

IN THE COMMON PLEAS COURT OF BLAIR COUNTY, PENNSYLVANIA

TODD STULL AND JILL STULL,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
GAMESA ENERGY USA, LLC, and)	
ALLEGHENY RIDGE WIND FARM, LLC,)	
)	
Defendants.)	

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs, TODD STULL and JILL STULL, by their counsel, file this Complaint for Damages and Injunctive Relief against Defendants.

The Parties

1. Plaintiffs, TODD STULL and JILL STULL, are husband and wife. Dr. and Mrs. Stull own and reside at Pine Springs Lane, RD 2, Box 399, Portage, Blair County, Pennsylvania 15946.

2. Defendant, Gamesa Energy USA, LLC ("Gamesa"), is a Delaware limited liability company with its principal place of business at One South Broad Street, 20th Floor, Philadelphia, Pennsylvania 19107.

3. Defendant, Allegheny Ridge Wind Farm, LLC ("Allegheny"), is a Delaware limited liability company originally formed as a wholly-owned Gamesa subsidiary with a principal place of business at One South Broad Street, 20th Floor, Philadelphia, Pennsylvania 19107.

4. In 2007, Gamesa sold Allegheny to Babcock & Brown, a foreign corporation. Allegheny's principal office is now located at 2 Harrison Street, 6th Floor, San Francisco, California 94105-1671.

5. Defendants Gamesa and Allegheny developed an industrial wind energy facility called the Allegheny Ridge Wind Farm on lands leased from private landowners.

6. Defendant Gamesa manufactured the industrial wind energy turbines that comprise the wind energy facility.

7. Allegheny obtained the approvals and permits necessary for the construction of the wind energy facility, and is the current owner and operator of the facility.

8. This industrial wind energy facility is located in Juniata and Greenfield Townships, Blair County, and Portage, Washington and Cresson Townships, Cambria County.

9. The industrial wind energy facility consists of 30 mechanical wind turbines that generate electricity as the wind turns their giant, propeller-like blades.

10. The industrial wind turbines are 290 feet tall overall. The hub height is 200 feet and the blades are 90 feet long.

11. The industrial wind turbines began operation in 2007.

12. Plaintiffs' property, known as Pine Springs Farm, is located in Juniata and Greenfield Townships, Blair County. It consists of approximately 100 acres. Plaintiffs purchased their property in 1992 seeking a quiet, rural setting where they could raise their children, enjoy the outdoors, and retire in a tranquil setting.

13. Plaintiffs' property is bordered on the north and west by mountain ridges now occupied by industrial wind turbines manufactured by Gamesa, constructed by Gamesa and Allegheny, and now owned and operated by Allegheny.

14. Some of the industrial wind turbines are as close as 2,400 feet from Plaintiffs' home.

15. Before the wind turbines were erected, Plaintiffs' property was a quiet, rural location where the predominant sounds were those of songbirds and leaves blowing in the wind. Defendants' wind turbines have destroyed the peaceful environment formerly enjoyed by Plaintiffs and their neighbors.

16. During windy conditions, the mechanical turbines become extremely noisy. The turbine blades make a "whooshing" sound almost like jet aircraft, except that the sound is cyclical, alternating louder and softer over short intervals. The turning of the industrial wind turbine hub housings to face the wind (or otherwise) makes a piercing, screeching, metal-on-metal noise.

17. The noises from the turning turbine blades can last many hours or even days. The noises from the turning of the hub housings are of shorter duration. The noises occur during daytime and nighttime. The noises are unpredictable and are generated without notice to Plaintiffs. The noises are audible inside Plaintiffs' home, even with windows closed.

18. The turbine noises interfere with Plaintiffs' sleep. Since the operation of the industrial wind energy facility began, Plaintiffs have not been able to sleep with their windows open, and even with windows closed Plaintiffs use an indoor fan to create "white noise" in a vain effort to cancel out the noise of the mechanical turbines outside.

19. The mechanical turbines also generate disturbing, low-frequency vibrations that adversely affect the Stulls and their property. Both the audible noises and the vibrations, either individually or collectively, make Dr. Stull so uncomfortable that he often cannot sleep at night. Sometimes he goes down into an unheated cellar to try to find a quiet place to sleep.

20. Dr. Stull has experienced stress, anxiety and frequent disruptions of his sleep as a result of the noisy wind turbines.

21. The turbines' noises have a negative effect on Plaintiffs' enjoyment of their property and quality of life. The noises disrupt Plaintiffs' efforts to entertain guests on their property. The noises disturb Plaintiffs' use of their property for all outdoor family activities, including hiking, hunting and other recreation.

22. Upon information and belief, the turbines' noises have diminished Plaintiffs' property value.

23. The turbine blades also create a disturbing "flicker" effect as they turn in the light of the setting sun. This also adversely affects the Stulls and their use and enjoyment of their property, including watching birds and wildlife, and hunting.

24. In order to induce state and local officials to grant permits and approvals necessary for construction of the industrial wind project, Defendants Gamesa and Allegheny represented that the wind turbines would be quiet. Those representations were false.

25. Plaintiffs relied upon Defendants' misrepresentations, inter alia, by declining to oppose permits required for the industrial wind energy project, by declining to appeal various local and state approvals of the project, and by declining to sue to halt the project.

26. After the industrial wind energy facility was constructed, Plaintiffs complained about the turbine noises. Defendants offered various unsatisfactory explanations. Sometimes Defendants asserted that there simply were no noises. On other occasions, Defendants said that the turbine blades were defective and needed to be replaced. Defendants allegedly replaced the tape on the blades in January 2008, but the noises continued.

