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FACSIMILE COVER SHEET

Date: June 18, 2019

12:30 pm

TO: Name: Dalton Carr

Apex Clean Energy

FAX NO: 434 220 3712

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Transmitter: Ron Smith

COMMENTS

Reference: HAB6 testimony

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6/18/19

203 Northwest St., P.O. Box 34  
Bellevue, Ohio 44811

Apex Clean Energy  
East Main St  
Bellevue, OH 44811

Dear Sirs

As per our discussion,  
I am enclosing my written  
testimony for the Senate  
Committee regarding HR 6.

Yours,  
Ron Smith  
12199 E TR 148  
Republic OH  
44867

	<p><b>ENERGY AND PUBLIC UTILITIES COMMITTEE</b></p>
<p>Witness Form</p>	

Today's Date \_\_\_\_\_

Name: Ronald R. Smith Attorney at Law

Address: 12199 East Twp. Rd. 148  
Republic, OH 44867

Telephone: 719 483 2575

Organization Representing: Self

Testifying on Bill Number: HB 6

Testimony:  Verbal  Written  Both

Testifying As:  Proponent  Opponent  Interested Party

Are you a Registered Lobbyist?  Yes  No

Special Requests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Written testimony is a public record and may be posted on the Ohio Senate's website

Senate Energy and Public Utilities Committee,

Hundreds of rural landowners throughout the townships that encompass the Republic Wind, LLC have entered into legally binding contracts with Apex Clean Energy for the installation of wind turbines. I am one of those landowners in Thompson Township as evidenced by a deed hanging on my wall granted to my ancestors in 1832 signed by President Andrew Jackson.

There are many such family century farms that in good faith signed these agreements knowing full well any construction of wind turbines would be approved and regulated by the Ohio Power Siting Board (OPSB) (Case No. 17-2295-EL BGN.)

This Ohio farmland has seen many developments over the years, with paved roads, electric and telephone poles, radio and cell towers all of which were acceptable with rural land owners.

The contracts for the wind turbines should be no different and these private property rights cannot be interfered with by the State of Ohio by passing House Bill 6 with an amendment that would allow neighboring residents to have a referendum which would approve or reject any certification by the OPSB. (Zoning laws are already in place, if passed by the townships, for land control for the public good.)

Our forefathers set forth in the U.S. Constitution Article I Section 10, clause 1 which made it clear that the States are prohibited from passing laws "impairing the obligation of contracts".

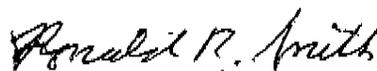
The Ohio Constitution under Article I Section 19 states "Private property shall ever be held inviolate." That means owners of private property can enter into a legal agreement without fear of it being interfered with in any way by the State. The Ohio Constitution further states under Article II Section 28 that there can be no retroactive laws or any "laws impairing the obligation of contracts".

I can state with reasonable legal certainty that the amendment in HB 6 to have township residents vote by referendum as to whether or not they approve the legal contracts allowing wind turbines, after approved by the OPSB, will not be upheld by the Courts.

As you are aware, this is not an eminent domain issue and before any private property rights are infringed upon by legislative enactment, the U.S. Supreme Court in Energy Reserves Corp v Kansas Power and Light (1983, 459US400) has set forth three criteria that must be considered.

1. The law can not substantially impair a contractual relationship
2. The State must have a significant and legitimate purpose.
3. It must be reasonable and appropriate for all its intended purposes.

With 45 years of legal experience, I am certain that the proposed legislation in HB 6 does not pass this test and should not be favorably voted on by the Senate.



Ronald R. Smith

Attorney at Law and Assistant Prosecuting  
Attorney, Retired

June 18, 2019