APPENDIX A

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY WAIVER

STATE OF MARYLAND

MARTIN O'MALLEY
GOVERNOR

ANTHONY G. BROWN
LIEUTENANT GOVERNOR

COMMISSIONERS

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LAWRENCE BRENNER

PUBLIC SERVICE COMMISSION

#15, 10/29/08 AM; ML#112728, IR-1204

October 29, 2008

Thomas E. Holmberg
Baker Botts LLP
1299 Pennsylvania Avenue NW
Washington, DC 20004-2400

Dear Mr. Holmberg:

The Commission has reviewed the request for an exemption of the Certificate of Public Convenience and Necessity requirement to construct and operate the Criterion Wind Power Generating Facility in Garrett County, Maryland pursuant to Public Utility Companies Article, §7-207.l, Annotated Code of Maryland filed on January 24, 2008 by Criterion Power Partners, LLC.

After considering this matter at the October 29, 2008 Administrative Meeting, the Commission granted Criterion Power Partners, LLC's ("Criterion") application. The Commission directs Criterion to provide a report to the Commission by November 30 of each year describing the status of (1) the construction of the project and (2) any regulatory actions undertaken by federal, state or local authorities with respect to the project. Criterion is advised that an exemption from the CPCN requirement does not limit the authority of any state or local authority and it must obtain all authorizations and permissions from these authorities applicable to constructing or operating the turbines, including the approval of a stormwater/sediment erosion permit by the Garrett County agencies.

Additionally, Criterion must notify the Commission two weeks before the first export of electricity from the project; is directed to file its final interconnection, operation and maintenance requirements and agreements with the Commission; and certify that it has complied with all PJM and FERC reliability and safety requirements prior to operating the facility.

By Direction of the Commission,

/s/ Terry J. Romine

Terry J. Romine
Executive Secretary

TJR/gjd

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APPENDIX B

PERMIT AREA LEGAL DESCRIPTION

Tract 35
Douglas A. Frazee

Wind Farm Good Neighbor Easement Agreement effective as of September 9, 2009 by and between Douglas A. Frazee and Criterion Power Partners LLC, a Delaware company as disclosed by Memorandum of Wind Farm Neighbor Easement Agreement between Douglas Frazee and Criterion Power Partners LLC, a Delaware company dated as of September 9, 2009 recorded September 15, 2009 in Liber 1464, Page 325, Official Records, Garrett County, Maryland.

4. The Land referred to in this policy is described as follows:

Real property in the City of Various Election Districts, County of Garrett, State of Maryland, described as follows:

Tract 1
File No. 03160076
Samuel R. Van Sickle

Parcel 1

All that certain tract or parcel of real estate known as part of Parcels 2, 21, 29 and 35, as shown on Tax Map number 80, situated along or near the top of Backbone Mountain, situate in Election District 10, Garrett County, Maryland, and more particularly described as follows:

Beginning at a ½-inch iron pipe and stone pile (found), standing at the end of the sixth line of the third tract of the conveyance from Doris R. Bray unto Stewart and Christine Taylor Brown, dated October 09, 1964 and recorded in Liber 260, at Folio 433, one of the land records of Garrett County, Maryland and currently owned by Samuel R. VanSickle and of record in Liber 993, at Folio 299 among the aforesaid land records and as the northeast and northwest corner to lands now or formerly owned by Browning's Inc., as described in Liber 262, at Folio 476 among the aforesaid land record; thence leaving said sixth line and with the outline of said conveyance to Samuel R. VanSickle

N 63° 14' 23" E 335.85 feet to a ½-inch iron pipe and stone pile (found); thence

N 25° 26' 21" W 201.05 feet to a point; thence leaving said Browning's Inc., and outline of said Samuel R. VanSickle and passing through said land for five lines

N 39° 01' 32" E 713.81 feet to a point; thence

N 47° 25' 54" E 1490.39 feet to a point; thence

N 65° 26' 30" E 1516.71 feet to a point; thence

N 48° 19' 17" E 2210.27 feet to a point in the third line in the conveyance of lands now or formerly owned by Earl J. and Esther Rhodes and recorded in Liber 422, at Folio 769 one of the aforesaid land records and in the outline of said Samuel R. VanSickle; thence with said Earl J. and Esther Rhodes, and the outline of said Samuel R. VanSickle

S 44° 14' 25" E 289.00 feet to a painted stone (found); thence

N 36° 36' 23" E 3135.74 feet to a stonepile (found), standing as northeast corner to said Earl J. and Esther Rhodes and a southwest corner in the conveyance of lands now or formerly owned by Douglas Coal Company and recorded in Liber 277, at Folio 530 among the aforesaid land records; thence leaving said Earl J. and Esther Rhodes and with said Douglas Coal Company and

continuing with the outline of said Samuel R. VanSickle

S 18° 48' 19" E 425.18 feet to a point, standing as the northwest corner in the conveyance of lands to now or formerly John W. and Edna K. O'Rourke and recorded in Liber 717, at Folio 173 among the aforesaid land records; thence leaving said Douglas Coal Company and with said John W. and Edna K. O'Rourke and continuing with the outline of said Samuel R. VanSickle

S 71° 11' 41" W 126.56 feet to a point; thence

S 18° 48' 19" E 857.12 feet to a 5/8-inch capped iron rod (found); thence

S 38° 41' 15" W 477.00 feet to a 5/8-inch capped iron rod (found); thence

S 51° 18' 45" E 199.54 feet to a 5/8-inch capped iron rod (found), standing in the line in the conveyance of State lands of the Potomac State Forest and recorded in Liber 125, at Folio 185, Tract "N" among the aforesaid land records and as the southeast corner to said John W. and Edna K. O'Rourke; thence leaving said John W. and Edna K. O'Rourke and with said Potomac State Forest and continuing with the outline of said Samuel R. VanSickle

S 38° 41' 15" W 3516.27 feet to a stonepile (found), standing as the southwest corner to said Potomac State Forest; thence leaving said Potomac State Forest and outline of said Samuel R. VanSickle and passing through said land for one line

S 61° 55' 57" W 5132.80 feet to a point, standing in the line of lands of said Browning's Inc., and in the outline of said Samuel R. VanSickle; thence with said Browning's Inc., and outline of said Samuel R. VanSickle

N 25° 19' 01" W 670.00 feet to the place of beginning, containing 269.37 acres, more or less, as surveyed from January 2003 to March 2008, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being a part of the lands of Samuel R. VanSickle. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being a part of the land described in the first tract in the conveyance from Walter Taylor Brown and George S. Brown, also known as George Stewart Brown, unto Samuel R. VanSickle, dated the 25th day of August, 2003, and recorded in Liber 993, at Folio 299, one of the Land Records of Garrett County, Maryland.

Parcel 2

All that certain tract or parcel of real estate known as part of parcels 2, 21, 29 and 35, as shown on tax map number 80, situated along or near the top of backbone mountain, situate in Election District 10, Garrett County, Maryland, and more particularly described as follows:

Beginning at a point, standing in the first line of the second tract of the conveyance from Doris R. Bray unto Stewart and Christine Taylor Brown, dated October 9, 1964 and recorded in Liber 260, at Folio 433, one of the land records of Garrett County, Maryland and currently owned by Samuel R. Vansickle and of record in Liber 993, at Folio 299 among the aforesaid land records and in the line of lands now or formerly owned by Browning's inc., as described in Liber 262, at Folio 476 among the aforesaid land record, said point also stands at the end of the first line in the conveyance of a Windpark Easement from Samuel R. Vansickle to Clipper Windpower Development Company, Inc., dated March 31, 2005 and recorded in Liber 1120, Folio 602 among the aforesaid land records; thence leaving said Windpark Easement and with the outline of said conveyance to Samuel R. Vansickle

N 25° 26' 21" W 533.67 feet to a point; thence leaving said Browning's Inc., and outline of said Samuel R. Vansickle and passing through said land for five lines

N 50 º 13' 36" E 590.85 feet to a point; thence

N 45 º 24' 08" E 603.04 feet to a point; thence

N 54 º 18' 14" E 999.29 feet to a point; thence

N 53 º 30' 49" E 788.67 feet to a point; thence

N 61 º 49' 04" E 2810.74 to a point in the third line in the conveyance of lands now or formerly owned by Earl J. and Esther Rhodes and recorded in Liber 422, at Folio 769 one of the aforesaid land records and in the outline of said Samuel R. Vansickle, standing at the end of the fifth line in the conveyance of said Windpark Easement; thence leaving said Earl J. and Esther Rhodes, and the outline of said Samuel R. Vansickle and passing through land of said Vansickle for 5 lines, with the outline of said Windpark Easement

S 48 º 19' 17" W 2210.27 feet to a point; thence

S 65 º 26' 30" W 1516.71 feet to a point; thence

S 47 º 25' 54" W 1490.39 feet to a point; thence

S 39 º 01' 32" W 713.81 feet to the place of beginning, containing 46.82 acres, more or less.

Parcel 3:

All that certain tract or parcel of real estate known as part of parcel 2, as shown on tax map number 80, situated along or near the top of Backbone Mountain, situate in Election District 10, Garrett County, Maryland, and more particularly described as follows:

Beginning at a ½-inch iron pipe and stone pile (found), standing at the end of the fifth line of the third tract of the conveyance from Doris R. Bray unto Stewart and Christine Taylor Brown, dated October 9, 1964 and recorded in Liber 260, at Folio 433, one of the land records of Garrett County, Maryland and currently owned by Samuel R. Vansickle and of record in Liber 993, at Folio 299 among the aforesaid land records, at the end of the second line of lands now or formerly owned by Browning's Inc., as described in Liber 262, at Folio 476 among the aforesaid land record, and at the end of the seventh line of lands now or formerly owned by the Potomac State Forest, as described in Liber 112, Folio 68 among the aforesaid land records; thence leaving said seventh line with the outline of said conveyance to Samuel R. Vansickle

N 25 º 19' 01" W 1133.78 feet to a point; standing at the end of the twelfth line in the conveyance of a Windpark Easement from Samuel R. Vansickle to Clipper Windpower Development Company, Inc., dated March 31, 2005 and recorded in Liber 1120, Folio 602 among the aforesaid land records; thence leaving said Browning's Inc., and outline of said Samuel R. Vansickle and passing through said land for two lines with the outline of said Windpark Easement

N 61 º 55' 57" E 1507.46 feet to a point; thence leaving the outline of said Windpark Easement and passing through land of said Samuel R. Vansickle.

S 25 º 59' 15" W 1929.23 feet to the place of beginning, containing 19.60 acres, more or less.

Tract 2
File No. 03160080
Brownings Incorporated, a Maryland corporation, d/b/a Brownings, Inc.

Tract 2, Parcel 1

All that tract or parcel of land situate, lying and being in Election District Number Ten in Garrett County, Maryland, which is particularly described as follows: BEGINNING for the same at a stake standing at the end of the third line of Military Lot No. 1186, and running thence with said third

line, S. 63 degrees W. 412.5 feet to a stone; thence S. 33 degrees W. 1760.55 feet to a double white oak tree; thence S 53 Degrees W 858 feet; thence south 64 degrees W. 462 feet; thence S. 51 degrees 15' W. 462.04 feet; thence S. 45 degrees 30' W. 768.9 feet; thence S. 28 degrees W. 3128.4 feet to a red oak; thence S 14 degrees W. 1254 feet to the center of the Eagle Rock County Road; thence with the center of said Eagle Rock County Road, N. 86 degrees W. 280.5 feet to the center of the Deer Park-Ryans Glade County Road; thence with the center line of said Deer Park-Ryans Glade County Road, N. 11 degrees 45' W. 805.2 feet; thence leaving said road and with the center of the old Altamont County Road, N. 6 degrees W. 528 feet; thence N. 11 degrees 15' W. 297 feet; thence N. 3 degrees E. 429 feet; thence N. 24 degrees 45' E. 759 feet; thence N. 16 degrees E. 891 feet; thence N. 27 degrees E. 1155 feet; thence N. 37 degrees 45' E. 432.85 feet; thence N. 51 degrees 37' E. 224.2 feet; thence N. 37 degrees 40' E. 325.2 feet; thence N. 61 degrees 10' E. 918.35 feet; thence N. 58 degrees 06' E. 399.6 feet; thence N. 58 degrees 03' 179 feet; thence N. 47 degrees 09' E 800.2 feet thence N. 54 degrees 41' E. 155.9 feet; thence N. 59 degrees 31' E. 354.9 feet; thence N. 43 degrees 51' E. 601.4 feet; thence N. 40 degrees 45' E. 494.3 feet; thence N. 42 degrees 31' E. 657.3 feet; thence leaving the center line of said old Altamont County Road, S. 27 degrees E. 1000 feet to the beginning, containing 241.55 acres, more or less; it being the same land that was conveyed to the said parties of the first part herein by deed from Charles C. Helbig and wife dated March 23, 1956, and recorded in Liber R.L.D No. 196, folio 453 one of the Land Records of Garrett County, Maryland, and subject to the reservation and right-of-way pertaining to the old Altamont County Road as set forth in said deed.

Tract 2, Parcel 2

Containing 64 ¾ acres, more or less, on Eagle Rock Road and being more particularly described in a Deed by and between Abbie V. Browning, widow and Browning's, Inc., a corporation of the State of Maryland, dated February 10, 1965, recorded in Liber 262, Page 476, Land Records, Garrett County, Maryland.

All of that part and parcel of a tract of land called "Bank Territory" situate, lying and being upon Backbone Mountain in Election District No. 10, Garrett County Maryland, and contained within the following metes and bounds, courses and distances, to-wit:

Beginning for the same at a stone standing South 53 degrees West 90 perches from the "Eagle Rock" and at the end of said perches on the second line of a part of "Bank Territory" containing 189 acres, which was conveyed by Adelaide S. Hubbard and Margaret Sturgis to James D. Upole by deed dated October 23, 1900, and duly recorded among the Land Records of Garrett County, Maryland; said beginning point being also the beginning point of a part of "Bank Territory" containing 65 acres, which was conveyed by the said parties on the same date to Benjamin Scott Tasker; and running thence from said beginning point, and which part of Tasker's first line, (1) South 27 degrees East 100 perches to a stone pile in a fence corner, it being a corner of land conveyed to Charles A. Ashby; thence leaving said Tasker line and running with one line of Ashby, (2) North 38 degrees 40' East 180 ½ perches to a stake in a stone pile, a little chestnut oak growing in a stone pile, this being a corner of a tract of land conveyed to George W. Bernard in 1904; thence leaving Ashby and running with Bernard, (3) North 27 degrees West 110 perches to a stone pile in the line of Military Lot No. 1186, and South 63 degrees West 100 perches from a stone marked "M" standing at the end of the second line of Military Lot No. 1185, this stone pile being also at the beginning of the part of "Bank Territory" above mentioned which was conveyed to James D. Upole in 1900; thence leaving Bernard and running with the lines of Upole (4) South 33 degrees West 106.4 perches to a double white oak; thence (5) South 53 degrees West 8 perches to the place of beginning, containing 64 ¾ acres, more or less.

Tract 2A
File No. 03160080
Brownings Incorporated, a Maryland corporation

The area described hereafter comprise together the intended limits of the Substation Area associated with the lands currently owned by Browning, Inc. said property as described in Liber 209 folio 11 and being situated in Election District No. 10, Garrett County, Maryland.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Browning, Inc., located primarily along the west side of Eagle Rock Road. The intended limits of this portion of the lease area being more particularly described by the following metes and bounds description:

Beginning at a point located on the 7th line of the Browning, Inc. property and referenced North 28 degrees East about 309 feet from the end of said 7th line along Eagle Rock Road; thence leaving said 7th line

1) North 62 degrees 00' West approximately 402 feet to a point; thence
2) North 28 degrees 00' East approximately 705 feet to a point; thence
3) South 62 degrees 00' East approximately 402 feet to a point on the 7th line as previously referenced; thence binding with part of said 7th line
4) South 28 degrees 00' West 705 feet to a point and the place of beginning

Being a portion of and lying within the boundaries of that parcel of land currently owned by Browning, Inc., identified as Parcel No. 3 on Tax Map 80. The said Parcel No. 3 being comprised of two tracts. The tract of land of which the hereto before described lease area is contained within is more fully described in Liber 209, Page 11, as recorded among the land records of Garrett County, Maryland.

Containing 241.55 acres, more or less, on Eagle Rock Road and being more particularly described in a Deed by and between Paul J. Thomas and Reva M. Thomas, his wife to Browning's, Inc., a corporation of the State of Maryland dated February 21, 1958, and recorded in Liber 209, Page 11, Land Records of Garrett County, Maryland.

Tract 3
File No. 03160081
Franklin McKinley Harvey

All that tract of land situate, lying and being in Election District No. 10, in Garrett County, Maryland, being a part of the tract of land called "BANK TERRITORY," containing the quantity of Fifty Eight and One-Fourth (58 ¼) acres, more or less particularly described as:

Beginning for the same at a stone pile standing at the end of the third line of that part of "Bank Territory" conveyed to Benjamin S. Tasker, by Adelaide S. Hubbard, et al, by deed dated October 23rd 1900 and duly recorded among the Land Records of said Garrett County, and running thence with said line reversed S. 27 degrees E.,101 4/10 perches to the beginning thereof, thence S 28 degrees W., 100 perches, thence N. 27 degrees W., 107 perches to the sixth line of that part "Bank Territory" sold to James D. Upole, by deed dated October 23rd 1900, and recorded in Liber No. 39, folio 105, in Land Records of Garrett County, and running thence with part of said line reversed, N. 28 degrees E., 45 perches to a chestnut tree standing at the beginning of said line, then with part of the fifth line thereof, reversed, N. 45 ¼ degrees E., 45 6/10 perches is the beginning, containing 58 ¼ acres, more or less; excepting from the operation of this deed all the minerals underlying said land and the right of free ingress and egress thereto. Also reserving a strip of land 16 feet wide along the fourth and fifth lines of said land for a road. This being the same land that was conveyed to the said Julie A. Moon by Adelaide S. Hubbard, et al, by deed dated the 17th day of December 1900, and recorded among the Land Records of said Garrett County in Liber E.Z.T., No. 39, Folio 315.

Being the same property which by Deed dated November 19, 2003, and recorded among the Land Records of Garrett County, Maryland in Liber 1016, Page 178, which was granted and conveyed to Herbert Franklin Harvey and Peggy Lou Harvey, his wife, unto Franklin McKinley Harvey.

Tract 3A
Intentionally Deleted

Form No. 1402.06
ALTA Owner's Policy (6-17-06)

Policy Page 20
Policy Number: 424806

Tract 4
File No. 03160082
Marvin Eugene White, Sr.

All that certain tract or parcel of real estate known as Parcel 23, as shown on Tax Map number 86, situated along or near the top of Backbone Mountain, situate in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Beginning at a point at the beginning of the first line of the first tract in the conveyance from Minnie Louise White unto Marvin Eugene White, Sr., dated June 26, 2006 and recorded in Liber 1231, at Folio 545, one of the land records of Garrett County, Maryland, and in the beginning of the sixth line of lands now or formerly owned by Robert Eugene Tasker, et al, as described in Liber 657, at Folio 832 among the aforesaid land records, and as a corner to lands now or formerly owned by Steven Larry and Janet Eileen Tichnell, as described in Liber 666, Folio 171 among the aforesaid land records; thence leaving said Steven Larry and Janet Eileen Tichnell and with the outline of said Marvin E. White and Robert E. Tasker, et al

N 25° 32' 14" E 3123.86 feet to a point in the center line of Bethlehem Road, standing in the line of lands now or formerly owned by Harry E. White, as described in Liber 204, Folio 222, among the aforesaid land records; thence with said Harry E. White, continuing with the outline of said Marvin E. White, Sr., along the centerline of Bethlehem Road for eleven lines

N 77° 39' 33" E 269.15 feet to a point; thence

N 77° 11' 16" E 545.74 feet to a point; thence

N 76° 44' 45" E 524.63 feet to a point; thence with a tangent curve to the left, having a radius of 900.00 feet

Northeasterly 142.00 feet along said curve through an angle of 09° 02' 23" to a point, said curve having a chord bearing and distance of N 72° 13' 34" E 141.85 feet; thence

N 67° 42' 22" E 169.95 feet to a point; thence with a tangent curve to the right, having a radius of 875.00 feet

Easterly 247.97 feet along said curve through an angle of 16° 14' 15" to a point, said curve having a chord bearing and distance of N 75° 49' 29" E 247.14 feet; thence

N 83° 56' 37" E 203.00 feet to a point; thence with a tangent curve to the left, having a radius of 550.00 feet

Northeasterly 251.97 feet along said curve through an angle of 26° 14' 56" to a point, said curve having a chord bearing and distance of N 70° 49' 09" E 249.77 feet; thence

N 57° 41' 41" E 93.96 feet to a point; thence continuing with said Harry E. White for a partial line and then with lands of now or former Stanley R. and Sarah C. Steyer, as described in Liber 422, Folio 638 among the aforesaid land records, continuing with the outline of said Marvin E. White, Sr. and centerline of Bethlehem Road, a tangent curve to the right, having a radius of 650.00 feet

Northeasterly 218.31 feet along said curve through an angle of 19° 14' 35" to a point, said curve having a chord bearing and distance of N 67° 18' 58" E 217.28 feet ; thence

N 76° 56' 16" E 266.30 feet to a point in the fourth line of the first tract of said Marvin E. White, Sr., standing as the southeast corner to lands of said Stanley R. and Sarah C. Steyer; thence leaving said Stanley R. and Sarah C. Steyer and Bethlehem Road, continuing with the outline of said Marvin E. White, Sr. and at 21.13 feet passing through a wooden fence post (found), standing at the end of the 24th line of land now or former owned by William J. and Tracy D. Montgomery as describe in Liber 804, Folio 327 among the aforesaid land records and then with

First American Title Insurance Company

said Montgomery

S 40° 46' 47" E 728.27 feet to a ½-inch capped iron rod (found) at the end of the 23rd line of said William J. and Tracy D. Montgomery and in the 5th line of the second tract of said Marvin E. White, Sr.; thence continuing with outline of said Marvin E. White, Sr., and William J. and Tracy D. Montgomery for three lines

S 57° 46' 00" W 710.74 feet to a wooden fence post (found); thence

S 25° 06' 57" W 1801.11 feet to a point; thence

S 38° 50' 53" W 2119.54 feet to a ½-inch capped iron rod (found) at the end of the 20th line of said William J. and Tracy D. Montgomery and in the 2nd line of the second tract of said Marvin E. White, Sr., also standing in the line of lands of said Steven Larry and Janet Eileen Tichnell; thence leaving said William J. and Tracy D. Montgomery and continuing with the outline of said Marvin E. White, Sr. and Steven Larry and Janet Eileen Tichnell for nine lines

N 87° 23' 13" W 1342.06 feet to a point; thence

S 19° 46' 58" E 660.34 feet to a point; thence

S 56° 13' 02" W 297.00 feet to a 44-inch oak snag (found); thence

N 12° 16' 58" W 560.43 feet to a point; thence

N 32° 31' 58" W 346.15 feet to a point; thence

N 06° 46' 58" W 60.44 feet to a point; thence

N 14° 46' 58" W 197.80 feet to a point; thence

N 16° 46' 58" W 164.83 feet to a point; thence

N 57° 46' 58" W 197.80 feet to the place of beginning, containing 234.89 acres, more or less, as surveyed from January 2003 to September 2009, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being the lands of Marvin E. White, Sr. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being the land described in the conveyance from Minnie Louise White, unto Marvin Eugene White, Sr., dated the 26th day of June, 2006, and recorded in Liber 1231, at Folio 545, one of the Land Records of Garrett County, Maryland.

