

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **REPUBLIC**
WIND, LLC for a Certificate of)
Environmental Compatibility and Public Need)
for a Wind-Powered Electric Generating) Case No. 17-2295-EL-BGN
Facility in Seneca and Sandusky Counties,)
Ohio.)

DIRECT TESTIMONY OF

Paul Kerlinger, Ph.D.

on behalf of

Republic Wind, LLC

October 21, 2019

Q-1. Please state your name, current title, and business address.

A-1. My name is Paul Kerlinger. I am an Independent Consulting Biologist. My business address is P.O. Box 453, Cape May Point, New Jersey 08212.

Q-2. What is your educational background?

A-2. I received a Bachelor of Arts degree in Biology from State University of New York College at Oneonta in 1976 and a Master of Science degree in Biology in 1981 from State University of New York at Albany. The focus of my Thesis was breeding bird community structure in pine-oak forests in two eastern states. In 1982, I earned a Ph.D. in Biology from State University of New York at Albany. For my dissertation, I used military tracking radar to determine the flight behavior of migrating hawks including aerodynamic performance, altitude of flight, flight speed, direction of flight, and differential use of atmospheric structure.

Q-3. What is your professional background?

A-3. From 1982 through 1987, I was an assistant professor and a post-doctoral fellow with support from National Science Foundation, Electric Power Research Institute, the U.S. Air Force, and Natural Science and Engineering Research Council of Canada. I then accepted a position as the director of the Cape May Bird Observatory and director of research for the New Jersey Audubon Society. I was tasked with being the administrator for the Bird Observatory, overseeing daily operations and staff, fund raising, serving its membership, and developing the Observatory into a professional institution. In addition, I was tasked with creating the first research program for the Society. Seven years later, Audubon opened the Center for Research and Education, an effort I conceived, planned, purchased property, helped with permitting, designed, and raised funds.

After leaving the Cape May Bird Observatory/New Jersey Audubon Society in 1994 I started my own consulting business focusing on wind energy projects as well as serving as a consultant to non-profit conservation organizations such as the New York City Audubon Society, Hawk Mountain Sanctuary, wildlife agencies (United States Fish and Wildlife Service “USFWS”), National Renewable Energy Laboratory (NREL/Department of Energy), and others. By 1997, I had consulted on several wind energy projects and together

1 with Dr. Richard Curry formed Curry Kerlinger, LLC, a small consultancy to do bird
2 research and permitting work in the wind energy and, to a lesser extent, communication
3 tower industries. We conducted pre- and post-construction studies, and I provided
4 testimony for more than 100 projects that are currently operating. I served as the lead
5 scientist for our LLC designing and supervising research, analyzing data, and report
6 writing. That research included avian risk assessments and other preconstruction studies
7 for proposed onshore and offshore wind projects. In addition, we conducted post-
8 construction bird impact studies at wind turbine facilities; developed preventative and
9 compensatory mitigation plans for birds at wind energy projects; and provided expertise
10 regarding habitat management at proposed and existing wind power facilities. I have led
11 teams that contributed to pre- or post-construction studies or testimony for more than 5,700
12 wind turbines (8,500+ MW) now operating in more than twenty states in the United States
13 and in four countries (Spain, Canada, Mexico, Jamaica). I was the Lead Avian Biologist
14 for the first permits granted for offshore wind energy projects (Cape Wind, MA and
15 Fishermen's Energy, NJ). Teams that I have directed have conducted thirty-seven post-
16 construction bird and bat fatality studies at wind energy facilities in thirteen states and in
17 Jamaica, as well as at nearly forty communication and many meteorological towers. For
18 wind energy I have been involved in the development of avian risk assessments, Eagle
19 Take Permits, mitigation design and testing, as well as post-construction fatality studies at
20 thirty-seven wind projects in more than ten states.

