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May 25, 2011  
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Linda Roberts, Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

RE: PETITION NO. 984 - BNE Energy, Inc. petition for a  
Declaratory Ruling Wind Renewable Generating Projects/  
"Wind Colebrook North"

Dear Ms. Roberts:

Enclosed please find an original and 15 copies of the following:

1. Town of Colebrook's Proposed Findings of Fact; and
2. Post Hearing Brief of the Town of Colebrook.

Very truly yours,

  
David M. Cusick *D.M.*

DMC/vh

Encs.

Cc: Lee D. Hoffman, Esq.  
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Petition No.984 - BNE Energy, Inc. petition for a Declaratory Ruling that no Certificate of Environmental Compatibility And public Need is required for the construction, Maintenance, and operation of a 4.8 MW Wind Renewable Generating facility on Flagg Hill Road in Colebrook, Connecticut ("Wind Colebrook North")

Connecticut  
Siting  
Council  
May 25, 2011

TOWN OF COLEBROOK'S PROPOSED FINDINGS OF FACT

Introduction

1. On February 16, 2011, the Colebrook Planning and Zoning Commission ordered BNE not to construct or operate Wind Colebrook North until BNE had made suitable application to the Planning and Zoning Commission for a change in the zoning ordinances to allow such use, since such use is not permitted in a residential zone under the current planning and zoning Regulations of the Town of Colebrook. (Exhibit III B 3)

2. BNE did not appeal the foregoing order. (Record)

State Agency Comment

Municipal Consultation

State and Federal Permits

Proposed Site

3. All of the land which is the subject of this Petition is zoned Residential. (Transcript, May 5, 2011, pages 31 & 32)

4. There are two areas of commercially zoned land in Colebrook, both very modest in size, one on the perimeter of Route 44, and there are no plans to increase these

current narrow commercial zones. (Transcript, May 5, 2011, pages 27 & 40)

5. There are no industrial zones in the Town of Colebrook, nor are there any industrial properties in the Town of Colebrook. (Transcript, May 5, 2011, pages 35 & 36)

6. The number one priority when Colebrook's Plan of Conservation and Development was created was the preservation of the rural character of the Town. (Transcript, May 5, 2011, page 38)

7. With respect to a current cell tower application in Colebrook, the Town has attempted to keep such tower invisible to the ridge line in an attempt to keep the Town's rural character intact. (Transcript, May 5, 2011, pages 40 & 41)

8. Thomas Stanton, the Chairman of the Colebrook Inland Wetlands Commission, was concerned about the impact of construction activity and the presence of the access road with regard to pristine wetlands on the site, including those associated with Mill Brook. (Transcript, May 5, 2011 page 5, 32 & 33; Exhibit III. B. letter to CSC from Thomas Stanton)

**Project Description**

Proposed Access Road

Ancillary Building

Electrical Collector Yard

GE 1.6 Turbines

Rock Hall Road

9. Rock Hall Road was originally a dirt road and has no base; in 1997, a stone, sand and oil mixture was laid on top of the dirt. (Transcript, May 5, 2011, page 21)

10. Rock Hall Road is in extremely poor condition, and the Town does not have any plans to upgrade it at the present time. (Transcript, May 5, 2011, pages 33 & 34)

11. Rock Hall Road has severe cracking in the pavement, referred to as "alligatoring". (Transcript, May 5, 2011, page 266)

12. Rock Hall Road's design is inadequate to withstand heavy loads such as the three nacelles, the tower components, large gravel trucks, concrete trucks, reinforcing bar steel and erection cranes, and must be rebuilt to withstand these types of heavy load usage. (Supplemental Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 2)

13. BNE expects around 4,600 cubic yards of construction materials to be brought on-site during construction, consisting of specialized earth products such as crushed stone, gravel and rip rap. (Transcript, May 5, 2011, pages 263 & 274)

14. There will be a number of concrete trucks that will be expected to bring concrete to the site, some of which trucks are heavy and typically near the weight limit. (Transcript, May 5, 2011, page 264)

15. The heaviest load is the nacelle with a weight of over 100,000 pounds. (Transcript, May 5, 2011, page 340)

16. There will be trucks bringing equipment to the site, including the components of the wind turbines, which would also be very heavy loads. (Transcript, May 5, 2011, page 264)

