

**MEMORANDUM OF AGREEMENT  
PURSUANT TO 82 CSR 2  
BETWEEN THE  
WEST VIRGINIA DIVISION OF CULTURE AND HISTORY  
AND  
PINNACLE WIND FORCE, LLC  
FOR THE  
PINNACLE WIND ENERGY PROJECT**

**WHEREAS**, Pinnacle Wind Force, LLC proposes the development of a wind-powered electric generation facility in Mineral County, West Virginia; and

**WHEREAS**, Pinnacle Wind Force, LLC (Pinnacle) has consulted with the West Virginia State Historic Preservation Officer, WV Division of Culture and History (WVSHPO), pursuant to 82 CSR 2, in particular 82-2-5: State Review Process, regulations implementing W. Va. Code 29-1-8; and

**WHEREAS**, Pinnacle Wind Force, LLC has conducted survey efforts within the area of potential effect to identify historic resources which are listed or considered eligible to be listed in the National Register of Historic Places and has consulted with the WVSHPO regarding eligibility and assessment of effect; and

**WHEREAS**, the WVSHPO has determined that the proposed Pinnacle Wind Farm at New Page, in Mineral County, West Virginia may have an adverse visual effect upon 18 buildings within the Keyser, Mineral County, West Virginia vicinity, which are listed or considered eligible to be listed in the National Register of Historic Places (Attachment 1) (the Subject Properties); and

**WHEREAS**, the WVSHPO has communicated with Pinnacle regarding the results of its review of the Pinnacle's survey efforts (Attachment 2); and

✓ **WHEREAS**, the Mineral County Historical Society and the Mineral County Historical Foundation have been consulted regarding the potential finding of adverse visual effect and suggestions for mitigation measures specifically during a meeting held in Keyser on 17 August 2009; and

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✓ **WHEREAS**, the Mineral County Historical Society and the Mineral County Historical Foundation have been provided an opportunity to comment to the WVSHPO regarding the finding and proposed mitigation;

**NOW**, therefore, Pinnacle and the WVSHPO agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

#### STIPULATIONS

Pinnacle will insure that the following measures are carried out:

- I. **Architecture.** Prior to the commencement of construction within the view sheds of the Subject Properties, Pinnacle shall have funded an historic preservation grant fund in amount of \$10,000.00. The historic preservation grant will be made to and administered by an independent, local community foundation to be established by Pinnacle.
  - A. These monies will be administered by the community foundation with funding decisions being made independent of Pinnacle, and will be for the express purpose of assisting in the preservation, rehabilitation, or restoration of historic properties in Mineral County, West Virginia.
  - B. Written approval by the WVSHPO that projects proposed for assistance through the historic preservation fund comply with the Secretary of the Interior's *Standards for Historic Preservation* shall be a condition of funding such projects with historic preservation fund proceeds.
  - C. The historic preservation grant fund will be dedicated to projects for the the

advancement of historic preservation in Mineral County, or for the preservation, rehabilitation, or restoration of eligible properties for a period of 10 years or until all the monies in the fund are expended.

- D. Monies remaining in the fund ten years from its establishment will be retained by the local community foundation for distribution as part of general grant awards for any other community purposes within Mineral County, West Virginia.
- E. Alternatively, Pinnacle may elect to fund the historic preservation grant to an existing preservation organization acceptable to the signatories.
- F. Should Pinnacle fail to establish an historic preservation grant fund through the proposed local community foundation, no construction within the viewsheds of the Subject Properties may be undertaken until the establishment of such a fund in the amount of \$10,000.00 through the WVSHPO, or other organization acceptable to the signatories.

