

Good morning,

Citizens in Québec have witnessed that the wind development in the world is done without respect for the citizens or the territory chosen by the promoters. Citizens everywhere consider much of the development proposed in the world to have been done hastily without having in hands the information necessary to make this development sustainable, therefore viable and liveable for the people. Lack of transparency, lack of independent studies, lack of judgement is to be found everywhere. Hopefully your commission will make a picture of this file based on numbers gathered honestly by independent bodies, testimony of citizens, ethic and decency.

You will find [enclosed] the testimony of a group in Québec, Canada, that stands by the citizens of Australia, whom we met in some case in person.

Mireille Bonin
Terre citoyenne
Québec

Citizens, guardians of their territories at the forefront of the evolution of civil rights.

Introduction:

From everywhere on the planet, from Australia to Canada, citizens are in contact and work together to protect their territories from the invasion of the wind industry that infringes the privacy of their lives and occupies their territories, as the wind industry has no respect for citizens or for the intrinsic value of the territories they pick to abuse their welcome.

We support the citizens of Australia and their experience resemble ours in the matter of the development of the wind industry. Internet has brought us together and we even go meet one another to support each other. Citizens from Québec were present at the Mont St-Michel in France to help French citizens protect it. Citizens from Australia were present at Picton Ontario for the First Health Symposium on health related to the wind industry and people from France filed a brief in Québec to help them save a natural park invaded by the wind industry. Every group takes a specialty. Australia and Ontario are focused on health issues, France on the protection of their landscape that the whole world appreciates, and here in Québec, we focus on civil rights. Here is the aspect of our civic contribution for the protection of the territories and the people who live in it for the future generations.

Civil rights:

Quebec citizens have been fighting for their land from the beginning of the colonisation, as land is at the heart of the development of a People. Over the years, that protection of

the land has evolved to extend to the protection of a territory not only for the quality of life of its residents but for the interest citizens maintain in the development of the area where they live. This guardianship does not only involve owners of land but the residents of a larger territory that people call home.

With the simultaneous development in Québec of the energy strategy where land is being occupied by the industry of the wind turbines, gas, uranium and pipelines, mostly in the St-Laurence Valley where 80% of the population of Québec lives, citizens are standing up against abusive use of property rights that allow the owner of a property to establish on his land superficies rights to the benefit of any industry, of any size, anywhere. These industries are very bad neighbours as the use of those superficies rights go beyond the limit of tolerance of citizens, as they suffer annoyances that are not normal for the area where they live. This is contrary to the Civil code of Québec and citizens suffering these abuses are determined to have their rights recognized in Court.

The Supreme Court of Canada in a 2008 decision in *Ciment St-Laurent* ([2008] 3 R.C.S. 392, 2008 CSC 64), has recognized that citizens had to be compensated when a “neighbour” is using the land in an abnormal way according to the nature or location of the land or local customs, whether a fault has been committed or not. The owner of the land and the owner of the superficies are both responsible for the peace and quiet of the area and they have to compensate their neighbours for the trouble they cause them.

In the case of the wind industry for example, building towers of 126 meters high, constructing on average 44 km of new roads per project, in quiet rural area, on mountains, on agricultural land, in touristic areas, is not a normal way of using the land. Who would like to be the neighbour of such a tower building?

What is worse though is that in the wind energy file, to name only that one, citizens are brought one against the other with the tender of offers model, where there are winners and there are losers, where some get royalties for the use of their land while others get annoyed by it without compensation. Citizens are getting ready to sue their neighbours and the promoters that use the land in such an abnormal way, to make sure that the civil rights of individuals include the limits to this right of property. These cases will bring the law to evolve and limit the rights of property. Collective rights will have to be respected, the territory protected from abnormal use and the neighbours compensated for abnormal use of the land.

Democratic rights:

Citizens expect that their institutions will respect their right to be heard, to have full access to the information and that the separation of power in our country be respected. In the case of Major Resource and Energy Development, it looks like the whole system works to favour the developer, including institutions such as administrative tribunals, municipal bodies, elected provincial representatives and the civil service. Official authorisation are given by the government on projects that are still debated before

tribunals, rendering decisions of the tribunals useless and putting the whole system in disrepute. Statutes such as *the Loi sur le développement durable* is meant as a permit to pollute and the *Loi sur la Protection du territoire et des activités agricoles* is used as a way to substract agricultural land from the protection of the Statute and allow the promoter to do big industrial business instead of cultivating the land. Citizens may be heard at the very end of the process through the hearings of the Bureau des audiences publiques en environnement (BAPE), but this is all very academic since all permits are already signed, municipalities and the Municipalités régionales de comtés (MRC) under contract with the promoters. The BAPE has never stopped any project, since it is an extension of the arm of the government. People loose confidence in their institutions and this reduces the stability and certitude on our land. You never know what might appear on your door step, for which you have no control over even though you may have a legitimate piece of property. When the protection of the territory is based on instruments controlled by the government and that government in turn favours the industry, there are no guardians of our territory, except for the citizens. This guardianship is a role that citizens are ready to play until there are independent institutions that can protect our land from the use and abuse of our natural resources by developers who will continue to take our land until we have tools to protect it.

Conclusion:

On a citizen's point of view, the Energy file uses its lobby powers as a hostile take over on our rural land. Citizens feel under occupation and react as such: by resistance. This is bad for the economy, bad for the people and bad for any future development.

Citizens demand to be part of the decision making when decisions touch their land. Aboriginal People have gained that right in the Supreme Court of Canada. Québec People request the same. We are people of the land, of the river and of the mountains. We have traditional knowledge of our land and we expect to be part of the development proposed on our territories. We want to benefit from it as well, should the industrial development be the best use of our land and we will look to be compensated when the development will be abnormal and abusive.

Our civil law will have to evolve to limit the property rights that allow owners of land to abuse their right in selling land to just about anyone without looking into the collective rights on a given territory. Our Civil code is aging. It will need to adapt to new values where citizens want to protect their territories for future generations against industrial developments that would in the end make us abandon rural communities into the hands of multinationals that would not hesitate to make deserts of it all as it happened elsewhere.

Terre citoyenne
By Mireille Bonin
Québec, Canada
418-523-5022
www.terrecitoyenne.qc.ca