

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application)	
of Seneca Wind, LLC, for a)	
Certificate to Site Wind-Powered)	Case No. 18-0488-EL-BGN
Electric Generation Wind Facilities)	
In Seneca County, Ohio)	

LIST OF ISSUES OF THE BLACK SWAMP BIRD OBSERVATORY

The Black Swamp Bird Observatory (“BSBO”) hereby submits the following list of issues about which it may pursue cross-examination at the hearing:

1. The Applicant’s studies of bird and bat impacts were inadequate and inappropriate to assess nocturnal migration utilizing the air column habitat of Seneca County. These studies do not support the Applicant’s conclusions about the project’s impacts on birds and bats.

2. The Applicant’s study of bats in the project area, including the endangered Indiana Bat, was inadequate to accurately evaluate the adverse impacts of the project on bats. This study does not support the Applicant’s conclusions about the project’s impacts on bats.

3. The Applicant’s study of diurnal raptor migration in study area was inadequate to accurately evaluate the adverse impacts of the project on raptors. This study does not support the Applicant’s conclusions about the project’s impacts on raptors.

4. The Applicant's study was inadequate to assess Bald Eagle populations and their use of the project area. This study does not support the Applicant's conclusions about the project's impacts on Bald Eagles.

5. The Applicant's surveys of bird and bat populations failed to cover the entire project area, because they were conducted primarily near roads. The Applicant also failed to conduct its field surveys at times when bird and bat populations were expected to be present in greater variety and numbers. These studies do not support the Applicant's conclusions about the project's impacts on bird and bat populations.

6. The Applicant's field studies are too old and poorly performed to support its conclusion that the project will not significantly impact birds and bats.

7. The Applicant's avian and bat field studies followed wind industry procedures and standards that do not adequately address the risk to or that misrepresent ecological facts about these public natural resources, contrary to scientifically accepted standards.

8. The wind project is proposed for siting in a major migratory flyway for birds. Wind turbines in this location will kill large numbers of birds and bats during migration and at other times.

9. The Applicant's study of passerine migration was inadequate to discover the presence of endangered species such as the Kirtland's Warbler known to be present during migration. The study failed to include a risk assessment for endangered species and therefore failed to fulfill its purpose.

10. The Application does not contain a post-construction monitoring plan to detect and quantify bird and bat mortalities. BSBO will question witnesses about the contents that are expected to be, and should be, included in such a plan.

11. The Application does not commit the Applicant to apply to the U.S. Fish and Wildlife Service for take permits for Bald Eagles and endangered species of bats and bird.

Respectfully submitted,

/s/ Jack A. Van Kley
Jack A. Van Kley (0016961)
Van Kley & Walker, LLC
132 Northwoods Blvd., Suite C-1
Columbus, Ohio 43235
(614) 431-8900 (telephone)
(614) 431-8905 (facsimile)
Email: jvankley@vankleywalker.com

Christopher A. Walker (0040696)
Van Kley & Walker, LLC
137 North Main Street, Suite 316
Dayton, Ohio 45402
(937) 226-9000 (telephone)
(937) 226-9002 (facsimile)
Email: cwalker@vankleywalker.com

CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, I hereby certify that, on July 30, 2019, a copy of the foregoing document also is being served by electronic mail on the following: Sally Bloomfield at sbloomfield.bricker.com; Devin Parram at dparram@bricker.com; Dylan Borchers at dborchers@bricker.com; Greta See at greta.see@puco.ohio.gov; Matthew Butler at matthew.butler@puc.state.oh.us; Joshua Clark at jclark@senecapros.org; John Stock at jstock@beneschlaw.com; Chad Endsley at CEndsley@ofbf.org; Leah Curtis at lcurtis@ofbf.org; Amy Milam at amilam@ofbf.org; Steve Shuff at sshuff@foreignjourneys.com; and Albin Bauer at abauer@ohioedlaw.com.

/s/ Jack A. Van Kley
Jack A. Van Kley

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/30/2019 10:57:59 AM

in

Case No(s). 18-0488-EL-BGN

Summary: Notice of List of Issues electronically filed by Mr. Jack A Van Kley on behalf of Black Swamp Bird Observatory