

February 1, 2018

Henry County Commissioners
Courthouse
New Castle, IN 47362

Dear Mr. Baker, Mr. Cronk, and Mr. Yanos,

Thank you for making efforts to do a much needed update to the Henry County WECS Ordinance. Please remember that your first obligation is to protect the health, safety and well-being of the people of Henry County.

This letter comes with proposals attached that address the three agreements that are typically completed with each WECS project. We propose that the requirements previously negotiated with each project now become a part of the WECS Ordinance. By including these requirements in the WECS ordinance, it becomes consistent for all companies, eliminates the need for negotiations, and does not require legal counsel.

The Economic Development Agreement contains a plethora of statements that are not in the best interest of Henry County, both financially and legally. With those statements removed, all that remains are the economic development payments as compensation for the loss of future economic development caused by wind turbines. The wind companies offer only a pittance compared to their expected profits, and only for a short time, relative to the expected life of a project.

The Road Use and Drains Agreement is vitally important to the infrastructure of the County. The Agreement gets caught up in all the legalese when it would be straightforward to just state the requirements the County has for repairing and maintaining roads, keeping them safe, and protecting farmland. We have made a concerted effort to include many of those requirements, and any additional stipulations can be added. Communication of events during construction is crucial for the people of the county, since they must adapt their schedules and travel to the disruptions caused by construction.

There is no need for a Decommissioning Agreement, but recommended changes must be made to the decommissioning section of the WECS Ordinance to protect the future of Henry County and its citizens. We believe that the County should not be responsible for the decommissioning of a WECS. A WECS is a business venture and it is the responsibility of those who will reap the potential benefits. That responsibility falls on the wind company and the lease signers. The County still needs to oversee that the process is completed and done satisfactorily.

These proposals are a huge step forward for the County as it considers wind energy and what is best for the County. It will save the time, money, and provide safeguards for the County and its people. Wind companies will know up front what is expected of them as they consider coming to the County.

Thank you for considering these proposals. We hope that they become part of the revised WECS ordinance.

Sincerely,

Rosalind Richey
Gary Rodgers
Vern Cherrett
Casey Kubak
Heidi Golden

In Lieu of Economic Development Agreement

To be included in the WECS Ordinance under Section 9.6 C

2. Economic Development Payments

The County desires to foster economic growth and create new jobs throughout Henry County along with investment in and growth of the tax base. The County recognizes that WECS projects involve the installation of wind turbines, facilities, underground electrical system, communications system, transmission lines, substations, switchyards, operation and maintenance facilities, access roads, lay-down and staging yards, construction and related facilities, equipment and improvements related to the various projects which could limit investments in and development in portions of the County for other commercial purposes that create significant new jobs in the County.

A. In consideration of the anticipated restriction of certain other new commercial development and employment in portions of the County as a consequence of the Project, the applicant/owner/operator (the "Company") shall make the following payments (the "Economic Development Payments") on the following dates:

1. At the time of Improvement Location Permit request submittal the Company will pay the initial Economic Development Payment of Fifteen Thousand Dollars (\$15,000) per megawatt of nameplate capacity anticipated to be installed. (Payment amount shall be subject to an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index.)
2. Annual Economic Development Payments will be made on the anniversary of the Initial Economic Development Payment in an amount equal to the average leaseholder payment on a per turbine basis and that average multiplied by the number of industrial wind turbines owned or operated by the Company in Henry County.

B. Payments in Lieu of Taxes

In addition to the Economic Development Payments, the County is also entering into this Agreement in reliance upon the property taxes to be paid by the Company to the local taxing units located in the County (including the County, each a "Taxing Unit") as a result of the investment by the Company in the Project (which property taxes shall not include the value of any taxes abated as a result of an abatement. In the event of a Change in Law, the Company shall pay to each Taxing Unit an annual amount (such payment, a "PILOT") for each year beginning as of the effective date of such Change in Law, and continuing through and including, but not after, the due date(s) for installments of taxes payable until decommissioning is accepted. The annual PILOT shall be paid in semi-annual payments on such dates as regularly scheduled installments of property taxes are payable (currently in May and November of each year). "Change in Law" shall mean a change in the local, state or federal laws, rules, or regulations which makes all or any portion of the Company's property exempt from taxation by the Taxing Units or alters any applicable depreciation rules or regulation and which materially impacts the anticipated tax collections by the County. The amount of