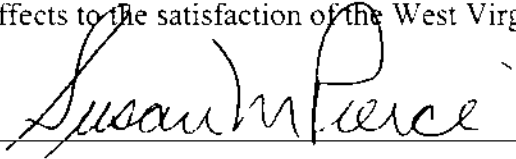
## **II. Archeology.**

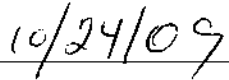
- A. Pinnacle has been redesigned to avoid site 46Mi174 identified in the archaeology study. Pinnacle agrees that site 46Mi174 is outside of the limits of disturbance and will not be directly impacted by construction activities associated with installation of the wind turbines. Likewise, sites 46 Mi76, 46 Mi79, and 46Mi80 can also be avoided in the construction of the project.
- B. If it is determined that archeological sites 46Mi78, 46Mi81, and 46Mi82 cannot be avoided during the proposed project, Pinnacle will continue to consult with the WVSHPO to assess their significance. If Pinnacle and the WVSHPO agree that the sites do not qualify as historic properties, then no further work will be required. If it is determined that avoidance of an eligible archeological site is impracticable, Pinnacle will consult with the WVSHPO to develop a treatment plan consistent with the Secretary of the Interior's *Standards and Guidelines for Archeological Documentation* and WV SHPO Standards.
- C. **Post-Review Discoveries.** In the event of any unanticipated discoveries of archeological sites, unmarked cemeteries, or human remains and associated funerary objects during the construction or operation of the Pinnacle wind project, all ground

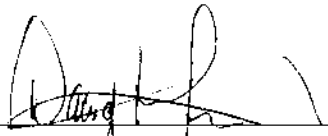
disturbing activities will be suspended in the area of discovery. Pinnacle will contact WVSHPO within 48 hours of the discovery. In consultation with WVSHPO, Pinnacle shall ensure that, if necessary, a qualified archeologist will visit and assess the discovery within 72 hours of the initial WVSHPO notification. Through consultation, Pinnacle and WVSHPO shall agree upon the appropriate treatment of the discovery prior to resumption of construction and/or operation activities in the area of discovery. If human remains are determined to be Native American origin, WVSHPO, in consultation with Pinnacle shall comply with W.Va. Code 29-1-8a. Pinnacle affirms that all human remains will be avoided by direct construction impacts where feasible.

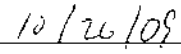
- IV. Dispute Resolution.** During the execution of the stipulations as outlined above, should Pinnacle and the WVSHPO be unable to reach a mutually satisfactory decision, except as noted, the WVSHPO will provide written comments to Pinnacle. Pinnacle shall respond to WVSHPO comments. This exchange of correspondence shall demonstrate that Pinnacle has afforded the WVSHPO an opportunity to comment and considered the effects to historic resources. All stipulations not subject to the dispute shall remain in force.
- V. Annual Report.** Pinnacle shall provide an annual report to the WVSHPO regarding the project status including information regarding the establishment of the local community foundation, use of the dedicated preservation funding and construction activity, the latter as it relates to the avoidance of the identified archaeological sites. Upon complete dispersal of the \$10,000 and construction completion, it will be mutually agreed that the reporting requirement has been fulfilled.

Execution of this Memorandum of Agreement evidences that Pinnacle Wind Force, LLC has taken into account the effects of the undertaking on historic properties and has mitigated such effects to the satisfaction of the West Virginia Division of Culture and History.

  
\_\_\_\_\_  
West Virginia Deputy State Historic Preservation Officer  
West Virginia Division of Culture and History

