

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of	:	
Republic Wind, LLC for a Certificate to	:	
Site Wind-Powered Electric Generation	:	Case No. 17-2295-EL-BGN
Facilities in Seneca and Sandusky	:	
Counties, Ohio.	:	

**PREFILED TESTIMONY
OF
John Stains
ON BEHALF OF THE OHIO DEPARTMENT OF TRANSPORTATION**

STAFF EX. ____

October 28, 2019

1 1. Q. Please state your name and business address.

2 A. My name is John Stains. My business address is 2829 West Dublin
3 Granville Road, Columbus, Ohio 43235-2786.
4

5 2. Q. By whom are you employed?

6 A. I am employed by the Ohio Department of Transportation (ODOT).
7

8 3. Q. Would you briefly state your education background and work history?

9 A. I have a Bachelor of Science in Engineering Management from Miami
10 University in Oxford, Ohio and I am a registered Professional Engineer in
11 the State of Ohio. I have been employed by ODOT as a Transportation
12 Engineer since 2006 in various capacities and have been with the Office of
13 Aviation since 2012. In my current role as Manager of Airport Programs, I
14 oversee the allocation of State funding for airport improvements through
15 the Ohio Airport Grant program, I manage the department's airport
16 inspection responsibilities, and I administer the Department's airspace
17 protection program.
18

19 4. Q. What is the purpose of your testimony in this case?

20 A. I am testifying in support of the Staff Report of Investigation (Staff Report)
21 and Supplement to the Staff Report of Investigation (Supplement) and
22 conditions, specifically those issues dealing with aviation impacts. The

Staff Report and Supplement outline certain conditions that must be met to mitigate the impacts to the public use airports by the proposed facilities.

5. Q. Can you please describe the airports that are impacted by the proposed facilities?

A. There are three airports directly impacted by the proposed facilities, the Seneca County Airport (16G), the Sandusky County Regional Airport (S24) and the Fostoria Metropolitan Airport (FZI). All three airports have a commercial operating certificate from the State of Ohio.

The Seneca County Airport is located in Tiffin, Ohio and is a publicly owned, public use general aviation airport sponsored by the Seneca County Commissioners. It has a General Aviation classification in the FAA's most recent National Plan of Integrated Airport Systems (NPIAS) Report, meaning that the airport is eligible to receive funding through the FAA's Airport Improvement Program (AIP). The airport has one 4,000 ft long by 75 ft wide runway, a full-length parallel taxiway, airport lighting, visual approach lighting aids and automated weather reporting. The current airport master record shows that there are 35 aircraft based at the airport, consisting of 25 single engine aircraft, 9 multi engine aircraft and 1 jet. For the 12 months ending on 10/4/2018, there were 60,165 operations reported at the airport. According to most recent Ohio Airport System Plan

1 published in 2014, the airport supports 131 jobs with a payroll of
2 \$4,000,000 and has a total annual economic output of \$14,300,0000.

3
4 The Sandusky County Airport is located in Fremont, Ohio and is a publicly
5 owned, public use general aviation airport sponsored by the Sandusky
6 County Commissioners. It has a General Aviation classification in the
7 FAA's most recent National Plan of Integrated Airport Systems (NPIAS)
8 Report, meaning that the airport is eligible to receive funding through the
9 FAA's Airport Improvement Program (AIP). The airport has one 5,500 ft
10 long by 100 ft wide runway, a full-length parallel taxiway, airport lighting,
11 visual approach lighting aids and automated weather reporting. The current
12 airport master record shows that there are 12 aircraft based at the airport,
13 consisting of 8 single engine aircraft, 2 multi engine aircraft and 2
14 helicopters. For the 12 months ending on 10/4/2018, there were 5,616
15 operations reported at the airport. According to most recent Ohio Airport
16 System Plan published in 2014, the airport supports 34 jobs with a payroll
17 of \$1,200,000 and has a total annual economic output of \$3,900,0000.

