

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Petition Of BNE Energy Inc. For A
Declaratory Ruling For The
Location, Construction And Operation
Of A 3.2 Mw Wind Renewable Generating
Project On New Haven Road In Prospect,
Connecticut (“Wind Prospect”)**

Petition 980

March 14, 2011

**MOTION TO STRIKE PRE-FILED TESTIMONY
OF KURT TRAMPOSCH**

BNE Energy, Inc. (“BNE”) hereby moves to strike the pre-filed testimony of Kurt Tramposch. Save Prospect Corp. (“SPC”) has submitted the pre-filed testimony of Kurt Tramposch for the proposition that the Project will harm surface source water supply in the vicinity of the Project. The Siting Council should strike the testimony as untimely. Further, the Siting Council should strike the testimony because, although purported to be an expert’s opinion, it is nothing more than list of potential problems that could occur which are non-specific to the Project or to the Project site. Finally, as can be seen from a review of the testimony, Mr. Tramposch is not qualified to make any of the conclusions that he asserts in his testimony. Therefore, his testimony has no probative value and should be struck from the record in its entirety.

First, the testimony not filed in a timely manner. The Siting Council required all testimony to be filed by February 16, 2011. The Siting Council also required all parties to submit final witness and exhibit lists by February 16, 2011. The purpose for this deadline is for the parties to prepare for cross-examination and to prepare rebuttal testimony, if necessary. SPC failed to include Mr. Tramposch on its final witness list and failed to produce relevant testimony

regarding impacts to water sources at the original pre-filed testimony deadline. Now, at the last minute, SPC has filed this additional testimony from a previously undisclosed witness. The untimely nature of the filing unduly prejudices BNE. BNE has already begun presenting its case to the Siting Council. BNE has spent valuable resources reviewing extensive and largely irrelevant testimony filed by SPC. The Siting Council should not allow further testimony by new witnesses now. Such an allowance adds additional resource constraints on BNE which could be better served responding to legitimately filed testimony and interrogatories. Furthermore, Mr. Tramposch's testimony does not address any arguably new testimony or exhibits that have been filed by BNE since the February 16, 2011 original pre-filing deadline and therefore SPC cannot credibly argue that this testimony is rebuttal to new evidence in the record.

Second, the testimony is improper expert testimony. Mr. Tramposch opines that the Project has the potential to harm the Long Hill Reservoir. However, Mr. Tramposch provides no reasoning for this conclusion and clearly has not conducted a site specific study. Instead, he offers a series of potential harms and horrors that may possibly result from site excavation and turbine installation and proffers onerous suggested requirements. Although the opinion appears insightful at first blush, an opinion that an action has the potential to result in harm is nothing more than doomsaying. Further, the list of suggested requirements is not support for this conclusion, but an attempt to impose burdens on the Project that SPC hopes will make the Project infeasible. Pursuant to the Connecticut Supreme Court's decision in *State v. Porter*, 241 Conn. 57 (1997), SPC cannot demonstrate that Mr. Tramposch's opinions are based on reliable methodology. Mr. Tramposch fails to provide any methodology for his conclusions and his conclusions are not proper opinions.

Third and related to this, it is clear from the testimony that Mr. Tramposch is not qualified to proffer any of the baseless conclusions asserted in his testimony. Mr. Tramposch has a master's degree in public health and has studied water policy. This in no way qualifies him to render baseless opinions on: 1) impacts to wetlands, which requires a Connecticut licensed soil scientist; or 2) impacts to ground water quality, which requires a geotechnical engineer, a geologist or a hydrogeologist. In addition, it is clear from Mr. Tramposch's testimony that he has not conducted a site-specific study and unclear if he has ever even visited the site, since he makes the baseless conclusion that water will run uphill over 100 feet in elevation in order to impact private wells in the vicinity of the Project.

For the foregoing reasons, the supplemental pre-filed testimony of Mr. Tramposch should be struck in its entirety.

Respectfully Submitted,
BNE ENERGY, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing was delivered by U.S. Mail, first class postage prepaid, to all parties and intervenors of record as follows:

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