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October 8, 2010

Via Electronic Mail and Hand Delivery

NH Site Evaluation Committee
c/o Jane Murray, Secretary
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

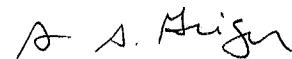
***Re: Application of Groton Wind, LLC –
SEC Docket No. 2010-10***

Dear Ms. Murray:

Enclosed for filing with the Site Evaluation Committee in the above-captioned matter, please find an original and 3 copies of the following pleadings: Applicant's Objection to Buttolph/Lewis/Spring Group of Intervenors' Motion to Allow for Participation of Expert Witness Via Teleconference or Videoconference; Applicant's Partially Contested Motion *in Limine* to Exclude the Testimony of Michael Nissenbaum; and Applicant's Contested Motion *in Limine* to Exclude the Testimony of Michael McCann.

Please contact me if you have any questions about the enclosed pleadings.
Thank you.

Very truly yours,



Susan S. Geiger

Maureen D. Smith
(Of Counsel)

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. 2010-01

**RE: APPLICATION OF GROTON WIND, LLC
FOR A CERTIFICATE OF SITE AND FACILITY
FOR A RENEWABLE ENERGY FACILITY IN GROTON, NH**

**APPLICANT'S PARTIALLY CONTESTED MOTION *IN LIMINE* TO EXCLUDE
THE TESTIMONY OF MICHAEL NISSENBAUM**

NOW COMES Groton Wind, LLC (“the Applicant”) by and through its undersigned attorneys and moves to exclude the testimony of the Buttolph/Lewis/Spring Group of Intervenors’ (“Intervenors”) witness, Michael Nissenbaum. In support of this motion, the Applicant states as follows:

1. The August 31, 2010 prefiled testimony of James Buttolph on behalf of the Buttolph/Lewis/Spring Group of Intervenors (“Intervenors”) indicates that the Intervenors have enlisted Michael Nissenbaum as an expert witness¹. Prefiled Direct Testimony of James Buttolph, p. 10 (August 31, 2010). Mr. Buttolph’s prefiled testimony states that Dr. Nissenbaum “has indicated the same concerns articulated in exhibit A for the Red Lily Wind Power Partnership would be applicable to the Groton Wind Farm.” Id. These concerns relate to “the impact of turbine sound emissions on human health.” Id.

2. Notwithstanding Mr. Buttolph’s representations about Dr. Nissenbaum’s concerns, the Intervenors have filed no documentation from Dr. Nissenbaum himself

¹Notwithstanding Mr. Buttolph’s characterization of Dr. Nissenbaum as an expert witness, it does not appear from the documents submitted that Dr. Nissenbaum has any specialized knowledge or training relating to wind turbine technology or sound. The Applicant therefore disputes Mr. Buttolph’s characterization of Dr. Nissenbaum as an expert witness.

regarding his alleged concerns about the Groton Project. The Nissenbaum documents submitted with Mr. Buttolph's prefiled testimony consist of Dr. Nissenbaum's affidavit bearing the caption of a Canadian Court proceeding, Dr. Nissenbaum's curriculum vitae, and several appendices. Notably, not one of these documents contains any information about the Groton Wind Project. As such, they are irrelevant and immaterial to the instant docket. Thus, they should be excluded from the record.

3. The Committee's receipt of evidence is governed by RSA 541-A:33 and N.H. Code R. Site 202.24. Pursuant to that statute and corresponding rule, the Committee may exclude irrelevant or immaterial evidence. RSA 541-A:33, II; N.H. Code R. Site 202.24 (b); see also Appeal of Town of Newmarket, 140 N.H. 279, 285 (1995).

4. Any testimony by Dr. Nissenbaum in accordance with his Canadian affidavit, is plainly irrelevant and immaterial. Neither the Intervenors nor Dr. Nissenbaum have submitted *any* indicia of Dr. Nissenbaum's knowledge of the Groton Project. Critically, none of the Nissenbaum documents even refer to the Groton Project.

5. Because no prefiled testimony from Dr. Nissenbaum regarding his opinions about the Groton Project has been submitted in this docket, his documents concerning his opinion about a Maine wind project (documents which were apparently filed in a Canadian court proceeding) are so far removed from the instant matter that they are clearly irrelevant and should be excluded from the record here.

6. In addition to not submitting prefiled testimony relating to the instant docket, Dr. Nissenbaum did not provide responses to the Applicant's data requests or attend technical sessions held September 27 and 28, 2010. Because these circumstances violate basic due

process principles, Dr. Nissenbaum should not be permitted to testify in person, or otherwise, at the adjudicative hearing.

7. In response to a data request from the Applicant, Mr. Buttolph indicated that although Dr. Nissenbaum was not available to answer data requests from the Applicant or to participate in the technical sessions, the Intervenor's "kept open the possibility of bringing Dr. Nissenbaum forward to participate in these proceedings at a later date." Buttolph Response to Applicant Data Request 1-18 (attached). The foregoing response indicates the possibility that the Intervenor's may bring Dr. Nissenbaum to testify in person at the adjudicative hearing. In order to avoid protracted debate at the hearing on the question of whether Dr. Nissenbaum may testify, the Applicant respectfully requests a ruling on this Motion prior to the commencement of the adjudicative hearing.

8. In accordance with Site 202.14(d), the undersigned has made a good faith effort to obtain concurrence with the relief sought herein from all of the parties. As of the time of the signing of this motion, the following parties have responded: Counsel for the Public, Senior Assistant Attorney General Peter Roth has indicated that he concurs with this Motion; James Buttolph respectfully objects; Lawrence Mazur objects; Richard Wetterer objects; and the Town of Plymouth declines to concur.

WHEREFORE, the Applicant respectfully requests that the Committee grant the following relief:

- A. Exclude from the record the Nissenbaum documents filed with Mr. Buttolph's prefiled testimony;
 - B. Bar Dr. Nissenbaum from testifying at the adjudicative hearing;
- and

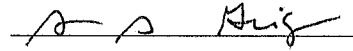
C. Grant such other and further relief as deemed just and proper.

Respectfully submitted,

Groton Wind, LLC

By Its Attorneys

Dated: October 8, 2010



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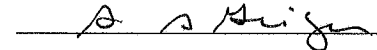
ssg@orr-reno.com

Certificate of Service

I hereby certify that, on the date written below, I caused the foregoing pleading to be sent by electronic mail or U.S. mail, postage prepaid, to the persons on the service list (exclusive of Committee members).

10/8/10

Date



Susan S. Geiger

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1-18. With reference to your prefiled testimony, page 10, where you say that you have included testimony of Michael Nissenbaum in exhibit A of your testimony and your intervenor group “announces the enlistment of Dr. Michael Nissenbaum as an expert witness”, is it your intention or that of any other member of your intervenor group to have Dr. Nissenbaum testify during the adjudicative hearings in this docket?

Answer: This announcement was made based on an agreement with Dr. Nissenbaum, securing his expert testimony in this docket. Dr. Nissenbaum indicated that the same concerns that he had previously studied relative to the Red Lily Wind Power Partnership would exist with the Groton Wind LLC project. We have just learned that a change of plans will result in Dr. Nissenbaum not being available to address the Data Requests from the Applicant or to participate in the Technical Session. We keep open the possibility of bringing Dr. Nissenbaum forward to participate in these proceedings at a later date.