



# Albany County Planning Office

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## Albany County Planning and Zoning Commission

### AGENDA

#### Regular Meeting

January 12, 2011 – 7:00 p.m.

Albany County Commissioners Chambers

CALL TO ORDER/ROLL CALL

APPROVAL OF AGENDA AND MINUTES (December 8, 2010)

DISCLOSURES

PUBLIC APPLICATION

CURRENT PLANNING PROJECTS

A. Wind Energy Regulations amendments

OTHER ITEMS/ANNOUNCEMENTS

CALENDAR

A. *January 18 – 9:30 a.m.* - Board of County Commissioners

B. *February 1 – 9:30 a.m.* - Board of County Commissioners

CITIZEN COMMENTS – Non-Agenda Related Topics

**\*NOTE – The Albany County Planning and Zoning Commission will table action on any application for which the Applicant or his/her representative is not present at the meeting for which the application is scheduled.**

⌘ Minutes ⌘  
**Albany County Planning and Zoning Commission**  
**December 8, 2010**  
**Albany County Commissioners Room**

A regular meeting of the Albany County Planning and Zoning Commission was held on December 8, 2010, at 7:00 p.m. in the Albany County Board of County Commissioners Meeting Room of the Albany County Courthouse.

**I. CALL TO ORDER/ROLL CALL**

**Members present:** Kelly Cole, Sarah Gorin, James Rinehart, Chris Nicholson and Cheri Frank

**Staff present:** Doug Bryant, David Gertsch and Susan Adler

**County Engineer:**None

**Albany County Attorney Liaison:** Jennifer Stone

**Board of County Commissioners' Liaison:**

**Public Present:** Kimberly Starkey, Mitch Edwards, Danny Dunlavy

**II. APPROVAL OF AGENDA– Ms. Frank made a motion to approve the agenda as presented. Ms. Gorin seconded the motion. Motion carried on voice vote.**

**III. APPROVAL OF MINUTES - Mr. Cole made a motion to approve the minutes for November 10, 2010 meeting as presented. Ms. Gorin seconded the motion. Motion carried on voice vote.**

**IV. DISCLOSURES - Ms. Frank disclosed she lives in the Casper Aquifer Protection Area. Ms. Gorin disclosed she is a member of the Citizens for Clean Water.**

**V. CURRENT PLANNING PROJECTS**

**A. Wind Energy Systems Amendments –** David Gertsch explained the proposed amendments for the commercial wind regulations. After discussion, the Planning and Zoning Commission requested their suggestions be brought back to the January meeting.

**B. Casper Aquifer Protection Plan –** Doug Bryant reported that the changes requested at the last meeting were incorporated in the new draft. The Commission discussed areas of the CAPP that were commented on by the public and made adjustments to the wording. **Mr.**

**Cole made a motion to forward to the Board of County Commissioners the Draft Casper Aquifer Protection Plan with changes made at the December 1, 2010 and December 8, 2010 meetings. Ms. Gorin seconded the motion. The motion carried on voice vote.**

- C. **Draft Mobile Home Park Regulations** – Ms. Adler reported that staff had a meeting with the mobile home park owners and were researching and reviewing the suggested changes.

**VI. OTHER ITEMS/ANNOUNCEMENT**

**VII. ADJOURNMENT**

Chairperson Nicholson adjourned the meeting at 9:55 p.m.

Minutes taken by Susan Adler, Office Manager/Administrative Assistant



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## MEMORANDUM

To: Planning and Zoning Commission  
From: DG David Gertsch, Planning Director  
Date: 1-6-11  
Re: Wind Energy Regulations Update

I believe I have addressed all the changes made that were suggested. However, after our discussion about certified mailings and when our office should require the return receipts, I think it might be best to leave the requirements as they currently are which is require the return receipts 5 days prior to the meetings.

