

Case ZA-16-01

Michael W. Glennon

Closing Statement

Closing by  
Michael Glennon

McLean County Board of Appeals Meeting, 11/1/2016

### Summary

While the proposed text amendment greatly helps to codify past practices adopted by the board in previous special use cases involving the siting of Wind Electric Conversion Systems (WECS), it is inadequate in certain respects to provide the necessary protections for the citizenry in the future. The last WECS construction project in McLean Co. was completed approximately 6 years ago. Since then, some researchers are recommending that local regulators need to reevaluate their approach to siting in order to account for the unique sound characteristics of wind turbines, compared to other sources of noise, such as rail, airport, or highway, especially in rural settings, where pre-construction ambient levels are relatively low.

I am suggesting the amendment of code section 350-26 to include the definitions detailed in the attached summary.

I am suggesting the amendment of STAFF exhibit A to include the following, as described in the attached summary:

- 1) A 3,000 foot minimum setback distance for non-participants
- 2) An option for a non-participant to waive the minimum setback to 1,500 foot

### Effects and Consequences

With the current standard, as proposed in STAFF exhibit-A, non-participants and landowners share a prescribed setback of 1500 feet. Non-participants receive no compensation for the effects of noise, vibration, flicker, etc. that landowners receive as part of lease/easement agreements. Furthermore, landowners, upon entering said contracts, are entitled to mitigation interventions to address these perceived effects.

Recognition of non-participants with the option of a waiver will ensure equal protection at the prescribed minimum setback distance. This also ensures project feasibility by promoting negotiation in cases where a larger setback on small parcels may impart certain constraints in terms of turbine layout.

The Twin Groves I and II projects are a testament to the fact that easements with non-participants can be successful. Developers such as EDP, recognizing the immediate consequences of their projects, actively engage non-participants in offering easements for the trespassed effects, prior to submitting an application. This should be the model followed going forward. Moreover, this practice ensures that the zoning office is encouraging strong partnerships with prospective energy developers, who recognize that all residents have an equal stake in the project's success.

### Health

Historically, the board has emphasized health as the key component when determining whether Standard A is met in these cases. I would ask, given this emphasis on health that the board recognizes a somewhat broader definition, such as that which the World Health Organization (WHO) and Environmental Protection Agency (EPA) maintain, not necessarily relating health exclusively to a medical condition, but rather a state of well-being.

### Setbacks

Dr. Paul Schomer, a recognized leader in the scientific study of acoustics, has made the expressed recommendation in this case that the acceptable noise level falls between 38-40 decibels, at which point research is showing a marked increase in annoyance.

As a pioneer in the creation of noise regulation standards, a leader in their enforcement, and the co-founder of the Illinois Pollution Control Board (IPCB) guidelines, it is his opinion that the levels stipulated by the IPCB do not apply here. Dr. Schomer states in the affidavit submitted into evidence: "These rules [IPCB] are inappropriate for use with wind farms. They are anything but protective of the citizenry; so use of them in conjunction with wind farm noise must be deprecated."

Based on his calculations, the recommended setback to bring annoyance to an acceptable threshold in alignment with rail, highway traffic, etc., is 3000 feet. By maintaining a distance in the code, the burden is removed from the county in terms of enforcement of a noise limit, which may conflict with the standing IPCB regulations. It should be noted that Mr. Poppe, a landowner who gave supporting testimony at the hearing on October 4<sup>th</sup>, answered that half a mile was an appropriate setback in his opinion when asked the question by staff.

### Conclusion

McLean is one of several contiguous counties in central Illinois that possess ideal characteristics for wind development, those being a high average annual wind speed of 10m/s and existing infrastructure for power transmission. We should not discount our wind resources at the expense of non-participants, but rather promote balanced development through reasonable regulation. Being thorough now will render a code built on solid premises; a code that is bolstered by input not from those who seek to profit, but input from an individual, such as Dr. Paul Schomer, who has dedicated his career in furthering the protection of the citizens of this state. Please consider the suggestions I have made when rendering your decision in order to promote a more inclusive scope for all residents in project plans. I believe this approach will lead to greater general acceptance of future projects by the public, as well as foster stronger partnerships with energy leaders, who recognize the full impact to the citizenry in terms of effects and consequences.

ZA-16-01

Proposed Revisions of STAFF COPY EXHIBIT A

By

Michael Glennon

11/1/2016

NOTE: Additions are indicated by text and stricken material by ~~text~~

**McLean County Code Section 350-26. Definitions.**

OPERATOR, WECS -

Shall mean the entity responsible for the day-to-day operation and maintenance of the WECS and substations, including any third party subcontractors.

NON-PARTICIPATING PROPERTY -

Any property within the WECS project other than participating property.

PARTICIPATING LANDOWNER -

A landowner whose property (or portion thereof) is currently leased or proposed to be leased for the production, siting or development of a WECS and all landowners who have waived their rights to the setbacks provided in this section.

PARTICIPATING PROPERTY -

A property where a WECS is located or proposed to be located pursuant to an agreement with the owner/operator.

NOTE: Additions are indicated by text and stricken material by ~~text~~

**McLean County Code Section 350-43. Use Standards.**

**OO (2) (h) Setbacks**

1. ~~Wind power generation facilities~~ WECS towers and substations shall not be located within ~~2,000~~ 3000 feet of a boundary line of an R-1 or R-2 district.

2. All WECS towers shall be set back ~~three~~ 6.0 times the height of the tower or ~~1,500~~ 3000 feet, whichever is greater, from any occupied residence of a Non-participating property owner. The distance for the above setback shall be measured from the point of the occupied residence foundation closest to the WECS tower to the center of the WECS tower foundation. The owner of a residence on a Non-participating property may waive this setback requirement; but in no case shall a WECS tower be located closer to a primary structure than 3.0 times the WECS tower height. The Owner of the occupied residence A Participating landowner may waive this setback requirement; but in no case shall a WECS tower be located closer to ~~an occupied residence~~ a primary structure ~~then~~ than 1.10 times the WECS tower height.