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BEFORE
THE OHIO POWER SITING BOARD

PUCO

In the Matter of the Application of)	
Black Fork Wind Energy, LLC)	
For a Certificate to Site)	Case No. 10-2865-EL-BGN
Wind Turbines for an)	
Industrial Wind-Powered)	
Generating Facility In)	
Crawford and Richland Counties, Ohio)	

IN REFERENCE TO THE MEMORANDUM CONTRA OF BLACK FORK WIND ENERGY, LLC
TO THE APPLICATION FOR REHEARING
BY GARY J. BIGLIN

- 1) In Black Fork Wind Energy, L.L.C. Memorandum Contra, (pg. 8 at bottom of the page) the argument referring to the Supreme Court of Ohio (court) In the Application of Am. Transm. Sys. Inc. (May 4, 2010) wherein the court concluded that drafting an Order and deciding an Order are not the same, and nothing in the Revised Code prohibits the Board from delegating the drafting of an Order to an ALJ. In Addition, the court relied on a long-standing presumption of regularity, wherein, in the absence of evidence to the contrary, a public board is presumed to have properly performed its duties.

Such evidence to the contrary can be found by going to the Ohio Power Siting Board website and reviewing their Facebook page and the entries made on January 23, 2012.

"January 23, 2012 at 6:21am Ohio Power Siting Board, Board meeting today at 3:30pm"

"January 23, 2012 at 1:01pm Ohio Power Siting Board, OPSB approves Construction of 91 wind turbines in Crawford and Richland Counties."

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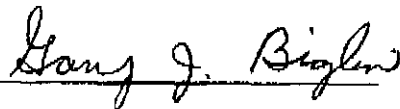
It seems evident by the Facebook announcement of the approval for the construction of 91 wind turbines in Crawford and Richland counties (posted at 1:01pm, January 23, 2012) that the approval was issued before the OPSB meeting at 3:30pm, therefore before the Board actually voted to approve the Certificate. Such prior approval appears to have been issued by ALJ's not by vote of the Board at the January 23, 2012 3:30pm meeting, therefore unlawful. Violating OAC 4906-1-12 (A.)

4906-1-12 Board Meeting.

"(A) All meetings of the board at which official action is taken and deliberation upon official business is conducted shall be open to the public. For the purpose of this rule, the term "meeting" shall mean any prearranged discussion of the public business of the board by a majority of its members. All resolutions, rules, regulations or formal action of any kind shall be adopted in an open meeting of the board."

- 2) In Black Fork Wind Energy, L.L.C. memorandum Contra (pg. 3 at top of the page) the statement that the Applicant has established minimum property line setbacks of 963 feet is false. The Application states property line setbacks of 563 feet, but if 963 feet was the designed setback from property lines it would better address the safety concerns of property owners and the public using area roadways.

Respectfully Submitted,



Gary J. Biglin
5331 State Route 61 South
Shelby, Ohio 44875
(419) 347 7573

March 5, 2012

**Ohio Power Siting Board
OPSB approves construction of 91 wind turbines in Crawford and Richland counties:**

<http://www.opsb.ohio.gov/opsb/index.cfm/media-room/media-releases/ohio-power-siting-board-approves-construction-of-black-fork-wind-farm/>

Ohio Power Siting Board approves construction of Black Fork Wind Farm - OPSB

www.opsb.ohio.gov

January 23 at 1:09pm

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**Ohio Power Siting Board
Board meeting today at 3:30.**

<http://www.opsb.ohio.gov/opsb/index.cfm/calendar/ohio-power-siting-board-meeting6/>

Ohio Power Siting Board Meeting - OPSB

www.opsb.ohio.gov

January 23 at 6:21pm

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**Ohio Power Siting Board
Tonight we'll be in Sunbury hosting a public hearing on the proposed Vassell substation project! 6:00pm, at the Sunbury Town Hall, 51 E. Cherry Street, Sunbury, Ohio 43074.**

<http://www.opsb.ohio.gov/opsb/index.cfm/cases/11-1313-el-bsb-vassell-substation-project-delaware-county/>

Vassell Substation Project, Delaware County

www.opsb.ohio.gov

January 10 at 8:36am

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**Ohio Power Siting Board
Thanks to the ~40 people who attended last night's public hearing on Columbia Gas's proposed Ackerman Road Pipeline project in Columbus!**