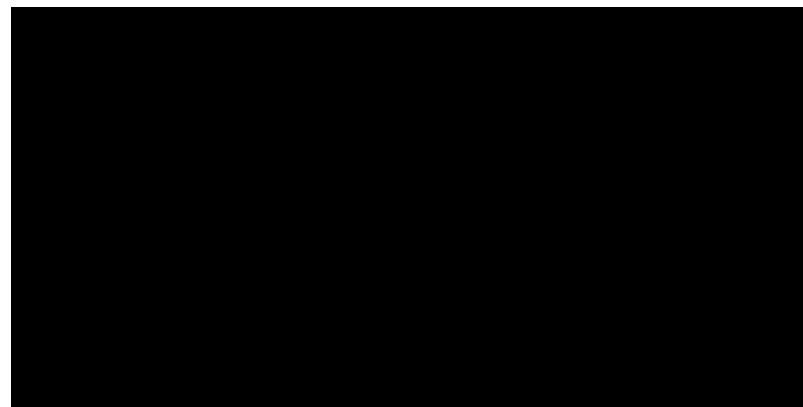


Public comment: 16-1871-EL-BGN

It's not news that the industry withholds information, hides, buries dying and dead creatures near turbines, chooses incorrect areas to search, and LIES about incidental takes. This is old hat. *But good news for Galloo that the obfuscation was discovered.*

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Wind farm review faces possible extension after

eagle nest details were withheld

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State officials want to extend the Galloo Island wind project review beyond its year-long time frame because the developer failed to divulge the finding of an eagle nest on the island last year.

Several participants in the state Article 10 review of the 109-megawatt project, including Clifford P. Schneider, Claudia J. Maurer, Ann and Martin Maurer and Henderson Town Supervisor John J. Culkin, filed a joint motion in September asking state examiners to dismiss Apex Clean Energy's application because it didn't divulge the finding of the eagle nest in spring 2017.

The developer's application indicated that no known bald eagle nests existed on the island, but when probed by Mr. Schneider through an interrogatory letter in August, Apex stated an island caretaker found the nest before it submitted the application in September 2017. The developer stated its consultant found no eagles, eggs or chicks and "the nest was not used for breeding in 2017."

The examiners, or administrative law judges, issued an order Friday stating they will not dismiss Apex's application, but directed the developer to amend it to include the omitted information. The ruling also revealed Apex considered relocating collection lines and access roads to avoid the nest, and if the developer acts on those changes, they would need to be included in the application.

"After (Apex) files its application supplements, we anticipate convening a procedural conference to discuss the schedule for the remainder of this proceeding," administrative law judges James A. Costello and Ashley Moreno stated in the ruling. "We anticipate an extension of the schedule will be

necessary to allow the parties to review the applicant's amended filings, conduct discovery, and finalize their direct testimony and exhibits."

While all three examiners agreed a review extension may be warranted more than an application dismissal, they disputed the importance of the developer's input.

Judges Costello and Moreno decided to give Apex until Nov. 7 to say whether it will consent to the extension, but Judge Michael S. Caruso contended they should consider a possible extension regardless of Apex's consent. Withholding information about endangered or threatened species, he said, hinders the review and agencies' ability to develop avoidance and mitigation measures.

"When an applicant withholds information regarding the environmental conditions in a siting application and those conditions are relevant and material to the agencies' review of the application and negotiation of stipulations and studies to be performed, it raises serious questions about the applicant's character and fitness," Judge Caruso said in the ruling. "Any delay in this process was caused by the Applicant's own decision to withhold relevant and material information, information that needed review and verification by" staff.

Neil T. Habig, senior director of project development for Apex, didn't confirm whether the developer has decided to agree to an extension, but said it will revise the application in accordance with the judges' requests.

"The ruling requests that we update portions of the applications and we will do so," he said in a statement. "Article 10 is a long process with many steps. The judges have been very fair and reasonable throughout and we look forward to continuing to work through the process."

Mr. Schneider, a retired fishery biologist, said he has considered appealing the judges' ruling, adding that state Article 10 regulations warrant an application rejection because Apex failed to disclose information. The regulation states the Board on Electric Generation Siting and the Environment can amend, suspend or revoke the certificate of approval, which is provided upon the completion of an Article 10 review, for a project upon the "discovery of materially false or inaccurate statements in the application or supporting documents" or the "discovery of material information that the applicant withheld or misrepresented at the time of the certification proceeding."

“(Apex is) guilty of making false statements and inaccuracies and omissions,” Mr. Schneider said. “(The examiners) have pretty much filed a record saying that Apex is guilty as charged.”

Mr. Culkin said he was disappointed the examiners only ordered an application revision after Apex omitted information, but was glad at the possible extension to review the new material.

“We’re happy ultimately to get an opportunity to comment on the truth,” he said. “One wonders why they felt the need to lie about something.”

Apex plans to build 30 turbines on Galloo Island for its project, which would provide power to a substation in Oswego through a 32-mile underwater cable.

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