

**REQUEST FOR INTERVENOR FUNDS**

TO THE SECRETARY:

I hereby provide a request for intervenor funds in the following Article 10 case before the NYS Board on Electric Generation Siting and the Environment:

**Case Number:**

Re: Case 12-F-0410

**Title of Case:**

Cape Vincent Wind Power, LLC

**Name of Parties:**

Joint Application  
Wind Power Ethics Group LLC & Town of Cape Vincent

**Contact Person:**

Sarah F. Boss, Chairperson, Wind Power Ethics Group LLC  
Urban Hirschey - Supervisor, Town of Cape Vincent

**Firm Name:**

**Contact Address:**

WPEG, P.O. Box 435, Cape Vincent, NY 13618  
Town of Cape Vincent, 1964 NYS Rte 12E, Cape Vincent, NY 13618

**Contact Telephone Number:**

315-654-2084  
315-654-3795

**Contact E-mail Address:**

WPEG: [dodgebay@twcny.rr.com](mailto:dodgebay@twcny.rr.com)  
TCV: [Uhirschey@townofcapevincent.org](mailto:Uhirschey@townofcapevincent.org)

**Amount of Funds Requested:**

\$6,560

**The basis of eligibility for intervenor funds is as follows: (Check one)**

- Eligible Municipal Party**[County, city, town or village located in New York State that may be affected by the proposed major electric generating facility]
- Eligible Individual Local Party**[Person residing in a community who may be individually affected by the proposed major electric generating facility]
- Eligible Group Local Party**[Persons residing in a community who may be collectively affected by the proposed major electric generating facility]

**1(a) Provide a statement of the number of persons the requesting party represents:**

The organization WPEG represents participation with over half the entire community.

**1(b) Provide a statement of the nature of the interests the requesting party represents:**

WPEG represents the entire scope of what the effects of a wind farm will have on our citizens' daily lives in regards to health and safety, environmental, property value, tourism and historic issues.

**2(a) Provide a statement of the efforts that have been made to obtain funds from other sources:**

WPEG has conducted fund raisers as early as 2006 from residents within our community. We continued fund raising up until the advent of Article 10. We feel the community has already sacrificed so much to ensure a well informed, fair process and that we need some funding relief.

**2(b) Provide a statement of the availability of funds from the resources of the requesting party:**

WPEG has a small cache of funds that will be needed to cover operating expenses for the next few years, but there are not enough funds to support expert help needed during the pre-application phase.

**2(c) Provide a statement of the availability of funds from the resources of sources other than the requesting party:**

Currently and within the near future, there are no other sources of funds available for WPEG to support expert help during the pre-application phase.

**3(a) Indicate the type of funds being sought: (underline one) Pre-App funds or App funds**

Pre-Application funds.

**3(b) State the amount of funds being sought:**

\$6,560

**4(a) If expert witnesses, consultants, attorneys, or others are to be employed, provide to the extent possible, the name and qualifications of each person to be employed:**

Bill Evans, Old Bird, Inc.

Resume- attached

**4(b) If expert witnesses, consultants, attorneys, or others are to be employed and it is not possible to provide the name of each person to be employed, provide for each person that cannot be named a statement of the necessary professional qualifications for the person:**

na

**5 Provide, if known, the name of any other interested person or entity who may, or is intending to, employ any such expert witnesses, consultants, attorneys, or others:**

na

**6(a) For all expert witnesses, consultants, attorneys, or others to be employed, provide a**

**detailed statement of the services to be provided:**

Mr. Evan's basic charge is to: 1) review and critique BP's Preliminary Scoping Statement (PSS) for the Cape Vincent Project; 2) develop a detailed list of issues to address along with a recommended approach and methodology for BP to follow in its studies of adverse and cumulative environmental impacts on wildlife and habitat, 3) review section 7.16.10.j.8 – WECS standards of Town zoning law and comment on the law's efficacy regarding a 2-mile setback from lake and river waterfronts to protect the avian migratory corridor and 4) to attend the stipulation phase of the Article 10 process to defend the Town's law and recommendations.