Tract 5
File No. 03160083
Robert A. Tasker and Maxine L. Tasker, husband and wife, for life with Remainder to Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker

All those certain tracts or parcels of real estate known as Parcel 22, as shown on Tax Map number 86, situated along or near the top of Backbone Mountain, situate in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Tract 5 / Parcel 1

Beginning at a point at the end of the fifth line of the first tract in the conveyance from Robert A. and Maxine L. Tasker unto Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker, dated August 1, 1995 and recorded in Liber 657, at Folio 832, one of the land records of Garrett County, Maryland, standing in the northern line of land now or formerly owned by Steven

Larry and Janet Eileen Tichnell, as described in Liber 666, Folio 171 among the aforesaid land records, said point also being the beginning of the first line of the first tract of land now or formerly owned by Marvin Eugene White, Sr., as described in Liber 1231, at Folio 545 among the aforesaid land records; thence leaving said Marvin E. White and with said Steven Larry and Janet Eileen Tichnell for a partial line and then with the first line of land now or formerly owned by Jimmy D. and Anna May Fisher, as described in Liber 755, Folio 671 among the aforesaid land records, with the outline of Robert E. Tasker, et al

N 66° 32' 14" W 1416.74 feet to a 6-inch concrete monument (found) at the end of the third line of lands now or formerly owned by Gerald Ross, Jr. and Alma Darlene Reams, as described in Liber 301, Folio 409 among the aforesaid land records, standing in the first line of said Jimmy D. and Anna May Fisher; thence leaving said Jimmy D. and Anna May Fisher and with said Gerald Ross, Jr. and Alma Darlene Reams for two lines, continuing with the outline of said Robert Eugene Tasker, et al

N 24° 17' 15" E 238.19 feet to a 1-inch iron pipe (found); thence

N 72° 59' 26" W 190.38 feet to a ¾-inch iron rod (found) in the fifth line of land now or formerly owned by Timothy Andrew and Doris Marie Tasker, as described in Liber 669, Folio 82, among the aforesaid land records, standing at the end of the first line of said Gerald Ross, Jr. and Alma Darlene Reams; thence leaving said Gerald Ross, Jr. and Alma Darlene Reams and with said Timothy Andrew and Doris Marie Tasker for one line, continuing with the outline of said Robert Eugene Tasker, et al

N 24° 31' 15" E 445.19 feet to a 6-inch concrete monument (found) at the end of the first line of land now or formerly owned by Gary V. and Shirley E. Sweitzer, as describe in Liber 282, Folio 90 among the aforesaid land records, and standing at the end of the fourth line of said Timothy Andrew and Doris Marie Tasker; thence leaving said Timothy Andrew and Doris Marie Tasker and with said Gary V. and Shirley E. Sweitzer for two lines, continuing with the outline of said Robert Eugene Tasker, et al

N 25° 10' 59" E 125.00 feet to a point; thence

N 74° 23' 01" W 171.02 feet to a point at the end of the first line of land now or formerly owned by Gary V. and Shirley E. Sweitzer, as described in Liber 378, Folio 102 among the aforesaid land records, and standing in the third line of other lands of said Gary V. and Shirley E. Sweitzer; thence with said Gary V. and Shirley E. Sweitzer for a partial line and then with the third line of land now or formerly owned by Anna Jane Sharpless, as described in Liber 349, Folio 606 among the aforesaid land records for one line, continuing with the outline of said Robert Eugene Tasker, et al

N 14° 27' 10" W 320.74 feet to a 1-inch iron rod (found) in the fourth line of land now or formerly owned by Lloyd W. and Virginia L. Upton, as described in Liber 392, Folio 85 among the aforesaid land records and standing at the end of the second line of said Anna Jane Sharpless; thence leaving said Anna Jane Sharpless and with said Lloyd W. and Virginia L. Upton for three lines, continuing with the outline of said Robert Eugene Tasker, et al

N 72° 59' 50" E 106.10 feet to a ½-inch iron rod (found); thence

N 17° 07' 01" W 295.00 feet to a ½-inch iron pipe (found); thence

S 72° 52' 59" W 289.92 feet to a ½-inch iron pipe (found) in the northerly right of way line of Maryland State Route 560 (Gorman Road), standing in the second line of said Lloyd W. and Virginia L. Upton; thence leaving said Lloyd W. and Virginia L. Upton and continuing with the outline of said Robert Eugene Tasker, et al, along the northerly right of way line of said Maryland State Route 560 for five lines

N 16° 37' 16" W 116.38 feet to a point; thence with a tangent curve to the right, having a radius of 4553.66 feet

Northwesterly 391.07 feet along said curve through an angle of 04° 55' 14" to a point, said curve having a chord bearing and distance of N 14° 09' 39" W 390.95 feet; thence

N 08° 46' 07" W 99.37 feet to a point; thence with a non-tangent curve to the right, having a radius of 4549.66 feet

Northwesterly 79.42 feet along said curve through an angle of 01° 00' 01 to a point, said curve having a chord bearing and distance of N 09° 57' 02" W 79.42 feet; thence

N 14° 18' 58" W 44.44 feet to a point; thence

N 07° 08' 36" W 27.26 feet to a point in the easterly right of way line of Bethlehem Road where it intersects with the northerly right of way line of said Maryland State Route 560; thence leaving said Maryland State Route 560 and continuing with the outline of said Robert Eugene Tasker, et al, along the easterly right of way line of said Bethlehem Road for seven lines

N 81° 17' 14" E 3.25 feet to a point; thence

N 11° 26' 39" E 31.95 feet to a point; thence

N 04° 18' 05" E 40.03 feet to a point; thence

N 43° 00' 16" E 25.34 feet to a point; thence with a non-tangent curve to the left, having a radius of 331.96 feet

Easterly 119.42 feet along said curve through an angle of 20° 36' 44" to a point, said curve having a chord bearing and distance of N 85° 46' 39" E 118.78 feet; thence

N 72° 24' 38" E 56.17 feet to a point; thence

N 14° 31' 39" W 29.44 feet to a point in the centerline of said Bethlehem Road; thence continuing with the outline of said Robert Eugene Tasker, et al, along the centerline of said Bethlehem Road for one line

N 72° 59' 26" E 19.02 feet to a point; thence leaving centerline of said Bethlehem Road and continuing with the outline of said Robert Eugene Tasker, et al

N 14° 31' 40" W 34.38 feet to a point on the western side of said Bethlehem Road and standing in the third line of land now or formerly owned by Harry E. White, as described in Liber 675, Folio 17 among the aforesaid land records; thence with said Harry E. White for four lines, continuing with the outline of said Robert Eugene Tasker, et al

S 78° 18' 12" E 71.52 feet to a point in the centerline of said Bethlehem Road; thence continuing with Harry E. White and the outline of said Robert Eugene Tasker, et al, following the centerline of said Bethlehem Road for two lines

N 72° 59' 26" E 71.78 feet to a point; thence with a tangent curve to the right, having a radius of 170.00 feet

Northeasterly 17.30 feet along said curve through an angle of 05° 50' 05" to a point, said curve having a chord bearing and distance of N 75° 54' 29" E 17.30 feet; thence leaving the centerline of said Bethlehem Road and continuing with said Harry E. White and the outline of said Robert Eugene Tasker, et al

S 64° 55' 02" E 626.28 feet to a point in the third line of land now or formerly owned by Rocky L. and Drema D. Lucas, as described in Liber 419, Folio 616 among the aforesaid land records; thence leaving said Harry E. White and with said Rocky L. and Drema D. Lucas for three lines, continuing with the outline of said Robert Eugene Tasker, et al

S 22° 01' 44" W 169.25 feet to a point; thence

S 67° 58' 16" E 200.00 feet to a 5/8-inch iron rod (found); thence

N 22° 01' 44" E 158.58 feet to a point in the line of said Harry E. White and standing in the first line of said Rocky L. and Drema D. Lucas; thence leaving said Rocky L. and Drema D. Lucas and with said Harry E. White for one line, continuing with the outline of said Robert Eugene Tasker, et al

S 64° 55' 02" E 59.11 feet to a point in the third line of land now or formerly owned by Janet Elizabeth Hardesty, as described in Liber 572, Folio 886 among the aforesaid land records; thence leaving said Harry E. White and with said Janet Elizabeth Hardesty for three lines, continuing with the outline of said Robert Eugene Tasker, et al

S 22° 01' 44" W 267.68 feet to a point; thence

S 83° 43' 23" E 483.30 feet to a 5/8-inch iron rod (found); thence

N 02° 22' 44" E 332.20 feet to a point in the centerline of said Bethlehem Road; thence leaving said Janet Elizabeth Hardesty and continuing with the outline of said Robert Eugene Tasker, et al, with the centerline of said Bethlehem Road for one line

N 84° 55' 27" E 50.43 feet to a point in the fourth line of land now or formerly owned by Timothy Andrew Tasker, as described in Liber 410, Folio 861 among the aforesaid land records; thence leaving the centerline of said Bethlehem Road and with said Tasker for two lines, continuing with the outline of said Robert Eugene Tasker, et al

S 02° 22' 44" W 237.89 feet to a point; thence

N 86° 16' 15" E 199.69 feet to a point at the end of the third line of land now or formerly owned by Charles L. and Patsy L. Shreve, as described in Liber 333, at Page 589 among the aforesaid land records and at the beginning of the first line of said Timothy Andrew Tasker; thence leaving said Timothy Andrew Tasker and with said Charles L. and Patsy L. Shreve for two lines, continuing with the outline of said Robert Eugene Tasker, et al

S 85° 13' 26" E 195.62 feet to a 5/8-inch iron rod (found); thence

N 00° 48' 44" E 240.32 feet to a point in the centerline of said Bethlehem Road; thence continuing with the outline of said Robert Eugene Tasker, et al, along the centerline of said Bethlehem Road for one line, a non-tangent curve to the left, having a radius of 275.00 feet

Northeasterly 38.61 feet along said curve through an angle of 08° 02' 43" to a point at the end of the fourth line of land now or formerly owned by Darvin C. and Wendy L. Moon, as described in Liber 665, Folio 621 among the aforesaid land records, said curve having a chord bearing and distance of N 74° 25' 45" E 38.58 feet; thence leaving the centerline of said Bethlehem Road and with said Darvin C. and Wendy L. Moon for four lines, continuing with the outline of said Robert Eugene Tasker, et al

S 00° 48' 44" W 253.98 feet to a 5/8-inch iron rod (found); thence

S 83° 22' 16" E 439.00 feet to a 5/8-inch iron rod (found); thence

N 31° 43' 09" E 326.20 feet to a 5/8-inch iron rod (found); thence

N 65° 45' 25" W 305.13 feet to a point in the centerline of said Bethlehem Road and standing in the easterly line of said Harry E. White; thence with said Harry E. White for three lines, continuing with the outline of said Robert Eugene Tasker, et al, along the centerline of said

Bethlehem Road for three lines

N 78° 30' 12" E 190.37 feet to a point; thence

N 77° 17' 30" E 329.93 feet to a point; thence

N 77° 10' 08" E 314.98 feet to a point in the first line of said Marvin E. White; thence leaving said Harry E. White and Bethlehem Road and with said Marvin E. White for two lines, continuing with the outline of said Robert Eugene Tasker, et al

S 25° 32' 14" W 499.54 feet to a point; thence

S 25° 32' 14" W 2624.31 feet to the place of beginning, containing 106.24 acres, more or less, as surveyed from January, 2003 to September, 2009, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat of ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being the lands of Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Tract 5 / Parcel 2

Beginning at a point in the northerly right of way line of Maryland State Route 560 (Gorman Road), being the most westerly corner of the remnant parcel of the first tract in the conveyance from Robert A. and Maxine L. Tasker unto Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker, dated August 1, 1995 and recorded in Liber 657, at Folio 832, one of the land records of Garrett County, Maryland, standing in the third line of land now or formerly owned by Harry E. White, as described in Liber 675, Folio 17 among the aforesaid land records; thence leaving said Maryland State Route 560 and with said Harry E. White for one line, with the outline of Robert Eugene Tasker, et al

S 78° 16' 34" E 222.14 feet to a point in the westerly right of way line of Bethlehem Road, standing at the end of the second line of said Harry E. White; thence leaving said Harry E. White and continuing with the outline of Robert Eugene Tasker, et al, along the westerly right of way line of said Bethlehem Road for four lines

S 67° 53' 10" W 55.86 feet to a point; thence with a non-tangent curve to the right, having a radius of 261.99 feet

Westerly 95.55 feet along said curve through an angle of 20° 53' 45" to a point, said curve having a chord bearing and distance of S 85° 55' 13" W 95.02 feet; thence

N 80° 12' 58" W 33.56 feet to a point; thence

N 51° 09' 35" W 26.08 feet to a point in the northerly right of way line of said Maryland State Route 560 where it intersects with the westerly right of way line of said Bethlehem Road; thence leaving the westerly right of way line of said Bethlehem Road and continuing with the outline of Robert Eugene Tasker, et al, with the northerly right of way line of said Maryland State Route 560 for one line

N 19° 04' 34" W 53.82 feet to the place of beginning, containing 0.20 acres, more or less, as surveyed from January, 2003 to September, 2009, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown as Remnant Part of Tasker on a plat of ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being the lands of Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being the land described in the conveyance from Robert A. Tasker and Maxine L. Tasker, unto Robert Eugene Tasker, Delmas Floyd Tasker and Timothy Andrew Tasker, dated the 1st day of

August, 1995, and recorded in Liber 657, at Folio 832, one of the Land Records of Garrett County, Maryland.

Tract 6
File No. 03160084
Steven Larry Tichnell and Janet Eileen Tichnell, husband and wife

All that certain tract or parcel of real estate known as Parcel 31, as shown on Tax Map number 86, situated along or near the top of Backbone Mountain, situate in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Beginning at a point in the northern right of way line of Maryland State Route 560 (Gorman Road), standing as the most southerly corner of land in the conveyance from Steven Larry and Janet Eileen Tichnell, and Charles Steven and Janet Mae Tichnell unto Steven Larry and Janet Eileen Tichnell, dated October 31, 1995 and recorded in Liber 666, at Folio 171, one of the land records of Garrett County, Maryland, and at the end of the fourth line of lands now or formerly owned by Steven Larry and Janet Eileen Tichnell, as described in Liber 390, Folio 796 among the aforesaid land records; thence leaving said fourth line and with the outline of said Steven Larry and Janet Eileen Tichnell, along the northern right of way of Maryland State Route 560 for three lines

N 21° 29' 36" W 281.04 feet to a point; thence with a tangent curve to the left, having a radius of 4327.18 feet

Northwesterly 577.76 feet along said curve through an angle of 07° 39' 00" to a point, said curve having a chord bearing and distance of N 25° 19' 06" W 577.33 feet; thence

N 29° 08' 36" W 223.61 feet to a point in the fourth line of land now or formerly owned by Gary L. Tichnell, as described in Liber 517, Folio 347 among the aforesaid land records; thence leaving the northern right of way line of said Maryland State Route 560 and with said Gary L. Tichnell for four lines, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 72° 49' 17" E 211.17 feet to a 5/8-inch capped iron rod (found); thence

N 16° 25' 08" E 150.43 feet to a 5/8-inch iron rod (found); thence

N 59° 45' 08" W 198.58 feet to an 18-inch maple (found); thence

S 73° 38' 58" W 149.81 feet to a point in the northern right of way line of said Maryland State Route 560, standing in the first line of said Gary L. Tichnell; thence leaving said Gary L. Tichnell, continuing with the outline of said Steven Larry and Janet Eileen Tichnell, along the northern right of way line of said Maryland State Route 560 for two lines, a tangent curve to the right, having a radius of 1402.39 feet

Northwesterly 265.94 feet along said curve through an angle of 10° 51' 54" to a point, said curve having a chord bearing and distance of N 18° 23' 33" W 265.54 feet; thence

N 12° 57' 36" W 275.40 feet to a point in the sixth line of the second tract of land now or formerly owned by Florence T. Carrington, et al, as described in Liber 713, Folio 301 among the aforesaid land records; thence leaving the northern right of way line of said Maryland State Route 560 and with Florence T. Carrington, et al for one line, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

N 60° 45' 14" E 27.07 feet to a point at the end of the sixth line of land now or formerly owned by Jimmy D. and Anna May Fisher, as described in Liber 755, Folio 671 among the aforesaid land record and at the beginning of the first line in the second tract of said Florence T. Carrington, et al; thence leaving said Florence T. Carrington, et al and with Jimmy D. and Anna May Fisher for five lines, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

N 79° 45' 14" E 24.74 feet to a 5/8-inch capped iron rod (found); thence

N 34° 45' 14" E 705.80 feet to a ½-inch capped iron rod (found); thence

N 44° 48' 28" E 852.98 feet to a ½-inch capped iron rod (found); thence

S 40° 40' 40" E 54.45 feet to a ½-inch capped iron rod (found) thence

N 34° 48' 12" E 2563.33 feet to a tack and lead plug in stone (found) in the fifth line of the first tract of land now or formerly owned by Robert Eugene Tasker, et al, as described in Liber 657, Folio 832 among the aforesaid land records, and at the end of the first line of said Jimmy D. and Anna May Fisher; thence leaving said Jimmy D. and Anna May Fisher and with said Robert Eugene Tasker, et al for one line, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 66° 32' 14" E 189.75 feet to a point at the beginning of the first line of the first tract of land now or formerly owned by Marvin Eugene White, Sr., as described in Liber 1231, Folio 545 among the aforesaid land records, and at the end of the fifth line of said Robert Eugene Tasker, et al; thence leaving said Robert Eugene Tasker, et al and with said Marvin Eugene White, Sr. for nine lines, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 57° 46' 58" E 197.80 feet to a point; thence

S 16° 46' 58" E 164.83 feet to a point; thence

S 14° 46' 58" E 197.80 feet to a point; thence

S 06° 46' 58" E 60.44 feet to a point; thence

S 32° 31' 58" E 346.15 feet to a point; thence

S 12° 16' 58" E 560.43 feet to a 44-inch oak snag (found); thence

N 56° 13' 02" E 297.00 feet to a point; thence

N 19° 46' 58" W 660.34 feet to a point at the end of the second line of the second tract of said Marvin Eugene White, Sr.; thence continuing with said Marvin Eugene White, Sr. for a partial line and then with the twentieth line of land now or formerly owned by William J. and Tracy D. Montgomery, as described in Liber 804, Folio 327 among the aforesaid land records, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 87° 23' 13" E 1573.21 feet to a point at the end of the eight line of land now or formerly owned by G. & S. Coal Company, Inc., as described in Liber 361, Folio 18 among the aforesaid land records and being in said twentieth line of William J. and Tracy D. Montgomery; thence leaving said William J. and Tracy D. Montgomery and with said G. & S. Coal Company, Inc. for three lines, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 02° 36' 47" W 1499.01 feet to a point; thence

N 87° 23' 13" W 1396.48 feet to a point; thence

S 02° 36' 47" W 1596.15 feet to a point in the northerly line of land now or formerly owned by Steven Larry and Janet Eileen Tichnell, and Randall Wade and Lori Sue Tichnell, as described in Liber 616, Folio 751 among the aforesaid land records, standing at the end of the fifth line of said G. & S. Coal Company, Inc.; thence leaving said G. & S. Coal Company, Inc., and with Steven Larry and Janet Eileen Tichnell, and Randall Wade and Lori Sue Tichnell for four lines, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

N 87° 23' 13" W 756.43 feet to a point; thence

S 02° 36' 47" W 730.85 feet to a point; thence

S 73° 59' 01" W 802.44 feet to a point; thence

S 30° 29' 01" W 211.49 feet to a point in the fourth line of other land of said Steven Larry and Janet Eileen Tichnell; thence with other land of said Steven Larry and Janet Eileen Tichnell, continuing with the outline of said Steven Larry and Janet Eileen Tichnell

S 86° 28' 24" W 1019.80 feet to the place of beginning, containing 278.46 acres, more or less, as surveyed from January, 2003 to September, 2009, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being the lands of Steven Larry and Janet Eileen Tichnell. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being the land described in the conveyance from Steven Larry and Janet Eileen Tichnell, and Charles Steven and Janet Mae Tichnell, unto Steven Larry and Janet Eileen Tichnell, dated the 31st day of October, 1995, and recorded in Liber 666, at Folio 171, one of the Land Records of Garrett County, Maryland.

Tract 7
Intentionally Deleted

Tract 8
File No. 03160086
Garrett County Sanitary District, Inc.

