

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **SENECA**)
WIND, LLC for a Certificate of)
Environmental Compatibility and Public Need) Case No. 18-488-EL-BGN
for a Wind-Powered Electric Generating)
Facility in Seneca County, Ohio.)

DIRECT TESTIMONY OF

**Jason P. Ritzert
Western EcoSystems Technology, Inc.**

on behalf of

Seneca Wind, LLC

August 6, 2019

1 **Q-1. Please state your name, current title, and business address.**

2 **A-1.** My name is Jason Ritzert. I am a Research Biologist/Project Manager. My business address
3 is 1017 Mumma Road, Suite 103 Lemoyne, Pennsylvania 17043.

4 **Q-2. What is your educational background?**

5 **A-2.** In 2010 I received a Master of Science degree in Biology from Eastern Kentucky
6 University, Richmond, Kentucky, and in 2002 I received a Bachelor of Science degree in
7 Environmental Science from Ferrum College, Ferrum, Virginia.

8 **Q-3. What is your professional background?**

9 **A-3.** Since 2008, I have worked conducting or managing wildlife surveys designed to address
10 or estimate avian and bat impacts due to wind energy development in the Midwest, Mid-
11 Atlantic, and Northeastern US. Wildlife surveys include those that follow Tiers 1 – 4 of
12 the US Fish and Wildlife Service (USFWS) Wind Energy Guidelines, Stages 1 – 3 of the
13 USFWS Eagle Conservation Plan Guidance, Phases – 1- 3 of the USFWS Indiana bat
14 (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) survey guidance, the
15 Ohio Department of Natural Resources' (ODNR) On-Shore Bird and Bat Pre- and Post-
16 Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio, the
17 Pennsylvania Game Commission's (PGC) Wind Energy Voluntary Cooperative
18 Agreement Amendment I, and the New York State Department of Environmental
19 Conservation Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy
20 Projects. During that time, I have worked on approximately 90 proposed or constructed
21 wind projects, including 8 in Ohio. This work has included:

- 22 • Initial Site Assessment/Site Characterization/Habitat Assessments
- 23 • Avian Use Surveys
- 24 • Eagle Use Surveys
- 25 • Breeding Bird Surveys
- 26 • Raptor Migration Surveys
- 27 • Passerine Migration Surveys

- 1 • Owl Playback Surveys
- 2 • Wintering Grassland Raptor Surveys
- 3 • Raptor Nest Surveys (ground-based and aerial surveys)
- 4 • Bald Eagle (*Haliaeetus leucocephalus*) Nest Monitoring
- 5 • Passive Bat Acoustic Monitoring
- 6 • Nocturnal Radar Surveys
- 7 • Presence Absence Bat Surveys (Acoustic and Mist-Netting)
- 8 • Bat Telemetry Surveys (Roost Telemetry and Foraging Telemetry)
- 9 • Bat Hibernacula Surveys (Assessments and Trapping)
- 10 • Post-Construction Monitoring (mortality searches, searcher efficiency trials,
- 11 carcass persistence trials)

12 I am a USFWS permitted bat biologist and PGC Qualified Indiana Bat Surveyor
13 (QIBS) with extensive experience working with bat species in the Midwest and eastern US.
14 I am currently permitted for these currently federal- and state-listed bat species: Indiana
15 bat, northern long-eared bat, gray bat (*Myotis grisescens*), tri-colored bat (*Perimyotis*
16 *subflavus*), little brown bat (*Myotis lucifugus*), and eastern small (*Myotis liebii*). I am a
17 current member of the Ecological Society of America, Bat Conservation International, and
18 the National Wind Coordinating Collaborative.

19 **Q-4. On whose behalf are you offering testimony?**

20 **A-4.** I am testifying on behalf of the Applicant, Seneca Wind, LLC (“Applicant” or “Seneca
21 Wind”).

22 **Q-5. What is the purpose of your testimony?**

23 **A-5.** The purpose of my testimony is to support the portions of the Application for Certificate
24 of Environmental Compatibility and Public Need (“Application”) regarding ecological
25 information addressing the presence of avian species, specifically eagles and bats in the
26 project area. I am also sponsoring Appendix N to the Application, which contains various

1 avian and bat studies and reports that were produced by my firm, Western EcoSystems
2 Technology, Inc. (“WEST”) and other(s), all of which I have reviewed and am personally
3 familiar with. In addition, I will be providing additional evidence in support of the
4 Applicant’s proposed modifications to the Ohio Power Siting Board (“Board”) Staff’s
5 recommended Conditions Nos. 20, 26, 27, and 28.

