BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of Hardin Wind LLC to Amend its Certificate Issued in Case No. 13-1177-EL-BGN	))))	Case No. 14-1557-EL-BGA

HARDIN WIND LLC'S MEMORANDUM CONTRA
TO THE PETITION FOR LEAVE TO INTERVENE BY JOSEPH GRANT

I. INTRODUCTION

Petitioner Joseph Grant (the "Petitioner" or "Mr. Grant") claims intervention in this proceeding is necessary to maintain his "status as a party to the proceeding in the event that it is not automatically transferred to this docket." Mr. Grant also seeks to intervene to "protect my health and property from any potential unsafe or harmful conditions," and to protect his property "to the extent Hardin Wind's proposed changes" impact his property.

Mr. Grant is correct that his status as a party in the original certificate proceeding (Case No. 13-1177) will not automatically transfer to this docket. Mr. Grant's intervention in this Amendment proceeding, however, is unwarranted because the proposed modifications in the facility design are well over one and a half miles from Mr. Grant's residence, and the two smaller proposed turbine models, if utilized, would not change any impact the project may have on Mr. Grant's property.

Mr. Grant opposed the project during the certificate proceeding, and continues to oppose the project through his appeal now pending before the Supreme Court of Ohio. This Amendment proceeding, however, raises no issues that suggest that Mr. Grant's participation will assist in a just and expeditious resolution. Instead, his participation will simply lead to delay and undue prejudice to Hardin Wind. The Board should deny his intervention.

II. BACKGROUND

Petitioner resides at 20616 State Route 68N, Belle Center, Ohio 43310. On March 17, 2014, the Ohio Power Siting Board (the "Board") granted Hardin Wind LLC ("Hardin Wind"), a Certificate of Environmental Capability and Public Need to construct a wind-powered electric generating facility in Case No. 13-1177-EL-BGN (the "Certificate"). The Certificate authorized Hardin Wind to construct a wind-powered electric generating facility consisting of 172 wind-powered electric turbines, along with access roads, an electrical interconnect, construction staging areas, operations and maintenance facilities, and a collection substation, all to be located in Hardin County and Logan County, Ohio and known as the Scioto Ridge Wind Farm. On July 15, 2014, Petitioner appealed the Certificate to the Supreme Court of Ohio.

On September 12, 2014, Hardin Wind filed an application to amend the Certificate, Case No. 14-1557-EL-BGA (the "Amendment"). The Amendment proposes to add six new collection lines, shift six collection lines, relocate ten access roads, add two new access roads, relocate one of the four permitted met towers, slightly shift five turbine locations, and relocate the project collector substation. The Amendment also proposes for consideration two new turbine models, those being the Suzlon S111 with a total height of 479 feet and the General Electric GE103 with a total height of 485 feet. Both new turbine models are shorter than the tallest turbine models initially certificated. (*See* Amendment application at pages 6 and 16 attached as Exhibit A). In fact, both new models are shorter than seven of the eight certificated models. (*See In re Hardin Wind LLC*, June 28, 2013 application at pages 11-12, attached as Exhibit B).

On September 22, 2014, Petitioner filed a Petition to Intervene in this proceeding. Although he resides outside the project area, Petitioner lives approximately 2,064 feet from a project wind turbine location. However, the nearest turbine location being shifted is 7,701 feet

from Petitioner's residence, almost a mile and a half from Petitioner's residence. Further, the nearest access road affected by the Amendment is 7,402 feet from Petitioner's residence and the nearest amended collection line is 11,290 feet from the Petitioner's residence. Apart from the utilization of the new and shorter turbine models, all design changes affect locations more than a mile from Petitioner's residence.

