

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Seneca)	
Wind, LLC for a Certificate of Environmental)	
Compatibility and Public Need for a Wind-)	Case No. 18-488-EL-BGN
Powered Electric Generating Facility in)	
Seneca County, Ohio.)	

**INTERVENOR BOARD OF EDUCATION OF THE SENECA EAST LOCAL SCHOOL
DISTRICT’S ANSWERS, RESPONSES, AND OBJECTIONS TO INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED BY
APPLICANT SENECA WIND LLC**

Intervenor Board of Education of the Seneca East Local School District (the "Board of Education" or "District") hereby responds to the first set of interrogatories and requests for production of documents from Applicant Seneca Wind LLC.

GENERAL OBJECTIONS

1. The Board of Education objects to these interrogatories and document requests (“Discovery Requests”) to the extent that they do not comply with the procedural rules of the Ohio Power Siting Board, or otherwise seek to impose duties or obligations upon the Board of Education that are greater than or inconsistent with those rules.
2. No objection made herein, or lack thereof, shall be deemed an admission by the Board of Education as to the existence or non-existence of any documents and/or information.
3. The Board of Education objects to each Discovery Request herein to the extent that it seeks to define terms and/or to characterize certain matters. To the extent the Board of Education responds to Discovery Requests, such response is neither an express nor implied agreement or admission as to the meaning of a term or characterization of certain matters.
4. The Board of Education objects to each Discovery Request to the extent that it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or

any other legally recognized privilege, protection, or immunity. No privileged materials or information will be produced or disclosed. Inadvertent disclosure of any such protected information shall not constitute a waiver of the Board of Education's right to assert the applicability of any privilege or immunity and all copies or images thereof shall be returned to counsel for the Board of Education upon discovery thereof.

5. The Board of Education objects to paragraph 8 of Seneca Wind LLC's definitions and instructions to the extent it purports to obligate the Board of Education to supplement its answers to these Discovery Requests in situations not required by OAC § 4906-2-14.
6. The Board of Education objects to any Discovery Request, definition, or instruction that seeks to require the Board of Education to take extraordinary measures to perform a search for responsive information, including searching electronic information stored on back-up media, on the grounds that such request is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.
7. With respect to Discovery Requests which utilize terms or words that inherently may be construed unreasonably broadly, the Board of Education objects on the grounds of vagueness, overbreadth, undue burden, and that such Discovery Requests are not reasonably calculated to lead to the discovery of admissible evidence. To the extent the Board of Education asserts an objection of vagueness, overbreadth, or undue burden, it asserts a further objection that the Discovery Request is not reasonably calculated to lead to the discovery of admissible evidence.
8. The Board of Education objects to Seneca Wind LLC's Discovery Requests to the extent they go beyond the scope of discovery that is relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.
9. To the extent a response is made to a Discovery Request to which there is one or more

specific objection(s), said response is made notwithstanding and without waiving any of the general objections.

10. In making these objections, the Board of Education does not in any way waive or intend to waive, but rather intends to preserve and is preserving, should it become appropriate:
 - a. all objections to the competency, relevancy, materiality, and admissibility of any information that may be produced and disclosed in response to these Discovery Requests;
 - b. all rights to object on any ground to the use of any information that may be produced or disclosed in response to these Discovery Requests, or the subject matter thereof in any subsequent proceedings, including the trial of this action;
 - c. all rights to object on any ground to any request for further responses to these Discovery Requests, or any other discovery requests from Seneca Wind LLC; and
 - d. all rights to supplement its responses to these Discovery Requests.
11. The Board of Education has made reasonable efforts to respond to each Discovery Request as the Board understands and interprets the Discovery Request. If Seneca Wind LLC subsequently asserts an interpretation of a Discovery Request that differs from that of the Board of Education, the Board of Education reserves the right to supplement its response.
12. As formal discovery has not been completed, the Board of Education reserves the right to rely upon any facts, documents or other evidence which may develop or come to its attention later.

INTERROGATORIES

1. Please identify each consultant and/or expert you intend to call as a witness or to provide testimony in this Case.

- a. If the consultant/expert is an organization, please identify each individual employed by the organization who is assisting you in this Case.
- b. If you have not retained a particular consultant/expert, please promptly identify the consultant/expert (and the individuals employed by the consultant/expert who are assisting you if the consultant/expert is an organization) as soon as you retain a consultant/expert.

ANSWER: Witnesses have not yet been determined. At this time, a consultant/expert has not been retained.

Answer provided by: Superintendent Laura Kagy with the assistance of counsel.

