

**MORGAN COUNTY BOARD OF APPEALS REPORT AND  
RECOMMENDATION NUMBER 2020-01**

**BOARD OF APPEALS MEMBERS PRESENT: Dale Bainter, Terry Denison, Jimmy Duncan  
Danny Little (Chair) and Roger Hardy.**

**ABSENT: NONE**

**DATE: August 26, 2020**

**FINDINGS AND RECOMMENDATIONS TO  
THE MORGAN COUNTY BOARD OF COMMISSIONERS**

**Re: Application for a WECS Siting Approval Permit Submitted by Lincoln Land Wind, LLC (“Applicant” or “Lincoln Land Wind”) for a wind energy conversion system (“WECS”) known as the Lincoln Land Wind Project (“Project”).**

**Applicant/Petitioner: Lincoln Land Wind, LLC (“Applicant” or “Lincoln Land Wind”)**

**I. Findings – The Application and Public Hearing**

A. On February 18, 2020, the Applicant filed an application (the “Application”) pursuant to Morgan County’s Wind Energy Conversion Systems Siting Regulations Ordinance, Ordinance No. 2019-10-A (“WECS Ordinance”), seeking approval of the Application and issuance of a WECS Siting Approval Permit to construct and operate the Lincoln Land Wind Project (the “Project”).

B. The Project consists of the construction and operation of a wind turbine farm with up to 107 wind turbines located on approximately 36,000 acres of agricultural land in eastern Morgan County, Illinois, with the center of the Project area located 8 miles east of South Jacksonville. The Project is roughly bounded by the Morgan-Sangamon County line to the east, the Village of Franklin to the south, slightly beyond Old State Road to the north, and the junctions of State Highway 104 and Interstate 72 to the west. The transportation corridors within the Project area include Interstate 72, Illinois State Highway 104, and several roads that fall under the jurisdiction of Morgan County and local Road Districts. The Project area is largely utilized for agricultural purposes, with corn and soybeans as the predominant crops. The proposed wind turbines will be located on land currently used for growing crops, with each turbine and access road utilizing approximately 0.25 to 0.50 acres of land. The access roads to each turbine will comprise most of this acreage. In some cases, existing field lanes are being upgraded to an access road. Both landowners and tenant farmers can use the access roads for agricultural purposes. In addition, construction and operation of the Project will not significantly affect current land use in the Project area, and crop production can continue up to and surrounding the wind turbines and access roads. The Project Maps and Site Plan are incorporated by reference herein as part of **Group Exhibit “A”** and made a part hereof.

C. The Application, which is on file with Morgan County (the “County”) and is incorporated herein by reference as **Group Exhibit “A”** and made a part hereof, consists of the following Project-related documents, for consideration and approval:

- a. Capacity and Dimensions of Considered Turbine Models (Table 1.4);
- b. Direct Economic Benefit from Lincoln Land Wind (Table 1.6.1);

- c. Projected Property Tax Revenues generated from 303.6 MW (Table 1.6.2);
- d. Agency coordination milestones for the proposed Lincoln Land Wind Project (Table 2.4);
- e. IDNR Recommendations and Lincoln Land Wind Response (Table 3.1);
- f. Summary of Decommissioning Costs (Table 6);
- g. Project Maps and Site Plan (Appendix 1);
- h. Landowners with Facilities (Appendix 1.1);
- i. Project Summary (Appendix 1.2);
- j. Site Control (Appendix 1.3);
- k. County Setbacks (Appendix 1.4);
- l. All Setbacks (Appendix 1.5);
- m. Environmental & Structures; Topographic (Appendix 1.6);
- n. Landowner Contact Data (Appendix 2);
- o. Shadow Flicker (Appendix 3);
- p. Sound Modeling Report (Appendix 4);
- q. Economic Impact Study (Appendix 5);
- r. Community Grants Program (Appendix 6);
- s. Decommissioning Plan (Appendix 7);
- t. Federal Aviation Administration (FAA) (Appendix 8);
- u. National Telecommunications and Information Administration (NTIA) (Appendix 9);
- v. Environmental Reports (Appendix 10);
- w. Agricultural Impact Mitigation Agreement (AIMA) (Appendix 11);
- x. Evaluation of Public Roads (Appendix 12);
- y. Communication Analysis (Appendix 13);
- z. Property Values Study (Appendix 14);
- aa. Turbine Design and Certification (Appendix 15);
- bb. Emergency Action Plan (Appendix 16);
- cc. Drainage Plan (Appendix 17);
- dd. Financial Assurance (Appendix 18); and
- ee. Railroad Easement (Appendix 19);

(collectively referred to as the “Applicant’s Exhibits”).

D. Pursuant to notice published in a newspaper and posted as required by the applicable provisions of State law and as required by the applicable provisions of the WECS Ordinance, and Sections 5-12020 and 5-12009.5 of the Illinois Counties Code (55 ILCS 5/5-12020; 55 ILCS 5/5-12009.5), a public hearing was conducted on Tuesday, August 11, 2020 (the “Public Hearing”), by the Board of Appeals of Morgan County at the Morgan County Courthouse, to consider the Applicant’s Application. Due to the COVID-19 pandemic, the public hearing was conducted live-format at the Courthouse and via a virtual platform using the Zoom App. Physical attendance by the public inside the Courthouse was limited per social distancing guidelines and public meeting restrictions authorized by the Illinois Governor Disaster Proclamation dated July 24, 2020 (Phase 4 Restore Illinois Plan), and Executive Order 2020-48 extending the Governor’s prior Executive Orders relating to the COVID-19 pandemic and his implementation of Phase 4 of the “Restore Illinois” Plan (Community Revitalization Order - COVID-19 E.O. No. 45). Members of the public were encouraged to participate in the public hearing by using the Zoom App. A link with the Meeting ID number and access code to join the meeting was posted to <https://morgancounty.com/meetings2020> prior to the hearing. Additional remote viewing areas to watch, listen and participate in the public hearing via electronic means were provided inside the

Jacksonville Municipal Chambers and in front of the Courthouse. Arrangements were made for public comments to be heard by individuals present in these remote viewing areas.