III. ARGUMENT

A. Standard of Review

Under Section 4906.08 of the Revised Code and Rule 4906-7-03, Petitioner must intervene to be considered a party to the Amendment proceedings. Petitioner's request for intervention is governed by Rule 4906-7-04 of the Ohio Administrative Code. Under that rule, Petitioner must show good cause for the intervention. OAC Rule 4906-7-04(B). In considering whether good cause exists, the Board or the administrative law judge may consider (a) the nature and extent of Petitioner's interest, (b) the extent to which the Petitioner's interest is represented by existing parties, (c) the Petitioner's 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. (*Id.*)

B. Intervention is not Warranted

Petitioner presents three reasons to justify his intervention. First, he claims new shadow flicker and ecological assessments introduced by the Amendment should be examined at a public hearing. (Grant at 3.) Second, he claims intervention is necessary to protect his health and property from "any potential unsafe or harmful conditions." *Id.* Third, he requests intervention to "the extent" that the Amendment impacts his property. *Id.* Petitioner's reasons for intervention do not support his participation in this proceeding

1. The nature and extent of Petitioner's interest do not support intervention.

Petitioner may want to participate in this proceeding, but the nature of the changes in the Amendment show that he has no interest to protect or support in this proceeding. As noted above, all of the facility modifications are taking place over a mile and a half from his current residence. The nearest turbine shift is well over a mile and a half away and the collection line modifications are over two miles away. That leaves just the proposed turbine model change as the only possible interest he may have in this proceeding, as he resides slightly less than a half mile from the nearest certificated turbine.

The turbine model change, however, does not justify his intervention. The certificated project's total impact was modeled utilizing the largest wind turbine model and the turbine with the highest sound power output. The Certificate application essentially analyzed the project's overall impact under a worst case scenario. While the new turbine models have similar operating characteristics to what was analyzed in the Certificate, the new models are shorter in height and have shorter blade lengths. (*See* Amendment application at pages 6 and 16 attached as Exhibit A; *In re Hardin Wind LLC*, June 28, 2013 application at pages 11-12, attached as Exhibit B). The turbines also will not increase sound levels. (*See* Amendment application at pages 19-20 attached as Exhibit C).

Hardin Wind must also continue to comply with all conditions in the Certificate relating to shadow flicker and operational noise. Any concerns Mr. Grant has about the smaller turbine models are addressed by those conditions. The conditions as summarized by the Board are attached as Exhibit D hereto. Even if the new turbines were taller than the worst case turbines studied (which they are not), the new turbines must comply with the conditions of the Certificate. The nature of Mr. Grant's interest in this proceeding does not support intervention.

2. Petitioner has no interest that needs to be represented by existing parties.

Petitioner argues that his interests will not be represented by existing parties because there are no other intervenors in the proceeding. As noted above, however, Petitioner has no interest in this Amendment proceeding and the simple fact that there may not be other intervenors is not an automatic pass to intervention. Moreover, the Board's Staff will review the Amendment and has the ability to conduct discovery under the Board's rules. These facts do not support intervention.

3. Petitioner will not contribute to a just and expeditious resolution.

Petitioner's involvement in this proceeding is unnecessary and will not contribute to a just and expeditious resolution. Mr. Grant lives outside the project area and well away from all of the facility modifications. As well, he has no reason to object to smaller turbines being used for the project, especially as the Certificate's conditions on noise and shadow flicker remain in place. The Board can arrive at a just and expeditious resolution of the Amendment without Mr. Grant's participation.

4. Granting Petitioner's intervention in this Amendment will unduly delay the proceeding and cause unjust prejudice to Hardin Wind.

As stated before, Petitioner's participation in this Amendment proceeding is unnecessary. To the extent that Petitioner's residence is impacted by the project itself, Petitioner has adequately protected such interest by appealing the Certificate to the Supreme Court of Ohio. Petitioner has no issue to raise in this proceeding other than continuing to object to the project and calling for public hearings. A public hearing, though is not required for the change in turbine models. ORC § 4906.07(B).

His participation also will unduly prejudice Hardin Wind by requiring it to re-litigate the same issues raised in the initial Certificate proceeding as well as defending the addition of two

new turbine models that have less impact than the models currently certificated. Petitioner's intervention will also cause Hardin Wind to incur additional costs to defend the Amendment not only in this proceeding, but also in the likely appeals that will follow if the Amendment is approved. Petitioner's intervention is not warranted.