17. Trailers up to 150 feet long will be required with respect to some of the wind turbine components. (Transcript, May 5, 2011, page 265)

18. The blade trailer and tractor would be 140 to 150 feet long. (Transcript, May 5, 2011, pages 339 & 340)

19. The length of the trailer for the blades is such that there would be a problem with vertical clearances along a road, if there was more than a six inch difference in elevation within 50 feet, creating a crest or a belly in the road. (Transcript, May 5, 2011, page 341)

20. BNE's engineer had concerns about the intersection of Route 44 and Rock Hall Road, as well as the intersection of Rock Hall Road with the private access road into the site, requiring a full transportation plan to be developed and those intersections would need to be studied in detail to determine the adequacy. (Transcript, May 5, 2011, pages 265 & 266)

21. The turning radius from Route 44 into Rock Hall Road is inadequate for the trucks which will deliver the wind turbine blades. (Supplemental Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 2)

#### **Facility Operation**

Capacity

Reliability

Decommissioning

22. There are numerous circumstances under which a wind turbine or a wind turbine project could be abandoned or need to be decommissioned such as (a) damaged wind turbine Nacelles or blades that are too costly to repair, (b) tower foundation failure or future unsuitability for larger more efficient wind turbine equipment, (c) wind turbine obsolescence, (d) changes in renewable portfolio standards, (e) lack of tax or financial incentives, (f) litigation, (g) the inability in the future to meet conditions of approval established by the Siting Council. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, pages 3 & 4)

23. A wind turbine should be considered abandoned and require decommissioning if it is not functioning up to its specified performance or if it is idle for a year. (Pre-

filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 4)

24. The cost to dismantle the nacelle and wind turbine tower is comparable to the cost of erection. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 6)

25. The cost of decommissioning would include the reasonable cost of evaluating the then adequacy of Rock Hall Road and the cost of road modifications, repairs and reconstruction of Rock Hall Road, if any, that may be needed as part of the decommissioning process, as well as the reasonable cost of any engineers or other outside consultants the Town might reasonably need to retain in connection with the decommissioning process. (Transcript, May 5, 2011, pages 279 & 280)

26. As part of the decommissioning process, the top ten feet of the wind turbine foundations should be chipped away and the remainder buried. (Transcript April 21, 2011, Pages 17 & 18 in Petition #983, Administratively noticed in this Petition; see Transcript May 5, 2011, pages 14 - 16)

27. It is not credible to assume that scrap value of the turbines will cover the cost of decommissioning. (Pre-filed Testimony of John D. Stamberg, P.E. dated March 15, 2011, page 7)

28. Scrap metal prices are highly volatile, depending on external economic and metal recycle demand. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 7)

29. In calculating the scrap metal value of wind turbines, the following must taken into consideration: (a) scrap metal such as steel, aluminum and copper must meet certain metal purity, cleanliness and sizing specifications, (b) the metal recycler must disassemble mixed material components such as generators or control systems, sort, degrease, remove paint and plastic material and remove wire insulation, all in accordance with air and water permits and in accordance with OSHA and fire code requirements, (c) metal recyclers must also dispose of residual plastic, non-metallic components, insulation, paint residuals, etc. and (d) the sorted metal may have to be further reduced in size by torching, grinding, breaking

or shredding. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, pages 5 & 6)

30. G&S Scrap Metal in South Windsor, CT accepts no sections larger than five feet, which would require torching the wind turbines to make the sections smaller. (Transcript April 21, 2011, Pages 18 & 19 in Petition #983, Administratively noticed in this Petition; see Transcript May 5, 2011, pages 14 - 16)

31. Because the wind turbines are proposed to be erected in a forested area, torching bolts or tower components to reduce them in size as part of the decommissioning process should not be done on site in order to avoid forest fires. Instead, the wind turbine tower should be removed as a whole piece, resulting in higher than normal transportation costs. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 5; Transcript April 21, 2011, page 18 in Petition #983, Administratively noticed in this Petition; see Transcript May 5, 2011, pages 14 - 16)

