

# Cerullo, Datte & Burke, P.C.

ATTORNEYS AT LAW

Martin J. Cerullo  
[mccerullo@cdblaw.net](mailto:mccerullo@cdblaw.net)

Garfield Square  
450 W. Market Street  
P. O. Box 450  
Pottsville, PA 17901  
570-622-0767  
FAX 570-622-0798

January 27, 2022

The Honorable Katie Muth  
Pennsylvania State Senator  
44<sup>th</sup> District  
185 Main Capitol  
Senate Box 203044  
Harrisburg, PA 17120-3044

RE: Senate Democratic Policy Committee Meeting on Friday, January 28, 2022  
at the Request of Anthracite Ridge, LLC

Dear Senator Muth:

Our firm represents the Schuylkill County Airport Authority, which has requested that we submit comments for the above-referenced hearing. We would appreciate this correspondence being made a part of the Committee's official record.

Because the Authority has previously put some time and effort into having comments prepared about the proposed project for submission to the Hegins Township Zoning Hearing Board in connection with a proceeding it conducted to review the application Anthracite Ridge filed under that Township's Wind Energy Safety Ordinance, I am attaching the letter submitted on September 22, 2021, on behalf of the Authority. That summarizes, without needing to repeat them here, the arguments in terms of the tremendous impact that Indiantown Gap has at the Schuylkill County Airport and in the surrounding counties, and from a national defense perspective. It also highlights significant Federal expenditures, which have been accompanied by very meaningful State Department of Transportation Bureau of Aviation, and Department of Community and Economic Development funds, at the Schuylkill County Airport, the benefits of which could be undone if this wind turbine project were to significantly disrupt operations at the Airport.

In connection with the notice of the January 28 hearing, we noted that the potential economic benefits of the Anthracite Ridge projects are touted. From the standpoint of the Airport Authority Board, and many others in Schuylkill County, whatever that theoretical economic benefit may be, it pales in comparison to Indiantown Gap's existing very positive financial benefit to the Lebanon/Dauphin/Schuylkill County.

**Cerullo, Datte & Burke, P.C.**

The Honorable Katie Muth  
January 27, 2022  
Page 2

A second component of the perceived positives of the proposed project is the reference to wind as an energy source. The debate over whether this project should proceed need not be viewed as one in which the Airport Authority is opposing wind energy, per se; but more critically focuses on location. Current circumstances do not involve an abstract consideration of whether – from whatever perspective, financial, environmental, etc. – a siting choice is to be made in theory between a wind turbine project, a substantial military installation vital to national security, or a County general aviation airport. The reality of the situation is that the Fort Indiantown Gap installation has been used for National Guard training since 1933, with Muir Army Airfield part of the original massive construction of the facilities circa 1940. The Schuylkill County Airport (now Schuylkill Regional Airport) has been in operation since 1959. My client's position is that it is hard to envision any scenario under which those longstanding, substantial uses, ought to be disrupted by a wind energy project contemplated decades later.

The Schuylkill County Airport Authority wishes to express its appreciation for the opportunity to comment and have its position made part of the record for your hearing on January 28.

Very truly yours,

CERULLO, DATTE & BURKE, P.C.

By   
\_\_\_\_\_  
Martin J. Cerullo

MJC:bmk

Attachment

cc: Members, Schuylkill County Airport Authority Board  
Gareth Orme – [gareth.orme@pasenate.com](mailto:gareth.orme@pasenate.com)

# Cerullo, Datte & Burke, P.C.

ATTORNEYS AT LAW

Martin J. Cerullo  
[mcerullo@cdblaw.net](mailto:mcerullo@cdblaw.net)

Garfield Square  
450 W. Market Street  
P. O. Box 450  
Pottsville, PA 17901  
570-622-0767  
FAX 570-622-0798

September 22, 2021

Hegins Township Zoning Hearing Board  
Hegins Township Municipal Building  
421 S. Gap Street  
Valley View, PA 17983

Re: Application of Anthracite Ridge, LLC under Hegins Township  
Wind Energy Safety Ordinance – Comments on behalf of  
Schuylkill County Airport Authority

Dear Zoning Hearing Board Members:

Our firm represents the Schuylkill County Airport Authority (“SCAA”), a Pennsylvania municipal authority created by the Schuylkill County Commissioners, which owns and operates the Schuylkill County (Joe Zerbey) Airport, located in Foster and Barry Townships, Schuylkill County, Pennsylvania.

As you know, Section 4(7)(viii) of the Township’s Wind Energy Safety Ordinance (“WESO”) obligated Anthracite Ridge to provide a copy of its Application to the Airport Authority. This letter is the Airport Authority’s formal written response. The language of the WESO poses the issue of whether any proposed application under that Ordinance achieves “consistency” with each mandatory recipient of the Application. The Airport Authority’s purpose in submitting this letter is to indicate its very strongly held position that the wind turbine project proposed is not consistent with the long preexisting operation of the Schuylkill County Airport, for the reasons set forth herein and for reasons which the Authority may be able to bring out further at the hearings being held with respect to the Application. The WESO language says “The Applicant shall be required to follow all requirements and directives of those agencies...” The Airport Authority cannot find a way to have the proposed project be compatible with operation of the Airport, and so cannot offer any requirements or directives to achieve that objective. This letter highlights the incompatibility of the proposed wind turbines with aviation uses in the vicinity. The Airport Authority, and other parties, will be devoting effort at the hearings to demonstrating that Anthracite Ridge’s Application also fails to meet the Township’s WESO requirements in numerous other respects.

The Airport has enjoyed great support from the Federal Aviation Administration (“FAA”) over the years – in terms of both aviation safety regulation and funding. The FAA, the

Cerullo, Datte & Burke, P.C.