The Town is also requesting Mr. Evans review the critiques of BP's PSS provided by the Town of Cape Vincent and the New York State Department of Environmental Conservation. Town and NYSDEC recommendations pertaining to adverse wildlife impacts in those reviews are:

1. Town of Cape Vincent review of PSS:
  1. The point of many prior resource agency comments on this issue is that not enough study has been done by BP to understand the variability of the biological systems. [p.43]
  2. Regardless of BP's attempt at misleading the discussion, more than a year of spring and fall migration data is required to understand the variability of avian migrant dynamics. [p.45]
  3. Two more years of marine radar study of nocturnal migrants are needed to address these deficiencies. [p.47]
  4. Again, the data is inadequate and at least two more years of radar data are needed to better understand the dynamics of the migratory flight corridor.
  5. BP needs to consider alternative project layouts that provide a wide buffer for the special, significant wildlife habitats that are extant in the Town. [p.48]
  6. BP's referral to Section 2.31 is non responsive. Nothing they mention in 2.31 relates to the rules in Exhibit 31 where they reference the protection of a migratory flight path. Furthermore, BP failed to provide quotes around the Town's statement, which indicates the statement was taken verbatim from the rules. The point is the Article 10 rules themselves recognize the importance of protecting a migratory flight-path, such as exists in Cape Vincent. [p.48]
  7. It is important that BP acknowledges what the New York State Department of Environmental Conservation has determined that the Town of Cape Vincent is part of an important Eastern North American migratory flyway, and thereby deserves protection. [p.49]
2. New York State Department of Environmental Conservation review of PSS:
  1. The PSS does not mention what steps that were taken to avoid and minimize both the direct and indirect effects of construction and operation of the Project on avian and bat resources. [p.37]
  2. The Article 10 Application should take into account that the previous studies for the

SLWF and the original Cape Vincent Wind Farm (CVWEP) projects, were for two separate smaller projects and were designed to assess the potential impacts of each separately and with markedly smaller turbines and layouts. The DEC recommends that the Applicant design and conduct new studies to be included in the Article 10 Application, in consultation with local state and federal agency personnel who have extensive expert knowledge of the resources in this region. [p.39]

3. It is recommended that this (Wolfe Island Wind Project) information also be used to assess the potential cumulative impacts that may affect the health, safety and welfare of the people of the state and their overall economic and social well being. [p.39]
4. While the previous data collected will be useful; it is imperative that additional pre-construction studies be conducted in relation to the actual layout of the new Cape Vincent Wind Farm Project turbine locations and boundary. [p.45]
5. The Applicant should consult with local state (DEC) and federal biologists (USFWS) who have extensive knowledge regarding the natural resources in this area in order to reduce impacts to birds and bats. [p.47]

**6(b) For all expert witnesses, consultants, attorneys, or others to be employed, provide a detailed basis for the fees requested, including hourly fee, wage rate, and expenses:**

Hourly Rates	\$80
Prepare Review & Report (40 hrs)	\$3,200
Stipulation Conference (24 hrs)	\$1,920
Travel (2 contiguous days)	\$1,440
Total:	\$6,560

**6(c) For all expert witnesses, consultants, attorneys, or others to be employed during the Pre-Application Stage, provide a detailed statement specifying how such services and expenses will make an effective contribution to review of the Preliminary Scoping Statement and the development of an adequate scope of appropriate studies for the application to be submitted and thereby provide early and effective public involvement:**

Birds and bats are drawn to Cape Vincent because of the special natural features and habitat within the Cape Vincent area. The Town, Department of Public Service and Department of Environmental Conservation have provided valuable, critical reviews of the scoping statement provided by BP in their PSS. Mr. Evans background and experience will bring valuable validation to the Town and state agency recommendations. He will provide key help in establishing a protocol to study and describe the important migratory corridor through the Town. Heretofore, that corridor can only be described with anecdotal information; the issue begs a broad spatial study design, something lacking in BP's earlier work. In addition, where BP previously provided no quantification in assessing cumulative mortality impacts on migrating avian resources, Mr. Evans will provide a study methodology that will ensure necessary quantification and ultimately leading to necessary risk assessments.