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Pinnacle Wind Force, LLC

  
\_\_\_\_\_  
Date

Attachment 1: List of Subject Properties

Attachment 2: Correspondence from WVSHPO to Pinnacle regarding study reports

**Attachment 1  
List of Subject Properties**

Site	Type of Resource	Possible view of wind turbines	Meets National Register Criteria	Distance to nearest wind turbine (miles)	Direction to nearest wind turbine
2	Potomac State College Agricultural Farm	Yes	Yes	1.872342	WNW
5	Dwelling	Yes	Yes	2.318389	WNW
9	Dwelling	Yes	Yes	2.47977	NW
16	Dwelling	Yes	Yes	2.501086	NW
23	Dwelling	Yes	Yes	2.678607	NW
24	Dwelling	Yes	Yes	2.652979	NW
25	Dwelling	Yes	Yes	2.663733	NW
26	Dwelling	Yes	Yes	2.673591	NW
33	Dwelling	Yes	Yes	2.595332	WNW
35	Dwelling	Yes	Yes	2.741638	WNW
37	Dwelling	Yes	Yes	2.633057	NW
39	Dwelling	Yes	Yes	2.512607	NW
57.11	Dwelling	Yes	Yes	2.871442	NNW
59.2	Dwelling	Yes	Yes	4.057732	N
59.8	Dwelling	Yes	Yes	3.408411	NNW
60	Dwelling	Yes	Yes	4.515577	N
64.5	Grocery	Yes	Yes	5.183564	ENE
65	Keyser	Yes	Yes	2.100953	W

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WEST VIRGINIA  
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March 12, 2009

Mr. James M. Cookman  
US Wind Force  
P.O. Box 550  
Petersburg, WV 26847

RE: US Wind Force, LLC  
Pinnacle Wind Project - Proposed Wind Power Generation Facility  
FR: 08-450-MI-5

Dear Mr. Cookman:

We have reviewed the *Phase II Investigation for Architectural and Structural Resources*, February 26, 2009 for the Pinnacle Wind Project in Mineral County. The following comments are offered under West Virginia Code 29-1-8.

According to the information submitted the initial plans for the Pinnacle Wind Project proposed the construction of eastern and western arrays of wind turbines in Mineral County. Since the initial plans the western array has now been eliminated from the proposed project. Therefore, the current project consists of a maximum of 23 commercial wind turbines and associated equipment. Studies were completed to determine the visual and cultural effects to architectural and structural resources eligible for listing in the National Register of Historic Places by the project.

We have reviewed the Findings as presented in the Report.

We concur that the Pinnacle Wind Project will have no direct effect on properties listed in or eligible for listing in the National Register of Historic Places.

We concur that as a result of this change an analysis of the current project proposal and photo simulations found that five of the properties (Site 59.1-Claysville Church, 61-Kanter Cut Off Road-dwelling and 62.1-Cross School, 62.2-Cross Church, 62.4-Cross Methodist Church) recommended for Phase II investigation will no longer be within the viewshed of the proposed project due to project changes, topography and vegetation.

Though there is some contemporary construction within the viewshed of eight properties (Sites 5, 9, 16, 23, 24, 37, 39 and 65) the addition of the wind turbines will have an accumulative effect to these historic resources. Also, the construction of the 30 wind turbines will introduce a new industrial element to the rural landscape of these individual Sites 2, 25, 26, 33, 35, 57.11, 59.2, 59.8, 60, and 64.5.

It is our understanding that the noise assessment study has not yet been completed and is not specific to historic resources. Although the nearest resource eligible for listing in the National Register of Historic Places is 1.8 miles from the turbines please provide a copy of the study for our review and comment.

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Mr. Cookman  
FR#: 08-450-MI-5  
March 12, 2009  
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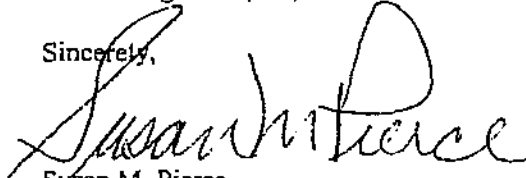
In our opinion, the proposed construction of the Pinnacle Wind Turbine Project will have a visual Adverse Effect to these eighteen resources eligible for or listed in the National Register of Historic Places as well as a visual Adverse Effect to the rural landscape and cultural setting within some portions of the Area of Potential Effect (APE).

In anticipation of an Adverse Effect to architectural and structural resources eligible for listing in the National Register of Historic Places the US Wind Force has provided a draft Memorandum of Agreement (MOA) for the adverse visual effects of the 18 resources and adverse cultural effects within the APE. In addition, during our meeting on February 26, 2009 we discussed several other mitigation possibilities. We have checked our records and at this time do not have any request from the public for a National Register nomination. However, we do suggest that the Mineral County Historical Society be contacted to provide them with an opportunity to comment and to inquire if they would like to be a concurring party on the MOA. Also, in our opinion the establishment of a local grant program that was discussed in our meeting could provide the best long term mitigation. Please provide a draft MOA that incorporates some or all of the suggested mitigation.