21 I have also served as a research liaison to the academic, conservation, and regulatory
22 community for wind energy and communication tower projects, as well as other types of
23 projects. For example, I was retained by the state of Michigan (State Police and Attorney
24 General's office) in a matter involving several environmental organizations (National
25 Wildlife Federation, Michigan Audubon, Conservation Law Foundation, etc.) over state
26 owned towers impacting birds. As part of this matter, I designed and executed a tower
27 research program that received two conservation awards and resulted in the implementation
28 of new and successful mitigation policies for communication towers by the Federal
29 Aviation Administration, the Federal Communications Commission, USFWS, and other
30 groups. With respect to wind energy and electric transmission, my research has been used

1 by USFWS and the Avian Power Line Interaction Committee to establish new policy that
2 is now reducing fatalities at substations and wind turbines.

3 I have served as a reviewer for professional bird, conservation, animal behavior, and
4 ecology journals from the 1980s to the present. During the past 30+ years, I have published
5 five books, hundreds of technical reports and articles, including about fifty peer-reviewed
6 publications and reports to the USFWS and non-profit conservation organizations on
7 various avian topics.

8 **Q-4. On whose behalf are you offering testimony?**

9 **A-4.** I am testifying on behalf of the Applicant, Republic Wind, LLC (“Applicant” or “Republic
10 Wind”).

11 **Q-5. What is the purpose of your testimony?**

12 **A-5.** The purpose of my testimony is to support the portions of the Application for Certificate
13 of Environmental Compatibility and Public Need (“Application”) regarding ecological
14 information addressing the presence, abundance, and behavior of avian species.
15 Specifically, I provide support regarding eagles and other species of migrating, wintering,
16 and breeding birds in the project area. In addition, I am providing support for the
17 Applicant’s discussions with federal and state agencies regarding avoidance and
18 minimization measures that will be put into place to minimize risk to the Indiana Bat and
19 Northern Long-Eared Bat. I am also sponsoring certain Exhibits attached to the
20 Application, all of which I have reviewed in my professional capacity and am personally
21 familiar with. In addition, I will be providing evidence in support of the Applicant’s
22 proposed modifications to the Ohio Power Siting Board (“Board”) Staff’s recommended
23 Conditions Nos. 26, 33, 34, 35, and 40.

24 **Q-6. Please describe the history of your involvement with the Republic Wind project?**

25 **A-6.** I became involved with the project in March 2019 when I was asked to provide expert
26 witness services. These services have included review of various surveys and studies
27 submitted in support of the Application and providing testimony as set forth in my response
28 to Q-5.

1 **Q-7. Please generally describe the studies that you are sponsoring.**

- 2 **A-7.** • Results of the diurnal bird/raptor migration survey. Republic Wind Farm. Seneca and
3 Sandusky Counties, Ohio. December 2011. Prepared by BHE for Republic Wind,
4 LLC, Nordex USA, Inc.: This study was conducted to determine the number and type
5 of diurnal and raptor migrants that fly over the Project site during spring and fall
6 migration, as well as their behavior. Observations were made on 42 days (17 March-
7 30 April and 4 September-28 October, 2011) between 0900 and 1600 hours at three
8 sampling locations within the project area. The methods used by BHE were consistent
9 with or exceeded those outlined in the ODNR 2009 guidance document (p. 5). The
10 report details the species that were observed, including numbers and behavior.
- 11 • Raptor Nest Survey. Republic Wind Farm, Seneca County, OH. 2011. Prepared for
12 Republic Wind, LLC by: BHE Environmental, Inc.: A raptor nest survey was
13 conducted 17-25 March 2011 on three days. The consultants followed the protocols
14 detailed in the ODNR 2009 guidance document (page 3) and surveyed out to two miles
15 rather than the one mile recommended by ODNR. The purpose of the study was to
16 ascertain how many nests, where the nests are located, the condition of the nests, and
17 what species of raptors nested at the project site or within a two-mile buffer area beyond
18 the project boundary. The survey was done mostly by automobile from public roads
19 including the project area and a buffer area two miles outward from the project
20 boundary. For areas that could not be seen from the road, foot searches were conducted.
- 21 • Final results for the Bald Eagle survey effort, Republic Wind Farm, Seneca and
22 Sandusky Counties, Ohio. November 2012. Prepared for Republic Wind, LLC by BHE
23 Environmental, Inc.: A mixed methods study was conducted with a goal of determining
24 Bald Eagle use of the project site, particularly flight behavior (height and direction)
25 and location. The point count study relied on 20 point counts, each with a radius of
26 800 m. Each was monitored for two days per month (20 minutes per point count per
27 day; 40 min total per point per month) during one annual cycle (August 2011 - July
28 2012). USFWS was consulted about the methodology on August 23, 2011. The
29 methods used were consistent with methods verified by USFWS and as later outlined
30 by the USFWS 2013 Eagle Conservation Plan Guidance (ECP). In addition raptor nest

