

FILE

RECEIVED-DOCKETING DIV
2011 OCT -4 PM 5:09

PUCO

TO: DOCKETING DIVISION
PUCO OPSB

180 EAST BROAD STREET
COLUMBUS OHIO 43215
FAX 614-466-0313

AND TO PARTIES OF RECORD
SEE ATTACHED SERVICE LIST

RE: CASE # 10-2865-EL-BGN
TESTIMONY - STIPULATION

GREETINGS,

I ASK THAT THE STIPULATION NOT BE ADOPTED
FOR THE FOLLOWING REASONS:

- ① FIFTEEN PARTIES OF RECORD HAVE NOT AGREED TO THE STIPULATION,
- ② SIGNIFICANT, MATERIAL CHANGES HAVE BEEN MADE TO PORTIONS OF THE STAFF REPORT WITHOUT THE OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT AT THE LOCAL PUBLIC HEARING.
- ③ APPLICANT AND STAFF HAVE NOT ADDRESSED THE SAMMIS-WYLIE BOTTLENECK, NOR HAS APPLICANT APPLIED FOR PERMISSION FROM THE PUCO TO CONSTRUCT TRANSMISSION LINES.
- ④ APPLICANT AND STAFF HAVE NOT ADDRESSED OHIO WETLAND INVENTORY DESIGNATION WITH ODNR.

CONT'D →

①

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician SM Date Processed OCT 05 2011

- ⑤ APPLICANT AND STAFF HAVE NOT ADDRESSED THE 9400 ACRES, 39% OF PROJECT AREA, THAT WAS AND IS WITHOUT ENVIRONMENTAL, BAT AND BIRD SURVEY.
- ⑥ APPLICANT AND STAFF HAVE NOT ADDRESSED THE NEED FOR A PROPER PRE CONSTRUCTION OR SHORE BIRD AND BAT STUDY. THE POST CONSTRUCTION SURVEY IS WITHOUT PROPER REFERENCE WITHOUT A SIMILARLY DEVISED PRE CONSTRUCTION STUDY.
- ⑦ APPLICANT AND STAFF HAVE NOT ADDRESSED THE MANY AMBIGUOUS WORDS AND PHRASES IN THE REPORT, INCLUDING BUT NOT LIMITED TO (P24) "SHOULD" "SIGNIFICANT" "ANTICIPATED", (P34) "SHOULD", (P60) "APPROPRIATE". AFTER APPLICATION CERTIFICATION, STAFF IS THE PUBLIC'S ONLY RECOURSE, AND AMBIGUOUS LANGUAGE GIVES THE PUBLIC NO SOLID GROUND FROM WHICH TO PURSUE THEIR INTERESTS.
- ⑧ APPLICANT AND STAFF HAVE NOT ADDRESSED "SCHEDULE INADEQUACY" OF "BOND OR FINANCIAL SECURITY" (P26, STAFF REPORT).
- ⑨ APPLICANT HAS NOT GIVEN ACCURATE NUMBER OF PARTICIPANTS WITHIN THE PROJECT AREA, INSTEAD USING THE TOTAL NUMBER OF LEASE SIGNERS IN THE ENTIRE TWO COUNTY AREA (150).
- ⑩ PAGE 29 OF STAFF REPORT STAFF STATES SCREENING IS NOT A "PRACTICAL MITIGATION MEASURE" BUT RECOMMENDS NO ALTERNATIVE.
- ⑪ STAFF AND APPLICANT HAVE NOT ADDRESSED "PUBLIC INTERACTION PROGRAMS", REQUIRED BUT ABSENT FROM THE APPLICATION.

- ⑫ STAFF REPORT INACCURATELY STATES (P 48) ONE LETTER OF SUPPORT, WHEN THERE WERE NO LETTERS IN SUPPORT.
- ⑬ APPLICANT AND STAFF CONTINUE TO REFER TO LOCAL TAXES (P 50, STAFF REPORT), APPLICANT CONTINUES TO TELL PUBLIC IT WILL PAY PAYMENT IN LIEU OF TAXES, BUT APPLICANTS STATED "NON-UTILITY" STATUS EXEMPTS IT FROM BOTH TANGIBLE PERSONAL PROPERTY TAX AND THE PILOT DESIGNED TO REPLACE IT. A REALISTIC, VERIFIABLE, AND ENFORCEABLE TAX STRUCTURE OR AGREEMENT SHOULD BE IN PLACE BEFORE PUBLIC HEARINGS AND ADJUDICATION.
- ⑭ APPLICANT AND STAFF HAVE NOT REMOVED INACCURATE OR IRRELEVANT PORTIONS OF REPORT (P 50) REGARDING INELIGIBILITY FOR 1603 TAX GRANT. IT IS A FEDERAL DETERMINATION, AND PER APPLICANT HAS NO BEARING ON PROJECT VIABILITY.
- ⑮ APPLICANT IS CURRENTLY WORKING TO CIRCUM-NAVIGATE COUNTY OVERSIZE-OVERWEIGHT PERMITS, AND SEEKING TO BYPASS GENERAL ROAD AGREEMENTS, DESPITE STAFF RECOMMENDATIONS. (P 60, STAFF REPORT)
- ⑯ APPLICANT AND STAFF TOUCH ONLY LIGHTLY ON SUBJECT OF EQUIPMENT AND TRAINING OF EMERGENCY RESPONDERS.
- ⑰ STAFF AND APPLICANT HAVE NOT ADDRESSED ISSUE OF PROTECTION OF PUBLIC ASSETS IN THE EVENT OF A THIRD SUB-TIER LIMITED LIABILITY CORPORATION BANKRUPTCY.

