

FILE

BEFORE
THE OHIO POWER SITING BOARD

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In The Matter Of The Application Of Black)
Fork Wind Energy, LLC For A Certificate To)
Site A Wind-Powered Electric Generating)
Facility In Richland And Crawford Counties.)
)

CASE NO. 10-02865-EL-BGN

SUPPLEMENTAL DIRECT TESTIMONY OF THOMAS E. BECK, P.E., P.S.,

Q. Please state your name, business address and title.

A. Thomas E. Beck, P.E., P.S. My business address is 77 N. Mulberry Street, Mansfield, Ohio 44902. I am the Richland County Engineer.

Q. Are you the same Thomas E. Beck, P.E., P.S. who previously submitted Direct Testimony in this case?

A. Yes I am.

Q. What is the purpose of this Supplemental Direct Testimony?

A. To address the Joint Stipulation and Recommendation between the Applicant, the Staff and the Ohio Farm Bureau filed in this case.

Q. On what parties' behalf are you presenting this Supplemental Draft Testimony?

A. On behalf of Intervenors, the Board of County Commissioners of Richland County, Ohio, the Richland County Engineer and the Board of Township Trustees of Plymouth, Sandusky and Sharon Township (the "Intervenors").

Q. Would you summarize your position with respect to the Joint Stipulation?

A. The Joint Stipulation does not fully address the concerns with the Application I expressed in my Direct Testimony.

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Q. Do you adopt and incorporate your previous Direct Testimony in this Supplemental Direct Testimony?

A. Yes I do.

Q. Please elaborate further on your position that the Joint Stipulation does not fully address the concerns you expressed in your Direct Testimony.

A. As explained in my Direct Testimony, the Richland County Engineer, the Board of County Commissioners and the Township Trustees have statutory jurisdiction and responsibility over county roadways, bridges and other transportation facilities within the Project Area for the proposed Black Fork Wind Project in Richland County. The Intervenor's interest in this case largely relates to the potential impact of the Black Fork Wind Project on transportation infrastructure within Richland County, traffic control and financial assurance issues.

Pursuant to the various provisions of Title 55 of the Ohio Revised Code as addressed in my Direct Testimony, the Board of County Commissioners has the jurisdiction and responsibility to construct and maintain public roads, bridges and other transportation facilities within the County. The County Engineer's authority also includes supervisory authority over the construction and repair of public transportation facilities. These transportation facilities are all public improvements. Any construction, improvement, reconstruction, alteration or repair to these public improvements is subject to the jurisdiction and responsibility of the Board of County Commissioners and the County Engineer. This includes the design, engineering, construction, financing and maintenance of these public facilities.

Furthermore, R.C. 307.86 requires competitive bidding for the engineering and any construction, reconstruction, maintenance or repair of the county public transportation improvements. These competitive bidding requirements include public notice requirements, bid bond and performance bond and surety requirements. The contract for such public work shall be awarded to the lowest and best bidder. The work is also subject to prevailing wage requirements.

The Joint Stipulation does not fully address these mandatory statutory requirements. Any new roadway engineering, construction or repair work necessitated by the Black Fork Wind Project must be subject to the authority and control of the Board of County Commissioners and the County Engineer and is subject to the competitive bidding and prevailing wage requirements under the statutes applicable to any public improvement work.

- Q. Besides these statutory requirements, do you have other concerns with the Joint Stipulation?
- A. Yes I do. The public roads and transportation facilities under the Board's responsibility serve the public. Traffic safety is a predominant concern. The Board needs to retain control and responsibility over public transportation facilities to ensure that the facilities are properly designed, engineered, constructed and maintained to protect the public safety.

An additional concern is financial assurance to ensure that any work required by the Project is paid for by the Applicant and does not become a liability for the County or County taxpayers. Financial assurance should be adequate and acceptable to the Board

for both new construction and improvements as well as repair and should be provided during the construction, maintenance and decommissioning phases of the Project.

Again, the Joint Stipulation does not fully address these issues or the concerns addressed in my Direct Testimony.

Q. At this juncture, has the Applicant submitted a "Road Use Agreement" that is acceptable to the Board?

A. No. Further, to my knowledge, Applicant has not yet submitted a final route plan. A final route plan is necessary for the Board and the County Engineer to fully assess the specific impact on the County public transportation facilities.

Q. Do you have specific recommendations for minimum conditions which should be adopted in the Power Siting Board's final order?

A. Yes I do. The Board, in consultation with the County Engineer and the Richland County Prosecutors' Office, recommends the following minimum conditions:

1. Applicant shall comply with Richland County's Amended Rules Regarding the Issuance of Permits for Movement of Overweight and Over Dimension Vehicles as existing or as may be modified or amended in the future.