2. For each consultant/expert that you intend to call as a witness or provide testimony in this Case, please describe in detail the scope and purpose of the consultant's/expert's engagement, including the subject matters, issues, and positions regarding which the consultant/expert will analyze and advise you, and state the field in which he/she is to be offered as an expert and a summary of his/her qualifications with the field in which he/she is expected to testify. If you have not yet determined a particular subject matter, issue, or position regarding which the consultant/expert will analyze and advise you or your attorney, please promptly provide a description as soon as this is determined.

ANSWER: Witnesses have not yet been determined. At this time, a consultant/expert has not been retained.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

3. Please identify any and all documents, reports, analysis, or studies in your possession regarding potential noise impacts from the Project.

ANSWER: The District received unsolicited email communications from the public that attached a report by the World Health Organization concerning wind turbine noise levels, and a 2015 research paper entitled Industrial Wind Turbines and Health: Wind Turbines Can Harm Humans If Too Close to Residents. Copies of these email communications will be provided by the District in response to Seneca Wind's Requests for Production of Documents below. The Board of Education currently does not possess any other documents, reports,

analysis, or studies regarding potential noise impacts from the Project other than those which are contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, or materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

4. Please identify any and all documents, reports, analysis, or studies in your possession regarding potential impacts to birds, bats, or eagles due to the Project.

ANSWER: The District does not possess any documents, reports, analysis, or studies regarding potential impacts to birds, bats or eagles due to the Project other than materials contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, or materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

5. Please identify any and all documents, reports, analysis, or studies in your possession regarding potential impacts from shadow flicker due to the Project.

ANSWER: The District does not possess any documents, reports, analysis, or studies regarding potential impacts from shadow flicker due to the Project other than materials contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, or materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

6. Please identify any and all documents, reports, analysis, or studies in your possession regarding the Project, not otherwise identified above.

ANSWER: The District does not possess any documents, reports, analysis, or studies regarding the Project other than materials contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, or materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

7. Please identify any and all communications you and/or your agent has had with anyone regarding the Project.

ANSWER: The District received email communications concerning the Project from various individuals. Copies of these email communications will be provided by the District in response to Seneca Wind's Requests for Production of Documents below. In addition, the following people provided public comments regarding the Project at the Board's November 13, 2018 special meeting: Chris Aichholz, Gordon Gray, Tami Andrews, and Paul Jones. The local residents who briefly commented requested the District to intervene in this case. Mr. Gray represents the Project developers and briefly provided comments describing the Project. On several occasions, representatives of wind farm developers have made unscheduled visits to the school office to provide updates on the Project to school officials. The District does not have documentation or notes regarding the public comments or the unscheduled visits.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

8. On page 4 of your Petition to Intervene, you state that the "District has a real and substantial interest in protecting its students and staff from potentially adverse impacts on their health, safety and welfare":
- a. Please identify any and all documents, reports, analysis, or studies in your possession regarding adverse impacts on health, safety, or welfare due to the Project, as discussed on page 4 of your Petition to Intervene.
 - b. Please identify any and all communications you and/or your agent has had regarding impacts on health, safety, or welfare as discussed on page 4 of your Petition to Intervene.

ANSWER: Materials contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, and materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN, relating to noise, ice throw, and shadow flicker effects that potentially may impact students and staff using the District's grounds and facilities, bus stops, and transportation to and from school. In addition to materials contained in the Case Record, the District received email communications from various individuals regarding alleged impacts on health, safety and welfare. Copies of these email communications will be provided by the District in response to Seneca Wind's Requests for Production of Documents below.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

9. On page 4 of your Petition to Intervene, you reference "the potential impacts on residential, commercial and industrial development and property values with in the District" from the Project:

- a. Please identify any and all documents, reports, analysis, or studies in your possession regarding the Project's potential impacts on residential, commercial and industrial development and property values as discussed on page 4 of your Petition to Intervene.
- b. Please identify any and all communications you and/or your agent has had regarding the Project's potential impacts on residential, commercial and industrial development and property values as discussed on page 4 of your Petition to Intervene.