Tract 8, Parcel 1

All that tract or parcel of land situate in Election District No. 16, Garrett County, Maryland, lying on the northerly side of a 30.0 foot private right of way, and being more particularly bounded and described as follows:

Beginning at a 5/8 inch Iron Rod, set, marking a new division corner of the Sky Valley, Inc. lands (D.B. 341 at p. 338) with the Helen B. Bowers lands (D.B. 390 at p. 8), said point standing North 23 degrees 27 minutes 02 seconds East 1174.11 feet from a ½ inch Iron Rod, found marking the division corner of the Sky Valley, Inc. lands with the Donald Earl Riley and Peggy Marie Friend lands (D.B. 390 at p. 1), thence leaving said point of beginning and running with the division line of the Sky Valley, Inc. lands, the Bower lands, and the Dorotha Bell Beckman, et al, lands (D.B. 389 at p. 895 and D.B. 397 at p. 261) North 23 degrees 27 minutes 02 seconds East 2,074.77 feet to a Locust Post in a Stone Pile, found, marking the division corner of the Sky Valley, Inc. lands with the Beckman, et al lands with the Garrett County Sanitary District, Inc. lands (D.B. 415 at p. 770), thence running with the division line of the Sky Valley, Inc. lands and the Garrett County Sanitary District, Inc. lands North 23 degrees 27 minutes 02 seconds East 1,563.05 feet to a 5/8 inch Iron Rod, set, marking the division corner of said lands, thence running with the division corner of said lands of the Sky Valley, Inc. lands the Garrett County Sanitary District, Inc. lands and with the Ben F. and Florence T. Carrington lands (D.B. 275 at p. 253) South 65 degrees 48 minutes 28 seconds East 902.32 feet to a ½ inch Iron Rod, found, thence continuing with the Sky Valley, Inc. lands and the Carrington lands division line and the division line of the Lester E. and Opal B. Steyer lands (D.B. 116 at p. 219) South 19 degrees 44 minutes 34 seconds West 1,141.94 feet to a 5/8 inch Iron Rod, set, thence running with the division line of the Sky Valley, Inc., lands and the Steyer lands the following six courses and distances South 69 degrees 06 minutes 15 seconds East 460.00 feet to a 5/8 inch Iron Rod set, thence continuing South 25 degrees 04 minutes 14 seconds East 297.00 feet to a 5/8 inch Iron Rod set, thence continuing South 89 degrees 16 minutes 22 seconds East, 176.34 feet to a 5/8 inch Iron Rod, set, thence continuing South 88 degrees 44 minutes 37 seconds East 168.04 feet to a Fence Line Post, found, marking a corner of the Sky Valley, Inc. lands (D.B. 496 at p. 90), thence continuing with said line South 88 degrees 09 minutes 27 seconds East 80.08 feet to a Fence post, found, thence

continuing North 85 degrees 18 minutes 02 seconds East 125.08 feet to a Fence Post, found, thence running with a new division line of the Sky Valley, Inc. lands South 23 degrees 44 minutes 30 seconds East 4.21 feet to a 5/8 inch Iron Rod, set, in the northerly right of way limits of a 30.0 foot private right of way on an existing road, thence running with said right of way limits the following ten reference courses and distances South 76 degrees 14 minutes 17 seconds West 391.40 feet to a point, thence continuing North 83 degrees 15 minutes 39 seconds West 147.85 feet to a point, thence continuing South 45 degrees 58 minutes 37 seconds West 98.61 feet to a point, thence continuing South 54 degrees 13 minutes 41 seconds West 187.17 feet to a point, thence continuing South 62 degrees 32 minutes 14 seconds West 208.35 feet to a point, thence continuing South 61 degrees 06 minutes 32 seconds West 862.51 feet to a point, thence continuing South 77 degrees 17 minutes 13 seconds West 266.26 feet to a point, thence continuing South 62 degrees 25 minutes 15 seconds West 83.00 feet to a point, thence continuing South 42 degrees 26 minutes 39 seconds West 670.27 feet to a point, thence continuing South 36 degrees 33 minutes 05 seconds West 135.76 feet to a 5/8 inch Iron Rod, marking a new division corner of the Sky Valley, Inc. lands, thence leaving said right of way limits and running with a new division line of said Sky Valley, Inc. lands South 89 degrees 59 minutes 35 seconds West 441.63 feet to the Beginning, containing 81.60 acres, more or less.

Together with the right of ingress and egress along a 30.0 foot private right of way on an existing road as shown on a plat attached hereto.

Excepting and Reserving, however, the 30.0 foot private right of way on an existing road as shown on a plat attached hereto.

Tract 8, Parcel 2

All that tract or parcel of land situate in Election District No. 16, Garrett County, Maryland, lying on the westerly side of King Wildesen Road and the Southerly side of a 30.0 foot private right of way, and being more particularly bounded and described as follows:

Beginning at a 5/8 inch Iron Rod, set, in the westerly right of way limits of King Wildesen Road, a right of way 40.0 feet in width, said point marking a division corner of the Sky Valley, Inc. lands (D.B. 341 at p. 338) with the Dorothy L. and Earl J. Frazee lands (D.B. 296 at p. 171), thence running with the division line of said lands the following three courses and distances South 69 degrees 03 minutes 47 seconds West 886.86 feet to a 5/8 inch Iron Rod, found, thence continuing South 00 degrees 00 minutes 00 seconds East 934.95 feet to a 5/8 inch Iron Rod, found, thence continuing South 89 degrees 59 minutes 35 seconds West 2204.63 feet to a 5/8 inch Iron Rod, found thence running with a new division line of the Sky Valley, Inc. lands South 89 degrees 59 minutes 35 seconds West 468.87 feet to a 5/8 inch Iron Rod set, in the southerly right of way limits of a 30.0 foot private right of way on an existing road, thence running with said right of way limits the following sixteen courses and distances North 36 degrees 42 minutes 32 seconds East 110.88 feet to a point, thence continuing North 42 degrees 23 minutes 26 seconds East 663.90 feet to a point, thence continuing North 62 degrees 19 minutes 15 seconds East 73.24 feet to a point, thence continuing North 77 degrees 14 minutes 54 seconds East 268.15 feet to a point, thence continuing North 61 degrees 07 minutes 12 seconds East 867.16 feet to a point, thence continuing North 62 degrees 32 minutes 14 seconds East 209.56 feet to a point, thence continuing North 54 degrees 14 minutes 32 seconds East 195.86 feet to a point, thence continuing North 42 degrees 31 minutes 24 seconds East 79.02 feet to a point, thence continuing South 83 degrees, 15 minutes 39 seconds East 143.17 feet to a point, thence continuing North 76 degrees 14 minutes 17 seconds East 504.13 feet to a point thence continuing South 68 degrees 04 minutes 55 seconds East 186.31 feet to a point, thence continuing South 53 degrees 57 minutes 22 seconds East 143.72 feet to a point, thence continuing South 85 degrees 59 minutes 29 seconds East 50.12 feet to a point, thence continuing North 77 degrees 15 minutes 39 seconds East 232.18 feet to a point, thence continuing South 64 degrees 22 minutes 53 seconds East 162.20 feet to a point, thence continuing North 89 degrees 48 minutes 31 seconds East 195.21 feet to a 5/8 inch Iron Rod, set, in the westerly right of way limits of King Wildesen Road, thence running with said right of way limits South 44 degrees 23 minutes 19 seconds West 49.86 feet to the beginning, containing 60.76 acres, more or less.

Together with the right of ingress and egress along a 30.0 foot private right of way on an existing road as shown on a plat attached hereto.

Excepting and Reserving, however, the 30.0 foot private right of way on an existing road as shown on a plat attached hereto.

It Being part of the property conveyed unto Sky Valley, Inc. by Deed of Lewis R. Jones and Mary V. Jones, his wife, dated August 8, 1973, and recorded in Liber 341, Page 338, among the Land Records of Garrett County, Maryland, the First Parcel, the First Tract, and a part of the lands conveyed unto Sky Valley, Inc., by Deed of Opal B. Steyer, dated June 15, 1987, and recorded in Deed Liber 496, Page 90, among the Land Records of Garrett County, Maryland.

Tract 9
Intentionally Deleted

Tract 10
Intentionally Deleted

Tract 11
Intentionally Deleted

Tract 12
File No. 05330071
William J. White III and Carma R. White, his wife

Being a portion of and lying within the boundaries of that parcel of land currently owned by William J. White, III, located along the north side of Bethlehem County Road. The intended limits of this portion of the easement being more particularly described by the following metes and bounds description:

Beginning at a point on the northerly margin of Bethlehem County Road, said point located at the beginning of the 1st line of the whole tract, thence binding with a portion of the 2nd line of the whole tract

1. North 10 feet to a point; thence running parallel to and 10 feet north from the 4th line of said property
2. West approximately 165 feet to a point in the 3rd line of said property; thence binding with a portion of said 3rd line
3. South 10 feet to a point at the beginning of the 4th line of said property; thence binding with said 4th line
4. East approximately 165 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by William J. White, III, identified as Parcel No. 77 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 649, Page 283 as recorded among the land records of Garrett County, Maryland.

Tract 13
File No. 05330079
Joshua E. White

Being a portion of and lying within the boundaries of that parcel of land currently owned by Joshua E. White located along the south side of Bethlehem County Road. The intended limits of this portion of the easement being more particularly described by the following metes and bounds description:

Beginning at a point in the centerline of Bethlehem County Road, thence binding with part of the 1st line of said property reversed

1) South 5 degrees 13 minutes East approximately 25 feet to a point; thence leaving said 1st line and running parallel to and 25 feet southerly from the 4th line of said property
2) South 71 degrees 59 minutes West approximately 360 feet to a point in the 3rd line of said property; thence binding with part of said 3rd line reversed
3) North 18 degrees 01 minutes East approximately 25 feet to a point at the end said 3rd line, said point being located in the centerline of Bethlehem County Road; thence binding with and reversing the 4th line and with the centerline of said Bethlehem County Road
4) South 71 degrees 59 minutes East approximately 360.7 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Joshua White identified as Tax Parcel No. 135 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 888, Page 078, as recorded among the Land Records of Garrett County, Maryland.

Tract 14
Intentionally Deleted

TRACT 15
File No. 05330083
Robert J. Lyon and Mary Ellen Lyon, his wife

That certain real property associated with the lands currently owned by Robert J. Lyon et ux, said lands being situated in Election District No. 10, Garrett County, Maryland, and more particularly described as follows:

Being a portion of and lying within the boundaries of Parcel No. 1 and 2 of land currently owned by Robert J. Lyon et ux (Tax Map 868 parcel 59) located along the northwestern and southeastern sides of Boiling Spring Road and the northwestern side of Bethlehem Road. The intended limits of these easements being more particularly described by the following metes and bounds description:

Area No. 1

Beginning at a point located in the centerline of Boiling Spring Road, said point also being the end of the first line of Parcel No. 1, thence binding with the centerline of said road and the 2nd through 4th lines of Parcel No. 1

11) South 48 degrees 03 minutes West 273.19 feet to a point, thence binding with same
12) South 50 degrees 10 minutes West 119.64 feet to a point, thence binding with same
13) South 68 degrees 09 minutes West 118.82 feet to a point at the end of the fourth line; thence binding with the fifth line of the whole Parcel No. 1
14) North 01 degrees 04 minutes East approximately 25 feet to a point; thence leaving said fifth line and running parallel to and 25 feet north from the centerline of Boiling Spring Road in a
15) Northeasterly direction approximately 466 feet to point in the first line of said Parcel No. 1; thence binding with a portion of said first line
16) South 88 degrees 31 minutes approximately 25 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of Parcel No. 1 currently owned by Robert J. Lyon et ux, identified as Tax Parcel No. 59 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 396, folio 170 as recorded among the land records of Garrett County, Maryland.

Area No. 2:

Beginning at a point located in the centerline of Boiling Spring Road, said point also being the point of beginning of Parcel No. 2, thence binding with part of the 1st line of Parcel No. 2

17) South 88 degrees 31 minutes East approximately 25 feet to a point; thence running parallel to and 25 feet south from the centerline of Boiling Spring Road
18) South 48 degrees 03 minutes West approximately 273 feet to a point located on the 12th line of Parcel No. 2 and in the centerline of Bethlehem Road; thence binding with a portion of the 12th line of Parcel No. 2 and the center line of Bethlehem Road
19) North 61 degrees 06 minutes West approximately 25 feet to a point at the centerline intersection of Bethlehem Road and Boiling Spring Road; thence with the centerline of Boiling Spring Road
20) North 48 degrees 03 minutes East approximately 273 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of Parcel No. 2 currently owned by Robert J. Lyon et ux, identified as Tax Parcel No. 59 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 396, folio 170 as recorded among the land records of Garrett County, Maryland.

TRACT 16
File No. 05330070
Henry L. Steyer

Being a portion of and lying within the boundaries of that parcel of land currently owned by Henry L. Steyer, located along the north side of Bethlehem County Road. The intended limits of this portion of the easements being more particularly described by the following two (2) metes and bounds descriptions:

First:

Beginning at a point on the northerly margin of Bethlehem County Road, said point located at the beginning of the 1st line of the whole tract, thence binding with said 1st line of the whole tract

1. North 43 degrees West 10 feet to a point; thence running parallel to and 10 feet north from the 4th line of said property
2. North 75 degrees East approximately 95 feet to a point in the 3rd line of the 0.50 acre parcel (TM 86 Par. 77) currently owned by William J. White, III (Liber 649 Page 283); thence binding with said 3rd line of the William J. White, III, parcel
3. South (Liber 649 Page 283) 10 feet to a point in the 4th line of said Henry L. Steyer property; thence binding with said 4th line
4. South 75 degrees East approximately 95 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Henry L. Steyer, identified as Parcel No. 125 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 454, Page 137 as recorded among the Land Records of Garrett County, Maryland. This easement being located along the northern margin of Bethlehem Road and Southwest of the parcel currently owned by William J. White III.

Second:

Beginning at a point on the northerly margin of Bethlehem County Road, said point located at the end of the 3rd line of the whole tract, thence binding with said 3rd line (reversed) of the whole tract

1. North 39degrees 36' West 10 feet to a point; thence running parallel to and 10 feet north from the 4th line of said property
2. South 75 degrees West approximately 180 feet to a point in the 1st line of the 0.50 acre parcel (TM 86 Par. 77) currently owned by William J. White, III (Liber 649 Page 283); thence binding with said 1st line (reversed) of the William J. White, III, parcel
3. South (Liber 649 Page 283) 10 feet to a point in the 4th line of said Henry L. Steyer property; thence binding with said 4th line (reversed)

4. North 43 degrees East approximately 180 feet to a point and the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Henry L. Steyer, identified as Parcel No. 125 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 454, Page 137 as recorded among the Land Records of Garrett County, Maryland. This easement being located along the northern margin of Bethlehem Road and Northeast of the parcel currently owned by William J. White III

Tract 17
File No. 05330076
Carma White, Darlene Davis, Neil Bray and Margaret A. Bluhm

That certain property located in Garrett County, Maryland described as follows:

The area described hereafter comprise the intended limits of the Property associated with the lands currently owned by Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray, said lands being situated in Election District No. 16, Garrett County, Maryland.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray, located along Bethlehem Road and the northern and southern margins of Bethlehem Road where applicable. The intended limits of this easement being more particularly described by the following metes and bounds description:

Beginning at a point on the centerline of Bethlehem Road, said point located in the 6th line of the whole tract, and a common corner (northwesterly) with the lands now or formerly owned by Jeffery E. and Diane E. White, (Parcel No. 121 on Tax Map 86, Liber 432 Page 702), thence binding with said 6th line of the whole tract and leaving said Jeffery E. and Diane E. White

1. North 43° West 25 feet to a point; thence running parallel to and 25 feet north from the centerline of the Bethlehem Road in a Northeasterly direction approximately 1861 feet to a point in the 3rd line of the 5.198 acre parcel (part of TM 86 Par. 74) now or formerly owned by Herbert Harvey and Peggy Lou Harvey (Liber 904 Page 001); thence binding with a portion of said 3rd line of Herbert Harvey and Peggy Lou Harvey parcel reversed

2. South 39° 03' 16" East (Liber 904 Page 001) approximately 15 feet to a point on the northern margin of Bethlehem Road, said point being at the beginning of the 3rd line of said Herbert Harvey and Peggy Lou Harvey 5.198 acre parcel (Liber 904 Page 001) and also being the end of the 3rd line of a 3.82 acre parcel of said Herbert Harvey and Peggy Lou Harvey (Liber 293 Page 233); thence binding with the northern margin of said Bethlehem Road and the 3rd and 2nd lines reversed of said Herbert Harvey and Peggy Lou Harvey (Liber 293 Page 233)

3. South 85° 45' East 122.46 feet to a point; thence binding and continuing with same

4. South 75° 32' East 500.31 feet to a point in the 3rd line of the whole tract conveyed to Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray; thence binding with said 3rd line of Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray (Liber 583, Page 285 and Liber 764, Page 139) and crossing the Bethlehem Road

5. South 43° East approximately 58 feet to a point in the southern margin of the Bethlehem Road, said point being at the beginning of the 1st line of a 1.12 acre parcel now or formerly owned by Brenda May Wilson and Wilburn Lee Wilson, her son (Parcel No. 64 on Tax Map 86, Liber 397 Page 049), thence binding with the 4th line reversed of said Brenda May Wilson and Wilburn Lee Wilson and the southern margin of the Bethlehem Road

6. North 72° 58' West 46.85 feet to a point at the end of said 4th line and also being a common corner to a 0.90 acre parcel now or formerly owned by Ralph D. Davis and Virginia Bray Davis

(Parcel No. 97 on Tax Map 86, Liber 325 Page 337 - remainder of originally conveyed 2.02 acre parcel); thence binding with a portion of the original 1st line reversed of said Ralph D. Davis and Virginia Bray Davis and the southern margin of the Bethlehem Road

7. North 72° 58' West (Liber 325 Page 337) approximately 148 feet to a point in the southern margin of Bethlehem Road, said point also being the beginning of the first line of the original 2.02 acre parcel (Liber 325 Page 337) and in the 1st line of a 1.99 acre parcel now or formerly owned by Joshua E. White (Parcel No. 135 on Tax Map 86, Liber 888 Page 078); thence leaving said southern margin of Bethlehem Road and binding with said 1st line of Joshua E. White reversed

8. North 5° 13' West (Liber 888 Page 078) approximately 15 feet to a point in the centerline of said Bethlehem Road, said point be at the beginning of the 1st line of said Joshua E. White; thence binding with the centerline of said Bethlehem Road and the 4th line of said Joshua E. White reversed

9. North 71° 59' West 360.70 feet to a point in the centerline of the Bethlehem Road, said point being also the end of the 3rd line of said Joshua E. White; thence leaving the centerline of the Bethlehem Road and binding with the 3rd line of said Joshua E. White reversed

10. South 18° 01' West 25 feet to a point in said 3rd line; thence leaving said 3rd line of Joshua E. White and running parallel to and 25 feet south from the centerline of the Bethlehem Road through the lands of Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray in a Southwesterly direction approximately 1195 feet to a point in the 1st line of a 1.29 acre parcel now or formerly owned by Anthony Oliverio and Ruth Oliverio (Parcel No. 136 on Tax Map 86, Liber 513 Page 272); thence binding with said 1st line of Anthony Oliverio and Ruth Oliverio reversed

11. North 39° 53' West (Liber 513 Page 272) approximately 25 feet to a point at the centerline of Bethlehem Road and the beginning of said 1st line of Anthony Oliverio and Ruth Oliverio; thence binding with the centerline of Bethlehem Road and the 4th line of said Anthony Oliverio and Ruth Oliverio reversed

12. South 50° 07' West 225 feet to a point at the centerline of Bethlehem Road and the end of the 3rd line of Anthony Oliverio and Ruth Oliverio, said point also being at the beginning of the 1st line of a 1.29 acre parcel now or formerly owned by William J. White and Theresa White (Parcel No. 134 on Tax Map 86, Liber 513 Page 268); thence binding with the centerline of Bethlehem Road and the 4th line of said William J. White and Theresa White reversed

13. South 50° 07' West (Liber 513 Page 268) 225 feet to a point at the centerline of Bethlehem Road and the end of the 3rd line of said William J. White and Theresa White, said point also being at the beginning of the 1st line of a 1.82 acre parcel now or formerly owned by Jeffery E. White and Diane E. White (Parcel No. 121 on Tax Map 86, Liber 432 Page 702); thence binding with the centerline of Bethlehem Road and the 4th line of said Jeffery E. White and Diane E. White reversed

14. South 50° 07' West (Liber 432 Page 702) 326.38 feet to the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Carma White, Darlene Davis, Margaret A. Bluhm and Neil Bray, identified as Parcel No. 15 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 583, Page 285 and Liber 764, Page 139 as recorded among the Land Records of Garrett County, Maryland. This easement being located along Bethlehem Road and the Northern and Southern margins of Bethlehem Road, where applicable.

Tract 18
File No. 05330084
Phillip M. Gobrecht and Darlene E. Gobrecht, husband and wife

Being a portion of and lying within the boundaries of that parcel of land currently owned by Milton E. Feather located along the south side of Bethlehem Road. The intended limits of this portion of the easement being more particularly described by the following metes and bounds description:

Beginning at a point located on the southerly limits of Bethlehem Road, said point being at the end of the 12th line of the whole tract of land as recorded in Liber 596, Page 254, thence binding with the 1st, 2nd and 3rd lines of said whole tract, said lines also comprising the entire road frontage of Lot No. 1 as follows

1) North 77 degrees 01 minutes 38 seconds East 129.14 feet to a point; thence
2) South 81 degrees 24 minutes 52 seconds West 77.23 feet to a point; thence
3) South 55 degrees 22 minutes 15 seconds East 184.07 feet to a point at the end said 3rd line, said point being located along the southerly limits of Bethlehem Road; thence binding with a new division line within the whole tract between Lot No. 1 and Lot No. 2 of said subdivision
4) South 12 degrees 07 minutes 33 seconds West approximately 10 feet to a point; thence leaving said division line and running parallel to and 10 feet south of the 3rd, 2nd and 1st lines reversed
5) North 55 degrees 22 minutes 15 seconds West approximately 184 feet to a point; thence
6) North 81 degrees 24 minutes 52 seconds East approximately 77 feet to a point; thence
7) South 77 degrees 01 minutes 38 seconds West approximately 129 feet to a point in the 12th line of the original whole tract; thence binding with part of the 12th line
8) North 11 degrees 02 minutes 07 seconds East approximately 10 feet to the place of beginning.

Being a portion of and lying within the boundaries of that parcel of land currently owned by Milton E. Feather identified as Parcel No. 148 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 607, Page 860, as recorded among the Land Records of Garrett County, Maryland.

Tract 19
File No. 05330080
Virginia Bray Davis

Being a portion of and lying within the boundaries of that parcel of land currently owned by Ralph D. Davis et ux located along the south side of Bethlehem County Road. The intended limits of this portion of the easement being more particularly described by the following metes and bounds description:

Beginning at a point on the south margin of Bethlehem County Road said point being at the end of the 3rd line of the original tract, thence binding with part of the 4th line of the original tract

1) South 72 degrees 58 minutes East 148.00 feet to a point; thence leaving said 4th line and binding with part of a new division line of the whole tract as described in Liber 397, Page 49 and as corrected
2) South 6 degrees 07 minutes East approximately 10 feet to a point; thence running parallel to and 10 feet southerly from the 4th line of said original tract
3) North 72 degrees 58 minutes West approximately 148 feet to a point in the 3rd line of said original tract; thence binding with part of said 3rd line
4) North 5 degrees 13 minutes West approximately 10 feet to a point at the end said 3rd line, said point being located on the south margin of Bethlehem County Road and being the place of beginning.

Being a portion of land and lying within the boundaries of the residual parcel of land currently owned by Ralph D. Davis (deceased) and Virginia Bray Davis, identified as Tax Parcel No. 97 on Tax Map 86. The tract of land of which the hereto before described easement is contained within is more fully described in Liber 325, Page 337 as recorded among the Land Records of Garrett County, Maryland, excepting, however, the out-conveyance to Brenda May Wilson and Wilburn L. Wilson, her son, by deed recorded in Liber 397, Page 49 among the Land Records of Garrett County, Maryland.

