

NEW YORK STATE OFFICE OF RENEWABLE ENERGY SITING

Application of Heritage Wind, LLC for a
Permit for a Major Renewable Energy Facility
Pursuant to Section 94-c of the New York
State Executive Law to Construct a 184.8 MW
Wind Energy Facility located in the Town of
Barre, Orleans County.

Case No. 21-00026

SAVE ONTARIO SHORES, INC.'S PETITION FOR PARTY STATUS

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Dated: May 18, 2021
Rochester, New York

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INTRODUCTION

Save Ontario Shores, Inc. (“SOS”) submits this petition for party status concerning the Application of Heritage Wind, LLC for a Permit for a Major Renewable Energy Facility pursuant to Section 94-c of the New York State Executive Law to Construct a 184.8 MW Wind Energy Facility located in the Town of Barre, Orleans County. SOS requests that this Petition be granted, and SOS allowed to participate in this proceeding in order to contribute to a complete record leading to an informed decision as to the appropriateness of the site and facility. SOS also intends review whether the proposed facility is designed to be sited, constructed, and operated in compliance with applicable local laws and regulations.

REQUIRED CONTENTS OF PETITION FOR PARTY STATUS

I. IDENTIFICATION OF THE PROPOSED PARTY TOGETHER WITH THE NAME(S), ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS OF THE PERSON OR PERSONS WHO WILL ACT AS REPRESENTATIVE OF THE PARTY

Save Ontario Shores, Inc. is a not-for-profit corporation formed in January 2015. Kate Kremer is Vice President of SOS and will be the representative of SOS for purposes of this action.

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II. STATEMENT OF THE PETITIONER'S INTEREST RELATED TO THE STANDARDS AND CONDITIONS ESTABLISHED BY THE ORES FOR THE SITING, DESIGN, OPERATION, AND CONSTRUCTION OF THE PROJECT

Save Ontario Shores, Inc. is a not-for-profit corporation formed in January 2015 to facilitate the participation of members of the local community in the Article 10 proceeding for the Apex Clean Energy, Inc. Lighthouse Wind project proposed in Orleans county town of Yates and the Niagara County town of Somerset. In 2017 this same developer proposed the Heritage Wind project just 10 miles away in the Orleans County town of Barre. The Heritage Wind project has moved more rapidly than the initial Lighthouse Wind project. However, it has some similar impacts and is located in the south portion of Orleans County near a high wildlife resource area. Its location will therefore impact all Orleans County residents and the region.

The 10-mile extended study area for Heritage Wind covers the Village of Lyndonville and a large portion of the Town of Yates where SOS supporters and participants reside and own property. The boundary of this study area reaches almost to the shores of Lake Ontario with potential impacts to Lake Ontario tourism including the Lakeside Beach State Park. This area includes neighboring towns of Carlton and Kendall, with whom the town of Yates is working to revise its Local Waterfront Revitalization Plan. One or more of SOS supporters own property in the town of Barre.

The height of the proposed industrial wind turbines, as described by Apex is over 680 feet, increasing the distance the turbines are seen during the day and the turbine lights that are seen at night from existing New York State industrial wind projects. The correspondingly long blades (over 250 feet long) have the potential to increase harm to wildlife in our region, thus affecting hunting, birding and ecological systems significantly beyond the borders of the project.

SOS has an interest in the potential environmental, visual, land-use, and economic issues related to the project. SOS will work with other parties, work with witnesses, respond to issues, including those raised by other parties, ask questions of the applicant and otherwise participate in this process to make a meaningful contribution to the record regarding substantive and significant issues raised.

**III. IDENTIFICATION OF ANY INTEREST RELATING TO STATUTES
ADMINISTERED BY OTHER STATE AGENCIES OR THE ORES RELEVANT
TO THE PROJECT**

SOS has an interest in full application of Section 94-c (1) of the New York State Executive law, which states,

the purpose of this section to consolidate the environmental review and permitting of major renewable energy facilities . . . **while ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such facilities**

NY Exec Law 94-c (1) (emphasis added). As a group comprised of residents living in Orleans and Niagara Counties, SOS has a strong interest in presenting evidence to ORES concerning whether a Draft Permit is sufficient to protect the environment, and whether the information and Draft Permit addresses all pertinent social, economic, and environmental factors relevant to ORES’ final decision. For the reasons specifically identified below, SOS believes the Application, the Draft Permit, and ORES each reflect a failure to consider unique local circumstances, protect the environmental, or consider all pertinent social, economic, or environmental factors.

