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Steuben County Industrial Development Agency  
c/o James P. Sherron, Executive Director  
7234 Route 54 North  
P.O. Box 393  
Bath, New York 14810-0393

Re: Steuben County Industrial Development Agency/WindFarm Prattsburgh, LLC

Dear Steuben County Industrial Development Agency:

We are counsel to the Naples Central School District (the "Naples District"). This letter offers comments on behalf of the Naples District to the Steuben County Industrial Development Agency ("IDA") on the proposed changes to the Uniform Tax Exemption Policy ("UTEP") and a proposed payment in lieu of tax agreement ("PILOT") for the Prattsburgh WindFarm, LLC Project ("the Project").

First, we would like to thank the IDA for the opportunity to provide written comments on these important decisions facing the IDA. As the IDA is aware, the Naples District does not have a role in approving the proposed Project or the location and number of wind turbine generators. The Naples District takes no position on the wisdom of this Project. This letter is intended to address the Naples District's concern that the proposed PILOT arrangement for the Project unfairly and excessively reduces the revenues that the Naples District would otherwise receive from the Project by 85% over 20 years and is far below the rate for PILOT payments agreed to by other wind farm developers.

As the Naples District understands it, the proposed Project includes eight wind turbine generators ("WTG") tower sites, and related equipment, located within the Naples District. Each site would have a capacity of approximately 1.5 megawatts ("MW"). It is our understanding that the eight WTG towers located in the Naples District are part of a larger 36 WTG tower project and related facilities. The application filed by WindFarm Prattsburgh, LLC with the IDA indicates that the cost of each tower (excluding soft costs) is approximately \$1.712 million dollars. Assuming that this figure would establish the assessed value for the towers, the eight towers in the Naples District would have an assessed value of approximately \$13.7 million dollars. Based upon the current tax rate for the Naples District of \$15.33 per \$1,000 of assessed value, the Project, if fully taxable, would generate approximately \$210,000 per year or \$4.2 million dollars over the next 20 years. This calculation does not take into account any increase in assessed value of the WTGs over that 20 year period or any increase in the tax rate. On December 14, 2005, the Naples District issued a resolution that solar or wind energy projects located within the Naples District would be fully taxable pursuant to Real Property Tax Law § 487(8).

The IDA, as part of its financial assistance to the Project, is proposing that the Project would make PILOT payments to be split between Steuben County, the Town of Prattsburgh and the Naples District instead of paying real property taxes based upon assessed value. The IDA proposes that the



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PILOT payments not be based upon a percentage of the assessed value of the Project but be based upon the capacity of each tower to generate electricity. Based upon information that we have received, the IDA is proposing that the PILOT payments run from \$500 per MW of capacity for the first year on an increasing scale of up to \$8,259 per MW in the 20<sup>th</sup> year. Given the fact that there are eight 1.5 MW towers proposed within the Naples District, the impact of the proposed PILOT schedule would be to limit payments in the first year to \$6,000 increasing to approximately \$99,108 in the 20<sup>th</sup> year. The total payments over 20 years would be \$1,382,904. Based upon the current taxation ratio between the Naples District, the County and the Town, the Naples District's share of this sum over the next 20 years would be approximately \$650,000. This represents approximately 15% of the \$4.2 million dollars over 20 years which would result if the Project were fully assessed.

In essence, the proposed PILOT arrangement **reduces** the Naples District's share of revenues by approximately \$3.55 million dollars or 85% over the next 20 years.

Moreover, the proposed PILOT payment of \$500 per MW is far below the "market" rate for host benefit payments by WTG developers. Enclosed with this letter is a copy of a Host Community Payment Agreement for the Munnsville Wind Project dated April 27, 2007 (the "Munnsville Host Benefit Package"). In that agreement, the WTG developer agreed to pay \$8,000 per MW capacity in the first year with an escalator clause for inflation over 15 years. (The affected school districts received \$4,000 per MW in Madison County and \$3,750 per MW in Oneida County.) This is sixteen times the initial benefits proposed by the PILOT schedule for this project. The proposed PILOT schedule for the Project does not even hit \$8,000 per MW until year 19. (Note that an initial \$8,000 per MW payment, adjusted for an inflation rate of 3%, would be \$14,028 in year 19.) An \$8,000 per MW rate is the going rate for PILOT or host benefits agreements for WTG developments. If the \$8,000 per MW figure was used for the WindFarm Prattsburgh project, the Naples District would receive \$45,120 in revenues in the first year as opposed to the proposed \$2,820 in the first year.

The Naples District is also concerned that other affected tax jurisdictions, such as the Town of Prattsburgh, will receive other funds from WindFarm Prattsburgh, LLC outside the PILOT arrangement. As established in General Municipal Law § 858(15), each affected tax jurisdiction (unless it agrees otherwise) is to receive an allocation of payments in lieu of taxes in proportion to the amount of real property and other taxes that would have been received by each affected tax jurisdiction if the Project were fully assessed. The Naples District is concerned that the payments outside the PILOT agreement reduces the Naples District's fair share of all payments being made by WindFarm Prattsburgh, LLC to affected tax jurisdictions.

The Naples District's understands that WindFarm Prattsburgh, LLC has marketed its project to the public based upon a claim that it would generate revenues to assist various local governments, including the Naples District. However, the proposed PILOT schedule and the deviation by the Steuben County IDA from the UTEP has the effect of reducing revenues which would otherwise come to the Naples District by \$3.55 million over the next 20 years. It is also a mere fraction of the going rate of \$8,000 per MW for WTG developments. This means that the students of the Naples Central School District will not receive the vast majority of the benefits which would otherwise come to them based upon the assessed value of the eight WTG towers in the Naples District and upon the "going rate" for WTG developments.

The Naples District is also concerned that this impact is further magnified by the fact that it may not be getting its proportionate share of all payments to affected tax jurisdictions.



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The Naples District would therefore respectfully request that the Steuben County IDA reconsider its proposed PILOT agreement with WindFarm Prattsburgh, LLC. The Naples District has only received a proposed schedule of PILOT payments and has not seen the actual PILOT agreement. The Naples District would also respectfully request that it be allowed to review and comment on the proposed PILOT agreement prior to action on the agreement

The Naples District also requests that the Steuben County IDA direct WindFarm Prattsburgh, LLC to disclose to the Naples District all payments that are being made to other affected tax jurisdictions and that any proposed PILOT agreement be adjusted to insure that the Naples District receives its proportionate share of such payments pursuant to policy established in General Municipal Law § 858(15).

The Naples District would also ask the Steuben County IDA to confirm (if it deviates from the UTEP) that any proposed PILOT payments will be based upon the capacity of the WTGs to produce electricity (1.5 MW per WTG) as opposed to actual power generation.

Finally, the IDA has asked the Naples District to consider freezing its proportionate share of PILOT payments at current rates for the terms of the PILOT agreement. This is to confirm that the Naples District **does not consent** to any alteration of the ratio of payments to affected tax jurisdictions provided by General Municipal Law § 858(15).

Once again, we thank the Steuben County Industrial Development Agency for the opportunity to provide these comments. We look forward to the Steuben County IDA's response to the issues and concerns we have raised and would be happy to meet with representatives of the IDA to discuss these concerns.

Very truly yours,

Harter Secrest & Emery LLP

Edward F. Premo, II  
Partner

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EFP:mme

Enclosure

cc: Brenda Keith, Superintendent, Naples Central School District  
Board of Education, Naples Central School District

Bcc: Ronald J. Mendrick, Esq.