E. During the Public Hearing, the Board of Appeals reviewed and accepted into the record copies of the following documents, which are incorporated by reference into this Recommendation and are on file and available for public inspection at the Morgan County Clerk's Office:

- a. Applicant's Application and its above-listed Exhibits (**Group Exhibit "A"**).
- b. Public Hearing Notice with a Publisher's Certificate dated July 14, 2020, prepared by David C. Bauer of the Jacksonville Journal-Courier, is attached as **Group Exhibit "B"** and made a part hereof.
- c. The following additional Project-related documents were submitted by the Applicant and accepted into the record during the Public Hearing (marked as **Group Exhibit "C"**):
  - i. Affidavit of Benjamin Evans (President of Evans Engineering Solutions, LLC; Senior Radio Frequency Engineer).
  - ii. PowerPoint entitled Lincoln Land Wind Project (125 pages) dated August 11, 2020 and prepared by the Applicant.
- d. The following documents were submitted by Morgan County and accepted into the record during the Public Hearing and were marked as **Group Exhibit "D"**:
  - i. Preliminary Application Review Letter (1 page) dated May 19, 2020 and prepared by James D. Douglas, Director and Planner of Morgan County RPC/GIS.
  - ii. Status Letter from Morgan County Highway Department (1 page) dated May 19, 2020 and prepared by Matthew K Coultas, P.E., regarding Road Use Agreements between the Applicant and Morgan County Highway Department and the Morgan County Road Districts 8, 9 and 13.
  - iii. ECOCAT Review Letter (#2102062) from the Illinois Department of Natural Resources (2 pages) dated August 6, 2020 and prepared by Nathan Grider, Manager – Impact Assessment Section of Office of Realty and Capital Planning, regarding update to ECOCAT Review Letter dated May 24, 2018 (#1808749) and IDNR recommendations for the Project.
  - iv. Siting Application Review with Project Recommendations dated August 2020 and prepared by Matt Minder of Patrick Engineering Inc., Noise Assessment Study and Report dated August 2020 and prepared by Al Hymans of Patrick Engineering Inc., and Decommissioning Plan Review dated August 2020 with Project Recommendations and prepared by Matt Minder of Patrick Engineering.
- e. The following documents were submitted by the Objectors and accepted into the record during the Public Hearing by Morgan County and were marked as **Group Exhibit "E"**:
  - i. Emails dated August 7, 2020 and August 11, 2020 from: Stephanie Bergschneider.
  - ii. Emails dated August 11, 2020 from: Donnie Herms; Harrison Chumley; Randy Twyford; Mike Chumley; Hunter Chumley; and Brian Chumley.
  - iii. Letter dated August 11, 2020 from: Betty Niemann.
- f. The following documents were submitted by Interested Parties (Supporters of the Project) and accepted into the record during the Public Hearing and were marked

as **Group Exhibit "F"**:

- i. Email dated August 11, 2020 from: John T Bellatti.
- ii. Undated Letters from: Weldon Todd Becker; Elise Ransdell; Richard A. Walsh; Ryan (Last name illegible); Donna J. Fuller; S. Diane Myer; Frank Lukemar; John M. (Last name illegible); John H. (Last name illegible); Delbert Rake; Lola (Last name illegible); Robert (Last name illegible); Carl W. (Last name illegible); Bruce (Last name illegible); William R. Becker; Charles Powell; Thomas J. Beeissel; Terry (Last name illegible); James (Last name illegible); Mark Jackson; John A. Edrey; Christopher (Last name illegible); and Craig A. Wood.
- iii. Email dated July 15, 2020 from: Kevin Klein.
- iv. Email dated July 22, 2020 from: Robert Elmore.
- v. Email dated July 26, 2020 from: James Johnson.
- vi. Email dated July 27, 2020 from: Vicki Brown.
- vii. Email dated July 31, 2020 from: Roger Standley.
- viii. Email dated August 11, 2020 from: Adam Porter;
- ix. Letter from Lincoln Land Wind (2 pages) with 56 property owners, dated August 11, 2020

F. During the Public Hearing, the Board of Appeals heard testimony from the following individuals, whose testimony is contained in the transcript of Public Hearing, which was prepared by the court reporter and is incorporated herein by reference as **Group Exhibit "H"**:

- a. The Applicant and its consultants.
- b. Morgan County and its consultants (Dusty Douglas, Director of Morgan County Regional Planning Commission / Geographic Information System, and Michael T. Jurusik, of Klein, Thorpe and Jenkins, Ltd., special legal counsel for the County).
- c. Objectors who testified in opposition to the Application.
- d. Interested Parties who testified in favor of the Application.

G. It is the duty of the Board of Appeals to conduct public hearings to review and issue a report and recommendation on all proposed WECS Siting Approval Permits.

H. While considering the Application and the request for a WECS Siting Approval Permit for the Project, the Board of Appeals also considered the following documents, which are incorporated by reference into this Recommendation as **Group Exhibit "G"**:

- a. Morgan County's Wind Energy Conversion Systems Siting Regulations Ordinance, Ordinance No. 2019-10-A.

I. The Application, all of the above-mentioned Exhibits, this Recommendation and each of the documents that were accepted into the record during the Public Hearing by the Board of Appeals were incorporated into the court reporter's transcript of the Public Hearing proceedings as transcribed by court reporter Ann Marie Hollo, CSR, of NAEGELI Deposition and Trial. The transcript is incorporated herein by reference as **Group Exhibit "H"** and made a part hereof. Copies of the above transcript and Exhibits are on file with Morgan County.

