

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN BIRD CONSERVANCY,)	CASE NO. 1:17-cv-00547-JDB
BLACK SWAMP BIRD)	
OBSERVATORY,)	RULE 41(a)(1)(A)(ii) STIPULATION OF
)	DISMISSAL
Plaintiffs,)	
)	
v.)	
)	
LISA S. DISBROW, Acting Secretary of)	
the U.S. Air Force; COLONEL ANDY)	
STEPHAN; JIM KURTH, Acting)	
Director of the U.S. Fish and Wildlife)	
Service; and RYAN ZINKE, in his)	
official capacity as Secretary of the U.S.)	
Department of the Interior,)	
)	
Defendants.)	
)	

It is agreed and stipulated to by Plaintiffs and Defendants, through undersigned counsel, as follows:

Whereas, Plaintiffs filed this lawsuit challenging on various grounds Defendants’ proposed construction of a wind turbine at Camp Perry, Ohio (“the Project”);

Whereas, in a June 13, 2017, letter to Plaintiffs’ below-signed counsel, a representative of the National Guard Bureau (Benjamin W. Lawless, P.E., Chief, Asset Management Division) represented that the Air National Guard (“ANG”) “has not rendered any final agency action which approves or otherwise authorizes the Project, and has no plans to take such action or to continue any environmental review or construction of the turbine at Camp Perry,” see Att. 1; and

Whereas, in view of ANG’s representation in its letter, the parties desire to resolve this

case in a mutually satisfactory manner;

The parties therefore agree and stipulate under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) to the dismissal of this action without a court order, and with each side to bear its own costs and attorneys' fees.

June 29, 2017

Respectfully Submitted,

/s/Eric R. Glitzenstein

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/s/ Travis J. Annatoyn

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ATTACHMENT 1



NATIONAL GUARD BUREAU
3501 FETCHET AVENUE
JOINT BASE ANDREWS MD 20762-5157

13 June 2017

Mr. Eric Glitzenstein
4115 Wisconsin Ave. NW #210
Washington, D.C. 20016

Dear Mr. Glitzenstein,

This letter is to provide your clients the most accurate and current information concerning the proposed construction of a wind turbine at Camp Perry, Ohio (the "Project"), *i.e.*, the subject of your clients' Complaint in *American Bird Conservancy v. Disbrow*, 1:17-cv-00547 (D.D.C.).

In 2006, the Ohio Air National Guard ("OHANG") initiated National Environmental Policy Act ("NEPA") proceedings related to the Project. The OHANG issued a Finding of No Significant Impact ("FONSI") regarding the Project in August 2013, and in January 2014, the Air National Guard ("ANG") withdrew the FONSI.

ANG subsequently began a second round of environmental analysis under both NEPA and the Endangered Species Act. However, ANG has not rendered any final agency action which approves or otherwise authorizes the Project, and has no plans to take such action or to continue any environmental review of construction of the turbine at Camp Perry.

Until such time as this litigation is withdrawn/dismissed, we ask that you direct all inquiries concerning the Project and its history to counsel for Defendants. If and when the litigation concludes, however, please feel free to contact the undersigned with any questions or concerns regarding future environmental analyses involving construction of the wind turbine.

Sincerely,

A handwritten signature in black ink, appearing to read "Bm Wk", with a long, sweeping horizontal stroke at the end.

Benjamin W. Lawless, P.E.
Chief, Asset Management Division