

**BEFORE  
THE OHIO POWER SITING BOARD**

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

**SENECA COUNTY PARK DISTRICT'S CLOSING BRIEF IN OPPOSITION TO  
REPUBLIC WIND LLC'S APPLICATION FOR A CERTIFICATE**

Now comes the Seneca County Park District, by and through the Seneca County Prosecuting Attorney Derek W. DeVine and hereby submits the following brief as it's closing argument in opposition to Republic Wind's Application for a Certificate.

**Bowen Nature Preserve Ignored by Visual Impact Study and Ohio Power Sitting Board Staff**

The Visual Impact Study did not comply with the basic requirement of Ohio Administrative Code 4906:-4-08(D) in that the only park within the boundary of the project was not evaluated. As demonstrated at hearing, Bowen Nature Preserve is in the project area. (Proceedings Vol. VII, p. 1409, line 16-19; Proceedings Vol. III, p. 540, line 5-6; Proceedings Vol. VII, p. 1446, line 3-7). The expert retained by Applicant who prepared their Visual Impact Study did not visit Bowen Nature Preserve.

Q. (Mr. DeVine): Wouldn't it be important to know which park is closest to the project area?

A. (Mr. Robinson): It could be, but we do -- we're not required to go to every single location. We provide a representative view and we provide representative views from within the foreground distance from like landscape similarity zones to parks that would be traveled on there.

Proceedings, Vol. III, p. 537, line 3-10.

In his testimony Mr. Robinson seemingly blames the fact that Bowen Nature Preserve was not on databases that were used for the study (Proceedings, Vol. III, p. 540, line 17-25), but did

acknowledge that he had utilized the Seneca County Park District website and located on that source a list of parks and maps that he used Proceedings, Vol. III, p. 536, line 16-21.

In addition to Applicant not visiting Bowen Nature Preserve, Staff Witness for aesthetics, James O'Dell never visited a park in Seneca County, nor ever visited or spoke with any person from the Seneca County Park District. Mr. O'Dell missed visiting a park or speaking to any person from the park district despite five or six visits and approximately forty hours in Seneca County. Proceedings Vol. VII, p. 1449, line 7-18.

In the Direct Testimony of Mr. Robinson he testifies that he had determined that there would be no visibility of turbines from Clinton Nature Preserve and that the only views impacted at Steyer Nature Preserve would be from a parking lot and a nearby trail. Direct Testimony of Matthew Robinson, p. 10, line 19-23. Nowhere in his Direct Testimony does Mr. Robinson even mention Bowen Nature Preserve. When reviewing Seneca County Park Exhibit #2 it is readily apparent that these two (2) referenced parks are not as close to the project area as Bowen which is within the project boundary.

Mr. Robinson acknowledged on cross examination that he had undertaken no viewshed analysis of the project as it relates to Bowen Nature Preserve, but did state that he believed that "there would be potential for visibility of turbines from there". Proceedings, Vol. III, p. 542, line 21-22. The Seneca County Park District respectfully suggests that at an absolute minimum Applicant should be able to answer the question of visibility of turbines from a local park such as Bowen Nature Preserve.

One witness actually visited Bowen Nature Preserve. William McCallister testified in his pre-filed Direct Testimony:

Q 6: If the turbines are constructed as proposed by Republic Wind will those turbines be visible from Bowen Nature Preserve?

A 6: Yes. As I understand the proposed construction, it is my belief that I'll be able to see a wind turbine in every direction while at Bowen Nature Preserve unless my view is blocked by an obstruction such as a tree.

Direct Testimony of William McCallister, line 33-37. Unlike Mr. Robinson or Mr. O'Dell, Mr. McCallister actually visited Bowen Nature Preserve and while looking at a map was able to visualize seeing fifteen to twenty turbines if the project proceeds pursuant to the Application. Proceedings, Vol. VII, p. 1401.

The Seneca County Park District would respectfully submit that Ohio law mandates that the actual parks in the project area at least be considered as part of the application process. OAC 4906-4-08 states in part:

- (B) The applicant shall provide information on ecological resources.
- (1) Ecological information. The applicant shall provide information regarding ecological resources in the project area.
- (a) Provide a map of at least 1:24,000 scale containing a one half-mile radius from the project area, showing the following:**
  - (i) The proposed facility and project area boundary.
  - (ii) Undeveloped or abandoned land such as wood lots or vacant tracts of land subject to past or present surface mining activities, not used as a registered game preserve or in agricultural production.
  - (iii) Wildlife areas, **nature preserves**, and other conservation areas.
  - (iv) Surface bodies of water, including wetlands, ditches, streams, lakes, reservoirs, and ponds.
  - (v) Highly-erodible soils and slopes of twelve percent or greater.

OAC 4906-4-08(B)(emphasis added).