18
19 The Fostoria Metropolitan Airport is located in Fostoria, Ohio and is a
20 publicly owned, public use general aviation airport sponsored by the City of
21 Fostoria. It has a General Aviation classification in the FAA's most recent
22 National Plan of Integrated Airport Systems (NPIAS) Report, meaning that

1 the airport is eligible to receive funding through the FAA's Airport
2 Improvement Program (AIP). The airport has one 5,005 ft long by 100 ft
3 wide runway, a full-length parallel taxiway, airport lighting, visual
4 approach lighting aids and automated weather reporting. The current airport
5 master record shows that there are 15 aircraft based at the airport,
6 consisting of 13 single engine aircraft, 1 multi engine aircraft and 1 jet. For
7 the 12 months ending on 10/4/2018, there were 7,950 operations reported at
8 the airport. According to most recent Ohio Airport System Plan published
9 in 2014, the airport supports 46 jobs with a payroll of \$1,500,000 and has a
10 total annual economic output of \$4,900,0000.

11
12 6. Q. Can you please describe ODOT's process of analyzing airspace for a
13 proposed development such as a wind farm?

14 A. Any proposed construction that meets the FAA's notice criteria, as outlined
15 in 14 CFR Part 77, is required to notify the FAA by filing a form 7460-1 in
16 the FAA's OE/AAA system. Filing of this form initiates the FAA review
17 process as well as the ODOT process. ODOT performs a separate and
18 independent analysis based on the same obstruction criteria detailed in 14
19 CFR Part 77. For a wind farm, each wind turbine structure is required to be
20 studied for potential impacts to the navigable airspace, and a determination
21 is made for each location. Our process includes review of the FAA final

determination as well as an independent analysis conducted utilizing 3rd party airspace analysis software and interaction with aviation stakeholders.

7. Q. Did you personally conduct the airspace analysis for this project?

A. Partially. Due to volume of aeronautical studies processed in Ohio each year, ODOT utilizes a consultant, Federal Airways & Airspace, to perform the detailed analysis. In this case, I directed our consultant to conduct a review and provide the detailed analysis on each structure in this project. I utilized the analysis provided by Federal Airways & Airspace as part of my determination provided to OPSB Staff.

8. Q. What standards do you use to determine whether a facility constitutes an obstruction to air navigation?

A. Pursuant to Ohio Administrative Code rule 5501:1-10-05, the Ohio Department of Transportation Office of Aviation adopts the obstruction standards set forth in 14 CFR 77.21 to 14 CFR 77.29, as amended. These are the identical obstruction standards that the FAA follows.

9. Q. Did you either issue or deny a construction permit for any of the wind turbines for this project?

A. No. Pursuant to ORC 4561.31(E), "Any person who receives a certificate from the power siting board pursuant to section 4906.03 or 4906.10 of the

1 Revised Code on or after October 15, 1991, is not required to apply for a
2 permit from the department under sections 4561.30 to 4561.39 of the
3 Revised Code.” As such, the project does not require a permit from ODOT.
4

5 10. Q. What, then, is your role regarding this facility with the OPSB?

6 A. Pursuant to section 4561.341 of the Ohio Revised Code, our office reviews
7 the application to determine if the facility constitutes an obstruction to air
8 navigation. If we determine that the facility constitutes an obstruction to air
9 navigation, we provide a determination in writing to the OPSB staff along
10 with either the terms, conditions, and modifications that are necessary to
11 eliminate the obstruction or a statement that compliance with the
12 obstruction standards may be waived.
13

14 11. Q. Did you issue any determination letters to OPSB Staff?

15 A. Yes. I issued letters to OPSB Staff on April 11, July 18 and September 27,
16 2019.
17

18 12. Q. Did the April 11 letter make any determinations regarding obstructions to
19 air navigation?

20 A. No. The April 11 letter was issued at the request of OPSB Staff, however,
21 our analysis was incomplete because the FAA had not issued final
22 determinations on the project at that time.

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13. Q. Did the July 18 letter make any determinations regarding obstructions to air navigation?

A. Yes. The letter identifies all obstructions associated with this project. The FAA issued a Determination of No Hazard on June 26, 2019, and our identification of obstructions matched the obstructions identified in the FAA’s analysis.

14. Q. Did the July 18 letter provide the terms, conditions and modifications necessary to eliminate the obstruction or a statement that obstruction standards may be waived?