It is our understanding that the Phase I archaeological survey report will be submitted for our review in the near future. Please keep in mind that, if all archaeological issues have not been resolved at this point in the process, the MOA will need to be amended to provide for continuing the consultation process with respect to archaeological resources. We will provide further comment upon receipt of the report and other items listed above.

We appreciate the opportunity to be of service and look forward to working with you on this project. *If you have any questions regarding our comments or the Section 106 process, please call Ginger Williford, Structural Historian, or Lora A. Lamarre, Senior Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/GW/LAL

cc: Rebecca Gatewood, R. Christopher Goodwin & Associates



WEST VIRGINIA  
DIVISION OF  
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EEQ/AA Employer

June 22, 2009

Mr. Jeffrey H. Maymon  
Senior Project Manager  
R. Christopher Goodwin & Associates  
241 East Fourth Street, Suite 100  
Frederick, MD 21701

RE: US Wind Force, LLC  
Pinnacle Wind Project - Proposed Wind Power Generation Facility  
FR: 08-450-MI-6

Dear Mr. Maymon:

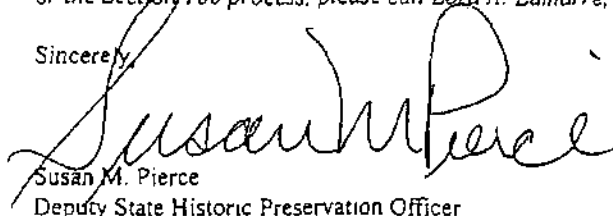
We have reviewed the draft report titled *Phase I Archaeological Survey for the Proposed Pinnacle Wind Project Mineral County, West Virginia*, which was submitted for the above referenced project to determine effects to historic resources. The following comments are provided according to West Virginia Code § 29-1-8. We apologize for the delay in our comments, but as you know from our email and telephone correspondence, we are concerned about the nature of resources identified in the project area and have been attempting to locate useful reference materials.

According to the report, systematic survey of the proposed project area, including the wind turbine corridor and the T-line and revised interconnection corridors, resulted in the identification of 9 new archaeological resources, which are numbered 46Mi74 – 46Mi82. One of these sites, 46Mi75, consists of a prehistoric isolated find, which we agree has no research potential. The remaining sites consist of rock cairns and walls and are thought to date to the historic period.

In general, the draft report presents a thorough account of the survey. However, we find that additional information regarding the identified sites is needed before we can provide comment on their National Register eligibility. Sites 46Mi76 through 46Mi80 consist of individual set stones that appear to have been used recently as boundary markers. Sites 46Mi81 and 46Mi82 may have been used as distillery locations, while 46Mi74 consists of a cluster of cairns and walls that are thought to represent field clearing piles. It is our understanding that very few or no artifacts were recovered from each site location. As you know, rock cairns dating to the prehistoric period are not uncommon in this region. As a result, it is unclear whether these resources were constructed during the historic period or were created much earlier and used fortuitously in the recent past. In addition, in our experience, the cluster of rock cairns and walls do not necessarily resemble field clearing piles. Rather, they may be more similar to those documented elsewhere in the eastern United States that are thought to be prehistoric in origin. As a result, we ask that sites 46Mi74 and 46Mi76 – 46Mi82 be avoided by the proposed project. If they can be avoided, it is our opinion that this project will have no effect on any archaeological resource eligible for inclusion in the National Register of Historic Places. If this is not possible, we ask that they undergo further examination to determine their eligibility for inclusion in the National Register.

We appreciate the opportunity to be of service. If you have any questions regarding our comments or the Section 106 process, please call Lora A. Lamarre, Senior Archaeologist, at (304) 558-0240.

Sincerely,

  
Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/LAL

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