ANSWER: Materials contained in Seneca Wind's application and submissions into the record in Case No. 18-488-EL-BGN, and materials submitted by persons other than Seneca Wind into the record in Case No. 18-488-EL-BGN, relating to Project's effect on the health, safety, welfare and economy of the community. Seneca County Local Residents Motion to Intervene and Brief in Support asserts the project will adversely affect and diminish property values. The District received email communications from various individuals regarding concerns about impacts on their homes and property. Copies of these email communications will be provided by the District in response to Seneca Wind's Requests for Production of Documents below. Other documents may yet be produced in this case that relates to potential impacts on residential, commercial and industrial development.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

10. On page 4 of your Petition to Intervene, you state that "constituencies also want to make sure the proposed facility enhances local commerce, economic development, property development and values":
 - a. Please identify any and all documents, reports, analysis, or studies in your possession regarding the Project's impact on local commerce, economic development, property development and values as discussed on page 4 of your Petition to Intervene.
 - b. Please identify any and all communications you and/or your agent has had regarding the Project's impact on local commerce, economic development, property development and values as discussed on page 4 of your Petition to Intervene.

ANSWER: Seneca County Local Residents Motion to Intervene and Brief in Support in this Case addresses concerns about adverse impacts of the Project on the community. The District received email communications from various individuals regarding concerns about impacts on their homes, property and community. Copies of these email communications will be provided by the District in response to Seneca Wind's Requests for Production of Documents

below. Other documents may yet be produced in this case that relates to potential impacts on local commerce, economic development, property development and values.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

11. For each person identified in response to Interrogatory No. 1, identify all documents, reports, analysis, or studies that were or will be reviewed or relied on by such person for such contention and/or testimony, and/or that will be used for or referenced in any testimony or hearing on this matter.

ANSWER: Witnesses have not yet been determined. At this time, a consultant/expert has not been retained and the Board of Education has not determined the documentary evidence it intends to present at the hearing.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

12. Please identify any and all communications you had with any and all of the “Seneca County Local Residents” who filed a petition to intervene in this Case on November 13, 2018, regarding this Case or the Project.

ANSWER: The District received email communications from various individuals. Copies of these email communications will be provided by the District in response to Seneca Wind’s Requests for Production of Documents below. In addition, the following people were among those who provided public comments regarding the Project at the Board of Education’s November 13, 2018 special meeting: Chris Aichholz and Tami Andrews.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

13. Please identify any and all communications you and/or your agent has had with other Intervenors to this Case.

ANSWER: The Board of Education objects to this interrogatory as overbroad, and unduly burdensome. District officials frequently communicate with public officials of other local subdivisions, including but not limited to subdivisions that have intervened in this Case, regarding matters unrelated to the Project. Identifying any and all such communications is unduly burdensome and irrelevant to the issues in this Case. Subject to and without waiving the foregoing objection, the District answers that has received email communications from various individuals who have intervened as Seneca County Local Residents. Copies of these email communications will be provided by the District in response to Seneca Wind’s Requests for Production of Documents below. In addition, the following people were among those who provided public comments regarding the Project at the Board of Educations’s November 13, 2018 special meeting: Chris Aichholz and Tami Andrews.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

14. Please identify any and all communications you and/or your agent has had with other PUCO Staff or their attorneys regarding this Case or the Project.

ANSWER: None.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

15. Please identify any and all communications you and/or your agent had with the Board or any of its members regarding this Case or the Project.

ANSWER: None.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

16. Please identify each document that you intend to introduce as an exhibit at the hearing in this Case.

ANSWER: The Board of Education objects to this interrogatory as overbroad and unduly burdensome. Without waiving this objection, at this time the Board has not determined the documentary evidence it intends to present at the hearing.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

17. For all consultant/experts identified above, please identify all cases (including a case caption, case number, and the court/agency where the proceeding took place) in which these consultants/experts previously testified, filed comments, or filed written testimony.

ANSWER: Witnesses have not yet been determined. A consultant/expert has not been retained.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

18. Please identify all cases (including a case caption, case number, and the court/agency where the proceeding took place) over the past 5 years in which you previously testified, filed comments, or filed written testimony regarding wind turbines or wind turbine projects.

ANSWER: None.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

19. Identify each and every person you expect to call, or to provide testimony, as a lay witness in this Case.

ANSWER: The Board of Education objects to this interrogatory as overbroad and unduly burdensome. Without waiving this objection, at this time the Board has not determined the persons it expects to call or provide testimony as a lay witness at the hearing.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

20. Identify every person who assisted in the preparation of your answers to these Interrogatories.

ANSWER: Legal counsel.

Answer provided by: Superintendent Laura Kagy, with the assistance of counsel.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce a copy of each document you identified, consulted, referred to, or utilized in preparing your answers to Interrogatories 1-20.

RESPONSE: The Board of Education objects to this request to the extent it calls for copies of pleadings or other documents contained in the docket of Case No. 18-488-EL-BGN, all of which are available as online public records. Subject to and without waiving such objection, copies of responsive documents will be produced.

