

**BEFORE
THE OHIO POWER SITING BOARD**

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

**ADDITIONAL CLOSING BRIEF AFTER SEPTEMBER 30, 2020 SUPPLEMENTARY
HEARING OF SENECA COUNTY PARK DISTRICT, SENECA COUNTY, ADAMS
TOWNSHIP, REED TOWNSHIP, AND SCIPIO TOWNSHIP IN OPPOSITION TO
REPUBLIC WIND LLC'S APPLICATION FOR A CERTIFICATE**

Now comes Seneca County Park District, Seneca County, Adams Township, Reed Township, and Scipio Township (hereafter: Local Government), by and through the Seneca County Prosecuting Attorney Derek W. DeVine and hereby submits the following additional brief regarding the reopened proceedings heard on September 30, 2020¹.

I: Aviation

Local Government would respectfully suggest that the One Energy decision does not impact the effect that granting the application would have on local airports and local air travel as substantiated and proven in the earlier hearing.

A. Witness Stains

In his supplemental testimony John Stains from ODOT indicated in relevant part:

So I guess to answer your question, prior to March 10th the Department was operating under the understanding that all obstruction standards were included, and after the court ruling it was our understanding that our determination was limited to the six imaginary surfaces listed in the Ohio Revised Code. However, it doesn't -- it doesn't affect the -- the prior testimony, it is still accurate that the project, as presented by our office, represented obstructions under 14 CFR Part 77.

Proceedings Volume IX, p. 1637.

¹ Pursuant to the ALJ Order of October 1, 2020, counsel for the above parties has reviewed its December 23, 2019 brief and has determined that nothing in the September 30, 2020 supplemental evidentiary hearing necessitated any language being stricken from the earlier brief.

Q. (ALJ Agranoff) I would like an answer to the question as to the distinction between the official position that ODOT is taking in this case compared to your statement beginning on line 17, and whether or not you believe that the Board can still take those additional factors into consideration.

A. (John Stains) It's my understanding and belief that the Board can consider any information that's available. The analysis and the identification of the obstructions, regardless of if it's in ODOT's determination or not, have been clearly identified by other sources, and the Board can consider whatever the Board considers relevant. As for ODOT's determination to the Power Siting Board, we are -- our facts are limited to making determinations on the six imaginary surfaces.

Proceedings Volume IX, p. 1638.

B. Witness Andrew Conway

Staff Witness Andrew Conway confirmed in this additional hearing that the project as proposed would impact the altitude of incoming aircraft to the airport and would increase the angle of descent.

Q. (Mr. Van Kley) Well, does it change the manner in which the aircraft is operated in any way?

A. It's going to be operated at a higher altitude.

Q. Does that affect the -- the angle of the descent of the aircraft into the airport?

A. I think it can, coming from a higher altitude.

Q. And so does it make the angle of decent into the airport a steeper angle?

A. I think it can.

Q. Okay. And would the same be true with regard to aircraft that are flying out of the airport, that the angle of ascent would be a steeper one?

A. I think it can, yes.

Proceedings Volume IX, p. 1651-52.

C. Witness Benjamin Doyle

Applicant witness Doyle confirmed on cross examination that the construction of the project as proposed would mandate the FAA increasing the minimum descent altitude by forty (40) feet for approaches. Proceedings Volume IX, p. 1665. He further stated:

Q. (Ms. Bair) Okay. So if not for the construction of the turbines, there would be no need to alter the flight patterns, correct?

A. That is correct.

Proceedings Volume IX, p. 1665.

II: N & F Eagle Nest:

The testimony of Ms. Hoepf and Mr. Shieldcastle established that another eagle nest was located just outside of the project area. This further supports the prior arguments of Local Government and Intervenors against approving the project. Despite being just outside of the project area, the N&F nest could be impacted by the project.

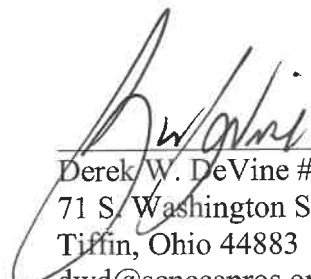
Q.(ALJ Agranoff) And with respect to that analysis, it does not matter whether or not the nest is within the project area?

A. (Mr. Shieldcastle) That is correct. The assumption is that a bird has capabilities of moving throughout its territory, which is where the -- probably the greatest risk would be nesting birds.

Proceedings Volume IX, p. 1703.

Conclusion:

Wherefore, Local Governments respectfully request that the Ohio Power Siting Board deny the application for the reasons stated herein and in its earlier briefs.




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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ADDITIONAL CLOSING BRIEF AFTER SEPTEMBER 30, 2020 SUPPLEMENTARY HEARING OF SENECA COUNTY PARK DISTRICT, SENECA COUNTY, ADAMS TOWNSHIP, REED TOWNSHIP, AND SCIPIO TOWNSHIP IN OPPOSITION TO REPUBLIC WIND LLC'S APPLICATION FOR A CERTIFICATE was served upon the following Parties of Record on this the 5th day of November via electronic or regular US mail.


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Summary: Brief Additional Closing Brief after September 30, 2020 Supplementary Hearing of Seneca County Park District, Seneca County, Adams Township, Reed Township and Scipio Township in Opposition to Republic Wind LLC's Application for a Certificate electronically filed by Mr. Derek W. DeVine on behalf of Board of Park Commissioners of the Seneca County Park District, Seneca County, Ohio and Board of Seneca County Commissioners and Board of Trustees of Adams Township, Seneca County, Ohio and Board of Trustees of Reed Township, Seneca County, Ohio and Board of Trustees of Scipio Township, Seneca County, Ohio