each annual PILOT shall be determined as follows: (a) the amount of property taxes that the Company would have paid during such year to the Taxing Units had the Change in Law not taken effect, based on the then current property tax rate and the finally-determined assessed value of the Company's property for that assessment year (without taking into any account any abatement), less (b) any abatement (without any effect of the Change in Law), less (c) the amount of other new tax revenue received by the Taxing Unit(s) from the Company as a result of the Change in Law, which other new tax revenue may be collected locally or at the State level and distributed to the Taxing Unit(s) (e.g., a production tax, a license tax based on gross revenue, etc. that is imposed and distributed to the Taxing Unit).

C. Additional Covenants.

1. The Company hereby covenants and agrees that within fifteen (15) days of filing Form UD-45 with the Department of Local Government Finance, it shall provide a copy thereof to the Henry County Auditor and the County Assessor. Concurrently, the Company shall provide a schedule to the County Auditor and the County Assessor showing the total cost of property placed in service for such property for federal tax purposes and the annual and accumulated depreciation for federal tax purposes. The total cost of property placed in service as shown on such schedule is intended to match the amount shown on Line 9 of Form UD-45, and the amount shown on such schedule for accumulated depreciation is intended to match the amount shown on line 21 of Form UD-45. Any discrepancies shall be reconciled on the schedule. The Company agrees to depreciate the wind turbines on a five-year MACRS basis, and to not claim that the wind turbines are subject to any obsolescence deduction. Such schedule shall be used by the County to verify that Company depreciated the wind turbines on a five-year MACRS basis, and did not claim any obsolescence deduction.
2. The Company, or its parent, shall at no time after Improvement Location Permit submittal and during the operation of the Project shall it initiate or participate in any legislative effort with the objective of seeking a Change of Law.

IN LIEU OF ROAD USE AGREEMENT

Editorial Note: To save the expense in time and money in litigation with every company interested in building a WECS in the County, it is beneficial for the County to list its criteria for use and repair of county roads in the WECS ordinance. This section also includes drainage.

9.10 USE OF ROADS/SERVICES

A. Use of Roads

1. The Company desires to construct a wind power project (the "Project") consisting of wind turbines and related facilities, including, but not limited to, power collection and communications systems, site roads, pad-mount transformers, an operation and maintenance building, electric substations, transmission lines, switchyard, staging areas, and related facilities (collectively, the "Project Facilities") in the County.
2. As part of the construction and, later, the Decommissioning, of the Project, the Company will use certain roads, bridges, culverts, and rights-of-way located in the County (collectively, the "Roads") that will be shown in Exhibit A of the Transportation Plan (Section 9.10B) included with the Improvement Location Permit. This plan shall remain in effect until Decommissioning is complete.
(Editorial Note: Add to Improvement Location Permit Application: Transportation Plan (Section 9.12))
3. The Company's use of the Roads, including use by its contractors and subcontractors, will include the operation of heavy trucks and other heavy equipment in excess of the weight of vehicles that customarily use the Roads to transport parts, facilities, materials, and equipment and to carry out other related activities during the construction, and later, the decommissioning, of the Project.
4. The County, pursuant to Indiana law, controls the roads and certain rights-of-way within the unincorporated areas of the County and may place reasonable restrictions on the use of roads and rights-of-way for the public's health, safety and welfare, including but not limited to weight restrictions and the placement of other structures in the right-of-way. All vehicles over five (5) gross tons vehicle weight shall use only Roads approved by the County for the Project.
5. The Transportation Plan and the Drainage Plan shall establish that the newly constructed WECS access roads shall not impede the flow of water and will comply with the county drainage ordinance or standards and policies of the Engineer/Surveyors Office and Drainage Board, as applicable.
6. County Inspector