## **II. Findings of Fact**

Based upon the Application, the testimony of the individuals at the Public Hearing, and the

Exhibits and other evidence accepted into the record of the Public Hearing, the Board of Appeals makes the following findings of fact relative to the Applicant's request for a WECS Siting Approval Permit.

#### **A. Siting Approval Application Summary**

1. The Project will bring a capital investment of more than \$400 million of clean, cost-effective energy to Morgan County, helping the State of Illinois meet its statutory goal of increasing renewable energy generation to 25% of total generation by 2025. Over the expected 30-year life of the Project, it would generate up to roughly \$241.5 million in direct economic benefits for local landowners, new local employees, Morgan County and the State of Illinois, in addition to fees associated with permitting the Project. Additional benefits include spending related to these payments that will feed into the local economy in and around the Project area, and collateral spending during Project construction.
2. All the land included in the Project area has been secured through agreements that were voluntarily signed. 358 landowners have signed agreements to participate in the Project ("Participating Landowners") across roughly 36,000 participating acres. A Purchase Option Agreement, which allows the property to be purchased in the future, has been signed for the substation and operations and maintenance (O&M) building. Participating Landowner contact data can be found in Appendix 2 of the Application, and the Site Control Map in Appendix 1.2 illustrates that the Participating Landowners for each of the parcels hosting any type of facility for the Project have signed an agreement.
3. The Project will consist of:
  - a. Up to 107 wind turbines with a maximum height of up to 598.6 feet when the blade is in the up-most position;
  - b. Access roads to each turbine;
  - c. Underground 34.5 kilovolt (kV) electrical collector lines connecting the turbines to the collector substation and associated facilities;
  - d. Underground fiber-optic cable for turbine communications co-located with the collector lines;
  - e. A 34.5 kV to 345 kV "step-up" collector substation owned by Lincoln Land Wind;
  - f. An O&M facility co-located with the substation;
  - g. Two (2) permanent meteorological towers and up to one (1) temporary power performance tower; and
  - h. Temporary construction facilities such as a laydown yard and a concrete batch plant.
  - i. The total installed capacity of the Project will not exceed 303.6 MW and will deliver electricity to a single point of interconnection on the existing Ameren Meredosia-Austin 345 kilovolt (kV) transmission line running west-east through the Project area.
4. The collector substation will consist of up to two (2) substation transformers, circuit breakers, switching devices, auxiliary equipment, a control enclosure containing equipment for proper control, protection, monitoring and communications, and associated equipment and facilities. The final location is shown on the Project Summary map in Appendix 1.1. The collector substation will be located within a fenced area. The fence will be designed in accordance with industry standards to provide safety and security.
5. Two (2) permanent meteorological towers and up to one (1) power performance tower will be installed as part of the Project. These towers are used to obtain wind data for performance management once the Project is operational. The towers will be self-supporting structures with heights not to exceed the hub height of the wind turbines. The permanent towers will be marked and lighted as specified by the Federal Aviation Administration ("FAA"). The locations of permanent towers are shown on the Project Summary Map in Appendix 1.1.

6. An Operation & Maintenance (“O&M”) facility will be constructed at a location well-suited for access to all Project facilities, including turbines, substation and switching station. The O&M facility is planned to be co-located with the collector substation shown on the Project Summary Map in Appendix 1.1. The O&M facility will consist of a single-story or two-story 4,000 to 6,000 square-foot building, which will house operating personnel, offices, operations and communication equipment, parts, storage and maintenance activities, and will host a vehicle parking area. An outdoor storage area for larger equipment and materials will also be included within a fenced area for safety and security.
7. The Project’s design includes safety and control mechanisms. These mechanisms are generally monitored using a Supervisory Control and Data Acquisition (SCADA) system. Each turbine will be connected to the SCADA system via fiber-optic cable, which will allow the turbines to be monitored in real time by the O&M staff. The SCADA system will also allow the Project to be monitored remotely, increasing Project performance and reliability. Not only will the local O&M office have full control of the wind turbines, but a 24/7 Remote Operations Control Center (“ROCC”) will also have control of the individual turbines.
8. Dr. David Loomis with Strategic Economic Research completed an Economic Impact Study assessing the short-term and long-term increases in jobs, income and tax revenues for Morgan County and the State of Illinois from the Project. The Economic Impact Study is provided in Appendix 5 and a summary of the total direct economic benefits expected to be produced by the Project is included in Table 1.6.1. Table 1.6.2 breaks down the projected tax revenues to various taxing bodies in Morgan County from the Project according to the valuation formula developed by the Illinois Department of Revenue.

## **B. Federal Compliance and Notifications**

1. In June 2019, the Applicant submitted a partial array filing to the FAA seeking a Determination of No Hazard for 15 turbine locations in the Project area at a turbine height of 599 feet. On August 25, 2019, the FAA issued Notices of Presumed Hazard for the turbine locations in the partial array filing, a standard step in the review process for any structure over 500 feet. On February 18, 2020, the Applicant submitted a final array to the FAA comprised of the turbine locations submitted in this Application, fulfilling the requirement in Subsection V.B.4 (FAA Application) of the WECS Ordinance. That application is included in Appendix 8 of this Application. The FAA is conducting further study on the proposed turbine array, with a final determination to be issued by the FAA.
2. The Applicant has informed the FAA that it plans to file an application for Aircraft Detection Lighting Systems (“ADLS”) after the FAA issues final determinations on the final turbine array submitted on February 18, 2020.
3. The Applicant deployed Tetra Tech to conduct delineations of wetlands and other waters of the United States (“WOUS”) for the Project to determine the extent of potentially jurisdictional wetlands and other WOUS. Results of delineations completed to date have been used to inform Project design to ensure regulatory compliance with Section 404 of the Clean Water Act. Based on current design, it is anticipated that the Project can be authorized under United States Army Corps of Engineers (“USACE”) Nationwide Permit 12 with no pre-construction notification required.
4. On November 18, 2019, the Applicant submitted a notification letter to the National Telecommunications and Information Administration (“NTIA”) describing the Project to determine potential impacts. The Applicant received a response letter from the NTIA on January 24, 2020, indicating that no relevant federal agencies had concerns with wind turbine construction in the Project area. A copy of the NTIA response letter is included in Appendix 9.
5. As shown in Table 2.4, the Applicant has been coordinating with the United States Fish and Wildlife Service (“USFWS”) regarding the environmental impact of this Project since early 2018.