32. Once the cost of torching and delivering the wind turbine towers in five foot sections to South Windsor is considered, the scrap value for the nacelle and the tower equipment as of April 21, 2011 would be \$20,000.00 per tower, for a total net per unit of \$60,000.00 for three units (Transcript April 21, 2011, Page 19 in Petition #983, Administratively noticed in this Petition; see Transcript May 5, 2011, pages 14 - 16)

33. Decommissioning specifications must be defined in sufficient detail that a contractor would be able to bid the decommissioning work and a bonding company would be able to estimate, at least annually, the cost of decommissioning work. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 4)

34. The decommissioning specifications proposed by the Town's consultant, John B. Stamberg, P.E., entitled "Decommissioning Specifications for Wind Colebrook South and Wind Colebrook North" are appropriate. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, Exhibit JBS-2)

35. The best method to protect the Town of Colebrook, its citizens, and the State of Connecticut from

encountering any decommissioning cost would be to require BNE, or any subsequent owner or operator of the project, to annually update and provide a decommissioning performance bond, not for a certain amount, but to guarantee the full completion of the decommissioning work specified. (Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, pages 3 & 8)

36. BNE agrees that the cost of decommissioning should be borne by BNE and not by the Town of Colebrook, and does not object to the inclusion of this commitment as a condition of approval. (Transcript, May 5, 2011, pages 279 & 280)

### Public Health and Safety

#### Setbacks

#### Operational Safety

#### Noise

37. BNE agrees to perform post construction sound monitoring studies at the site at BNE's expense with such frequency and at such locations as the Siting Council might require, and to file such studies with the Siting Council, the CT DEP and the Town. (Transcript May 5, 2011, pages 281 & 282)

#### Noise Mitigations

38. If required by the Siting Council, BNE is willing to set up a fund for the mitigation of noise impacts to any of the homes in very close proximity to the wind turbines. (Transcript, May 5, 2011, page 262)

#### Visual Impact

39. It is the opinion of John Garrels, the Colebrook PZC Chairman, that the visual impact of the proposed wind

turbines would be a total violation of the rural character of the Town. (Transcript, May 5, 2011, page 23)

#### Visual Impact Mitigations

40. If required by the Siting Council, BNE is willing to set up a fund for the mitigation of visual impacts for any of the homes in very close proximity to the wind turbines. (Transcript, May 5, 2011, page 262)

#### Ice Throw/Drop

#### Ice Throw and Ice Drop Mitigations

#### Shadow Flicker

#### Fire Protection

41. BNE is prepared to purchase and install whatever optional fire suppression systems are available from GE, if made a condition of approval by the Siting Council. (Transcript, May 5, 2011, pages 280 & 281)

#### Financial Protection for the Town of Colebrook

42. BNE stated on the Record that it was committed to negotiating a Host Community Agreement with the Town of Colebrook which would address the following issues:

(a) the adequacy of Rock Hall Road to accommodate the delivery of wind turbine equipment, site materials and erection cranes; the modification and alteration of Rock Hall Road which would need to occur in order to accommodate such delivery; the restoration and repair of Rock Hall Road occasioned by such delivery; the confirmation that BNE would reimburse the Town for all costs and expenses, including engineering consultants associated with any of the foregoing;

(b) the decommissioning specifications for dismantling the wind turbines and related site improvements, including site restoration; confirmation that BNE would be responsible for the cost of all of the foregoing, including road modifications and repairs, if any, and would protect

the Town, the State of Connecticut and the Federal Government from incurring any such cost;

(c) the responsibility of the Town to review all applications for building permits and to provide oversight once the building permit or permits have been issued; the Town's need to retain engineers or other experienced professionals in order to review such applications and provide such oversight; confirmation that BNE would reimburse the Town for all such costs and expenses associated with any of the foregoing, including overtime or extra time expenses for Town officials providing such oversight; and

(d) the extent to which BNE and the Town should request that the Council include any of the foregoing provisions as conditions to the approval. (Transcript April 14, 2011, pages 29, 30 & 31 in Petition #983, Administratively noticed in this Petition)

43. No Host Community Agreement was introduced into evidence during the course of these proceedings (Record).

44. Although the Town of Colebrook furnished BNE with a proposed Host Community Agreement, BNE has not had any dialogue with the Town nor responded with any comments concerning such proposed Host Community Agreement. (Transcript, May 5, 2011, page 286)