- a. The County may retain an inspector ("County Inspector") during construction of the Project as a result of the process set out in (b) below. The County Inspector shall inspect Company's upgrades and repairs to the Roads and drainage improvements and provide written acknowledgement that such upgrades and repairs appear to have been made in accordance with this Ordinance, where such is the case or, where such is not the case, so inform Company and the County Highway Superintendent (with respect to Roads) and the Drainage Board (with respect to drainage improvements) and act as liaison between Company and the County Highway Superintendent and Drainage Board in order to see that such repairs are brought into compliance with this Ordinance. The County Inspector shall inform Company of any damage noted by the County Inspector in the performance of the County Inspector's duties.
- b. Prior to the initiation of construction of the Project, the Company shall provide the Highway Engineer a construction schedule based upon which the parties shall mutually agree upon the estimated number of hours that will be required of the County Inspector. County agrees to not unreasonably withhold approval of the budgeted hours. County agrees that the person or persons retained by it shall not charge the Company more than \$100 per hour. Upon agreement as to a budget for the County Inspector, Company shall pay in advance the estimated amount of the expenses that the Company will incur with respect to the retention of the County Inspector to perform such duties (the "Budgeted Amount"). The County agrees to deposit the Budgeted Amount in a separate account for the sole purpose of paying the fee of the County Inspector. The County shall promptly refund a portion of the advance payment to the Company to the extent that the actual expenses incurred by the County are less than such advance payment, and the Company shall pay to the County such an additional amount as is necessary to pay all expenses, to the extent that the actual amount of the expenses is more than the advance payment; provided, however, that such additional amount shall not exceed the Budgeted Amount by more than ten percent (10%), unless the additional cost is caused by the Company.
- c. All hourly fee rates and required security amounts, as identified throughout this Section concerning expenses to be covered by the Company or otherwise reimbursed to the County, shall be subject to an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index.

B. Transportation Plan

1. Submit a Transportation Plan (Exhibit A) with the Improvement Location Permit. The Transportation Plan is a detailed route plan that has been recommended by the County Engineer, County Highway Supervisor, County Sheriff or designee, School Superintendent(s) of the district(s) the WECS will be constructed in or designee(s)l , Fire Chief(s) with

jurisdiction over the WECS Project Area or designee(s), Soil & Water Conservation District Board Representative or designee(s), and other identified individuals, including consultation with all affected landowners (the "(WECS Transportation Committee)") of easements of such roads, which will review and recommend to the County Commissioners the proposed Transportation Plan submitted by a WECS Applicant. The Plan will be reviewed and inspected during construction by the WECS Transportation Committee, with repairs made according to specifications.

- a. No route or access roadway for the transit of the WECS-related construction, repair, and decommissioning work shall be permitted across or in proximity to railroad facilities, natural gas, oil, or other materials conveyance lines without the prior written approval of the operator/owner of those specific conveyance lines, facilities, and their easements. Isolation distances and separation methods from the transit routes/roadways to the conveyance lines and rail facilities shall follow accepted safety regulations and the applicable standards as identified by their respective industry practices. Approved distances to all such conveyance and rail lines and their easements must be shown on the Transportation Plan documents. County shall have no duty or responsibility to coordinate the work and scheduling of any contractor, subcontractor, or material supplier of the Company, or enforce compliance with any regulatory jurisdictions that oversee the conveyance and rail lines that may interface with a WECS-related transit route or access roadway.
 - b. Company shall maintain a single communications source/liaison to the County for all WECS-related transit planning, scheduling, work progress, and technical information concerning the transit routes and access roadways. Company shall fully update its information not more than on a weekly basis to the County, but shall report transit-related incidents and accidents in the immediate timeframe, and as needed to accommodate any emergency conditions.
3. The Transportation Plan includes all Roads used for staging, construction, maintenance purposes, and later, decommissioning. The Transportation Plan shall include all intended improvements, upgrades, construction and repair to the Roads. All roads will be from intersection to intersection. Prior to the start of construction of Project Facilities, at the expense of Company, Company shall create a detailed video visual record and summary textual narrative of the pre-existing condition of all Roads covered under the Transportation Plan that is approved by the County Highway Superintendent and the County Engineer. The Engineer shall conduct a preconstruction baseline survey to determine existing road conditions for assessing and recording potential future damage. Due to lack of funding some parts of County roads have reverted to gravel. Repair to those roads shall be to the intended prior surfaces. The County Engineer has a list of standards for each section of road in the County. Those standards or better shall be used for all repairs after

construction completion.

