

EL18-053

Christina Kilby

[REDACTED]

Burnsville, MN 55306

[REDACTED]

[REDACTED]

It was really difficult to decide what to talk about tonight because there are so many issues. But tonight, I just want to ask that throughout this whole process, you please remember the big picture - these landowners. These landowners are spending many many hours and in some cases, thousands and thousands of dollars, for one purpose: to protect the safe use and enjoyment of their land.

It is stressful, wearing and often overwhelming. This is a David and Goliath situation and the whole system is stacked against them.

That system includes:

1. **Unconscionable contracts** - that prevent many people in the county from being able to speak out against the project;
2. **Deuel County ordinances** - that for some reason protect the county more from cell phone towers than the onslaught of these giant turbines; and
3. **County officials -according to publicly recorded documents**, there were six county officials who had signed agreements with wind companies prior to voting on wind related issues.

And then there is Invenergy. A company with questionable business practices that include leading some people to believe their neighbors had signed up when in fact they had not, and other convenient misstatements of fact.

They have included cover letters with their contracts that seem to encourage people to not *actually* read the whole contract.

And from a case in Oregon, involving Invenergy's Willow Creek project, Williams v. Invenergy, US District Court, Portland Division, Case No. 2:13-CV-01391-AC, according to Judge John Acosta's Opinion and Order dated April 28, 2016,

Invenergy engaged in deception, and continued to operate knowing they were violating state mandated noise standards

InvEnergy's Willow Creek project went operational in early 2008, and individuals living nearby immediately began complaining about noise and vibration, and health problems. Studies done as early as March 2009 showed noise exceedances. Judge Acosta found Invenergy employed deceptive and manipulative testing methods. One email showed Invenergy or their agent chose not to report certain noise data because by their own admission, 'it was going to give them heartburn.' Judge Acosta also found that Invenergy's employees or agents made deceptive statements to landowners about what the noise standards were in an attempt to get them to drop their complaints.

And this is the company we are supposed to trust to not only honestly report bird and bat carcass counts but adhere to all other regulations imposed on them?

This shows that Invenergy does not play by the rules, and instead of fixing the problem, they force the property owners to endure over seven years of noise exceedances and the accompanying sleep disturbances and health issues - as well as litigation. Everything this company says and does should be questioned.

In another case, *Andre v. Invenergy*, filed August 5, 2014 in Wyoming County, NY, index number 46912, **fifty-seven** Plaintiffs filed a lawsuit against Invenergy for trespass, nuisance, negligence, for damage to property, loss of value of property and adverse affects on their health, wellbeing, and quality of life. That case is currently awaiting a jury trial.

These are the types of problems you would be inviting into South Dakota by granting this permit to Invenergy. These landowners are having to go up against Invenergy's teams of attorneys and paid experts with seemingly unlimited budgets.

Expecting landowners to have to go through all of this in order to protect their vested rights in the enjoyment of their property is an unfair and undue burden.

Who should have the right to decide that someone else should have to endure the noise, infrasound, and shadow flicker that comes from these giant turbines?

Invenergy routinely threatens that if regulations are adopted that would adequately protect people, the project may no longer be viable.

It is not the duty of Deuel County or the PUC to maximize Invenergy's profits, and I think it is about time we call them on their threat, because their profits should **not** come at the expense of South Dakota's unwilling landowners.

Thank you,

Christina Kilby

