

In the Matter of the Application of)
6011 Greenwich Windpark, LLC for an)
Amendment to its Certificate to Install) Case No. 15-1921-EL-BGA
and Operate a Wind-Powered Electric)
Generation Facility in Huron County, Ohio.)

Samuel C. Randazzo (Reg. No. 0016386)
(Counsel of Record)
Scott E. Elisar (Reg. No. 0081877)
McNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
sam@mwncmh.com
(willing to accept service by e-mail)
selisar@mwncmh.com
(willing to accept service by e-mail)

ATTORNEYS FOR GREENWICH NEIGHBORS UNITED

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)	
6011 Greenwich Windpark, LLC for an)	
Amendment to its Certificate to Install)	Case No. 15-1921-EL-BGA
and Operate a Wind-Powered Electric)	
Generation Facility in Huron County, Ohio.)	

**COMMENTS AND OBJECTIONS
OF GREENWICH NEIGHBORS UNITED (“GNU”)**

On November 16, 2015, Greenwich Windpark, LLC (“Wind Farm”) filed an application to amend the certificate sought in Case No. 13-0990-EL-BGN.¹ The amendment application proposes to expand the types of turbines eligible to be constructed pursuant to the certificate sought in Case No. 13-0990-EL-BGN.² The turbines that are the object of the Wind Farm’s current affections include models that are noisier, bigger (thereby affecting setbacks among other things) and have higher rotational speeds³ (thereby creating greater ice throw and blade shear risks and exacerbating the prior shadow flicker problems among other things).

DUE PROCESS

Based on a recent newspaper notice attached hereto as Exhibit A, it appears that the Wind Farm is moving forward based on its view that the application filed in this

¹ Based on the information filed with the amendment application, it appears that the application was not properly served on the current township trustees.

² It is GNU’s position that the certificate issued in Case No. 13-0990-EL-BGN was issued unlawfully.

³ As the comments which have been filed in this proceeding indicate, the higher rotational speeds and shorter distance between the blades and the ground mean that the new turbines will destroy more birds and bats that are useful to the local agricultural oriented economy.

proceeding is subject to an accelerated approval or expedited review process. However, the application does not involve any of the types of facilities eligible for an accelerated approval or expedited process.

As the Ohio Power Siting Board (“Board”) knows from the hundreds of comments filed in Case No. 13-0990-EL-BGN, including comments of adjoining property owners, which express objections and concerns,⁴ there is strong local opposition to the Wind Farm’s proposals and intentions. The comments which have thus far been filed in this proceeding, including the comments of adjoining property owners, identify similar concerns and objections and identify aspects of the amendment application that require new studies and evaluations which have not been undertaken or submitted by the Wind Farm.

As the Board also knows, the Wind Farm sought and continues to seek to construct a wind farm that substantially violates statutory minimum setback requirements and this violation is also generating significant local opposition based on the health, safety and other concerns reflected in the public comments.

It is also important to note that an oil products pipeline is to be constructed through the land on which the Wind Farm proposes to construct and operate its electric generating and associated facilities. This pipeline and current construction plans were not considered in Case No. 13-0990-EL-BGN but this pipeline project is underway and it will affect, pursuant to the minimum setback requirements that are already specified in the certificate issued in Case No. 13-0990-EL-BGN, the ability of the Wind Farm to locate and operate turbines and associated facilities.

⁴ The comments filed in Case No. 13-0990-EL-BGN are hereby incorporated by reference.

If the Board does not reject the application filed in this proceeding as requested below, GNU urges the Board to follow a process that will ensure a full and complete evaluation of the amendment application. To avoid the type of confusion created by the newspaper notice referenced above and to provide for a process that is capable of carefully examining the impacts of the Wind Farm's proposals based on current facts and circumstances, GNU urges the Board to find that the Wind Farm must follow a full and complete certificate application process. The process followed in this proceeding should and must provide for the submission of studies and information in accordance with all the requirements in the Board's rules identifying the filing requirements applicable to certificate applications submitted by a wind-powered electric generating facility. The Wind Farm should not be permitted to rely on now-outdated information filed in Case No. 13-0990-EL-BGN (as it is attempting to do) when it is now proposing to use completely different turbines having completely different heights, dimensions and operating characteristics. Based on the very limited information that the Wind Farm has submitted, the sound and shadow flicker production of the new turbines violate limits that the Board has already specified in Case 13-0990-EL-BGN and the public comments filed in this proceeding show good reasons why the Board must require the Wind Farm to perform a new study to, among other things, identify ambient sound levels.

The full and complete process established in this proceeding should also include public informational meetings, a local public hearing set at a time that will allow for meaningful participation and an evidentiary hearing. The full and complete process should take into account the new oil products pipeline that will run through the land that

the Wind Farm proposes to use to erect and operate its wind-powered electric generating and associated facilities.

