

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Republic	)	
Wind, LLC for a Certificate to Site Wind-Powered	)	Case No. 17-2295-EL-BGN
Electric Generation Facilities in Seneca and	)	
Sandusky Counties, Ohio	)	

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**REPUBLIC WIND, LLC’S MEMORANDUM IN OPPOSITION TO STAFF’S  
MOTION FOR LEAVE TO FILE AMENDED PREFILED TESTIMONY OF  
MARK BELLAMY INSTANTER AND REQUEST FOR EXPEDITED TREATMENT**

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**I. Introduction**

The Staff of the Ohio Power Siting Board (“Staff”) seeks now, at the eleventh hour and last day of this hearing, to amend the Prefiled Testimony of Mark Bellamy. The information Staff seeks to add to Mr. Bellamy’s Testimony—and the change in Staff’s approach to its analysis of Republic Wind’s noise monitoring locations in this case—represents a departure from Staff’s previous position and a last minute attempt to insert unrepresentative information from a separate study, one which has not come close to adjudication, into the center of the underlying case. Staff should be prevented from making such a change for three main reasons.

First, the monitoring data Mr. Bellamy seeks to add from the Republic Transmission line case, Case No. 19-1066-EL-BTX, reflects the limited footprint for that project and the impacts it was designed for—a transmission line. Adding three additional monitoring locations to the overall seven monitoring locations in the much broader wind farm project boundary gives the non-representative transmission line locations an outsized impact on the wind farm project. Second, the addition of the transmission line data to Staff’s testimony unfairly and unnecessarily skews the underlying sound data in this case. The transmission line monitoring locations were chosen for a particular and discrete purpose. The elevation, road traffic, general far-westerly location, and population density of these locations do not align with the overall Republic Project boundary as a

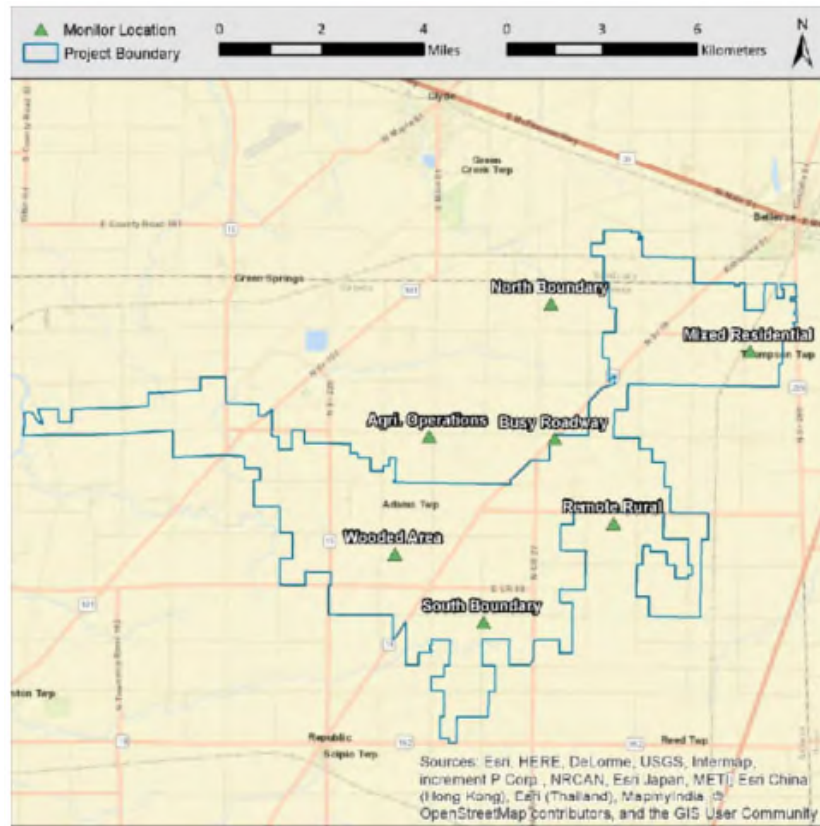
whole, and shoehorning these as yet adjudicated figures into the noise analysis in the underlying case is inappropriate and non-representative. This all demonstrates Staff's fundamental misunderstanding of sound level limits and inherently shows that Staff is making value determinations with imprecise and incomplete information.

