

# Icebreaker Windpower Inc.

April 10, 2018

Howard Petricoff, Chief Analyst

Ohio Power Siting Board

180 East Broad Street, 12<sup>th</sup> Floor

Columbus, Ohio 43215

Re: Case No. 16-1871-EL-BGN

Dear Mr. Petricoff,

On March 22, 2018, Icebreaker Windpower, Inc. filed a supplement to our application for a certificate of environmental compatibility and public need to build a six-turbine offshore wind-powered electric generation facility in Lake Erie, eight miles off of Cleveland. Our application is currently being considered by the Ohio Power Siting Board. The March 22 supplement included a letter dated March 12, 2018, from the U.S. Fish and Wildlife Service setting forth the agency's conclusions that: 1) Icebreaker Wind is a small demonstration project "and as such has limited direct risk to migratory birds and bats;" 2) the project is not likely to adversely affect any federally listed threatened or endangered species; 3) both vessel-based and crib-based pre-construction radar monitoring have the potential to contribute meaningfully . . ."; and 4) "monitoring will inform our understanding of project impacts on birds and bats."

On April 6<sup>th</sup> counsel for several Cuyahoga County residents who have requested intervention docketed a response to our March 22 supplement. While the proposed intervenors' letter reads like a legal brief, our attorneys have counseled us that the April 6<sup>th</sup> document is not a "pleading." Rather, it essentially equates to a comment in the docket that does not require a ruling by the Board. Therefore, we have not instructed our attorneys to file a formal response. However, the April 6<sup>th</sup> document contains a litany of misleading information, and we feel it is necessary to clarify the docket.

We have been discussing our pre- and post-construction monitoring for fish and wildlife with the Board staff, the Ohio Department of Natural Resources, and FWS since August 2016. We appreciate that the agencies have been performing their due diligence and are thoroughly reviewing and investigating the ecological information provided in our application, as supplemented. They have requested, and we have provided, additional information many times. Our two Memoranda of Understanding with ODNR contain our agreements on pre- and post-construction monitoring for fish and wildlife resources. We have provided updates as time has gone on. These supplements have reflected and included recommendations

from both ODNR and FWS, as well as the report from Dr. Diehl supporting vessel-based radar for baseline pre-construction monitoring.

Initially, FWS raised concerns about the Diehl report, and on December 21, 2017, sent Dr. Diehl a letter stating those concerns. Subsequently, after further consideration, on March 12, 2018, FWS sent a letter to ODNR with its overall recommendation. As noted above, FWS ultimately has come to the conclusion that our project's size and location minimize risk and that our approach to a pre-construction baseline radar survey is appropriate.

However, rather than accept the March 12<sup>th</sup> letter from FWS for what it is – a decisive statement from FWS after nearly 20 months of review – the proposed intervenors' April 6<sup>th</sup> document fails to acknowledge and simply ignores the significance of March 12<sup>th</sup> letter. Rather, it focuses on past recommendations presented by FWS during the investigatory phase of this process.

Given the inappropriate nature of the April 6<sup>th</sup> document at this juncture, as well as its misleading and disingenuous representation of the FWS position on our application and project, we would respectfully request that the Board disregard the document. Instead, we ask that the Board continue its consideration of the application by restarting the procedural schedule as expeditiously as possible.

Thank you for your attention to this matter.

Sincerely,



Dr. Lorry Wagner, President

Cc: Docket  
Angela Hawkins  
Nicholas Walstra  
Megan Addison  
Stuart Siegfried  
Grant Zeto  
Counsel of Record

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Summary: Correspondence electronically filed by Christine M.T. Pirik on behalf of Icebreaker Windpower Inc.