Let me explain why I would recommend this. First, the State's process is so quick, especially when you consider that they do not specifically address the Planning and Zoning Commission's involvement. If we require that letters be sent out 20 or 30 days prior to the Planning and Zoning Commission meeting, this may not allow us time to meet the deadlines for the Board of County Commissioner's public hearing. Also, we are requiring that the certified list of surrounding property owners be turned into us with the application. So, as long as staff looks at the notice and reminds the applicant to send out the letters on time, we shouldn't have any problems. Staff will just need to make sure the applicant gets this done.

**Section 12. Commercial Wind Energy Siting Regulations and Permitting.**

**A. General Provisions**

1. Title. These Regulations shall amend the Albany County Zoning Resolution, to be referred to as the Albany County Wind Energy Siting Regulations.
2. Purpose. These regulations have been adopted for the following purposes:
  - a. To assure that any development and production of wind-generated electricity in Albany County is safe, effective, and that it will minimize impacts to wildlife;
  - b. To acknowledge that these facilities are clearly visible and cannot be hidden from view, however, design consideration should include minimizing the degradation of the visual character of the area;
  - c. To facilitate economic opportunities for local residents;
  - d. To promote the supply of wind energy in support of Wyoming's goal of increasing energy production from renewable energy sources;
  - e. To be consistent with the Albany County Comprehensive Plan.

3. Authority. The Albany County Wind Energy Siting Regulations are adopted under the authority granted by the following Wyoming Statutes:

Title 18 Counties. Chapter 5 Planning and Zoning, Article 2. Planning and Zoning Commission, §§18-5-201 to 18-5-207 and Article 5. Wind Energy Facilities, §§18-5-501 to 18-5-513.

Title 9 Administration of the Government. Chapter 8 Land Use Planning, Article 1. General Provisions, §§9-8-101 to 9-8-302.

4. Severability. If any section or provision of the Albany County Wind Energy Siting Regulations is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these Regulations. These Regulations are declared to be severable.

**B. Definitions**

1. "Applicant" means the entity or person who submits to the County Planning Office an application for the siting of any Wind Energy Conversion System (WECS), WECS Project, or Substation.
2. "Financial Assurance" means reasonable assurance, at the discretion of the Board of County Commissioners, from a credit worthy party that the costs associated with but not limited to construction, maintenance, consequences from abandonment, or a failure to properly execute closure, post-closure costs are recoverable from applicant(s) under these Regulations.
3. "Operator" means the entity responsible for the day-to-day operation and maintenance of any WECS, WECS Project, or Substation, including any third party subcontractors.

4. "Owner" means the entity or entities with an equity interest in the WECS, including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS; or (ii) any person holding a security interest in the WECS solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS at the earliest practicable date.
  5. "Primary Structure" means structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as storage sheds and loafing sheds.
  6. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Wyoming.
  7. "Substation" means the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with a utility's transmission line(s).
  8. "Wind Energy Conversion System" ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation and their support facilities, including transmission lines.
  9. "WECS Project" means the WECSs and associated support facilities including, but not limited to, roads, substations, operation and maintenance buildings, and permanent met towers as specified in the siting approval application and including the project area as defined by the Owner.
  10. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
  11. "WECS Tower Height" means the distance from the highest point of a vertical rotor blade to the top surface of the WECS foundation.
- C. Applicability. These Regulations govern the siting of WECS, WECS Projects, and Substations that provide electricity to be sold to wholesale or retail markets, except that owners of WECS with an aggregate generating capacity of 25 kW or less who locate the WECS on their own property are not subject to these Regulations. WECS Towers shall be permitted in agricultural or industrial zoned districts. Approval of any WECS Project Permit does not preclude the need to obtain approved Zoning Certificates for individual structures, additions, and changes.
- D. Prohibition. It is unlawful to locate, erect, construct, reconstruct, or enlarge a wind energy facility without first obtaining a WECS project permit from the Board of County Commissioners, see §§18-5-502 (a). ~~No WECS Project shall be constructed, erected, installed, or located within Albany County, unless prior siting approvals have been obtained pursuant to these Regulations.~~ WECS projects shall be permitted by WECS project permits which allow each individual WECS to be moved within the project boundary as the variables of the individual project dictate.

