



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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www.ct.gov/csc

VIA ELECTRONIC MAIL

October 29, 2019

Mr. Rick Jacobson, Bureau Chief
Department of Energy and Environmental Protection
Bureau of Natural Resources - Wildlife Division
79 Elm Street
Hartford, CT 06106-5127

RE: **PETITION NO. 983** - BNE Energy, Inc. 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 located on Flagg Hill Road, Colebrook, Connecticut. **Bird and Bat Fatality Monitoring/Mitigation Measures.**

Dear Mr. Jacobson:

The Connecticut Siting Council (Council) is in receipt of e-mail correspondence, dated October 28, 2019, from Robin Blum, Wildlife Biologist of the DEEP Wildlife Division, in response to the Council's October 8, 2019 request for written comments with regard to the above-referenced matter. A copy of the e-mail correspondence is attached for your convenience.

In the correspondence, Ms. Blum states, "I understand the Siting Council condition #4 to read that the Petitioner was to coordinate with the Wildlife Division regarding the extent of monitoring, and was to submit annual summary reports to both the Wildlife Division and the Council. However, we have not been engaged in the monitoring, and, until your email below, we had not received any of the annual summaries."

Based on the passage of over 8 years since the issuance of the Declaratory Ruling, it is probable that other representatives of the DEEP Wildlife Division were involved with this matter and coordinated the extent of the monitoring with BNE Energy, Inc. (BNE) and its environmental consultant.

For reference, Condition No. 4 of the Council's June 2, 2011 Declaratory Ruling states:

4. The Petitioner shall continue and submit ongoing bird and bat studies and perform post-construction monitoring of bats and birds to document any mortality from project operations. The extent of monitoring shall be coordinated with the DEP Wildlife Division. An annual summary of the study results shall be submitted to the Council and DEP for a period of three years with the first report due one year after commencement of operation. At the end of the three-year study period, the Council, in coordination with the DEP, will evaluate and determine if any mitigation measures should be employed to reduce bat and/or bird mortality.

Please be advised that this is a three-part condition as follows:

1. The extent of studies and post-construction monitoring shall be coordinated with the DEEP Wildlife Division;

2. An annual summary of the study results shall be submitted to the Council and DEEP for a period of three years;
3. At the end of the three-year study period, **the Council**, in coordination with DEEP, **will evaluate and determine** if any mitigation measures should be employed. (Empasis added).

With regard to the first part of the condition, after receiving the Declaratory Ruling from the Council in 2011, BNE coordinated with a representative of the DEEP Wildlife Division as to the extent of the monitoring. This is evidenced by BNE's engagement of Davison Environmental, LLC (DELLC) to conduct the bird and bat studies and post-construction monitoring. Each of the three annual reports authored by DELLC specifically state, "BNE contracted with DELLC to conduct this fatality monitoring." Each of the three annual reports authored by DELLC also specifically state, "The State of Connecticut does not currently have guidelines for studying the impacts of wind energy on wildlife. Therefore, DELLC has developed the following survey protocol based on a review of Strickland, et al, 2011..." Certainly, a professional environmental consultant such as DELLC would not have employed a survey protocol without coordinating the extent of the survey protocol with the DEEP Wildlife Division. BNE complied with the first part of the condition.

With regard to the second part of the condition, DELLC, on behalf of BNE, submitted to the Council and DEEP Bird and Bat Fatality Monitoring Reports for a period of three years (2016, 2017 and 2018) with the first report submitted one year after commencement of facility operation. BNE complied with the second part of the condition.

With regard to the third part of the condition, the Council sent correspondence to the DEEP Wildlife Division on October 8, 2019, a copy of which is also enclosed, respectfully requesting a written response by October 29, 2019 as to whether or not any mitigation measures should be employed at the site to reduce bat and/or bird mortality. On October 28, 2019, the Council received Ms. Blum's e-mail correspondence.

In the three years of submitted studies, DELLC reported 10 bat and 8 bird mortalities occurred at the site in 2016; 2 bat and 7 bird mortalities occurred at the site in 2017; and 0 bat and 3 bird mortalities occurred at the site in 2018. It appears further mitigation measures are unwarranted. However, in consideration of Ms. Blum's request for more time, the Council will delay submitting a determination to BNE until November 22, 2019.

Thank you for your attention to this important matter.

Sincerely,



Melanie A. Bachman
Executive Director

c: Council Members
Robin Blum, DEEP Wildlife Division
Jenny Dickson, DEEP Wildlife Division
Paul Corey, BNE Energy, Inc.

