

BEFORE  
THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
Firelands Wind, LLC for a Certificate )  
of Environmental Compatibility and )  
Public Need to Construct a Wind-Powered )  
Electric Generation Facility in Huron and )  
Erie Counties, Ohio )

Case No. 18-1607-EL-BGN

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**LIST OF CROSS-EXAMINATION ISSUES OF LOCAL RESIDENT INTERVENORS**

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Local Resident Intervenor Alvin Didion, Patricia Didion, Jane Fox, Marvin Hay, Theresa Hay, Patricia Olsen, Sheila Poffenbaugh, Walt Poffenbaugh, Christina Popa, John Popa, Lori Riedy, Charles Rogers, Kenn Rospert, Dennis Schreiner, Sharon Schreiner, Donna Seaman, William Seaman, Deborah Weisenauer, Kenneth Weisenauer, and Gerard Wensink

(“Intervenor”) submit the following list of issues about which they may pursue cross-examination of witnesses at the evidentiary hearing. The term “Facility” means the proposed wind project for which Firelands Wind, LLC (“Firelands”) seeks a certificate in this case.

Intervenor may pursue cross-examination on the following issues:

1. The subject matter of any witness’ direct testimony.
2. The degree to which the Applicant’s witnesses participated in either (a) the preparation of the Application and/or (b) the studies and investigations supporting the Application.
3. Whether the Staff members who participated in the review, evaluation, and/or investigation of, or recommendations associated with, actual or potential noise, health impacts, blade throw, ice throw, wildlife impacts, aviation impacts, and/or property value impacts

associated with the Facility have the necessary training and experience to adequately handle those responsibilities.

4. Whether the Applicant has the necessary experience to safely construct and operate the Facility.

5. Whether complaints received, investigations performed, or other information received, by the Ohio Power Siting Board concerning noise, shadow flicker, adverse health impacts, wildlife impacts, ice throw, blade throw, or any other impacts or effects of any wind energy facility in Ohio justify additional or different conditions than recommended in the Staff Report.

6. Whether the conditions recommended in the Staff Report have been adequate to prevent problems caused by the operating wind projects in Ohio, as shown by any complaints received by operators, the Staff, or the Ohio Power Siting Board about operating wind projects, the process employed for the resolution of each such complaint, the outcome of said resolution process, and the findings of any investigations in response to said complaints.

7. Whether the Application and Staff Report adequately assess the threats of blade throw, blade breakage, blade damage, and blade flaws at the Facility.

8. Whether the Application and Staff Report contain adequate setbacks, facility maintenance, and other safeguards to protect the public against blade breakage, blade damage, blade throw, fire prevention, procedures for mitigation of oil leakage, and flaws in the Facility's turbine blades.

9. Whether the Application's failure to identify the turbine model that will be installed in the Facility prevents the Ohio Power Siting Board from identifying the conditions necessary to protect the public.

10. Whether the Facility is economically viable without receiving governmental funding or incentives, such as tax abatements, investment tax credits, or production tax credits.

11. Whether the Applicant accurately measured and/or estimated the background noise level in the project area.

12. Whether the Applicant and Staff accurately or adequately assessed the noise levels or impacts that will be produced by the Facility, including audible and sub-audible noise from turbines and the substation.

13. Whether the Application adequately assesses the amount of low frequency noise and infrasound that will be produced by the Facility and the health effects on local residents.

14. Whether the Staff Report includes adequate conditions and setbacks to protect the Facility's neighbors and their properties from noise, low frequency noise, and infrasound from the turbines and substation.

15. Whether the Facility's noise and infrasound will inflict the Facility's neighbors and their farm and domestic animals with annoyance, discomfort, sleep deprivation, and adverse health effects.

16. Whether the Applicant and Staff have adequately assessed, or provided for setbacks and other conditions to prevent, the ice throw hazards and blade throw hazards associated with the turbines within the Facility.

17. Whether the Applicant and Staff have adequately assessed the potential shadow flicker impacts associated with turbines within the proposed Facility.

18. Whether the Application and Staff Report adequately protect the neighbors from the potential shadow flicker impacts from turbines within the proposed Facility.

19. Whether the Application and Staff Report adequately address and require all available and feasible measures for mitigation of shadow flicker impacts associated with turbines within the proposed Facility, including but not limited to the range of alternative mitigation measures for affected landowners for whom a proposed mitigation measure is unacceptable.

20. Whether the Applicant and Staff Report adequately assess the potential aviation impacts or interference associated with turbines within the proposed Facility.

21. Whether the Application contains adequate information to demonstrate the Facility's compliance with the requirements of aviation laws and regulations.

22. Whether the Application and Staff Report provide for the adequate prevention and mitigation of adverse impacts to or interference with emergency response flights (such as Life Flight) and other aviation activities.

23. Whether the turbines will interfere with emergency communications through base and field (mobile) units for first responders and other organizations.

24. Whether the turbines will create interference with radio traffic between pilots and airports.

25. Whether the turbines will interfere with 911 dispatch services.

26. Whether the Application and Staff Report provide for specialized training or equipment to local firefighters or paramedics necessary to handle fires and other emergencies at the Facility.

27. Whether the turbines will interfere with or damage airport operations.

28. Whether the Application and Staff Report adequately address the impacts on the host community, such as increased insect populations, resulting from diminution of bird and bat populations as a consequence of the proposed Facility.

29. Whether the Application and Staff Report adequately address the potential impact of the proposed Facility on property values or housing demand (including the impairment of the attractiveness of rental properties to renters), and whether the Application and Staff Report provide for the adoption of available and feasible measures to mitigate said impacts.

30. Whether the Application accurately estimates the Facility's economic benefits and direct and indirect costs to the community and the state.