SOS’s participation as a full party to the ORES proceeding is also required pursuant to the Climate Leadership and Community Protection Act (the “CLCPA”). In the words of New York State Assemblyperson Didi Barret, 106th District:

I am a strong advocate for renewable energy production, and a firm believer that renewables are a crucial part of reducing our dependence on fossil fuels. I have been a leading voice for regenerative agriculture and have introduced pioneering carbon farming legislation that has inspired other states. **That said, I also firmly believe that a balance must be found between the encouragement of large-scale renewable development and the preservation of the rural character and local economies of our communities. In its very name, the Climate Leadership and Community Protection Act (CLCPA), which I was proud to vote for, promises equity between climate-smart advances and the values of our local communities in this Home Rule state.**

Letter from Didi Barret to John Howard, March 25, 2021 (emphasis added). (available at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={4F437683-1A47-463E-8CA9-8C3AED3C3B65}>). SOS intends to advance many of the concerns of the County residents who benefit from the regional resources that will be impacted by this project. SOS's participation as a party is therefore essential to advancing the values of the community, as required by CLCPA.

SOS also has an interest in preservation of the aesthetic resources and the agricultural economy, as expressly required by Article XIV § 4 of the New York State Constitution:

The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources.

New York State Constitution Article XIV § 4. The ORES process in general, and the Heritage Wind project in particular, run afoul of this constitutional mandate, and consistent with the Article XIV, as a full party SOS intends to fight for the conservation and protection of Orleans County's natural resources and scenic beauty.

More generally, SOS has an interest in due process rights granted by the State and Federal Constitution, and any specific procedural rights granted by the State Administrative Procedure Act. U.S. Const. amend. V; U.S. Const. amend. XIV; N.Y. Const. Art. 1, §6; SAPA §301.

IV. STATEMENT AS TO WHETHER THE PETITION IS FOR FULL PARTY OR AMICUS STATUS

By this petition, SOS is requesting full party status so they may “(i) Engage in and conduct disclosure of any other party to the proceeding; (ii) Participate at the hearing in person or through an authorized representative; (iii) Present relevant evidence and cross-examine witnesses of other parties; (iv) Present argument on issues of law and fact; (v) Initiate motions, requests, briefs or other written material in connection with the hearing, and receive all correspondence to and from the ALJ and to and from all other parties which is circulated to the parties generally; (vi) Appeal adverse rulings of the ALJ; and (vii) Exercise any other right conferred on parties by this Part or SAPA.” 19 NYCRR §900-8.4(g)(1)

SOS successfully made application for party status to the Heritage Wind case when filed under Article 10. This case was permitted to transfer to the ORES 94-c and it is reasonable that those parties granted status under the prior process would be permitted to transfer that status as the applicant has transferred their application. SOS is familiar with the large scale renewables permitting process as they have been engaged for over 6 years. SOS will meaningfully and substantially contribute to the issues raised and to the record as it has done in prior cases.

In the 94-c process, that has limited opportunity for early or ongoing public engagement, it is important to include all parties that have made an acceptable petition. SOS represents the voice of the County and surrounding citizens with respect to the extensive County resources that may be impacted by this project.

V. IDENTIFICATION OF THE PRECISE GROUNDS FOR OPPOSITION OR SUPPORT

SOS offers the following as grounds for its opposition to the proposed Heritage Wind project:

SOS opposes the Heritage Wind Project because it will produce significant adverse impacts on County and National resources under the conditions set forth in the Draft Permit.

SOS will demonstrate the Draft Permit is insufficient to mitigate or avoid adverse social, economic and environmental impacts, and the Permit application must be denied, or the draft permit modified. The Draft Permit fails to properly name, study and mitigate site specific conditions including the presence of three wildlife areas in the immediate vicinity of the project.