Tract 20
Intentionally Deleted

Tract 21
File No. 03160087 and 700007422 (Parcel 4)
Donald E. Riley

Tract 21, Parcel 1

All that certain piece or parcel of land situate, lying and being in Election District No. 16, in Garrett County, Maryland, lying on the southeasterly side of a 30.0 foot private right of way and being more particularly bounded and described as follows:

Beginning at a 5/8 inch iron rod, found, marking the division corner of the Sky Valley, Inc. lands (D.B. 341 at p. 338) and the Dorothy L. and Earl J. Frazee lands (D.B. 296 at p. 171), thence leaving said point of beginning and running with the division line of the Sky Valley, Inc. lands and the Frazee lands South 00 Degrees 00 minutes 25 seconds East 1077.08 feet to a 5/8 inch iron rod, set, marking a new division corner of the Sky Valley lands with the Frazee lands, thence leaving said division line and running with a new division line of said Sky Valley, Inc. lands South 89 Degrees 59 minutes 35 seconds West, 1380.25 feet to a 5/8 inch iron rod, set, in the easterly right of way limits of a 30.0 foot private right of way, marking a new division corner of the Sky Valley, Inc. lands, and standing North 89 Degrees 59 minutes 35 seconds West, 34.43 feet from a 5/8 inch iron rod, found, in the westerly right of way limits of a 30.0 foot private right of way, thence running with said private right of way the following seven courses and distances North 29 Degrees 23 minutes 05 seconds East, 59.83 feet to a point, thence continuing North 24 Degrees 30 minutes 13 seconds East, 230.46 feet to a point, thence continuing North 32 Degrees 40 minutes 15 seconds East, 286.39 feet to a point, thence continuing North 32 Degrees 57 minutes 59 seconds East, 255.43 feet to a point, thence continuing North 50 Degrees 24 minutes 24 seconds East, 210.55 feet to a point, thence continuing North 61 Degrees 18 minutes 09 seconds East, 296.96 feet to a point, thence continuing North 40 Degrees 04 minutes 40 East, 108.72 feet to a 5/8 inch iron rod, found, marking the division corner of the Sky Valley, Inc. lands thence running with the division line of the Sky Valley, Inc. lands North 89 Degrees 59 minutes 335 seconds East, 468.87 feet to the beginning, containing 25.74 acre, more or less.

Tract 21, Parcel 2

All that tract or parcel of land situate in Election District No. 16, Garrett County, Maryland, lying on the northwesterly side of a 30.0 foot private right of way, and being more particularly bounded and described as follows:

Beginning at a 5/8 inch iron rod, found, marking the division corner of the Sky Valley, Inc. lands (D.B. 341 at p. 338) and the Helen B. Bowers lands (D.B. 390 at p. 8), thence leaving said point of beginning and running with the division line of the Sky Valley, Inc. lands North 89 Degrees 59 minutes 35 seconds East 441.63 feet to a 5/8 inch iron rod, found, in the westerly right of way limits of a 30.0 foot private right of way, marking the northeasterly corner of the Sky Valley, Inc. lands thence running with said right of way limits the following seven courses and distances South 41 Degrees 18 minutes 17 seconds West, 81.94 feet to a point, thence continuing South 61 Degrees 31 minutes 09 seconds, West, 289.45 feet to a point, thence continuing South 50 Degrees 25 minutes 42 seconds West, 220.19 feet to a point, thence continuing South 33 Degrees 02 minutes 19 seconds West 259.37 feet to a point, thence continuing South 32 Degrees 40 minutes 07 seconds West 288.82 feet to a point, thence continuing South 24 Degrees 31 minutes, 57 seconds West, 231.97 feet to a point, thence continuing South 29 Degrees 22 minutes 57 seconds West, 75.45 feet to a 5/8 inch iron rod, found in the westerly right of way limits of said 30.0 foot private right of way, marking the corner of the Sky Valley, Inc. lands and the Donald Earl Riley and Peggy Marie Friend lands (D.B. 390 at p. 1), thence leaving said right of way limits and running with the division line of the Sky Valley, Inc. lands and the Riley and Friend lands and the Bowers lands North 23 Degrees 27 minutes 02 seconds East, 1,174.11 feet to the beginning, containing 2.85 acres, more or less.

Tract 21, Parcel 3

Beginning for same at a 1/2 inch pin and stone pile set in the westerly line of the lands of Sky Valley, Inc., said pin being South 28 degrees 58' 21" West 2172.11 feet from a locust post and stone pile found marking the southeast corner of the lands of the Mountain Lake Water Company, a point in a westerly line of the lands of Sky Valley, Inc., and also marking the northeast corner of the A. Otis Riley, D. Milton Riley and Nellie G. Bowers property of which this parcel now described is a part, thence the following bearings and distances: South 28 degrees 58' 21" West 1075.80 feet along the lands of Sky Valley, Inc. to a ½ inch iron pin and stone pile set, thence North 61 degrees 09' 55": West 1315.12 feet along the lands of Sky Valley, Inc. to a ½ inch iron pin and stone pile set, thence North 29 degrees 34' 59" East 1075.89 feet along the lands of Lenwood F. Bittinger to a ½ inch iron pin and stone pile set, thence 61 degrees 09' 55" East 1303.55 feet along the lands of A. Otis Riley, D. Milton Riley and Nellie G. Bowers to the point of beginning, containing 32.336 acres, more or less.

Tract 21, Parcel 4

That certain real property located in Garrett County, Maryland, described as follows:

Beginning at a ½" iron pin and stone pile in the westerly line of the lands of Sky Valley, Inc., said pin being south 28° 58' 21" west 1084.45 feet from a locust post and stone pile marking the southeast corner of the lands of Mountain Lake Water Company, a point in the westerly lines of Sky Valley, Inc., and also marking the northeast corner of the a. Otis Riley, D. Milton Riley and Nellie G. Bowers property, of which this parcel is described as a part; thence south 28 ° 58' 21; west 1087.66 feet along the lands of Sky Valley, Inc., to a ½" iron pin and stone pile; north 61 ° 09' 55" west 1303.66 feet along the lands of A. Otis Riley, et al, to a ½" iron pin and stone pile; north 29 ° 34' 59" east 559.31 feet along the lands of Lenwood F. Bittinger to a stone pile; north 28 ° 55' 50" east 521.71 feet along the lands of David T. Crawford to a ½" iron pin and stone pile; south 61 ° 27' 40" east 1298.13 feet along the lands of A.Otis Riley, et al, to the beginning, containing 32.336 acres, more or less. Subject to spring rights and easement set forth in prior deeds.

Map 91 Grid 6 Parcel 43

Tract 22
File No. 03160088/03005541
John Bailiff and Gwen Bailiff, husband and wife

A tract of land situate, lying and being in Election District No. 16, Garrett County, Maryland, more particularly described as follows:

Begin at an iron pin set on the east side of a 30 foot wide right of way South 83 degrees 47' 40" East, 35.40 feet from an iron pin found at the southeasterly corner of the Paul R. Roderick property of record at Liber 543, Folio 777, in the Land Records of Garrett County, Maryland; thence with said east side of right of way North 38 degrees 15' 55" East, 34.96 feet, thence North 28 degrees 46' 36" East, 182.40 feet, thence North 43 degrees 34' 05" East, 214.08 feet, thence North 30 degrees 05' 00" East, 148.00 feet, thence North 44 degrees 55' 50" East, 68.01 feet, thence North 55 degrees 38' 20" East, 153.20 feet, thence North 50 degrees 24' 00" East, 199.48 feet, thence North 40 degrees 25' 55" East, 148.21 feet, thence North 52 degrees 27' 50" East, 155.86 feet, thence North 46 degrees 30' 25" East, 93.38 feet, to an iron pin, set thence leaving said 30 foot right of way and with the southerly limits of Woodvilla Partnership's property (515-278) South 89 degrees 58' 40" East, 1361.29 feet to an iron pin found in the west limits of the Dorothy L. Frazee property (296-171) and thence with same, South 0 degrees 29' 55" West, 1253.50 feet to an iron pin, set, thence through lands of Sky Valley, Inc., North 83 degrees 47' 50" West, 2310.75 feet to the beginning, containing 50.00 acres, more or less.

Conveying Also an easement for ingress, egress and regress over the existing private roadway, 30.0 feet in width referred to above and extending to the King Wildesen Road.

Being a part of the same property conveyed by Lewis R. Jones and Mary V. Jones, husband and wife, to Sky Valley, Inc. by deed dated August 8, 1973 and recorded in Liber 341, Folio 338, 1st Parcel, 1st Tract, one of the Land Records of Garrett County, Maryland.

Tract 23
File No. 03160090/03005534
William A. Kalwa, Jr. and Pauline M. Kalwa, husband and wife

All that parcel of land situate in Election District No. 16, Garrett County, Maryland, which is described as follows:

Beginning at an iron pin found at the northwesterly corner of William A. Kalwa's property recorded in Liber No. 570 Folio 655, among the Land Records of Garrett County, Maryland, thence with lands of Kalwa and the lands of Sky Valley, Inc., South 32 degrees 27' 50" West, 753.94 feet to an iron pin found, thence by a new division line, North 52 degrees 30' 25" West, 2,595.92 feet to an iron pin set in the easterly limits of a 30 foot wide right of way, thence with said easterly limits, North 50 degrees 11' 25" East, 119.33 feet to an iron pin set, thence North 56 degrees 55' 50" East, 123.45 feet, thence North 47 degrees 15' 15" East 134.80 feet, thence North 40 degrees 25' 35" East, 150.12 feet, thence North 41 degrees 15' 40" East, 323.03 feet, thence North 50 degrees 09' 40" East, 159.76 feet, thence North 46 degrees 19' 10" East, 261.17 feet to an iron pin set, thence North 51 degrees 14' 40" East, 49.98 feet to an iron pin set, thence leaving said right of way, South 63 degrees 15' 10" East, 3176.39 feet to an iron pin set in a small run with stones, thence with lines of Sky Valley, Inc., South 18 degrees 30' 35" West, 349.40 feet to a large white oak found, thence South 60 degrees 23' 50" West, 465.65 feet to an iron pin found, thence North 84 degrees 33' 15" West, 783.96 feet to the beginning, containing 100.00 acres, more or less.

Also conveyed is an easement for ingress, egress and regress in common with others with similar rights over the existing private roadway, 30.0 feet in width, referred to above, from the above described parcel and extending to the King Wildesen Road. Sky Valley, Inc., reserved all the right, title and interest to said private roadway, subject to the easement hereby granted.

Subject to a thirty foot right of way as described in a right of way agreement between Sky Valley, Inc. and William A. Kalwa and Pauline M. Kalwa, husband and wife, recorded in Liber No. 583, Folio 744, among said Land Records.

Tract 24
File No. 04332366/03005548
Anita M. Michael and Nelda E. Fink

Containing 50 acres more or less on Shady Dell Road.

Being the same property which by Deed dated May 23, 2003 and recorded among the Land Records of Garrett County, Maryland, in Liber 972 Folio 163 which was granted and conveyed by Ferguson Valley Hardwoods unto Anita M. Michael and Nelda E. Fink.

Beginning at an iron pin found at the southwesterly corner of a 100-acre tract conveyed to Ralph C. Miller and Ann J. Miller via deed dated March 3, 1992; and thence with a line of said Millers' property, South 58°24'55" East 2,709.24 feet to an iron pin found at the Southeasterly corner of said Millers' property; thence South 18°30'35" West 628.40 feet to an iron pin and stones set in a small drain; thence North 63°15'10" West 3,176.39 feet to an iron pin in the easterly margin of a 30-foot wide right-of-way; thence North 51°14'40" East 164.61 feet to an iron pin, set; thence North 46°41'45" East 164.50 feet to an iron pin, set; thence, North 55°01'30" East 488.81 feet to an iron pin, set; thence North 41°41'00" East 119.58 feet to the beginning, containing 50.00 acres, more or less.

Also conveyed is an easement for ingress, egress and regress in common with others with similar rights over the existing private roadway, 30.00 feet in width, referred to above and owned by Sky

Valley, Inc., from the above parcel and extending to King Wildesen Road.

Tract 25
File No. 03160091
B. & G. Family Limited Liability Limited Partnership

Parcel 1:

Containing 68.174 acres, more or less, on E. Shady Dell Road and being more particularly described in a Deed by and between James P. Poole and B & G Family limited Liability Limited Partnership, dated March 11, 1998, recorded in Liber 732, Page 594, Official Public Records, Garrett County, Maryland, and being more particularly described as follows:

Parcel 1A:

Beginning at an iron pin found at the Southeasterly corner of the Brenton Blythe, et al, property as described in Liber 491, Folio 798, one of the Land Records of Garrett County, Maryland, thence with Blythe's line, North 23 degrees 57' 30" West 911.37 feet to an iron pin set in the Easterly limits of a 30 foot roadway, thence leaving Blythe's line and with the said Easterly limit, North 40 degrees 30' 40" East, 185.36 feet to a point, thence North 28 degrees 53' 10" East, 168.70 feet to an iron pin, thence leaving said road, by a new division line, South 55 degrees 44' 10" East, 3192.11 feet to an iron pin with a Buffalo Coal Company marker cap, found, corner of the William Wildesen property as described in Liber 335, Folio 100, one of the said Land Records, thence with Wildesen's lines, North 89 degrees 21' 50" West 329.50 feet to an iron pin and marker found, thence South 18 degrees 46' 15" West, 1518.02 feet to an iron pin with marker cap, found, thence North 64 degrees 19' 15" West, 571.10 feet to an iron pin set in the center of a gas line; thence leaving Wildesen's lines and with said gas line, North 23 degrees 19' 40" West, 1676.35 feet to the beginning, containing 6.023 acres.

Parcel 1B:

Beginning at an iron pin found at the Northern corner of the Brenton W. Blythe, et al, property as described in Liber No. 491, Folio 798, one of the Land Records of Garrett County, Maryland, thence by a new division line, South 55 degrees 44' 10" East, 542.78 feet to an iron pin set in the Western limits of a 30 foot roadway being reserved by Sky Valley, Inc., thence with said Western limits, South 28 degrees 53' 10" West, 168.47 feet to a point, thence South 40 degrees 30' 40" West, 167.98 feet to an iron pin set at Blythe's Easterly corner, thence leaving the limits of the road and with Blythe's line, North 23 degrees 57' 30" West, 635.57 feet to the beginning, containing 2.151 acres.

Parcel 2

Containing 256.789 acres, more or less, on E. Shady Dell Road and being more particularly described in a Deed by and between Sky Valley, Inc. and B & G Family Limited Liability Limited Partnership dated January 22, 1998, recorded in Liber 729, Page 108, Official Public Records, Garrett County, Maryland, and being more particularly described as follows:

Parcel 2A:

Begin at an iron pin found at the Northeasterly corner of the James P. Poole property of record at Liber 539, Folio 788, one of the Land Records of Garrett County, Maryland, thence with the East boundary of Poole, north 55 degrees 44 minutes 05 seconds West, 1,697.12 feet to an iron pin found at the Southeasterly corner of the William A. Hamby, Jr., et al, property of record at Liber 574, Folio 356, thence with lines of same, North 38 degrees 18 minutes 11 seconds East, 1,490.88 feet to an iron pin found at Hamby's Northeasterly corner, thence further with Hamby, North 55 degrees 44 minutes 05 seconds West, 801.45 feet to an iron pin found in Hamby's line and in the Easterly margin of a thirty (30) foot wide right of way to the King Wildesen Road, thence leaving lines of Hamby and with said right of way margin, North 41 degrees 43 minutes 20 seconds East, 134.86 feet, thence North 31 degrees 41 minutes 23 seconds East, 165.85 feet,

thence North 37 degrees 52 minutes 06 seconds East, 64.52 feet, thence North 31 degrees 07 minutes 45 seconds East, 96.51 feet, thence North 35 degrees 34 minutes 52 seconds East, 87.87 feet, thence North 39 degrees 38 minutes 23 seconds East, 149.09 feet, thence North 47 degrees 14 minutes 12 seconds East, 131.92 feet, thence North 50 degrees 11 minutes 25 seconds East, 50.40 feet to an iron pin found at the Southwesterly corner of the William A. Kalwa, Jr. property of record at Liber 695, Folio 817, thence leaving said right of way margin and with Kalwa's southerly boundary, South 52 degrees 30 minutes 25 seconds East, 2,595.92 feet to an iron pin found at Kalwa's South corner, thence with other lands of Kalwa, of record at Liber 570, Folio 655, South 41 degrees 07 minutes 37 seconds West, 2,230.51 feet to the beginning, containing 107.080 acres, more or less.

Parcel 2B:

Begin at an iron pin found at the Southerly corner of the Grantor's lands, Northeasterly corner of the Paul Scoggan property of record at Liber 599, Folio 142, thence with Scoggan's North boundary North 57 degrees 13 minutes 44 seconds, West 2,048.73 feet to an iron pin found in stones at the Southeasterly corner of the Ruta Brenneman property of record at Liber 387, Folio 103 and Liber 190, Folio 455, thence with line of Brenneman, North 38 degrees 14 minutes 53 seconds East, 2,213.29 feet to an iron pin found at the West corner of the Robert Blythe, Jr. property of record at Liber 507, Folio 728, thence with lines of Blythe, South 23 degrees 54 minutes 59 seconds East, 1,579.49 feet to an iron pin found at Blythe's South corner, thence North 38 degrees 19 minutes 33 seconds East, 3,183.52 feet to an iron pin found at the East corner of the Brenton W. Blythe, Trustee, property of record at Liber 491, Folio 798, and in the right of way previously conveyed to Columbia Gas Transmission Corporation, thence with said right of way and the Westerly boundary of the James P. Poole property of record at Liber 539, Folio 788, South 23 degrees 19 minutes 38 seconds East, 1,676.35 feet to an iron pin found at Poole's Southwest corner, thence with lines of William H. and Thomas Wildesen of record at Liber 335, Folio 107, North 64 degrees 19 minutes 13 seconds West, 248.78 feet to an iron pin found at Wildensen's North corner, thence further with Wildesen and the aforesaid Paul Scoggan (599/142), South 47 degrees 58 minutes 39 seconds West, 2,446.73 feet to an iron pin found, thence South 46 degrees 45 minutes 33 seconds West, 1,213.50 feet to the beginning, containing 149.709 acres, more or less.

Parcel 3

Containing 50.0 acres, more or less, on E. Shady Dell Road and being more particularly described in a deed by and between Robert Blythe, Jr. and B & G Family Limited Liability Limited Partnership, dated January 9, 1999, recorded in Liber 761, Page 504, Official Public Records, Garrett County, Maryland, and being more particularly described as:

Parcel 3A:

Beginning at a 5/8 inch iron rod, set, marking a new division corner of the Sky Valley, Inc. lands (Liber 341, page 338), the first parcel, first tract, in the division line of the Franklin N. Knox lands (Liber 407, Page 164), said point standing North 37 degrees 04' 50" east 116.41 feet from a stone pile, found, marking the division corner of the Sky Valley, Inc. lands with the Knox lands; thence running with the division line of the Sky Valley, inc. lands and the Knox lands North 37 degrees 04' 50" East 1,592.55 feet to a 5/8 inch iron rod, set, marking the corrected corner of the Benton W. Blythe, et al, lands (Liber 491, page 798); thence running with the division line of the Sky Valley, Inc. lands and the Blythe lands South 25 degrees 10' 30" East, 630.18 feet to a 5/8 inch iron rod, set, in the northerly right of way limits of a private right of way, 30.0 feet in width; thence with said right of way limits the following thirteen courses and distances: South 47 degrees 49' 35" West 328.67 feet to a point; thence continuing South 42 degrees 33' 59" West 92.62 feet to a point; thence continuing South 35 degrees 04' 53" West 68.22 feet to a point; thence continuing South 16 degrees 48' 02" West 65.55 feet to a point; thence continuing South 50 degrees 05' 43" West, 54.47 feet to a point; thence continuing South 26 degrees 21' 42" West 74.23 feet to a point; thence continuing South 04 degrees 13' 11" West 81.30 feet to a point; thence continuing South 34 degrees 19' 34" West 77.47 feet to a point; thence continuing South 35 degrees 14' 31" West 142.89 feet to a point; thence continuing South 28 degrees 39' 06"

West 156.30 feet to a point; thence continuing South 34 degrees 30' 15" West 225.63 feet to a point; thence continuing South 16 degrees 16' 30" West 66.51 feet to a point; thence continuing South 37 degrees 04' 51" West 225.61 feet to a 5/8 inch iron rod, set, marking a new division corner of the Sky Valley, Inc. lands; thence with the new division line of the Sky Valley, Inc. lands North 25 degrees 10' 30" West 704.31 feet to the beginning, containing 20.34 acres, more or less.

Parcel 3B:

Beginning at a 5/8 inch iron rod, set, marking a new division corner of the Sky Valley, Inc. lands (Liber 341, page 338), the first parcel, first tract, said point standing North 25 degrees 10' 30" West 1,580.70 feet; thence North 37 degrees 04' 50" East 116.41 feet from a stone pile, found, marking the division corner of the Sky Valley, Inc. lands with the Franklin N. Knox lands (Liber 407, Page 164); thence leaving said point of beginning and running with the new division line of the Sky Valley, Inc. lands North 25 degrees 10' 30" West 842.50 feet to a 5/8 inch iron rod, set, in the Southerly right of way limits of a private right of way, 30.0 feet in width; thence running with said right of way limits the following thirteen courses and distances; North 37 degrees 04' 51" East, 246.90 feet to a point; thence continuing North 16 degrees 16' 30" East 67.20 feet to a point; thence continuing North 34 degrees 30' 15" East 222.35 feet to a point; thence continuing North 28 degrees 39' 06" East, 156.11 feet to a point; thence continuing North 35 degrees 14' 31" East, 141.40 feet to a point; thence continuing North 34 degrees 19' 34" East 85.78 feet to a point; thence continuing North 04 degrees 13' 11" East 83.50 feet to a point; thence continuing North 26 degrees 21' 42" East 62.06 feet to a point; thence continuing North 50 degrees 05' 43" East 57.14 feet to a point; thence continuing North 16 degrees 48' 02" East 69.69 feet to a point; thence continuing North 35 degrees 04' 53" East 61.43 feet to a point; thence continuing North 42 degrees 33' 59" East 89.28 feet to a point; thence continuing North 47 degrees 49' 35" East 318.13 feet to a 5/8 inch iron rod, set; thence leaving said right of way limits and running with the division line of the Brenton W. Blythe, et al, lands (Liber 491, page 798) South 25 degrees 10' 30" East 919.15 feet to a 5/8 inch iron rod, set, marking the corrected corner of the Blythe lands; thence running with the new division line of the Sky Valley, Inc. lands South 37 degrees 04' 50" West 1,592.55 feet to the beginning, containing 29.66 acres, more or less.

Also conveying an easement for ingress, egress and regress to the subject property over a strip of land 30 feet in width leading from the northeasterly corner of the subject property to an existing roadway 30 feet in width as depicted on the attached plat to an existing road, and thence over a strip of land 30 feet in width to the King Wildesen Road, said strip of land being described in a deed to Sky Valley, Inc., from Lewis R. Jones, et ux, dated August 8, 1973 and recorded in Liber No. 341, Folio 338, one of the land records of Garrett County, Maryland.

Also conveying an easement 30 feet in width for ingress, egress and regress to the subject property, the same lying between Parcel 1 and Parcel 2 as shown on the attached plat and leading to the King Wildesen Road.