IV. CONCLUSION

Given the location of Mr. Grant's property and the nature of the Amendment, he has not presented sufficient reason to justify his intervention in this proceeding. He states that he does not want to re-litigate the Certificate, but he raises many of the same issues in his petition including calling for a public hearing and seeking to "protect" his property. The nature of the Amendment though, clearly does not impact his property and the existing Certificate conditions on shadow flicker and noise, which Hardin Wind does not seek to change, will remain in place. Mr. Grant does not have a valid reason for intervening in this proceeding and the Board should deny his request for intervention.

Respectfully submitted,

M. Howard Petricoff (0008287), Trial Counsel
Michael J. Settineri (0073369)
Scott M. Guttman (0086639)
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
614-464-5414
614-719-4904 (fax)
mhpetricoff@vorys.com
mjsettineri@vorys.com
smguttman@vorys.com

Attorneys for Hardin Wind, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served this 9th day of October 2014, via email on the parties listed below.

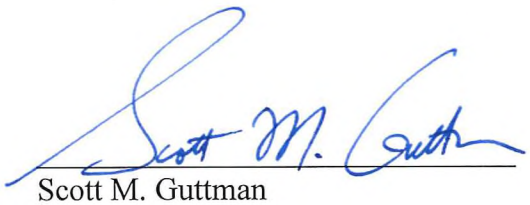
Thomas G. Lindgren
Steven Beeler
Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, OH 43215
thomas.lindgren@puc.state.oh.us
steven.beeler@puc.state.oh.us

Sarah Bloom Anderson
Summer J. Koladin Plantz
Environmental Enforcement
Office of Ohio Attorney General Mike DeWine
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
sarah.anderson@ohioattorneygeneral.gov
summer.plantz@ohioattorneygeneral.gov

Chad A. Endsley
Chief Legal Counsel
Ohio Farm Bureau Federation
280 North High Street, P.O. Box 182383
Columbus, OH 43218-2383
cendsley@ofbf.org

Mark S. Yurick
Zachary D. Kravitz
Taft Stettinius & Hollister LLP
65 East State Street, Suite 1000
Columbus, OH 43215
myurick@taftlaw.com
zkravitz@taftlaw.com
(AND BY U.S. MAIL)

Joe Grant
20616 State Route 68N
Belle Center, OH 43310
joedebgrant@gmail.com



Scott M. Guttman

4906-17-03 PROJECT DESCRIPTION AND SCHEDULE

(A) DETAILED PROJECT DESCRIPTION

The Applicant is permitted to construct, own, and operate a wind-powered electric generation facility, along with a transmission line and substation associated with the Facility. Due to landowner preferences, turbine shifts, and the relocation of the collector substation, the Applicant is proposing revisions and additions to the collection line system. Additionally, ten access roads are being relocated and two new access roads are being constructed for the reasons discussed in Section 4906-17-02(A)(2). Figure 05-4 has been updated to show the revised layout for the Facility.

(1) Description Details for the Project

(a) *Type of Turbine*

Due to market factors such as availability and cost, a specific turbine model has not yet been selected for the Facility. A number of turbine models that were determined to be suitable for this site were described in the original Application. Two additional turbine models are under consideration in this Amendment: the Suzlon S111 (2.1 megawatts ["MW"]) and the GE103 (1.7 MW). Both have shorter rotor diameters and are less in total height than the maximum rotor diameter and maximum total height of the currently certificated turbines. Information about these turbines is included in Exhibit A of this Amendment. Table 03-1 presents the dimensions in feet and meters for each of the new models.

Table 03-1. Approximate Turbine Dimensions for New Models under Consideration

Turbine Model	Rated Power	Hub Height	Rotor Diameter	Total Height
Suzlon S111	2.1 MW	90 meters (295 feet)	111 meters (364 feet)	146 meters (479 feet)
General Electric GE103	1.7 MW	96 meters (315 feet)	103 meters (338 feet)	148 meters (485 feet)

As previously mentioned, the Facility evaluated in the original Application consisted of up to 176 wind turbine sites (four of which were subsequently eliminated). The Certificate granted by the OPSB allows construction of up to 172 wind turbines. The actual number of turbines constructed will depend on the capacity of the turbine model selected, in order to reach a total generating capacity of 300 MW. If the 1.7 MW GE103 is selected, it is expected that up to 172 turbines will be constructed; if the 2.1 MW Suzlon S111 is selected, it is expected that up to 142 turbines will be constructed. As committed to in

(a) *Dimensions*

As described in 4906-17-03(A)(1)(a), this Amendment introduces two additional turbine models under consideration for the Facility. The dimensions of these turbines (see Table 03-1 of this Amendment) are within the range of dimensions presented in Table 03-1 of the original Application. The tallest hub height under consideration for the Facility is still 328 feet (100 meters), found on the REpower MM100 and Gamesa G97; the largest rotor diameter under consideration for the Facility is still 400 feet (122 meters), found on the REpower M122. The maximum total turbine height (i.e., height at the highest blade tip position) of all the models under consideration is still 492 feet (150 meters), which is associated with the MM100, M122, N117, V110, V117 and G114 models.

The dimensions of the O&M facility, collector substation, and meteorological towers remain as described in the original Application.

(b) *Construction Materials*

Construction materials are as described in the original Application.

(c) *Color and Texture*

Color and texture are as described in the original Application.

(d) *Photographic Interpretation or Pictorial Sketches*

The appearance of the Facility will remain as described in the original Application. The five minor turbine shifts, collector substation relocation, and the associated re-alignment of access roads and collection lines proposed in this Amendment will not change the visual character of the area or general visibility of the Facility when compared to the layout presented in the original Application. The proposed changes may be noticeable in some locations in the Project Area, particularly in the immediate vicinity of the proposed changes. For example, several of the access roads have been re-configured to be located further away from homes, which would reduce visual impact to those residents.

(e) *Unusual Features*

No unusual features are expected, as all Facility components are consistent with typical wind energy facilities. This remains as described in the original Application.

4906-17-03 PROJECT DESCRIPTION AND SCHEDULE

(A) DETAILED PROJECT DESCRIPTION

(1) Description Details for the Project

The descriptions provided below apply to the proposed Project Area, as defined in OAC Section 4906-17-01(B)(1). No alternative Project Areas are proposed. In Case No. 08-1024-EL-ORD, Opinion and Order, October 28, 2008, p.21 at Finding 56, the OPSB determined that an applicant is not required to provide alternative sites for a proposed wind farm.

(a) *Type of Turbine*

As depicted in Exhibit N, each wind turbine consists of three major components: the tower, the nacelle, and the rotor. The nacelle sits atop the tower, and the rotor hub is mounted to the front of the nacelle. "Hub height" is the height of the center of the rotor, as measured from the base of the tower (excluding the subsurface foundation) to the top of the tower, while total turbine height is the height of the entire turbine, as measured from the tower base to the tip of the highest blade when rotated to the highest position. Facility construction is not scheduled to begin until 2014, and due to market factors such as availability and cost, a specific turbine model has not yet been selected for the Facility. However, turbine models that have been determined to be suitable for this site include the REpower MM100 (2.05 MW), Repower M122 (3.0 MW), Nordex N117 (2.4 MW), Vestas V110 (2.0 MW), Vestas V117 (3.3 MW), Gamesa G97 (2.0 MW), Gamesa G114 (2.0 MW), and General Electric GE100 (1.7 MW). Table 03-1 presents the dimensions in feet and meters for each of these models.