OCTOBER 2, 2011

⑫ FOCUS ON THE STIPULATION MAY IMPROPERLY AFFECT MANY IMPORTANT ISSUES FROM OTHER PARTIES OF RECORD, CONSUMING VALUABLE TIME IN AN ALREADY COMPRESSED ADJUDICATION.

WHILE I AM IN SUPPORT OF MOST OF THE STAFF RECOMMENDATIONS, SINCE LITTLE CHANGE WAS MADE TO THEM, I DO NOT SEE THE VALUE OF FOCUSING ON AN AGREEMENT MADE BY SO FEW, CONCERNING ISSUES ALREADY A PART OF THE STAFF REPORT.

THERE ARE SO MANY ISSUES OUTSIDE OF THE STIPULATION WHOLLY UNADDRESSED, WHICH PERHAPS SHOULD HAVE BEEN COVERED BY STAFF REPORT, AND INCLUDED IN STAFF RECOMMENDATIONS.

THE APPLICANT SEEMS TO STATE, THAT IF THE BOARD DOES NOT ACCEPT THE STIPULATION IN ITS ENTIRETY, THE STIPULATION'S OTHER COMPONENT PARTS ARE VOID. THIS IS AN UNACCEPTABLE OUTCOME FOR ALL PARTIES, AND GIVES STIPULATION LIMITED VALUE.

PLEASE REJECT THE STIPULATION, AND BEGIN THE REGULAR PROCESS OF ADJUDICATION.

BEST REGARDS,

BRETT *X*

BA Toffner 10-2-11

④

CASE #10-2805-EL-BGA
DOCKETING DIVISION
PUCO-OPSB
180 EAST BROAD STREET
COLUMBUS, OH 43215
FAX # 614-466-0313

VIA REGULAR MAIL:

DOCKETING DIVISION
PUCO-OPSB
180 EAST BROAD STREET
COLUMBUS, OH 43215

- JOHN JONES, STEVEN RILEY
ASSISTANT ATTORNEYS GENERAL
PUBLIC UTILITIES SECTION
180 EAST BROAD STREET 6TH FLOOR
COLUMBUS, OH 43215

- DEBRA AND BRADLEY BAUER
2298 REMLINGER ROAD
CRESTLINE OH 44827

- GARY BIGLIN
5331 STATE ROUTE 61 SOUTH
SHELBY OH 44875

- KAREL A DAVIS
6675 CHAMPION ROAD
SHELBY, OH 44875

- CAROL AND LOREN GLEDHILL
7256 REMLINGER ROAD
CRESTLINE, OH 44827

- OHIO FARM BUREAU FEDERATION
CHAD A ENDSLY
280 NORTH HIGH STREET
PO BOX 182383
COLUMBUS, OH 43218

- GROVER REYNOLDS
7179 REMLINGER ROAD
CRESTLINE, OH 44827

VIA REGULAR MAIL:
MARLENE AND NICK RIETSCHLIN
4240 BAKER ROAD
CRESTLINE, OH 44827

- ORLA COLLIER III
BENESCH, FRIEDLANDER, COPELAND
AND ARONOFF LLP
41 SOUTH HIGH STREET
COLUMBUS, OH 43215

- MARY STUDER
6716 REMLINGER ROAD
CRESTLINE, OH 44827

- JOHN WARRINGTON
7040 STATE ROUTE 96
TIRO, OH 44887

- THOMAS KARBULA
3026 SOLINGER ROAD
CRESTLINE, OH 44827

- ALAN AND CATHERINE PRICE
7956 REMLINGER ROAD
CRESTLINE, OH 44827

- MICHAEL J SETSINGER
VORYS, SATER, SEYMOUR
AND PEASE LLP
52 EAST GAY STREET
PO BOX 1008
COLUMBUS, OH 43216-1008

PROOF OF SERVICE

FAXED FROM SHELBY PUBLIC
LIBRARY TO DOCKETING DIVISION
614-466-0313

VIA REGULAR MAIL TO ALL LISTED
OCTOBER 3, 2011

BA Neffner
419 632 3845