E. Penalties.

1. Any person violating subsection D. above is liable for a civil penalty of not more than \$10,000 for each violation. Each day of a continuing violation constitutes a separate offence.
- 1.2. Any wind turbine tower or wind generator erected in violation of this section shall subject the owner of the wind turbine tower or wind generator to a penalty of \$750 per day for every tower or generator so erected.

D.F. Siting Approval Application.

1. To obtain siting approval, the Applicant(s) must first submit a WECS Project Permit application to the County Planning Office.
2. The WECS Project Permit application shall contain or be accompanied by the following information:
  - a. A Project Summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer, type of WECSs, number of WECS, and name plate generating capacity of each WECS; the maximum height of the WECS Towers and maximum diameter of the WECS rotor; the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;
  - b. The names, addresses, and phone numbers of the Applicants, Owners and Operators, and all property owners;
  - c. A site plan for the installation of a WECS Project showing the planned location of each WECS Tower, anchor bases (if any), Primary Structures, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substations, electrical cabling from the WECS Tower to the Substations' ancillary equipment, transmission lines, and layout of all structures within the geographical boundaries of any applicable setback;
  - d. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of these regulations.
  - e. Letters of consent to construct from all surface property owners on which the WECS Project is located; and
  - f. Any other information required by the County Planning Office as part of its zoning regulations.

3. Application and Approval Process.

- a. Application Submission. A completed application, signed by the owner(s) and applicant shall be submitted to the County Planning Office.

b. Certified list of adjacent property owners. A certified list of adjacent property owners within ~~1. two (2)~~ miles of the proposed WECS Project's boundaries and any properties contiguous to the parcel which the project is proposed if more than 1 mile and less than 5 miles from the project's boundaries that are not already included in the certified list. This list shall be obtained from the real estate records filed with the Albany County Clerk's Office or the assessment records on file with the Albany County Assessor's Office. Use of any information which is not up-to-date shall not invalidate this notice requirement, provided with the application. A title insurance company, a Professional Engineer, a surveyor, or an attorney must certify the list.

c. Notice Requirements. WECS Project Permit applications shall be subject to all County notice requirements within the Albany County Zoning Resolution (Chapter 5, Section 5). The following notice requirements must be met. If all notice requirements are not timely given, a WECS Project permit shall not be granted.

1) Mail: Applicant shall be responsible for mailing notice, by certified mail, to property owners identified on the certified list of property owners (see subsection b. above) and to incorporated municipalities within 20 miles of the WECS Project. If the applicant is not the property owner of the proposed development site, notice shall be sent in the described manner to the property owner(s). Notice of pending proposals for development shall be given 14 days prior to the Planning and Zoning Commission meeting and 20 days prior to the Board of County Commissioners public hearing. Rights-of-way and easements shall not be considered as dividing properties.

2) Applicant shall submit to the Planning Office both an affidavit of mailing of the certified mail notice and copies of the signed return by recipients of the notice. The affidavit and the receipt copies shall be submitted to the Planning Office at least 5 days prior to the respective Planning and Zoning Commission and Board of County Commissioners meetings.

3) Publication: The Planning Department shall propose and place in the local newspaper a legal notice of the proposed development. The publication shall provide at least 14 days notice of a development proposal hearing before the Planning and Zoning Commission and 20 days notice prior to the hearing before the Board of County Commissioners.

4) Signage: The applicant shall obtain at the time of the application submission, at least 1 sign to be placed along and clearly visible from each publicly used road abutting the property. The sign shall state the property is being proposed for development and shall give contact information for the Planning Department. The sign(s) shall



be posted at least 14 days prior to consideration of a development proposal before the Planning and Zoning Commission and the Board of County Commissioners. Applicant is responsible for return of the signs in as good a condition as when obtained, except for reasonable wear and tear.

5) Fee: Applicant shall remit a fee in the amount of \$100.00 to cover notice expenses at the time of filing a development proposal. This fee shall be in addition to the application filing fee.