## **II. Law and Analysis**

### **A. The addition of the Transmission Line monitoring locations to Mr. Bellamy's Testimony and Staff's analysis dilutes the impact of the carefully-chosen and fully-vetted seven original monitoring locations.**

Prior to Staff seeking to add three monitoring locations, which were developed and included in Republic Wind's Application in Case No. 19-1066-EL-BTX, the underlying case (Case No. 17-2295-EL-BGN) consisted of seven sound monitoring locations, specifically chosen to be representative of sound within the broad Project boundary, and to align with the majority of the proposed turbines in this case. Staff now seeks to add three additional monitoring locations to its analysis along with the original seven. The addition of these monitoring locations, however, will result in a less precise analysis of sound within the overall Project boundary, and unnecessarily skew the underlying data.

The Republic Wind Project boundary covers approximately 15,000 acres, and its Project boundary is represented by the following Project Area Map with monitoring locations included (Figure 2 to Republic Wind's Updated Noise Impact Assessment, filed June 28, 2019):



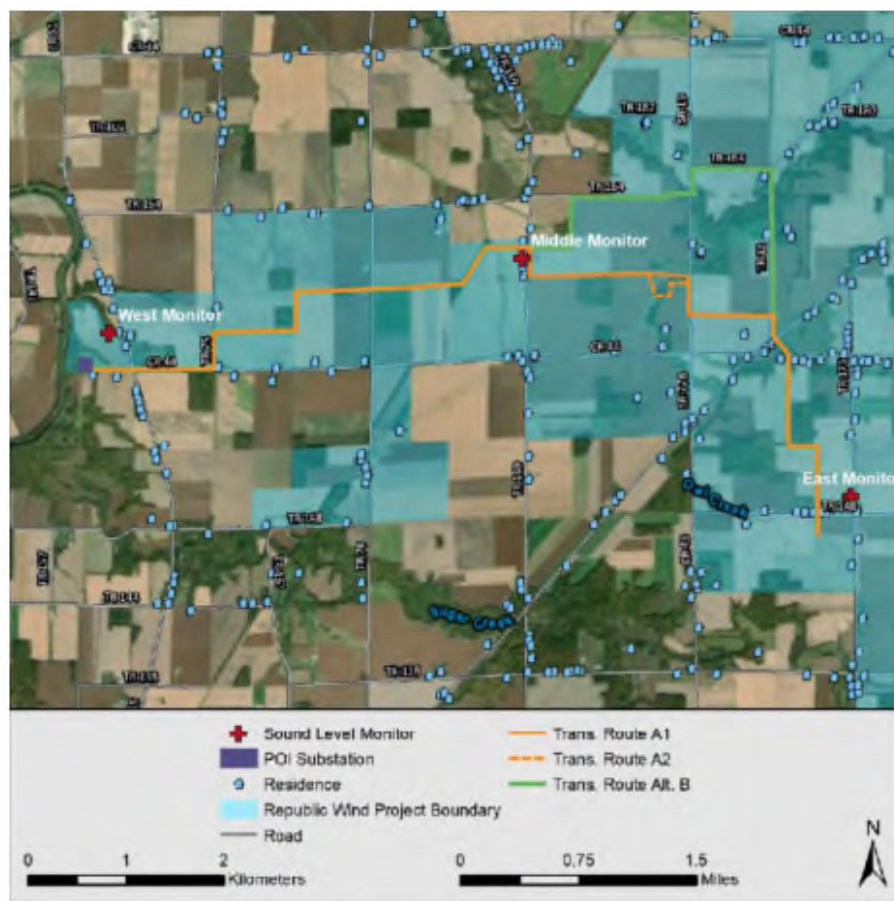
**FIGURE 2: LONG-TERM MONITORING LOCATIONS FOR REPUBLIC WIND (PRE-CONSTRUCTION)**

Each of the seven monitoring locations depicted above “was selected as representative of a given landscape or soundscape that would be in proximity of one or more of the [50+] proposed wind turbines.” (June 28, 2019 Noise Impact Assessment at 5.) As the map depicts, and as Republic Wind’s Noise Impact Assessment for the underlying Application states, the seven monitoring locations were chosen to cover the different types of land and soundscapes representative of the Project boundary: North Boundary, South Boundary, Mixed Residential, Agricultural Operations, Busy Roadway, Wooded Area, and Remote Rural locations were all included.