6. The Applicant will submit the Project's Site Map to the local United States Department of Agriculture ("USDA") office to determine if any land used in the Project is participating in the USDA's Conservation Reserve Program ("CRP"). The Applicant will comply with USDA rules regarding CRP land.

### **C. State of Illinois Compliance and Notifications**

1. The Illinois Department of Natural Resources ("IDNR") has been consulted to determine whether the Project meets the construction criteria under IDNR Statewide Permit No. 6 – Minor, Non-Obstructive Floodway Construction Activities. The Applicant anticipates satisfying these criteria and therefore the Project will be eligible to proceed under IDNR Statewide Permit No. 6 due to the demonstrated minimal wetland and limited floodplain impact.
2. The Applicant filed the Ecological Compliance Assessment Tool ("ECOCAT") submittal on March 14, 2018 based on an original area of interest within Morgan County. The Applicant had an introductory meeting with IDNR on April 23, 2018 to introduce the Project and discuss potential environmental impacts of the Project. IDNR issued its official ECOCAT consultation response to the Applicant and the Morgan County Regional Planning Commission Director ("Regional Planner") on May 24, 2018. The ECOCAT consultation response is included in Appendix 10). Table 3.1 outlines IDNR's recommendations and Lincoln Land Wind's responses.
3. The Applicant has initiated archeological and architectural surveys to ensure a well-sited and low-impact Project.
4. The Applicant completed an initial desktop review of the initial area of interest to inform Project siting and design. The Applicant initiated a Phase I cultural resource pedestrian survey in April 2019, which involved a field investigation of approximately 175 acres within portions of the Project area that fall within "Archaeological Resource Potential areas" as defined by the Illinois Historic Preservation Division at IDNR (i.e., State Historic Preservation Officer or "SHPO"). Results of initial surveys concluded that the Project was unlikely to have an adverse effect on archaeological sites or historic properties. Additional surveys will be completed within unevaluated areas where facilities are planned based on final design.
5. The Applicant completed an initial desktop review of the initial area of interest to inform Project siting and design. The Applicant initiated an Architectural Reconnaissance Survey in May 2019, which included assessment of all structures within 1.5 miles of the Project boundary that are visible from public roads/right-of-way for cultural significance. Results of initial surveys suggest the Project is unlikely to have adverse impacts to historic properties, and the Applicant will provide a copy of the final results to the Regional Planner upon receipt.
6. The Applicant has engaged with the SHPO regarding the archaeological and architectural studies currently underway in the Project area. Once these studies are completed, the Applicant will share the results with the SHPO and the Regional Planner and seek a concurrence letter demonstrating that the Agency concurs with the impact findings and mitigation practices (if applicable) proposed by the Applicant.
7. Applicant will obtain a National Pollutant Discharge Elimination System ("NPDES") Permit from The Illinois Environmental Protection Agency ("IEPA") Division of Water Pollution Control for construction activities prior to the initiation of Project construction. To satisfy all standards for obtaining a NPDES permit, the Project will design a Stormwater Pollution Prevention Plan ("SWPPP") to meet the requirements of the IEPA for stormwater discharge during construction activities. Before the commencement of construction on the Project, the Applicant will file a notice of intent and accompanying SWPPP for a general permit to discharge relating to storm water discharges during Project construction.
8. The Applicant hired RSG to perform a sound modeling analysis report for the proposed Project area. Per the report, sound levels produced by the Project will comply with limitations imposed by the Illinois Pollution Control Board. The details of the sound report are provided in Appendix

4. The report demonstrates that the Project will comply with the Illinois Pollution Control Board's noise regulations.
9. In accordance with Subsection VI.M (Noise Levels) of the WECS Ordinance, after the Project has been operating for one (1) year, the Applicant will hire a qualified third-party professional to conduct a sound study to evaluate compliance with the State's sound standards. The analysis and results of the post- construction noise assessment will be presented in a report that will be submitted to Morgan County.
10. The Illinois Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/1, *et seq.*) requires the owner of a wind farm to enter into an Agricultural Impact Mitigation Agreement ("AIMA") prior to a public hearing on a siting permit application. A copy of that AIMA, signed by the Applicant, is included in Appendix 11 and was sent to the Illinois Department of Agriculture ("IDA") on February 11, 2020. The Applicant has provided Morgan County with a copy of an AIMA to be entered into with the IDA prior to a public hearing on this Application, as required in Subsection VI.N. (Agricultural Impact Mitigation) of the WECS Ordinance. The AIMA is signed by the Applicant but not signed by the IDA.