Hegins Township Zoning Hearing Board

September 22, 2021

Page 2

Pennsylvania Department of Transportation Bureau of Aviation, other PA state agencies and our County government have all made substantial investments in the Airport, which has quality physical facilities, a 5,101 foot main runway (extension to that length just completed in 2020), very favorable landing minima, etc.

The main runway of the Airport has an FAA approved VOR approach, from the Ravine VOR (referred to as "RAV"), circling over where the wind turbine project is proposed to be located, and also has approved step downs and minimum approach heights down to very favorable low levels. The turbines would be right under the approach course.

Anthracite Ridge, LLC, has applied for approval of wind turbines running quite some length through three Townships in Schuylkill County – not only Hegins but also Porter, and Frailey. The Authority understands the plan is for as many as 24 turbines in Hegins Township, at a height of approximately 500' above ground. Obviously, per FAA requirements, wherever such turbines would be sited, at those heights they would be required to be lit (with negative effect on Indiantown Gap night time military training operations, discussed more below).

At least with respect to the turbines proposed for Hegins Township, it appears beyond question that they would interfere with the preexisting approved approach to the Airport. There appears to be no way to accommodate the placement of the turbines and the existence of the Airport without at least an increase in the minima, which were obtained after significant effort by the Authority, and are very beneficial to the flying community.

The planned turbines could also affect the arrival gates for the approach starting 10-15 miles out from the Airport, and could alter the just recently updated FAA flown and approved approach to the extended main runway.

There is currently only one ground based approach to the Airport, based on the radio signal from Ravine. The proposed wind turbines are along the path of that ground based approach which is important for those who do not have GPS, which applies to a number of aircraft that would use an airport the size of the Schuylkill County Airport; or as a backup for those whose GPS might be out of service. In addition to the proposed turbines being in that flight path, the literature appears to support a conclusion that the EMP from the turbines would interfere with the radio signal. Interference with that signal might affect more than aircraft coming into Zerbey, but could interfere with the definition of the airway for other aircraft.

Additionally, the proposed placement of the towers – even though the exact sites have not yet been committed to by the developer – with the towers being lit, would be a very disruptive, if not completely nullifying, interference with the long standing use of the area between Fort Indiantown Gap and the Schuylkill County Airport for military helicopter training, particularly low level night flying exercises. To the west of the Airport, there is actually a live fire exercise

Cerullo, Datte & Burke, P.C.

Hegins Township Zoning Hearing Board

September 22, 2021

Page 3

area used by the military for training purposes which could be negatively affected by the proposed towers.

Both as a matter of national security, because the training site is the second largest helicopter training site in the Continental United States, and because the military specifically use the Schuylkill County (Joe Zerbey) Airport for exercises on a routine basis, SCAA, our County officials, and the users of the Airport, have very strong feelings against allowing the positioning of turbines such that they would interfere with Indiantown Gap helicopter training operations.

Because the Airport and the Indiantown Gap operations long pre-exist the proposed wind turbines, we are submitting this letter as a request that the Zoning Hearing Board not approve the proposed wind turbine locations or the Anthracite Ridge Application. The Authority is of the adamant opinion that the turbines would be a hazard to aviation and so want to go on record now opposing the submission of Anthracite Ridge, LLC. Safety – preservation of life, and avoiding accidents – is the Authority's first priority. The proposed turbines present a hazard not just to aircraft based at Zerbey – but to all those using our airport for personal and commercial reasons – including some significant companies/employers (Wal-Mart, Lowe's, etc.) who have facilities near our Airport which they visit regularly.

As the Township Ordinance seeks an indication from those governmental agencies which must be provided a copy of the Application as to whether the proposed project is "consistent", which presumably is a factor that would be considered favorably to approval of an application, the Airport Authority respectfully submits that the significant extent to which the proposed turbine project is **inconsistent** with ongoing operations of the Schuylkill County Airport constitutes a basis for denial of the Application.

While the Anthracite Ridge project has made a filing with the FAA seeking a determination that its proposed project does not pose a hazard to aviation, our understanding is the FAA has preliminarily indicated the project could pose a hazard to aviation. At this time, the FAA is not entertaining public comments, but we wish to advise the Board that if the time comes that the FAA does entertain public comments, the Authority will be advising the FAA of its adamant opposition to this project. In addition to the terribly negative effect the wind turbine project would have on the operations of the military and Reserve units which train from Indiantown Gap, the project would also pose peril to the safety of operations at the County Airport. Safety for all flying in the vicinity of the Airport is the single most critical interest we ask that you protect. The turbines would also place in jeopardy the benefit which has been realized over the years by millions of dollars of investment by the Federal Aviation Administration, the Pennsylvania Department of Transportation Bureau of Aviation, and the Schuylkill County government.

Cerullo, Datte & Burke, P.C.

Hegins Township Zoning Hearing Board  
September 22, 2021  
Page 4

For all the foregoing reasons, the Schuylkill County Airport Authority respectfully requests that the Board deny the Application of Anthracite Ridge.

We greatly appreciate your consideration of this correspondence.

Very truly yours,

CERULLO, DATTE & BURKE, P.C.

By   
\_\_\_\_\_  
Martin J. Cerullo

MJC:bmk

cc: Linus Fenicle, Esquire (via email and regular mail)  
Charles Haws, Esquire (via email and regular mail)  
Donald Karpowich, Esquire (via email and regular mail)  
Bruce Anders, Esquire (via email and regular mail)  
Jeffrey Wallitsch, Esquire (via email and regular mail)  
Voci Bennett, Esquire (via email and regular mail)  
Mr. William Willard, Manager, SCAA (via email and regular mail)