Table 03-1. Approximate Turbine Dimensions by Model

Turbine Model	Rated Power	Hub Height	Rotor Diameter	Total Height
REpower MM100	2.05 MW	100 meters (328 feet)	100 meters (328 feet)	150 meters (492 feet)
REpower M122	3.0 MW	89 meters (292 feet)	122 meters (400 feet)	150 meters (492 feet)
Nordex N117	2.4 MW	91 meters (299 feet)	117 meters (384 feet)	150 meters (492 feet)
Vestas V110	2.0 MW	95 meters (312 feet)	110 meters (361 feet)	150 meters (492 feet)
Vestas V117	3.3 MW	91 meters (299 feet)	117 meters (384 feet)	150 meters (492 feet)
Gamesa G97	2.0 MW	100 meters (328 feet)	97 meters (318 feet)	149 meters (489 feet)

Turbine Model	Rated Power	Hub Height	Rotor Diameter	Total Height
Gamesa G114	2.0 MW	93 meters (305 feet)	114 meters (374 feet)	150 meters (492 feet)
General Electric GE100	1.7 MW	96 meters (315 feet)	100 meters (328 feet)	146 meters (479 feet)

These models represent the tallest class of turbines under consideration at the time of this Application. Additional turbine detail is provided below in Section 4906-17-03(A)(2) of this Application.

As previously mentioned, the Facility evaluated in this Application consists of up to 176 wind turbine sites. The actual number of turbines constructed will depend on the capacity of the turbine model selected, in order to reach a total generating capacity of 300 MW. If the 1.7 MW GE100 is selected, it is expected that up to 176 turbines will be constructed; if the 2.0 MW Vestas V110, Gamesa G97, or Gamesa G114 is selected, it is expected that up to 150 turbines will be constructed; if the 2.05 MW REpower MM100 is selected, it is expected that up to 146 turbines will be constructed; if the 2.4 MW Nordex N117 is selected, it is expected that up to 125 turbines will be constructed; if the 3.0 MW REpower M122 is selected, it is expected that up to 100 turbines will be constructed; if the 3.3 MW Vestas V117 is selected, it is expected that up to 91 turbines will be constructed.

Preliminary analysis indicates that the turbines will have capacity factors of 30-38%. Accounting for the total generating capacity of 300 MW, anticipated operating times, and turbine capacity factors, the Facility will generate approximately 788,400 to 998,640 MWh of electricity each year. It is expected that the Applicant will develop, construct, own, and operate the Facility.

(b) *Land Area Requirements*

The Facility is located in Hardin County (within Roundhead, McDonald, Lynn, and Taylor Creek Townships) and Logan County (within Richland and Rushcreek Townships). The Facility is located within approximately 17,000 acres of leased private land. However, the Facility footprint will occupy a much smaller area. Table 03-2 presents the estimated footprint for each Facility component for the Project, based on the Applicant's experience with the construction and operation of other wind power facilities. The construction impacts presented throughout this Application were calculated using these assumptions.

4906-17-08 SOCIAL AND ECOLOGICAL DATA

(A) HEALTH AND SAFETY

(1) Demographic

Demographic information remains as presented in the original Application.

(2) Noise

Resource Systems Group, Inc. ("RSG") was retained by the Applicant to evaluate potential noise impacts from the proposed Facility (see Exhibit P of the original Application). To ensure that the proposed turbine shifts described in this Amendment do not cause sound levels at non-participating residences to exceed the Facility's 45 dBA (decibels, A-weighted) design goal, RSG performed modeling of the revised layout (see Exhibit B, attached to this Amendment). Background sound modeling remains as described in the original Application.

(a) *Construction Noise Levels*

Construction noise levels remain as described in the original Application.

(b) *Operational Noise Levels*

(i) Assessment Criteria

Assessment criteria remain as described in the original Application: the Applicant has voluntarily adopted a design goal of 45 dBA. In addition, the OPSB Staff, the Ohio Farm Bureau Federation, and the Applicant stipulated to, and the OPSB adopted, a condition regarding noise such that the facility noise contribution does not result in noise levels at the exterior of any currently existing non-participating sensitive receptor that exceed the project area ambient nighttime sound level of 42 dBA by 5 dBA. This stipulation became part of the Certificate granted March 17, 2014.