6) Contents of Notice: All mailed and publication notices shall include a brief description of the WECS Project including the name of the applicant, its location, the projected number of turbines, and likely routes of ingress and egress; contact information for the Planning Department; and invite the public to submit comments, identify the location, date, time, and reviewing body for the public meeting or hearing.

7) Notice to record owners and claimants of mineral rights: Record owners and claimants of mineral rights located on and under lands where the wind energy facility will be constructed shall be notified by published notice within a newspaper with a significant local circulation. The notice shall be published at least 14 days prior to permit application meeting or hearings before the Planning and Zoning Commission or the Board of County Commissioners.

b.d......Planning and Zoning Review and Recommendation. The Planning and Zoning Commission will review the application at a regular meeting and make findings and a recommendation to the Board of County Commissioners.

e......Board of County Commissioners Review and Decision.

1) Review of Application for Completeness. Upon receipt of an application, the Board of County Commissioner shall conduct a review of the application to determine completeness. If the application is determined to be incomplete by the Board, a list of deficiencies shall be provided to the applicant within 30 days of receipt of the application by the Board. The applicant will then have 30 days to correct the deficiencies. Once an application is deemed complete, the applicant will be notified of the date and time of the required public hearing before the Board.

2) Public Hearing. The Board of County Commissioners shall hold a public hearing prior to acting on the application. The required public hearing must be held no less than 45 days and not more than 60 days after determining that the application is complete. Written

comments on the application shall be accepted for not less than 45 days after determining that the application is complete.

~~4.3)~~ Final Decision. In order to give final approval of the WECS Project Permit, the Board of County Commissioners must be able to make required findings of fact and conclusions of law, determining that each impact shall be mitigated, if deemed necessary, ensuring compatibility with adjacent uses. The Board of County Commissioners must make a decision to either approve or deny the application within 45 days of a public hearing. A copy of the decision shall be served upon the applicant.

~~e.f.~~ Findings Necessary for Approval. The Board of County Commissioners must make the following findings:

- 1) That the Applicant has provided such site plans and/or survey maps as required.
- 2) That the proposed WECS Project will not adversely affect the public health, safety, and welfare of the community.
- 3) That the proposed WECS Project shall not adversely affect the public interest by overburdening County services.
- 4) That the applicant has adequately addressed the following impacts:
  - a) Economic or Social Impacts. Demonstrate that the applicant has addressed any complaints specified during the public comment period concerning any negative economic or social impacts.
  - b) Air Quality. ~~There shall be no adverse~~ Mitigate any air quality impact at or beyond the property line: fumes, smoke, odor, dust, heat, etc.
  - c) Water Quality. ~~There shall be no~~ Mitigate any adverse water quality impacts.
  - d) General Nuisances. Minimize light, glare, heat, noise, vibration, odors, fumes, smoke, or other nuisances generated by the WECS Project that may affect off-site property owners.
  - e) Soil Disturbance. Show that soil disturbance on the site will be minimized and that appropriate measures will be taken to restore disturbed areas to its former state.

- f) Wildlife Impacts. Show that the WECS Project will not be a significantly negative impact on wildlife species in the area. The applicant shall show that their project is consistent with the Wyoming Game and Fish's document entitled "Wildlife Protection Recommendations for Wind Energy Development in Wyoming" (November 17, 2010) and that it will follow recommendations made by the Wyoming Game and Fish.
  - g) Cultural Resource Impacts. Show that appropriate measures will be taken to mitigate disturbance of any cultural resources on the site.
  - h) If this project requires review by Industrial Siting Council, the applicant shall not be required to address f) Wildlife Impacts or g) Cultural Resource Impacts of this subsection.
- 4. The Applicant shall notify the County Planning Office of any changes to the application information that occur while the WECS project application is pending.
  - 5. The WECS Project Permit expires within five (5) years of its date of approval by the Board of County Commissioners unless:
    - a. The Applicant has substantially commenced WECS Project construction under an approved Albany County permit; or
    - b. The Applicant has submitted evidence acceptable to the Board of County Commissioners that the WECS Project is still viable and the delay in construction is caused by project management or coordination issues that are pending resolution in the near future.
  - 6. The Board of County Commissioners may renew the permit for an additional five (5) year term. If the WECS Project is not completed once the additional term ends, the applicant must apply for a new WECS Project Permit to proceed with the project.