SOS opposes the Heritage Wind project because it is likely to have a major adverse impact on wildlife, wetlands and surface water and habitat in the project area and in the neighboring extensive national refuge and wildlife areas; because the studies included in the application are framed to support Heritage Wind's interests and insufficient to quantify potential adverse impacts; because additional study of impacts is required; and because the proposed mitigation in the Draft Permit is based on insufficient or flawed data presented in the Application, and therefore unlikely to mitigate or avoid impacts on the local community.

SOS also opposes the Heritage Wind project because it will have an adverse visual impact on important scenic resources in the community, and will alter the community character in a manner that negatively impacts the use and enjoyment of the Iroquois National Wildlife Refuge, the Oak Orchard Wildlife Management Area and the Tonawanda Wildlife Management Area. Visual blight caused by the project could decrease the value of these environmental and economic resources, thus financially harming local businesses and property owners. The visual impact study provided by Heritage Wind in Exhibit 24 underrepresents the full visual impact.

SOS will oppose any project sited by the fundamentally flawed ORES process. As a party to the Article 10 Heritage Wind case, we now face an exceedingly high burden to attain the same status for this same project under the 94-c regulations. In a hard break from the express mandate for meaningful public participation in Siting Proceedings under Article 10 of the Public Service Law, Section 94-c proceedings are designed to inhibit or prevent local intervenors from participating in power plant Siting Proceedings as full parties. The ORES regulations and uniform and standard conditions fail to account for all pertinent social, economic and environmental factors in the decision to permit such facilities in siting renewable energy facilities. Section 94-c proceedings also fail to provide an opportunity for adjudication of issues as of right, and fail to provide sufficient government oversight of the renewable energy development industry.

Through ORES and its private contractors, the state government has largely outsourced its responsibility for siting of power plants. Communities like Barre and the entire County of Orleans along with the tens of thousands of visitors to local wildlife areas will suffer as a result, unless full party status is liberally granted and all pertinent issues are fully adjudicated in ORES proceedings.

**ADDITIONAL CONTENTS REQUIRED FOR PETITIONS FOR FULL PARTY
STATUS**

**I. IDENTIFICATION OF AN ADJUDICABLE ISSUE(S) WHICH MEETS THE
CRITERIA SET FORTH IN SECTION 900-8.3(C) OF THIS PART**

SOS raises the following issues for adjudication related to the proposed Heritage Wind project:

1. Issue Number One

Proximity to wildlife refuge and management areas is a site-specific condition that requires a fact hearing to determine the nature and extent of possible negative impacts. The applicant has not completed sufficient studies in or near these resource areas in a manner to provide adequate detail of potential harm and appropriate mitigation.

Heritage Wind project by developer Apex Clean Energy, Inc. is proposed to be located in Barre, NY, and located a few miles from an immense expanse of wildlife areas including the Iroquois National Wildlife Refuge and two New York State Wildlife Management Areas. These wildlife areas are proximate to each other and provide a rich abundance of habitat used by a diverse array of wildlife. These areas draw hikers, educators, artists, hunters, birders, photographers and others each year. The project location so close to these areas raises concerns for the citizens of Orleans County that it will degrade important national and county resources. The proposal has

not provided sufficient evidence that these important resources have been adequately studied and that they will be protected. The permit conditions are not sufficient to mitigate project impacts.

The applicant did not utilize the three years of Article 10 preapplication time to complete project studies, including multi season radar studies, nighttime acoustical study, and ongoing robust studies focused on these wildlife resources. There is an existing USFWS radar study showing greater numbers of nighttime migrating birds in this vicinity than on the lakeshore, which is astounding. This radar study provides unrefuted evidence of immense avian activity in the altitude of the industrial wind turbines.

The Refuge and Wildlife Management Areas are a key link in the western portion of the Atlantic Flyway, the major north-south route for migratory birds in North America. These areas serve as a nesting, feeding, resting and staging areas for the birds. There are also resident birds such as eagles, osprey, and hawks. In all, 266 species of birds are supported in the forests, grasslands, emergent marsh and hardwood swamp habitats, along with 42 species of mammals, plus amphibians, reptiles and insects. How will this project located near these resources impact the balance of this ecosystem and all the species in it?