27. At various times, Plaintiffs have measured the noises from the turbines on Plaintiffs' property in excess of 70 decibels.

28. Defendants' conduct is ongoing, and Plaintiffs' harm is ongoing.

Count I

Trespass to Land

29. The averments of the preceding paragraphs are incorporated by reference.

30. Defendants have invaded Plaintiffs' land with noises and vibrations, and have continued to do so after being notified by Plaintiffs.

31. Defendants' invasion of Plaintiffs' land with noises and vibrations was intentional and has caused significant harm to Plaintiffs' legitimate interest in the quiet use and enjoyment of their property.

32. In the alternative, Defendants have recklessly and/or negligently caused noises and vibrations to enter upon Plaintiffs' land, causing harm to Plaintiffs and their property.

33. Upon information and belief, Defendants' invasion of Plaintiffs' land with noises and vibrations has caused diminution in the use, enjoyment and value of Plaintiffs' property.

34. As a result, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count II

Private Nuisance

35. The averments of the preceding paragraphs are incorporated by reference.

36. By constructing and operating the industrial turbines in proximity to Plaintiffs' property, Defendants have intentionally, unreasonably, negligently and/or recklessly infringed upon Plaintiffs' legitimate interest in the use and enjoyment of their home and land.

37. Defendants' conduct has caused Plaintiffs significant harm within the meaning of Pennsylvania law, of a kind that would not be tolerated by a normal person in the community, and of a kind involving more than slight inconvenience or annoyance.

38. Defendants' invasion of Plaintiffs' legitimate interest in the use and enjoyment of their home and land would be regarded by the normal person as offensive, seriously annoying, and intolerable.

39. Defendant's conduct is out of character for the quiet, rural nature of the area.

40. As a result of the nuisance created by Defendants, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count III

Public Nuisance

41. The averments of the preceding paragraphs are incorporated by reference.

42. Defendants' conduct affects the community at large, and not just Plaintiffs.

43. As a result of the public nuisance created by Defendants, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count IV

Negligence

44. The averments of the preceding paragraphs are incorporated by reference.

45. Defendants' conduct violates Defendants' duty of reasonable care to Plaintiffs.

46. As a result, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count V**Negligence Per Se**

47. The averments of the preceding paragraphs are incorporated by reference.

48. Defendants' conduct violates statutes designed to protect the interests of persons in Plaintiffs' position.

49. Upon information and belief, Defendants have violated, inter alia, Juniata Township Ordinances 51 and 52 of 2005.

50. As a result, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count VI**Punitive Damages**

51. The averments of the preceding paragraphs are incorporated by reference.

52. Defendants' conduct in obtaining permits for the industrial wind project based upon misrepresentations that the mechanical turbines would cause no noise was intentional, outrageous, willful, wanton and/or reckless and in disregard of the rights of the Stulls and the community at large.

53. Plaintiffs relied upon Defendants' misrepresentations, inter alia, by declining to oppose permits required for the industrial wind energy project, by declining to appeal various local and state approvals of the project, and by declining to sue to halt the project.

54. As a result, Plaintiffs have suffered and are continuing to suffer personal injuries, anxiety, emotional distress, disturbance, inconvenience, property damage, medical expenses and pecuniary loss.

WHEREFORE, Plaintiffs demand punitive damages against Defendants in an amount in excess of \$50,000.00, together with costs and such other and further relief as the Court deems just.

Count VII

Injunctive Relief

55. The averments of the preceding paragraphs are incorporated by reference.

56. Plaintiffs seek injunctive relief to abate the nuisance and violations caused by Defendants' design, construction and operation of the wind turbines.

57. Plaintiffs are likely to prevail on the merits.

58. Plaintiffs are suffering immediate and irreparable harm, including ongoing personal injuries, anxiety, and emotional distress.

59. Money damages or other remedies at law are inadequate. Money damages cannot restore the peace and quiet Plaintiffs enjoyed on their property before the industrial turbines were built, and cannot free Plaintiffs from the constant anxiety and physical and emotional distress they suffer as a result of Defendants' conduct. Plaintiffs should not be forced either to continue to suffer these invasions or to move out of their home.

60. A balancing of the equities weighs in Plaintiffs' favor because, inter alia, Defendants obtained permits for the industrial wind project based upon misrepresentations that the mechanical turbines would cause no noise.

61. A balancing of the equities weighs in Plaintiffs' favor because Plaintiffs relied upon Defendants' misrepresentations, inter alia, by declining to oppose permits required for the industrial wind energy project, by declining to appeal various local and state approvals of the project, and by declining to sue to halt the project.

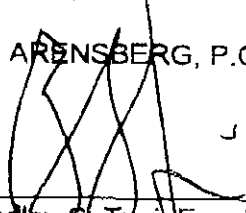
62. Consideration of the public interest weighs in Plaintiffs' favor because, inter alia, Defendants obtained permits for the industrial wind power plant complex based upon misrepresentations that the mechanical turbines would cause no noise. The industrial wind power plant complex not only affects Plaintiffs, but Plaintiffs' community.

63. Consideration of the public interest weighs in Plaintiffs' favor because Art. 1, Sec. 27 of the Pennsylvania Constitution provides that "The people have a right to clean air, pure water, and to the preservation of the natural scenic, historic, and esthetic values of the environment." Defendants' conduct has robbed Plaintiffs of the natural scenic and esthetic values of their environment at Pine Springs Farm.

WHEREFORE, Plaintiffs demand injunctive relief against Defendants to abate the nuisance caused by the offending industrial wind power turbines, together with costs and such other and further relief as the Court deems just.

TUCKER ARENSBERG, P.C.

By: _____


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