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Jaclyn Brilling, Secretary  
New York State Public Service Commission (PSC)  
Three Empire State Plaza  
Albany, NY 12223-1350  
(518) 474-7080 Fax: (518) 474-0421

Dr. Carmine F. Vasile  
60 Herbert Circle  
Patchogue, NY 11772  
June 2, 2007

**In the Matter of:**

CAITHNESS BELLPORT, LLC – Petition for a Certificate of Public Convenience and Necessity to develop, own and operate an approximately 346 Megawatt electric generating plant in the Town of Brookhaven, Suffolk County; and for an order regarding regulatory regime filed January 25, 2005 & Petition for Financing Approval filed February 10, 2006

**Notice of Violation**

of the Commission's  
November 15, 2006 Order  
PSC Case No. 05-E-0098

Dear Ms. Brilling: In further support of my May 3<sup>rd</sup> reply to your April 13<sup>th</sup> 2007 letter, please notify the Commission that construction of the Caithness Power Plant was blocked by the orders quoted in Footnote #1 from Justice Spinner's May 22<sup>nd</sup> 2007 Decision. The need for a *permanent injunction* was *rendered moot*. (Exhibit A)

I believe the Commission's November 15<sup>th</sup> 2006 Order must be amended to reflect these orders; particularly ¶2(a), pg. 38, which states: "*Caithness shall obtain all necessary federal, state, and local permits and approvals, and shall implement appropriate mitigation measures defined in such permits or approvals*".


Obtaining *local permits and approvals* in violation of SEQRA must no longer be countenanced by the Commission, which overlooked the same material facts relied upon by Justice Spinner.

I also believe Justice Spinner's decision, together with new evidence in my May 3<sup>rd</sup> response to your April 13<sup>th</sup> letter, further establishes egregious acts that were both *willful & contumacious* and hope the Commission will amend its November 15<sup>th</sup> Order to grant sanctions, costs and disbursements in favor of me and others.

Since you did not copy all parties on your April 13<sup>th</sup> 2007 letter, I did likewise. Please advise if I am required to serve a copy of this Notice on all parties.

Yours truly,

Intervenor PSC Case No. 05-E-0098

  
Dr. Carmine F. Vasile  
60 Herbert Circle, Patchogue, NY 11772  
Tel: 631-758-6271 Fax: 631-730-3918

cc: Inspector General Kristine Hamann  
Office of the State Inspector General,  
Empire State Plaza, Agency Building 2,  
16th Floor, Albany, NY 12223  
800-367-4448, Fax: 518-473-1990

Assemblyman Marc S. Alessi  
Member of Assembly  
Legislative Office Building, Rm. 326  
Albany, NY 12248  
518 455-5294, Fax: 518-455-4740

<sup>1</sup> ORDERED, therefore, that regarding Petitioners-Plaintiffs' Order to Show Cause (001):

- a. Judgment and Order, pursuant to CPLR Article 78, *cancelling annulling and invalidating the Special Permit Resolution*, with waivers and variances, adopted by Respondent-Defendant BROOKHAVEN TOWN BOARD, on July 25, 2006, is granted for the reasons set forth herein above;
- b. Judgment and Order, pursuant to CPLR Article 78, *annulling and invalidating the SEQRA Resolution of Respondent-Defendant BROOKHAVEN TOWN BOARD*, dated July 25, 2006, is granted for the reasons set forth herein above;
- c. Judgment and Order cancelling, annulling and invalidating all other Resolutions, actions and authorizations granted by Respondent-Defendant BROOKHAVEN TOWN BOARD and/or Respondent-Defendant BROOKHAVEN, for the purpose of authorizing and implementing the Caithness Project, is hereby denied for lack of specificity as to the relief sought;
- d. Judgment and Order, pursuant to CPLR 3001, granting Declaratory Judgment in favor of Petitioners-Plaintiffs as to matters with respect to the lawfulness of the procedures undertaken, the adoption of, the effectiveness and implementation of Special, the SEQRA Resolution and all other actions and authorizations granted by Respondent-Defendant BROOKHAVEN TOWN BOARD and/or Respondent-Defendant BROOKHAVEN with reference to the Caithness Project as may be required to fully adjudicate the claims and controversies recited herein, is granted solely to the specific extent set forth herein above in this decision;
- e. Judgment and Order *granting a permanent injunction* in favor of Petitioners-Plaintiffs enjoining Respondents-Defendants from implementing any approvals authorizing construction or implementation of the Caithness Project, is hereby dismissed as same *has been rendered moot* by the decision herein;
- f. Judgment and Order granting Petitioners-Plaintiffs the costs and disbursements hereof, is hereby denied, as there has been no showing that the actions of Respondents-Defendants were *willful or contumacious*, and it is further... (emphasis added)