The site-specific conditions in the draft permit mention the Iroquois National Wildlife Refuge but do not mention the proximate wildlife management areas, the Oak Orchard Wildlife Management Area being closer to the turbines than the wildlife refuge. There is no mention of the wide variety of uses and stakeholders to these county resources and the negative impact of an industrial use so close. These issues and possible mitigation require a fact hearing and a robust effort at mitigation.

An additional site-specific condition is the location of the project a mere 10 miles from the lakeshore in a vast migratory bird region that currently has few tall buildings. Rochester is a small city with few tall buildings. This project will drastically change the landscape of the south shore of Lake Ontario in an unprecedented manner.

2. Issue Number Two

Site specific condition exists in the location of the Heritage Wind project in close proximity to extensive wildlife resources and requires that additional visual studies be completed and effective mitigation measures be implemented.

The Final 2011 Comprehensive Conservation Plan for INWR. states in Chapter 5 at page 3-14:

https://www.fws.gov/northeast/planning/iroquois/PDF/05_Chapter%203%20-%20Refuge%20ResourcesLowRes.pdf

Visual Resources The refuge and neighboring State lands represent the largest contiguous land area in northwestern New York that is nearly free of agricultural and urban development. For many western New Yorkers seeking an aesthetically pleasing landscape to visit, the refuge offers their best opportunity within a day's drive. The interspersed of forested wetlands and uplands, shrublands, grasslands and marshes provides a picturesque backdrop for outdoor recreation activities. The abundance and diversity of wildlife associated with these habitats significantly enhances the outdoor experience. When visited in the fall of the year, the pallet of natural color provided by a variety of tree species makes this area one of the most aesthetically pleasing spots to visit in western New York.

Section 900-2.9 (b) (1) lists "potential visibility from specific significant visual resources beyond the specified study area". Testimony will show that these areas of statewide, national and local concern demand further viewshed study. Viewshed analysis that is specific to this area must be completed in leaf on and leaf off conditions and a night time study if the turbines will be lit at night. And specific mitigation plans must be made. A line of sight profile must be completed for all three of these wildlife areas.

Chapter 3 at page 3-1 to 3-3 of this document provides further description of the diverse nature of these resources:

Iroquois Refuge, Oak Orchard WMA, and Tonawanda WMA together form the 19,000-acre Tonawanda-Iroquois-Oak Orchard Wetland Complex (map 1-3). The Complex is primarily wetland habitat consisting of emergent marsh, forested wetland, wet meadow, and shrub wetland, interspersed with areas of grassland and upland hardwood forest. The Complex is an Audubon designated Important Bird Area (IBA) and a New York State designated Bird Conservation Area (BCA), providing nesting and migration habitat for a large number of birds including waterfowl, marsh birds, grassland birds, bald eagle,

cerulean warbler, and prothonotary warbler (NYSDEC 2005). Bird Conservation Region Iroquois Refuge lies within BCR 13, the Lower Great Lakes/St. Lawrence Plain (map 1-5). BCR 13 encompasses the vast, low-lying lake plain region surrounding Lake Erie and Lake Ontario, the St. Lawrence River Valley, low-lying regions between the Adirondack Mountains and the Laurentian Highlands, and upper regions of the Hudson River Valley. In addition to providing important lakeshore habitats and associated wetlands, this region was originally dominated by a mixture of oak-hickory, northern hardwood, and mixed-coniferous forests. Nearly 95 percent of the original habitat types have been lost and the landscape is now dominated by agriculture with interspersed wetlands and remnant forest stands. The BCR plays a critical role in providing important staging and migrating habitat for birds during the spring and fall migration (Hartley 2007).

3. Issue Number Three

Not all threatened species are listed as required to be included in the Net Conservation Benefit Plan

The threatened species listed in the draft permit do not include all the threatened species who migrate or nest in the area near the project. The issue of what species are included on the list that will be used to determine the Net Conservation Benefit Plan must be raised at a fact hearing. SOS will offer testimony from a variety of stakeholders that give current and historical detail of the extent of these resources, the proximity of the resources to the project, specific species and the connection between the avian resources in the wildlife areas to the adjoining lands.

Without a fact hearing on this issue the NCBP will be inadequate. The site-specific condition of locating this project 10 miles from the south shore of Lake Ontario in a migration region and in close proximity to a migratory bird stopover location raises issues of the adequacy of any compensation for wildlife harm analysis. Placing industrial wind turbines of such extensive height in migratory areas, when studies of impacts is scarce, raises presents additional issues to be addressed in a hearing.

