during construction.
4. The Administrative Law Judge, by Entry dated June 17, 2013, granted the Applicant’s waiver request.
5. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on December 23, 2013.
6. On January 9, 2014, the Ohio Farm Bureau Federation filed a petition for leave to intervene in the case, which was granted on March 10, 2014.
7. On February 21, 2014, the Applicant filed a copy of the Proof of Service of the Application on local public officials and libraries along with the list of property owners and adjacent property owners.
8. On March 25, 2014, the Applicant filed Proofs of Publication in accordance with OAC Rule 4906-5-09(A) for the publication of the description of the application and the hearing dates, published on March 12, 2014 in the *Norwalk Reflector*, and on March 18, 2014 in the *Greenwich Enterprise Review*.

9. On May 12, 2014, the Applicant filed Proofs of Publication in accordance with OAC Rule 4906-5-09(B) for the second publication of the description of the application and the hearing dates, published on April 14, 2014 in the *Norwalk Reflector*, and on April 22, 2014 in the *Greenwich Enterprise Review*.
10. The Staff Report was filed on April 18, 2014.
11. A local public hearing, pursuant to R.C. 4906.08(C), was held on May 6, 2014 at South Central High School in Greenwich, Ohio.
12. An adjudicatory hearing was held on May 19, 2014 in Columbus, Ohio.
13. The basis of need as specified under R.C. 4906.10(A)(1) is not applicable to this generating facility project.
14. 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).
15. 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 economics of the various alternatives, and other pertinent considerations as required by R.C. 4906.10 (A)(3).
16. 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, 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.
17. Adequate data on the project has been provided to determine that the wind farm project will either comply with, or is not subject to, the requirements in the Ohio Revised Code 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).
18. 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).
19. 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 Ohio Revised Code Chapter 929 that is located within the site of the proposed Facility, as required by R.C. 4906.10(A)(7).

20. 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).
21. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

#### **IV. CONCLUSIONS OF LAW**


- (1) 6011 Greenwich Windpark, LLC is a “person” under R.C. 4906.01(A).
- (2) The proposed facility is a major utility facility as defined in R.C. Section 4906.01(B)(1).
- (3) Greenwich’s Application complies with the requirements of Ohio Revised Code Chapter 4906-17.
- (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 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 Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation, and all rules and standards adopted under the relevant Chapters of the Ohio Revised Code.
- (9) The record establishes that the Facility 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 parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the Facility.

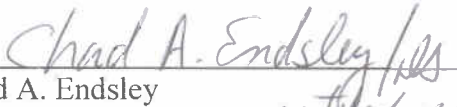
The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

Respectfully submitted on behalf of,

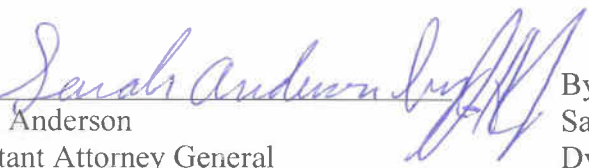
**THE STAFF OF THE OHIO POWER  
SITING BOARD**

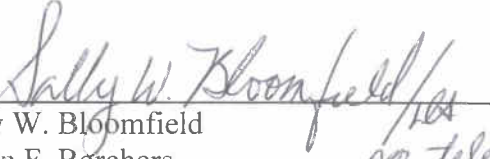
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Summary: Stipulation and Recommendation electronically filed by Teresa Orahood on behalf of Sally Bloomfield