

Members of the Yates Town Board

Life is about decisions, and the ramifications of those decisions. As such, you are now faced with a critical decision. If approved, the vote on the Bane/APEX Special Use Permit will set the stage for massive, negative and paradigm-shifting changes for the Town of Yates and your constituents. This is one decision that is in your hands and not to be determined by the NYS Siting Board. As such, the Board needs to carefully consider the needs and concerns of the residents and taxpayers of the Town.

The Bane/APEX Special Use Permit, if approved by the Board, will begin to usher in massive and unprecedented destruction on the land, environment, wildlife, economic and social fabric that makes the Town of Yates the wonderful place it is. By approving the Bane/APEX Special Use Permit, the Board will begin presiding over the devastation that has ruined so many other wonderful places in New York State, and around the globe.

The United States Fish and Wildlife Service (USFW) sent a strong letter to APEX recommending that APEX move the project a minimum of 3 miles away from the Lake Ontario shoreline to minimize bird, bat and raptor mortality. This recommendation relies in part on recent data collection from the project area that shows high bird and bat activity in the project area directly in the path of the currently sited Lighthouse Wind project. If the Town Board approves the current location of the MET tower you are stating that you agree with the APEX decision to ignore this strong recommendation. It will limit the Board's ability to argue at a later date that the high level of bird, bat and raptor activity should preclude APEX from this 3 mile area.

The USFW guidance does not determine whether the larger project can be approved, since APEX may apply for an incidental take permit from USFW, and the agency has not determined whether such a permit can be granted for the project. However, if the town intends to participate in the PSC siting review in opposition to that siting strategy, or the USFWS permit review, its position will be adversely affected by the record of approval of APEX's MET tower, in the face of the USFW advice.

The MET Tower permitting decision is one the Board is under no obligation to make until in possession of all of the pertinent information from APEX. SOS requests that the Board hold the application until an Environmental Impact Statement (EIS) for the Lighthouse Wind project is filed. The purpose of the MET Tower is to collect data in order to determine where to place the wind turbines and perhaps to determine other aspects of the project. As such it is a Type I project and requires an EIS under SEQRA Section 617.4(7).

There has been some argument that the MET tower is a Type II action and thus exempt from an EIS. However, this exemption is not for all data collection but is for data collection that is "necessary to allow informed decisions to be made regarding the environmental impact of an action". In the same way that "test wells (can be used) to check for groundwater contamination" so MET towers can support environmental monitoring and surveillance programs to determine the air quality environmental impact of an action.

This is not the purpose of the MET tower application in this case. The data collection from the APEX/Bane MET Tower is not for the purpose of determining the environmental impact of the project but is to determine the size and siting of the towers. It is a Type I action and requires an EIS.

Additionally, It is not reasonable to approve a 190 foot MET tower for two years when there is no proof that APEX is considering Yates as part of the project site or that APEX is considering building more than a few towers in Yates. Proof that APEX is still considering the region of the MET tower application would be in the filing of the PSS. The Board should wait until that document is filed.

With a decision so critical, it is also extremely important for you to understand what your decision communicates:

1. **Town Board approval of the MET tower will confirm and support APEX's siting decision, in the face of the USFW advice.** By approving the MET tower the Town Board is not simply approving a MET Tower but is lining up future arguments in favor of the project. Any argument the town may want to make against the project will be diminished by this MET tower approval.
2. Approval of the MET tower prior to submission of the PSS that sets forth APEX's plan to include this shoreline vicinity of the Town of Yates in the Project Area will show the town's support for the project and diminish its future ability to argue against the location of the project.
3. The Town Board's premature approval of the project before all information is submitted is disrespectful to the concerned constituents who have taken the time to research, discuss, communicate with the Board,
4. The timing and decision of the Town Board will show its level of courage to do the right thing for its own constituents by at minimum collecting all of the relevant data before making a decision
5. The Board's ultimate decision will show its commitment to the heritage and future of Yates and willingness to uphold the Town Comprehensive Plan and Zoning Laws.
6. The Board's ultimate decision will show its commitment to preserving, appropriately building or destroying all that is Yates, NY

It has come to the attention of Save Ontario Shores, Inc. (SOS) that two members of the Board are meeting with Attorney Daniel Spitzer and APEX on Wednesday, June 10, 2015. We have learned that the purpose of this meeting is to obtain commitments from APEX on the following:

1. APEX decision on moving out of Yates and Orleans County due to the failure in obtaining adequate acreage for Wind Turbine Leases.
2. APEX need for a MET Tower in the Town of Yates if, in fact, they have vacated Yates and Orleans County.
3. Decision from APEX on whether they have signed the New York State Wind Industry Code of Ethics.