A. Yes. The letter identified four structures to be modified to eliminate the obstruction, and a statement that compliance with obstruction standards may be waived for all other structures as long as the conditions of the FAA are complied with.

15. Q. Did you consult with any aviation stakeholders before issuing the July 18 letter?

A. Yes. Our process places emphasis on the input of the affected aviation stakeholders. We solicit input and encourage participation in the FAA’s public comment period. In this case, we reached out to the airport manager of each impacted airport. We also notified other aviation stakeholders, such

1 as the Ohio Aviation Association (OAA), the Aircraft Owners and Pilots
2 Association (AOPA), the Ohio and National Agricultural Aviation
3 Association (OAAA and NAAA) and the Ohio Association of Critical Care
4 Transport (OACCT). We received comment back from Brad Newman,
5 airport manager at the Seneca County Airport, specifically requesting
6 protection of the non-directional beacon (NDB) approach. I also had direct
7 conversation with David Wadsworth, airport manager of the Sandusky
8 County Airport, indicating that the county likely would not have any
9 comment on the proposed project. I asked that a statement be provided
10 from the Airport Authority for Sandusky County Regional Airport formally
11 requesting a waiver to obstruction standards. At the time the determination
12 letter was submitted to OPSB on July 18, I had not received any waiver
13 request from the Sandusky County Airport. No comments were received
14 from the Fostoria Metropolitan Airport at the time of this letter.

15
16 16. Q. Did you attempt to make contact with anyone at the Fostoria Metropolitan
17 Airport?

18 A. Yes. My staff and I made several attempts by phone and email but were
19 unsuccessful.

20
21 17. Q. Did you make contact with the Fostoria Metropolitan Airport at any point?

1 A. Yes. A few days after issuing the July 18 letter, I received a return phone
2 call from David Sniffen, airport manager for the Fostoria Metropolitan
3 Airport. Mr. Sniffen was aware of the Republic Wind Farm Project but had
4 not received the circularization notice and was unaware that he had missed
5 the opportunity to provide public comment. Further conversation revealed
6 that he did have an OE/AAA account, but it was registered with a defunct
7 email account. Mr. Sniffen indicated that he and his airport users had
8 concerns with the Republic Wind Farm project as well as another project in
9 the area and inquired about options that he had. I suggested that he could
10 file a petition for discretionary review up and ask the FAA to consider his
11 comments, which he indicated he would do.

12
13 18. Q. Did Mr. Sniffen file a petition for discretionary review?

14 A. Yes. He filed the petition which is dated August 1, 2019 and copied me on
15 it.

16
17 19. Q. What issues or concerns were expressed in the letter from Mr. Sniffen?

18 A. The letter expressed concern over the raising of minimum flight altitudes
19 for the GPS approach for runway 27 at the Fostoria Metropolitan Airport
20 based on 12 of the proposed wind turbines. The letter detailed why raising
21 a minimum flight altitude even as little as 100 feet represents a loss of

1 utility for the approach procedure and a decrease in safety because
2 increased altitude represents more time spent in icing conditions.
3

4 20. Q. In your opinion, are the concerns raised by Mr. Sniffen valid and based on
5 sound aeronautical principles?

6 A. After considering the concerns expressed by Mr. Sniffen, I consulted with
7 ODOT's chief pilot regarding the operational and safety impacts of raised
8 minimum flight altitudes. Based on these discussions, I determined that the
9 concerns are valid, based on sound aeronautical principles and should be
10 addressed.
11

12 21. Q. Did you contact OPSB staff at this point?

13 A. Yes. I informed OPSB staff that a petition for discretionary review had
14 been filed and that it had the potential to impact or change the FAA's
15 determination of no hazard. I forwarded the petition letter to OPSB staff. I
16 also informed staff that I would be taking the comments under
17 consideration and revising the July 18 determination letter.
18

19 22. Q. What did the FAA do with the filed petition for discretionary review?

20 A. The FAA determined that the petition for discretionary review was invalid
21 because it was received after their submittal deadline. The comments made

1 by Mr. Sniffen were not taken into consideration or otherwise addressed by
2 the FAA.