4. The Transportation Plan is to be used for construction, maintenance by a WECS including plans for temporary road closures and traffic re-routing, plans for the repairs, replacement and/or reconstruction of all damage to roads, bridges, signage, vehicles, drainage structures, and other public or private improvements damaged by the WECS construction and maintenance, and the posting of repair, replacement, and maintenance bonds and such other matters as may be determined to be necessary and appropriate to protect the health and safety of motorists and to preserve and maintain the affected roads, bridges, and other public and private improvements.
5. Driveways, Road Improvements and Improvements to Right of Way
 - a. Company may install driveways or entrances from certain Roads as shown in Transportation Plan and when finalized, shall list such driveway and road entrances, shall attach such diagrams to Exhibit A. All driveways shall follow specifications in Ordinance for the Construction of Access and Entries to County Highways and Roads (Appendix A), paying permit fees for a Combined Driveways Permit, prior to issuance of Project Improvement Location/Building Permits.
 - b. Company shall improve designated areas of certain Roads and improve designated intersections of certain Roads, and upgrade the base thickness and surface of the Roads as required to ensure stability throughout the construction phase. Prior to commencement of construction, Company shall prepare, subject to the approval of the County Highway Superintendent, the County Engineer, and the County Surveyor, a Road and Drain Upgrade and Restoration Schedule, which shall include (i) the planned road upgrade (if any) for each length of the Roads from intersection to intersection required prior to the commencement of construction (including the proposed upgraded width and aggregate to be added), (ii) the preparation, stabilization, and restoration plan for each of the Roads (including final surface type, final surface width, and shoulder taper), (iii) the preparation, stabilization, and restoration plan for each of the Drainage Improvements, and (iv) the estimated cost of performing all repair work. The Road and Drain Upgrade & Restoration Schedule shall be attached to the Transportation Plan.
 - c. All work on improved corners shall be done in accordance with the Corner Specifications or as otherwise required by County regulations and ordinances. Drawings of "typical" improved corners of existing intersections shall be included with the Road and Drain Upgrade & Restoration Schedule.

- d. Road improvements required to provide material deliveries to turbine foundations shall be finished ahead of material deliveries in the area prior to construction of the turbine pads.
- e. Upon completion of construction of the Project Facilities, all road improvements shall remain unless the County Highway Superintendent specifically requests, in writing, that such improvements be removed; provided, however, that any improvements located outside the permanent right-of-way owned by the County shall be removed unless otherwise requested by the County.
- f. Permits from the County for wide-outs and improved corners of existing intersections may be combined with the Company paying permit fee for a Combined Permit.
- g. Each of the access drives will be constructed with a minimum approach width as approved by the County Highway Superintendent and the County Engineer and appropriate ordinance (see Appendix A). Culverts across roads, in the right-of-way, and under driveways, that existed in the Project area prior to the Project and are removed during the Project activities, will be available to the County for salvage. Proper drainage shall be maintained at all times.
- h. After construction of the Project is complete, Company shall, unless permitted otherwise, in writing, by the County Highway Superintendent, the County Engineer, and the County Surveyor, return drainage located within the public right-of-way to its existing condition as of the start of construction by repairing or replacing, as necessary, any field tiles, culverts, pipes or other drainage facilities damaged in the public right-of-way and the reconstruction of any open ditches as required to provide proper drainage. The parties acknowledge that the Company shall address crop damage with landowners pursuant to the terms of the applicable lease, and with non-participating landowners pursuant to projected value of the crop.
- i. After the installation of the underground transmission lines is complete, Developer shall back-fill any trenches or holes (including as may be subsequently required to address any effects of settling), remove excess dirt, materials, and debris, and reseed disturbed areas.

6. Daily Plan of Work

The Company shall submit a daily plan of work submitted at a time of day specified by the County Engineer detailing where construction and transportation activities will occur to the County Highway Supervisor, County Sheriff, County Engineer, Soil & Water Conservation District, the Superintendent(s) of the School District(s) and County Board of

Commissioners in which construction is occurring and to the emergency services with jurisdiction over the areas in which construction is occurring. This shall include notification of any oversize or overweight loads entering or exiting the project each day as well as any work on roads, drainage, or access roads. The company shall have a website updated daily where interested parties can obtain this information.