45. BNE should be required as a condition of any approval of this Petition to reimburse the Town fully for any expense the Town may incur for the modification, repair and/or re-construction of Rock Hall Road on account of BNE's construction activities. (Supplemental Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 3; Transcript May 5, 2011, pages 267 & 268)

46. BNE has no objection to the inclusion of a preconstruction evaluation of Rock Hall Road as a condition of any approval of this Petition. (Transcript May 5, 2011, pages 270 & 271)

47. BNE agrees that the cost of any preconstruction evaluation of Rock Hall Road pertaining to the project should be an expense of BNE and has no objection to such a requirement being made a condition of any approval of this Petition. (Transcript May 5, 2011, pages 267, 270 & 271)

48. BNE is willing to pay for any road modifications or modifications of drainage facilities to Rock Hall Road and does not object to the inclusion of such a requirement as a condition of any approval of this Petition. (Transcript May 5, 2011, pages 269, 270 & 271)

49. BNE is willing to pay for the cost of any repairs or reconstruction to Rock Hall Road arising out of its construction activities, and agrees that its paying for any such repairs and reconstruction should be made a condition of any approval of this Petition. (Transcript May 5, 2011, pages 269, 270 & 271)

50. If the Town of Colebrook needs to retain an engineer or other outside consultant in connection with the evaluation of Rock Hall Road prior, during or after construction activities, BNE agrees that it should reimburse the Town for the reasonable cost of any engineer or other outside consultant. (Transcript May 5, 2011, page 270)

51. Recent building development in the Town of Colebrook is largely residential and low rise commercial, so that its building inspectors are not experienced or skilled in wind turbine engineering, construction and inspection. (Supplemental Pre-filed Testimony of John B. Stamberg, P.E. dated March 15, 2011, page 1)

52. Assuming BNE is required to obtain building permits from the Town of Colebrook, the plans relating to the construction of Wind Colebrook North will be complex enough that the Town will likely need to retain engineers or other outside consultants to assist in reviewing construction plans prior to issuing building permits. (Transcript, May 5, 2011, page 273)

53. If BNE submits an application to the Town of Colebrook for a building permit relating to the project, BNE would be willing to pay the reasonable cost incurred by the Town associated with reviewing the permit application, including the reasonable cost of the Town's retaining engineers or other outside consultants to assist the Town in reviewing construction plans prior to issuing building permits; BNE does not object to the foregoing being made a condition of approval if this Petition is approved. (Transcript May 5, 2011, pages 270, 271, 273 & 274)

54. If the Town has oversight responsibility after a building permit is issued, BNE agrees that it should be responsible for the cost of the Town's oversight responsibility including the reasonable cost of engineers and other outside consultants, if the Town needs to retain them for oversight during the construction process; BNE does not object to the foregoing being made a condition of approval if this Petition is approved. (Transcript May 5, 2011, page 270, 271, 273 & 274)

55. BNE is willing to provide third-party erosion and sedimentation inspections and furnish reports to the Siting Council and to the Town by such third-party inspector; BNE does not object to the foregoing being made a condition of approval, if its Petition is approved. (Transcript, May 5, 2011, page 277)

56. BNE agrees that once it starts construction, it will maintain a general commercial liability policy with adequate coverage for personal injuries and accidents related to such construction activity, and further agrees that it will continue to have such a policy in place during the operational phase of Wind Colebrook North and at all times keep an up-to-date Certificate of Insurance on file with the Town of Colebrook as evidence that it has such a policy in place. (Transcript, May 5, 2011, pages 274 & 275)

57. BNE indicated that the Town of Colebrook would receive significant tax revenue if the project were built, in an amount estimated at approximately \$215,000.00 per year. (Petition of December 13, 2010, Page 10; Pre-filed Testimony of Paul Corey dated March 25, 2011, Q 5, A 5; Transcript May 5, 2011, page 283)

58. BNE agreed that if the structures and equipment of Wind Colebrook North became exempt from municipal assessment and taxation, it would nonetheless make annual payments to the Town in lieu of taxes based on the value of Wind Colebrook North as determined by the Colebrook Assessor from time to time and what the taxes would have been if it were not for such exemption. (Transcript May 5, 2011, page 283)

#### Environmental Impacts

Air and Water Quality Standards

Wildlife

Amphibians and Reptiles

Mammals

Birds

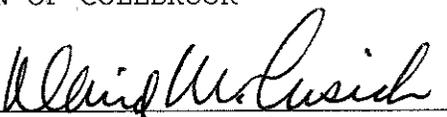
Visibility

Site Disturbance/Restoration

Wetlands

Respectfully Submitted  
TOWN OF COLEBROOK

By:



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CERTIFICATION

I hereby certify that a copy of the foregoing document was sent by U.S. mail to the following service list on the 25<sup>th</sup> day of May, 2011.