Enc. October 8, 2019 Council correspondence
October 28, 2019 E-mail correspondence



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October 8, 2019

Mr. Rick Jacobson, Bureau Chief
Department of Energy and Environmental Protection
Bureau of Natural Resources - Wildlife Division
79 Elm Street
Hartford, CT 06106-5127

RE: **PETITION NO. 983** - BNE Energy, Inc. 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 located on Flagg Hill Road, Colebrook, Connecticut. **Bird and Bat Fatality Monitoring/Mitigation Measures.**

Dear Mr. Jacobson:

The Connecticut Siting Council (Council) is in receipt of correspondence from BNE Energy, Inc. (BNE) dated October 7, 2019, a copy of which is enclosed for your convenience, regarding compliance with Condition No. 4 of the Council's Declaratory Ruling of June 2, 2011 for the above-referenced land-based wind electric generating facility and seeking a determination from the Council, in coordination with DEEP, as to whether or not any mitigation measures should be employed at the site to reduce bat and/or bird mortality.

Condition No. 4 of the Council's June 2, 2011 Declaratory Ruling states:

4. The Petitioner shall continue and submit ongoing bird and bat studies and perform post-construction monitoring of bats and birds to document any mortality from project operations. The extent of monitoring shall be coordinated with the DEP Wildlife Division. An annual summary of the study results shall be submitted to the Council and DEP for a period of three years with the first report due one year after commencement of operation. At the end of the three-year study period, the Council, in coordination with the DEP, will evaluate and determine if any mitigation measures should be employed to reduce bat and/or bird mortality.

The Council acknowledges that BNE submitted Bird and Bat Fatality Monitoring Reports for a period of three years (2016, 2017 and 2018) with the first report submitted one year after commencement of facility operation in compliance with Condition No. 4 of the Council's June 2, 2011 Declaratory Ruling, copies of which are enclosed, as well as posted on the Council's project webpage for Petition No. 983.



Consistent with the directive in Condition No. 4, the Council hereby respectfully requests a written response from the DEEP Wildlife Division as to whether or not any mitigation measures should be employed at the site to reduce bat and/or bird mortality. A written response by **October 29, 2019** would be greatly appreciated.

Thank you for your attention to this important matter.

Sincerely,



Melanie A. Bachman
Executive Director

c: Council Members
Robin Blum, DEEP Wildlife Division
Paul Corey, BNE Energy, Inc.

Enc. October 7, 2019 Correspondence from BNE Energy, Inc.
2016 Bird and Bat Monitoring Report
2017 Bird and Bat Monitoring Report
2018 Bird and Bat Monitoring Report

From: Blum, Robin
Sent: Monday, October 28, 2019 4:38 PM
To: Fontaine, Lisa; Bachman, Melanie
Cc: Dickson, Jenny; Jacobson, Rick
Subject: FW: CT Siting Council PE983 (BNE/Colebrook) Bird and Bat Fatality Monitoring/Mitigation Measures Letter

Thank you Lisa,

I understand the Siting Council condition #4 to read that the Petitioner was to coordinate with the Wildlife Division regarding the extent of monitoring, and was to submit annual summary reports to both the Wildlife Division and the Council. However, we have not been engaged in the monitoring, and, until your email below, we had not received any of the annual summaries.

Please understand it will take us some time to review the material and determine whether or not any mitigation measures should be employed. I will coordinate with our Division Director and provide a response as soon as we can.

Thanks much,
Robin

Robin Blum
Wildlife Biologist
Wildlife Division
Bureau of Natural Resources
Connecticut Department of Energy and Environmental Protection
209 Hebron Road, Marlborough, CT 06447
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***Conserving, improving and protecting our natural resources and environment;
Ensuring a clean, affordable, reliable, and sustainable energy supply.***

From: Fontaine, Lisa
Sent: Tuesday, October 08, 2019 9:27 AM
To: Jacobson, Rick <Rick.Jacobson@ct.gov>
Cc: Blum, Robin <Robin.Blum@ct.gov>; CSC-DL Siting Council <Siting.Council@ct.gov>; 'Hoffman, Lee D.' <LHoffman@PULLCOM.COM>; 'pcorey@bneenergy.com' <pcorey@bneenergy.com>
Subject: CT Siting Council PE983 (BNE/Colebrook) Bird and Bat Fatality Monitoring/Mitigation Measures Letter

Please see the attached correspondence.

Lisa Fontaine
Connecticut Siting Council
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New Britain, CT 06051
(860) 827-2969
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Lisa.fontaine@ct.gov