2. Please produce copies of all:
 - a. Requests for proposals that you or your attorney issued for the retention of any consultants/experts for this proceeding.
 - b. Contracts that you or your attorney entered into with consultants and/or experts.
 - c. All correspondence between you or your attorney and consultants and/or experts.

RESPONSE: None.

3. Please produce all analyses, evaluations, reports, or studies that you or your consultant(s) and/or expert(s) conducted to evaluate the Application or any other aspect of this Case.

RESPONSE: None.

4. Please produce copies of all transcripts of depositions in which you or any expert/consultant you intend to call in this proceeding was deposed.

RESPONSE: None.

5. Please produce each document that you intend to introduce as an exhibit at the hearing in the Case.

RESPONSE: The Board of Education objects to this request as overbroad and unduly burdensome. Without waiving this objection, at this time the Board has not determined the documentary evidence it intends to present at the hearing.

6. Please produce a copy of all comments you submitted to the Board regarding this Project.

RESPONSE: The Board of Education objects to this request to the extent it calls for copies of pleadings or other documents contained in the docket of Case No. 18-488-EL-BGN, all of which are available as online public records. Subject to and without waiving such objection, the Board of Education does not possess documents responsive to this request.

7. Please produce a copy of documents you have obtained through a public records request or Freedom of Information Act request related to the Project.

RESPONSE: None.

8. Please produce copies of any and all joint defense/prosecution agreements to which you are a party regarding this Case.

RESPONSE: None.

9. Please produce the curriculum vitae of any and all expert(s), consultant(s), and witness(es) identified in response to any Interrogatory.

RESPONSE: None.

10. To the extent not produced in response to any of the foregoing requests for production, produce any and all documents that relate in any way to the subject matter of this Case.

RESPONSE: The Board of Education objects to this request to the extent it calls for copies of pleadings or other documents contained in the docket of Case No. 18-488-EL-BGN, all of which are available as online public records. Subject to and without waiving such objection, copies of responsive documents will be produced.

Respectfully Submitted,



Albin Bauer, II (0061245)
PETERS KALAIL & MARKAKIS CO., L.P.A.
6480 Rockside Woods Blvd. South
Suite 300
Cleveland, Ohio 44131-2582
(216) 503-5055
(216) 446-6032 (Facsimile)
Email: abauer@ohioedlaw.com

*Attorney for Intervenor Board of Education of
the Seneca East Local School District*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Intervenor Board of Education of The Seneca East Local School District's Answers, Responses and Objections to Interrogatories and Requests for Production Of Documents Propounded by Applicant Seneca Wind LLC* has been served upon the following parties listed below by electronic mail, this 29th day of March 2019.



Albin Bauer, II (0061245)

*Attorney for Intervenor Board of Education of
the Seneca East Local School District*

sbloomfield@bricker.com

dborchers@bricker.com

dparram@bricker.com

jstock@beneschlaw.com

cendsley@ofbf.org

lcurtis@ofbf.org

amilam@ofbf.org

jclark@senecapros.org

jvankley@vankleywalker.com

cwalker@vankleywalker.com

SShuff@foreignjourneys.com

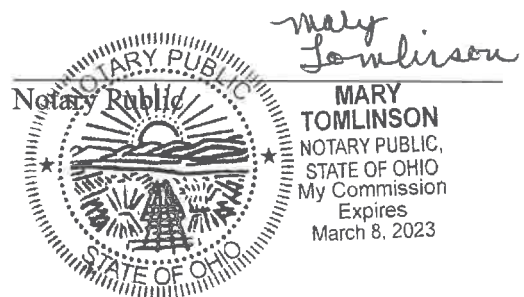
VERIFICATION

State of Ohio :
 : ss
County of Seneca :

I, Dr. Laura Kagy, in my capacity as Superintendent of the Seneca East Local School District, being first duly cautioned, declare that the foregoing Intervenor *Board of Education of The Seneca East Local School District's Answers, Responses, and Objections to Interrogatories and Requests For Production of Documents Propounded By Applicant Seneca Wind LLC*, are true and accurate to the best of my knowledge.


Dr. Laura Kagy

Affirmed and subscribed before me in my presence this 29th day of March, 2019.



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in

Case No(s). 18-0488-EL-BGN

Summary: Text Board of Education of The Seneca East Local School District's Answers, Responses, and Objections to Interrogatories and Requests For Production of Documents Propounded By Applicant Seneca Wind LLC electronically filed by Mr. Albin Bauer on behalf of Seneca East Local School District