Lee D. Hoffman  
Bonnie L. Heiple  
Paul Corey  
Jeffrey and Mary Stauffer  
John R. Morissette  
Christopher R. Bernard  
Joaquina Borges King  
Richard T. Roznoy  
Nicholas J. Harding  
Emily A. Gianquinto  
Kristin M. and Benjamin C. Mow  
David R. Lawrence and Jeannie Lemelin  
Walter Zima  
Eva Villanova  
Brandy Grant

  
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David M. Cusick

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

Petition of BNE Energy, Inc. for a  
Declaratory Ruling for the Location,  
Construction and Operation of a 4.8 MW  
Wind Renewable Generating Project on  
Flagg Hill Road in Colebrook,  
Connecticut ("Wind Colebrook North")

Petition No.984

MAY 25, 2011

POST HEARING BRIEF OF THE TOWN OF COLEBROOK

Pursuant to the Council's invitation to the parties and intervenors to submit briefs and proposed findings of facts by May 20, 2011, the Town of Colebrook (the "Town") hereby submits this Post-Hearing Brief regarding the Petition for a Declaration Ruling filed by BNE Energy, Inc. ("BNE") on December 13, 2010.

A. Effect of February 16, 2011 Order of the Colebrook Planning and Zoning Commission. (the "PZC"):

Section 16-50x (a) of the Connecticut General Statutes provides that the Council's exclusive jurisdiction over the location and types of facilities is subject to the provisions of subsection (d) of Section 16-50x. Subsection (d) provides that a town zoning commission may restrict the proposed location of a facility as defined in subsection (iii) of subsection (a) of Section 16-50i, and further provides that such zoning commission may make all orders necessary in the exercise of such power to restrict, which orders shall be in writing and given to each party affected thereby.

The definition of "facility" as set forth in Section 16-50i(a) includes electric generating facilities, but does not include a facility utilizing renewable energy sources with a

generating capacity of one megawatt of electricity or less, meaning that Wind Colebrook North is considered a "facility". Accordingly, the PZC had the jurisdiction and power to restrict the location of Wind Colebrook North.

Pursuant to the provisions of Section 16-50x(d), on February 16, 2011, the PZC ordered BNE not to construct or operate Wind Colebrook North until BNE had made suitable application to the Planning and Zoning Commission for a change in the zoning ordinances to allow such use, since such use is not permitted in a Residential Zone under the current Town of Colebrook Zoning Regulations (the "February 16, 2011 Order"); see Exhibit III B. 3. Although subsection (d) of 16-50x permitted BNE to appeal the February 16, 2011 Order to this Council, there is no evidence in the Record that BNE ever appealed such Order. Since BNE never appealed the February 16, 2011 Order, such Order cannot be modified or revoked by the Siting Council as provided for in subsection (d), and remains in full force and effect.

At the least, the Council and the PZC have concurrent jurisdiction and the efficacy of the February 16, 2011 Order should be recognized by the Council in any decision rendered by it. If the Petition is approved, the modification by the PZC of the February 16, 2011 Order should be made a condition of approval (see proposed condition #1 below).

B. General Considerations:

Even though this docket is a Petition for a Declaratory Ruling, the Town believes that the Council must nonetheless

consider the criteria set forth in Section 16-50p of the Connecticut General Statutes which includes the consideration of "[t]he nature of the probably environmental impact of the facility . . . including a specification of every significant adverse effect. . . whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish aquaculture and wildlife."