E.O...... Design and installation.

- 1. Design Safety Certification. Following the granting of WECS Project under these Regulations, a Professional Engineer shall certify, as part of the Zoning Certificate application, prior to construction that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- 2. Color. Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color as agreed to by the County Planner and the Applicant that will help the project blend with the natural visual character of the area.

3. Noise. Noise associated with WECS operation shall not exceed fifty-five (55) dBA as measured at any point along the common property lines between a non-participating property and a participating property.
  - a. This level may be exceeded during short-term events such as utility outages, severe weather events, and construction or maintenance operations.
  - b. This standard shall not apply along any portion of the common property line where the participating property abuts state or federal property.
  - c. Noise levels may exceed the fifty-five (55) dBA limit along common property lines if written permission, as recorded with the Albany County Clerk, is granted by the affected adjacent non-participating property owners.
4. Signage. There shall be no signage, ~~or~~ logo, advertising, or promotional lettering of any type allowed on the WECS Towers, nacelles, or blades with the exception of reasonable manufacturer safety warning and emergency contact signs. Any other signage shall only be allowed as approved by the County.
5. Warnings. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
6. Climb Prevention. All WECS Towers must be unclimbable by design or protected by anti-climbing devices.
7. Setbacks.
  - a. All WECS Towers shall be set back at least one-quarter (.25) mile or 5.5 times the tower height, whichever is greater, from any Primary Structure a residential dwelling or occupied structure. The distance for the above setback shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement. However, a WECS Tower shall not be located closer to a Primary Structure than one and one-tenth (1.10) times the WECS Tower Height.
  - b. All WECS Towers shall be set back a distance of at least one and one-tenth (1.10) times the WECS Tower Height from third party transmission lines and communication towers.
  - c. All WECS Towers shall be set back a distance of at least one and one-tenth (1.10) times the WECS Tower Height from adjacent property lines. This does not apply to property lines within WECS Projects.
  - d. All WECS Towers shall be set back a distance of one-half (.5) mile or 5.5 times the tower height, whichever is greater, from any platted subdivision unless this restriction is waived in writing by the owners of all lands included within the distance specified in this paragraph Residential Zoning

~~District. The owner of the adjacent property in the Residential Zone may waive this setback requirement;~~ however, all WECS Project structures shall be set back a distance of at least one and one-tenth (1.10) times the WECS Tower Height from the adjacent property line.

- e. All WECS Towers shall be set back a distance of one (1) mile from any incorporated municipality, ~~unless waived by the municipality.~~
- f. All WECS Towers shall be set back a minimum of one-quarter (.25) mile from the right-of-way of Interstate 80, Highway 34, 130 and 230, and U.S. Highway 287/30.
- g. All WECS Towers shall be set back a distance of at least one and one-tenth (1.10) times the WECS Tower Height from public roads and railroads. Setback shall be measured from the edge of the road or rail right-of-way.
- h. All WECS Towers shall be set back from State Parks and wildlife refuges a minimum of one-quarter (.25) mile.
- i. The applicant does not need to obtain a variance from the county upon waiver by either a municipality or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property. Copies of the signed waivers shall be furnished to the County Planning Office for inclusion in the application file.
- j. Setback distances may be modified at the discretion of the Board of County Commissioners to minimize degradation, if any, of the visual, environmental, or acoustic character of the area, additional performance standards may be adopted by the Board of County Commissioners upon formal consideration, review, and public hearings.