Being a part of the same property as was conveyed by Lewis R. Jones and Mary V. Jones, his wife, to Sky Valley, Inc., by deed dated August 8, 1973, and recorded in Liber No. 341, Folio 338, one of the land records of Garrett County, Maryland.

Tract 26
File No. 03160089
Mountain View Homes, LLC

All that certain lots or parcel of real estate known Lots "A" and "C", as laid down on a map of Mountain View Homes, LLC, of record in Plat Case DKM 1 / Page 259, one of the land records of Garrett County, Maryland, and also being a part of Parcel 135, as shown on Tax Map number 91, situated along or near the top of Backbone Mountain, in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Beginning at a ½-inch capped iron rod (found) in the southern line of a 30-foot right of way, of the conveyance of lands now or formerly owned by B & G Family Limited Liability Limited

Form No. 1402.06
ALTA Owner's Policy (6-17-06)

Policy Page 42
Policy Number: 424806

Partnership, of record in Liber 729, at Folio 108 among the aforesaid land records, standing as the northwestern corner in the conveyance of lands to now or former Anita M. Michael and Nelda E. Fink, of record in Liber 972, at Folio 163 among the aforesaid land records and as a southwest corner to Lot "C" herein mentioned above; thence leaving said Michael and Fink and with the southern line of said right of way, along the line of said B & G Family Limited Liability Limited Partnership and Lot "C"

N 37° 15' 17" E 111.42 feet to a ½-inch iron rod (found); thence

N 20° 28' 46" E 77.30 feet to a point; thence

N 09° 12' 11" E 133.03 feet to a point; thence

N 07° 09' 31" E 122.76 feet to a point; thence

N 16° 09' 06" E 74.13 feet to a point; thence

N 29° 29' 36" E 72.28 feet to a point, standing as the southwest corner of Lot "A" herein mention above and as the northwest corner to said lot "C"; thence leaving said Lot "C" and with said Lot "A", continuing with the southern line of said right of way, along the lines of said B & G Family Limited Liability Limited Partnership

N 29° 29' 36" E 55.37 feet to a point; thence

N 39° 44' 32" E 536.33 feet to a point, standing as the southwest corner in the conveyance of land to now or former John and Gwen Bailiff and recorded in Liber 574, at Folio 364 among the aforesaid land records; thence leaving said B & G Family Limited Liability Limited Partnership and 30-foot right of way and with said John and Gwen Bailiff and continuing with said Lot "A"

S 82° 18' 25" E 1433.56 feet to a point, standing as the northwest corner to Lot "B" of said Mountain View Homes, LLC and as the northeast corner to said Lot "A"; thence leaving said John and Gwen Bailiff and with said Lots "A" and "B"

S 22° 44' 30" W 935.41 feet to a ½-inch capped iron rod (found), standing as the northwest corner to Lot "D" of said Mountain View Homes, LLC, the northeast corner to said Lot "C", the southeast corner to Lot "A" and the southwest corner to said Lot "B"; thence leaving said Lots "A" and "B" and with Lots "C" and "D"

S 22° 40' 00" W 857.41 feet to a 1/2-inch capped iron rod (found), standing in the line in the of said Anita M. Michael and Nelda E. Fink and as the southwest corner to said Lot "D" and the southeast corner to said Lot "C"; thence leaving said Lot "D" and with said Anita M. Michael and Nelda E. Fink and Lot "C"

N 56° 56' 52" W 1534.36 feet to the place of beginning, containing 49.96 acres, more or less, as surveyed in January, 2008 by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being all Lots "A" and "C" of Mountain View Homes, LLC. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being a part of the land described in the conveyance from Ralph C. Miller, Sr., and Ann J. Miller, Trustees of the Miller Living Trust, dated March 05, 2003, unto Mountain View Homes, LLC, dated the 1st day of October, 2005, and recorded in Liber 1162, at Folio 156, one of the Land Records of Garrett County, Maryland.

Tract 27
File No. 86-63
Susan Carrington Godwin

First American Title Insurance Company

Form No. 1402.06
ALTA Owner's Policy (6-17-06)

Policy Page 43
Policy Number: 424806

All that certain tract or parcel of real estate known as Parcel 63, as shown on Tax Map number 86, situated along or near the top of Backbone Mountain, situate in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Beginning at a point in the southern right of way line of Maryland State Route 560 (Gorman Road), standing in the first line in the conveyance from Florence T. Carrington unto Florence T. Carrington, Susan Carrington Godwin and Jerry H. Godwin, recorded July 18, 1997 and recorded in Liber 713, at Folio 301, one of the land records of Garrett County, Maryland, and in the tenth line of land now or formerly owned by Linda Lee Anderson and Kristie Lee Davis, as described in Liber 991, Folio 432 among the aforesaid land records; thence leaving said Linda Lee Anderson and Kristie Lee Davis and with the outline of said Florence T. Carrington, et al, along the southerly right of way line of said Maryland State Route 560 for thirty-three lines

S 46° 31' 49" W 63.14 feet to a point; thence

S 32° 31' 23" W 100.18 feet to a point; thence

S 37° 29' 03" W 75.03 feet to a point; thence

S 46° 42' 53" W 101.79 feet to a point; thence

S 36° 31' 47" W 100.00 feet to a point; thence

S 52° 07' 44" W 104.12 feet to a point; thence

S 32° 10' 05" W 30.27 feet to a point; thence

S 24° 32' 40" W 75.59 feet to a point; thence

S 29° 41' 26" W 53.10 feet to a point; thence

S 00° 54' 17" E 60.91 feet to a point; thence

S 44° 34' 06" W 54.55 feet to a point; thence

S 07° 17' 29" W 54.83 feet to a point; thence

S 29° 44' 30" W 52.48 feet to a point; thence

S 10° 44' 08" W 50.79 feet to a point; thence

S 28° 55' 58" W 100.72 feet to a point; thence

S 12° 59' 59" W 101.27 feet to a point; thence

S 22° 45' 51" W 85.01 feet to a point; thence

S 51° 01' 56" W 47.53 feet to a point; thence

S 20° 31' 02" W 81.80 feet to a point; thence

S 09° 10' 09" W 55.78 feet to a point; thence

S 18° 15' 39" E 60.31 feet to a point; thence

S 06° 20' 03" E 53.55 feet to a point; thence with a non-tangent curve to the left, having a radius of 602.96 feet

Southerly 133.75 feet along said curve through an angle of 12° 42' 34" to a point, said curve

First American Title Insurance Company

having a chord bearing and distance of S 06° 36' 19" E 133.47 feet; thence

S 11° 45' 51" E 47.92 feet to a point; thence

S 14° 23' 31" E 40.01 feet to a point; thence

S 11° 19' 24" E 35.01 feet to a point; thence

S 10° 40' 09" E 25.02 feet to a point; thence

S 09° 08' 45" E 75.17 feet to a point; thence

S 12° 57' 36" E 75.00 feet to a point; thence

S 16° 23' 37" E 50.09 feet to a point; thence

S 17° 07' 10" E 55.15 feet to a point; thence

S 08° 50' 29" W 53.85 feet to a point; thence

S 17° 51' 32" E 26.86 feet to a point in the fourteenth line of land now or formerly owned by Kenneth R. Steyer as described in Liber 1191, Folio 293 and Todd E. and Terrence E. Steyer, as described in Liber 1191, Folio 297 among the aforesaid land records; thence leaving the southern right of way line of said Maryland State Route 560 and with said Kenneth R. Steyer, et al for two lines, continuing with the outline of said Florence T. Carrington, et al

S 65° 51' 13" W 788.21 feet to a stonepile (found); thence

S 46° 02' 30" W 1098.57 feet to a point in the fourth line of land now or formerly owned by Garrett County Sanitary District, as described in Liber 515, Folio 50 among the aforesaid land records and standing at the end of the twelfth line of said Kenneth R. Steyer, et al; thence leaving said Kenneth R. Steyer, et al and with said Garrett County Sanitary District for two lines, continuing with the outline of said Florence T. Carrington, et al

N 21° 37' 39" E 886.67 feet to a ½-inch iron rod (found); thence

N 64° 13' 17" W 474.77 feet to a stonepile (found) at the end of the first line of other land now or formerly owned by said Garrett County Sanitary District, as describe in Liber 415, Folio 770 among the aforesaid land records and standing in the third line of said Garrett County Sanitary District; thence leaving said third line and with other lands of said Garrett County Sanitary District for eleven lines, continuing with the outline of said Florence T. Carrington, et al

N 67° 34' 26" E 328.21 feet to a 5/8-inch iron rod (found); thence

N 61° 16' 00" E 131.66 feet to a point; thence

N 53° 01' 00" E 263.32 feet to a 5/8-inch iron rod (found); thence

N 38° 11' 50" E 168.65 feet to a 5/8-inch iron rod (found); thence

N 21° 46' 29" E 342.17 feet to a 5/8-inch iron rod (found); thence

N 09° 40' 14" E 226.72 feet to a 5/8-inch iron rod (found); thence

N 57° 04' 09" W 111.62 feet to a 5/8-inch iron rod (found); thence

N 80° 42' 36" W 107.65 feet to a 5/8-inch iron rod (found); thence

N 33° 37' 44" W 335.14 feet to a 5/8-inch iron rod (found); thence

N 74° 49' 23" W 204.22 feet to a 5/8-inch iron rod (found); thence

N 23° 47' 02" E 156.43 feet to a 5/8-inch iron rod (found) at the end of the sixteenth line of land of said Linda Lee Anderson and Kristie Lee Davis; thence leaving said Garrett County Sanitary District and with said Linda Lee Anderson and Kristie Lee Davis for six lines, continuing with the outline of said Florence T. Carrington, et al

S 48° 25' 44" E 116.86 feet to a 1-inch iron pipe (found); thence

N 63° 32' 02" E 531.33 feet to a point; thence

N 69° 14' 31" E 566.16 feet to a point; thence

N 73° 30' 31" E 358.34 feet to a point; thence

N 60° 18' 31" E 202.11 feet to a point; thence

S 50° 54' 20" E 236.24 feet to the place of beginning, containing 54.61 acres, more or less, as surveyed from January, 2003 to September, 2009, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat of ALTA/ACSM Land Title Survey for Criterion Power Partners, LLC, Criterion 70 Megawatt Project, being the lands of Florence T. Carrington, Susan Carrington Godwin and Jerry H. Godwin,. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being the land described as Parcel No. 1 in the conveyance from Florence T. Carrington unto Florence T. Carrington, Susan Carrington Godwin and Jerry H. Godwin, recorded the 18th day of July, 1997, and recorded in Liber 713, at Folio 301, one of the Land Records of Garrett County, Maryland.

Tract 28

Intentionally Deleted

Tract 29

Intentionally Deleted

Tract 30

Intentionally Deleted

Tract 31

Intentionally Deleted

Tract 32
File No. 03005547
Paul R. Roderick Jr. and Janet L. Roderick, husband and wife

Begin at an iron pin found at the southwesterly corner of the Paul R. and Janet L. Roderick property of record at Liber 543, folio 777, one of the Garrett County, Maryland records. Thence with Rodericks' southerly line, South 60 degrees 45' 10" East, 1,582.31 feet to an iron pin found at Rodericks' southeasterly corner in the west limits of a 30-foot wide roadway reserved by the Grantors, thence leaving Rodericks' lines and with the west margin of said roadway the following 25 courses, South 38 degrees 15' 55" West, 519.24 feet, thence South 28 degrees 00' 55" West, 133.85 feet, thence South 14 degrees 40' 25" West, 80.00 feet, thence South 5 degrees 40' 50" West, 124.58 feet, thence South 7 degrees 43 ' 30" West, 129.53 feet, thence South 19 degrees 00' 05" West, 69.92 feet, thence South 35 degrees 45' 25" West, 105.36 feet, thence South 41

degrees 41' 00" West, 114.52 feet, thence South 55 degrees 01' 30" West, 487.49 feet, thence South 46 degrees 41' 45" West, 165.49 feet, thence South 51 degrees 14' 40" West, 214.69 feet, thence South 46 degrees 19' 10" West, 261.46 feet, thence South 50 degrees 09'40" West, 161.09 feet, thence South 41 degrees 15' 40" West, 325.58 feet, thence South 40 degrees 25' 35" West, 148.55 feet, thence South 47 degrees 15' 15" West, 130.47 feet, thence South 56 55' 30" West, 122.68 feet, thence South 30 degrees 11' 25" West, 172.35 feet, thence South 47 degrees 14' 10" West, 134.68 feet, thence South 39 degrees 38' 25" West, 152.14 feet, thence South 35 degrees 34'50" West, 90.10 feet, thence South 31 degrees 07' 45" West, 95.91 feet, thence South 37 degrees 52' 05" West, 64.37 feet, thence South 31 degrees 41' 25" West, 164.84 feet, thence South 41 degrees 43' 20" West, 136.16 feet to an iron pin found at the northeasterly corner of 20.547 acre parcel recently conveyed to William Triggs et, al., thence leaving said roadway and with Trigg's line, North 55 degrees 44' 05" West, 663.29 feet to an iron pin at Trigg's northwesterly corner, thence with lands of Franklin Knox (107-035 and 407-164), North 38 degrees 18' 10" East, 636.11 feet to an iron pin found in a stone pile, thence North 46 degrees 42' 45" East, 326.26 feet to an iron pin found at the southeasterly corner of Elmer H. Upole lands, (172-520) thence with Upole, North 23 degrees 24' 50" East, 2,574.54 feet to an iron pin found at the southwesterly corner of the Paul R. Roderick property (525-071) and thence with same North 56 degrees 01' 20" East, 591.72 feet to the beginning, containing 133.514 acres.

Conveying Also an easement for ingress, egress and regress in common with others with similar rights over the existing private roadway, 30.0 feet in width, referred to above from the above parcel and extending to the King Wildesen Road.

Tract 33
File No. 03160092/03005537
William Robert Triggs, Jr. and William Howard Hamby, Jr.

Parcel 1

Begin at an iron pin found on the west side of a 30 foot wide right of way at the southeasterly corner of James P. Poole's 2.151 acre parcel as recorded at Liber 539, Folio 788, one of the Garrett County, Maryland Land Records, thence with Poole's northeasterly line North 55 degrees 44' 05" West, 542.76 feet to an iron pin found at Poole's northwesterly corner, thence with lands of Franklin Knox, et al (107-035, 407-164) North 38 degrees 18' 10" East, 1490.88 feet to a stone pile set thence through lands of Sky Valley, Inc., South 55 degrees 44' 05" East, 663.29 feet to an iron pin set in the west limits of a 30 foot wide right of way, thence with same, South 41 degrees 43' 20" West, 66.50 feet, thence South 32 degrees 22' 05" West, 84.98 feet, thence South 47 degrees 36' 50" West, 245.25 feet, thence South 39 degrees 24' 05" West, 96.76 feet, thence South 45 degrees 02' 55" West, 99.06 feet, thence South 38 degrees 49' 50" West, 245.12 feet, thence South 50 degrees 33' 00" West, 180.56 feet, thence South 45 degrees 38' 30" West, 273.39 feet, thence South 39 degrees 24' 20" West, 144.49 feet, thence South 33 degrees 22' 00" West, 74.42 feet to the beginning, containing 20.547 acres, more or less.

Parcel 2:

Begin at an iron pin found in the east limits of a 30 foot wide right of way at the northwesterly corner of the James P. Poole 66.023 acre tract recorded at Liber 539, folio 788, one of the Land Records of Garrett County, Maryland. Thence with said right of way, North 33 degrees 49' 05" East, 73.08 feet, thence North 39 degrees 24' 20" East, 141.51 feet, thence North 45 degrees 38' 30" East, 270.47 feet, thence North 50 degrees 33' 00" East, 182.36 feet, thence North 38 degrees 49' 50: East, 246.56 feet, thence North 45 degrees 02' 55" East, 98.91 feet, thence North 39 degrees 24' 05" East, 96.08 feet, thence North 47 degrees 36' 50" East; 247.11 feet, thence North 32 degrees 22' 05" East, 86.54 feet, thence North 41 degrees 43' 20" East, 67.98 feet to an iron pin set, thence leaving said right of way limits, through lands of Sky Valley, Inc., South 55 degrees 44' 05" East, 801.45 feet to an iron pin set, thence South 38 degrees 18' 10" West, 1490.88 feet to a P.K. nail set in a double maple tree in Poole's northeasterly line, thence with same, North 55 degrees 44' 05" West, 917.97 feet to the beginning, containing 29.453 acres, more or less.

Conveying Also and easement for ingress, egress and regress over the existing private roadway, 30.0 feet in width, running between the above two parcels and extending to the King Wildesen Road.

Together with Permits

Permit No. 1

Garrett County Right of Way along Bethlehem Road, Eagle Rock Road, and Boiling Springs Road.

Permit No. 2

Maryland State Highway Administration's Right of Way area at MD Route 560 near King Wildeson Road.

GOOD NEIGHBOR EASEMENTS:

Tract 34:

All that property situate in Garrett County, Maryland, assessed as containing 150 acres, more or less, conveyed in a Deed dated January 8, 1982 and recorded among the Land Records of Garrett County, Maryland, in Liber 422, folio 769 from Arborvale, Inc., Wood Products, Inc., Ronald B Stemple and Patricia Stemple, which description is expressly incorporated herein.

Tract 35:

All that parcel of land situated in the Election District No. 16, Garrett County, Maryland containing 58 acres, more or less, designated parcel 2 on the Plat of Survey for Dorothy Frazee dated December 12, 2005 and recorded in Plat Case DKM 1, page 285 and also referenced in Liber 1188, page 479 of the recorded of Garrett County, Maryland.

LEGAL DESCRIPTION OF THE EASEMENT ENCUMBERING PROPERTY OF JIMMY D. AND ANNA MAY FISHER

All that certain tract or parcel of real estate known as part of Parcel 27 as shown on Tax Map number 86, situated along or near the top of Backbone Mountain, in Election District 16, Garrett County, Maryland, and more particularly described as follows:

Beginning at a point in the easterly right of way line of Maryland State Route 560 (Gorman Road) Maryland State Road Commission Plat Number 2205 and 2206, standing at the beginning of the second line in the conveyance from Florence T. Carrington, Susan Carrington Godwin and Jerry H. Godwin unto Jimmy D. and Anna May Fisher, dated February 23, 1999 and recorded in Liber 766, at Folio 202, one of the land record of Garrett County, Maryland and as a corner of lands now or formerly owned by Steven Larry and Janet Eileen Tichnell as described in Liber 666, Folio 171 among the aforesaid land records; thence leaving said Tichnell with the outline of said Fisher for one line, following the easterly right of way line of Maryland State Route 560

N 12° 57' 36" W 12.68 feet to a point; thence leaving the outline of said Fisher and the easterly right of way line of Maryland State Route 560 and with a line through said Fisher

S 88° 58' 55" E 24.16 feet to a point, standing in the first line in the conveyance unto said Fisher and in the outline of said Tichnell, said point bears S 60° 45' 14" W 2.64 feet from a point, standing at the beginning of the first line in the conveyance unto said Fisher and as a corner to said Tichnell; thence with the outline of said Fisher and Tichnell

S 60° 45' 14" W 24.42 feet to the place of beginning**, containing 149 square feet,** more or less, as surveyed in August, 2010, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat entitled "Exhibit of Easement Surveyed for Jimmy D. and Anna May Fisher, attached hereto as Exhibit A-1 and made part of this description. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being a part of the land described in the conveyance from Florence T. Carrington, Susan Carrington Godwin and Jerry H. Godwin unto Jimmy D. and Anna May Fisher, dated February 23, 1999 and recorded in Liber 766, at Folio 202, one of the land records of Garrett County, Maryland.

LEGAL DESCRIPTION OF EASEMENT ENCUMBERING PROPERTY OF CLIPPER WINDPOWER, INC

All that certain tract or parcel of real estate known as part of Parcel 93 as shown on Tax Map Number 86, situated along or near the top of Backbone Mountain, in Election District 16, Garrett County, Maryland, and more particularly described as follows and shown on map attached as Exhibit A-2:

Beginning at a point in the westerly right of way line of King Wildesen Road, standing in the 1st line in the conveyance from Sky Valley, Inc., unto Hoye Paul and Mary Ellen Rodeheaver, dated June 24, 1987 and recorded in Liber 496, at Folio 707, of the lands records of Garrett County, Maryland, said point bears S 42° 19' 11" W 77.41 feet from a 5/8-inch iron rod (found), standing at the beginning of the first line of said Rodeheaver and in the 4th line of land now or formerly owned by Clarence S. and Jessie E. Beckman, as described in Liber 282, Folio 148 among the aforesaid land records; thence with said King Wildesen Road and the outline of said Rodeheaver S 42° 19' 11" W 71.04 feet to a point in the northerly line of an existing 30-foot right of way, now owned by B & G Family Limited Liability Limited Partnership, as described in Liber 729, Folio 108 among the aforesaid land records and at the end of the 1st line of said Rodeheaver; thence leaving said King Wildesen Road and with said B & G Family Trust, continuing with the outline of said Rodeheaver, following the northern line of said 30-feet right of way S 83° 35' 31" W 93.16 feet to a point; thence leaving said B & G Family Trust, 30-foot right of way and the outline of said Rodeheaver and with three lines through the same N 70° 44' 01" E 88.09 feet to a point; thence with a tangent curve to the left, having a radius of 138.00 feet. Northeasterly 66.39 feet along said curve through an angle of 27° 33' 55" to a point, said curve having a chord bearing and distance of N 56° 57' 00" E 65.75 feet; thence S 46° 49' 58" E 2.93 feet to the place of beginning, containing 1,526 square feet, more or less, as surveyed in January, 2010, by Triad Engineering, Inc., of Morgantown, West Virginia, and shown on a plat entitled "Plat of Exhibit for Grant of Road and Easement Agreement, dated the 2nd day of February, 2010 attached hereto and made part of this description. The meridian for all bearings in this description are based on "Grid North" of the NAD83/91 Maryland State Plane Coordinate System.

Being a part of the land described in the conveyance from Sky Valley, Inc., a corporation, unto Hoye Paul Rodeheaver and Mary Ellen Rodeheaver, his wife, dated the 24th day of June, 1987 and recorded in Liber 496, at Folio 707, one of the Land Records of Garrett County, Maryland.

APPENDIX C

HIBERNACULA MANAGEMENT PLAN OUTLINE

HIBERNACULA MANAGEMENT PLAN

_____ Cave

_____ County, _____

Prepared for:

Criterion Power Partners
Criterion Wind Project Habitat Conservation Plan

Prepared by:

WEST, Inc.
2003 Central Ave
Cheyenne, Wyoming 82001

October, 2011

DRAFT - October 17, 2011

Pre-decisional Draft Document
Privileged and Confidential
Not for Distribution

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APPENDIX D

MONITORING PLAN

Criterion Wind Project
Monitoring Study Plan

MONITORING STUDY PROTOCOL

The following monitoring study protocol is similar to those methods recommended for wind-energy facility monitoring (*e.g.*, WTGFAC 2010, USFWS 2012) and protocols used at wind-energy facilities in the region and throughout the U.S. (Erickson *et al.* 2000; Johnson *et al.* 2000; FPL *et al.* 2001; Erickson *et al.* 2003a, 2003b; Young *et al.* 2003; Kerns and Kerlinger 2004; Arnett *et al.* 2005; Jain *et al.* 2007; Young *et al.* 2009, 2010; Arnett *et al.* 2009, 2010). While the focus of the HCP monitoring plan is to evaluate potential take of Indiana bats and determine the effectiveness of minimization measures, monitoring conducted under this plan will also provide information on impacts for other bat species, and birds including eagles and migratory birds.