**6(d) For all expert witnesses, consultants, attorneys, or others to be employed during the Application Stage, provide a detailed statement specifying how such services and expenses will contribute to the compilation of a complete record as to the appropriateness of the site and facility and will facilitate broad participation in the proceeding.**

NA

**7(a) For any study to be performed, a description of the purpose of the study:**

NA

**7(b) For any study to be performed, a description of the methodology and a statement of the rationale supporting the methodology:**

NA

**7(c) For any study to be performed pursuant to any proposed methodology that is new or original, explaining why pre-existing methodologies are insufficient or inappropriate:**

NA

**7(d) For any study to be performed, provide a description of the timing for completion of the study and a statement of the rationale supporting the timing proposed:**

NA

**8(a) For any study to be performed, a statement as to the result of any effort made to encourage the applicant to perform the proposed studies or evaluations and the reason it is believed that an independent study is necessary:**

NA

**9 For all expert witnesses, consultants, attorneys, or others to be employed, provide a copy of any contract or agreement or proposed contract or agreement with each such expert witness, consultant, attorney, or other person.**

**10 Provide a statement of any additional justification for the funding request not already addressed above:**

***Curriculum vitae***  
**William Ross Evans**  
**Ornithologist**  
**(Specializing in the study of nocturnal bird migration)**

**Biography & accomplishments:**

Noted expert on bird vocalizations of eastern North America; co-authored the 2002 CD-Rom: Flight Calls of Migrant Landbirds (Eastern North America).

Over the past 25 years developed the method of studying nocturnal bird migration by monitoring avian flight calls. This expertise led to actions and research toward minimizing avian impact at communications towers and industrial-scale wind turbines.

Involvement with avian impacts at communications towers since 1998:

Created [www.towerkill.com](http://www.towerkill.com) (1998), a website for distributing information on the issue of avian mortality at communications towers.

Co-organized the first conference toward mitigating avian mortality at communications towers – held during the 119<sup>th</sup> meeting of the American Ornithologist's Union at Cornell University in August 1999.

Became member of the US Fish & Wildlife Service's Communications Tower Working Group (CTWG) in 1999.

Received funding from the CTWG for research toward mitigating avian mortality at communications towers in 2003. This led to a novel study on the impact of artificial light on night migrating birds ([Evans et al. 2007](#)) that supported the legal case to move the US Federal Communication Commission (FCC) & US Federal Aviation Administration (FAA) to approve flashing aviation obstruction lighting, a regimen for communication towers that has less impact on night migrating songbirds. (FCC: Effects of Communications Towers on Migratory Birds, WT Docket No. 03-187).

Involvement with avian impacts at commercial wind farms since 1994:

Conducted avian impact studies for commercial developers at 8 wind farms in the US (see list of energy-related contracts below).

Provided consultation and critical review of environmental impact statements for intervenors of four commercial wind projects (see list of energy-related consultation below).

Gave expert testimony at a Hearing before the Ontario Environmental Review Tribunal regarding the avian impacts of the proposed Ostrander Point Wind Energy Project (2013) on the Prince Edward Peninsula.

Gave expert testimony at Hearings before the Maryland & West Virginia Public Service Commissions regarding the impacts of specific wind energy projects on night migrating birds (2002 & 2003).

Invited speaker for US Environmental Protection Agency organized conference (2006) "Toward Wildlife-Friendly Windpower". A conference toward minimizing wind-power effects on wildlife and toward developing consistent wind energy management approaches within the Great Lakes basin.

Invited speaker for New York State Energy Research and Development Authority and New York Department of Environmental Conservation conference (2006) "Wind and Wildlife Issues"

workshop. A workshop identifying informational needs for assessing potential impacts of wind power development on birds and bats.

Principal investigator (subcontracted) for the US Government in building a datagap analysis for avian impacts of offshore wind energy along the US eastern coastal region (Michel et al. 2007 – see publications).

Co-authored letter to US and Canadian wildlife agencies regarding avian impact of a mass build out of commercial wind energy facilities in the near-shore region of northeastern Lake Ontario.

Principal investigator in a New York State Energy Research and Development Authority (NYSERDA) study of avian impacts at the Maple Ridge Wind Project in northern New York. (Evans 2012a & 2012b – see publications)

My current studies are directed toward understanding the impacts of artificial light on night-migrating birds and the concentration dynamics of night-migrating birds along shorelines and their channeling in montane terrain. I'm also involved with setting up a continental monitoring network of avian night flight call monitoring stations. My research has been featured on BBC, CBC, NPR, PBS (NOVA), and in Science, The New York Times and numerous other science-news periodicals. I currently live with my wife and two children in Ithaca, NY.

