

FAX

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of)
Champaign Wind, LLC, for a)
Certificate to Install Electricity)
Generating Wind Turbines in)
Champaign County)

Case No. 12-0160-EL-BGN

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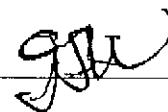
PETITION FOR LEAVE TO INTERVENE BY CITY OF URBANA, OHIO

Pursuant to Ohio Administrative Code § 4906-7-04(A)(2), the City of Urbana, Ohio ("the City"), by its legal representative, petitions the Ohio Power Siting Board for leave to intervene in this matter. The City states the following facts as demonstrative of good cause for status as an intervenor (more fully discussed in the attached Memorandum In Support of this Petition):

1. The duly-elected representatives of the City have taken action to authorize their legal representative to intervene in this action (certified copy attached as Exhibit A).
2. The proposed installations affect the City-owned Grimes Airport, particularly safety and nuisance issues related to flight rules for aircraft above and around nearby turbine sites.
3. The City must intervene in these proceedings as the direct, substantial interests of the City and its citizenry are not represented by any other party.

Therefore, the Petitioner, the City of Urbana, requests the Board grant this Petition.

Respectfully submitted,



G.S. WEITHMAN (0018377)
City of Urbana Director of Law
205 S. Main Street
Urbana, Ohio
(937) 652-4397

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**MEMORANDUM IN SUPPORT OF
PETITION FOR LEAVE TO INTERVENE
BY CITY OF URBANA, OHIO**

Ohio Administrative Code § 4906-7-04(B) states the Ohio Power Siting Board or an administrative law judge (“ALJ”) should consider these factors for all intervention petitions:

- (a) The nature and extent of the interest;
- (b) The extent to which the interest is represented by existing parties;
- (c) The potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

Additionally, Ohio Administrative Code § 4906-7-04(C) provides that the Board or ALJ may grant a petition to intervene even if a petitioner failed to file a timely notice of intervention or petition, as long as extraordinary circumstances justify the intervention and the petitioner agrees to be bound by matters previously agreed or adjudicated in the proceeding.

The City of Urbana acknowledges that it did not file a notice for intervention as of right under OAC § 4906-7-04(A)(1), as no “portion” of the Champaign Wind facility is inside the city limits or identified areas of future planned development (unlike the first Buckeye Wind project).

However, extraordinary circumstances indicate the city must now intervene, even though the project area is outside the city, under the discretionary intervention section of the law, OAC § 4906-7-04(A)(2), which allows a party to petition for leave to intervene based on good cause.

For the following reasons, the City of Urbana submits that there is good cause for the Board to grant its petition for leave to intervene in these proceedings and that the intervention is warranted under the administrative code's criteria.

A. Because Champaign Wind may impact the City's economic and emergency service interests, the City has a significant, vested interest in this matter.

The City of Urbana is an Ohio municipal corporation located adjacent to the project area, with proposed turbine sites located in Urbana Township (to the southeast of the City), Union Township (to the east), and Wayne Township (to the northeast). The City was granted intervenor status in the prior Board proceeding involving Buckeye Wind, the "first phase" or "sister project" of Champaign Wind, Case No. 08-0666-EL-BGN ("Buckeye"). Some sites proposed for that project included locations inside the planned development area of future incorporation along the U.S. Route 36 corridor, as the city continues to grow to the east.

Urbana is the only city in Champaign County and the closest municipality to the project area with a full-time professional fire-fighting and emergency medical service operation (the "Urbana Fire Division"). Given that Champaign Wind LLC proposes to construct and operate an electric generation facility with more than 50 wind turbines but just seven full-time support personnel (see Application Ex. G, page 11), any emergencies at these turbine sites would necessarily require response from the Urbana Fire Division, most likely with mutual aid from other local volunteer departments. The City is therefore concerned about the impact of the project on the Urbana Fire Division's operations, as even OPSB staff acknowledged rural

responders lack the training and equipment to deal with such emergencies (See Buckeye testimony of Andrew Conway, November 19, 2009).

The City owns and operates Grimes Field Airport, which serves as the northern base for a medical helicopter unit operated by CareFlight, affiliated with Miami Valley Hospital in Dayton. CareFlight transports acutely ill and injured trauma patients, mostly from the sites of car crashes and farming accidents, but also transfers high-risk heart-attack and stroke patients from Mercy Memorial Hospital, located on the east side of Urbana on U.S. Route 36, to other facilities.

The map of proposed turbine sites provided by Champaign Wind does not indicate the proximity of the proposed turbines to the Grimes Field Airport or Mercy Memorial Hospital. In the Buckeye proceeding, CareFlight's aviation operations manager, an experienced medical helicopter pilot, testified about turbines as a flight hazard. (See Buckeye testimony of John Holland, November 20, 2009). Turbines interfere with straight-line approaches to car crash and farm accident sites in the townships surrounding the City because helicopters must fly around a turbine field and cannot fly between turbine sites or over them due to not just the physical obstruction of a turbine itself, but the turbulence created by its operation. *Id.* Holland estimated that detours around turbines could add up to eight minutes to CareFlight response times, depending on the location of the turbines and the emergency. *Id.*

Radio communications equipment at Grimes Field is used for both emergency helicopter operations and regular pilot control. The Urbana Fire Division relies on field radio systems to communicate with the Champaign Countywide 911 Dispatch center as well as law enforcement, mutual aid departments and the CareFlight helicopter crew. The City is concerned about the impact of turbine placement and operation on radio communications for the airport and emergency first responders.