7. The Transportation Plan must be approved by the HCPC and County Commissioners. This Plan is to be included as Exhibit A of the Improvement Location Permit.

C. Drainage Plan

1. Using records and maps of County regulated and private open and tile drains, including lateral drains directly connected, as requested from and provided by the County, provided at regular custom mapping rates, Company shall develop a Drainage Plan.
 - a. The Drainage Plan shall indicate such regulated and private drains which lie within one hundred feet (100') of any point at which there is any proposed Project construction activity or operation of a motor vehicle or other equipment weighing more than five (5) tons (the "Affected Drains") in the Development Area. The Company shall not place any IWT within 100 feet (100') of such regulated and private drains. Prepare one or more maps depicting all Affected Drains.
 - b. The Drainage Plan must be approved by the County Surveyor, Drainage Board, Zoning Administrator and County Commissioners. The Drainage Plan and map shall be included with the Transportation Plan in Exhibit A.

D. Transmission Lines

1. The County will allow the Company to use the Roads for the purposes of the installation of below ground transmission lines in accordance with all local ordinances, regulations and conditions of any approval or permit (see Appendix A). All below ground transmission lines shall be placed as close to the edge of the right-of-way and as far from the road surface as possible, except upon written approval from the WECS Transportation Committee. No transmission poles are to be erected. It is the responsibility of the Company to contact proper authorities to determine locations of all underground utility lines.
2. The Company shall provide the County, in the Transmission Plan, maps showing the location of all proposed below ground transmission lines associated with the Project to ensure compliance with this Ordinance and local ordinances. All landowners adjacent to the affected rights-of-way shall be notified prior to County approval and allowed input.
3. The Transmission Plan for all transmission lines must be approved by the County Engineer, the County Highway Superintendent, and the

County Surveyor. This Plan shall also be included in Exhibit A of Improvement Location Permit.

4. Underground Road Crossings

Company may install cables and wires under, across, or along the Roads and drainage improvements according to the appropriate ordinance (see Appendix A) and subject to the following:

- a. Company may cut an "open trench" across gravel and unimproved roads, and the trench will be backfilled two (2) feet beyond each shoulder with compacted number fifty-three (No. 53) stone per the permit specifications. No open trench shall be cut in a paved road, unless approved by the County Highway Engineer and the County Highway Superintendent.
- b. Company will bore under paved roads and may bore under certain drainage improvements, and all boring pits and ditch excavation will be backfilled, compacted and raked to return it to conditions substantially similar to those prior to commencement of work. Any such boring by Company must be at a minimum depth of 48" below the cross-section of the Road or associated drainage improvements at the selected crossing location.
- c. Each boring or cut across a county road or drainage improvement will be identified by general location and also by centerline coordinate, and upon the completion of construction, Company will provide an as-built location.
- d. The County will accept a single permit form applying to all of the individual underground bore and "open trench" underground crossing locations. The permit forms will only be used as an official record for documenting the location of the underground crossings. A map or maps of these locations will be included with the Transportation Plan.

E. Health, Safety, Security, and Environmental

1. All vehicles driven by Applicant/Owner/Operator's employees, contractors and subcontractors will abide by local, state, and federal traffic laws including speed limit guidelines.
2. In compliance with the current Indiana Manual on Uniform Traffic Control Devices, certain safety signs ("Safety Signs"), as determined by the County Highway Superintendent, and County Sheriff or designee, will be put up by Company for at all times within a reasonable distance of current construction activities when Company's crews are working on the Roads.
3. Dust and debris control measures will be required by the County during construction of WECS. For dust control, commercially available measures such as a dust palliative, shall be used. For instance, a storm

water run-off fence shall be required on all construction sites during construction and installation. All dust or debris complaints or requests by the County Highway Superintendent shall be remedied with 24 hours.

4. All facilities shall comply with existing septic and well regulations as required by the Henry County Health Department and the State of Indiana Department of Public Health.