1 searches were conducted to determine the locations of nests and whether they were
2 active. The protocols followed those developed by ODNR 2009 (p. 3). Results showed
3 minor eagle use.

- 4 • Results of the passerine migration survey, Republic Wind Farm, Seneca and Sandusky
5 Counties, Ohio. December 2011. Prepared for Republic Wind, LLC by BHE
6 Environmental, Inc.: Passerine (songbird and other small bird) migration at the project
7 site was studied in 2011 (4 April-30 May, 18 August-18 November) using standard
8 point count methodology at 11 sites. The survey followed the ODNR 2009 (p. 4-5)
9 protocol for study of passerine migration. The report provided details about the
10 numbers of individuals and species observed, along with whether any of these species
11 was listed federally or on the ODNR list of endangered, threatened, or species of
12 concern. The study also followed the protocol by commencing at dawn and continuing
13 until 1000 hours and placing point counts near suitable stopover habitat for migrating
14 passerines. The goal of the study was to determine whether the project area was a
15 significant migration pathway or stopover area for migrants, as outlined by the ODNR.
- 16 • Breeding bird survey for the Republic Wind, LLC, Seneca and Sandusky Counties,
17 Ohio. Aug. 2011. Prepared for Republic Wind, LLC by BHE Environmental, Inc.: A
18 breeding bird study was done for the Republic project, consisting of 24 spring and early
19 summer point count sites and 8 late summer sites that were sampled between May and
20 July 2011. Literature and existing database searches were also conducted. Minor
21 deviations from the standard ODNR methods were incorporated in the research design
22 per an ODNR letter of 8 June 2011. The goal of this research was to determine what
23 species nested within the project boundary and their abundances across the project site.
24 Although not part of the breeding bird survey, monitoring of three existing Bald Eagle
25 nests, outside the boundary of the project, was incorporated into the study.
- 26 • Breeding Bird Surveys for the Emerson West Wind Project in Seneca County, Ohio.
27 Final Report, 2017. Prepared for Emerson West Wind, LLC by for Emerson West
28 Wind, LLC: A breeding bird survey was conducted in three years at 15 point count
29 sites. Two points were surveyed in 2011 (31 May 31-26 June), eleven in 2012 (10
30 May-7 June), and two in 2016 (18 May-22 June). In addition, two points were surveyed

specifically for Sedge Wren (Ohio Species of Concern) in 2012 (18 May). The reason for citing this study is that it provides additional information regarding the type and numbers of birds that nest in close proximity to the Republic site. The goal of the study was to document the birds that breed at the project site, as well as their abundance and distribution. Birds observed were common species typical of open agricultural lands in Ohio. The methods used for this study were in accordance with those recommended by the ODNR in their 2009 guidance document (p. 2-3).