CPP has conducted three years of post-construction monitoring, using methods recommended for wind-energy facilities (e.g. WTGAC 2010, USFWS 2012), during the first three years of full project operations (2011-2013). The monitoring occurred during the period April 1 through November 15 which is the period when bats could potentially be active in the project. The goal of the first year of monitoring was to estimate mortality rates of bats and birds including an estimate of Indiana bat mortality, demonstrate compliance with the estimated take, and establish baseline fatalities rates by which the effectiveness of the HCP turbine operations plan can be evaluated. The goal of the second and third year of monitoring was to estimate mortality rates of bats (and birds) and demonstrate the effectiveness of the proposed minimization measures (turbine operational constraints) of this conservation plan. While several studies and monitoring reports have documented the reduction in overall bat mortality with turbine curtailment at low wind speeds (Arnett et al. 2011, Baerwald et al 2009, Young et al 2011), comparison of year 1 results to those in years 2 and 3 will provide an estimate of bat mortality reduction from curtailment at the Project, and thus demonstrate the effectiveness of the minimization measures. The monitoring reports for the Project include a comparison of the effectiveness of the turbine operation changes in reducing bat (and bird) mortality.

Monitoring Objectives

The CPP HCP includes measures to minimize impacts to bats through changes in the operations of the turbines. Specifically the turbine blades will be pitched so that the turbine rotation is minimized in winds under 5.0 m/s during the night time period from July 15 to October 15 each year. The intent of this measure is to slow down the turbine blade rotation to approximately 1 rpm or less during low wind speed nights so that risk of collision for bats is minimized.

The following monitoring study protocol is designed to determine compliance with the ITP and effectiveness of the minimization measures at the Project to reduce impacts to bats. The overall predicted impact to Indiana bats is low and the ability to actually measure Indiana bat mortality associated with the project is difficult. However, measures that are intended to reduce impacts to

all bats are believed to also be effective at reducing impacts to Indiana bats. Available information suggests that curtailing turbine rotation under wind speeds of 5.0 m/s will achieve at least a 50% reduction in bat mortality. A reduction of all bat mortality is assumed to have a reduction in Indiana bat mortality by 50% as well, thus reducing Indiana bat mortality to less than one per year on average. Because measuring the rare event of an Indiana bat take is difficult, a reduction in all bat mortality against the baseline conditions (measured in year 2011) of at least 50% during the fall curtailment period will insure that the project is in compliance with the ITP[1].

Permits

Federal and state collecting/salvaging permits will be acquired prior to commencement of the study to enable field technicians to collect and handle carcasses in compliance with laws pertaining to the possession of wildlife and migratory birds.

Casualty handling

Collection of any federal or state endangered, threatened, or protected species found during the monitoring study will be coordinated with the USFWS and MDNR Natural Heritage Program. Criterion will notify the USFWS and MDNR within 24 hours of positive identification of any endangered or threatened species injury or fatality. All federally-listed endangered or threatened species carcasses or eagle carcasses will be transferred to the USFWS. State-listed species carcasses will be transferred to MDNR or their designee. A chain of custody memo indicating the date, carcass identity, and signatures of personnel responsible for the transfer of any wildlife carcasses, including threatened and endangered species and eagles, will accompany the carcasses at the time of the transfer. A copy of the chain of custody memo will be maintained in the project file.

All carcasses found, regardless of species, will be recorded and a cause of death determined, if possible, based on field inspection of the carcass. All carcasses found will be photographed to show field conditions and how the carcass appeared at first detection and to show diagnostic characteristics used for species identification. Any carcass requiring additional study for identification (e.g., feather spot, bat wing) will be labeled with a unique identification number, bagged, and retained for future reference. All non-Indiana bat *Myotis* bats will be collected and held by CPP until USFWS determines the carcasses are no longer needed for inspection and identification verification. Carcasses will be disposed of as directed by the permits; however, it

[1] Currently, the state of the science regarding turbine curtailment studies has shown this measure to be highly effective at reducing all bat mortality. Generally, however, bat mortality at wind projects is composed primarily of migratory tree bats. The ability to distinguish the effectiveness of turbine curtailment measures on other species of bats, which comprise much less of the overall bat mortality, is difficult. It is however, a valid assumption that turbine curtailment is beneficial to all bat species because the act of controlling the rotation of turbine rotors in low wind speeds reduces risk posed by turbine blades by minimizing their speed. Under this assumption it is valid to use all bat mortality as a surrogate measure of the effectiveness of the proposed turbine operational curtailment (the minimization measures) in reducing potential mortality of Indiana bat and little brown bats (which served as the surrogate species in the Indiana bat take calculations for this project), and therefore, compliance with the ITP through achieving a 50% reduction in bat mortality during the fall curtailment period.

will be requested via permit that carcasses suitable for additional use in the study (e.g., searcher efficiency or carcass removal trials) will be used in the study and those not suitable will be disposed of by burial.

Migratory birds will be disposed of at the direction of the USFWS according to permit conditions; non-protected or state-managed bird (e.g., European starling, upland game birds) carcasses will be disposed of according to permit conditions. All intact bat carcasses will be saved or frozen for potential use in the study or in studies independent of this monitoring program related to bat population sizes on a national level. Bat carcasses will be disposed of according to permit conditions if they are not used in the study or for other research.

Any injured bird or bat found during the study will be treated as a casualty for the purposes of the data analysis and reporting, however, injured wildlife will be evaluated for potential rehabilitation. A qualified wildlife rehabilitation facility for injured birds and bats will be determined by CPP. All injured wildlife collected during the study will be transferred and released to the designated facility along with any pertinent information to facilitate rehabilitation.

Incidental finds

Wind-energy facility casualties (fatalities or injured wildlife) may potentially be found by Project personnel or others not conducting the formal searches. These casualties found in non-search areas or during periods outside of the standardized carcass searches will be treated as incidental finds. When non-study personnel discover a casualty, a digital photograph will be taken (if possible), the casualty will be marked in the field, and a study biologist will be notified to identify and record the casualty. Any incidental discovery found within search plots, but not during scheduled searches, will be included in the estimate of mortality as if it would have been found during the next scheduled search. Incidental discoveries made outside search areas will be recorded in the overall data set, but not included in the statistical analysis of overall mortality. Carcass handling, collection, and storage procedures as described above will be followed for incidental finds.

STUDY DESIGN

The monitoring study contains three primary field components: (1) standardized carcass searches, (2) searcher efficiency trials, and (3) carcass removal trials. The number of bird and bat fatalities attributable to collision with the wind turbines will be estimated based on the number of fatalities found in search plots around turbines, whose death appears related to these structures, and adjustments for removal bias (e.g., scavenging), searcher efficiency bias, and casualty distribution. Carcasses where the cause of death is not apparent will also be included in the fatality estimate.

The monitoring will include weekly searches of 14 turbines (50%) from April 1 to November 15 (Table 1). A sampling approach is widely recommended for monitoring studies at wind projects (PGC 2007, NYSDEC 2009, USFWS 2012). This level of effort will provide data sufficient to assess all bat mortality for comparison across all years of monitoring. In addition, an evaluation

will be made each monitoring year utilizing all previous monitoring study results to ensure that the study design for that monitoring year is sufficient to meet the objectives.

Table 1. Criterion Wind Project ITP monitoring program**.**

Monitoring Type	Objective	Season	Frequency
On-site Monitoring	Assess take of Indiana bats		
2011	Assess take of Indiana bats and determine total bat mortality and seasonality of bat fatalities.	April 1 - Nov 15, 2011	Daily searches of all 28 turbines
2012 and 2013	Assess take of Indiana bats and total bat mortality with curtailment plan	April 1 – Nov 15, 2012 and 2013	Weekly surveys of 14 turbines
Incidental Monitoring of Bird and Bat Casualties	To amplify the monitoring and provide a more complete assessment of project related casualties.	All year	Coincident with routine operations and maintenance activities
Follow-up Monitoring (2018, 2023, 2028)	To insure that total bat mortality with curtailment has not increased and remains within expected levels	April 1 – Nov 15 2018, 2023, 2028	Weekly surveys of 14 turbines, unless new information suggests a better approach.
Adaptive Management Monitoring	If the monitoring or the Follow-up Monitoring ever suggests that take of Indiana bats is occurring at a rate that might result in exceeding the ITP limit, CPP will implement additional operational changes to reduce that rate and then implement an additional year of monitoring to demonstrate effectiveness of the additional measures.	To be determined based on previous information. But April 1 – Nov 15 is the expected study period.	To be determined, but this monitoring is expected to be more intensive than the follow-up monitoring described above.

Follow-up Monitoring

In addition to and following the first three year period, CPP will also conduct monitoring studies at five-year increments, years 2018, 2023, and 2028, for the life of the ITP (Table 1). The purpose of these additional monitoring studies will be compliance monitoring for the ITP. The objectives of these compliance monitoring studies will be to measure all bat mortality and compare to the first three years of monitoring to determine if impacts from the project have changed significantly.

The level of effort for the compliance monitoring in years 2018, 2023, and 2028 will be sufficient to estimate mortality of all bats and allow comparison back to the initial monitoring in years 1-3 of project operations. Based on current information, CPP anticipates that the monitoring in these years will involve weekly surveys at a minimum of one-half of the turbines (14) and will be conducted between April 1 and November 15. If new information becomes available to suggest otherwise, improved ways of assessing Indiana bat mortality directly or better ways of assessing bat mortality as a surrogate measure for Indiana bat mortality, CPP will implement those methods in consultation with the USFWS and MDNR. The final study design for the additional compliance monitoring studies will be determined in consultation with the USFWS and based on results of the initial monitoring years and the most current information related to study of wind turbine and wildlife interactions at the time.

FIELD METHODS

Timing and Duration

Monitoring will occur from April 1 to November 15, roughly corresponding to the spring (April 1 - June 15), summer (June 16 - August 15), and fall (August 16 - November 15) seasons. These periods include the peak of spring raptor and songbird migration (April-May), the peak of spring bat dispersal (April-May), and fall bat (August-September) and bird (September-October) migration periods. In addition, the summer months of June through July are included, when resident birds and bats will be active. The sample of turbines (50%) selected for the monitoring will be searched weekly for the entire study period.

Selection and Delineation of Search Plots

Results from post-construction fatality studies at other wind-energy facilities have shown that bat casualties tend to fall closer to the turbine than bird casualties (*e.g.*, Arnett *et al.* 2005; Arnett *et al.* 2008; Young *et al.* 2009, 2011). Young *et al.* (2011) found approximately 80% of bird and 91% of bat fatalities within 40 m (~130 ft) of the turbines; while studies at Mountaineer, WV found that most fatalities fell within 30 m (~98 ft) of the turbine (Kerns and Kerlinger 2004). During the first year of monitoring at the site approximately 85% of bird carcass and 89% of bat carcasses fell within 40 m of the turbine (Young et al. 2012). To the extent possible, the area within 40 m of each turbine will be delineated as the search plot. It is expected that plot shape will be variable, but each plot will not be greater than an 80 m x 80 m square (40 m radius) centered on the turbine. Because the habitat within the Project is a mosaic of forested and cleared

areas, search plots will be delineated as the area around each turbine that is clear of thick vegetation and is not forested, excessively steep, or with waste rock spoils. This allows the search area to be as clear as possible to enable detection of bird and bat carcasses. Plot boundaries and vegetation visibility classes (see description below) within each search plot will be mapped using a handheld GPS.

Standardized Carcass Searches

Search plots will be systematically searched for bird and bat fatalities that are attributable to the turbines, either by collision or as a result of barotraumas (Baerwald *et al.* 2008). Field technicians (searchers) trained in proper search techniques will conduct the carcass searches. Transects will be spaced approximately 5 m (~16 ft) apart within the search plot and delineated with colored flagging. Searchers will walk at a rate of approximately 45-60 m/min (~150-200 ft/min) along each transect searching both sides out to approximately 2-3 m (~7-10 ft). If a casualty is found, its condition will be recorded using the following categories:

- **Live/Injured** – a live or injured bird or bat.
- **Intact** – a carcass that is completely intact, is not badly decomposed, and shows no sign of being fed upon by a predator or scavenger.
- **Scavenged** – an entire carcass which shows signs of being fed upon by a predator or scavenger, a portion(s) of a carcass in one location (e.g., wings, skeletal remains, legs, pieces of skin, etc.), or a carcass with heavy insect infestation.
- **Feather Spot** - 10 or more feathers or 2 or more primary feathers at one location indicating predation or scavenging.

For all casualties found, data recorded will include: species, sex and age when possible, date and time collected, GPS coordinates, condition category, estimated time of death, and any other comments that may help determine cause or time of death. All casualties located will be photographed as found and the location plotted on a search plot schematic included on the data sheet. Dominant vegetation cover and visibility index within a 1-m radius of the carcass location will also be recorded.

Searcher Efficiency Trials

Searcher efficiency trials will be conducted to estimate the percent of bird and bat casualties found by searchers. These trials will be conducted in the same search plots and during the same periods as standardized carcass searches. Searcher efficiency will be estimated for bats, small birds, and medium/large birds separately, and for each vegetation visibility class[2]. Estimates of searcher efficiency will be used to adjust the number of casualties found, correcting for detection bias.

[2] Visibility classes: Easy: ~80% or more bare ground (e.g., road, turbine pad,dirt); less than ~20% vegetation cover, vegetation less than 6 inches tall (generally ankle height or below); Moderate: between ~20%-80% baregroud and ~20%-80% vegetation cover; vegetation 6 to 12 inches (generally between ankle and knee); Difficult: less than 20% bare ground, greater than 80% vegetation cover; vegetation usually greater than 12 inches high (generally knee high or above).

During the study period (April 1 through November 15), approximately 200 bat, 200 small bird, and 100 large bird carcasses will be used for the searcher efficiency trials. This number of trial carcasses will provide sample sizes recommended for estimation of search efficiency by each size/type class and each visibility class (Huso 2010). Trial carcasses will be distributed approximately equally between each of the three visibility classes. Species such as house sparrows (*Passer domesticus*), coturnix quail (*Coturnix coturnix*), and European starlings (*Sturnus vulgaris*) may be used to represent small-sized birds; rock doves (*Columba livia*) and commercially raised hen mallards (*Anas platyrhynchos*) or hen pheasants (*Phasianus colchicus*) may be used to represent medium to large-sized birds. Carcasses of non-*Myotis* bat species recovered during the study will be used in the searcher efficiency trials, if allowed by collection permits. Brown house mouse (*Mus musculus*) carcasses may be used to represent bats if bat carcasses are not available. Other fresh bird carcasses recovered during the study may also be used in the trials if allowed by collection permits.

All trial carcasses will be placed at pre-determined, randomly-selected locations within search plots prior to the standardized carcass search on the same day. If avian scavengers (e.g., ravens [*Corvus corax*]) appear to be attracted by carcass placement, carcasses will be placed before dawn. Carcasses will be dropped from shoulder or waist height to simulate a falling bird or bat.

Each trial carcass will be discreetly marked (e.g., a small piece of tape around a leg) so that it can be identified as a trial carcass. The number and location of trial carcasses found during a standardized carcass search will be recorded. The number of carcasses available for detection during each trial will be determined immediately after the daily round of searches by the person responsible for distributing the carcasses. The presence or absence of each carcass (i.e. whether it was available for detection) will be determined each day immediately after the daily round of searches is complete.

Carcass Removal Trials

Carcass removal trials are conducted to determine the length of time a bird or bat casualty remains in the search plot and is available for detection by the searcher(s). Carcass removal includes removal by predation or scavenging, or by other means such as mowing. Estimates of carcass removal rates will be used to adjust the number of casualties found, correcting for removal bias.

During the study period (April 1 through November 15), approximately 200 bat, 200 small bird, and 100 large bird carcasses will be used for the carcass removal trials. This number of trial carcasses will provide sample sizes recommended for estimation of carcass removal by each size/type class and each visibility class (Huso 2010). Trial carcasses will be distributed approximately equally between each of the three visibility classes. Trial carcasses will be similar to those used for the searcher efficiency trials (see above).

A typical carcass removal trial will occur over a 7 to 14-day period unless all trial carcasses are removed sooner. For each trial, between 10 and 15 carcasses will be placed within 40 m (~130

ft) of randomly selected turbines. Carcasses will be checked for a maximum of 14 days as follows: once a day for the first five days and then on approximately day seven, day 10, and day 14. After the 14-day period, or when all carcasses have been removed, any remaining evidence of the carcass will be removed, and the next set of carcasses will be placed. Using this method of staggered carcass placement, removal trials will be spread throughout the study period to incorporate the effects of varying weather conditions and scavenger abundance. Trial carcasses will be marked discreetly (e.g., tape on a leg) for recognition by searchers and other personnel. If a significant number of carcasses remain after the 14-day period, the trial period will be extended for an additional seven days to allow carcass removal rates to be estimated more accurately.

STATISTICAL METHODS

Data analysis will be conducted according to industry standard methods for wind-energy facility monitoring studies (*e.g.,* Shoenfeld 2004, Arnett *et al.* 2008, Jain *et al.* 2009, Huso 2010), with consideration for new methods that may be developed in the interim between issuance of the ITP and completion of the field studies. It is proposed to use the statistical formulas of Shoenfeld (2004), which has been used at numerous wind-energy facility monitoring studies across the U.S., including regional studies at Mountaineer, Myersdale, and Mount Storm. Since this is not the only method of analyzing monitoring data, CPP will evaluate, with the USFWS, the most appropriate estimator for the study and apply it at the time of the data analysis and reporting. The final method chosen will provide a total estimate of fatalities for the Project, accounting for searcher and removal biases, as well as, variability in visibility classes and proportion of the searchable area with the study plots.

The estimate of the total number of wind-energy facility-related fatalities will be based on four components: 1) observed number of casualties, 2) searcher efficiency expressed as the proportion of trial carcasses found by searchers, 3) removal rates expressed as the length of time a carcass is expected to remain in the study plot and be available for detection by searchers, and 4) the estimated percent of casualties that fell in unsearched areas based on the distribution of discovered casualties and percent of area searched within the 40-m radius search plot around the turbines.

Observed Number of Carcasses

The average number of carcasses detected per turbine is:

$$\bar{c} = \frac{\sum_{i=1}^{k} c_i}{k}$$

where c_i is the number of carcasses detected at turbine i for the period of study, and k is the number of turbines searched.

Estimation of Searcher Efficiency

Searcher efficiency is expressed as p, the estimated proportion of trial carcasses found by

searchers. The variance of the estimate, v(p), is calculated by the formula:

$$v(p) = \frac{p(1-p)}{d}$$

where d is the total number of carcasses placed. Carcass detection rates will be estimated by major vegetation visibility class (easy, moderate, difficult), carcass type/size (bat, small bird, medium/large bird), and season (spring, summer, fall). Data will be pooled across seasons if detection rates are not significantly different between seasons.

Estimation of Carcass Removal

The length of time a carcass remains in the study area before it is removed is denoted as t_i. Mean carcass removal time is expressed as $\bar{t}$:

$$\bar{t} = \frac{\sum_{i=1}^{s} t_i}{s}$$

where s is the number of carcasses used in the scavenging trials and *i* denotes each carcass. Modifications to the estimator will be made if there are trial carcasses that remain at the end of the 14-day trial period (Barnard 2000, Erickson *et al.* 2003a, Shumway *et al.* 1989).

Estimation of Casualty Distribution

Since not all of the area within 40 m of the turbine will be searchable on every turbine, adjustments will be made to account for carcasses that fell in unsearched areas, *A*. Casualty density is modeled as a function of distance to turbine for fresh carcasses within 2-m distance bands radiating from the center of the turbine (Arnett *et al.* 2008). *A* will be approximated using the following formula:

$$A = \frac{\sum_{k'=1}^{7} \frac{c_{k'}}{p_{k'} s_{k'}}}{\sum_{k'=1}^{7} \frac{c_{k'}}{p_{k'}}}$$

where $c_{k'}$ is the observed number of casualties found in the kth 2-m distance band from the turbine, $p_{k'}$ is the estimated observer detection probability in the kth 2-m distance band from the turbine, and $s_{k'}$ is the proportion of the kth 2-m distance bands that was sampled across all turbines.

Estimation of the Total Number of Fatalities

For equal sampling effort among turbines and seasons, and assumed equal observer detection and scavenging rates among seasons, the total number of facility-related fatalities (M) is calculated

by dividing the observed fatality rate by $\hat{\pi}$, an estimate of the probability a casualty is not removed and is detected and then adjusting for searchable area by multiplying by *A*.

$$M = A * \frac{N * \bar{c}}{\hat{\pi}}$$

where N is the total number of turbines in the Project. The estimated mortality per turbine per year m is determined by M/N.

Differences between observers and scavenging rates between seasons will be determined prior to analysis. If significant differences exist between seasons, separate estimates for each season will be calculated and summed for the overall estimate.

The estimate of the probability a casualty is not removed and is detected is calculated for each visibility class. The sum of the estimates for each visibility class provides an overall estimate of Project-related mortality.

The estimate of the probability a casualty is not removed and detected, $\hat{\pi}$, is calculated by:

$$\hat{\pi} = \frac{\bar{t} \cdot p}{I} \cdot \left[\frac{\exp\left(I / \bar{t} \right) - 1}{\exp\left(I / \bar{t} \right) - 1 + p} \right]$$

where I is the interval between searches and p and $\bar{t}$ are as defined previously. This formula has been independently verified by Shoenfeld (2004).

The final reported estimates of *m* and associated standard errors and 90% confidence intervals will be calculated using bootstrapping techniques (Manly 1997) based on a computer program written in SAS. For each iteration of the bootstrap, the turbines and associated mortality data, searcher efficiency carcasses and associated data, and the scavenging removal carcasses and associated data are sampled with replacement. Estimates of $\bar{c}$, $\bar{t}$, p, and m are calculated for each of 5,000 bootstrap samples. The final estimates of $\bar{c}$, $\bar{t}$, p, and m, and associated bootstrap percentile confidence intervals, are calculated from the 5,000 bootstrap estimates.

REPORTING

CPP will implement this monitoring plan in consultation with the USFWS and will meet with the USFWS to discuss the study results following completion of the monitoring studies as described. The purpose of these meetings will be to evaluate the efficacy of monitoring methods, compare the results of monitoring to the authorized take, evaluate the success of any on-site avoidance/minimization strategies relative to the Indiana bat, and, if applicable, develop recommendations for future research, monitoring, and mitigation. These annual meetings will

also provide opportunity to discuss the effectiveness of the conservation plan, and to evaluate the status of the mitigation project to be implemented as a part of the HCP.