4. Issue Number Four

There is insufficient evidence presented to determine the lighting plan. Site specific conditions merit a fact hearing if ADLS lighting is not provided.

The application and draft permit do not provide the details of the project plans for lighting on the industrial wind turbines. Evidence is offered that the height of the turbines will require that there be two lights on each turbine. 94-c 900-2.9 (d)(9)(3)(c) requires that the applicant

shall file a Notice for a Marking and Lighting Study of Aircraft Detection Lighting System(s) (ADLS) and dimmable lighting options with the FAA/Department of Defense (DOD) seeking a written determination approving the use of ADLS or other dimmable lighting option at the Project. If FAA/DOD determine that ADLS or dimmable lighting options are not appropriate for the project, or if the applicant determines installation of ADLS or dimmable lighting options are not technically feasible, the applicant shall consider other means of minimizing lighting effects, such as use of low-intensity lighting, and synchronization of lighting activation with adjoining wind farms.

Stakeholders do not have information that this application has been made and the outcome. This is crucial information and if the FAA does not approve ADLS lighting options then the negative impact to these significant resources will be immense and not reasonably able to be mitigated. This area demands the most advanced and protective lighting system available be requested and utilized. There is not sufficient information to determine if this will be done. SOS will provide testimony of harm to national and county resources if this rural region near Lake Ontario is diminished with nighttime lighting on towers of this height. And SOS would seek additional mitigation to compensate existing stakeholders.

A recent press release from Orleans County Tourism stated:

Orleans County actually fared better than the metropolitan regions due to our wide open spaces, including world class fishing, the Erie Canal, the Iroquois National Wildlife Refuge and our camping facilities. Campgrounds were filled to capacity throughout the summer. The total bed tax collected during 2020 had remained on par from 2019 collections, partially due to the popularity of Airbnb vacation rentals during the pandemic. Despite losing valuable state funding used to promote tourism in our area, we've had to adjust our sails to continue the momentum created when our department was expanded in 2018. The staff at the Tourism Promotional Agency of Orleans County had to think outside the box to market Orleans County on a limited budget in 2020 and looks forward to 2021 when new funding resources become available.

Said Orleans County Tourism Director, Dawn Borchert: “Despite the hardships of the last year, Orleans County is ready and eager to welcome back visitors and help drive New York State’s recovery efforts, especially for our local restaurants, specialty shops and attractions. National Travel and Tourism Week, the ‘Roam the Empire’ and ‘Fresh Air Adventures NY’ campaigns will remind visitors and residents of the incredible contributions of the travel industry not just to our local economy and workforce, but to our community’s identity and culture.” <https://orleanscountytourism.com/nttw-2021/>

Lakeside Beach State Park in Orleans County and Golden Hill State Park in the town of Somerset in Niagara County are listed as among the darkest skies near Rochester. This aspect of our region is a draw for visitors. <https://daytrippingroc.com/darkest-sky-near-rochester/>

Lighting is an issue that we request be raised at a fact hearing. SOS will offer testimony regarding the local impacts of nighttime lighting on tourism, hunting, photography, wildlife area usage and other activities.

The concerns about lighting and the lack of information regarding applicant plans in this regard exemplify a flaw in the large scale permitting process. Too many of the specific issues are not determined at the time of public comment and hearing. This is an additional and unreasonable burden to communities who host such projects, effectively removing any opportunity for review and comment.

5. Issue Number Five

The application and draft permit do not acknowledge Impacts to Tourism and other economic activities as a result of the project:

Section 900-2.19 (h) requires a comparison of the fiscal costs to the jurisdiction that are expected to result from the construction and operation of the facility as compared to the expected tax revenues. The current analysis provided by the applicant is not adequate as it does not factor in the impacts to tourism, hunting, birding and other wildlife uses that will be diminished as a result of the project. The presence of negative economic factors should be raised at a fact hearing. SOS will present testimony on the importance of these uses as economic factors that should be considered.