- Eagle Nest Monitoring Surveys for the Emerson West Wind Project in Seneca County, Ohio. Final Report 2017. Prepared for Emerson West Wind, LLC by Western EcoSystems Technology, Inc.: In June 2016 an eagle monitoring study was done at three active Bald Eagle nests that were within the Emerson West Wind project or within two miles of the project boundary, one of which was 0.67 miles east of the Republic Wind project boundary. The objective was to gain information about how these eagles approached and left their nests and how they make use of the area within and adjacent to the project. Observations were made 1-29 June 2016 from six points at each of the three nests to comply with recommendations from the ODNR. Activity of eagles at the two nests south of the project boundary were mostly close to the nest, whereas the nests within the project boundary and closest to the Republic project were “unsuccessful or abandoned.” Eagles did make flights across the project area.
- Raptor Nest Surveys for the Emerson West Wind Project, Seneca County, Ohio. Spring 2016. Prepared for Emerson West Wind, LLC by Western EcoSystems Technology, Inc.: A raptor nest survey was conducted to locate raptor (and eagle) stick nests within the project area and within a mile of the project boundary. Known Bald Eagle nests, determined from past correspondence between Apex Clean Energy, LLC (Apex) and USFWS and ODNR, were also visited out to four miles from the project boundary to provide more information on activity and status of those nests (March 25 and April 13, 2016). Locations and condition of Red-tailed Hawk, Bald Eagle, and unidentified hawk nests were recorded, including those that were found to be active and inactive.
- Large Bird and Eagle Use Surveys for the Emerson West Wind Project, Seneca County, Ohio. Final Report. 2018. Prepared by Western EcoSystems Technology, Inc. for

1 Emerson West Wind, LLC. A year-round study of use of the Emerson West Wind
2 project site by large birds and eagles was conducted 13 May, 2016 – 20 April, 2017, at
3 29 points. Observations were made within 800 meter radius circles located throughout
4 the project area, four of which are within the Republic Wind project area and the other
5 points are adjacent to it. Focus was largely on Bald Eagle use with one hour monthly
6 survey periods conducted at each point. The purpose of this study was to gather
7 information to determine the level of use by various species of large birds. The study
8 followed the tiered methods of USFWS 2012, ECPG of 2013, and was developed in
9 coordination with that agency. The methods also followed those recommended by
10 ODNR 2009 and were approved by the ODNR.

- 11 • Passerine Migration Surveys for the Emerson West Wind Project, Seneca County,
12 Ohio. 2017. Prepared for West Emerson Wind, LLC by Western EcoSystems
13 Technology, Inc.: Passerine migration was studied 16 August to 9 November 9, 2016,
14 and 3 April to 31 May, 2017 at 18 point count locations with 10 minute observation
15 periods. The study plan followed the ODNR 2009 guidelines (p. 4-5) to determine
16 species composition, numbers of individuals, seasonal distribution and spatial use the
17 project area. Passerines were the focus, although other species were also recorded. The
18 report concluded that there was “low risk of impact to most passerines” because of low
19 use of the project by migrants.
- 20 • Republic Wind Project Eagle Nest Monitoring Technical Memorandum (Nov. 15,
21 2017) Prepared by Western EcoSystems Technology, Inc.: A Bald Eagle monitoring
22 study was conducted at a nest found 0.67 miles east of the project boundary. This was
23 the same nest that failed in 2016. The focus of the study was to gather information on
24 eagle use behavior, specifically how the birds approach and leave this nest in relation
25 to the project area. The nest was observed twice per week for 60 minutes per
26 observation period from four fixed observation points during the period June 21 and
27 July 27, 2017. Young had apparently fledged at the time of these observations. Four
28 adult Bald Eagle observations were made with only one bird flying into the project
29 area.

