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Sent: Tuesday, December 15, 2009 10:51 AM
Subject: Wind Energy Task Force Final Report
<http://legisweb.state.wy.us/2009/Interim/WindEnergy/Final.pdf>

Above is the link to the Final Report of the Legislature's Wind Energy Task Force. Exhibit 3 covers recommend minimum County standards for wind energy projects. Exhibit 5 covers recommended changes to the Industrial Siting Act.

No bill has been introduced yet. I expect to hear something in early January regarding the status of the aforementioned recommendations of the Wind Energy Task Force.

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1/14/2010

**Exhibit
No. 3**

Wind Energy Task Force
Rep. Tim Stubson Recommendations

State-Wide Standards for Wind Facilities

1) Minimum Standards:

No wind farm or individual wind turbine capable of generating more than 0.5 megawatts of electricity shall be constructed or operated within this state without having the county commissioners in the county in which the farm or turbine will be located grant a permit for the construction and operation of the farm or turbine. A permit may be approved or disapproved if an applicant complies with the following:

Deleted: shall be granted if

- a) Notice in writing shall be given to all land owners of record within 1 mile and to any Town or City within (20) miles of the proposed project. Notice of the project shall be published in a newspaper of general circulation in the impacted counties. (Make these notice provisions consistent with any changes to the notice provisions in the Industrial Siting Act).
- b) Provide an emergency management plan to the County Commissioners prior to the beginning of construction. Prior to submitting the plan to the County Commissioners the plan will be submitted for review and comment to the County Fire Warden, County Emergency Management Coordinator and County Sheriff. The emergency management plan will be supplemented and revised following construction and prior to commencing operation.
- c) Provide a waste management plan that includes an inventory of estimated solid wastes and a proposed disposal program for the construction, operation and eventual decommissioning of the site.
- d) Provide documentation satisfactory to the Board of County Commissioners that access has been provided to the proposed site. All Private roads in the proposed project shall be clearly marked as private roadways. The County is under no obligation to repair, maintain or accept any dedication of such roads to the public use. A traffic study of the county roadways leading to the proposed site and surrounding ancillary roads shall be submitted to the County and a developer must enter into a road use agreement with the County prior to commencement of construction or prior to issuance of the ISA permit in the event the project is subject to ISA jurisdiction.
- e) Provide a preliminary site plan indicating proposed roadways, proposed tower locations, proposed substation locations, transmission, collector and gathering lines and other ancillary project components. Following construction and prior to commencing operations, the site plan must be supplemented to show the final location of facilities.

- f) Provide a site reclamation plan indicating the planned life of the project and the means by which the site will be reclaimed, and facilities removed, at the conclusion of the project.
- g) The county commissioners may refer an application to the Wyoming Industrial Siting Council for permitting. *(Consistent with any amendments to the Industrial Siting Act which would allow such a referral.)* Once referred, any decision of the ISC will be binding upon the county which made the referral.
- h) Minimum setbacks shall apply:

110% of the maximum height of the tower and blade from property of any landowner not participating in the project.

110% from public road rights of way.

¼ mile from platted subdivisions.

¼ mile from a residence or occupied structure. However, any person protected by this provision may waive this setback in writing.

½ mile set back from any incorporated limits of a Town or Municipality.

2) Impose a public hearing requirement and a comment period 45 days after receiving the application from the planning commission or if no planning and zoning commission has been appointed within 60 days of receiving the report.

Deleted: of not less than 45 days and not more than sixty (60) days before the public hearing

3) Decommissioning:

a. For projects not constructed by a regulated utility and not subject to ISC jurisdiction, require proof of financial assurance to the extent required by the Board of County Commissioners. Decommissioning plans and financial assurance plans must be updated every five years until decommissioning occurs. The elements to consider when establishing adequate levels of financial assurance will include credit worthiness, financial strength, credit history, credit rating and any other factors that reasonably bear on the decision to accept the financial assurance. The financial assurance may be in the form of a corporate guarantee, letter of credit, bond, deposit account, or insurance policy. The beneficiaries of the financial assurance shall be the landowners, with the county as a third party beneficiary to execute on the financial assurance only in circumstances where the landowners do not accomplish the decommissioning and reclamation.

b. For projects built by those who do not qualify as a regulated utility under Wyoming Law but who must obtain an ISC permit, the ISC shall require as part of its permitting the submission of a decommissioning and reclamation plan which must be updated every five years. The ISC through rule and regulation shall establish adequate levels of financial assurance. The elements to consider when establishing adequate levels of financial assurance will include credit worthiness, financial strength, credit history, credit rating and any other factors that reasonably bear on the decision to accept the financial assurance. The financial assurance may be in the form of a corporate guarantee, letter of credit, bond, deposit account, or insurance policy. The beneficiaries of the financial assurance shall be the landowners, with the state as a third party beneficiary to execute on the financial assurance only in circumstances where the landowners do not accomplish the decommissioning and reclamation.

c. Require a permitting fee which would include a surcharge to fund a permanent trust. The trust would cover the state for uncompensated decommissioning costs. The fee could be based upon total generation capacity with a provision allowing for variances based on site-specific risk assessment.

d. For wind facilities not operated by Wyoming public utilities, require decommissioning of turbines if: (1) they fail to transmit electricity to the grid for a period of two years (2) the wind energy lease terminates or expires (3) the technology becomes obsolete and re-powering is not available.

4) Establish that these new statutes do not preclude any county from exercising their planning and zoning authority to adopt more stringent standards.

5) Authorize counties to charge reasonable permitting fees.

6) Provide a penalty provision, imposing a penalty of \$750 for every tower erected without a permit for each day's violation.

Deleted: which must be forwarded to, and credited toward, any fee charged by the ISC if the ISC is asked to conduct the permittin

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