6 **Q-6. Please describe the history of your involvement with the Seneca Wind project?**

7 **A-6.** June 2016 – Presented work plan for pre-construction avian (large bird/eagle use surveys,
8 passerine migration surveys, breeding bird surveys, and raptor nest surveys) and bat
9 surveys (mist-netting and telemetry) to ODNR and USFWS; received subsequent approval
10 of work plans from ODNR and USFWS.

- 11 • July 2016 – Completed bat mist-net and telemetry surveys; finalized report October
12 2017.
- 13 • August 2016 – August 2017 – Completed large bird/eagle use surveys; finalized report
14 October 2017.
- 15 • Fall 2016/Spring 2017 – Completed passerine migration surveys; finalized report
16 November 2017.
- 17 • Spring 2017 – Completed raptor nest surveys; finalized report July 2017.
- 18 • Spring/Summer 2018 & 2019 – Completed eagle nest monitoring at previously
19 documented active bald eagle nests; finalized report December 2018. Field surveys in
20 2019 are on-going and are anticipated to end early August 2019.
- 21 • January 2018 to Present – Began working on a Habitat Conservation Plan (HCP) and
22 Eagle Conservation Plan (ECP). In preparing the HCP and ECP, I reviewed the pre-
23 construction bat surveys and eagle surveys to ensure consistency with current USFWS
24 and ODNR guidelines and how those results may be applicable to assessing risk and
25 any estimated take in the HCP and ECP. It is anticipated a draft HCP will be provided
26 to the USFWS in August 2019, and a draft ECP was provided to the USFWS on June
27 21, 2019. Reviewed all non-WEST pre-construction wildlife survey reports in
28 Appendix N of the Application to ensure they were completed in accordance with

1 USFWS and/or ODNR guidance. In addition, I reviewed new reports provided since
2 the Application filing, including Shoener Environmental's Report – Bat Acoustic
3 Survey Results dated June 14, 2019 (see question 17); and Shoener Environmental's
4 Report – Eagle and Large Bird Use Report – Year 2 dated September 19, 2018 (see
5 question 18).

6 **Q-7. Please generally describe the studies that you are sponsoring.**

7 **A-7.** Indiana Bat Survey Report- Appendix-N-1 of the Application: The purpose of the report is
8 to demonstrate the findings of Indiana bat presence/probable absence mist-net surveys
9 according to USFWS Indiana bat Draft Revised Recovery Plan: First Revision and the
10 ODNR On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for
11 Commercial Wind Energy Facilities in Ohio.

- 12 • Bat Mist-Net and Telemetry Surveys- Appendix-N-2 of the Application: The purpose
13 of the report is to demonstrate the findings of bat mist-net presence/probable absence
14 surveys according to USFWS' 2016 Range-wide Indiana Bat Summer Survey
15 Guidelines that are approved by the USFWS to determine the presence/probable
16 absence of northern long-eared bat and the ODNR On-Shore Bird and Bat Pre- and
17 Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities.
- 18 • Evaluation of Bird and Bat Occurrence and Potential Development Impacts- Appendix-
19 N-3 of the Application: This report provides objectives, methods, and results from
20 various avian and bat pre-construction surveys completed at the Project in 2009. The
21 surveys in this report include:
 - 22 ○ Diurnal bird/raptor migration surveys
 - 23 ○ Passerine migration surveys
 - 24 ○ Raptor nest searches
 - 25 ○ Raptor nest monitoring
 - 26 ○ Bat acoustic monitoring
 - 27 ○ Bat mist-net surveys

- 1 • Evaluation of Bat Occurrence at the Seneca Wind Farm: Addendum Report -Appendix-
2 N-4 of the Application: This report is a supplement to Appendix N-3 that includes bat
3 acoustic monitoring at Tower B-2. Tower B-2 was monitored from October 2, 2009
4 through November 19, 2009 and then from March 15, 2010 through October 4, 2010.
- 5 • Avian Baseline Surveys - Appendix-N-5 of the Application: This report provides
6 results from surveys conducted from August 16, 2016 to August 15, 2017 to provide
7 information on eagle and other large bird use in the Project during all seasons.
- 8 • Passerine Migration Surveys- Appendix-N-6 of the Application: This report provides
9 results from ODNR required surveys of passerine (i.e., songbirds) in the Project that
10 may use areas such as forest, shrub, and wooded wetlands during the migratory periods.
- 11 • Waterfowl Survey- Appendix-N-7 of the Application: This report provides results from
12 ODNR required surveys to document waterfowl use in the Project during fall, winter
13 and spring.
- 14 • Nocturnal Marsh Bird Survey-Appendix-N-8 of the Application: This report
15 summarizes results from ODNR required surveys for five state-listed nocturnal marsh
16 birds that were conducted from May to June 2018.

