COMMISSION New York State Public Service Commission (PSC) 2007 JUN -4 PM 2: 24 Three Empire State Plaza Albany, NY 12223-1350 (518) 474-7080 Fax: (518) 474-0421

#### 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

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

**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 3rd reply to your April 13th 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 SEORA 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 3rd response to your April 13th letter, further establishes egregious acts that were both willful & contumacious and hope the Commission will amend its November 15th Order to grant sanctions, costs and disbursements in favor of me and others.

Since you did not copy all parties on your April 13th 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

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

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

Member of Assembly Legislative Office Building, Rm. 326 Albany, NT 12248 518 455-5294, Fax: 518-455-4740

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

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 wilful or contumacious; and it is further ... (emphasis added)

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# Comments 05-5-0098 OEE ÒGC.

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 SEORA Resolution of Respondent-Defendant BROOKHAVEN TOWN BOARD, dated July 25, 2006, is granted for the reasons set forth herein above;

Judgment and Order cancelling, annulling and invalidating all other Resolutions, actions and authorizations granted by C. 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 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;



Jaclyn Brilling, Secretary<sup>1</sup> New York State Public Service Commission (PSC) Three Empire State Plaza Albany, NY 12223-1350 (518) 474-7080 Fax: (518) 474-0421

### 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

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 <u>Weather Balloon Permit</u> in lieu of a <u>Exhaust Stack Permit</u> 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 23rd 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

Can F. Vanle

Dr. Carmine F. Vasile, Ph.D. Electrophysics 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 Hotline: 800-367-4448, Fax: 518-473-1990

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

Dr. Carmine F. Vasile 60 Herbert Circle Patchogue, NY 11772 May 3, 2007

### **OIG Referral**

PSC Case No. 05-E-0098

# New Evidence of Waste, Frand, Anne. & Miscondine

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