#### **D. Morgan County and Other Local Permits, Approvals, Agreements and Notifications**

1. All wind turbines are built to conform to industry standards, including the American National Standards Institute ("ANSI"). The Applicant will provide a copy of wind turbine design compliance for the turbine model that is selected before the Applicant applies for WECS Building Permits. The Applicant will present a certification from a qualified structural engineer, as part of the WECS Building Permit application, stating that the foundation and tower designs for the Project are compatible with and within acceptable standards given local soil and climate conditions.
2. All wind turbine models under consideration for the Project will be equipped with control systems and brakes. All turbine models will also be capable of control with a Process Logic Controller ("PLC") system that detects over-speed situations (electronic detection).
3. All electrical components for the Project will conform to applicable national, State and local codes, and relevant national and international standards such as ANSI.
4. The tower and blades for each wind turbine will be painted with a non-reflective unobtrusive color. The surface of each turbine will consist of non-reflective material. All wind turbine surfaces will be designed to resist erosion.
5. No advertising or signage, other than safety warnings or standard manufacturer markings, will be affixed to any of the turbines, and each turbine will comply with any other Morgan County ordinances relating to signage.
6. Signage, including a visible warning concerning voltage and an 24/7 emergency contact number, will be placed at the base of all pad-mounted transformers at the Project substation, as well as at the entrance of access roads that connect to each Project wind turbine.
7. Access to the inside of wind turbines and to the Project substation will be limited to Project employees. Each wind turbine will be mounted on a tubular tower which will be a smooth, tapered monopole structure. The only climbing access will be by ladder or lift located inside the tower. The door to the tower will be kept locked. By design, the towers will be externally unclimbable.
8. The Project has been designed to comply with all Morgan County setback requirements as shown in the setback list and setback maps in Appendix 1.3. The turbine locations shown in the Project Summary Map in Appendix 1.1 comply with all setbacks and restrictions when factoring the maximum dimensions across the possible turbine models shown in Table 1.4. The proposed layout for the Project meets or exceeds the setbacks prescribed under Subsection



VI.H. (Setback Requirements) of the WECS Ordinance as follows and as shown in the Morgan County Setbacks map in Appendix 1.3:

- a. **Setback from Primary Structures:** All wind turbines and proposed turbine models have been sited at least 1320 feet from participating Primary Structures (as defined in the WECS Ordinance) and 1650 feet from non-participating Primary Structures.
  - b. **Setback from all Public Roads, Third Party Distribution and Transmission Lines, and Communications Towers:** All wind turbines and proposed turbine models have been sited 1.1 times the WECS Tower Height from these structures.
  - c. **Setback from adjacent Parcel Lines:** All wind turbines and proposed turbine models have been sited 1.1 times the WECS Tower Height from neighboring parcel lines, or a setback waiver has been obtained from the owner of the neighboring parcel, as allowed by the WECS Ordinance.
  - d. **Setback from Public Conservation Lands:** All wind turbines and proposed turbine models have been sited at least 750 feet from the property line of any Public Conservation Lands (as defined in the WECS Ordinance).
9. The Applicant has engaged in discussions with the County Engineer and applicable Road District Commissioners in the Project on both the public road design plans and draft Road Use Agreements. The Applicant expects to execute Road Use Agreements with Morgan County and the Road Districts and will ensure that agreements are in place before issuance of a WECS Building Permit as required in Subsection VI.J.2.b (Use of Public Roads) of the WECS Ordinance. In addition, the Applicant will get approval of the roads planned to be used from the respective Road District Commissioners and the County Engineer prior to the granting of the WECS Siting Approval Permit. The Applicant has conducted a pre-construction baseline survey for all roads the Project intends to use as required in Subsection VI.J.2.a (Use of Public Roads) of the WECS Ordinance, a copy of which is included in Appendix 12.
  10. The Applicant agrees to take all commercially reasonable steps to respond to a written complaint related to interference caused by the Project as is required by the WECS Ordinance. The Applicant will also take immediate actions to mitigate or minimize interference with communications such as radio, telephone, microwaves or television signals, and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, caused by the operation of the Project as required in the WECS Ordinance. The Applicant will also provide copies of the Project Summary and Site Plan to all applicable microwave transmission providers.
  11. The Applicant contracted with Evans Engineering to conduct a communications analysis as required in Subsections VI.L.1. and VI.L.2. (Communications Analysis; Interference) of the WECS Ordinance. The study found that no FCC-licensed land mobile or public safety transmitting stations are expected to be adversely affected. The study also assessed television channels within and beyond 1<sup>1</sup>/<sub>2</sub> miles of the footprint of the Project to serve as a baseline reading for television reception conditions prior to the construction of the Project. The study indicates steps that may be taken should interference occur due to operations of the Project and recommended that the Applicant take commercially reasonable steps to respond to any complaints as required by the WECS Ordinance. A copy of the communications study is attached to the Application as Appendix 13.
  12. The Applicant hired WEST, Inc. to conduct bat, bird and lined snake studies and Copperhead Environmental Consulting to conduct a raptor nest survey in the Project area. Those studies and the recommendations are provided in Appendix 10.
  13. MaRous and Company conducted a detailed analysis of the Project area, reviewed literature of county assessors in Illinois and other states across the Midwest, and examined home and property sales in wind projects around the region. The result of the review by MaRous and Company is a study that determined that the Project would not have a negative impact on rural

residential or agricultural property values in the surrounding area. A copy of the study is provided in Appendix 14.

