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CONNECTICUT
SITING COUNCIL

June 10, 2009

By Email and First Class Mail

Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

RE: Docket 378

To The Connecticut Siting Council:

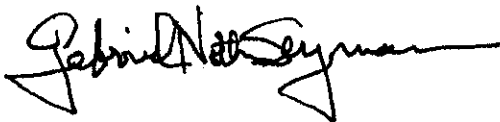
We have received a copy of the letter from SBA's counsel dated June 10, 2009 asserting that the Council no longer has jurisdiction over Docket 378. This is a baseless claim, as the Siting Council has an obligation to all parties and the public to resolve pending issues raised before it. An applicant may not simply cut off Siting Council consideration of pending motions and arguments that the applicant does not like, simply by sending a letter of withdrawal. This is a basic principle of just and fair process by public agencies. Voluntary withdrawal or cessation of challenged conduct does not halt all other elements of the proceeding:

A defendant's voluntary cessation of a challenged practice ordinarily does not deprive a federal court of its power to determine the legality of the practice. City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283, 289, 102 S.Ct. 1070, 71 L.Ed.2d 152. If it did, courts would be compelled to leave the defendant free to return to its old ways. Thus, the standard for determining whether a case has been mooted by the defendant's voluntary conduct is stringent: A case might become moot if subsequent events make it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur. United States v. Concentrated Phosphate Export Assn., 393 U.S. 199, 203, 89 S.Ct. 361, 21 L.Ed.2d 344. The heavy burden of persuading the court that the challenged conduct cannot reasonably be expected to recur lies with the party asserting mootness. Ibid.

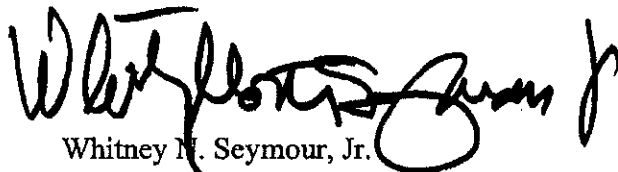
Friends of the Earth v. Laidlaw, 528 U.S. 167, 169 (2000)

The First Amendment to the US Constitution through operation of the Fourteenth Amendment guarantees to every citizen access to government agencies "for redress of grievances." A number of citizens have now asserted their grievances to the Council and, having opened these proceedings, the Connecticut Siting Council is constitutionally obligated to address and resolve them. Any contrary view violates these citizens' equal protection and due process rights.

Respectfully,



Gabriel North Seymour
Counsel to CROWW



Whitney N. Seymour, Jr.
Counsel to CROWW
pro hac vice

cc. All Parties and Intervenors