The westerly portion of the Project boundary, where the transmission line and its monitoring locations are found, has only *three* turbines proposed to be sited there. While the majority of the rest of the Republic Project’s turbines would be installed in and around the seven original monitoring

locations developed for the Project. This difference alone makes the proposed addition of the three additional monitoring locations unrepresentative.

In contrast to the June 28, 2019 Republic Project Noise Impact Assessment, the August 9, 2019 Noise Impact Assessment prepared and submitted in Case No. 19-1066-EL-BTX (the transmission line case) contained only three monitoring locations. Those locations were chosen for the limited purpose of evaluating the 7.2-mile, 138 kilovolt transmission line and point of interconnect switchyard, located in the most westerly portion of the overall Republic Project boundary. Its monitor locations are depicted in the three locations as follows:



**FIGURE 2: MONITOR LOCATIONS**

(Figure 2, Exhibit 7, August 29, 2019 Application in Case No. 19-1066-EL-BTX). These locations were chosen to “characterize a soundscape along the transmission line route, allowing identification of both overall sounds levels and the sound sources that contribute to local soundscapes.” (August

9, 2019 Noise Impact Assessment, Exhibit 7 to Case No. 19-1066-EL-BTX Application at p. 6.)

Notably, the three monitoring locations selected for the transmission line were chosen only at points directly along the transmission line, and were selected from a subset of the overall Republic Project boundary. Even more notably, these monitoring locations were selected to be representative of the transmission line (and therefore only the *most western* portion of the Project area) by their very nature. The transmission line locations were as follows:

- **West Monitor:** Located on the edge of a farm field, next to a small wooded area. “The purpose of this monitor location was to capture the soundscape near the western extent of the transmission line . . . at a relatively lower elevation . . . near the Sandusky River.” (*Id.* at 7 (emphasis added).)
- **Middle Monitor:** Located in the yard of a residence and adjacent to a farm field. “The purpose of this monitoring location was to capture the soundscape along the middle of the transmission line path.” (*Id.* at 9 (emphasis added).)
- **East Monitor:** Located along a small drainage ditch, between two farm fields and along a row of trees. “The purpose of this monitoring location was to capture the soundscape in the area along the eastern extent of the transmission line and near the proposed collector substation.” (*Id.* at 11 (emphasis added).)

As their descriptions demonstrate, each monitoring station selected for the transmission line was specifically situated to be both representative of only the transmission line project area, and the various soundscape features contained therein. It is not a subset of the overall Republic Project boundary, and very limited in both scope, location, and what these monitoring locations set out to accomplish. Nothing about these monitoring locations cross-references the major Project boundaries, nor were the locations seeking to be representative of the greater boundary as a whole, or a soundscape identified therein. The intent was to evaluate the 7.2-mile stretch of the transmission line, and that is the extent of their utility.

Moreover, Staff’s attempt to make this small sliver of the overall Republic Project area into a key representation of the Project as a whole is unavailing. The majority of the proposed turbine sites are far from this most westerly edge of the Project. Their inclusion would significantly skew

the overall sound data for the Project, is not necessary (as demonstrated by Staff's raising this issue at the eleventh hour), was not developed for this purpose, and does not add to the Board's understanding of the Project. Staff's Motion should be denied.