The Seneca County Park District respectfully suggests that the Applicant totally disregarded the only park in the project area, Bowen Nature Preserve. Failing to include Bowen Nature Preserve on a map disregards the Ohio Administrative Code. Nothing in the Application or testimony provides any evidence that Applicant has examined, considered, nor developed any plan for how the project will impact Bowen Nature Preserve. OAC 4906-4-08(D)(3) mandates that the

applicant “shall evaluate identified recreation and scenic areas”. Applicant has not provided any analysis of Bowen.

Applicant has thus failed to accurately describe the visibility of the project as mandated by OAC 4906-4-08(D)(4)(a). Applicant failed to even visit Bowen Nature Preserve despite knowing or having access to maps showing that it was within the project area. Proceedings, Vol. III, p. 536, line 16-21.

Applicant has failed to describe the existing landscape as mandated by OAC 4906-4-08(D)(4)(b). How can Applicant claim to have undertaken such an evaluation if the only park in the project area was not visited or considered?

Applicant has failed to describe the alterations to the landscape that will impact Bowen Nature Preserve. OAC 4906-4-08(D)(4)(c). The failure of Applicant to include Bowen in the analysis necessitates concluding that not assessment was done regarding the impact that the project would have on Bowen Nature Preserve.

Applicant has failed to consider the impact of the project on the scenic quality of the area as it relates to Bowen Nature Preserve. OAC 4906-4-08(D)(4)(d).

Applicant has failed to provide photos or other images demonstrating the impact on Bowen Nature Preserve. Applicant provided a visual assessment of the project on Clinton Nature Preserve and Steyer Nature Preserve (Direct Testimony Matthew Robinson, p. 10, line 19-20), but did not provide any analysis regarding Bowen Nature Preserve as mandated by OAC 4906-4-08(D)(4)(e).

Applicant has failed to provide any evidence of measures that will be taken to minimize the visual impact on Bowen Nature Preserve by ignoring it entirely during the process. OAC 4906-4-08(D)(4)(f).

Mr. Robinson provided analysis on the visual impact that the wind turbine project would have on Clinton Nature Preserve and Steyer Nature Preserve. Direct Testimony Matthew Robinson, p. 10, line 19-20. The Visual Impact Study (Exhibit AA of the December 26, 2018 Amended Application) references on page 18 that the Seneca County Park District has ten (10) parks including Bowen. That same report indicates on page 19 that “Scenic quality and viewer sensitivity in these areas are considered to be relatively high.”

The failure of Applicant to undertake any evaluation of Bowen Nature Preserve as part of the Visual Impact Assessment was confirmed by Staff Witness O’Dell who testified:

Q. (Mr. DeVine): There's no evaluation in this section or any section of the Visual Impact Assessment regarding Bowen Nature Preserve, correct?

A. (Mr. O’Dell): I don't recall ever seeing that, sir, that is correct.

Proceedings Vol. VII, p. 1452, line 9-13.

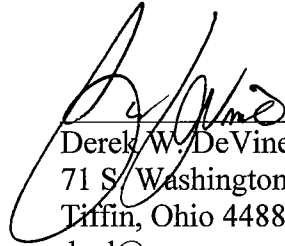
The Seneca County Park District respectfully suggests that a Visual Impact Study that does not so much as visit the only local park in the project area must be disregarded. A review of the testimony of Applicant witness Robinson creates the mental image that he diligently avoided Bowen Nature Preserve and that Staff Witness O’Dell merely drove around. How else can you explain that the one and only park in the project area was not even visited by Applicant’s expert nor the responsible Staff person?

**Conclusion:**

The Application by Republic Wind, LLC has failed to meet the criteria and standards established by Ohio law to allow for the construction of a wind turbine project. The Application’s Visual Impact Study failed to address the impact that this project would have on Bowen Nature Preserve. While it is expected that Applicant will seek to minimize this testimony since Mr. McCallister did not know exact locations of proposed turbines, it is respectfully

submitted that unlike Applicant's expert and Staff, he did actually visit Bowen Nature Preserve. Is it asking too much for Applicant and Staff to visit the only local park in the project area? Is it asking too much for the local park to be considered in the evaluation of the project?


Wherefore, Seneca County Park District respectfully requests that the Ohio Power Siting Board deny the application.

  
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#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing SENECA COUNTY PARK DISTRICT'S CLOSING BRIEF IN OPPOSITION TO REPUBLIC WIND LLC'S APPLICATION FOR A CERTIFICATE was served upon the following Parties of Record on this the 23<sup>rd</sup> day of December via electronic or regular US mail.

  
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Summary: Brief in Opposition to Republic Wind LLC's Application for a Certificate electronically filed by Mr. Derek W. DeVine on behalf of Board of Park Commissioners of the Seneca County Park District, Seneca County, Ohio