6. Issue Number Six

The site-specific proximity to the extensive wetland wilderness area should require extra review of wetlands and surface waters. All studies must be completed and permits must be obtained in a manner that protects the project area as well as national and state resources from pre-construction through decommissioning:

The draft permit fails to address the hydrology of the region – not just the project area. Water does not abide by project boundaries. The turbine sites, the wildlife management areas and the refuge are seasonally very wet areas. The Iroquois National Wildlife refuge is wet and at times floods Rte. 63 where it passes through. The proximity of the project to these habitat and wildlife resources requires an extended wetlands and groundwater study and analysis. Careful review after all permits have been obtained including the Freshwater Wetlands Act permit and Army Corp of Engineers permits is crucial for full protection of the wildlife areas and the project area.

Chapter 4 of the Iroquois National Wildlife Refuge Comprehensive Conservation Plan at page 4-55 and 4-56 state:

The refuge lies near the center of the Oak Orchard Creek watershed in a section of floodplain that is relatively flat over a large geographic area. High water events, especially in the spring, occasionally cause flooding of roadways and uplands within and around the refuge. Water restrictions (e.g., natural rock restriction in Shelby) exist downstream of the refuge within the creek which slow water movement and prolong flood events. The refuge has minimal control over the flow of Oak Orchard Creek. Some refuge impoundments are lowered in anticipation of flood events to reduce the chances of flooding State Route 63. However, the water holding capacity of refuge impoundments is only a small fraction of the overall size of the upstream watershed and runoff quickly fills impoundments to capacity. When this happens the only relief from flooding comes when downstream water levels begin to recede. The refuge will continue to function under the hydrological constraints imposed upon it due to its location within the Oak Orchard Creek watershed.

Due to the site-specific conditions of 1) close proximity to national and state wildlife areas and 2) the extent of substantial seasonal and year-round water in the region, the documents related to wetlands and surface water and other water related topics must be completed early in the permitting process and must provide assurances that the project will not add additional flooding

impacts to the refuge and wildlife areas. These permits and documents are critical to an understanding of the extent of impact and assuring proper mitigation.

The network of small wetlands and streams across the landscape is the natural infrastructure that helps us achieve resilience to climate change effects. These wetlands and streams are hydrologically connected within a common watershed. Wetlands collectively serve as ‘sponges’ that store flood waters, and streams distribute them gradually across the landscape. Only a portion of this natural infrastructure falls under state or federal jurisdiction. Since groundwater, wetlands and streams are interconnected, protecting only some of these wetlands and streams but not others, leaves our communities’ resources vulnerable to impacts – particularly in this project area. In this case this is amplified by the volume of water in the region and proximity to multiple wildlife and habitat resources. Site-specific conditions of this project require that recommendations of ecological science, wetland science, and stream / watershed best management practices be reviewed and utilized to the maximum extent possible.

Failure to address the site-specific conditions does not serve the best interests of the people of NY State and protection of our water resources. This project must utilize best management practices, and should retain the involvement and authority of NYS DEC natural resource professionals throughout the environmental impact review process and in decisions that affect wetlands and streams. The documents provided in the application raise questions about the adequacy of the review in light of these conditions.

7. Issue Number Seven

The site-specific proximity to the extensive wetland wilderness area should require extra review of invasive species management. The site-specific conditions in the draft permit fail to raise this as an issue or provide appropriate best management and mitigation measures to protect the national and state resources from pre-construction through decommissioning:

The National Refuge System has identified invasive species control as a national priority. Invasive species of concern on the refuge include purple loosestrife, common reed, black

swallow wart, non-native honeysuckles, autumn olive, oriental bittersweet, and multiflora rose. The site-specific conditions fail to set forth how these and other invasive species be managed and mitigated so that they will not be a danger to the refuge and wildlife management areas as well as the project area during all aspects and time periods of the project.

II. AN OFFER OF PROOF SPECIFYING THE WITNESS(ES), THE NATURE OF THE EVIDENCE THE PERSON EXPECTS TO PRESENT AND THE GROUNDS UPON WHICH THE ASSERTION IS MADE WITH RESPECT EACH ISSUE IDENTIFIED

SOS plans to present the following witnesses in the Heritage Wind matter. This case raises issues that may not be apparent to those who do not live, work, and recreate in Orleans County. These witnesses have knowledge of the resources that will be impacted by the project. They have seen changes over years in how people utilize these resources and they raise the aforementioned significant and substantial issues including whether the studies and proposed mitigations are sufficient given the unique and extensive local resources that would be impacted. These witnesses shall testify regarding their experiences as longtime residents in the county, the site-specific conditions that merit additional consideration and mitigation and the details of potential harm. These witnesses will each present a different aspect of the importance of these resources for the county.