- Republic Wind Project Survey Summary Technical Memorandum (Jan. 10, 2018)
Prepared by Western EcoSystems Technology, Inc. for Apex Clean Energy: A technical memorandum (memo) from Western Ecosystems Technology was provided to Apex reviewing the bird surveys and studies done at Republic and Emerson West Wind with tabular details of the surveys, along with a map of the area in which the studies had been done and changes to the project boundary since the project commenced in 2009. The memo also documented periodic consultation with the USFWS and ODNR since 2009. The memo was sent to Erin Hazelton at ODNR on 17 January 2018 via email by Jennie Geiger asking *“If you could please confirm that this document meets your needs to illustrate compliance with the ODNR guidelines, as required for the OPSB permit application to be considered complete.”* Erin Hazelton’s response to Jennie Geiger on 25 January 2018 was, *“These surveys meet ODNR’s pre-construction monitoring protocols for the new project boundary.”* This communication demonstrates that the surveys and studies were done in accordance with ODNR and USFWS guidelines and that Apex consistently informed these agencies prior to conducting the surveys and studies, as well as of survey results.

Q-8. Are you familiar with ODNR’s On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio; USFWS Land-Based Wind Energy Guidelines; and USFWS Eagle Conservation Plan Guidance?

A-8. Yes.

Q-9. What is your role in regards to the studies listed in your Answer to Q-7?

A-9. My role is to ascertain, based on my experience and familiarity with the methods and protocols of the applicable guidance documents, whether the studies and surveys described above are in conformance with the ODNR 2009 and/or USFWS 2012 and 2013 survey protocols. I have also reviewed the study reports to make sure that they included target species and that the few deviations from ODNR and/or USFWS survey protocols were communicated to and accepted by the ODNR and/or USFWS.

Q-10. Please discuss the standards that were followed when these various studies and reports were prepared.

A-10. The methodologies and protocols used for the avian studies conducted for the Republic (and Emerson West) Project are very familiar to me. I had used the basic methodology and protocols to conduct similar studies at other wind energy projects in the US and beyond. The agency recommended methods and protocols used for the Republic project have been standard for many years (and some were accepted and used prior to the issuance of the ODNR 2009, USFWS 2012 and 2013 guidance documents). The studies and reports for Republic were performed in accordance with ODNR On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocols for Commercial Wind Energy Facilities in Ohio, the USFWS Land-Based Wind Energy Guidelines, and USFWS Eagle Conservation Plan Guidance.

Q-11. The Board has established rules that require applicants to analyze the potential impacts to birds and eagles from the project, and also discuss methods of mitigating these potential impacts. Please generally discuss your understanding of these rules.

A-11. It is my understanding from reviewing the Application that the Board has various rules that require the Applicant to analyze potential impacts to ecological resources located within the project area. This analysis by Republic Wind involves various species, including birds, bats, and eagles. These rules require Republic Wind to provide information such as:

- O.A.C. 4906-4-08(B)(1)(e) –Studies performed that address the ecological impact of the proposed facility;
- O.A.C. 4906-4-08(B)(3) – Evaluation of operational and maintenance impacts on ecological resources from the proposed facility, procedures to be utilized to avoid, minimize and/or mitigate both the short- and long-term impacts of operation and maintenance of the proposed facility, and description any plans for post-construction monitoring of wildlife impacts.

The Application contains information that addresses Republic Wind’s analyses/reports relating to these provisions. Further, these sections of the Application provide details regarding the potential impacts to birds, bats, and eagles and the mitigation measures the Applicant will take to address these potential impacts.

Q-12. Please discuss the process of the Applicant's consultation with ODNR and USFWS when preparing the various studies and reports.

A-12. The Applicant consulted with ODNR and USFWS in preparing wildlife study plans prior to conducting those studies. The original consultations with these agencies occurred in 2010. When preparing wildlife study plans, the Applicant utilized ODNR and USFWS guidelines or initial feedback to develop the study plan, and then discussed the plan with the ODNR and/or USFWS. Each study plan would outline how the surveys were in accordance with ODNR, USFWS, or ODNR and USFWS guidance. The objectives of the study plans, as well as any deviations from current ODNR and/or USFWS guidance and the rationale for any deviations, were discussed with the applicable agencies. If updates were needed to each study plan, appropriate updates would be made and then resubmitted to the agencies for review and approval. Once field surveys were completed, a final report was provided to ODNR and USFWS and next steps (if any) were determined.