14. The maximum total height for the Project's turbines will not exceed 600 feet and will be compliant with all applicable FAA regulations.
15. In accordance with Subsection VI.T.7. (Design and Installation) of the WECS Ordinance, the Applicant will deploy two (2) methods to detect icing conditions on turbine blades. First, turbine sensors and the turbine control system will assess ice accumulation. Second, the Project will monitor meteorological data to ascertain whether ice accumulation is likely to occur. The Project will be designed to shut down turbines if these conditions occur or the Applicant will manually shut down turbines if icing conditions are present.
16. The Applicant intends to pursue a wire crossing agreement to use The Kansas City Southern Railway Company's right-of-way to install underground collection cables for the Project, a copy of the railroad's standard crossing agreement is included in Appendix 19. In the event that a wire crossing agreement cannot be executed for the above-referenced underground collection cables, the Applicant will remove from consideration six (6) turbine locations identified in the Application as turbine locations C-22, C-24, C-25, C-26, C-27 and C-28.
17. The Applicant provided a draft Emergency Action Plan in Appendix 16, which confirms the Applicant's commitment to provide resources to promote safety when responding to emergency situations of all kinds. The Applicant has agreed to work with local responders to finalize the Plan prior to commencement of Project construction.
18. Shadow flicker will be less than 30 hours per year at nonparticipating occupied structures, unless a waiver has been signed, as detailed in the shadow flicker analysis provided in Appendix 3. The Applicant hired ArcVera Renewables to perform a shadow flicker modeling analysis for the proposed Project area. Prior to the issuance of the WECS Siting Approval Permit, the Applicant will provide Morgan County with shadow flicker studies demonstrating compliance with the WECS Ordinance. The study from ArcVera Renewables, which is provided in Appendix 3, shows that one (1) participating structure will exceed the 30 hours per year shadow flicker limit, and that one (1) nonparticipating business structure will exceed the 30 hours per year shadow flicker limit. The Applicant will mitigate for the two (2) structures over the limit by either implementing a shadow flicker operating procedure, shifting the turbine(s) less than 250 feet to be compliant, not building the turbine(s), or obtaining waivers from the landowners.
19. The Applicant will comply with all State and local requirements related to the treatment and repair of drainage tiles. The Applicant includes a draft Drainage Tile Repair Plan in Appendix 17.
20. Appendix 18 includes copies of the draft forms of financial assurance for the Decommissioning Plan and road repairs as required in Subsections X.A.7 and VI.J.2.b (Decommissioning and Site Reclamation Plan Required) of the WECS Ordinance.
21. All contact information for the Project's facilities, including the names of key Project staff, will be provided to relevant Morgan County and Project Road District officials and authorities, and participating landowners.
22. During operations, the O&M staff will perform scheduled, preventive maintenance on the turbines. Pursuant to Subsection VII.A. (Operation; Maintenance) of the WECS Ordinance, the Applicant will submit an operation and maintenance report on an annual basis to Morgan County.
23. The Applicant will provide, at its expense, annual training and necessary equipment to local emergency responders so they can properly respond to a potential emergency at the Project. The Applicant will also cooperate with local emergency responders to develop an emergency response plan that includes a 24-hour contact information for the Project and at least three of its representatives.
24. All solid wastes generated during the construction, operation and maintenance of the Project will

be removed from the site promptly and disposed of in accordance with all federal, State and local laws and regulations regarding waste disposal in accordance with Subsection VII.C. (Operation; Water, Sewer, Materials Handling, Storage and Disposal) of the WECS Ordinance. The Project will comply with all existing applicable septic and well regulations of Morgan County and the State of Illinois.

25. Per Section IX (Liability Insurance and Indemnification) of the WECS Ordinance, the Applicant will maintain and pay for (a) comprehensive commercial general liability insurance with limits of not less than \$5,000,000 per occurrence, and (b) excess liability insurance with a limit of not less than \$20,000,000 in the aggregate, in each case for injury to any person and for damage to property. The Applicant will procure an applicable insurance policy through a reputable insurance provider with a net worth of at least \$50,000,000. The Applicant will also ensure that an annual certificate of insurance will be provided to Morgan County.
26. Per Subsection VII.G. (Operation; Complaint Resolution) of the WECS Ordinance, the Applicant will coordinate with Morgan County to develop a system for logging and investigating complaints relating to the operation of the Project. The Applicant will maintain a toll-free telephone number and an email address as a public information/complaint "hotline". The telephone number and email account will be staffed by a Project employee on a 24-hour basis, seven days per week.
27. The Applicant retained Westwood Professional Services, Inc. to prepare a proposed Decommissioning Plan for Lincoln Land Wind which both fulfills the decommissioning requirements of Section X (Decommissioning and Site Reclamation Plan Required) of the WECS Ordinance and aligns with the decommissioning commitments contained within the Project's AIMA. A copy of the Decommissioning Plan is included in Appendix 7. A summary of the results of Westwood's analysis is provided in Table 6.
28. Pursuant to the requirements in the WECS Ordinance, the Applicant has provided Morgan County with a check for \$50,000.00 to satisfy the WECS Ordinance's requirement for a Plan Review Deposit, and a check for \$119,000.00 to satisfy the WECS Ordinance's requirement for a consideration fee of \$1,000.00 per turbine location proposed in this Application.

#### **E. Summary of Findings**

1. The Project will comply with all Federal, State, County and local requirements, including the WECS Ordinance and all conditions of approval as required by the County Board. All studies, permitting milestones and coordination activities required in the WECS Ordinance have been initiated or completed.
2. The Project, as proposed in the Application, meets or will meet all of the requirements set forth in Morgan County's Wind Energy Conversion Systems Siting Regulations Ordinance, Ordinance No. 2019-10-A and all conditions of approval as required by the County Board.
3. The Board of Appeals has reviewed the Application, the materials submitted in support of and in opposition to the Project, and finds that the Applicant has met the standards set forth in Section XII.C(3) (Siting Approval Permit Standards) of the WECS Ordinance.

### **III. Recommendation**

Pursuant to Morgan County's Wind Energy Conversion Systems Siting Regulations Ordinance, and subject to the Conditions set forth in Section IV. below, the Board of Appeals recommends **approval** of the Application and the issuance of the WECS Siting Approval Permit and the related WECS Building Permit for the construction and operation of a 303.6 MW nameplate capacity wind energy conversion system (WECS), known as the Lincoln Land Wind Project, consisting of up to 107 wind turbines in

substantial conformance with the Application and Applicant's Exhibits (**Group Exhibit "A"**), subject to the Conditions set forth in Section IV. below, as follows:

#### **IV. Conditions**

The recommendation of **approval** of the Applicant's Application, the WECS Siting Approval Permit and the related WECS Building Permit is conditioned upon and subject to:

1. Approval of the Application by the Morgan County Board of Commissioners.
2. Turbines may be shifted up to 250 feet from each turbine location identified in the Application without resort to Section XII(C)(8) of the Ordinance, so long as the turbine shifts comply with all County and State setback requirements and specified noise and shadow flicker requirements; cultural resource impacts are avoided or mitigated; environmental minimization and avoidance measures are adhered to; and wetland impacts are avoided or appropriately permitted. The Applicant will notify the Regional Planner of these shifts and will identify final turbine locations in the application for a WECS Building Permit. Any Turbine shift of more than 250 feet will require a modification analysis and opinion by the Regional Planner pursuant to Section XII(C)(8) of the Ordinance.
3. Submission of certificates of design compliance to the Regional Planner, once it has been determined which turbine will be used in the Project.
4. Prior to the issuance of building permits for the towers, submission of a Professional Engineer (Licensed in the State of Illinois) tower design and foundation certification per Subsection VI.A.2. (Design and Installation; Design Safety Certification) of the WECS Ordinance.
5. The Applicant, at its cost, and subject to any applicable waivers, shall: (a) mitigate shadow flicker affecting any property owner(s) during the life of the Project per the strategies set forth in the Shadow Flicker Study; and (b) use commercially reasonable efforts to remedy and reduce shadow flicker affecting any property owner(s) who is not a participant in the WECS Project, where the property or properties receive more than thirty (30) hours of shadow flicker in a calendar year by promptly undertaking measures such as purchasing and installing trees and/or other vegetation plantings, screening or awnings on the affected property owner's property in a manner that remedies and reduces shadow flicker.
6. If the GE140, V150 or N149 turbines are selected, the Applicant will provide the County Regional Planner with sound and shadow flicker studies and new setback maps demonstrating compliance with the WECS Ordinance.
7. A collector substation shall be contained within a security fence per industry standards.
8. Rotor and overspeed control design statement and certification, once it has been determined which turbine will be used in the Project. A SCADA system will be installed and maintained along with other redundant safety and control mechanisms.
9. Receipt of FAA letters and compliance with lighting recommendations. The Applicant shall file an application for ADLS or other similar technology with the FAA to reduce light pollution and visual impacts caused by the turbines and install and maintain such ADLS or similar technology per the FAA approvals.
10. Receipt of FAA Determination of No Hazard to Air Navigation letters.
11. Compliance with the AIMA as executed by the Illinois Department of Agriculture and the Applicant (post-WECS Building Permit issuance).
12. Plans to reflect warning signs placed at tower access roads (all points of site ingress and egress).

13. Submission of a survey demonstrating compliance with setback requirements.
14. Receipt of the IEPA General Storm Water Permit.
15. The Applicant shall engage with the Illinois SHPO regarding the archaeological and architectural studies currently underway in the Project area. The Applicant will share the results of these studies and any Applicant-proposed mitigation measures, if appropriate, with the SHPO for review, and seek the Agency's comments on the findings. The Applicant will work in good faith to address the comments of the SHPO on such studies and mitigation measures.
16. The Applicant will comply with the following recommendations as set forth by the Illinois Department of Natural Resources to avoid and/or minimize impacts to state-listed wildlife:
  - a. Adjust turbine operations as agreed upon with USFWS and IDNR from July 15 to October 15 each year to avoid or minimize risk to federally-listed and State-listed endangered, threatened and non-listed bats.
  - b. Develop post-construction monitoring surveys in coordination with IDNR and USFWS consisting of three (3) years of mortality monitoring to statistically quantify bird and bat mortality, by species, due to wind turbine operations. Post-construction monitoring results will be evaluated in coordination with the USFWS and IDNR, and Lincoln Land Wind will work with USFWS and IDNR to determine appropriate additional measures should impacts exceed anticipated levels.
  - c. Avoid breeding season disturbance to suitable nesting habitat for certain birds (i.e., state-endangered upland sandpiper and state-threatened black-billed cuckoo) during construction phase of Project.
  - d. If the mortality monitoring shows mortality of birds and bats and/or additional species are added to the endangered, threatened lists during the operation of the Project, after consultation with the County and IDNR, the Applicant will employ deterrent technology, as such technology becomes commercially available.
17. The Applicant will obtain a National Pollutant Discharge Elimination System ("NPDES") Permit from the IEPA Division of Water Pollution Control for construction activities prior to the initiation of Project construction.
18. Before the commencement of construction on the Project, the Applicant will file a notice of intent and accompanying SWPPP for a general permit to discharge relating to storm water discharges during Project construction.
19. Compliance with the requirements of IDNR Statewide Permit No. 6 or submission of Project-specific permit related thereto, if required.
20. Compliance with the requirements of USACE Nationwide Permit 12, if required.
21. The Applicant will comply with USDA rules regarding CRP land.
22. Submission of a wire crossing agreement executed by The Kansas City Southern Railway Company for use of its right-of-way to install underground collection cables for the Project. If the agreement is not executed by the Railroad Company, the Applicant will remove from consideration six (6) turbine locations (i.e., turbines C-22, C-24, C-25, C-26, C-27 and C-28) as indicated in the Application.
23. Prior to the issuance of any WECS Building Permits, submission of signed and recorded copies of all Road Use Agreements that have been reviewed and approved by the County Engineer and the County Attorney or special counsel for the County.
24. Prior to the issuance of any WECS Building Permits, receipt of Township Road Commissioner and County Engineer approval of roadway plans for all affected roadways, along with appropriate easements from property owners where the roadway improvements will occur outside of the existing public right-of-way.