8. Use of ~~Public~~ Roads.

- a. Applicants, Owners, or Operators proposing to use any county, improvement district, municipality, or state roads, for the purpose of transporting WECSs or Substation parts and/or equipment for construction, operation, or maintenance of the WECSs or Substations shall:
  - 1) Identify all such public roads. Detailed mapping of haul routes shall be submitted after the specific haul routes have been identified. No public roads shall be used for construction activities related to a WECS Project until specific haul routes have been identified and maps have been submitted to the County Planning Office and appropriate approvals obtained.
  - 2) Obtain access permits and utility crossing permits from the county.
  - 3) The Applicants shall include a traffic study of any public roads leading to and away from the proposed WECS Project, and at the

discretion of the Board of County Commissioners, may be requested to provide additional studies and reports prepared by qualified professionals to determine if impacts to public roads will occur.

If impacts are determined, a mitigation plan and/or long term road maintenance agreement between the Applicant and Albany County will be required at the discretion of the Board of County Commissioners.

- 4) If potential road impacts are determined to extend beyond County boundaries the Applicants will be responsible to contact all potentially impacted jurisdictions (other states or counties) and to provide written documentation of the contacts as well as written statements from the jurisdictions that they are aware of the potential impact.
- b. The County Planning Office may require the applicants, Owners, or Operators to do the following:
- 1) Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
  - 2) Secure Financial Assurance in a reasonable amount at the discretion of the Board of County Commissioners for the purpose of repairing any damage to public roads caused by constructing, operating, or maintaining the WECS Project.
  - 3) The use of public roads and other infrastructure shall be in compliance of federal, state, and county regulations governing such activities. If degradation to or damage of public roads or other infrastructure by parties affiliated with the installation, operation, or maintenance of WECS Project, these parties will bear all costs required to return the public roads or other infrastructure to their original or better condition prior to their use for the project. If Albany County has entered into any Memorandum of Understanding with any other counties in the proposed WECS Project, including counties in other states as applicable, the Owner shall furnish proof of compliance with the requirements of any such county.

c. Private Roads. The applicant shall describe how private roads within the WECS Project will be designated as private roads and acknowledge that the County is not required to accept the dedication for public use, repair, or maintain any private road.

d. Access. The applicant must provide documentation that adequate legal access is available to the WECS Project.

9. Sediment Control. Owners or Operators shall do the following to minimize soil erosion and damage to existing vegetation during construction and maintenance of a WECS Project:
  - a. Minimize disturbance and construction on erodible slopes.
  - b. Minimize the number of new roads and construction staging areas.
  - c. Minimize the grading width of roads. One-lane roadways with turn-outs are recommended.
  - d. Owners or Operators shall reclaim areas disturbed by construction activities with native vegetation as areas of the WECS Project complete construction.

~~PH~~..... Operation.

1. Maintenance.

- a. The owner of the WECS must maintain and operate the WECS in compliance with all state and federal occupational and environmental health and safety regulations. All WECS that remain inoperative for twelve (12) months or longer must be removed unless the owner provides a written plan and schedule acceptable to the County Planning Office for refurbishing and reactivating inoperative WECS. The owner of the WECS shall submit to the County Planning Office a statement on March 1<sup>st</sup> of each year that lists all WECS currently inoperative for longer than twelve (12) months.
- b. The Owners or Operators of the WECS shall control and eradicate noxious and invasive weed species as designated by County Weed and Pest within the disturbed areas of the project, during and for a minimum of five (5) years after the life of the operation. This shall be maintained to the satisfaction of County Weed & Pest. The Owners or Operators may choose to contract with the County or outside services to control weeds. Disturbed areas shall be preliminarily delineated at the time of application by the applicant and shall include, as a minimum, the proposed future easements for new roads, transmission lines, WECS, buildings, and any other property that may be disturbed or accessed by the Owner. If the delineated disturbed areas change, the Owner shall notify the County Weed and Pest District.
- c. Periodic maintenance will include upkeep to all structures and grounds for aesthetics. Routine scheduled maintenance shall include the repainting of equipment and structures and ground work or landscaping as appropriate to the location.