Q-13. Have you reviewed Condition 26 of the Board Staff's recommended conditions?

A-13. Yes.

Q-14. In Condition No. 26, Staff recommends that the Applicant obtain a technical assistance letter ("TAL") from USFWS for avoidance of the Indiana Bat and the Northern Long-Eared Bat, and that the same summertime feathering measures for the Indiana Bat be applied to the Northern Long-Eared Bat. In addition, recommended Condition No. 26 requires the Applicant to comply with the TAL until an incidental take permit has been obtained. Please explain why these parts of Condition No. 26 are not consistent with the ordinary process used for obtaining a TAL from USFWS nor with what has taken place for this Project?

A-14. I have been involved with other projects that have undertaken mitigation measures such as those in the TAL recommended by USFWS where federally-listed bat species are known to occur at or near the project area. In general, a TAL sets forth curtailment measures that will be undertaken that will likely result in avoidance of take of the listed bat species. As a result of issuing a TAL, USFWS is acknowledging that an incidental take permit is not being recommended, as long as the curtailment measures are put into place. Both seeking/obtaining a TAL and obtaining an incidental take permit are entirely voluntary.

1 I have reviewed the Agency-Applicant correspondence that is contained in the Application,
2 as related to the various avian and bat issues arising under this Project. This correspondence
3 reflects that the Applicant has been working with both USFWS and ODNR on developing
4 curtailment measures to be put in place with regard to the federally and state-listed
5 endangered Indiana Bat (“IB”) and the federally and state-listed threatened Northern Long-
6 Eared Bat (“NLEB”). These communications and agency coordination culminated in a
7 term sheet that ultimately resulted in USFWS issuing a TAL on September 24, 2019 for
8 the IB. (See 9/24/2019 TAL, attached to Dalton Carr’s Testimony.) The TAL sets forth
9 the curtailment measures for the IB, and USFWS expressly states that these avoidance
10 measures for the IB will also result in avoidance of mortality for the NLEB. Based on
11 USFWS’ review of these avoidance measures, no incidental take permit is being
12 recommended by USFWS.

13 The summertime feathering measures for Indiana bat outlined in the TAL are based on the
14 species home range as defined by USFWS guidelines, specifically the Indiana Bat Section
15 7 and Section 10 Guidance for Wind Energy Projects. It is inappropriate to apply the home
16 range characteristics from one species to another.

17 The recommended condition as written conflicts with the TAL. Instead, it would be
18 appropriate and consistent with customary practice that the Project commit to obtaining a
19 TAL and follow guidelines outlined within the TAL. That is what the Applicant has done
20 here, and any condition relating to a TAL for listed bat species should reflect the same and,
21 certainly, should not be inconsistent with the actual TAL.

22 **Q-15. Have you reviewed Conditions 33, 34, and 35 of the Board Staff’s recommended**
23 **conditions?**

24 **A-15. Yes.**

25 **Q-16. In Condition Nos. 33, 34, and 35, Staff recommends that construction in upland**
26 **sandpiper, loggerhead shrike, and northern harrier “preferred nesting habitat types”**
27 **be avoided during the species’ respective nesting periods (unless coordination with**
28 **the ODNR allows a different course of action). Please explain why the term “preferred**

1 **nesting habitat type” needs to be further defined to avoid undue burden during**
2 **construction of the Project?**

3 **A-16.** Staff’s proposed conditions are onerous as written because nesting habitat for upland
4 sandpiper may include marginal habitat such as untilled agricultural habitat or hayfields.
5 Agricultural habitats are subject to systematic disturbance from activities such as grazing,
6 discing, and mowing that decrease the likelihood of the upland sandpiper nesting
7 successfully in the Project area. They prefer unmowed grasslands. Northern harriers also
8 sometimes breed in upland grasslands including some untilled (hay) agricultural
9 habitats. In addition, the preferred nesting habitat of loggerhead shrike includes hedgerows
10 and fencerows, which are ubiquitous at the boundaries of farm parcels, where those features
11 may occur. Loggerhead shrikes can also nest in brush-piles and thorny thickets, which are
12 likely to be disturbed. Therefore the Applicant is asking to use the ODNR’s definition of
13 preferred nesting habitat for these species to be referenced in the condition to clarify the
14 habitat definitions and minimize construction impacts resulting from this condition as
15 currently written.