Jaclyn Brilling, Secretary<sup>1</sup>  
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Dr. Carmine F. Vasile  
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May 3, 2007

**In the Matter of:**

CAITHNESS BELLPORT, LLC – Petition for a Certificate of Public Convenience and Necessity to develop, own and operate an approximately 346 Megawatt electric generating plant in the Town of Brookhaven, Suffolk County; and for an order regarding regulatory regime filed January 25, 2005 & Petition for Financing Approval filed February 10, 2006

**OIG Referral**

PSC Case No. 05-E-0098

Dear Ms. Brilling: In reply to your April 13<sup>th</sup> 2007 letter, please refer this matter to Inspector General Hamann pursuant to Executive Law Article 4A because someone on your staff misled you and may have been bribed by Caithness because no one can be that dumb.

**New Evidence of Waste, Fraud, Abuse & Misconduct**

In pleadings submitted to Justice Spinner, Caithness admitted they did not file for an FAA Permit for a smokestack until long after all permits had been obtained, e.g.: *“For example, Caithness never obtained a legitimate Stack-Permit from the FAA as discussed in my April 23<sup>rd</sup> Fax to this Court and my April 29<sup>th</sup> letter to the Suffolk Life Editor.”* (Quote from Exhibit A; see Exhibit B)

As a former head of NDE programs at the Rockwell International Science Center on nuclear power plant safety, which was funded by DOE & EPRI, I can say as an expert-authority that any State Public Service Commission that issues a permit for a power plant that proffered an FAA Weather Balloon Permit in lieu of a Exhaust Stack Permit should have their collective heads chopped off – figuratively speaking of course!

**Fraud Upon The FAA & PSC**

*“On the morning of the day Justice Spinner issued the aforementioned Order, I sent him a Fax informing him that Caithness didn't get their Stack Permit from the FAA until February 23, 2007 — by filing a fraudulent FAA Form 7460-1; received by the FAA on February 14, 2007. [Exhibit C]*

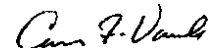
*Before February 23<sup>rd</sup> they had been passing off a Weather Balloon Permit — also obtained by filing a fraudulent FAA Form 7460-1; received by the FAA on August 8, 2004. [Exhibit D]*

*Both forms have the identical false-distance to Calabro Airport's Runway 6 — 21,791' — instead of the official distance of 18,865' on FAA Form OE Part 77 Detail. (See attached "FAA Forms 7460-1 & OE Part 77 Detail") [Exhibit E]*

*Nevertheless, Caithness blamed the FAA in pleadings to the PSC and such "patent misrepresentations" were accepted as if the PSC never before issued a power plant permit near an airport. The PSC disregarded the safety of Yaphank residents and FAA Form OE Part 77 Detail, which was made an Exhibit in a Rehearing Petition by Thomas Bermel. That's why each PSC-Commissioner should be made a defendant in Justice Spinner's Court and the case converted into a Class Action.”* (Quoted from Exhibit B)

Yours truly,

Intervenor PSC Case No. 05-E-0098



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