3 23. Q. Did the September 27 letter that you submitted to OPSB staff make any
4 determinations regarding obstructions to air navigation?

5 A. Yes. The letter identifies all the same obstructions associated with this
6 project that were identified in the July 18 letter.

7
8 24. Q. Did the September 27 letter provide the terms, conditions and modifications
9 necessary to eliminate the obstructions or a statement that obstruction
10 standards may be waived?

11 A. Yes. The letter identified the same four structures to be modified to
12 eliminate the obstruction as identified in the July 18 letter. In addition, 12
13 structures that impact the GPS approach to runway 27 at the Fostoria
14 Metropolitan Airport and 18 structures that impact the NDB approach to
15 runway 24 at the Seneca County Airport were identified to be modified to
16 eliminate the obstruction. Finally, the letter includes a statement that
17 obstruction standards may be waived for all other structures as long as the
18 conditions of the FAA are complied with.

19
20 25. Q. Why did the September 27 letter include modification of 17 additional
21 structures that impact the NDB approach at the Seneca County Airport?

1 A. My prior analysis took into consideration the minimum descent altitude for
2 the NDB approach only. In further discussions with Brad Newman, airport
3 manager for the Seneca County Airport, he reiterated his request that the
4 utility of the NDB approach be protected. Based on that, and considering
5 the same reasoning used in protecting the approach to the Fostoria
6 Metropolitan Airport, I incorporated the additional structures into my
7 determination.

8
9 26. Q. Did you read the Direct Testimony of Benjamin M. Doyle?

10 A. Yes.

11
12 27. Q. Are you familiar with the FAA's review process?

13 A. Yes.

14
15 28. Q. In your opinion, did the FAA consider the Non-Directional Beacon issue
16 fully?

17 A. No. According to the FAA determination, found on page 11 of 15, the FAA
18 indicated that:

19
20 "Performance Data Analysis and Reporting System (PDARS) IFR flight
21 trajectory data provided by the Airborne Tactical Advantage Company
22 (ATAC) showed that few if any full NDB published approaches were flown

1 to 16G and shows nearly all IFR approaches as straight in. Some overflight
2 of the NDB are depicted but the actual published terminal procedure flight
3 approach trajectory is missing. Toledo Terminal Radar Approach Control
4 (TRACON) could not provide data showing specific approaches to 16G but
5 did provide comment that few aircraft use the NDB approach. Specific data
6 to verify the number of aircraft using this approach could not be obtained.”
7

8 The FAA made its determination that there is no substantial adverse effect
9 based on the above, yet their own analysis references missing and
10 incomplete data, and includes a vague reference to a comment made by
11 Approach control in Toledo that “few aircraft use the procedure”. The FAA
12 also suggests that because nearly all IFR approaches depicted are “straight
13 in” that the NDB approach is not being utilized. However, the NDB
14 approach to runway 24 at the Seneca County Airport is a straight in
15 approach. In my discussions with the Seneca County Airport manager Brad
16 Newman for the purposes of conducting my analysis and formulating my
17 determination, he indicated that the NDB approach is important to the
18 airport, is used frequently, and is the only ground-based approach at the
19 airport. Mr. Newman indicated that the NDB equipment is owned and
20 maintained by the County and they have no plans to remove or
21 decommission equipment. Based on this information, ODOT Aviation
22 respectfully disagrees with the FAA Determination and considers raising of

1 minimum flight altitudes to be a significant adverse impact to the users of
2 the Seneca County Airport.

3
4 29. Q. With respect to Mr. Doyle's testimony, he testified in Question #32 that
5 Brad Newman's comments to the FAA were filed in an Aeronautical Study
6 that is a different number than the Republic Wind Project study number.
7 Do you know what he is referring to?