25. Prior to the issuance of any WECS Building Permits, Morgan County Board approval of required "Financial Security" and "Decommissioning Security" as defined in the WECS Ordinance for the Project (including road use agreement obligations) and for decommissioning of the Project in a form, content and dollar amounts that are acceptable to the County Board (i.e., three (3) types of security are provided for per the WECS Ordinance: a surety bond (performance and payment bond), an irrevocable letter of credit or a cash escrow account), after further input by the County Engineer and/or the County Attorney or special counsel for the County relative to the dollar amount, content and form of the Financial Security and Decommissioning Security documents and as described and calculated in accordance with Section X (Decommissioning and Site Reclamation Plan Required) of the WECS Ordinance. The draft bond that was supplied as a part of the Financial Assurance submittal, marked as Appendix 18 of the Application, is a template bond document and the terms of the template bond have not been finalized or agreed to by the Parties.
26. Post construction, a noise study shall be conducted for all primary structures within one (1) year after commercial operation to verify that noise levels are in compliance with noise standards and, if noise levels exceed standards, the Applicant shall provide mitigation at the primary structure to provide compliance. During the life of the Project, the Applicant shall comply with all applicable IPCB's noise regulations and take all necessary actions to ensure all components of the Project (e.g., substation and turbines) comply with such regulations.
27. Receipt of County Engineer approval of Drainage Tile and Repair Plan.
28. At the conclusion of the construction of the Project, submission of installation certifications that the Project has been constructed in accordance with the plans and specifications and the WECS Siting Approval Permit.
29. The Applicant agrees to take all commercially reasonable steps to respond to a written complaint related to interference caused by the Project as is required by the WECS Ordinance, including correcting any interference related to TV, Radio or Internet, and service levels shall be brought to a level of service as experienced prior to construction of the Project. The Applicant will also take immediate actions to mitigate or minimize interference with communications such as radio, telephone, microwaves or television signals, and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, caused by the operation of the Project as required in the WECS Ordinance.
30. Receipt of local emergency service provider review and approval, which review and approval will not be unreasonably delayed, with proposed mitigation measures (if required) demonstrating no interference with emergency services.
31. Submission of Final Emergency Action Plan that includes local fire departments' review, input and acceptance of the Emergency Action Plan, which review and approval will not be unreasonably delayed.
32. The Applicant will provide, at its expense, annual training and necessary equipment to local emergency responders so they can properly respond to a potential emergency at the Project. The Applicant will also cooperate with local emergency responders to develop an emergency response plan that includes a 24-hour contact information for the Project and at least three of its representatives.
33. Provision of required liability insurance.
34. Morgan County Board approval of the final Decommissioning Plan (the draft Plan was

- submitted as part of Appendix 7 of the Application) after updates to the Plan are made to address further input from the County Engineer and/or the County's consulting engineering firm and the County Attorney and/or special counsel for the County relative to the dollar amount, content and form of the Decommissioning Plan and Decommissioning Security document based on the Applicant's final Project plan submittals, including turbine model / design selection and final turbine location plan. The draft bond that was supplied as a part of the Financial Assurance submittal, marked as Appendix 18 of the Application, is a template bond document and the terms of the template bond have not been finalized or agreed to by the Parties.
35. Construction activity shall be limited to the hours from sunrise to sunset, with the exception of the construction of the towers (pouring concrete foundations and placing of the nacelle and blades on the towers).
  36. Post-construction mitigation shall be provided where there has been found to be interference issues with reception, including GPS as related to precision agricultural purposes.
  37. If building permits for the towers have not been issued within five (5) years of the date of WECS Siting Approval Permit approval, the approval shall expire and a new WECS Siting Approval Permit application will be required.
  38. The Applicant shall repair any existing waterways, important for farm drainage and soil erosion control, that might be damaged during the construction or maintenance of the project and avoid adversely affecting compliance with existing State and Federal contracts that might apply to those waterways.
  39. The Applicant will submit an operation and maintenance report on an annual basis to County's Regional Planner. The initial operation and maintenance report shall be delivered to the County's Regional Planner within sixty (60) calendar days of the one year anniversary date of the commencement of operation of the Project. Subsequent annual reports shall be delivered on the same schedule.
  40. The Applicant shall prepare and submit an Infectious Disease / COVID-19 Pandemic Response-Action Plan for approval by the Morgan County Department of Health Code Officer, which approval will not be unreasonably delayed, that requires compliance with then-current protocols, guidelines and recommendations issued by the pertinent Federal, State and County health and worker safety governmental oversight agencies, such as the Illinois Department of Public Health, the Illinois Department of Labor (Illinois OSHA), federal Occupational and Safety Health Administration, the Centers for Disease Control and the National Institute of Health.
  41. The Applicant shall comply with the applicable provisions of Federal, State and County laws and regulations, including the WECS Ordinance and the WECS Siting Approval Permit Ordinance and its conditions relative to the construction, operation, replacement, repair, restoration, maintenance and decommissioning of the Project.

**Motion to Approve the above Recommendation No. 2020-01 made by Member Terry Denison; seconded by Member Roger Hardy. Votes in Favor of Motion to Approve: Dale Bainter, Terry Denison, Danny Little (Chair) and Roger Hardy; Votes Not in Favor of Motion: None; Abstain from Voting: Jimmy Duncan; and Absent from Meeting / Voting: None).**

**Approved** this 26th day of August, 2020.

**Morgan County Board of Appeals**

By: \_\_\_\_\_  
Chair Danny Little

**Group Exhibit "A"**

**Application dated February 18, 2020, with Applicant's Exhibits  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "B"**

**Public Hearing Notice with Newspaper Publisher's Certificate  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "C"**

**Additional Applicant Documents  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "D"**

**Morgan County Exhibits  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "E"**

**Documents submitted by the Objectors  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "F"**

**Documents submitted by the Interested Parties  
as described above in the Recommendation**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "G"**

**Morgan County's Wind Energy Conversion Systems  
Siting Regulations Ordinance, Ordinance No. 2019-10-A**  
(on file with the County and incorporated by reference and made a part hereof)

**Group Exhibit "H"**

**Transcript of the Public Hearing Proceedings  
conducted on August 11, 2020 as transcribed by Court Reporter Ann Marie Hollo, CSR,  
of NAEGELI Deposition and Trial with the exhibits introduced into the Public Hearing Record**  
(on file with the County and incorporated by reference and made a part hereof)