17 **Q-8. What was your role in the studies conducted for the Applicant?**

18 **A-8.** My role for all WEST prepared documents was that of the Project Manager. I coordinated
19 with the ODNR and USFWS about study protocols and ensured that field staff knew the
20 objectives of each study and how data collection should be completed. For non-WEST
21 documents I have reviewed and become familiar with the results of the studies and
22 confirmed they were consistent with ODNR and/or USFWS survey protocols for the target
23 species or that deviations from ODNR and/or USFWS survey protocols were
24 communicated to and accepted by the ODNR and/or USFWS.

25 **Q-9. Please discuss the standards that were followed when these various studies and report**
26 **were prepared.**

27 **A-9.** These studies and reports were performed in accordance with ODNR On-Shore Bird and
28 Bat Pre- and Post-Construction Monitoring Protocols for Commercial Wind Energy

1 Facilities in Ohio, the USFWS Land-Based Wind Energy Guidelines, USFWS Indiana Bat
2 Summer Survey Guidelines, and the USFWS Eagle Conservation Plan Guidance.

3 **Q-10. The Board has established rules that require applicants to analyze the potential**
4 **impacts to birds and eagles from the project, and also discuss methods of mitigating**
5 **these potential impacts. Please discuss these rules.**

6 **A-10.** The Board has various rules that require the applicant to analyze potential impacts to
7 ecological resources located within the project area. This analysis by Seneca Wind
8 involves various species, including birds, bats, and eagles. The applicable rules include:

- 9 • O.A.C. 4906-4-08(B)(1)(e) –Studies performed to determine the ecological
10 impact of the proposed facility;
- 11 • O.A.C. 4906-4-08(B)(3)(a) – Description of potential operational and
12 maintenance impacts on ecological resources from the proposed facility;
- 13 • O.A.C. 4906-4-08(B)(3)(b) – Description of procedures to be utilized to
14 mitigate both the short- and long-term impacts of operation and maintenance
15 of the proposed facility;
- 16 • O.A.C. 4906-4-08(B)(3)(c) – Description of post-construction monitoring of
17 potential wildlife impacts; and
- 18 • O.A.C. 4906-4-09(D) – Description of how Applicant will satisfy
19 requirements to avoid or mitigate impacts to federal or state listed and
20 protected species.

21 The Application contains information that addresses Seneca Wind’s
22 analyses/reports relating to these provisions. (See Application at pp. 123-151; 196-198;
23 Sept. 14, 2018 Supplemental Application Information.) Further, these sections of the
24 Application provide details regarding the potential impacts to birds, bats, and eagles and
25 the mitigation measures the Applicant will take to address these potential impacts.

26 **Q-11. Please discuss the process of consulting with ODNR and USFWS when preparing the**
27 **various studies and reports.**

28 **A-11.** To date, the ODNR and USFWS have been consulted in preparing wildlife study plans as
29 well as the development of the HCP and ECP. When preparing wildlife study plans, the

1 Applicant prepared wildlife study plan developed in accordance with ODNR and USFWS
2 guidelines to provide, and discuss with, the ODNR and/or USFWS. Each study plan would
3 outline how the surveys were in accordance with ODNR, USFWS, or ODNR and USFWS
4 guidance. Emails, calls, and/or meetings (webinar or in-person) would take place to discuss
5 the objectives of the study plans as well as any deviations from current ODNR and/or
6 USFWS guidance and the rationale for any deviations. If updates were needed to each
7 study plan, appropriate updates would be made and then resubmitted to the agencies for
8 review and approval. Once field surveys were completed a final report was provided to the
9 ODNR and USFWS and next steps (if any) were determined.

