

# Winnebago County Wind Farm Ordinance

## NRI report requirement:

~~90-354.D.(xiv) A Natural Resource Inventory Report (NRI) of the project area to be completed by the Winnebago County Soil and Water Conservation District and proof pursuant to Section 90-355. G. NRI Report that any concerns listed within the NRI Report have been addressed / mitigated to their satisfaction.~~

~~90-354.G. Wildlife/Avian Survey and Mitigation Plan~~

## NRI Report

~~The Applicant shall further address / mitigate any concerns, if listed, within the NRI Report to the satisfaction of the Winnebago County Soil and Water District (WCSWCD). Any concerns listed within the NRI Report that cannot be adequately addressed by the above noted wildlife expert shall then be addressed by another qualified expert (i.e. a professional engineer licensed in the State of Illinois, etc.). The Applicant shall provide proof from the WCSWCD to the County Planning and Zoning Officer that their concern(s) has been addressed / mitigated or that the WCSWCD has no concerns listed within the NRI Report that need to be addressed / mitigated, thereby fulfilling this requirement. In the event the Applicant and the WCSWCD cannot agree on how to resolve the WCSWCD's concern(s) and/or the Applicant cannot obtain and submit the above said proof from the WCSWCD to the County Planning and Zoning Officer, then said concern(s) and/or the submittal of said proof can be waived in part or full by the County Board.~~

- Current language redundant and costly to the County and developer
- Review/oversight already required by the following agencies:
  - US Fish and Wildlife Service
  - Illinois Department of Natural Resources
  - Environmental Protection Agency (US and Illinois)
  - US Army Corps of Engineers
  - Illinois Department of Agriculture
  - Illinois Historic Preservation Agency
- NRI report is not appropriate because there is no change of land use – IL state statutes do not require an NRI from the Soil and Water Conservation District
- As currently written, cedes county authority and oversight to WC Soil and Water District
- Increases risk of lawsuit against the county due to subjectivity
- Provision added by the Zoning Committee - not recommended by the ZBA
- **Recommendation: remove the NRI requirement from the ordinance**

## Bird and Bat Migration Paths:

~~*H. Bird and Bat Migration Paths. All Wind Turbines at time of erection shall be located out of known major bird and bat migration pathways/corridors. An affidavit stating adherence to this requirement shall be provided by a qualified wildlife expert having no less than 10 years experience. Evidence, which may include a letter from the Illinois Department of Natural Resources or the US Department of Interior, Division of Fish and Wildlife Service, supporting said affidavit shall also be provided upon WPGF submittal.*~~

- Provision creates a no-wind farm ordinance - US Fish and Wildlife includes the entire state of Illinois in the Mississippi Waterfowl Flyway
- Provision added by the Zoning Committee - not recommended by the ZBA
- **Recommendation: remove the blanket setbacks from migration pathways from the ordinance**

## Waiver of Setbacks:

### 90-356.J. Waiver of Setbacks

(i) *Landowners may waive the setback requirements in Section 90-356A.(ii) (Occupied Buildings on Non-participating Landowner's property) and 90-356B. (Property Lines) by signing a waiver that sets forth the applicable setback provisions(s) and the proposed changes thereto.*

- Recommended change avoids the subjectivity of the public hearing process which is the whole point of creating a *permitted* use ordinance
- Protects the county against lawsuits
- Streamlines the application process
- **Recommendation: allow landowners to waive their own property line setbacks by adding the above language.**