SETBACKS – THE APPLICATION MUST BE REJECTED

R.C. 4906.201 states that “[a]ny amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly, shall be subject to the setback provision of this section as amended by that act.” R.C. 4906.201 also states that the minimum setbacks contained in R.C. 4906.20(B)(2) are applicable to facilities of the size proposed by the Wind Farm. Thus, the Wind Farm’s amendment triggers the application of the current minimum setback requirements in R.C. 4906.20. As noted above, the size, operating characteristics and dimensions of the proposed new turbines affect the computation of the minimum setback requirements.

But the Board cannot discharge its public interest duties by simply resorting to the minimum setback requirements.

The Board must establish reasonable setbacks guided by such things as its obligation to ensure “minimum adverse environmental impact” [R.C. 4906.10(A)(3)] and “[t]hat the facility will serve the public interest” [R.C. 4906.10(A)(6)]. In cases such as this one where a proposed wind farm may affect the viability of agricultural land located in an agricultural district, the Board has additional obligations to evaluate impacts [R.C. 4906.10(A)(7)]. The General Assembly has set the minimum setback requirements and has directed the Board to consider what must be added to the minimum setback to protect the public interest, health and safety.

The establishment of a reasonable setback is dictated by the facts and circumstances in a particular case. Thus, the Board cannot discharge its statutory duties by simply defaulting to the minimum setback requirements and evading an examination of the facts and circumstances that must be considered to establish reasonable setback requirements. As evidenced by the turbine manufacturer's safety manual filed by the Wind Farm in Case No. 13-0990-EL-BGN, the minimum statutory setback requirement applicable to the application in that case was and is not adequate to responsibly deal with turbine fire-related risks. But, in any event, the Board's duty to establish a reasonable setback requirement (no less than the statutory minimum) requires that the Board follow a full and complete certificate application process as requested by GNU (if the Board does not reject the application -- as requested below).

The Wind Farm's application in this proceeding indicates that the Wind Farm's project (as modified to include the new turbines) continues to substantially violate the minimum setback requirements. As the Board has already held in Case No. 13-0990-EL-BGN, the Board has no authority to permit the Wind Farm to evade the minimum setback requirements. That holding applies regardless of whether that evasion is documented in an initial certificate application or in an application to amend a certificate. And, when the Board determines that a setback greater than the minimum is warranted, as GNU believes the Board must find in this case should it proceed, the Wind Farm may not evade the Board-specified reasonable setbacks by securing waivers from adjoining property owners. R.C. 4906.20(B)(2)(c).

To this point, the Wind Farm has claimed that it has secured all the necessary waivers that it must secure from property owners adjoining the wind farm property to

permit it to evade the minimum setback requirements. The comments filed in Case No. 13-0990-EL-BGN and the comments filed in this proceeding (incorporated herein by reference) demonstrate that many owners of property that have been identified by the Wind Farm as adjoining property owners are objecting to the project and that the Wind Farm has not secured the waivers it must secure to evade the minimum setback requirements.

Additionally, any waivers the Wind Farm may have obtained could not be based on the current minimum setback requirements (the application of which has been triggered by the amendment application) and any lawfully obtained waivers can only be secured, pursuant to R.C. 4906.20(B)(2)(c), by following a procedure the Board must establish by rule. The Board has never established any rule specifying the procedure by which a minimum setback waiver may be secured.

Thus, any setback waivers that the Wind Farm may have obtained cannot, as a matter of law, license evasion of the minimum setback requirements, requirements which the Board has no authority to waive.

In any event and even if the Board had adopted a rule establishing the procedure by which the Wind Farm might lawfully secure waivers from the minimum setback requirements, the Wind Farm has made no showing that it has secured waivers from all property owners adjoining the Wind Farm property. And it has made no effort to show that the minimum setback requirements are reasonable based on the relevant facts and circumstances. The information which the Wind Farm has submitted in this case and in Case No. 13-0990-EL-BGN demonstrates that the minimum setback requirements do not contain sufficient setback distances to protect the public interest, health and safety.

Accordingly, the Board must reject, as a matter of law, the Wind Farm's application to amend the certificate issued in Case No. 13-0990-EL-BGN, a certificate that GNU believes should have never been issued in the first place.

THE OHIO FARM BUREAU FEDERATION

The Ohio Farm Bureau Federation ("Farm Bureau") has sought permission to intervene in this proceeding claiming that it represents the interest of farmers. Many of GNU's members are farmers and long-standing members of the Huron County Farm Bureau as well the Farm Bureau. The Farm Bureau does not and cannot speak for or represent the interests of the farmers located in and around Greenwich, Ohio who have banded together with other local citizens through GNU to protect their legitimate interests, their agricultural businesses, their community and their property rights.