**Education:** Oberlin College (class of '81)

**Peer-reviewed publications:**

Evans, W.R. 2012. An Evaluation of the Potential for Using Acoustic Monitoring to Remotely Assess Aerial Vertebrate Collisions at Industrial Wind Energy Facilities. New York State Energy Research and Development Authority, Albany, NY. NYSERDA Report 12-26. December 2012. 17 pp. <http://www.nyserderda.ny.gov/Publications/Research-and-Development-Technical-Reports/Environmental-Reports.aspx> (scroll down to Report 12-26)

Evans, W.R. 2012. Avian Acoustic Monitoring Study at the Maple Ridge Wind Project 2007-2008. New York State Energy Research and Development Authority, Albany, NY. NYSERDA Report 12-23. December 2012. 35 pp. <http://www.nyserderda.ny.gov/Publications/Research-and-Development-Technical-Reports/Environmental-Reports.aspx> (scroll down to Report 12-26)

Evans, W.R. 2010. Response by William R. Evans to: Green light for nocturnally migrating birds. *Ecology and Society* 15(3): r1. <http://www.ecologyandsociety.org/vol15/iss3/resp1/>

Evans, W.R., Y. Akashi, N.S. Altman, and A.M. Manville II. 2007. Response of night-migrating songbirds in cloud to colored and flashing light. *North American Birds* 60:476-488. <http://www.oldbird.org/pubs/lightstudy.pdf>

Michel, J., Dunagan, H., Boring, C., Healy, E., Evans, W., Dean, J.M., McGillis, A. and Hain, J. 2007. Worldwide Synthesis and Analysis of Existing Information Regarding Environmental Effects of Alternative Energy Uses on the Outer Continental Shelf. U.S. Department of the Interior, Minerals Management Service, Herndon, VA, MMS OCS Report 2007-038. 254 pp. (For online access, go to [www.boem.gov](http://www.boem.gov) (search for "2007-038").

Larkin, R.P., W.R. Evans, and R.H. Diehl, 2002. Nocturnal flight calls of Dickcissels and Doppler radar echoes over south Texas in spring. *Journal of Field Ornithology* 73:2-8.

Evans, W.R. 2000. Applications of Acoustic Bird Monitoring for the Wind Power Industry PNAWPPM-III. 2000. In Proc. of National Avian - Wind Power Planning Meeting III, San Diego, Calif., May 1998. Prepared for the Avian Subcommittee of the National Wind Coordinating Committee by LGL Ltd., King City, Ont. 202 pp. <http://old.nationalwind.org/publications/wildlife/avian98/21-Evans-Acoustics.pdf>

Evans, W.R. and K.V. Rosenberg. 2000. Acoustic monitoring of night-migrating birds: a progress report. In Bonney, Rick, David N. Pashley, Robert J. Cooper, and Larry Niles, eds. *Strategies of Bird Conservation: The Partners in Flight Planning Process*. Proceedings of the 3rd Partners in Flight Workshop; 1995 October 1-5; Cape May, NJ. Proceedings RMRS-P-16. Ogden, UT: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. [http://birds.cornell.edu/pifcapemay/evans\\_rosenberg.htm](http://birds.cornell.edu/pifcapemay/evans_rosenberg.htm)

Evans, W.R. and D.K. Mellinger. 1999. Monitoring grassland birds in nocturnal migration. *Studies in Avian Biology* 19:219-229. <http://www.oldbird.org/pubs/Grassland.pdf>.

Evans, W. R. 1994. Nocturnal flight call of Bicknell's Thrush. *Wilson Bulletin* 106:55-61.

**Wind energy related contracts held:**

**For:** Nebraska Public Power District (NPPD)

**Position:** Principal Investigator

**Description:** Acoustic monitoring of night migrating birds at a proposed wind farm, 1996-1997.

**Contact:** Jim Jenniges, NPPD environmental staff (308) 236-2293

**For:** Wisconsin Public Service Corporation (WPSC)

**Position:** Principal Investigator

**Description:** Monitoring the species composition, altitude characteristics, and numbers of night-migrating birds for assessing the potential impact of wind turbines in Northern Wisconsin. 1999-2001.