10 **Q-12. The Applicant has agreed to submit a Post-Construction Avian and Bat Monitoring**
11 **Plan (PCMP). Please explain the general process for developing a PCMP.**

12 **A-12.** A PCMP is typically developed in accordance with standard protocols set forth in the
13 USFWS Land-Based Wind Energy Guidelines (WEG) (Tier 4) and, in Ohio, in conjunction
14 with the ODNR's On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol
15 for Commercial Wind Energy Facilities in Ohio. Just one example of a standard PCMP
16 protocol is the requirement to search a sample of turbines at certain time intervals and for
17 the collector of any carcasses to obtain the appropriate carcass collection permits. Per the
18 USFWS WEG guidelines, daily searches are not generally required in the first instance.
19 Instead, this type of detail is discussed in consultation with USFWS and ODNR as the
20 project is developing its PCMP. This is because, per the WEG, search intervals may be
21 lengthened or shortened depending on carcass removal rates. For example, if carcass
22 removal is high, then a shorter search interval is necessary. Shorter search intervals would
23 be considered only in Tier 5 studies, which may be appropriate, for example, if mortality
24 is documented to be higher during operations than predicted, or in research programs,
25 because the greater complexity and level of effort goes beyond that recommended for
26 typical Tier 4 post-construction monitoring. The Applicant's PCMP here will be developed
27 consistent with all applicable ODNR and USFWS WEG guidelines and recommendations.

1 **Q-13. Seneca Wind has indicated that it is developing a Habitat Conservation Plan**
2 **(“HCP”), and it intends to apply for an Incidental Take Permit (“ITP”). Please**
3 **describe generally what an HCP is and how it relates to an ITP.**

4 **A-13.** The USFWS is the lead agency when developing an HCP; however, the ODNR has been
5 invited to be involved in all calls and meetings to discuss the Applicant’s HCP. An HCP
6 must describe the estimated impacts of take of the Covered Species for which authorization
7 is sought and how those impacts will be minimized and mitigated to the maximum extent
8 practicable. In addition, an HCP must describe monitoring that will be implemented to
9 ensure compliance with the ITP, and the funding mechanism that will be used to implement
10 monitoring, mitigation, and responses to any changed circumstances. This HCP includes
11 these and other elements necessary to meet the criteria for ITP issuance.

12 The development of the HCP has involved engaging the agencies by outlining what
13 the Applicant has determined as potential impacts posed by the Project and how the
14 Applicant plans to develop the HCP in consultation with the USFWS (ODNR attends the
15 meetings and calls, but has not provided direct input into the HCP or ECP). The purpose
16 for Seneca Wind’s ITP is to authorize incidental take of Indiana bat (*Myotis sodalis*),
17 northern long-eared bat (*Myotis septentrionalis*), little brown bat (*Myotis lucifugus*), and
18 tri-colored bat (*Perimyotis subflavus*), resulting from the operation of the Project. During
19 Project development and early coordination with the USFWS, the Applicant determined
20 the Project could pose a risk to Indiana bats, a species listed as endangered under ESA, and
21 northern long-eared bats, a species listed as threatened under ESA. Additionally, the
22 Project is within the range of little brown bat, and tri-colored bat, which are currently non-
23 listed species; however, the Applicant has decided to add little brown bat and tri-colored
24 bat in the event they become federally listed within the term of the ITP. Based on these
25 determinations, the Applicant decided to include these species in this HCP in support of an
26 ITP application as well as identifying compensatory mitigation for unavoidable impacts to
27 the aforementioned bat species.

28 HCP’s have a long timeline from inception to issuance of the ITP and therefore, the
29 Applicant will seek a Technical Assistance Letter (TAL) if needed. The purpose of the
30 TAL is acknowledgement from the USFWS that the Applicant is developing an HCP but

1 the ITP has not been finalized, and it provides a framework for the Applicant to avoid risk
2 of take of requested species until issuance of the ITP.

3 **Q-14. What is the status of Seneca Wind’s development of an HCP for this Project?**

4 **A-14.** The Seneca HCP is currently going through internal review. The Applicant anticipates
5 providing a draft HCP for USFWS review in August 2019.

6 **Q-15. How will developing an HCP and obtaining an ITP address any concerns regarding
7 potential impacts to eagles?**

8 **A-15.** In addition to the HCP that covers bats, Seneca Wind is committed to developing an Eagle
9 Conservation Plan (ECP) to support an application for an ITP for bald eagles for the life of
10 the Project. The ECP provides detailed information on the Project and the practicable best
11 management practices and other measures that are reasonably likely to reduce impacts to
12 eagles. Seneca Wind’s ECP was developed to support that commitment and the Applicant’s
13 application for an eagle take permit (ETP) pursuant to the Bald and Golden Eagle
14 Protection Act (BGEPA) and the US Fish and Wildlife Service’s (USFWS) 2016 Eagle
15 Permit Rule (50 CFR 22.26). In addition to identifying all avoidance and minimization
16 measures, the ECP includes a compensatory mitigation plan for unavoidable impacts to
17 eagles. A draft ECP was provided to the USFWS and ODNR on June 21, 2019 for review.