F. Road Repairs, Sign Damage, Drainage Improvements during Construction

1. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, shall be repaired to the satisfaction of the County Engineer and County Highway Superintendent. A corporate surety bond made out to the Henry County Commissioners in an amount to be fixed by the Engineer shall be required by the Engineer to ensure the County that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
2. If the applicant does not make repairs in a timely manner, the Supervisor is authorized to make repairs and charge the applicant a fee to cover the costs of repair. Such fees shall be established at the start date of construction and may be revised at three-month intervals.
3. A \$1,000 fine shall be assessed for each occurrence where WECS oversize or overweight construction and maintenance equipment utilizes any route(s) in violation of the approved Transportation Plan.
4. The Company, at the end of each day, shall check for damage to the Roads that were used that day and related drainage improvements. In the event that the damage imposes a danger to the safety of the public or traffic, the repair and appropriate safety measures will commence immediately and be completed as soon as possible upon notice from the County Highway Superintendent. The County Highway Superintendent may repair or replace any damaged safety signs, and the Company shall reimburse the Highway Superintendent for the cost of such repair or replacement.
5. Upon request of the County Highway Superintendent, the Company shall provide continuous warnings and post necessary signs in addition to safety signs indicating unsafe conditions.
6. All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction, maintenance, or decommissioning of the WECS, must be completely repaired to original or better condition, and so as not to impede the natural flow of water. All repairs must be completed within thirty (30) days, weather permitting, of notification by the Surveyor/Engineer or his agent and, upon completion, must be approved by the Henry County Drainage Board. The Company shall be responsible for loss or damage proximately resulting from its impairment of such drainage structures.

7. The Company shall be responsible for incidental and consequential damages resulting from the impairment of such drainage structures. This makes them responsible for the damage of the incident and any damage caused subsequently by the damage. (Editorial Note: An example: they crush a pipe and water backs up and floods my car. This is incidental damage. Because my car was flooded I didn't make it to work and I lost wages for 3 days. This is consequential damage and they would have to pay that, too. Because I didn't make it to work my boss lost a big contract. They could be liable for that too. And so on and so on.)

G. Repair of Road and Drainage Damage after Construction Completion

1. Upon completion of construction of the Project facilities, the Company will repair or pay for the repair of all damage to the Roads and drainage improvements resulting from the Company's use of the Roads during the construction of the Project facilities, based on, but not limited to the Transportation Plan set forth in Exhibit A. Such repairs shall include the removal prior to the start of construction, the reinstallation after the completion of construction, and the replacement of any damaged section corner markers. Company shall repair the Roads according to standards of the Transportation Plan and this Ordinance.
2. The County Highway Superintendent, the County Engineer and Transportation Coordinator shall determine the start date for the repair based on the site conditions, and Developer shall make such repairs or cause them to be made within ninety (90) days after the completion of the Project Facilities (or with respect to repairs the start date of which is determined to be between September and the following February, then by the following May 1).

H. Default and Imposition of Fines

- a. Upon written notice to Company (given by fax and by e-mail directed to the fax number and e-mail address provided by Company for such purpose) of Company's default regarding the provisions of this Agreement as set out in (b) below and Company's failure or refusal to abate, correct, or otherwise remedy such default, the County may impose a fine upon Company, as indicated in paragraph (b) below. Fines are imposed for each day of the same incident of default after expiration of the applicable notice/cure period as set forth below. Company shall pay all fines to the County within thirty (30) days of receipt from the County of proper notice of and request for payment of a fine. Any issuance to the Company of a notice of and request for the payment of a fine shall be approved in advance by the Board of Commissioners of the County.

	Amount	Notice/Cure Period
(b) The provisions to which the default shall subject Developer to fines, the amount of such fines, applicable notice/cure requirements, and other relevant conditions shall be as follows: Section E (signage)	\$500	24 hours for non-custom, non-specialty signs; 72 hours for custom or specialty signs. Provided, that to the extent that a permanent sign is not available through the use of reasonable diligence, temporary signs are permissible and effective in avoidance of any fine that might otherwise be assessed.
F3 (unauthorized use of Roads) First or second Occurrence Third or more Occurrence	\$1,000.00 \$5,000.00	Automatic upon notice from County; no cure period
E3 (dust control)	\$500	24 hours from request made by Highway Superintendent pursuant to Section E3
F6 (road or drain repair)	\$500	Reasonable time period under the circumstances, taking into account, among other factors, safety concerns, weather conditions, and nature of the repairs, but in the case of damage that does not impose a danger to the safety of the public or traffic, commencement of such repairs no more than seven (7) days after the notice from the Highway Superintendent or the County Surveyor under Section 9(a) and completion of such repairs related to the Project not more than fifteen (15) days after such notice; if the damage poses danger to the safety of the public, the repair shall be immediate.