2. Interference.

- a. The Applicants shall provide the applicable microwave transmission providers and local emergency service providers (911 operators) copies of the project summary and site plan. To the extent that the above providers demonstrate a likelihood of interference with its communications resulting

from the WECS, the Applicants shall take reasonable measures to mitigate such anticipated interference. If these entities make subsequent changes to their equipment and systems such that an existing WECS Project interferes with their re-designed communications systems, the Board of County Commissioners shall not require the existing WECS Project to be moved or disassembled to remedy such interference.

- b. If, after construction of the WECS the Owners or Operators receive a written complaint related to interference with emergency services communications, local broadcast of residential television, or other communications venues, the Owners or Operators shall take steps to respond to the complaint as reasonably feasible. The Owners or Operators of the WECS will bear any costs incurred to mitigate interference.
- c. The Owners or Operators shall mitigate light impact on existing residences as reasonably feasible and still meet FAA requirements. The Board of County Commissioners shall require installation and maintenance of an audio visual warning system. Such an FAA approved system shall allow the turbine tower warning lights to be off except when necessary to alert aircraft in the area. Lights shall remain off at night unless aircraft are detected in the area by the audio visual warning system or FAA requirements dictate otherwise.

3. Coordination with Local Fire Department Emergency Response Agencies.

- a. The Applicants, Owners, or Operators shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan.
- b. ~~Upon request by the local fire department and/or the Emergency Management Coordinator, the Owners or Operators shall cooperate with the relevant agency to develop any emergency response plan.~~ The Applicant shall submit to the County Fire Warden, the Emergency Management Coordinator, and the County Sheriff an emergency management plan for review and comment prior to permit approval. If a WECS Project Permit is granted, the plan shall be supplemented and revised following construction of the facility and prior to its operation if there are any variations in the facility's construction which would materially impact the original emergency management plan.

4. WECS Project Mapping. The Owners or Operators shall provide the County Planning Office with a detailed map of the site within ninety (90) days of when operation begins. This map will include the geographic coordinates of each WECS structure, all roads within the WECS Project area, and public roads and turnouts connecting to roads of the WECS Project. This Map shall be updated every five (5) years or after the completion of any significant additional construction, whichever occurs first.

~~6.1~~ Wyoming Game and Fish Department (WGF). The Applicants are advised to request, during initial site selection, information from WGF on critical habitat of



protected species that may be present. The Applicant should obtain a letter from WGF verifying that the Applicant has coordinated with WGF about the project site selection and describing any annual monitoring of wildlife impacts and mortalities, as recommended by the WGF. The Applicant will need to ensure access to the wind development area for the purposes of annual wildlife monitoring activities, if required. The Applicant need not complete duplicative studies, but shall provide the County Planning Office with wildlife studies contained in existing environmental assessments and/or formal NEPA studies such as the Environmental Impact Statements that cover the project area. The County Planning Office will also route the application to WGF for comment and review of pertinent reports. WGF will have thirty (30) days from the date it receives the application to provide the County Planning Office with its comments concerning the application. If no comments are received within thirty (30) days, the County Planning Office will assume the application is in order with the WGF and proceed with the permitting process. If the project requires review by the Industrial Siting Council, the project is exempt from this provision.

H.J. Archeological and Historical Resources. The Applicants are advised to seek comments and approval from appropriate agencies for matters concerning archaeology studies, historical importance, and any other relevant Federal, State and Local issues and to include relevant reports in the application process. The Applicant need not complete duplicative studies, but shall provide the County Planning Office with relevant historical or archeological studies contained in reports required by other jurisdictions. The County Planning Office will also route the application to the Wyoming State Historical Preservation Office (SHPO) and any other relevant agencies for comment and review. These agencies shall have thirty (30) days from the date they receive the application to provide the County Planning Office with its comments concerning the application. If no comments are received within thirty (30) days, the County Planning Office will assume the application is in order and will proceed with the permitting process. If the project requires review by the Industrial Siting Council, the project is exempt from this provision.

K. Liability Insurance. The Owners or Operators of the WECS Projects shall maintain a current commercial general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. The Applicants shall provide proof of insurance to the Board of County Commissioners prior to the Board's approval of the submitted application. If the application is approved, the Owners or Operators of the WECS shall provide proof of insurance to the Board of County Commissioners annually, if requested.