(ii) Turbine Sound Level

Since the specific make and model of turbine to be installed in the Project Area has not yet been determined, the sound characteristics of all turbines under consideration were reviewed. The Gamesa G97 model was used to model Facility noise in the original Application because it has the highest sound power level of the models under consideration at that time. The sound power level of the Gamesa G97 is 105.8 ± 2 dBA for wind speeds of 7 m/s and greater (measured at the 10-meter anemometer height). It should be noted that the GE103 turbine, now under consideration for the Facility as described above in Section 4906-17-03(A)(1)(a), has a slightly less maximum sound

power level than the Gamesa G97 with the addition of Low Noise Trailing Edge technology. Without the technology, the GE103 turbine has a slightly higher maximum sound power output than the Gamesa G97 turbine. However, for consistency in comparison between the original Application and this Amendment, the Gamesa G97 model was used to in the updated modeling of Facility noise (see Exhibit B of this Amendment) to allow for a direct comparison between the original Application layout and the layout proposed in this Amendment. Should the GE103 turbine ultimately be selected for the Facility, the Low Noise Trailing Edge technology will be employed to limit the maximum sound level to the 105.8 dBA level modeled herein. The second additional turbine being proposed in this Petition, the Suzlon S111, has a maximum sound power output less than the Gamesa G97 turbine (105 dBA).

(iii) Noise Modeling Methodology and Assumptions

Updated sound propagation modeling was performed according to the International Standards Organization ISO 9613-2 standard with Datakustik's Cadna/A modeling package. Updated modeling of turbine sound levels was performed with the same parameters and same methodology as is described in the original Application. The only difference in methodology is that sound from the collector substation has been included in the revised modeling. Because transformer sound pressure levels are louder when fans are running, sound emissions for the substation were modeled both with the fans off (ONAN) and the fans on (ONAF). See Exhibit B of this Amendment for additional information about transformer noise.

(iv) Model Results

Modeling results are shown as a sound contour map in Figures 2 and 3 in Exhibit B of this Amendment. The colored lines emanating from the wind turbines are color-coded isolines, where red represents the highest sound level and blue represents the lowest. The Facility design goal of 45 dBA is depicted in orange. Turbines that have been modeled in Noise Reduced Operations (NRO) mode are indicated by yellow, orange, or red symbols for sound emissions of 104 dBA, 103 dBA, and 102 dBA respectively. Full sound power for the modeled Gamesa G97 turbine is 105.8 dBA; these turbines are indicated by grey turbine symbols.

With the transformer under ONAN cooling, there are two non-participating residences that exceed 45 dBA. These residences are the exact same residences that exceeded 45 dBA in the permitted layout, submitted under the original Application. In both locations, this is due to sound level contributions from the Invenergy Hardin Wind turbine array. Sound emissions from only the Scioto

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Hardin Wind LLC for a Certificate to Construct a Wind-Powered Electric Generation Facility in Hardin and Logan Counties, Ohio.	Case No. 13-1177-EL-BGN
In the Matter of the Application of Hardin Wind LLC for a Certificate of Environmental Compatibility and Public Need for a Substation Project in Hardin County, Ohio.	Case No. 13-1767-EL-BSB
In the Matter of the Application of Hardin Wind LLC for a Certificate of Environmental Compatibility and Public Need for a 345 kV Transmission Line in Hardin County, Ohio.	Case No. 13-1768-EL-BTX

OPINION, ORDER, AND CERTIFICATES

The Board, coming now to consider the above-entitled matters, having appointed its administrative law judge (ALJ) to conduct a public hearing, having reviewed the exhibits introduced into evidence at the adjudicatory hearing held in these matters, including the joint stipulation and recommendation (Stipulation), and being otherwise fully advised, issues its Opinion, Order, and Certificates in these cases, as required by R.C. Chapter 4906.