**Contact:** Shawn Puzen, WPSC environmental staff (920) 433-1094

**Report available at:** [http://docs.wind-watch.org/Howe\\_2002\\_wind-turbines-birds-bats-ne-wisc.pdf](http://docs.wind-watch.org/Howe_2002_wind-turbines-birds-bats-ne-wisc.pdf)

**For:** Clipper Windpower, LLC

**Position:** Principal Investigator

**Description:** Monitoring the species composition, altitude characteristics, and numbers of night-migrating birds for assessing the potential impact of wind turbines in western Maryland. 2003.

**Contact:** Kevin Rackstraw, Clipper Windpower LLC (301) 263-0028.

**For:** Ecogen, LLC

**Position:** Principal Investigator

**Description:** Monitoring the species composition, altitude characteristics, and numbers of night-migrating birds for assessing the potential impact of wind turbines in west-central New York State. 2004-2008.

**Contact:** Tom Hagner, Ecogen LLC (716) 675-0751.

**For:** Catamount Energy (acquired by Duke Energy in 2008)

**Position:** Principal Investigator

**Description:** Monitoring the species composition, altitude characteristics, and numbers of night-migrating birds for assessing the potential impact at proposed wind energy facilities in Vermont and Pennsylvania 2004-2005.

**Contact:** Bob Charlebois

**For:** Research Planning, Inc. (RPI)

**Position:** Principle Investigator

**Description:** Responsible for avian datagap analysis in the United States Minerals Management Service (MMS) contract "Worldwide Synthesis and Analysis of Existing Information Regarding Environmental Effects of Alternative Energy Uses on the Outer Continental Shelf". 2006-2007.

**Contact:** Jacqui Michel, RPI, (803) 256-7322

**Report available at:** [www.boem.gov](http://www.boem.gov) (search for "2007-038")

**For:** Pattern Renewables

**Position:** Principal Investigator

**Description:** Carried out breeding bird surveys, raptor surveys, avian night flight call survey, diurnal bird movement survey, and avian risk assessment for the proposed Hounsfield Wind Farm on Galloo Island in northeastern Lake Ontario 2007-2009.

**Contact:** Rick Greiner, Pattern Renewables (713) 308-4233

**Reports available at:** <http://www.dec.ny.gov/permits/54687.html> (look under Draft Environmental Impact Statement)

**For:** New York State Energy Research Development Authority (NYSERDA)

**Position:** Principle Investigator

**Description:** Multi-year study investigating nocturnal bird migration through the Maple Ridge Wind Energy project in northern NY. This work was subcontracted through New Jersey Audubon Society.

**Contact:** David Mizrahi, Vice President for Research, New Jersey Audubon Society, (609) 861-0700.

### **Wind energy related consultation:**

**For:** State of Vermont

**Wind project:** Proposed wind farm on Little Equinox Mountain, VT

**Description:** Prepared an assessment of the potential hazard to migrant birds.

**For:** Ripley Hawk Watch

**Wind project:** proposed Chautauqua Wind Energy Project (near Ripley, NY)

**Description:** Critically reviewed Draft Environmental Impact statements.

**For:** Alliance to Protect Nantucket Sound

**Wind project:** proposed Cape Wind Farm (Nantucket Sound)

**Description:** Critically reviewed Draft and Final Environmental Impact statements.

**For:** Wolfe Island Residents for the Environment

**Wind Project:** Wolfe Island Wind Project, Wolfe Island, ON

**Description:** Critically reviewed Draft and Final Environmental Impact statements.

**For:** Wind Power Ethics Group

**Wind Project:** St. Lawrence Wind Farm (near Cape Vincent, NY)

**Description:** Critically reviewed Draft and Final Environmental Impact Statement

### **Current position**

**For:** Old Bird Inc.

**Position:** Executive Director (since 2000)

**Description:** A 501(c)3 nonprofit corporation dedicated to facilitating acoustic monitoring of avian night flight calls. Current focus is developing a continent-wide avian nocturnal flight call monitoring network for research and education. [www.oldbird.org](http://www.oldbird.org)

**Contact Info:** William R. Evans Old Bird Inc. 605 W. State St. Ithaca, NY 14850 USA  
(607) 272-1786 [wrevans@clarityconnect.com](mailto:wrevans@clarityconnect.com)