The City is also gravely concerned about the safety and nuisance impacts of the wind project on the operation of CareFlight, particularly given that the OPSB's aviation staffer on the Buckeye project admitted he was completely unaware of the CareFlight operation's existence at Grimes Field and that he did a "five minute, windshield tour" of Grimes Field without speaking to the airport management or pilots who use the facility. (See Buckeye testimony of Nick Doss, November 20, 2009).

Doss admitted he was also unaware of the economic impact of the airport operations to the City. Champaign County has just one mile of paved, four-lane highway. Aside from grass airstrips, Grimes Field is the only airport in Champaign County, and the only one in the county capable of serving commercial air traffic.

Grimes Field not only provides alternative transportation access for pilots and passengers, but also hosts annual tourism events such as the Mid-East Regional Fly-In ("MERFI") for antique and experimental aircraft, and a hot air balloon festival. The Grimes Field Aviation Museum also hosts events showcasing Urbana's unique contributions to the field of aviation and aircraft lighting designed and manufactured by Urbana native Warren G. Grimes. Grimes Field and the Aviation Museum also hosted a reunion of Doolittle's Raiders in the spring of 2012, with 20 restored B-25s from World War II present, and more than 10,000 people attending the event over a three-day period. The City is therefore concerned about the economic impact of turbine operations on the airport's event schedule, even if Champaign Wind does not interfere with routine air traffic.

Moreover, extraordinary circumstances justify the City's intervention relating to Grimes Field and CareFlight operations.

Extraordinary circumstances exist based on timing of information released by the Board AND the lack of good faith by the Applicant to comply with the Board's data requests.

Until Champaign Wind's response to Board staff interrogatories was filed on the online docket system last week, the City's legal representative was unaware that Champaign Wind had failed to contact CareFlight or Grimes Field representatives, or that the Board had requested Champaign Wind to make such contact. Instead, Champaign Wind relied solely on Federal Aviation Administration determinations of "no hazard" for the proposed turbine sites. (See Questions 24-26, Applicant's Responses to Staff Data Requests, September 18, 2012.) Board staff also neglected to investigate potential impacts to operations from the Champaign Wind project on their own initiative. No representatives from Champaign Wind have contacted CareFlight as instructed by the Board in Question 24, or individuals involved with the Grimes Field Aviation Museum or MERFI as instructed in Question 25, or the Grimes Field management as instructed in Question 26. Ignoring the obvious need to communicate with anyone from the airport representing these various interests, Champaign Wind baldly asserts in its response to Question 28 that "turbine construction and operation will not have substantive impact" on Grimes Field, with no discernible justification for that conclusion. Champaign Wind has not demonstrated a good faith effort to work with the City to protect its interests. Therefore, the City must intervene to protect its interests from adverse impacts from this project.

B. No other existing party adequately represents the City's interests in this matter.

At this time, according to information from the Board's online docketing system, in addition to the Applicant, other parties listed as interveners in this matter are the Ohio Farm Bureau Federation, Pioneer Electric Rural Cooperative, Champaign County Commissioners, Urbana Township Trustees, Union Township Trustees, Goshen Township Trustees, Union

Neighbors United, Robert McConnell, Diane McConnell, and Julia Johnson. None of those parties can adequately represent the City's interests in these proceedings.

C. The City's participation in this matter will allow the Board to reach a just and expeditious resolution.

The City's intervention, supplemented by expert testimony as appropriate, will provide critical information to allow the Board to fairly assess Champaign Wind's impact to Urbana and the local community, and therefore will contribute to a just and expeditious resolution of this proceeding.

D. The City's participation in this matter will not create undue delay or prejudice.

Granting the City's petition to intervene will not unduly delay the proceedings or cause unjust prejudice to the Applicant. The deadline for the City to intervene as of right was September 20, 2012. As explained previously, the City leadership and its legal representative, even though they received notice of the project, were not inclined to file a notice to intervene on that ground as no portion of the Champaign project is located within the city limits. The response to staff data requests was published just two days before the filing deadline, prompting the City's leadership to meet with its legal representative shortly thereafter due to the concerns about Champaign Wind's responses and lack of contact as requested by the Board. A seven-day delay in complying with the deadline will not interfere with the Board's schedule, but the City will suffer significant harm and prejudice if Champaign Wind is allowed to proceed without consideration of the City's safety and economic interests.

The legal representative has been informed of the deadlines established in the case management schedule and will adhere to them. In the interest of efficiency, the intention of the City is to consolidate presentation of testimony and evidence, if possible, with other parties

within Champaign County having similar interests to the City, to the extent the City's individual interests are not prejudiced. The City further agrees to be bound by any agreements, arrangements, and other matters previously made in the proceeding.

For the foregoing reasons, the City of Urbana requests the Ohio Power Siting Board grant this Petition for Leave to Intervene in the matter of the application of Champaign Wind LLC.

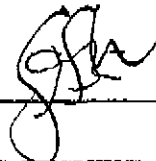
Respectfully submitted,



G.S. WEITHMAN (0018377)
City of Urbana Director of Law
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CERTIFICATE OF SERVICE

I hereby certify that, on September 27, 2012, a copy of the foregoing Petition for Leave to Intervene and Memorandum in Support was served by electronic mail on Howard Petricoff, Vorys, Sater, Seymour and Pease LLP, 52 East Gay Street, Columbus, Ohio 43215, mhpetricoff@vorys.com.



G.S. WEITHMAN