APPEARANCES:

Vorys, Sater, Seymour and Pease LLP, by M. Howard Petricoff, Michael J. Settineri, and Miranda R. Leppla, 52 East Gay Street, P.O. Box 1008, Columbus, Ohio 43216, on behalf of Hardin Wind, LLC.

Mike DeWine, Ohio Attorney General, Steven L. Beeler and Thomas G. Lindgren, Assistant Attorneys General, Public Utilities Section, 180 East Broad Street, Columbus, Ohio 43215, and Sarah Anderson and Summer Plantz, Assistant Attorneys General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, on behalf of Staff.

Chad A. Endsley, Chief Legal Counsel, 280 North High Street, P.O. Box 182383, Columbus, Ohio 43218, on behalf of the Ohio Farm Bureau Federation.

stream crossings to aquatic species. All minimization efforts to avoid impacts to streams shall occur.

(9) The Applicant shall avoid Upland Sandpiper suitable nesting habitat during this species' nesting period of April 15 to July 31.

(10) Sixty days prior to the first turbine becoming operational, the Applicant shall submit a post construction avian and bat monitoring plan for DOW and Staff review and confirmation that it complies with this condition. The Applicant's plan shall be consistent with ODNR-approved, standardized protocol, as outlined in ODNR's On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio. This includes having a sample of turbines that are searched daily. Mitigation initiation timeframes shall be outlined in the DOW approval letter and the Board concurrence letter.

(11) Construction in Northern Harrier preferred nesting habitat shall be prohibited during the nesting period of May 15 to August 15.

(12) The Applicant shall adhere to a setback distance of at least 1.1 times the total height of the turbine structure, as measured from its tower's base (excluding the subsurface foundation) to the tip of its highest blade, from any natural gas or hazardous liquid pipeline in the ground and active at the time of certificate issuance.

(13) The facility shall be operated so that the facility noise contribution does not result in noise levels at the exterior of any currently existing nonparticipating sensitive receptor that exceed the project area ambient nighttime LEQ (42 dBA) by five dBA. During daytime operation only (7:00 a.m. to 10:00 p.m.), the facility may operate at the greater of: (a) the project area ambient nighttime LEQ (42 dBA) plus five dBA; or, (b) the validly measured ambient LEQ plus five dBA at the location of the sensitive receptor. After commencement of commercial operation, the Applicant shall conduct further review of the impact and possible mitigation of all facility-related noise complaints through its complaint resolution process.

(14) The facility shall be operated so that the facility shadow flicker contribution does not result in shadow flicker levels that exceed 30 hours per year for any nonparticipating sensitive receptor. The Applicant shall complete a shadow flicker analysis for all inhabited nonparticipating sensitive receptors that have already been modeled to be in excess of 30 hours per year of shadow flicker. The analysis shall show how modeled shadow flicker impacts have been reduced to 30 or fewer hours per year for each such receptor. After commencement of commercial operation, the Applicant shall conduct further review of the impact and possible mitigation of all facility-related shadow flicker complaints through its complaint resolution process.

(15) The Applicant shall develop a complaint resolution process that shall include procedures for responding to complaints about excessive noise during construction, and excessive noise and excessive shadow flicker caused by operation of the facility. The complaint resolution process shall include procedures by which complaints can be made by the public, how complaints will be tracked by the Applicant, steps that will be taken to interact with the complainant and respond to the complaint, steps that will be taken to verify the merits of the complaint, and steps that will be taken to mitigate valid complaints.

(16) The Applicant, facility owner, and/or facility operator shall comply with the following conditions regarding decommissioning:

(a) Provide the final decommissioning plan to Staff and the county engineer(s) for review and confirmation of compliance with this condition, at least 30 days prior to the preconstruction conference. The plan shall:

(i) Indicate the intended future use of the land following reclamation.

(ii) Describe the following: engineering techniques and major equipment to be used in decommissioning and reclamation; a surface water drainage

Summary: Memorandum Memo Contra to the Petition for Leave to Intervene by Joseph Grant electronically filed by Mr. Scott M Guttman on behalf of Hardin Wind LLC