L. Waste Management Plan. A waste management plan that includes an inventory of estimated solid wastes and proposed disposal program for the construction, operation, and eventual decommissioning of the proposed WECS Project.

M. Decommissioning and Reclamation. Documentation of a guarantee between the Owner and the participating property owner(s) for decommissioning and reclamation of the WECS Project shall be provided at the time of application and shall be recorded with the Albany County Clerk. A guarantee should be in the form of a lease agreement or a memorandum of lease between the Owner and the participating property owner. This document shall contain the minimum:

1. Provide a site and facility reclamation and decommissioning plan which indicates the planned life of the wind energy facility and the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life and which certifies that any property owner within the wind energy facility and its site who is not the applicant has been consulted in development of the reclamation and decommissioning plan. Such plan shall comply with all requirements adopted by the industrial siting council under §§ 35-12-105(d). If the permit is granted, the plan shall be updated every 5 years until site reclamation and decommissioning is complete.

4.2. All applications for a WECS Permit shall meet the requirements adopted pursuant to §§35-12-105(d) and (e) regardless of whether the facility is referred to the industrial siting council pursuant to §§18-5-509 or is otherwise subject to the industrial siting act.

~~1. Provisions describing the triggering events for decommissioning the WECS Project or any portion thereof upon thirty-six (36) months of continuous non-operation of the facility or of any aspect of any facility, unless by force majeure;~~

~~2. Provisions for the removal of structures, debris and cabling, including those below the soil surface down to twenty-four (24) inches;~~

~~3. Provisions for the restoration of the soil and vegetation;~~

~~4. Identification of the method of Financial Assurance (e.g. bond, federally insured certificate of deposit, letter of credit, etc.);~~

~~5. Provisions describing financial assurance forfeiture; and~~

~~6.1. A provision that the terms of the guarantee shall be binding upon the Owners or Operators and any of their successors, assigns or heirs.~~

J-N. Remedies

1. Any party aggrieved by the final decision of the Board of County Commissioners may have the decision reviewed by the district court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure.

2. When a decision is issued after a hearing on an application for a WECS permit under these regulations, the decision is final for purposes of judicial review.

O. Revocation or Suspension of a WECS Permit.

1. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall cause a WECS Permit to be revoked or suspended ~~constitute a default~~ under these Regulations.

2. Any material false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted the refusal to grant a permit shall justify the revocation or suspension of a WECS Permit.

3. Failure of a permitted WECS Project to transmit electricity created by wind energy for a period of at least 2 consecutive years or the failure to maintain

land rights necessary to operate the WECS Project shall justify the revocation or suspension of a WECS Permit.

~~3-4.~~ Prior to implementation of the existing County procedures for the resolution of such default ~~revocation or suspension of a WECS Project Permit,~~ the appropriate County body shall first provide written notice to the Owners and Operators, setting forth the alleged reasoning for the revocation or suspension of the WECS Project Permit ~~default.~~ Such written notice shall provide the Owners and Operators a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the issues that have led to the possible suspension or revocation of the WECS Project Permit ~~the alleged default.~~

~~3-5.~~ If the Board of County Commissioners determines in its discretion, that the parties cannot resolve the ~~alleged default~~ issues leading to the possible suspension or revocation of the WECS Project Permit within the good faith negotiation period, the existing County regulation provisions addressing the resolution of such default shall govern.

~~4-6.~~ Enforcement. The provisions of these Regulations are enforceable by all appropriate legal remedies including but not limited to injunctive relief or a writ of mandamus.

P. Referrals. The Board of County Commissioners may refer a WECS Project to the industrial siting council, if not already required to be permitted by the council, for additional permitting in accordance with §§18-5-509 and §§18-5-510. A referral shall be made only when the Board of County Commissioners finds there are potentially significant adverse environmental, social, or economic issues. A referral shall be made no longer than 30 days after an application is deemed complete.