I. Miscellaneous

1. Any material changes from the approved Transportation Plan or if post completion repairs, improvements, or expansions require oversize and overweight loads or involve new routes, an Amended Transportation Plan must be approved in the same manner as the initial plan.
2. On completion of construction the Company shall submit to the County Engineer/Surveyor a site map in digital format, preferably GIS detailing all ground disturbed through construction activity, surface/subsurface structure/infrastructure and all routes over which trucks and equipment traveled. The map shall include all new construction that is part of the WECS, roads and drain improvements that have been repaired, and all transmission lines. The scale and format of the submitted map shall conform to the County Engineer's specifications.
3. For a period of ten (10) years following the completion of construction the Company shall be liable to the County for all costs of repair, as determined by the County Surveyor/Engineer, to county drain tiles, regulated drains and ditches and other county regulated surface and subsurface structures and private tiles located in the public right of way within one hundred (100) feet of the routes and disturbed ground as described. The Company shall also be responsible for damage to crops as previously described.
4. All sections of the Road Use shall be in force through the completion of decommissioning of this Project to the satisfaction the County Highway Supervisor and County Engineer.

IN LIEU OF DECOMMISSIONING AGREEMENT

Editorial Note: The risk of any business venture should lie with those involved who reap the potential profits. Therefore the Decommissioning should change from a "County responsible" event to one where the applicant and the lease signers are responsible.

It is necessary to rewrite much of the decommissioning section of the WECS ordinance.

9.12 DECOMMISSIONING PLAN

Prior to receiving an Improvement Location Permit, or siting approval under this Ordinance, The Company shall formulate a Decommissioning Plan outlining the anticipated means and cost of removing a WECS at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned. The Owner and Landowner(s) shall be held jointly and severally liable for the successful and timely implementation and completion of the Decommissioning Plan. A decommissioning plan shall include, at a minimum, language to the following:

- A. Assurance (Editorial Note: This section addresses financial assurance for the benefit of the lease signers in the county.)

Written assurances will be provided that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned. The Owner shall make annual reports to the lease signing landowners and to the County.

- B. Discontinuation and Abandonment

1. All WECS shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Henry County Planning Commission outlining the steps and schedule for returning the WECS to service.

2. Abandonment by the Owner or Operator:
In the event of abandonment of the Wind Project by the Company, the Company will provide an affidavit to the Henry County Planning Commission representing that all leases for WECS contain terms that provide financial assurance, including access to the salvage value of the equipment; for Landowners to ensure that the WECS are properly decommissioned within six month of expiration or termination of the Wind Project; provided, however, delivery of such affidavit shall not relieve the Company of any of its obligations under this Ordinance.

- C. Removal

The Company's obligations shall include removal of all physical material pertaining to the project improvements to a depth of eight (8) feet below ground level within one year (1) of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, or by Henry County at the owner's expense. The decommissioning will include all

parts of the WECS including underground transmission lines. The lease signer may waive removal of these lines on his property with written notice to the Company and copied to the County. The Company shall comply with all federal and state requirements for disposal of all debris.

D. Defaults

If standards are not met, then the Company is in default. The default by the Company shall constitute a default of the Ordinance, and any remedies set forth under the Ordinance. The County shall provide written notice to the Company, setting forth the default(s). Such written notice shall provide the Company a reasonable time period not to exceed sixty (60) day to rectify/cure the default.

1. Non-compliance of Defaults

If the County determines at its discretion, that the Company does not resolve the default(s) within the cure period, the existing County ordinance provision(s), Section 9.16, addressing the resolution of such default(s) shall govern.

2. Costs Incurred to the County

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal with any balance paid into the general fund and any shortfall billed to the Owner and Landowner(s) who shall be held jointly and severally liable. By approval, the permittee or grantor grants a license to Henry County to enter the property to remove a tower and associated appurtenances to pursuant default of decommissioning. Furthermore, the County may seize the assets of the Landowner to recover any expenses not covered by the owner.