Respectfully submitted,

/s/ Samuel C. Randazzo

Samuel C. Randazzo (Reg. No. 0016386)
(Counsel of Record)

Scott E. Elisar (Reg. No. 0081877)

MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

(willing to accept service by e-mail)

selisar@mwncmh.com

(willing to accept service by e-mail)

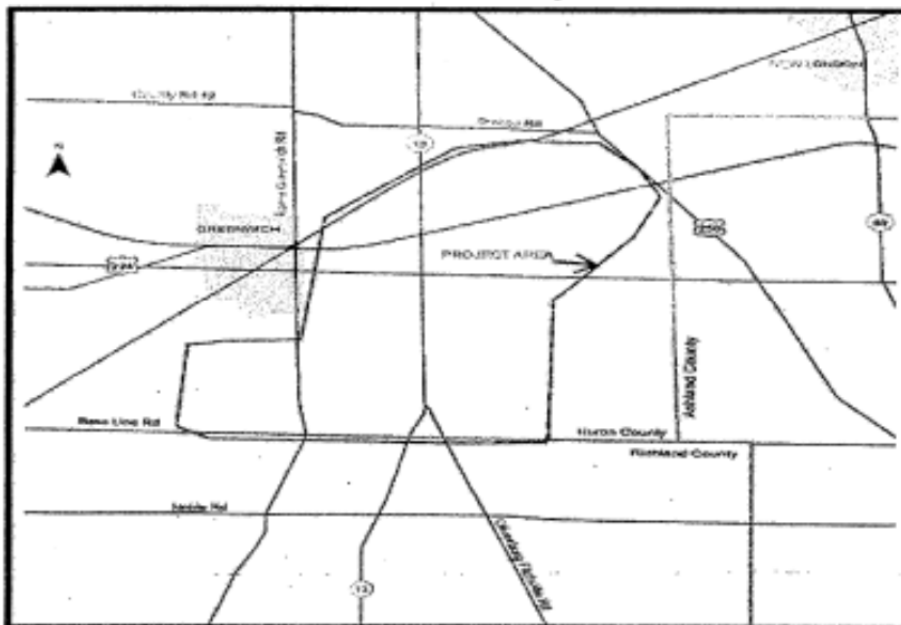
Notice of Amendment to Proposed Major Utility Facility

FACILITY DESCRIPTION

The Ohio Power Siting Board ("Board") issued a Certificate of Environmental Compatibility and Public Need on August 25, 2014 in Case No. 13-990-EL-BGN authorizing 6011 Greenwich Windpark, LLC to construct, own, and operate up to 60 MW wind-powered electric generation facility consisting of up to 25 2.4 MW wind turbines at the Greenwich Wind Farm within approximately 4,650 acres in Greenwich Township, Huron County, Ohio.

LOCATION AND GENERAL LAYOUT

The general location of the Greenwich Wind Farm is shown on the map below.



AMENDMENT NOW PENDING

6011 Greenwich Windpark, LLC has an Application for an Amendment of its Certificate of Environmental Compatibility pending before the Ohio Power Siting Board ("Board") for approval of three additional turbine models that could be selected for this project. A detailed description of the changes is available in the case docket.

The assigned docket number for the Amendment is Case No. 15-1921-EL-BGA. Copies of all filings in the case can be located at the Board's website at (<http://www.opsb.ohio.gov>) by scrolling down to "Pending Cases" and selecting the case by name or docket number. To view the filings, click the case number for the case record. A copy of the Amendment was also provided to the Greenwich Public Library, 4 New Street, Greenwich, Ohio 44837.

Affected persons may file comments or motions to intervene in this matter with the Board up to ten (10) days following the publication of this notice. Comments or motions should be addressed to the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite Case No. 15-1921-EL-BGA.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Comments and Objections of Greenwich Neighbors United* has been served via electronic mail upon the following parties of record this 3rd day of December 2015.

/s/ Samuel C. Randazzo

Samuel C. Randazzo

Sally W. Bloomfield
Dylan Borchers
Bricker & Eckler LLP
100 South Third Street
Columbus OH 43215-4291
Phone: 614.227-2368 / 614.227.4914
Fax: 614.227.2390
sbloomfield@bricker.com
dborchers@bricker.com

ATTORNEYS FOR 6011 GREENWICH WINDPARK, LLC

Chad A. Endsley (0080648)
Chief Legal Counsel
Leah F. Curtis (0086257)
Amy M. Milam (0082375)
Ohio Farm Bureau Federation
280 North High Street, P.O. Box 182383
Columbus, OH 43218-2383
Phone: 614.246.8258
Fax: 614.246.8658
E-Mail: cendsley@ofbf.org
lcurtis@ofbf.org
amilam@ofbf.org

ATTORNEYS FOR THE OHIO FARM BUREAU FEDERATION

William L. Wright
Assistant Attorney General
Chief, Public Utilities Section
Office of the Attorney General
180 East Broad Street, 6th Floor
Columbus, OH 43215-3793
william.wright@puc.state.oh.us

ATTORNEY FOR THE STAFF OF THE OHIO POWER SITING BOARD

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/3/2015 9:39:54 AM

in

Case No(s). 15-1921-EL-BGA

Summary: Comments and Objections of Greenwich Neighbors United electronically filed by Mr. Samuel C. Randazzo on behalf of Greenwich Neighbors United