18 **Q-16. Please explain and address the October 2018 Bald Eagle Nest Monitoring – 2018
19 Survey Results.**

20 **A-16.** The results of the 2018 bald eagle nest monitoring showed how the bald eagles, adults and
21 fledglings, utilized the area surrounding the 2018 active nests to compliment the data
22 collected during the two years of eagle use surveys. The majority of bald eagle activity at
23 both nests was concentrated within one mile of the nests and flight paths were concentrated
24 along the forested areas of Rock Creek, the East Branch Rock Creek, and Honey Creek.
25 Surveys are currently being repeated in 2019 to gather additional information about the
26 active bald eagle nests identified and monitored in 2018.

1 **Q-17. Please explain and address Shoener Environmental’s June 14, 2019 – 2017-2019 Bat**
2 **Acoustic Survey Results, including your role in reviewing this report/results.**

3 **A-17.** My role for this report was as a reviewer after all field work, analysis, and reporting was
4 completed by Shoener Environmental. I reviewed the document for consistency with
5 ODNR on-shore wind-wildlife guidelines as well as examining the document for
6 information that would be useful to characterize potential risk to bat species at the Project
7 based upon seasonal and spatial bat acoustic activity. The results from the 2017-2019 bat
8 acoustic surveys did result in a new buffer being applied to tri-colored bats in Seneca
9 Wind’s HCP; however, the information provided in this report did not indicate a different
10 risk profile for other bat species previously identified in the HCP.

11 **Q-18. Please explain and address Shoener Environmental’s September 19, 2018 Eagle and**
12 **Large Bird Use Report – Year 2**

13 **A-18.** My role for this report was as a reviewer after all field work, analysis, and reporting was
14 completed by Shoener Environmental. I reviewed the report for consistency with ODNR
15 and USFWS guidelines as well as examining the document for information that would be
16 useful for characterizing bald eagle risk at the Project to be included in the ECP.

17 **Q-19. Have you reviewed Conditions 26, 27, and 28 of the Board Staff’s recommended**
18 **conditions?**

19 **A-19.** Yes.

20 **Q-20. In Condition Nos. 26, 27, and 28, Staff recommends that construction in upland**
21 **sandpiper, loggerhead shrike, and northern harrier “preferred nesting habitat types”**
22 **be avoided during the species’ respective nesting periods (unless coordination with**
23 **the ODNR allows a different course of action). Please explain why avoidance of the**
24 **“preferred nesting habitat type” during construction of the Project is unduly**
25 **burdensome and not necessary to protect the upland sandpiper, loggerhead shrike,**
26 **and northern harrier?**

27 **A-20.** Staff’s proposed conditions are onerous as written because suitable habitat for upland
28 sandpiper includes agricultural habitats, which comprise the majority of the impact area
29 and are ubiquitous in the region (comprising 94% of the 56,900-acre Project area).
30 Agricultural habitats are subject to systematic disturbance from activities such as grazing,
31 discing, and mowing that decrease the likelihood of the upland sandpiper to nest in the

1 Project area. Indeed, this species was not observed in the Project area during avian use
2 surveys. In addition, the preferred habitat of loggerhead shrike includes hedgerows and
3 fencerows, which are ubiquitous at the boundaries of residential and farm parcels. This
4 species also was not observed during avian use surveys. Northern harriers also breed in
5 upland grasslands including agricultural habitats. While this species was observed in the
6 Project area, all observations were recorded outside of the species' nesting period, and it is
7 not expected to nest in the area (as the Staff Report correctly notes). The northern harrier
8 is only common in the area during migration and winter.

9 Pre-construction clearance surveys for nesting birds will be conducted to identify areas of
10 active nests. Any active nests of migratory birds, including state and federal listed species,
11 will be avoided during the identified nesting periods or until the nestlings have fledged or
12 the nest is confirmed to be no longer active.

13 **Q-21. Does this conclude your testimony?**

14 **A-21.** Yes, it does, except that I reserve the right to update this testimony to respond to any further
15 testimony, reports, and/or evidence submitted in this case.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Testimony was served upon the following parties of record via regular or electronic mail this 6th day of August 2019.



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Summary: Testimony of Jason P. Ritzert on behalf of Seneca Wind, LLC electronically filed by Teresa Orahod on behalf of Devin D. Parram