16 **Q-17. Have you reviewed Condition No. 40 of the Board Staff’s recommended conditions?**

17 **A-17.** Yes.

18 **Q-18. In Condition No. 40, Staff recommends that the Applicant coordinate with USFWS**
19 **to determine the adequacy of preconstruction eagle use surveys and, if recommended**
20 **by USFWS, the Applicant must develop and implement an Eagle Conservation Plan**
21 **in coordination with USFWS. Please explain why this proposed condition is not**
22 **appropriate or necessary?**

23 **A-18.** As noted above, the Applicant has already performed adequate preconstruction eagle use
24 surveys in consultation with ODNR and USFWS. These agencies have acknowledged that
25 no further eagle use surveys are necessary. The Application reflects the years (2010
26 through 2018) and substance of the communications between the Applicant and
27 ODNR/USFWS regarding the eagle use surveys that were being utilized and/or that were
28 considered, including the adequacy of those studies and the protocols used therein. (See
29 Application.) For example, these communications reflect discussions in 2017 between the
30 Applicant and USFWS regarding a change in the Project boundary due to the location of a
31 new bald eagle nest and corresponding calculation of a set-back. (Application, Ex. J, Pt. 19

1 – May 25, 2017; June 22, 2017; June 29, 2017 emails). The Applicant advised USFWS
2 that no turbines were planned within 1.9 miles of this nest. (Application, Ex. J, Pt. 19 –
3 June 22, 2017 email.) USFWS then calculated a new one-half inter-nest distance for the
4 revised Project boundary of 1.17 miles. (Application, Ex. J. Pt. 19 – June 29, 2017 email.)
5 On January 17, 2018, a Technical Memo was provided to ODNR summarizing the studies
6 completed for the Project, as well as the recent study performed for the adjacent Emerson
7 West project. ODNR confirmed that the studies were in compliance with ODNR
8 Guidelines. (See ODNR Jan. 25, 2018 email.)

9 As for an Eagle Conservation Plan (“ECP”), first, it is my understanding that an ECP
10 according to USFWS’s ECP Guidance (and corresponding take permit) is a voluntary
11 program. Thus, even where USFWS may recommend an ECP for any given project, there
12 is no requirement that the project develop an ECP. More significantly with regard to this
13 Project, based on my review of the multitude of correspondence between the Project and
14 USFWS, that agency has not recommended nor suggested to the Project that an ECP be
15 undertaken. Upon my review of the eagle use surveys and related documentation of the
16 Project area/habitat, the surveys do not call for the recommendation of an ECP here.
17 Further, based on my experience and knowledge in the area of impacts of wind projects on
18 bald eagles, coupled with my review of the studies conducted for this Project, the risk of
19 bald eagle collision here is extremely low.

20 In summary, proposed Condition No. 40 is not supported by the facts, surveys/studies, or
21 results of coordination between the Applicant and ODNR/USFWS, nor is it based on what
22 is known about bald eagle behavior and empirically demonstrated risk at wind projects
23 during the past 20+ years. Therefore, proposed Condition No. 40 is not necessary to help
24 minimize impacts to bald eagles.

25 **Q-19. Does this conclude your testimony?**

26 **A-19.** Yes, it does, except that I reserve the right to update this testimony to respond to any further
27 testimony, reports, and/or evidence submitted in this case.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Testimony was served upon the following parties of record via regular or electronic mail this 21st day of October 2019.



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Summary: Testimony of Paul Kerlinger on behalf of Republic Wind, LLC electronically filed by
Teresa Orahod on behalf of Devin D. Parram