CPP will submit a draft monitoring report to the USFWS prior to the meetings, but no later than January 31 of the years following monitoring studies (approximately 75 days following completion of the monitoring studies). Reports will be presented in standard scientific format, providing an Introduction, Methods, Results, Discussion, and Conclusions and Recommendations. A final annual report will be prepared following review by the USFWS and the annual meeting to discuss the monitoring plan. This report will also be provided to the MDNR Natural Heritage Program. In the event that the monitoring studies indicate that the Project has exceeded the authorized level of take of Indiana bat, CPP will promptly notify USFWS, and comply with the terms of the HCP as outlined in the Adaptive Management Program (Section 5.6). In addition, for compliance with the Special Purpose Utility Permit for the CWP, monthly reports of migratory bird fatalities found and accompanying data as described in the permit will be submitted to the USFWS.

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APPENDIX E

INCIDENTAL BIRD AND BAT CASUALTY PROCEDURE

Incidental Bird and Bat Casualties

Approved: _____ Date: _____

Facility Manager, Criterion Wind Project

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CONTROLLED DOCUMENT

1.0 PURPOSE

This protocol governs the treatment of incidental bird and bat fatalities at the Criterion Wind Energy Project. This protocol does not comprise a fatality study searching protocol but rather describes actions to be taken when bird and bat fatalities are encountered by onsite staff not involved in formal fatality searches.

2.0 DEFINITIONS

Migratory Bird Treaty Act (16 USC 760c-760g) – The Act as amended implements protection of all native migratory game and non-game birds with exceptions for the control of species that cause damage to agricultural or other interests. The Act prohibits the take of any migratory bird, part, nest, egg, or product. Take, as defined in the Act, includes by any means or in any manner any attempt at hunting, pursuing, wounding, killing, possessing, or transporting any migratory bird, nest, egg, or part thereof. An official list of migratory birds is maintained at 50 CFR §10.13 by the USFWS.

Bald and Golden Eagle Protection Act (16 USC 668-668d, 54 Stat. 250) – The Act as amended provides for the protection of the Bald and Golden Eagle by prohibiting, except under certain specified conditions, the taking, possession, and commerce of such birds. The Act defines take as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collects, molest or disturb. There are civil and criminal penalties for persons violating the law or regulations.

3.0 INSTRUCTIONS

3.1 Incidental Finds (Birds)

- Bird fatalities found near a turbine (e.g., on a turbine pad or the access road), must not be touched or otherwise disturbed. A Criterion employee must be notified immediately. If formal fatality studies are being conducted at the time of discovery, the Criterion employee must notify the technicians conducting the onsite studies of the find and provide the information listed below. If the find occurs when studies are not being conducted, the Criterion employee must document the fatality and notify Exelon Environmental:
    - Record information about the carcass on a Incidental Casualty Record Form:
    - Mark the casualty with a pin flag for future reference and note on the flag the Casualty ID
    - Photograph the carcass
        - Photos should be at close enough range to capture any distinguishing marks and/or feather color
        - Photos should also capture the location of the carcass relative to the turbine (i.e., zoomed out enough to capture both the carcass and the turbine)
        - Photos should include a reference item for scale (e.g. ruler, etc.)
- Notify appropriate person(s)within Exelon Environmental as soon as possible, but within 24 hours

3.2 Incidental Finds (Bats)

- If facility personnel encounter a bat fatality near a turbine (e.g., on a turbine pad or the access road), they must notify a Criterion employee immediately. If formal fatality studies are being conducted at the time of the discovery, the Criterion employee must notify the technicians conducting the onsite studies of the find and provide the information listed below. If the find occurs when studies are not being conducted, the Criterion employee will document the fataltity and notify the appropriate person(s) in Exelon Environmental:
- Record information about the carcass on a Incidental Casualty Record Form
- Photograph the carcass
  - Photos should be at close enough range to capture any distinguishing features, especially:
  - The head, with focus on the muzzle and ears
  - The tail membrane, especially the back-side
  - Fur color, especially the back side. If the back is greasy or insect-riddled, the belly side.
  - Relative size of the carcass. Photos should include a reference item for scale using a ruler
  - Photos should also capture the location of the carcass relative to the turbine (i.e., zoomed out enough to capture both the carcass and the turbine)
- Collect the carcass in a Ziploc baggie along with Carcass Tag
- Typical wildlife diseases (e.g., rabies) will not be an issue with a dead animal, however, personnel shall wear disposable latex or other protective glove when handling the carcass
- Store in freezer (preferably a chest freezer) on site (e.g., O&M Building, Criterion trailer, etc.) and record an entry in the Freezer Log Form
- Notify appropriate person(s) within Exelon Environmental as soon as possible, but within 24 hours

3.3 Reporting and Notification

- Exelon Environmental Contacts
  - Von Abernethy
    - (803) 617-9379 (Mobile) / (803) 295-5732 (Office)
  - Ed Tracey
    - (410) 868-4780 (Mobile) / (410) 787-6530 (Office)
- After the fatality has been documented according to the steps outlined above and reported internally (as soon as possible but within 24 hours), Exelon Environmental shall notify the US Fish and Wildlife Service of the find, in accordance with requirements of the USFWS Permit MB70075A-0..
- Bats collected under either an amended Maryland DNR Collection Permit or MD DNR Salvage permit must be reported annually. Birds collected under MD DNR Salvage Permit (i.e., once fatality studies begin), must be reported to DNR after spring migration (June 9) and annually. Birds collected under USFWS Permit MB70075A-0 must be reported monthly and annually.

3.4 Record Keeping

- The following information shall be maintained on-site:
  - Collection or Salvage Permits
  - Incidental Bird & Bat Casualty Forms
  - Copies of Bird & Bat Carcass Freezer Tags
  - Criterion Freezer Log

3.5 Training

- All site personnel will participate in annual bird and bat awareness training.

3.6 Other Related Documents or Procedures

Not Applicable

CONTROLLED DOCUMENT

Appendices

Incidental Bird & Bat Casualty Record Form

Date: _____ Turbine No.: _____ Observer(s):_____

Casualty Type (circle one): Bird Bat Casualty ID (mmddyyTurbine#):_____

Condition (circle as appropriate): Whole Parts only Scavenged

List part(s) found (if not whole): _____

Casualty found on:

- ☐ Pad
- ☐ Access Road
- ☐ Main Road (name): _____
- ☐ Other (describe):_____

_____

Distance from Turbine: _____ (ft) Bearing to Turbine: _____

Photos Taken (record photo numbers): _____

_____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Bird & Bat Casualty Freezer Tag

Casualty ID: _____ Observer(s): _____
Freezer Record Number: _____ Date In: _____

Criterion Freezer Log					Page _____of _____
Record	Casualty ID	Date In	Date Out	Reason for removal	Final Disposition

APPENDIX F

IMPLEMENTING AGREEMENT

IMPLEMENTING AGREEMENT

by and between

CRITERION POWER PARTNERS, LLC,

and

U.S. FISH AND WILDLIFE SERVICE.

This Implementing Agreement ("Agreement"), made and entered into as of [date], by and among CRITERION POWER PARTNERS, LLC ("Criterion" or "Permittee") and the UNITED STATES FISH AND WILDLIFE SERVICE ("USFWS"), hereinafter collectively called the "Parties," defines the Parties' roles and responsibilities and provides a common understanding of action that will be undertaken to minimize and mitigate the effects on the subject listed species and its habitat of the proposed Criterion Wind Energy Project in Garrett County, Maryland ("the Project").

1.0 RECITALS

This Agreement is entered into with regard to the following facts:

1.1 The Service has jurisdiction over the conservation, protection, restoration, enhancement and management of fish, wildlife, native plants and their habitats under various federal laws, including the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.), the Migratory Bird Treaty Act ("MBTA") (16 U.S.C. § 701 et seq.), the Bald and Golden Eagle Protection Act ("BGEPA") (16 U.S.C. § 668 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. §§ 661-666(c)), and the Fish and Wildlife Act of 1956 (16 U.S.C. § 742(a) et seq.).

1.2 The ESA prohibits the "take" of species listed as endangered or threatened under the ESA. Under Section 10(a)(1)(B) of the ESA (16 U.S.C. § 1539(a)(1)(B)), the Service may issue permits authorizing the incidental take of endangered or threatened species during otherwise lawful activities if certain statutory requirements are met by the applicant and such take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. To obtain a federal incidental take permit, the applicant must submit a habitat conservation plan describing, among other things, the steps the applicant will take to minimize and mitigate the maximum extent practicable the impact of such take. Permittee submitted its application for a Permit to the Service on December 2, 2011, and amended the application in response to comments from the USFWS on January 17, 2014;

1.3 Permittee owns and operates the Criterion Project ("the Project"), located in Garrett County, Maryland, as more fully described in the associated Habitat Conservation Plan. Permittee will operate the Project pursuant to a siting certificate waiver issued by the State of Maryland;

1.4 Permittee leases the Covered Lands upon which the Project is located. Permittee has acquired the necessary legal rights to construct and operate the Project and its associated facilities from the underlying land owners;

1.5 Permittee, with technical assistance from the Service, has prepared a Habitat Conservation Plan ("HCP") and related documents covering certain listed "Covered Species" under the jurisdiction of the Service (as further defined below);

1.6 Permittee has developed a series of conservation measures to conserve listed species and to meet other applicable requirements of the ESA to support issuance of a Permit by the Service pursuant to Section 10(a)(l)(B) of the ESA for the permit term described in Section 7.0 herein;

1.7 Permittee has developed the HCP, which is designed to substantively address effects to Covered Species and benefit their local and regional populations; the Plan causes Permittee to, among other things, (a) engage in certain habitat enhancement actions for certain Covered Species; (b) adjust Project operations to implement certain conservation actions; and (c) provide information on the implementation of these conservation actions;

1.8 This Agreement defines the Parties' roles and responsibilities and provides a common understanding of actions that will be undertaken under the HCP and Permit, among other things, to minimize and mitigate the take of Covered Species (described in Section 5 of the HCP) from Covered Activities (described in Section 2 of the HCP) within the Covered Lands (described in Section 1 of the HCP); and

THEREFORE, the Parties hereto do hereby understand and agree as follows.

2.0 TERMS USED

Terms defined and utilized in the Habitat Conservation Plan and the Endangered Species Act shall have the same meaning when utilized in this Agreement, except as specifically noted in Section 3.0.

3.0 DEFINITIONS

The following terms as used in this Agreement shall have the meanings set forth below:

3.1 The term "Permit" shall mean an incidental take permit issued by the Service to Criterion pursuant to Section 10(a)(1)(B) of the Endangered Species Act,("ESA") and its implementing regulations at 50 C.F.R. Parts 13 and 17.

3.2 The term "Permit Area" shall mean the Project area consisting of approximately 117 acres of private land in Garrett County, Maryland as depicted in Figures 1.1 and 1.2 of the HCP.

3.3 The term "Permittee" shall mean Criterion Power Partners, LLC.

3.4 The term "Conservation Plan" or "HCP" shall mean the Habitat Conservation Plan prepared for the Project.

3.5 The term "Plan Species" or "Covered Species" shall mean the Indiana bat (*Myotis sodalis*); the list of covered species may be modified from time to time in accordance with the terms of Sections 8.2.1 and 8.4.3 of the HCP, the USFWS' implementing regulations and Section 14 of this IA.

3.6 The term "Covered Activities" shall mean those activities specified in Section 2 of the HCP, for which the Permittee has committed to avoidance, minimization and mitigation measures; from which impacts to ESA-listed species and the human environment have been evaluated pursuant to the ESA and the National Environmental Policy Act, respectively; and, of which only turbine operations are likely to cause incidental take, to be authorized through the Permit.

4.0 HABITAT CONSERVATION PLAN

Pursuant to the provisions of Section 10(a)(1)(B) of the ESA, Criterion [hereinafter referred to as Permittee] has prepared a Habitat Conservation Plan ("HCP") and submitted it to the Service with a request that the Service issue a Permit ("Permit") to allow subject Plan species to be incidentally

taken within the Permit Area as depicted and described in Figures 1.1 and 1.2 of the HCP. The HCP proposes a mitigation program for the subject Plan Species and its habitat. In order to fulfill the requirements that will allow the Service to issue the Permit, the HCP sets forth measures that are intended to ensure that any take occurring within the Permit Area will be incidental; that the impacts of the take will, to the maximum extent practicable, be minimized and mitigated; that procedures to deal with unforeseen circumstances will be provided; that adequate funding for the HCP will be provided; and that the take will not appreciably reduce the likelihood of the survival and recovery of the Plan Species in the wild. It also includes measures that have been suggested by the Service as being necessary or appropriate for purposes of the HCP.

5.0 INCORPORATION OF HCP

The HCP and each of its provisions are intended to be, and by this reference are, incorporated herein. In the event of any direct contradiction between the terms of this Agreement and the HCP, the terms of this Agreement shall control only for the purposes of interpreting this IA. The provisions of the Plan, ITP, and this IA shall be interpreted to be consistent with and complementary to each other. This IA is not intended to negate or nullify any provision of the ITP and/or the Plan.

6.0 PURPOSES

The purposes of this Agreement are:

6.1 To ensure implementation of each of the terms of the HCP;

6.2 To describe remedies and recourse should any Party fail to perform its obligations, responsibilities, and tasks as set forth in this Agreement; and

6.3 As stated in paragraph 12.2(a) hereof, to provide assurances to the Permittee that as long as the terms of the HCP and the Permit issued pursuant to the HCP and this Agreement are fully and faithfully performed, no additional mitigation will be required except as provided for in this Agreement or required by law.

7.0 TERM

This Agreement shall become effective on the date that the Service issues the Permit requested in the HCP and shall remain in full force and effect for the permit duration of 20 years or until termination of the Permit, whichever occurs sooner.

8.0 FUNDING

8.1 Permittee will provide such funds as may be necessary to carry out its obligations under the HCP. The Permittee should notify the Service if the Permittee's funding resources have materially changed, including a discussion of the nature of the change, from the information provided in Section 6.0 of the HCP.

8.2 The Permittee shall further ensure that funding is available to meet its obligations under this Agreement, the Permit, and the HCP through a performance bond issued on behalf of Constellation Holdings, Inc. in favor of the Permittee and dated no later than 45 days from the effective date of the Permit, the form of which is attached hereto as Exhibit A. The performance bond shall be maintained for the life of the Permit. The performance bond shall be in an initial amount of not less than $1,467,150 provided, however, that from time to time the Permittee may with prior notice to and concurrence from the Service reduce the amount of the performance bond as the Permittee completes the tasks set forth in the HCP, and may be required to augment the amount of the performance bond should the estimates provided in Section 6.0 of the HCP prove to be undervalued..

Funds from the performance bond shall only be used if the Permittee is otherwise unable to meet its obligations under this Agreement, the Permit, or the HCP.

8.3 CPP will develop a binding contract with BCI or other qualified entity to implement the mitigation required under Sections 5.3.1 and 6.0 of the HCP within 60 days of approval of the mitigation project by USFWS. The contractor will be required to implement the project within 24 months of permit issuance.. The contract shall cover the expenses to implement the mitigation project up to but not to exceed amount of $176,250. A copy of the executed contract shall be delivered to the Service within five business days of signature by both parties.

8.4. In the event of a legal challenge to the final Permit by any third party that results in the entry of preliminary or permanent injunctive relief that precludes Project operations according to the Permit's and HCP's terms, expenditures of monies for mitigation will be stayed until the final resolution of such legal challenges, including any administrative or judicial appeals by any party. Upon exhaustion of appeals to such challenges, monies reserved for mitigation may be spent and obligated as long as the permit is not terminated, relinquished, or revoked.

8.5 In the event the Permit is terminated, relinquished, or revoked in accordance with the terms of this Agreement prior to the expenditure of all monies reserved for mitigation, the Permitee will notify the Service of the amount of all unspent and unobligated monies.

9.0 RESPONSIBILITIES OF THE PARTIES IN MITIGATION PROGRAM IMPLEMENTATION AND MONITORING RESPONSIBILITIES OF THE PERMITTEE

9.1 Responsibilities of the Permittee

In consideration of the issuance of an ITP authorizing any incidental take which may result from activities conducted in accordance with the HCP, and in consideration of the assurances provided by the Permit, the Service regulations and this Agreement, Permittee agrees to:

(a) Fully and faithfully perform all obligations in the HCP, the Permit and this Agreement, including, but not limited to, all the conservation management and monitoring measures, as well as those measures deemed necessary for Adaptive Management or to respond Changed Circumstances as identified through processes described in the HCP.

(b) Fully fund all costs needed to perform its affirmative obligations under the Permit and the Plan, even if costs are underestimated in the HCP.

(c) Promptly notify the Service if, for any reason (including, but not limited to, court rulings or lack of sufficient funds), Permittee has or is likely to become unable to fulfill any obligation required by the HCP, the Permit or this Agreement.

(d) Promptly respond to all notices from the Service in accordance with the HCP, Permit or this Agreement, and inquiries from the Service regarding the same.

(e) Promptly notify the Service of any lawsuits filed against Permittee or written notices or letters expressing intent to file suit challenging the issuance of or compliance with the Permit.

(f) Notify the Service in writing within ten (10) days of the occurrence of any of the following: (1) any change in the registered name of Permittee; (2) the dissolution of Permittee; (3) the sale or conveyance of Permittee; (4) bankruptcy proceedings by Permittee as well as whether Permittee is in receivership; (5) when Permittee will no

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longer perform the Covered Activities in the Covered Lands; (6) the revocation or suspension of Permittee's corporate authorization to do business in the state or states in which it is registered to do business and, (7) Permittee is disqualified from performing Covered Activities under the Permit for either of the disqualifying factors circumstances listed in 50 C.F.R. § 13.21(c) and (d), as may be amended, or under any future Service regulation.

9.2 Responsibilities of the Service

The Service agrees, pursuant to its authorities and subject to appropriations, to:

(a) Fully and faithfully perform all obligations required under this Agreement, the HCP and Permit; in particular, upon execution of the this Agreement, and satisfaction of all other applicable legal requirements, issue a Permit to Permittee authorizing specified incidental take of Covered Species which may result from activities conducted in accordance with the HCP. The Permit will include the no surprises assurances set forth in 50 C.F.R. § 17.22(b)(5) and articulated in the HCP at Section 8.3.

(b) As of the effective date of the Permit, Permittee may take the Covered Species while carrying out Covered Activities in the Project area, as authorized by and subject to the conditions of the Permit and the HCP.

(c) Cooperate with and provide technical assistance to Permittee as well as attend meetings requested by Permittee to consider matters relevant to the Project, the HCP, and the Permit, or any of the operations or other activities contemplated there-under; promptly respond to all notices received from Permittee in accordance with the HCP, Permit and this Agreement.

(d) Promptly notify Permittee if, for any reason (court ruling or lack of appropriated funds), the Service is unable to fulfill any obligation associated with the HCP, Permit or this Agreement.

(e) Promptly notify Permittee of any lawsuits filed against the Service, requests for disclosures of documents received under the Freedom of Information Act pertaining to the Permit, or written notices or letters expressing an intent to file suit against the Service challenging the issuance of, or Permittee's compliance with, the Permit or any federal law relating to the Permit.

(f) Promptly respond to all notices from CPP in accordance with the HCP, Permit or this Agreement, and inquiries from the CPP regarding the same.

10.0 CHANGED CIRCUMSTANCES AND ADAPTIVE MANAGEMENT

10.1 **Changed Circumstances and Adaptive Management provided for in the Plan.** Section 8.2 of the HCP contains the complete list of Changed Circumstances and describes those specific conservation and mitigation measures that Permittee agrees to implement where, pursuant to the HCP, they are deemed necessary to respond to the Changed Circumstances. Section 5.6 of the HCP, contains the adaptive management strategy to respond to new information produced by required monitoring. Any revisions or amendments to the HCP or Permit will be determined on a case-by-case basis, and undertaken in accordance with Amendment Process in Section 8.4 of the HCP, and referenced in Section 14 of this Agreement.

10.2 **Changed Circumstances Not Provided for in the Plan.** If additional conservation and mitigation measures beyond those provided for in the Plan are deemed necessary to respond to Changed Circumstances, the Service may not require any such additional conservation and mitigation measures without Permittee's consent, provided that the HCP is being properly implemented.

11.0 REPORTING AND INSPECTIONS

11.1 **Reporting.** Permittee will provide the Service with the reports described in Section 5.5 of the HCP and at the notice address then in effect for the Service, and will provide any available information reasonably requested by the Service to verify the information contained in such reports. Permittee will provide USFWS, within thirty (30) calendar days, any additional information requested to determine whether Permittee is in compliance with the Permit, HCP and this Agreement.

11.2 **Certification of Reports.** All reports shall include the following certification by a responsible company official who supervised or directed preparation of the report:

> "Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete."

11.3 **Inspections.** The Service may inspect the lands within the Permit area and mitigation areas in accordance with its applicable regulations and law. Except where the Service has reason to believe that Permittee may be acting in violation of applicable laws or regulations or in breach of the Permit or this Agreement, the Service will provide reasonable advance notice of its inspection and will allow Permittee's representatives to accompany the Service's representatives making such inspection. USFWS shall ensure that any individual conducting an inspection of the Project on its behalf performs such inspection in compliance with all regulations and statutes applicable to USFWS, and the requirement of this section for advance notice, where applicable. For the purpose of this paragraph, USFWS is intended to mean agency employees, law enforcement agents and contractors.

11.4 **Required Meetings**. The Permittee and USFWS shall conduct an annual meeting during the month of March following the completion of the first three years of monitoring (2011-2013) to discuss Plan implementation and the need for any amendments to the minimization strategy, if at all, under Section 5.2 of the HCP. The Permittee and USFWS shall also meet following completion of each of the 5-year monitoring periods to determine if any changes to the minimization strategy or other revisions are necessary. Nothing in the ITP, Plan or this IA shall prevent the Parties from meeting more frequently.

12.0 REMEDIES AND ENFORCEMENT; DISPUTE RESOLUTION

12.1 Remedies in General

Except as set forth below, each Party shall have all remedies otherwise available to enforce the terms of this Agreement, the Permit, and the HCP, and to seek remedies for any breach hereof, subject to the following:

a. No Monetary Damages

No Party shall be liable in damages to the other Party or other person for any breach of this Agreement, any performance or failure to perform a mandatory or discretionary obligation imposed by

this Agreement or any other cause of action arising from this Agreement. Notwithstanding the foregoing:

(1) Retain Liability

All Parties shall retain whatever liability they would possess for their present and future acts or failure to act without existence of this Agreement.

(2) Land Owner Liability

All Parties shall retain whatever liability they possess as an owner of interests in land.

(3) Responsibility of the United States

Nothing contained in this Agreement is intended to limit the authority of the United States government to seek civil or criminal penalties or otherwise fulfill its enforcement responsibilities under the ESA or other applicable Federal laws.

b. Injunctive and Temporary Relief

The Parties acknowledge that the Plan Species is unique and that its loss as species would result in irreparable damage to the environment and that therefore injunctive and temporary relief may be appropriate to ensure compliance with the terms of this Agreement.