2. Applicant shall enter into a written "Road Use Agreement" with the appropriate county officials and supported by adequate financial assurances. The "Road Use Agreement" must be subject to approval by the Board of County Commissioners. Further, the "Road Use Agreement" must not supplant the County's rules regarding issuance of permits for movement of overweight and over dimension vehicles which are independently enforceable by the County.

3. Where improvements or repairs are necessary, Applicant shall comply with all statutory requirements for the engineering, design, construction, improvement or repair of roads and bridges necessitated by the Project prior to and during the construction, maintenance and decommissioning phases. All work must be completed in accordance with the statutory requirements and under the jurisdiction of the local governmental authorities. This would include compliance with all statutes addressing engineering and design, construction, competitive bid requirements and prevailing wage and other statutory requirements applicable to public transportation improvements and contracts. All work must be completed at Applicant's cost, including engineering review and design work, preparation of plans and specifications, preparation of construction bid documents and contracts, preparation of bond and surety obligations, construction work, supervision and inspection costs, attorneys fees and other professional costs.

4. Applicant shall finalize, and provide to the County Engineer, the final delivery route plan and the required traffic and roadway improvement structures at least thirty (30) days prior to the bid procedures.

5. Applicant shall repair at its cost, or reimburse the County or Township, for any damage to public roadways, bridges and other transportation improvements to restore the improvement to at least original condition and to reimburse the County or Township for any other costs incurred. Again, any repair work must comply with all statutory requirements.

6. Applicant shall coordinate with, and obtain all approvals from, local authorities for all temporary or permanent road closures, road restoration or road improvements necessary for construction and operation.

7. Applicant shall post a bond, escrow, irrevocable letter of credit or other financial assurance acceptable to the County and sufficient to provide adequate assurance for any damage to the public roadways and to cover all costs incurred during the construction, maintenance and decommissioning phases.

8. Applicant shall avoid where possible or minimize any damage to field tile drainage systems and to make proper repair for any damage to field tile in coordination with the County Soil and Water Conservation District or other local authority.

9. The collection systems should not be permitted in the public right-of-way without compliance with all safety and statutory requirements and subject to the applicable County approval.

Q. Does this complete your Supplemental Direct Testimony?

A. Yes. However, depending on new issues raised in this case, I would reserve the right to further supplement this testimony at the evidentiary hearing.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by regular mail, facsimile and/or electronic mail on this 5th day of October, 2011, upon the following parties of record:

M. Howard Petricoff
Michael J. Settineri
Vorys Sater Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

Attorneys for Applicant

Ohio Farm Bureau Federation
Chad A. Endsley
280 North High Street
P.O. Box 182383
Columbus, Ohio 43218-2383

John Warrington
7040 State Route 96
Tiro, Ohio 44887

Gary J. Beglin
5331 State Route 61 South
Shelby, Ohio 44875

Bradley F. Bauer
7298 Remlinger Road
Crestline, Ohio 44827

Grover Reynolds
7179 Remlinger Road
Crestline, Ohio 44827

Carol Gledhill
7256 Remlinger Road
Crestline, Ohio 44827

Alan Price
7956 Remlinger Road
Crestline, Ohio 44827

John Jones
Stephen Reilly
Assistant Attorneys General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

Attorneys for Staff

Scott Hawken
Element Power
400 Preston Avenue, Suite 200
Charlottesville, Virginia 22903

Brett A. Heffner
3429 Stein Road
Shelby, Ohio 44875

Karel A. Davis
6675 Champion Road
Shelby, Ohio 44875

Debra Bauer
7298 Remlinger Road
Crestline, Ohio 44827

Loren Gledhill
7256 Remlinger Road
Crestline, Ohio 44827

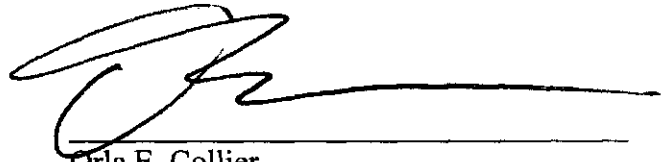
Mary Studer
6716 Remlinger Road
Crestline, Ohio 44827

Catherine Price
7956 Remlinger Road
Crestline, Ohio 44827

Thomas Karbula
3026 Solinger Road
Crestline, Ohio 44827

Nick Rietschlin
4240 Baker Road
Crestline, Ohio 44827

Margaret Rietschlin
4240 Baker Road
Crestline, Ohio 44827



Orla E. Collier