C. Conditions Which Should Attach to any Approval:

The Town takes no position concerning whether BNE has satisfied its burden of proof and is entitled to the approval of its Petition. However, it is the Town's belief that, in order to protect the Town of Colebrook and its citizens (as well as the State of Connecticut), certain conditions must be attached to any Petition approval, are as follows:

1. No construction activity shall be commenced by BNE unless and until the PZC has rescinded its February 16, 2011 Order that BNE not construct or operate Wind Colebrook North.

2. If BNE elects to construct Wind Colebrook North, BNE shall retain an engineer or other competent authority to conduct a preconstruction survey of those portions of Rock Hall Road which shall be utilized during the construction of Wind Colebrook North, which survey shall

consist of video and narrative describing the then existing conditions of such highway, including all related drainage facilities. BNE and the Town shall agree upon what improvements to Rock Hall Road including drainage facilities (the "Road Modifications"), must be completed prior to the commencement of construction of Wind Colebrook North in order to accommodate all motor vehicles and equipment which may need to use Rock Hall Road in order to access the Site. Prior to the issuance of any building permit, BNE shall either make the Road Modifications to the satisfaction of the Town or shall reimburse the Town for making such Road Modifications, as the Town shall determine.

3. During BNE's construction activities concerning Wind Colebrook North, BNE shall continuously monitor the condition of that portion of Rock Hall Road used during such construction activities to confirm that the same may be safely used by the public, and shall immediately report to the Town any road repairs/reconstructions which are then required to keep Rock Hall Road in a safe and sound condition and open to the public. BNE shall either complete those repairs/reconstructions determined by the Town to be necessary to the satisfaction of the Town or

shall reimburse the Town for making such repairs/reconstructions, as the Town shall determine.

4. Engineers for BNE and the Town shall perform a post construction survey and identify any damage that has been caused to Rock Hall Road by BNE's construction activity. BNE shall either complete those repairs/reconstructions determined by the Town to be necessary to restore it to its condition existing immediately prior to BNE's commencement of construction activities to the satisfaction of the Town or shall reimburse the Town for such repairs/reconstructions, as the Town shall determine.

5. BNE shall reimburse the Town for the Town's reasonable costs and expenses in retaining engineers and/or other consultants to provide technical and professional services associated with any studies, evaluations, negotiations and all oversight in connection with conditions 1, 2 and 3 above.

6. The same procedures and requirements set forth in condition 1 through 4 above, shall apply if and when Wind Colebrook North is decommissioned as hereinafter provided.

7. BNE shall follow all State of Connecticut laws, regulations and guidelines, as the same shall be amended from time-to-time, for the control of erosion and sedimentation at all times during the construction or the decommissioning of Wind Colebrook North. BNE shall notify the Town prior to the installation of erosion and sedimentation controls and shall proceed with such installation when authorized by the Town. Once such installation is completed, BNE shall notify the Town, so that the Town can inspect the site to insure that all required erosion and sedimentation controls are in place. BNE shall perform periodic inspections and shall maintain any controls required by the erosion and sedimentation plan. At any time during construction and until the site is stabilized, the Town shall have the right to require any controls reasonably necessary, in addition to those set forth in the erosion and sedimentation plan, if in the Town's opinion, field conditions warrant such additional controls.

8. During construction of Wind Colebrook North, the Inland Wetlands Enforcement Officer shall be allowed reasonable access to the site to ensure that wetlands and water courses are not being adversely impacted.

9. During construction of Wind Colebrook North, BNE shall reimburse the Town for any reasonable payment due the Town's building official for overtime/extra time incurred on account of his/her oversight responsibilities. In addition, BNE shall reimburse the Town for the fees and expenses of all engineers and/ or other consultants retained by the Town to provide technical and professional services in order to assist the building inspector in fulfilling his/her oversight responsibilities during construction of Wind Colebrook North, including without limitation to make certain that Wind Colebrook North complies with the State of Connecticut Building Code and all applicable Federal, State and Town statutes, regulations, ordinances, rules, permits, approvals and requirements.

10. Any wind turbine selected by BNE for Wind Colebrook North shall include fire protection measures, such as automatic fire extinguishers, fire alarms and hand held fire extinguishers.