31. Whether the Application and Staff Report provide for or allow the Applicant to submit studies, plans, information, and reports to the Staff after issuance of a certificate that should have been included in the Application and subjected to cross-examination during the hearing on the certificate.

32. Whether the Application contains adequate information about the presence, numbers, and locations of birds and bats in and near the project area.

33. Whether the Application and Staff Report adequately address the potential impact of the proposed Facility on bats, birds, and other wildlife, as well as provide for all available and feasible measures to mitigate said impacts.

34. Whether the project area is located within a major migratory flyway for birds.

35. Whether the Facility will kill large numbers of birds and bats during migration and other times.

36. Whether the Applicant's studies of bird and bat impacts were adequate and appropriate to assess nocturnal migration utilizing the air column habitat of the counties in which the Facility is located.

37. Whether the Applicant's studies were adequate to discover the presence of endangered species such as the Kirtland's Warbler known to be present during migration.

38. Whether the Applicant's studies include a risk assessment for endangered species.
39. Whether the bat and bird studies in the Application support the conclusions in the Application and Staff Report about the Facility's potential impacts on bats and birds.
40. Whether the Application and Staff Report contain adequate requirements to monitor and mitigate the Facility's impacts on birds, bats, and other wildlife during operation.
41. Whether the Application and Staff Report contain adequate requirements to protect birds, bats, and other wildlife from the Facility's adverse impacts.
42. Whether the Application and Staff report contain adequate information to address eagle activity areas and protections afforded under the Bald and Golden Eagle Protection Act.
43. Whether the Application and Staff report contain adequate information to address bird protections afforded under the Migratory Bird Treaty Act.
44. Whether the Application and Staff Report provide financial assurance provisions that are adequate to unconditionally guarantee the proper decommissioning of the turbine sites.
45. Whether traffic from Facility construction deliveries will damage public roads and whether cranes may collapse onto the roads, and if so, whether the Application and Staff Report contain adequate measures to fund repairs of the roads and prevent danger to the public.
46. Whether traffic from Facility construction deliveries will interfere with the use of public roads by farmers, other local residents, and tourists/visitors to the counties in which the Facility is located and the Lake Erie shore.
47. Whether the setbacks between the Facility's turbines and the homes and properties of non-participating landowners proposed in the Application and recommended in the Staff Report comply with all legal requirements and are adequate to protect the public from blade throw, shadow flicker, noise, ice throw, lightning strikes, and other hazards.

48. Whether the Application and Staff Report provide for setbacks between the Facility's turbines and public roads that are adequate to protect the motorists, wind project employees, and other members of the public from blade throw, shadow flicker, ice throw, or other hazards.

49. Whether the setbacks between the Facility's turbines and sensitive receptors and ecological resources proposed in the Application and recommended in the Staff Report comply with all legal requirements.

50. Whether the Application and Staff Report contain adequate conditions to protect television reception, WiFi, and cellular signals and require the Applicant to pay for the installation and monthly service costs to remediate the interrupted signals, including cable television hookups or direct broadcast satellite reception systems to restore television reception damaged by the Facility's operation for the life of the facility.

51. Whether the Application and Staff Report adequately evaluate and provide for correction of the potential impact of electromagnetic radiation from the Facility on GPS devices such as those employed in agriculture.

52. Whether the Application and Staff Report adequately evaluate and provide adequate protections against adverse impacts from constructing (including blasting, drilling, operating heavy construction equipment on, grouting, and filling karst) and the presence of wind turbines in karst areas, including collapsing, contaminating, flooding, impairing wildlife in, and causing other damage to karst formations, aquifers, underground and aboveground water supplies, caves and caverns, and other geologically fragile areas.

53. Whether the Facility's construction, operation, or presence will contaminate or diminish springs, wells, underground water flows, and underground water supplies.

54. Whether the Facility will impair the scenic views in the community.
55. Whether the Application and Staff Report provide for the adequate mitigation of visual impacts to historic structures and the rural character of the area.
56. Whether the night lights on the turbines will interfere with flights, impair the community's views, or cause other harm.
57. Whether the construction or operation of the Facility has the potential to damage gas pipelines or other natural gas facilities.
58. Whether the Facility poses a risk of fires and whether the Application and Staff Report contain adequate safeguards against fires and the mitigation of fires once vegetation is ignited.
59. Whether the Application, as amended, contains all of the information required by the Board's rules and applicable statutes.
60. Whether there is any public need for electric power from the Facility and whether its electricity production will result in higher rates for the consumers Facility.
61. Whether the intermittent nature of power production from the Facility makes it a practical and effective source of energy.
62. The issues described in the Petition to Intervene of the Local Residents filed in this case are incorporated herein by reference.
63. Any and all issues contained in other parties' lists of issues, any and all issues addressed in other parties' direct testimony, and any and all issues addressed in other parties' questioning of witnesses.
64. Cross-examination of witnesses to impeach their qualifications or testimony.



65. Since discovery is not finished in this proceeding and because Firelands has not produced many of the documents requested by the Intervenors, Intervenors reserve the option to add more concerns to this list as Firelands complies with discovery requests and as more issues are identified.

Respectfully submitted,

/s/ Jack A. Van Kley\_\_\_\_\_

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### **CERTIFICATE OF SERVICE**

On August 27, 2020, the docketing division's e-filing system will electronically serve notice of the filing of this document on the persons listed below. On August 27, 2020, I also served a copy of this filing by electronic mail on the following persons.

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**This foregoing document was electronically filed with the Public Utilities**

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**8/27/2020 4:45:12 PM**

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**Case No(s). 18-1607-EL-BGN**

Summary: Notice of Issues List for Local Resident Intervenors electronically filed by Mr. Jack A Van Kley on behalf of Local Resident Intervenors