



# Ohio Department of Natural Resources

JOHN R. KASICH, GOVERNOR

JAMES ZEHRINGER, DIRECTOR

Office of Legal Services  
Ohio Department of Natural Resources  
2045 Morse Road, Building D-3  
Columbus, OH 43229  
(614) 265-6888 Fax: (614) 265-6820

March 18, 2016

Mr. Jeffrey B. Durocher  
Senior Counsel  
Iberdrola Renewables, LLC  
112 NW Couch Street, Suite 700  
Portland, Oregon 97209

*Via E-mail: Jeffrey.Durocher@iberdrolaren.com*

Re: Iberdrola Renewables' Trade Secret Claim for Public Records Request # 1566

Dear Mr. Durocher:

As you are aware, the Black Swamp Bird Observatory made the attached public records request on July 8, 2014 for bird survey data from your facility in Van Wert and Paulding Counties. The same request was also made to the Ohio Power Siting Board ("OPSB"). Pursuant to your letter from February 21, 2013, Iberdrola asserts that these documents are trade secrets and exempt under Ohio's public records laws.

In the almost two years since we received the request and notified you, we have had several communications with you and the Black Swamp Bird Observatory. This included a meeting at your facility on January 7, 2015 where Iberdrola voluntarily agreed to work and share certain information with the Black Swamp Bird Observatory in an effort to resolve the public records request.

We are now at point where the Black Swamp Bird Observatory wants to obtain the remainder of the records from the Ohio Department of Natural Resources ("ODNR") that it was not able to voluntarily obtain from Iberdrola.

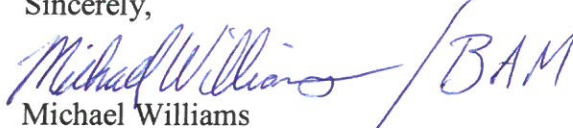
As you are aware, this office lacks the necessary knowledge to prove the elements of trade secret with respect to the various records of Iberdrola's in our possession. If a public records requester files a mandamus action to compel production of any or all of those documents, the burden of proof would be on this office (in the absence of an intervenor or a related injunction action), to show that all withheld documents or redacted parts of documents were clearly subject to the Ohio Uniform Trade Secrets Act, R.C. Chapter 1333.61, et seq.

As a courtesy and in the interest of your assertion of any intellectual property rights that you believe are implicated, I am affording your client the opportunity to seek an injunction from a court of competent jurisdiction preventing the ODNR and OPSB

from releasing the records as a trade secret. You have until April 1, 2016 to enjoin ODNR and OPSB from releasing the records. Otherwise, we will proceed with producing the records pursuant to Ohio's public records laws. Please notify me via e-mail at Michael.Williams@dnr.state.oh.us and Megan Addison of the OPSB at Megan.Addison@puc.state.oh.us of your decision.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

  
Michael Williams  
Chief Legal Counsel

cc: Mr. Peter N. Lavalette, Robison, Curphey & O'Connell,  
Ms. Megan Addison, OPSB

**From:** Kim Kaufman [<mailto:kimkaufman@bsbo.org>]

**Sent:** Tuesday, July 08, 2014 2:50 PM

**To:** Norris, Jennifer

**Subject:** Blue Creek Wind Farm FOIA

Dear Jennifer:

Black Swamp Bird Observatory would like to request bird survey data from Iberdrola Renewable's Blue Creek Wind Farm in Tully, Union, and Hoaglin Townships of Van Wert County, Ohio, and Benton, Blue Creek, and Latty Townships of Paulding County, Ohio. Can you please advise on how we can obtain these documents?

Thank you very much for your assistance in this matter.

Sincerely,

Kimberly Kaufman  
Executive Director  
Black Swamp Bird Observatory  
Oak Harbor, Ohio 43449  
419-898-4070 (Ext. 201)

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