11. After Wind Colebrook North becomes operational, BNE shall conduct annual noise studies conducted in accordance with the requirements of Section 22a-69 of the Connecticut General Statutes and all regulations adopted thereunder, as the same may be amended from time-to-time. BNE shall furnish the Council and

the Town with the results of such studies by December 31<sup>st</sup> in each year, the results of which shall be public.

12. BNE shall establish, advertise and maintain a toll free telephone number where residents can make complaints regarding Wind Colebrook North on a twenty-four (24) hour a day, seven (7) day a week basis.

13. BNE shall pay for the reasonable cost to mitigate noise and visual impacts to any of the homes or properties within one mile of any of the wind turbines.

14. BNE shall decommission Wind Colebrook North or any individual wind turbine which is part of Wind Colebrook North as applicable if Wind Colebrook North or such individual wind turbine has failed to generate electricity in a significant economic amount in any calendar year. BNE shall also decommission Wind Colebrook North or any individual wind turbine which is part of Wind Colebrook North upon the order of this Council.

15. BNE shall be responsible for the decommissioning of Wind Colebrook North and for all costs associated therewith, including all costs and expenses incurred by the Town described in condition 6 above.

16. BNE shall decommission Wind Colebrook North in accordance with those specifications for decommissioning entitled "Proposed Decommissioning Specifications for Wind

Colebrook North and Wind Colebrook North", appended hereto as Exhibit 1.

17. Prior to the commencement of construction of Wind Colebrook North, BNE shall provide a decommissioning performance bond in favor of the State and Town guaranteeing against the failure of BNE to perform its decommissioning obligations in accordance with the conditions set forth herein. Such performance bond shall be without a monetary cap, shall be underwritten by a bonding company approved by the Council and shall be in form and substance in all respects satisfactory to the Council. BNE shall furnish the Council annually with a certificate issued by the bonding company or with such other written assurance satisfactory to the Council that the bond remains in full force and effect.

In lieu of such a performance bond, the Council may approve an unconditional, irrevocable written guarantee from a credit worthy Public Utility Company guaranteeing that BNE's performance of such decommissioning shall be in accordance with the provisions hereof. If such Public Utility Company shall cease to be credit worthy, the Council may notify BNE that the performance bond is then required.

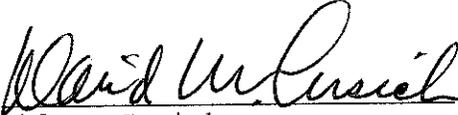
18. BNE shall indemnify and hold harmless the Town, its officials and employees from and against liability, actions, damages, claims, demands, judgments, losses, costs, expenses and fees, including reasonable and documented attorney's fees (collectively, "Losses"), including Losses for injury or death to persons or for loss or damage to property, including all claims etc. for environmental violations, and shall defend the Town, its officials and employees in court actions in connection with such Losses, whether or not finally adjudicated and including any settlement thereof, provided such Losses result from or arise out of acts of BNE or BNE's contractors, subcontractors or agents; and further provided that such Losses arise out of the construction and/or the operation of Wind Colebrook North or are the result of the failure of BNE or BNE's contractors, subcontractors or agents to comply with the provisions of this Approval.

19. At or prior to the commencement of construction of Wind Colebrook North and at all times thereafter, BNE shall, at its expense, maintain a general commercial liability and excess umbrella insurance policy with a combined total coverage limit of at least Five Million Dollars (\$5,000,000.00) or such higher coverage as the Council may from time-to-time require, with a deductible of

not more than Ten Thousand Dollars (\$10,000.00), which policy shall cover personal injuries, accidents or judgments related to Wind Colebrook North. BNE will provide proof to the Council of such insurance annually.

Respectfully submitted:

TOWN OF COLEBROOK

By:   
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CERTIFICATION

I hereby certify that a copy of the foregoing document was sent by U.S. mail or email to the following service list on the 25th day of May, 2011.

Lee D. Hoffman  
Bonnie L. Heiple  
Paul Corey  
Jeffrey and Mary Stauffer  
John R. Morissette  
Christopher R. Bernard  
Joaquina Borges King  
Richard T. Roznoy  
Nicholas J. Harding  
Emily A. Gianquinto  
Kristin M. and Benjamin C. Mow  
David R. Lawrence and Jeannie Lemelin  
Walter Zima  
Eva Villanova  
Brandy Grant

  
David M. Cusick