The education and experience of these witnesses along with their decades of knowledge of the specific resources located near this project make their testimony a valuable contribution to the issues raised by SOS and those that may be raised by other parties.

A. Wendi Pencille

Medina, NY 14103

Wendi is a longtime resident of the area. She has used her knowledge and experience to address local development impacts to the INWR and the Atlantic Flyway (a major north-

south migratory route) for many years and has educated her community and advocated for protection of the valuable environmental resources in the INWR and the adjacent wildlife management areas.

She graduated from Cornell University in 1985 with a BS degree in Animal Science. She has spent 28 years as a New York State licensed Wildlife Rehabilitator and as a Federally licensed Wildlife Rehabilitator, specializing in birds of prey. Wendi has cared for injured bald eagles, peregrine falcons, short eared owls, and other threatened species for the NYSDEC and the USFWS. She was a consultant wildlife rehabilitator in the Ultra Swan Project that reintroduced Trumpeter Swans to the Atlantic Flyway. She has 20 years of experience as a Wildlife Educator. Wendi was a board member for the New York State Wildlife Rehabilitation Council for 9 years. She will provide pre-filed testimony on the issues raised in this petition as well as issues raised by other parties, and rebuttal testimony, provide live testimony during cross-examination if required, and otherwise assist in this proceeding.

B. Mike Elam

13021 Hanlon Rd.
Albion, NY 14411

Mike is a lifelong area resident and an avid fisherman. He has a long history of serving on the boards of several conservation groups.

As a member of the Orleans County Federation of Sportsmen's Club, he is currently the representative for Region 8 Fish and Wildlife Management Board (FWMB).

Mike has held many positions within the New York State Conservation Council (NYSCC). He served as a delegate for Orleans County for 15 years and as the Director at Large for 2 years. Currently he is the group's treasurer, serves on the Fish Committee and as the Western Lake Ontario contact person.

Mike has been president of the Finger Lakes Conservation Council (FLCC) for 9 years. He is also chairman of the Water Quality Committee for Orleans County Soil and Water. He will provide pre-filed testimony on the issues raised in this petition as well as issues raised by other parties, and rebuttal testimony, provide live testimony during cross-examination if required, and otherwise assist in this proceeding.

C. Doug Domedion

5112 Edwards Rd.
Medina, NY 14103

Doug is a longtime resident of the area and has been an active fisherman, hunter and trapper. He remains an avid photographer, primarily capturing images of birds, wildlife and scenic vistas in and around the Iroquois National Wildlife Refuge and local Wildlife Management Areas. A local newspaper, the Lockport Union Sun & Journal, carries a weekly column written by Doug called “The Great Outdoors” which chronicles many of his experiences.

When the bald eagle population was being replenished in New York State in the 1980’s, Doug assisted the two DEC employees instrumental in that effort, Peter Nye and Mike Allen. One of the state’s hacking sites (where young eagles were raised and released) was located locally in the Oak Orchard Wildlife Management Area. Doug monitored active nests and reported on his observations when Nye and Allen weren’t in the area.

Doug is a member of the Orleans County Federation of Sportsmen’s Club. Doug will provide pre-filed testimony on the issues raised in this petition as well as issues raised by other parties, and rebuttal testimony, provide live testimony during cross-examination if required, and otherwise assist in this proceeding.

D. In the event that the applicant does not install ADLS lighting, SOS would like to request an opportunity to bring additional witnesses to address the importance of the dark skies and the grave lighting impact that synchronized lighting on towers of this height would have on the region.

CONCLUSION

For the forgoing reasons, Save Ontario Shores, Inc.'s petition for party status should be granted. Save Ontario Shores looks forward to the opportunity to participate in this proceeding and hopes to have their concerns regarding this project addressed.

Dated: May 18, 2021
Rochester, New York

Respectfully Submitted,

_____/s/_____
Kate Kremer