12.2 THE PERMIT

a. Permit Termination, Suspension, and Revocation

Except as otherwise provided for under the terms of this Agreement, the Permit shall be terminated, suspended or revoked in conformance with the provisions of 50 C.F.R. §§ 13.26–13.29 (2010), as the same exists as of the date hereof.

b. Effect of Suspension, Termination, and Revocation

Any termination, suspension, or revocation of an ITP automatically terminates, suspends, or revokes the HCP and this Agreement as between Permittee and the Service. Activities thereafter conducted on the Project will be subject to all applicable provisions of the ESA and related regulations as if the Permit had never been issued. A suspension, termination or revocation by the Service limited to one or more species but less than all of the species then provided for in the Plan shall apply only to the affected species. The Permit and this Agreement shall continue in full force and effect as to all other Covered Species.

c. Post-Termination Mitigation

The Parties acknowledge that Permittee's compliance with the Permit, HCP and this Agreement is contingent on its execution of a contract to cover required mitigation that must be completed within two years of Permit issuance under Section 8.3. If the mitigation requirements have been completed within the two year period, upon termination, relinquishment, or revocation of the Permit, Permittee shall have no further obligations hereunder or under the ESA with regard to Covered Species or Covered Lands. If termination, relinquishment, or revocation of the Permit occurs during the two year period in which the mitigation must be completed, but the contract has not been executed or the mitigation funds have not yet been expended:

(*i*) Permittee shall have no further obligations hereunder or under the ESA with regard to Covered Species or Covered Lands so long as there has been no take of Covered Species during that two year period, and Permittee may seek a refund of mitigation monies under Section 8.5; or

(*ii*) if there has been an actual take of Covered Species during the two-year time period, then Permittee's obligation to fully fund and complete the mitigation survives termination, relinquishment, or revocation of the Permit

12.3 DISPUTE RESULTION

The parties recognize that disputes concerning implementation of, or compliance with, this IA, the HCP or the Permit may arise from time to time. In particular, the adaptive management and changed circumstances provisions of the HCP (sections 5.6 and 8.2) establish procedures that call for dispute resolution. The parties agree to work together in good faith to resolve such disputes, using the following dispute resolution processes.

12.3.1 Dispute Resolution Process For Implementation. Unless the parties agree in writing upon another dispute resolution process, or unless a party has initiated administrative proceedings or suit in federal court, the parties may use the following informal process to attempt to resolve disputes:

Step 1

(a) The party wishing to institute dispute resolution will notify the other party in writing of the dispute and its desire to institute the processes called for in this section. Notification during Step 1 shall be addressed to and from the Supervisor, Chesapeake Bay Field Office, USFWS and Manager of Permitting and Environmental Affairs, Exelon Wind, representing Permittee.

(b) The party claiming a dispute shall identify in its notice the specific objection that it claims, the basis for the objection, and a proposed remedy to address the objection.

(c) The party receiving the notice of dispute shall respond in writing to the notice within thirty (30) days, or at such other time as may be mutually agreed in writing by both parties. In doing so, the responding party shall either propose a remedy to resolve the objection or, alternatively, explain why the objection is unfounded. During this time the responding party may seek clarification of the information provided in the initial notice from the objecting party. The objecting party will use its best efforts to provide any information then available to it that may be responsive within ten (10) days from receipt of such a request for clarification.

Step 2

(a) If the response to an objection resolves the issue to the satisfaction of the objecting party, then the objecting party shall so notify the responding party in writing, and the responding party shall implement the agreed remedy, if any.

(b) If the response to an objection does not resolve the issue to the satisfaction of the objecting party, then the objecting party shall so notify the other party in writing, describing the reasons why the response does not resolve the objection. Thereafter, both parties shall meet and attempt to resolve the dispute. This meeting between the Supervisor, Chesapeake Bay Field Office, USFWS, and Manager of Permitting and Environmental Affairs, Exelon Wind,, representing Permittee, shall

occur within thirty (30) days after the responding party receives the objecting party's response, or at such other time as may be mutually agreed in writing by both parties.

Step 3

(a) If the parties are unable to resolve a dispute through Steps 1 and 2 above, then an objecting party may elevate the dispute to be handled through a meeting of the chief executives of both parties. For purposes of this provision, "chief executive" shall mean Vice President, Exelon Wind/Solar, representing the Permittee, and the Assistant Regional Director of Ecological Services, Northeast Region, USFWS. Each party shall be represented in person by its chief executive at the meeting, and the meeting shall occur within forty five (45) days of the notice of an objecting party following completion of Step 2 above.

(b) If the dispute cannot be resolved through these elevated negotiations, the parties may seek non-binding mediation or other alternative dispute resolution processes.

If at any time either party determines that circumstances so warrant, it may seek any available remedy without waiting to complete the informal dispute resolution process.

12.3.2 Dispute Resolution Process For Permit Violations. If USFWS has reason to believe that Permittee may have violated the Permit, the HCP or this IA with respect to any Covered Species, it will notify the Permittee in writing of the specific provisions which may have been violated, the reasons USFWS believes the Permittee may have violated the provision, and the remedy the USFWS proposes to resolve the alleged violation. The Permittee will then have sixty (60) days, or such longer time as may be mutually acceptable to both parties, to respond in writing to the allegation. During this time, the Permittee may seek clarification of the information provided in the notice from the USFWS, and the USFWS will use its best efforts to respond to the request for clarification. If the dispute cannot be resolved within thirty (30) days after the Permittee's response is due, or such longer time as may be mutually agreed in writing by both parties, the parties may consider non-binding mediation or other alternative dispute resolution processes to resolve the dispute.

12.3.3 The parties reserve their right, at any time without completing informal dispute resolution, to use whatever enforcement powers and remedies are available by law or regulation, including but not limited to, in the case of the USFWS, suspension or revocation of the Permit and civil or criminal penalties.

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13.0 LIMITATIONS AND EXTENT OF ENFORCEABILITY

a. No Surprises Policy

The Service is obligated to issue the Permit with the regulatory assurances described more fully in Section 8 of the HCP (the Federal "No Surprises" Rule, 63 Fed. Reg. 8859 (Feb. 23, 1998) (codified at 50 C.F.R. §§ 17.3, 17.22(b)(5), 17.32(b)(5)). For purposes of that Rule in the context of this Agreement, the Parties agree that the Permit, and the HCP, the Indiana bat is adequately covered by CPP's HCP. As further detailed in the rule, so long as Permittee is properly implementing the HCP, this Agreement, and the Permit, no additional commitment of land, water, or financial compensation will be required with respect to Covered Species, and no restrictions on the use of land, water, or other natural resources will be imposed beyond those specified in the HCP without the consent of the Permittee. Application of the rule to changed circumstances is described herein at Section 10. With respect to unforeseen circumstances, the Service bears the burden of demonstrating that they exist using the best available scientific and commercial data available while considering certain factors. (50 C.F.R. §§ 17.22(b)(5)(iii)(C)).

In negotiating unforeseen circumstances, the Service will not require the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water or other natural resources beyond the level otherwise agreed upon for the species covered by the HCP without the consent of Permittee. (50 C.F.R. §§ 17.22(b)(5)(iii)(A)). If additional conservation and mitigation measures are deemed necessary to respond to unforeseen circumstances, the Service may require additional measures of Permittee where the HCP is being properly implemented but only if such measures are limited to modifications within conserved habitat areas, if any, or to the HCP's operating conservation program for the affected species, and maintain the original terms of the plan to the maximum extent possible. (50 C.F.R. §§ 17.22(b)(5)(iii)(B)). Additional conservation and mitigation measures will not involve the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the conservation plan without the consent of Permittee.

Notwithstanding these assurances, nothing in the "No Surprises" Rule "will be construed to limit or constrain the Service, any Federal agency, or a private entity, from taking additional actions, at its own expense, to protect or conserve a species included in a conservation plan." (50 C.F.R. §§ 17.22(b)(6)).

b. *Private Property Rights and Legal Authorities Unaffected*

The Parties agree that CPP has entered into the ITP, Plan and this IA on a voluntary basis. Except as otherwise specifically provided herein, nothing in this Agreement shall be deemed to restrict the rights of the Permittee to the use or development of those lands, or interests in lands, constituting the Permit Area; provided, that nothing in this Agreement shall absolve the Permittee from such other limitations as may apply to such lands, or interests in lands, under the ESA, other laws of the United States and the State of Maryland.

14.0 AMENDMENTS

16.1 **Modifications to this Agreement.** This Agreement may be amended only with the written consent of each of the Parties hereto. Either Party may object to any amendment proposed by the other upon any reasonable basis.

16.2 **Amendment or Modification of the HCP.** Any amendment or modification of the HCP shall follow the procedures described in Section 8.4 of the HCP.

16.3 **Amendment or Modification of the Permit.** The ITP may be amended in accordance with 50 C.F.R. § 13.23, the provisions of the Permit, and all applicable legal requirements, including but not limited to the ESA, NEPA, and the Service's implementing regulations.

15.0 MISCELLANEOUS PROVISIONS

15.1 NO PARTNERSHIP

Neither this Agreement nor the HCP shall make or be deemed to make any Party to this Agreement the agent for or the partner of any other Party.

15.2 SUCCESSORS AND ASSIGNS

This Agreement and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties hereto and their respective successors and assigns. Assignment and transfer of the permit shall be governed by the Service's regulations at 50 C.F.R § 13.25, or whatever regulation exists at the time assignment or transfer is contemplated.

15.3 NOTICE

Any notice required by this Agreement shall be delivered by United States mail, certified and postage prepaid, return receipt requested. Notice shall be deemed given five days after deposit in the United States mail. Notices may also be delivered by facsimile or electronic mail, provided that the original is also delivered personally or by certified mail, postage prepaid, return receipt requested. Notices shall be addressed as follows or at such other postal or electronic mail address as any Party may from time to time specify to the other Parties in writing:

Field Supervisor
United States Fish and Wildlife Service
177 Admiral Cochran Drive
Annapolis, MD 21401
Facsimile: (410) 269-0832

Criterion Power Partners, LLC
c/o Exelon Generation Company, LLC
300 Exelon Way, Suite 340
Attn: Associate General Counsel
Todd.Cutler@exeloncorp.com
Facsimile: (610) 765-5980

With a copy to:
Attn: Commercial Operations Dept.
Magin.Reyes@exeloncorp.com

15.4 ENTIRE AGREEMENT

This Agreement, together with the HCP and the Permit, constitutes the entire agreement between the Parties. Excepting the HCP and Permit, the terms contained in this agreement supersedes any and all other agreements, either oral or in writing among the Parties with respect to the subject matter here-

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of and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

15.5 ELECTED OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress shall be entitled to any share or part of this Agreement, or to any benefit that may arise from it.

15.6 AVAILABILITY OF FUNDS

Implementation of this Agreement and the HCP by the Service is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The parties acknowledge that the Service will not be required under this Agreement to expend any Federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

15.7 DUPLICATE ORIGINALS

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

15.8 NO THIRD PARTY BENEFICIARIES

Without limiting the applicability of the rights granted to the public pursuant to the provisions of 16 U.S.C. § 1540(g), this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed under existing Federal or State law.

15.9 RELATIONSHIP TO THE ESA AND OTHER AUTHORITIES

The terms of this Agreement shall be governed by and construed in accordance with the ESA and applicable Federal laws. In particular, nothing in this Agreement is intended to limit the authority of the Service to seek criminal or civil penalties or otherwise fulfill its responsibilities under the ESA. Moreover, nothing in this Agreement is intended to limit or diminish the legal obligations and responsibilities of the Service as an agency of the Federal government. Nothing in this Agreement shall limit the right or obligation of any federal agency to engage in consultation required under Section 7 of the ESA or other federal law; however, it is intended that the rights and obligations of Permittee under the HCP, Permit, and this Agreement shall be considered in any consultation concerning Permittee's use of the Permit Area.

15.10 REFERENCES TO REGULATIONS

Any reference in this Agreement, the HCP, or the Permit to any regulation or rule of the Service shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

15.11 APPLICABLE LAWS

All activities undertaken pursuant to this Agreement, the HCP, or the Permit must be in compliance with all applicable State and Federal laws and regulations.

15.12 SEVERABILITY

If any provision of this Agreement or the HCP is found invalid or unenforceable, such provision shall be enforced to the maximum extent possible and the other provisions shall remain in effect to the extent they can be reasonably applied in the absence of such invalid or unenforceable provisions.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date last signed below.

BY _____ Date _____
Assistant Regional Director
United States Fish and Wildlife Service
Hadley, MA 01035-9587

BY _____ Date _____
David Drescher
Vice President
Criterion Power Partners, LLC

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APPENDIX G

UPDATED TAKE ESTIMATE FROM MONITORING DATA AND NEW INFORMATION

Updated Take Estimate from Monitoring Data and New Information

Consultation on the Criterion Wind Project (Project) began in June of 2010 and started with an assessment of the potential take from the Project. A model using a surrogate species (little brown bat) was developed and used values found in regional studies to estimate potential take of Indiana bat (described in Section 4.1.2 of the HCP). The initial estimate of total take during the 20-year functional life of the turbines was 14 Indiana bats, after implementation of the turbine operational adjustments (i.e., the on-site minimizations measures). Since the original estimate of potential take from the Project was prepared, there has been on-site monitoring studies conducted which provide site-specific data and there are also new estimates for some of the variables that reflect changes in bat populations due to the on-set of White Nosed Syndrome (WNS). The following provides a new analysis of the potential take from operation of the Project turbines using these new data. The analysis provides an assessment of how well the original estimate of take matches the site-specific data and provides the most current estimate of take for use in the Incidental Take Permit.

Changes in the Exposure of *Myotis* Bats Due to Population Declines

The amount of take that occurs is a product of the ***exposure*** of bats to turbines (number of bats encountering turbines) and the ***collision risk*** or lethality of interacting with a turbine. As *Myotis* bat populations decline due to WNS, it is expected that there will be reduced total numbers of *Myotis* bats killed because fewer bats occur on the landscape and fly in the turbine air-space and potentially interact with turbine blades. For bats that do enter the turbine risk zone, the collision risk remains the same; however, as the total number of bats in a population declines, the total number killed would decline if mortality is related to their abundance on the landscape or is density dependent. The total number of *Myotis* bats killed by turbine interactions would eventually reach zero if *Myotis* bat populations reach zero.

The assumption that *Myotis* mortality is related to their abundance on the landscape is supported by regional data from wind projects that have been monitored for multiple years within the range of WNS impacts. For example, the Maple Ridge wind project in New York was monitored over the three-year period from 2006 to 2008, which is the period when WNS was first affecting bats in New York. During this period the total estimated number of little brown bat fatalities declined from 500 in 2006 to 331 in 2007 and to 273 in 2008, despite the number of turbines in the project increasing from 120 to 195 over that period (see Jain et al. 2007, 2008, 2009). The Mount Storm wind project in West Virginia was monitored from the fall of 2008 through the fall of 2011. WNS was first documented in West Virginia in 2009. During the monitoring at Mount Storm the percent of *Myotis* in the pool of fatalities declined from 9% in 2009, to 3% in 2010, to zero in 2011 (see Young et al. 2009, 2010a, 2010b, 2011a, 2011b, 2012a). The third annual

report from the Pennsylvania Game Commission (PGC) for the wind project cooperative agreement (Taucher et al. 2012) reports that the percent of little brown bats in the fatality pool declined from 17% in 2009 to 4% in 2011. At the Locust Ridge project in Pennsylvania, the number of little brown bats in the pool of recovered fatalities dropped from 62 (24%) in 2009 to 10 (4%) in 2010 (Arnett et al. 2011). This corresponds to the period when WNS was affecting bats in Pennsylvania. At the Criterion Wind Power project specifically, 4.5% of all bat carcasses found were *Myotis* in 2011 and 0% in 2012 (Young et al. 2012b, 2013).

In addition, WNS appears to have changed the relative proportion of bat species on the landscape as the species composition within hibernacula has apparently changed (Turner et al. 2011, Stihler 2013). Some species may be more susceptible to WNS as the proportion of decline by species appears to be variable (Turner et al. 2011). The model used to estimate Indiana bat take uses the proportion of Indiana bats to little brown bats on the landscape (as identified from mist-net survey data) to scale the estimated take based on the relative proportions of the two species recorded during the surveys. Because the bat species compositions may be changing as a result of WNS, more recent post-WNS data from mist net surveys shows a somewhat different proportion of the two species on the landscape (Table 1).

Table 1. Number of little brown bats and Indiana bats captured in mist-net surveys in West Virginia where Indiana bats had not been known prior to the first survey[1].

Year	Number of Little Brown Bats	Number of Indiana Bats	Ratio of Indiana Bats to Little Brown Bats
Pre-WNS			
2003	373	3	0.80
2004	266	13	4.88
2005	446	5	1.12
2006	559	0	--
2007	827	3	0.36
2008	996	4	0.40
Total: Average	3467	28	**0.81**
Post-WNS			
2009	356	7	1.96
2010	196	7	3.57
2011	79	1	1.26
2012	420	10	2.38
Total: Average	631	15	**2.38**

[1]Based on more than 600 mist-net surveys of sites where the species composition of bats was unknown prior to the survey but which occurred in areas considered suitable habitat for Indiana bat.

WNS was first detected in the AMRU in winter of 2008/2009. Based on information from the Northeast Recovery Unit where WNS was first documented in 2006, it appears to takes from 3 to 7 years for the full effects of the disease to manifest (Turner et al. 2011). Large population declines were first seen in some hibernacula in the AMRU in 2011. The estimated number of Indiana bats in Pennsylvania dropped by about 50% between 2009 and 2011 (USFWS 2012). Severe declines were documented in the AMRU in 2013 (Stihler 2013). Based on more recent monitoring studies the post-WNS proportion of little brown bat carcasses to all bat carcasses in the pool of recovered bat fatalities is now in the range of approximately 0 to 4 percent (Table 2), versus approximately 3 to 13 percent pre-WNS (see Table 4.4 in HCP). The ratio of Indiana bats to little brown bats in mist net data also now averages approximately 2.38 percent post-WNS (Table 1) versus an average of 0.81 percent pre-WNS (see HCP p. 30).

Table 2. Annual number of bat carcasses found by species at wind project monitoring studies in the Appalachian Mountain Recovery Unit, 2010 – 2012.

Species	Locust Ridge, PA (2010)	Mount Storm, WV (2010)	Mount Storm, WV (2011)	Laurel Mountain, WV (2011- 2012)	Criterion, MD (2011)	Pinnacle, WV (2012)	Total
Hoary bat	78 (35.3%)	133 (28.9%)	90 (49.2%)	68 (36.6%)	236 (33.4%)	79 (34.8%)	684(34.5%)
Eastern red bat	64 (29.0%)	238 (51.6%)	54 (29.5%)	62 (33.3%)	244 (34.6%)	86 (37.9%)	748 (37.7%)
Tri-colored bat	22 (10.0%)	23 (5.0%)	12 (6.6%)	18 (9.7%)	47 (6.7%)	21 (9.3%)	143 (7.2%)
Silver-haired bat	26 (11.8%)	32 (6.9%)	23 (12.6%)	17 (9.1%)	103 (14.6%)	23 (10.1%)	224 (11.3%)
Big brown bat	21 (9.5%)	17 (3.7%)	2 (1.1%)	12 (6.5%)	38 (5.4%)	16 (7.1%)	106 (5.3%)
Seminole bat	0	2 (0.4%)	0	0	1 (0.1%)	1 (0.4%)	4 (0.2 %)
Unknown	0	1 (0.2%)	2 (1.1%)	4 (2.2%)	5 (0.9%)	1 (0.4%)	14 (0.7%)
***Myotis* species**							
Little brown bat	10 (4.5%)	15 (3.3%)	0	4 (2.2%)	31 (4.4%)	0	60(3.0 %)
N. long-eared bat	0	0	0	0	0	0	0
Indiana bat	0	0	0	1 (0.5%)	0	0	1 (0.05%)
Unknown Myotis	0	0	0	0	1 (0.1%)	0	1 (0.05%)
Total *Myotis*	10	15	0	5	32	0	62
Total bats	221	461	183	186	706	227	1,984
Estimated bat fatalities/turbine/year at control turbines	32.2 (CI: 27.7-37.0)	32.4 (CI: 26.6-43.5)	14.9 (CI:11.9-18.3)	23.4 (CI: 17.6-30.2)	39.0 (CI: 34.6-46.5)	96.5 (CI 68.6-146.4)	

Revised Take Assessment

Overall bat mortality at wind projects in the AMRU based on post-WNS monitoring studies averaged approximately 39.7 and ranged from approximately 15 to 96 bats per turbine per year (Table 2). This is higher than pre-WNS monitoring results which averaged approximately 32.5 and ranged from approximately 24 to 48 bats per turbine per year (see Table 4.3 in the HCP). The post-WNS average is close to the site specific monitoring study at the Project from 2011 which resulted in approximately 39.0 bats per turbine (Young et al. 2012). Using the site specific data for estimating the total annual bat mortality at the Project and the percent of little brown bats expected in the overall bat mortality post-WNS it is estimated that the total estimated number of little brown bat fatalities would be approximately 48. Use the percent of Indiana bats to little brown bats from the post-WNS mist-net surveys from West Virginia (Table 1), it is estimated that on average approximately 1.14 Indiana bat fatalities would occur annually at the Project (Table 3), in the absence of any turbine operational adjustment (on-site minimization measures). Over the 20-year operational life of the turbines this would result in approximately 23 total Indiana bat fatalities.

Table 3. Results of a model estimating take of Indiana Bats within the Criterion Wind Project.

Data Sources	Annual Estimate of Total Bat Mortality	Percent of Fatalities that are Little Brown Bats	Annual Estimate of Little Brown Bat Mortality	Percent that are Indiana Bats	Annual Estimate of Indiana Bat Mortality
Original Take Estimate in HCP	1,344 (max regional value)	12.9% (max regional value)	173	0.81% (average pre-WNS)	1.40
Revised Take Estimate	1,092 (site specific results)	4.4% (site specific results)	48	2.38% (average post-WNS)	1.14

Estimated Take With Minimization Measures

As described in the HCP, to minimize potential Indiana bat mortality at the site to the maximum extent practicable, CPP will implement turbine operational changes that include adjusting the blade pitch for the turbines at wind speeds below 5.0 m/s to minimize rotation of the rotor from sunset to sunrise during the period from July 15 to October 15 each year. Based on the post-construction monitoring result from 2012 when this measure was implemented, bat mortality at the site was reduced by 51% (Young et al. 2013). Assuming overall take of Indiana bat over the

20-year operational life of the turbines (i.e., 23 bats) will be reduced by at least 50%, the estimated take from the project with implementation of the on-site minimization measures is 12 Indiana bats. This is the level of take for which CPP will request coverage in the incidental take permit.