

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application)
of Buckeye Wind, LLC, to Amend) Case No. 13-0360-EL-BGA
its Certificate Issued in)
Case No. 08-666-EL-BGN)

**MEMORANDUM CONTRA, IN PART, TO BUCKEYE WIND, LLC'S
RENEWED MOTION FOR WAIVER**

Pursuant to O.A.C §4906-7-12(B)(1), the Champaign County Board of Commissioners (“County”), submits this Memorandum Contra, in part, to Applicant Buckeye Wind, LLC’s (“Applicant ”) Renewed Motion for Waiver from certain provisions of Chapter 4906-17, being all or part of §§4906-17-2, 4906-17-03, 4906-17-04, 4906-17-05, 4906-17-06, 4906-17-07 and 4906-17-08. The County filed a Notice of Intervention in this matter this date, which is now pending. Therefore, the County is a party entitled to file this memorandum with the Ohio Power Siting Board (“Board”). O.A.C §4906-7-12(E).

The County would concur with Applicant that it should be granted waivers from application requirements that are not applicable to the amendments proposed in this case, but disagrees with the extent of the waivers requested. Applicant has asked the Board to waive the Applicant's obligation to provide information that would appear to be essential to the determination of the Ohio Power Siting Board ("Board").

Additionally, Applicant has indicated that some of the amendments proposed in this case involve modifying the location of the current staging areas and shifting a large portion of the collection line system so as to utilize the Champaign Wind LLC wind farm (“Buckeye II”), being the pending Case No. 12-160-EL-BGN. Although Buckeye I and Buckeye II are separate cases and Buckeye II is still pending to date of this filing, Applicant does acknowledge that the two projects are interrelated and are intended by Applicant to be interrelated. (See Applicant’s Renewed Motion

for Waiver, p. 13) Therefore, it would be premature for the Board to rule on such motion as Buckeye II has not been approved by the Board as of the date of this filing.

However, if the Board finds that Applicant's motion is timely, the County specifically objects to waiver of the following provisions:

1. O.A.C. §4906-17-05(B)(5)

The future plans for additional turbines for Buckeye I and also Buckeye II and any other project which would utilize the proposed staging areas and collection line system proposed herein would be necessary for an accurate assessment of the sufficiency of each of the combined staging areas and the proposed change in the collection line design.

2. O.A.C. §4906-17-08(A)(2)(a), (C)(3), and (E)(1),(2),(5),(6)

i. O.A.C. §4906-17-08(A)(2)(a)

The noise level in the proposed staging areas as well as along the new collection line routes and access roads during the construction phase should be important information for the determination of the Board.

ii. O.A.C. §4906-17-08(C)(3)

The probable impact of the construction of the project on public services and facilities, specifically in the proposed amendments set forth, is an essential factor in the Board's determination in this case. Due to the amendments proposed, the County disagrees with Applicant's assertion that the information has previously been provided in Buckeye I. The provisions of this paragraph should not be waived as the cumulative impacts may be different than previously provided in Buckeye I and Buckeye II. There may be significant impacts to emergency service providers in combining staging areas for two large wind projects, especially one staging area that is very close to the City of Urbana

and existing businesses, as well as issues with closing roads to bury collection lines within or near the public rights-of-way.

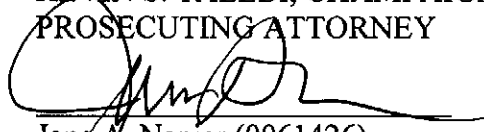
iii. O.A.C. §4906-17-08(E)(1),(2),(5) and (6)

The County believes it is critical for Applicant to set forth necessary modifications to its public information programs and insurance protection, as well as the anticipated impact to roads and bridges and decommissioning plans due to the amendments proposed herein. For instance, it may be necessary to modify its public information programs to include marking the extensive amount of buried electrical lines on public and private property for future identification for safety reasons, to set forth the anticipated impacts to roads and bridges due to the proposed amendment to bury collection lines within or near the public rights-of-way (which may result in more road closures), *etc.*

For the reasons set forth herein, the Champaign County Board of Commissioners requests that the Ohio Power Siting Board deny the Applicant's Renewed Motion for Waiver in part and require it to provide the information set forth in O.A.C. §4906-17-05(B)(5), and §4906-17-08(A)(2)(a), (C)(3), and (E)(1),(2),(5),(6) as required by rule.

Respectfully submitted,

KEVIN S. TALEBI, CHAMPAIGN COUNTY
PROSECUTING ATTORNEY

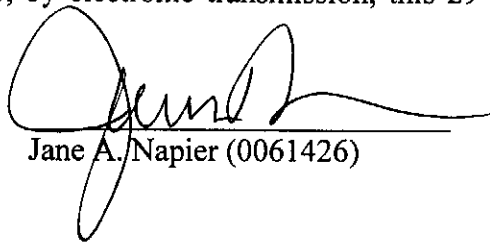


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent to M. Howard Petricoff, Esq. Vorys, Sater, Seymour & Pease, 52 East Gay Street, P.O. Box 008, Columbus, Ohio 43216-1008, to Chad A. Endsley, Esq., Ohio Farm Bureau Federation, 280 N. High Street, P.O. Box 182383, Columbus, Ohio 43218-2383, to Christopher A Walker, Esq., Van Kley & Walker LLC, 137 North Main Street, Suite 316, Dayton, Ohio 45402 to Daniel A Brown, Esq., Brown Law Office LLC, 204 S. Ludlow St., Suite 300, Dayton, Ohio 45402, to Sarah Chambers, Esq., Thompson Hine LLP, 41 South High Street, Suite 1700, Columbus, Ohio 43215, to Werner Margard and John Jones, Asst. Attorney Generals, 180 E. Broad Street, 9th Floor, Columbus, Ohio 43215, to Margaret A. Malone and Christina E. Grasseschi, Asst. Attorney Generals, 30 E. Broad Street, 25th Floor, Columbus, Ohio 43215, to G.S. Weithman, Director of Law, City of Urbana, 205 S. Main St., Urbana, Ohio 43078 and to Gene Park, Piqua Shawnee Tribe, 1803 Longview Dr., Springfield, Ohio 45504, by electronic transmission, this 29st day of March, 2013.



Jane A. Napier (0061426)

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Case No(s). 13-0360-EL-BGA

Summary: Memorandum Contra, In Part, To Buckeye Wind, LLC's Renewed Motion for Waiver electronically filed by Jane A. Napier on behalf of Champaign County Board of Commissioners