

Olean Times Article

More than 100 residents sue Arkwright project developers

Suit filed over turbines

More than 100 residents of the town of Arkwright, the villages of Cassadaga, Fredonia, Forestville have filed a lawsuit in state Supreme Court in Mayville against the developers of the Arkwright Wind Power Project.

The suit was filed Tuesday and names EDP Renewables, Arkwright Summit Wind Farm LLC, Horizon Wind Energy LLC, Tetra Tec EC Inc., Tetra Tech ES Inc., Tetra Tech Construction Inc., URS Corp., West Inc. Fisher Associates P.E., L.S., L.A. of New York, P.C., Fisher Associates, P.E., L.S., L.A., D.P.C., White Construction of Indiana LLC and any other corporations who may be liable to the plaintiffs.

No court date has been set yet, though an answer by the companies is due in either 20 or 30 days depending on how the companies are served paperwork.

The residents, represented by Melody D. Westfall of Syracuse, are asking for unspecified damages related to loss of property values, compensatory damages for destruction of homes and lifestyle, loss of use and enjoyment of their properties, damages for relocation costs and time spent relocating, mental anguish, destruction of scenic countryside, physical pain and suffering, difficulty sleeping, nuisance, trespass, interference with electronics in their homes such as satellites, telephones and televisions, loss of business profits, special damages for stress, anxiety, worry and inconvenience, and the effects lights and noise from the turbines have on their properties.

The Arkwright Summit Wind Farm consists of 47 wind turbines erected in 2018. Westfall writes in her lawsuit that the residents were told the turbines would not be noisy, adversely impact neighboring houses and that there would be no potential health risks. Final and Supplemental Environmental Impact Statements finalized in 2008 projected noise levels of 50 decibels, with a 2007 local law setting a 50 decibel limit on sound from wind turbines.

Westfall argues that the developers should have done new noise studies, particularly taking into account New York's winter winds and the winds off of Lake Erie; that the turbines should not have been built so close to houses; that noise studies don't account for infra- or low-frequency sounds that are affecting neighboring properties.

"Upon information and belief, the wind turbines are causing such significant problems and/or injuries that residents and property owners, including the Plaintiffs, are continuing to have many difficulties on their properties, real property values have been significantly compromised, and some residents were even forced to leave their homes and/or sell them at a loss; among other damages as set forth in this complaint," the lawsuit states.

The lawsuit alleges negligence, creating a private nuisance, creating a public nuisance and trespassing, with the residents alleging workers entered onto and damaged some properties during construction without compensation for damages.

“Plaintiffs allege that they own and, therefore, have a lawful right to possess the real property on which they live or own. Plaintiffs allege that the giant wind turbines that defendants have placed around their property results in a trespass by the defendants due to invasion of their land by noises, lights, flickering, and low-frequency vibrations which penetrate their homes, thereby destroying the use and enjoyment of the plaintiffs’ land; among other trespass,” Westfall argues in the lawsuit.

Almost 30 of the lawsuit’s 78 pages deal with the harms the residents claim began when the wind turbines were built. One resident claims his well has gone bad, with the county Health Department finding his water unsatisfactory for human consumption. Another couple states they are surrounded by 20 turbines which cause them to cover their windows to keep lights and sound out of their home while losing all of the television reception from their antenna since the turbines were installed. Another property could be condemned, according to the lawsuit, because the homeowners’ septic system has been compromised by the turbine construction while that same property has new creeks appearing that could cost between \$10,000 and \$15,000 to divert.

“All plaintiffs are entitled to damages related to the diminution of their property values; compensatory damages for the destruction of their homes and lifestyle; loss of use and enjoyment of their properties; damages in the form of relocations costs and lost time spent relocating their homes; mental anguish; destruction of scenic countryside; physical pain and suffering; difficulty sleeping; nuisance; trespass; interference with electrical functioning of their homes such as satellites, telephone and televisions; loss of business profits; special damages that include anxiety, stress, worry and inconvenience; some plaintiff’s may have a need for future medical monitoring and/or medical care; and the effects of the lights and noise the wind turbines have on the plaintiffs’ properties; among other injuries,” Westfall wrote.