**B. In addition to the skewing of the data developed for the original seven monitoring locations, the transmission line monitoring locations are not representative of the much larger Project boundary and have not gone through the adjudicatory process.**

By their own description, the monitoring locations for the transmission line represent different elevation, density, and road traffic than the seven locations developed for the Project as a whole. Moreover, as of November 1, 2019, the Transmission Line case had just received its completeness letter, stating that the Board had found sufficient information to begin its review of the Application filed in August 2019. In the transmission line case, no staff report has issued, no data requests have been submitted or responded to, and no parties have intervened.

By contrast, the underlying case is on the last day of its hearing. Republic Wind's Noise Assessment, and corresponding seven monitoring locations, have been the subject of Staff Report, Staff recommendations, data requests, cross-examination, and generally full consideration. Adding the additional three monitoring locations at this stage of the underlying proceeding is detrimental to Republic Wind's opportunity to vet the proposal from Staff and the Board's ability to consider and review it. For example, Republic Wind's noise expert has already testified regarding the monitoring locations in this case, and without the knowledge of Staff's proposed changes. At the time Republic Wind's noise expert testified, OPSB Staff had not challenged any of the noise monitoring locations selected by the noise consultant. Nor did Staff challenge the ambient nighttime noise level determined by the noise expert. Further, although OPSB staff had access to the noise report from the Republic Wind case on August 27, 2019, Staff did not decide to incorporate information from the transmission line noise monitors into the wind farm case until the very last moment of this hearing. This last minute effort to include information from the noise study from a related

transmission study is unprecedented. And to allow such amendments at this late date, and without the benefit of clarifying testimony from Republic Wind, is prejudicial.

**C. Staff's Motion was unnecessarily delayed and is unsupported.**

Staff states that its reason for the proposed change to Mr. Bellamy's testimony is that "new information was introduced into the record that Staff had not previously addressed" and that this information resulted in Mr. Bellamy "want[ing] to amend his testimony." (Staff's Motion at 1.) Republic Wind notes that the "new information" Mr. Bellamy seeks to include and analyze in his testimony was made known to Staff as early as August 27, 2019, with Republic Wind's filing of its application in Case No. 19-1066-EL-BTX. Therein, Republic Wind set forth its noise emissions analysis associated with the construction of the transmission line, as well the monitoring locations themselves and associated maps. (*See, e.g.*, August 27, 2019 Application of Republic Wind at p. 50-54; *see also* Pre-Construction Noise Assessment in Case No. 19-1066-EL-BTX at Application Exhibit F.) This is not "new" information. Staff was, or should have been, aware of both noise studies, but chose not to act upon the data contained in the transmission line analysis until November 15, 2019. Further, Mr. Bellamy had the transmission line noise study in his possession an entire month before he filed his testimony on October 28, 2019.

Moreover, even within the context of the ongoing hearing, Staff still waited until the last possible minute to bring this proposed change before Republic and the Board. Mr. Old testified on November 4, 2019, at which time the transmission line data came into focus as an issue raised by the Intervening Landowners. It was formally submitted into the record (the location of the transmission line monitoring stations and the raw data set forth for those stations *only*) on November 5, 2019. Staff then waited over a week before seeking to amend Mr. Bellamy's testimony, thus squeezing the timeframe for a response from Republic Wind and for consideration by this Board.

Prior to this, and as discussed above, Staff had shown no interest in the overlapping boundary of the transmission line with the broader Republic Project and the monitoring locations.

The last minute attempt to add this data to Staff's evaluation is underdeveloped and, due to its last minute nature, unable to be fully vetted. In its Memorandum in Support, Staff does not address the nature of these delays in either its analysis or its Motion. As such, Staff's Motion should be denied.

### **III. Conclusion**

For all of the above reasons, Staff's Motion that the Board update the testimony of Mr. Bellamy should be denied.

Respectfully submitted on behalf of  
REPUBLIC WIND, LLC



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## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served upon the following parties of record via regular or electronic mail this 18th day of November, 2019.



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Summary: Text Republic Wind, LLC'S Memorandum In Opposition To Staff's Motion for Leave To File Amended Prefiled Testimony of Mark Bellamy Instanter and Request For Expedited Treatment electronically filed by Teresa Orahoud on behalf of Devin D. Parram