8 A. Yes. This project was circularized under Aeronautical Study Number
9 (ASN) 2018-WTE-11673-OE, and one comment was received as noted in
10 the FAA determination. However, the project was previously filed in 2017
11 at a slightly lower height (595ft AGL vs. 606ft AGL) and was circularized
12 on March 7, 2018 under ASN 2017-WTE-9117-OE. Comments were
13 received as part of the previous circularization, including the comments
14 from Seneca County Airport manager Brad Newman, citizen Brian Gibbs,
15 and Sarah Staudt, Senior Aviation Technical Specialist with the Aircraft
16 Owners and Pilots Association, all of which were included in my July 18
17 and September 27 OPSB Determination Letters. When the previous project
18 was terminated on December 14, 2018, the FAA copied all previously
19 received comments from the 2017-WTE-9117-OE Circularization into the
20 2018-WTE-11673-OE Case file and incorporated them into their final
21 determination. I printed the comments directly from the FAA's OE/AAA
22 case file for 2018-WTE-11673-OE.

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30. Q. With respect to Mr. Doyle’s testimony in Question #41, he talks about how the FAA’s standards and determinations create uniform standards and procedures. Do you agree?

A. I do not agree. Even if a state through the permitting process or a local entity through zoning laws restricts a structure’s height based on a lower threshold of acceptance of risk, or on a higher degree of safety, or for any other reason, that in no way prevents the FAA from providing pilots with protections, standards and procedures that meet the safety and efficiency requirements of FAA policy.

31. Q. Does the FAA take into consideration that the state and local entities have this ability?

A. Yes. The FAA determination includes the following language:
“This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.”

32. Q. Did you read the Direct Testimony of Francis T. Marcotte?

A. Yes.

33. Q. Did you consider the potential impacts to emergency medical services (EMS) flights associated with this project?

1 A. Yes. We received numerous comments from the general public regarding
2 EMS operations and took them under consideration. However, our OPSB
3 determination did not incorporate any recommendations because the sites
4 that EMS operations respond to are not located on airports or heliports that
5 are certified for commercial purposes.

6
7 34. Q. Did you consider the potential impacts to aerial agricultural application
8 flights associated with this project?

9 A. Yes. We received numerous comments from the general public regarding
10 aerial agricultural application operations and took them under
11 consideration. However, our OPSB determination did not incorporate any
12 recommendations because the operations associated with aerial application
13 occur only in low level, visual flight rules (VFR) conditions. All impacts
14 identified for this project involve 14 CFR Part 77 airspace that is higher
15 than the operational area for agricultural operations and instrument flight
16 rules (IFR) procedures. In addition, no specific issues were raised with
17 respect to an impact to an airport that is certified for commercial purposes
18 and no comments were received from the Ohio Agricultural Aviation
19 Association.

20
21 35. Q. What is the reason for ODOT's determination being different than the
22 FAA's?

1 A. The FAA acknowledges that this project will create obstructions to air
2 navigation and acknowledged that the affected airspace must be adjusted to
3 mitigate the height of the structures. However, the FAA found that the
4 impacts of the project would not have enough of a substantial adverse effect
5 to justify a determination of hazard. ODOT is not in the business of
6 assuming additional risk or playing a numbers game when it comes to the
7 safety of the traveling public. If there is an adverse impact, that is what we
8 conclude in our determination.

9
10 36. Q. What goes into ODOT's determination if compliance with obstruction
11 standards may be waived?

12 A. If an airport sponsor is willing to agree to give up the utility of their
13 navigable airspace, meaning, for example, they are willing to consent to the
14 FAA raising minimum flight altitudes or minimum descent altitudes or
15 changing traffic patterns, then that is when ODOT determines a waiver is
16 appropriate. This must be done in an official capacity and in writing, such
17 as through an Airport Authority Board resolution. ODOT is not the owner
18 or sponsor of any airport, and it is not our mission to dictate to local airport
19 sponsors how they should or should not operate their airport. However, it is
20 our duty to protect the safety of the travelling public above all else, and as
21 such we must have the ability to identify the conditions upon which safety
22 will be preserved.

1

2 37. Q. Does this conclude your testimony?

3 A. Yes, it does. However, I reserve the right to update or supplement this
4 testimony to respond to any further testimony or reports offered in this
5 case.

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Prefiled Testimony of John Stains, submitted on behalf of the Staff of the Ohio Power Siting Board, was served via electronic mail, upon the following parties of record, this 28th day of October, 2019.

/s/ Jodi J. Bair

Jodi J. Bair

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Summary: Testimony of John Stains electronically filed by Mrs. Kimberly M Naeder on behalf of OPSB