

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of Buckeye Wind, LLC, for a Certificate to Install Numerous Electric Generating Wind Turbines in Champaign County to be Collected at an Electrical Substation in Union Township, Champaign County, Ohio)	Case No. 08-0666-EL-BGN
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In the Matter of the Application of Buckeye Wind, LLC, to Amend its Certificate Issued in Case No. 08-666-EL-BGN)	Case No. 13-0360-EL-BGA
)	


INTERVENORS GOSHEN AND UNION TOWNSHIPS' MEMORANDUM IN OPPOSITION
TO BUCKEYE WIND, LLC'S MOTION FOR EXTENSION OF CERTIFICATE

The Boards of Trustees of Goshen and Union Townships hereby join Champaign County Board of Commissioners and the Board of Trustees of Urbana Township in opposing Buckeye Wind, LLC's Motion for Extension of Certificate for the reasons set forth in the Memorandum In Opposition to Buckeye Wind, LLC's Motion for Extension of Certificate previously filed on behalf of Champaign County and Urbana Township, attached hereto, marked as Exhibit A and by this reference incorporated here in its entirety.

Therefore, the Boards of Goshen and Union Township Trustees request that the Ohio Power Siting Board deny the extension of the certificate approved herein.

Respectfully submitted,

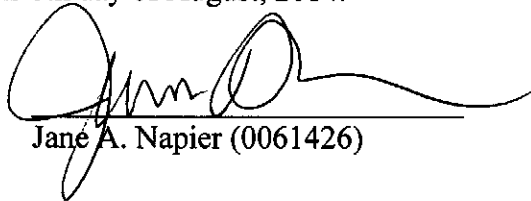
Kevin S. Talebi (0069198)
Champaign County Prosecuting Attorney

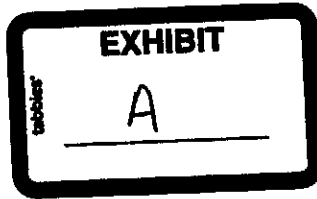


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent to Miranda R. Leppla, 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 Werner Margard and John Jones, Asst. Attorney Generals, 180 E. Broad Street, 9th Floor, Columbus, Ohio 43215, and to Breanne Parcels, Director of Law, City of Urbana, 205 S. Main St., Urbana, Ohio 43078, by electronic transmission, this 8th day of August, 2014.


Jane A. Napier (0061426)



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**INTERVENORS CHAMPAIGN COUNTY AND URBANA TOWNSHIP'S
MEMORANDUM IN OPPOSITION TO BUCKEYE WIND, LLC'S
MOTION FOR EXTENSION OF CERTIFICATE**

Buckeye Wind, LLC ("Buckeye") is now requesting, by motion filed July 14, 2014, for an extension of time in which it may construct its project under the Certificate of Environmental Compatibility and Public Need ("certificate") approved March 22, 2010. Condition 52 of the certificate approved by the Ohio Power Siting Board ("OPSB") sets forth that:

"The certificate shall become invalid if Buckeye has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate."

OPSB's Opinion Order and Certificate of March 22, 2010.

Buckeye argues that it should have an extension of time from March 22, 2015 to May 28, 2018, being an increase from five (5) years to approximately eight (8) years, two (2) months and six (6) days. Buckeye contends that ongoing litigation along with its progress in continuing to

develop this project warrant extension of the certificate. Intervenor Champaign County and Urbana Township ("Intervenor Boards") dispute Buckeye's contentions and oppose such extension on the following grounds:

On March 6, 2012, the Ohio Supreme Court affirmed the OPSB's decision to grant Buckeye's certificate. At that point, there was no further litigation of Buckeye's project. However, Buckeye is now asking for a significantly larger extension than the delay caused by the appeal to the Supreme Court.

Buckeye indicates that it wants an additional three plus year extension as it will utilize the electric substation, laydown yards and many of the underground transmission lines of the project of Champaign Wind, LLC ("Champaign"), the certificate of which expires on May 28, 2018 and which is currently on appeal to the Supreme Court. However, Buckeye's project and Champaign's project are separate and independent projects. At no time has either developer (who appear to have a common member), set forth "on the record" to the OPSB that they intend for the projects to be done at the same time. Therefore, as separate projects, not joined, they each have differing conditions of their respective certificates. To now extend the time period that Buckeye's certificate is valid because of the time Champaign's certificate is valid essentially undermines the application and hearing process and the requirement to protect the public interest. Specifically, the Intervenor Boards' questioning of future projects within or near Buckeye's project footprint was not allowed during the hearing process of Buckeye's project. Further, questioning of the foreseeable impacts of the two projects, if built together, was not allowed during the hearing process of Champaign's application as it was argued by the developer that Champaign's project was separate from Buckeye's project. In the event that Buckeye's project and Champaign's project are being built jointly, thereby necessitating an extension which

coincides with Champaign's project, then Buckeye's certificate should be reviewed through the amendment process, with required time for public comment, and the conditions of Buckeye's project should possibly be revised to be consistent in all respects to Champaign's project.

For example, unlike in Champaign's project and other projects subsequent to the Buckeye's project, there is no condition for the negotiation of a Road Use Maintenance Agreement ("RUMA") to the certificate. Although the Buckeye project did not originally include a condition for a RUMA (as it was the first wind project in the State of Ohio and also the first wind project before the OPSB), a RUMA is a standard condition of subsequent projects and this oversight should be addressed now by amendment.

In February 2013, Buckeye filed to amend its certificate. The amendments did not include extension of the certificate, although the certificate is only valid for five years from date of the order, being March 22, 2010. Clearly, Buckeye had the opportunity to request modification of Condition 52 and extension of the certificate until May 28, 2018 at the time of filing the amendment to the certificate. It appears that Buckeye chose not to include the extension in its filing of amendment to the certificate in February 2013 and only does so now by motion, not by further amendment, in an attempt to avoid the statutory allowance of time for public comment.

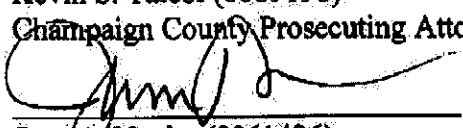
The Intervenor Boards believe that the motion process is not applicable for modification of conditions of a certificate. Although pursuant to R.C. §4906.06(A), the OPSB can waive the time period limitation between application and planned date of commencement of construction during the application process, it does not appear that the OPSB has the authority to modify a condition of the certificate ordered without Buckeye filing an amendment, pursuant to R.C. §4906.06(E).

IV. CONCLUSION

For the reasons set forth herein, the intervening Boards of Champaign County Commissioners and the Board of Trustees of Urbana Township request that the Ohio Power Siting Board deny the extension of the certificate approved herein.

Respectfully submitted,

Kevin S. Talebi (0069198)
Champaign County Prosecuting Attorney



Jane A. Napier (0061426)
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Jane A. Napier (0061426)

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Case No(s). 13-0360-EL-BGA, 08-0666-EL-BGN

Summary: Memorandum in Opposition To Buckeye Wind, LLC's Motion for Extension of Certificate electronically filed by Jane A. Napier on behalf of Champaign County Board of Commissioners and Urbana Township Board of Trustees

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in

Case No(s). 13-0360-EL-BGA, 08-0666-EL-BGN

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