

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of) Champaign Wind LLC, for a Certificate) to Construct a Wind-Powered Electric) Generating Facility in Champaign) County, Ohio)	Case No. 12-0160-EL-BGN
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**MOTION OF INTERVENORS UNION NEIGHBORS UNITED, INC.,
DIANE AND ROBERT McCONNELL, AND JULIA F. JOHNSON TO STRIKE
DIRECT TESTIMONY OF WITNESSES FOR CHAMPAIGN WIND LLC**

Intervenors Union Neighbors United, Robert McConnell, Diane McConnell, and Julia Johnson hereby move the Ohio Power Siting Board (“OPSB” or “Board”) to strike the following portions of the direct written testimony offered by Champaign Wind’s witnesses:

A.16 of Michael Speerschneider’s direct testimony; and

A.15 through A.18 of Robert Poore’s direct testimony.

The grounds for this motion to strike are discussed below.

MEMORANDUM IN SUPPORT

Michael Speerschneider’s Testimony

While Question 16 asks Mr. Speerschneider only to identify the public’s “common concerns” about wind projects, the answer goes much further. Answer 16 offers a wide variety of expert opinions purporting to refute a number of concerns that the Intervenors have expressed about Champaign Wind’s project. Mr. Speerschneider expresses the following expert opinions about these concerns:

the visual impact study shows turbines to be compatible with the working agricultural landscape;

the project was prudently designed in a manner that will minimize noise complaints;

wind projects do not impair property values;
a host of opinions about shadow flicker;
opinions about ice throw, ice shedding, and blade throw; and
noise, shadow flicker, and other wind turbine impacts do not cause adverse health effects.

Mr. Speerschneider has not identified any expert qualifications that would enable him to express any of these expert opinions. Because he is not a landscape architect, an acoustic engineer, or a real estate appraiser, he has no qualifications to offer expert opinions about the visual impact study, noise, or property values. Nor has he identified any experience that qualifies him to express expert opinions about shadow flicker, ice shedding, ice throw, or blade throw.

Moreover, even if Mr. Speerschneider had expertise on any of these subjects, his testimony does not indicate that he performed any of the studies on these topics included in the application. Consequently, he has no first hand knowledge adequate to express opinions about the validity of the application's conclusions on these subjects.

Accordingly, Mr. Speerschneider's attempt to render the expert opinions in Answer 16 do not assist the Board in deciding any of the issues in this proceeding. Even worse, his opinions on topics that he is unqualified to address will mislead the Board in its deliberations. Consequently, the entirety of his Answer 16 should be struck.

Robert Poore's Testimony

While Mr. Poore's testimony is offered primarily to address ice and blade throw, he also offers an expert opinion about a shadow flicker study he did not perform and has no expertise to review. Answers 15 through 18 of his testimony reveal that he did no more than to ask another

employee of his company to review the shadow flicker study and tell him that it was okay. Mr. Poore admits that he has not reviewed any of the data or information used to perform the study. In fact, his consulting firm, DNV KEMA, did not even perform the study. Instead, this study was conducted by edr Companies. See Exhibit P of the Application. Consequently, Mr. Poore is not qualified to express expert opinions about shadow flicker, and any attempt to testify about the applicant's shadow flicker study would be inadmissible hearsay. Moreover, he will not be able to accurately answer the parties' questions about shadow flicker, thus depriving them of their right to cross-examine the applicant about the details of the study. Consequently, the Board should strike Answers 15 through 18 of his testimony.

Respectfully submitted,

s/ Jack A. Van Kley _____

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CERTIFICATE OF SERVICE

I hereby certify that, on November 2, 2012, a copy of the foregoing was served by electronic mail on M. Howard Petricoff (mhpetricoff@vorys.com); Michael J. Settineri (mjsettineri@vorys.com); Miranda Leppla (mrleppla@vorys.com); Chad Endsley (cendsley@ofbf.org); Nick Selvaggio (nselvaggio@champaignprosecutor.com); Jane Napier (jnapier@champaignprosecutor.com), Stephen Reilly (Stephen.Reilly@puc.state.oh.us), Devin Parram (Devin.Parram@puc.state.oh.us); Kurt P. Helfrich (Kurt.Helfrich@ThompsonHine.com); Philip B. Sineneng (Philip.Sineneng@ThompsonHine.com); Ann B. Zallocco (Ann.Zallocco@ThompsonHine.com); and G.S. Weithman (diroflaw@ctcn.net).

s/ Jack A. Van Kley _____

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Summary: Motion to Strike Direct Testimony of Applicant's Witnesses Poore and Speerschneider electronically filed by Mr. Jack A Van Kley on behalf of Union Neighbors United and Johnson, Julia Ms. and McConnell, Robert Mr. and McConnell, Diane Ms.