

**BEFORE THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application</b>	)	
<b>of Champaign Wind LLC for a</b>	)	
<b>Certificate to Install Electricity</b>	)	<b>Case No. 12-0160-EL-BGN</b>
<b>Generating Wind Turbines in</b>	)	
<b>Champaign County</b>	)	

**MEMORANDUM OF INTERVENORS UNION NEIGHBORS UNITED, INC.,  
JULIA JOHNSON, AND ROBERT AND DIANE McCONNELL ABOUT THE  
MOOTNESS OF THE MOTIONS OF INVENERGY LLC AND CHAMPAIGN WIND  
LLC TO QUASH THE BOARD’S SUBPOENA DUCES TECUM TO INVENERGY**

In discussions with counsel for Invenergy, LLC, counsel for Intervenor Union Neighbors United, Robert and Diane McConnell, and Julia Johnson (Intervenors) has learned that Invenergy no longer has the records sought by Intervenor except for a purchase agreement, its attachments, and a confidentiality agreement (collectively, the “purchase records”) effectuating the transfer of the leases or lease options for turbine sites to Champaign Wind LLC. *See* the attached message from Invenergy’s counsel. Intervenor have agreed to seek the purchase records from Champaign Wind, since the confidentiality agreement bars Invenergy from producing these records in the absence of a court order.

The subpoena to Invenergy requires Invenergy to produce only the records that are in its “possession, custody, or control.” Consequently, following Intervenor’s commitment to seek the purchase records from Champaign Wind instead of Invenergy, Invenergy has no further obligations under the subpoena. This moots Invenergy’s Motion to Quash, as well as the portion of Champaign Wind’s Motion to Quash that addressed Invenergy’s subpoena.

Respectfully submitted,

*s/ Jack A. Van Kley*

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on October 18, 2012, a copy of the foregoing was served by electronic mail on M. Howard Petricoff ([mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)); Michael J. Settineri ([mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)); Miranda Leppla ([mrleppla@vorys.com](mailto:mrleppla@vorys.com)); Chad Endsley ([cendsley@ofbf.org](mailto:cendsley@ofbf.org)), Jane Napier ([jnapier@champaignprosecutor.com](mailto:jnapier@champaignprosecutor.com)), Stephen Reilly ([Stephen.Reilly@puc.state.oh.us](mailto:Stephen.Reilly@puc.state.oh.us)), Devin Parram ([Devin.Parram@puc.state.oh.us](mailto:Devin.Parram@puc.state.oh.us)); Kurt P. Helfrich ([Kurt.Helfrich@ThompsonHine.com](mailto:Kurt.Helfrich@ThompsonHine.com)); Philip B. Sineneng ([Philip.Sineneng@ThompsonHine.com](mailto:Philip.Sineneng@ThompsonHine.com)); Ann B. Zallocco ([Ann.Zallocco@ThompsonHine.com](mailto:Ann.Zallocco@ThompsonHine.com)); G.S. Weithman ([diroflaw@ctcn.net](mailto:diroflaw@ctcn.net)); Maureen Brennan ([MBrennan@bakerlaw.com](mailto:MBrennan@bakerlaw.com)); Sally Bloomfield ([sbloomfield@bricker.com](mailto:sbloomfield@bricker.com)); Stephen Howard ([smhoward@vorys.com](mailto:smhoward@vorys.com)); and Gretchen Petrucci ([glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)).

*s/ Jack A. Van Kley*

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Jack A. Van Kley

## Jack Van Kley

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**From:** Bloomfield, Sally [sbloomfield@bricker.com]  
**Sent:** Thursday, October 18, 2012 12:24 PM  
**To:** Jack Van Kley  
**Subject:** Our conversation of yesterday regarding the subpoena to Invenergy [BRICKER-WS.FID353614]

**Importance:** High

Mr. Van Kley,

This email is responsive to our conversation this morning wherein you asked that I summarize our discussion yesterday with respect to information requested in the subpoena to Invenergy.

Invenergy has one document --- the Purchase Agreement with its exhibits.

The Purchase Agreement document included a Confidentiality Agreement in which Invenergy agreed not to disclose documents relating to anything that was asked in the subpoena except with respect to item #14.

Pursuant to the Confidentiality Agreement, Invenergy made a good faith effort to destroy any documents covered by the Confidentiality Agreement.

By way of background, the Champaign project that Invenergy was contemplating was handled from a Maryland office which has since been closed and the two commercial leads for the project are no longer with the company.

Invenergy believes that it is obligated not to disclose the Purchase Agreement unless ordered to do so by a court (administrative agencies were NOT included as an exception).

Invenergy urges Intervenors to work with Champaign Wind to obtain the documents.

With respect to item #14 relating to blade throws, counsel spoke to the Invenergy VP of Engineering who would be the person most knowledgeable about any blade throw reports that Invenergy could have. He confirmed that Invenergy has not commissioned from a third party or developed internally a study, report or other document regarding the distance that turbines blades can fly when released from wind turbines.

Sally Bloomfield



**Sally W. Bloomfield**

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/18/2012 2:27:11 PM**

**in**

**Case No(s). 12-0160-EL-BGN**

Summary: Memorandum about the Mootness of the Motions to Quash the Subpoena to Invenergy electronically filed by Mr. Jack A Van Kley on behalf of Union Neighbors United and Johnson, Julia Ms. and McConnell, Robert Mr. and McConnell, Diane Ms.