There are additional questions that SOS requests the Board ask APEX:

1. Is APEX planning on moving the project site 3 miles from the shoreline in response to the USFW recommendation so as to have less impact on migratory and endangered species? (If so, the current location for the MET Tower is not appropriate)
2. Is APEX planning on applying for an incidental take permit from USFW? If so, the Board should await the decisions regarding this application. If not, the Board should deny the application for the MET tower as they would be approving a project that would be in violation of Federal Law.
3. Has APEX moved the project site in response to the low number of leases signed in Orleans County?
4. What is the APEX target date for filing a PSS?
5. The Board would like to wait to see the PSS before decision regarding of the MET Tower application in order to be sure that the project is still planned in this portion of the town of Yates. Please let the Board know how APEX will be irreparably harmed by this delay – especially given the existence of a MET Tower in Somerset?
6. Does APEX anticipate that it will need a second MET tower in Orleans County? Does APEX have plans for additional MET towers in the project area? If so, where will they be located?
7. Would APEX agree to removal of the tower within 6 weeks of a determination to move the location of the Lighthouse Wind project South of the tower location? If not, why not?
8. Noting that bat data collection does not require a 190 foot MET tower, what type of data will they collect that requires the use of a 190 foot MET tower and how will this data be used?
9. The Board requires submission, for public review, the technology used in gathering wind data as well as mathematical model driving extrapolatory assessment of wind data from the proposed MET Tower (ie: How data generated at 200ft in height is used to verify wind data at 600ft in height). Is APEX going to provide this information prior to any decision on the MET Tower permit?

It is clear that the Board also has other topics to discuss with APEX and Mr. Spitzer that the public is not privy to. Disturbingly clear, as well, is that the meeting with APEX is only one day prior to the Town Board Meeting on June 11, 2015. SOS is extremely concerned about the timing of this meeting with APEX, and the Board Meeting the next night. Will the Board be able to meet as a group prior to the Board Meeting on June 11, 2015 in order to discuss the APEX meeting and Mr. Spitzer's advisement? That meeting would need to be open to the public, with notice. How will a decision be appropriately vetted prior to finalizing? Are you going to vote only one day after the APEX meeting? Why the rush?

The reason this is all extremely concerning to SOS is that we represent a growing number of your constituents - The constituents that want no part of APEX or the product they are peddling to the Towns of Yates and Somerset. As constituents, members of SOS request a meeting with the members of the Town Board after the meeting with Mr. Spitzer and APEX (neither are constituents) and 24 hours prior to the decision on the MET tower to discuss the Spitzer and APEX proposals and arguments, and APEX answers to questions so that SOS has an opportunity to respond to them.

The Board must remember that they represent all of the constituents of Yates and their interests. Do not cower at the feet of APEX, lawyers or the Town's 'Founding Fathers' (per Mr. Fisk's comments at the May Town Board Meeting). APEX and Mr. Spitzer are not constituents and the referenced "Founding

Fathers" are residents like the rest of us. They do not have more than one vote and as much as they might like to believe, they do not live on an island with which they can do anything they desire. This is not Colonial America, where only the landed aristocracy get to vote. As such the leaseholders need to wake up and join the 21st Century. We are neighbors, we used to be friends and regardless of the outcome of this industrial wind project we must live together. The destructive wedge that is 60-70 600ft high industrial wind turbines, as ushered in by the MET Tower must not see fruition.

SOS continues in its commitment to educate the Board and its constituents on the dangers and misguided logic that is the Lighthouse Wind Industrial Wind Turbine Emplacement Project. The dangers begin with premature approval of the Bane/APEX Special Use MET Tower permit.

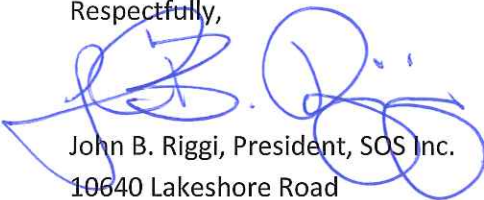
Lastly, SOS wants to ensure the Board knows the following: The decision on the Bane/APEX Special Use Permit will indelibly draw the battle lines. The question the Board must answer is this: Are you willing to exert your authority and at a minimum hold off making this decision until you have all of the necessary information? Or will you give up the one decision you have in this matter to the unreasonable fear of threat of law suit? You must exercise self-determination and reject the frivolous use of resources and the disregard for the USFW recommendation that is the Bane/APEX Special Use Permit. What side of the battle line to you want to be on?

In summary SOS asks that the Members of the Board and Supervisor do the following three things:

1. Ask APEX the additional questions listed in the letter above.
2. Meet with members of the SOS steering committee following your meeting with APEX and at least 24 hours prior to making a decision on the MET Tower; and
3. Await the Environmental Impact Statement, information regarding the USFW recommendation (regarding moving the project site and application for take permits) and the Preliminary Scoping Statement filing before making a decision regarding approval or denial of the MET Tower application; or deny the application.

Your decision.

Respectfully,



John B. Riggi, President, SOS Inc.
10640 Lakeshore Road
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CC: Roger Barth, Kate Kremer, Gary Abraham, Rob Steinhaus

As an added note: This Juvenile Bald Eagle was photographed on our property at 10640 Lakeshore Road on Friday morning, May 29, 2015. My property is less than one mile from the proposed MET Tower. The following is why we fight:



