

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL

3
4 Docket No. 497

5 Burlington Solar One, LLC application for a
6 Certificate of Environmental Compatibility and
7 Public Need for the construction, maintenance, and
8 operation of a 3.5-megawatt-AC solar photovoltaic
9 electric generating facility located at Lot 33,
10 Prospect Street, Burlington, Connecticut, and
11 associated electrical interconnection.

12
13 VIA ZOOM AND TELECONFERENCE

14
15 Public Hearing held on Tuesday, March 23, 2021,
16 beginning at 2 p.m. via remote access.

17
18
19 H e l d B e f o r e :

20 JOHN MORISSETTE, Presiding Officer

21
22
23
24
25 Reporter: Lisa L. Warner, CSR #061

1 **A p p e a r a n c e s :**

2 **Council Members:**

3 **ROBERT HANNON**
4 Designee for Commissioner Katie Dykes
5 Department of Energy and Environmental
6 Protection

7 **QUAT NGUYEN**
8 Designee for Chairman Marissa Paslick
9 Gillett, Public Utilities Regulatory
10 Authority

11 **ROBERT SILVESTRI**

12 **MICHAEL HARDER**

13 **EDWARD EDELSON**

14 **Council Staff:**

15 **MELANIE BACHMAN, ESQ.**
16 Executive Director and
17 Staff Attorney

18 **MICHAEL PERRONE**
19 Siting Analyst

20 **LISA FONTAINE**
21 Fiscal Administrative Officer

22 **For Burlington Solar One, LLC:**
23 **PULLMAN & COMLEY, LLC**
24 90 State House Square
25 Hartford, Connecticut 06103-3702
 BY: LEE D. HOFFMAN, ESQ.

Also present: Aaron Demarest, Zoom co-host

****All participants were present via remote access.**

1 MR. MORISSETTE: Ladies and gentlemen,
2 this remote public hearing is called to order,
3 this Tuesday, March 23, 2021 at 2 p.m. My name is
4 John Morissette, member and presiding officer of
5 the Connecticut Siting Council. Other members of
6 the Council are Robert Hannon, designee for
7 Commissioner Katie Dykes, Department of Energy and
8 Environmental Protection; Quat Nguyen, designee
9 for Chairman Marissa Paslick Gillett, Public
10 Utilities Regulatory Authority; Robert Silvestri;
11 Michael Harder; Ed Edelson and Daniel P. Lynch,
12 Jr.

13 Members of the staff are Melanie
14 Bachman, executive director and staff attorney;
15 Michael Perrone, siting analyst; and Lisa
16 Fontaine, fiscal administrative officer.

17 As everyone is aware, there is
18 currently a statewide effort to prevent the spread
19 of the Coronavirus. This is why the Council is
20 holding this remote public hearing, and we ask for
21 your patience. If you haven't done so already, I
22 ask that everyone please mute their computer audio
23 and/or telephones now.

24 This hearing is held pursuant to the
25 provisions of Title 16 of the Connecticut General

1 Statutes and of the Uniform Administrative
2 Procedure Act upon an application from Burlington
3 Solar One, LLC for a Certificate of Environmental
4 Compatibility and Public Need for the
5 construction, maintenance, and operation of a
6 3.5-megawatt-AC solar photovoltaic electric
7 generating facility located at Lot 33, Prospect
8 Street, Burlington, Connecticut. This application
9 was received by the Council on January 22nd.

10 The Council's legal notice of the date
11 and time of this remote public hearing was
12 published in the Hartford Courant on February 18,
13 2021. Upon the Council's request, the applicant
14 erected a sign near the proposed access road
15 entering the subject property from Prospect Street
16 so as to inform the public of the name of the
17 applicant, the type of the facility, the remote
18 public hearing date, and contact information for
19 the Council, website and phone number.

20 As a reminder to all, off-the-record
21 communication with a member of the Council or a
22 member of the Council staff upon the merits of
23 this application is prohibited by law.

24 The parties and intervenors to the
25 proceeding are as follows: The applicant is

1 Burlington Solar One, LLC, represented by Lee D.
2 Hoffman, Esq. with Pullman & Comley, LLC.

3 We will proceed in accordance with the
4 proposed prepared agenda, a copy of which is
5 available on the Council's Docket No. 497 webpage,
6 along with the record of this matter, the public
7 hearing notice, instructions for public access to
8 this remote public hearing, and the Council's
9 Citizens Guide to Siting Council Procedures.

10 Interested persons may join any session of this
11 public hearing to listen, but no public comments
12 will be received during the 2 p.m. evidentiary
13 session. At the end of the evidentiary session,
14 we will recess until 6:30 for the public comment
15 session.

16 Please be advised that any person may
17 be removed from the remote evidentiary session or
18 public comment session at the discretion of the
19 Council.

20 The 6:30 p.m. public comment session is
21 reserved for the public to make brief statements
22 into the record. I wish to note that the
23 applicant, parties and intervenors, including
24 their representatives, witnesses and members, are
25 not allowed to participate in the public comment

1 session. I also wish to note for those who are
2 listening and for the benefit of your friends and
3 neighbors who are unable to join us for the remote
4 public comment session that you or they may send
5 written comments to the Council within 30 days of
6 the date hereof either by by mail or by email, and
7 such written statements will be given the same
8 weight as if spoken during the remote public
9 comment session.

10 A verbatim transcript of this remote
11 public hearing will be posted on the Council's
12 Docket No. 497 webpage and deposited with the
13 Burlington Town Clerk's Office for the convenience
14 of the public.

15 Please be advised that the Council does
16 not issue permits for stormwater management. If
17 the proposed project is approved by the Council, a
18 Department of Energy and Environmental Protection
19 (DEEP) Stormwater Permit is independently
20 required. DEEP could hold a public hearing on any
21 stormwater permit application.

22 Please also be advised that the
23 Council's project evaluation criteria under the
24 statute does not include consideration of property
25 values.

1 The Council will take a 10 to 15 minute
2 break at a convenient juncture at around 3:30.

3 At this point, we have a motion by the
4 applicant filed on March 5, 2021. The applicant
5 submitted a motion to install eastern box turtle
6 exclusionary fencing around the perimeter of the
7 project.

8 Attorney Bachman may wish to comment.

9 MS. BACHMAN: Thank you, Mr.
10 Morissette. On March 5th the petitioner submitted
11 a motion to install the eastern box turtle, or
12 EBT, exclusion fencing at the proposed project
13 site due to seasonal restrictions of the EBT life
14 cycle. The EBT is a state Special Concern
15 Species. The intent is to install the fence by
16 April 1 prior to the EBT emergence from
17 hibernation, as recommended by DEEP and the
18 petitioner's EBT protection plan which is under
19 the application, Appendix J, and attached to the
20 motion. Also, Figure 5 of Appendix D to the
21 application depicts the EBT fence limits, capture
22 zone, and the relocation zone.

23 EBT hibernate from October to April and
24 return to the same place to hibernate annually.
25 During the June 2020 survey, five EBT were

1 captured along the western boundary of the host
2 parcel outside of the proposed project site.
3 Portions of the fence are also to be installed on
4 areas of the host parcel that are not part of the
5 proposed solar project site.

6 First, under Connecticut General
7 Statute Section 16-50k(a) states in relevant part,
8 no person shall commence site preparation without
9 having first obtained a certificate from the
10 Council.

11 Second, it's unclear whether the
12 installation of the fence would adversely impact
13 the EBT if the proposed solar project were to be
14 denied, for example, with the installation of the
15 fence or the implementation of the protection plan
16 just unnecessarily displace and traumatize the
17 EBT.

18 And third, neither the Council nor DEEP
19 would have jurisdiction over the proposed site or
20 the host parcel if the solar project were to be
21 denied; therefore, staff recommends that the
22 motion be denied. Thank you.

23 MR. MORISSETTE: Thank you, Attorney
24 Bachman.

25 Is there a motion?

1 MR. EDELSON: This is Ed Edelson. I'll
2 make the motion, look for a second.

3 MR. MORISSETTE: Mr. Edelson, the
4 motion to deny or approve?

5 MR. EDELSON: The motion that the
6 applicant move forward, so I'll put it forward in
7 the positive of enabling them to erect the
8 proposed fencing to protect the emerging EBT.

9 MR. MORISSETTE: So we have a motion to
10 approve the motion submitted by the applicant.

11 Do we have a second?

12 (No response.)

13 MR. MORISSETTE: Do we have a second?

14 (No response.)

15 MR. MORISSETTE: It appears we do not
16 have a second for the motion to approve.

17 MR. HARDER: Mr. Morissette?

18 MR. MORISSETTE: Yes, Mr. Harder.

19 MR. HARDER: If I were to second the
20 motion for the purpose of bringing it to a vote,
21 that doesn't in any way bind me to vote one way or
22 the other, I assume, does it?

23 MR. MORISSETTE: I don't believe so,
24 but I'll ask Attorney Bachman to provide an
25 opinion on that.

1 MS. BACHMAN: Mr. Harder, you could
2 certainly make a second for discussion purposes
3 just to get the matter on the table, but it
4 certainly is not binding on your vote.

5 MR. HARDER: Thank you. In that case,
6 I'll second the motion for discussion purposes.

7 MR. MORISSETTE: Okay. So we have a
8 motion by Mr. Edelson and a second by Mr. Harder,
9 and we'll now move to discussion.

10 Starting with Mr. Silvestri, do you
11 have any discussion?

12 MR. SILVESTRI: Thank you, Mr.
13 Morissette. Let me say, I'm all in favor for
14 protecting the eastern box turtle, but I wonder if
15 approving this motion really sends the wrong
16 message that the project would be approved and
17 going along with the concerns that Attorney
18 Bachman had raised. From my standpoint with the
19 new knowledge and also with the mining operations,
20 I keep questioning that wouldn't the landowner be
21 protective and cordon off the sensitive areas to
22 strike a balance between nature and the operations
23 that are going on there now? But at this point, I
24 don't want to send the wrong message that this
25 project could be approved by approving this. I

1 would let sleeping turtles, hibernating turtles
2 lie at this point, and I would vote against the
3 motion for approval.

4 MR. MORISSETTE: Thank you, Mr.
5 Silvestri.

6 Mr. Edelson, any discussion?

7 MR. EDELSON: Yes. I mean, the reason
8 I put it forward is I found myself really torn by
9 Attorney Bachman's description on the -- it
10 started out, I feel like this was a proactive type
11 activity. I did not see it as taking a position
12 one way or another on the project but, as I said,
13 a proactive protective measure that the applicant
14 wanted to take. If we had been approving this
15 project or reviewing this project two, three
16 months ago, then probably this fencing would have
17 been put in place per the application. So we have
18 sort of a weird -- not weird, but we have a
19 particular timing situation which creates the
20 conundrum that I find myself in.

21 And I'm trying, I guess, to evaluate in
22 my own mind how serious a problem I see the
23 staff's concerns are, in other words, that if the,
24 if I understand correctly, the fencing is
25 established or the scenario that's of concern, the

1 fencing is established, the application is denied,
2 and then for some reason I think the staff is
3 concerned the applicant would leave the fencing up
4 there and abandon the site, and that would be the
5 end of it. With the little that I know about this
6 kind of fencing, I would have presumed the
7 landowner, who would then obviously -- I shouldn't
8 say obviously -- but my assumption is the lease
9 would not go forward, clearly would have the
10 option of removing the fencing. So that made me
11 think that maybe staff is overreacting a little
12 bit to the permanence of the fencing under the
13 scenario where the project is not approved.

14 So that's what I'm struggling with at
15 the moment. And I'm curious to hear how others
16 feel. I, with all due respect to Mr. Silvestri, I
17 don't feel that we would be sending a signal by
18 voting for this that we are, you know, showing the
19 public we've already decided with this vote how
20 we're going to vote on the application. To me I
21 can very easily see they're two very different
22 activities, two very separate votes that are, you
23 know, not contingent upon each other. So that's
24 my discussion at this point, and I'm still
25 struggling.

1 MR. MORISSETTE: Thank you, Mr.
2 Edelson.

3 We'll now move to Mr. Nguyen, any
4 discussion?

5 MR. NGUYEN: No specific discussion,
6 Mr. Morissette, but I would like to have an
7 opportunity to hear other Council members'
8 thoughts on this.

9 MR. MORISSETTE: Very good. Thank you.
10 We'll now hear from Mr. Hannon, any discussion?

11 MR. HANNON: To a degree, I feel the
12 same as Mr. Edelson. I'm a little conflicted
13 because my guess is with the weather approaching
14 the 70s this week, you're going to start seeing a
15 lot more activity. So it would seem putting
16 something like this in place would make sense, but
17 at the same time there is no project that has been
18 authorized for this site, and I'm not sure how
19 jurisdiction then gets played out. I mean,
20 there's no stormwater in place, there's no permit
21 from the Siting Council. So I think I would tend
22 to vote no at this point in time for installing
23 it.

24 Even though I understand the logic
25 behind it, I just think that there's still going

1 to be some problems with how this is taken with
2 other projects. I know it's not the same, but
3 we've had some issues with some projects going in
4 and clearing the site before the application even
5 comes into the agency or to the Siting Council. I
6 don't want to start going through the same process
7 with this as an issue. So I think to err on the
8 side of safety, I would say no.

9 MR. MORISSETTE: Thank you, Mr. Hannon.
10 Mr. Harder, any discussion?

11 MR. HARDER: Yes. I think it's
12 apparent that the staff is being somewhat
13 conservative. As described by Attorney Bachman, I
14 think that's appropriate in general in these kinds
15 of situations and applications that we review.
16 And I will say I have some questions and some
17 concerns about the application, and those have
18 been, I guess, amplified a little bit by some of
19 the recent submissions. So I think the staff is
20 correct in recommending denial of the motion, and
21 that's how I will be voting.

22 MR. MORISSETTE: Thank you, Mr. Harder.
23 I too have concerns associated with having the
24 work start before a certificate is in place and
25 proper jurisdiction. I do commend the applicant

1 for putting it forward to try to help protect the
2 environment, but under the circumstances, I also
3 will be voting no.

4 So we will now work through the vote.
5 Mr. Silvestri, how do you vote?

6 MR. SILVESTRI: I vote to deny the
7 motion to approve the barrier.

8 MR. MORISSETTE: Thank you, Mr.
9 Silvestri.

10 Mr. Edelson.

11 MR. EDELSON: I vote to approve the
12 motion. Thank you.

13 MR. MORISSETTE: Thank you.
14 Mr. Nguyen.

15 MR. NGUYEN: I vote to deny. Thank
16 you.

17 MR. MORISSETTE: Thank you. Mr.
18 Hannon.

19 MR. HANNON: I vote to deny the motion.

20 MR. MORISSETTE: And Mr. Harder, how do
21 you vote?

22 MR. HARDER: I vote to deny.

23 MR. MORISSETTE: And I also vote to
24 deny. Thank you. So the motion is denied.

25 And moving to agenda Item C,

1 administrative notice is taken by the Council. I
2 wish to call your attention to those items shown
3 on the hearing program marked as Roman numeral
4 I-C, Items 1 through 103 that the Council has
5 administratively noticed.

6 Does the applicant have an objection to
7 the items that the Council has administratively
8 noticed? Attorney Hoffman.

9 MR. HOFFMAN: No objection.

10 MR. MORISSETTE: Thank you, Attorney
11 Hoffman. Accordingly, the Council hereby
12 administratively notices these items.

13 (Administrative Notice Items I-C-1
14 through I-C-103: Received in evidence.)

15 MR. MORISSETTE: Item Roman numeral II,
16 will the applicant present their witness panel for
17 purposes of taking the oath. Attorney Bachman
18 will administer the oath. Thank you.

19 MR. HOFFMAN: Certainly. So Mr.
20 Morissette, thank you, and good afternoon. We
21 have in one room the bulk of our witnesses. So,
22 as we have done in sessions past where we've had
23 more than one witness, we will make sure that the
24 witnesses fully identify themselves for the court
25 reporter. We have William Herchel, who is the

1 chief executive officer of Verogy; Steven DeNino
2 who is Verogy's chief operating officer; Bryan
3 Fitzgerald, Verogy's director of development; and
4 Kyle Perry, who's the engineering manager of
5 Verogy. And with those four individuals is also
6 Robert Hiltbrand, who is the principal engineer of
7 R.R. Hiltbrand Engineers & Surveyors. And then
8 separately on the Zoom we have Eric Davison, who
9 is the wildlife biologist and owner of Davison
10 Environmental. And those are our six witnesses.

11 MR. MORISSETTE: Thank you, Attorney
12 Hoffman.

13 MS. BACHMAN: Will the witnesses please
14 raise your right hand.

15 W I L L I A M H E R C H E L,
16 S T E V E N D e N I N O,
17 B R Y A N F I T Z G E R A L D,
18 K Y L E P E R R Y,
19 R O B E R T H I L T B R A N D,
20 E R I C D A V I S O N,

21 called as witnesses, being first duly sworn
22 (remotely) by Ms. Bachman, testified on their
23 oath as follows:

24 MS. BACHMAN: Thank you.

25 MR. MORISSETTE: Thank you. Attorney

1 Hoffman, please begin by verifying all the
2 exhibits by the appropriate sworn witnesses.

3 MR. HOFFMAN: Certainly. So what I
4 would like to do is, gentlemen, there are listed
5 in the hearing program Roman numeral II, letter B,
6 there are exhibits for identification. Those
7 include the application; the applicant's response
8 of January 27, 2021 to the Council's notice of
9 incomplete letter; the affidavit of publication,
10 dated February 11, 2021; and the applicant's
11 responses to Council interrogatories, Set One,
12 dated March 16, 2021.

13 And Mr. Morissette, I would ask that we
14 add a number B-5 for the supplemental
15 interrogatory responses that were filed today with
16 the Siting Council simply so we can have the
17 witnesses verify that exhibit as well and get it
18 all done in one.

19 MR. MORISSETTE: That would be good.
20 Thank you.

21 MR. HOFFMAN: Thank you. And then also
22 what would be listed as B-5, the supplemental
23 interrogatory responses, dated March 23, 2021.
24
25

1 DIRECT EXAMINATION

2 MR. HOFFMAN: Mr. Herchel, I will start
3 with you. Did you prepare or cause to be prepared
4 the items listed in Roman numeral II-B?

5 THE WITNESS (Herchel): I did.

6 MR. HOFFMAN: And are they accurate and
7 correct to the best of your information and
8 belief?

9 THE WITNESS (Herchel): They are.

10 MR. HOFFMAN: And do you have any
11 changes to those exhibits?

12 THE WITNESS (Herchel): I do not.

13 MR. HOFFMAN: And do you adopt them as
14 your sworn testimony today?

15 THE WITNESS (Herchel): I do.

16 MR. HOFFMAN: Mr. DeNino, I'll ask the
17 same question of you. Are you familiar with the
18 items listed in Roman numeral II-B in the hearing
19 program?

20 THE WITNESS (DeNino): I am.

21 MR. HOFFMAN: And did you prepare or
22 cause those materials to be prepared?

23 THE WITNESS (DeNino): I did.

24 MR. HOFFMAN: And are they accurate to
25 the best of your knowledge and belief?

1 THE WITNESS (DeNino): They are.

2 MR. HOFFMAN: And do you have any
3 changes to those materials today?

4 THE WITNESS (DeNino): I do not.

5 MR. HOFFMAN: And do you adopt them as
6 your sworn testimony today?

7 THE WITNESS (DeNino): I do.

8 MR. HOFFMAN: Very good. Thank you.
9 Mr. Fitzgerald, the same series of questions. Are
10 you familiar with the items listed in Roman
11 numeral II-B?

12 THE WITNESS (Fitzgerald): I am.

13 MR. HOFFMAN: Did you prepare those
14 materials or cause those materials to be prepared?

15 THE WITNESS (Fitzgerald): I did.

16 MR. HOFFMAN: And are they accurate to
17 the best of your knowledge and belief?

18 THE WITNESS (Fitzgerald): They are.

19 MR. HOFFMAN: Do you have any changes
20 to them today?

21 THE WITNESS (Fitzgerald): I do not.

22 MR. HOFFMAN: And do you adopt them as
23 your sworn testimony here today?

24 THE WITNESS (Fitzgerald): I do.

25 MR. HOFFMAN: Very good. Mr. Perry,

1 are you familiar with the items listed in Roman
2 numeral II-B in the hearing program?

3 THE WITNESS (Perry): Yes, I am.

4 MR. HOFFMAN: And did you prepare those
5 materials or cause those materials to be prepared?

6 THE WITNESS (Perry): I did.

7 MR. HOFFMAN: And are they accurate to
8 the best of your knowledge and belief?

9 THE WITNESS (Perry): They are.

10 MR. HOFFMAN: And do you have any
11 changes to those materials today?

12 THE WITNESS (Perry): I do not.

13 MR. HOFFMAN: And do you adopt them as
14 your sworn testimony here today?

15 THE WITNESS (Perry): I do.

16 MR. HOFFMAN: Mr. Hiltbrand, I think
17 you can see where we're going with this. Are you
18 familiar with the items listed in Roman numeral
19 II-B in the hearing program?

20 THE WITNESS (Hiltbrand): I am.

21 MR. HOFFMAN: And did you prepare those
22 materials or cause those materials to be prepared?

23 THE WITNESS (Hiltbrand): I did.

24 MR. HOFFMAN: And are they accurate to
25 the best of your knowledge and belief?

1 THE WITNESS (Hiltbrand): They are.

2 MR. HOFFMAN: Do you have any changes
3 to those materials?

4 THE WITNESS (Hiltbrand): I do not.

5 MR. HOFFMAN: And do you adopt them as
6 your sworn testimony today?

7 THE WITNESS (Hiltbrand): I do.

8 MR. HOFFMAN: And Mr. Davison, are you
9 familiar with the materials listed in Roman
10 numeral II-B of the hearing program?

11 THE WITNESS (Davison): I am.

12 MR. HOFFMAN: And did you prepare those
13 materials or cause those materials to be prepared?

14 THE WITNESS (Davison): I did.

15 MR. HOFFMAN: And are they accurate to
16 the best of your knowledge and belief?

17 THE WITNESS (Davison): They are.

18 MR. HOFFMAN: And do you have any
19 changes to them today?

20 THE WITNESS (Davison): I do not.

21 MR. HOFFMAN: And do you adopt them as
22 your sworn testimony today?

23 THE WITNESS (Davison): I do.

24 MR. HOFFMAN: Thank you. Mr.
25 Morissette, with that, I would move that the

1 Council accept these exhibits as full exhibits for
2 admission by the Council and that we begin
3 cross-examination of the witnesses.

4 MR. MORISSETTE: Thank you, Attorney
5 Hoffman. The exhibits are hereby admitted.

6 (Applicant's Exhibits II-B-1 through
7 II-B-5: Received in evidence - described in
8 index.)

9 MR. MORISSETTE: We now will begin with
10 cross-examination of applicant by the Council
11 starting with Mr. Perrone and following by Mr.
12 Silvestri.

13 Mr. Perrone.

14 MR. PERRONE: Thank you, Mr.
15 Morissette.

16 CROSS-EXAMINATION

17 MR. PERRONE: Could the applicant
18 please summarize the modifications to the proposed
19 project that were submitted earlier today in the
20 revised site plans and revisions to the
21 interrogatory response?

22 THE WITNESS (Fitzgerald): Yes. This
23 is Bryan Fitzgerald. And I'll get started and
24 then I'll ask Rob Hiltbrand, the engineer, to step
25 in as well. So, as we mentioned in the amended

1 response to Interrogatory Number 2 that was filed
2 with the Council this morning, after a meeting
3 that was held with a number of neighbors and
4 community members approximately two weeks ago, the
5 applicant, along with our engineer, Robert
6 Hiltbrand, took to the drawing to make
7 modifications which specifically included
8 increasing the setbacks from the array area to the
9 property boundaries along the western and northern
10 sides of the array specifically. And those
11 properties are located off of Main Street and
12 Stone Road.

13 I will pull up here our actual changes
14 that were made. For example, where the project
15 parcel abuts 34 Main Street, the array setback was
16 increased from 92 feet in the original design to
17 119 feet in the second design.

18 Where the project parcel abuts 44 Main
19 Street, the array setback was increased from 62
20 feet in design 1 to 155 feet in design 2.

21 Where the project parcel abuts 48 Main
22 Street, the array setback was increased from 77
23 feet in design 1 to 189 feet in design 2.

24 Where the project parcel abuts parcel
25 MBL: 3-04-77 on the corner of Stone Road and Main

1 Street, the array setback was increased from 92
2 feet in design 1 to 209 feet in design 2.

3 And then where the project parcel abuts
4 56 Stone Road to the north, directly to the north
5 of the project, the array setback was increased
6 from 85 feet in design 1 to 206 feet in design 2.

7 And increasing these setbacks here, as
8 described on the western and northern borders,
9 will also keep intact a larger portion of the
10 forest that will remain as existing vegetation and
11 unobstructed and unhindered by the project itself.

12 Rob, do you have any comment to add on
13 that?

14 THE WITNESS (Hiltbrand): I do not.

15 MR. PERRONE: Did the applicant install
16 a sign for this project?

17 THE WITNESS (Fitzgerald): The
18 applicant installed a sign for the public notice
19 in accordance with the hearing guidelines, yes.
20 Sorry, this is Bryan Fitzgerald.

21 MR. PERRONE: Where and when was it
22 installed?

23 THE WITNESS (Fitzgerald): The sign --
24 this is Bryan Fitzgerald again. The sign was
25 installed at the entrance to the parcel where it

1 meets Prospect Street. It was installed on
2 Monday, March 8th.

3 MR. PERRONE: And what was the size of
4 the sign?

5 THE WITNESS (Fitzgerald): The sign is
6 4 feet by 6 feet.

7 MR. PERRONE: And did it contain the
8 name of the applicant, type of facility, the
9 hearing date, and contact info for the Council?

10 THE WITNESS (Fitzgerald): This is
11 Bryan Fitzgerald. And yes, it contained those
12 items.

13 MR. PERRONE: Could a sign affidavit be
14 submitted?

15 THE WITNESS (Fitzgerald): This is
16 Bryan Fitzgerald. And we do have that.

17 MR. HOFFMAN: A sign affidavit was
18 submitted. I will resubmit it while we're here
19 now. It was submitted, I want to say, a week and
20 a half ago, I believe. But yes, we have the sign
21 affidavit, and I will resubmit it to the Council
22 now.

23 MR. PERRONE: Turning to page 9 of the
24 application, Item Number 4, abutters were notified
25 of the application by certified mail. Did you

1 receive return receipts from all the abutters?

2 THE WITNESS (Fitzgerald): This is
3 Bryan Fitzgerald. We do have the -- do you happen
4 to have the numbers for the return receipts?

5 MR. HOFFMAN: I can provide those at
6 the break, Bryan. I'll give those to you.

7 THE WITNESS (Fitzgerald): Okay. Thank
8 you.

9 MR. PERRONE: Turning to page 8 of the
10 application, the applicant notes that subsequent
11 discussions with DEEP dissuaded the application
12 from pursuing the petition route for this project
13 opting instead to seek approval of the project by
14 means of the application process. Could you
15 describe what those discussions with DEEP were?

16 THE WITNESS (Fitzgerald): Yes. This
17 is Bryan Fitzgerald. I'll start this, and then
18 ask Eric Davison to step in. And in summary, we
19 worked with the forestry department at CTDEEP from
20 approximately June of 2020 throughout November,
21 December of 2020, and in that time frame we had
22 provided to them a number of research and forest
23 studies, which I'll ask Eric Davison to step in
24 specifically about, over the course of
25 approximately a four to five month period.

1 Eric, if you have specifics on the
2 forestry work that was completed, we would
3 appreciate it.

4 THE WITNESS (Davison): It's Eric
5 Davison. Can you hear me okay?

6 So, the concerns from the DEEP forestry
7 division were based on the project's impact to
8 core forest. And after we did our initial
9 submittal, our overall natural resources report we
10 had done initially for the project, they asked for
11 additional information on the forest types and
12 also the forest connectivity to the north. So
13 they wanted to have a better understanding of the
14 character of the forest and the context of the
15 forest and the overall landscape. So DEEP
16 forestry has a core forest inventory form that
17 they developed, so we completed that form and
18 provided some additional mapping and information
19 about off-site forest to DEEP forestry. I don't
20 know if that answers your question but --

21 MR. PERRONE: Yes. Moving on to
22 Appendix U of the application, which includes
23 municipal consultation, since the December 3, 2020
24 email and the town's response dated January 13,
25 2021, have you received any additional feedback

1 from the town?

2 THE WITNESS (Fitzgerald): This is
3 Bryan Fitzgerald. And no we have not.

4 MR. PERRONE: Next, I'd like to ask
5 about site alternatives. Which criteria does the
6 applicant consider for evaluating alternative
7 sites?

8 THE WITNESS (Fitzgerald): This is
9 Bryan Fitzgerald. And the applicant considers a
10 number of criteria when looking at alternative
11 sites. In no particular order those criteria are
12 location to and proximity to existing utility
13 infrastructure, meaning distribution networks that
14 have adequate capacity to take a project's
15 interconnection viability. We look at existing
16 land use and potential and future land use, site
17 contours, wetland resources available on the
18 parcel, and ultimately if there's enough acreage
19 in a contiguous form to facilitate the development
20 and installation of a potential solar energy
21 project.

22 MR. PERRONE: Can you tell us about any
23 alternative sites that were considered?

24 THE WITNESS (Fitzgerald): Correct,
25 yes. Sorry, this is Bryan Fitzgerald. We

1 considered a number of alternative sites in the
2 area, meaning Litchfield and Hartford Counties and
3 neighboring towns. A lot of sites are starting to
4 lack interconnection viability, which turns them
5 into uncompetitive projects in our competitive
6 solicitations, which makes them ultimately less
7 likely to move forward. Out of consideration for
8 other specific landowners, I'll leave specific
9 parcels out of it, but we considered a number of
10 sites in Burlington and Bristol and surrounding
11 towns as well.

12 MR. PERRONE: Do you have an
13 approximate quantity on the number of alternatives
14 you looked at?

15 THE WITNESS (Fitzgerald): Yes. This
16 is Bryan Fitzgerald. And I would have to estimate
17 probably anywhere from a dozen or two or even
18 three dozen sites that we've had conversations
19 with landowners about possibly siting solar on
20 those specific sites.

21 MR. PERRONE: And for the reasons for
22 rejection, I know you had mentioned some it was
23 because of the electrical interconnection. And
24 the others?

25 THE WITNESS (Fitzgerald): Electrical

1 interconnection is one of them, yes. Others are
2 existing site characteristics, topography and
3 other land use characteristics such as farmland
4 and other -- if you have anything else, Will.

5 THE WITNESS (Herchel): Yes. This is
6 Will Herchel. One thing to add is in addition to
7 the site characteristics and other restrictions
8 that Bryan appropriately mentioned, there's also
9 the economic ability to come to terms with the
10 landowner. And sometimes based off the site
11 characteristics that each individual site may
12 have, including the interconnection viability, we
13 may not be able to come to terms to use those
14 individual sites from an economic perspective. So
15 the landowner has to obviously be willing to grant
16 us access to that site in order to permit us to
17 submit a project at that location.

18 MR. PERRONE: On page 8 of the
19 application under Section 3, it says the town had
20 positive feedback for the planned development as
21 compared to the other alternatives that it was
22 presented. Which alternatives was it presented?

23 THE WITNESS (Fitzgerald): This is
24 Bryan Fitzgerald. And not specifically just going
25 off of what could possibly develop at that site as

1 it's an industrial zone, other permitted uses
2 based on that zoning characteristic include
3 facilities like warehouses, shipping and
4 distribution centers, and other facilities of that
5 characteristic which are much more permanent in
6 nature, facilities that create traffic even after
7 construction, and facilities that would have more
8 of a lasting impact on the existing land use and
9 surrounding land than a solar farm would.

10 MR. PERRONE: And Mark and Patricia
11 Smaldone, S-m-a-l-d-o-n-e, they're abutters to the
12 project area, they asked about potentially
13 relocating the solar facility to the south towards
14 Prospect Street to utilize the sand and gravel
15 area. Did the applicant consider that as an
16 alternative?

17 THE WITNESS (Fitzgerald): This is
18 Bryan Fitzgerald. And the applicant did consider
19 that as an alternative. One of the key
20 considerations in developing this project was to
21 maintain the look and aesthetic from Prospect
22 Street of its existing hay fields and to keep that
23 look intact. One of the considerations when
24 thinking about moving the project further south
25 would be potential views from that street and how

1 to keep those views completely shielded. Another
2 consideration made was that the area in question
3 is currently active for earth removal and would
4 continue to be used in future years for earth
5 removal.

6 MR. PERRONE: Is the purpose of the
7 project to contribute to the state's efforts in
8 promoting the deployment of clean renewable energy
9 sources?

10 THE WITNESS (Fitzgerald): This is
11 Bryan Fitzgerald. Yes, that is the purpose of the
12 project.

13 MR. PERRONE: A couple more questions
14 on the energy topic. Page 5 of the application,
15 paragraph three, it notes, should virtual net
16 metering capacity become available, the project
17 intends to deliver energy and allocate credits to
18 to agricultural, state and municipal recipients.
19 My question is, what is the status of the
20 availability of VNM capacity and your plans to
21 pursue VNM at this time?

22 THE WITNESS (Herchel): This is Will
23 Herchel. There has been no legislated increase in
24 the capacity in the virtual net metering market to
25 date, so that is currently still capped out.

1 There's no availability for this project, as it
2 currently stands, to participate in that program.

3 MR. PERRONE: Next, I'd like to move on
4 to the LREC/ZREC which is the paragraph above
5 that. Is it correct to say that a ZREC contract
6 has a maximum of 1 megawatt each and LREC would
7 have a maximum of 2 megawatts each?

8 THE WITNESS (Herchel): That is
9 correct, 2 megawatts AC for an LREC and 1 megawatt
10 AC for a ZREC, the large ZREC.

11 MR. HOFFMAN: I'd just ask that you
12 identify yourself for the record.

13 THE WITNESS (Herchel): I'm Will
14 Herchel.

15 MR. PERRONE: And with that, how would
16 you break down the proposed project because we
17 have 3 and a half megawatts?

18 THE WITNESS (Herchel): That is
19 correct. On this site there is one LREC contract
20 that is 2 megawatts AC. There is another LREC
21 contract that is 1.5 megawatts AC. This is Will
22 Herchel.

23 MR. PERRONE: Okay. So no ZREC?

24 THE WITNESS (Herchel): That is
25 correct. This is Will Herchel.

1 MR. PERRONE: Okay. In response to
2 Council Interrogatory Number 5, which gets into
3 the contract date, towards the end it says the
4 applicant intends to engage in the sales of
5 electricity and capacity as additional revenue
6 sources for the project. In this context, by
7 electricity you mean energy?

8 THE WITNESS (Herchel): This is Will
9 Herchel. That is correct.

10 MR. PERRONE: Okay. And in the
11 application we're given the capacity factor for
12 the project. The proposed solar panels are
13 bifacial. My question is, is the projected
14 capacity factor based on the front side of the
15 panels only conservatively or does it include the
16 effects of the bifacial panels?

17 THE WITNESS (Herchel): This is Will
18 Herchel. I believe the following is correct, but
19 perhaps Kyle can correct me if I'm incorrect. I
20 believe the capacity factor that we show for this
21 individual project is the front side of those
22 panels, and the back side is not used for
23 calculating the capacity factor at this time, but
24 I could be mistaken in that. Kyle.

25 THE WITNESS (Perry): I just want to

1 clarify if it's DC or --

2 THE WITNESS (Herchel): It's AC.

3 THE WITNESS (Perry): This is Kyle
4 Perry. I believe the capacity factor does include
5 a bifacial uptick.

6 THE WITNESS (Herchel): This is Will
7 Herchel. Just for everyone's benefit, he was
8 asking if the capacity factor that was referred to
9 in the question is of an AC capacity factor type
10 or a DC capacity factor type. Could you let us
11 know which one you're referring to?

12 MR. PERRONE: It's the capacity factor
13 that is cited on page 14 of the application, so
14 it's an AC capacity factor.

15 THE WITNESS (Herchel): Okay. Thank
16 you.

17 THE WITNESS (Perry): This is Kyle
18 Perry. That capacity factor does take into
19 account the effects of the bifacial modules.

20 THE WITNESS (Herchel): Thank you,
21 Kyle.

22 MR. PERRONE: Could you tell us the
23 total estimated cost of the project, both the
24 original configuration and the revised, if you
25 have it?

1 THE WITNESS (Herchel): This is Will
2 Herchel. I do not believe that we have a final
3 figure for the revised configuration, but we do
4 have a figure that we can give you for the
5 previous configuration, and we just need a minute
6 or two to get that for you.

7 MR. PERRONE: Sure.

8 THE WITNESS (DeNino): Hi, this is
9 Steve DeNino with Verogy. The cost of the project
10 would be \$4.53 million.

11 MR. PERRONE: Okay. And if the cost of
12 the revised project could be provided perhaps as a
13 Late-File.

14 THE WITNESS (DeNino): This is Steve.
15 We're going to have to revise the project, and we
16 can provide that.

17 MR. PERRONE: Okay.

18 THE WITNESS (Herchel): This is Will
19 Herchel. We might be able to complete that task
20 in short order before the day is through, but we
21 can let you know as soon as possible.

22 MR. PERRONE: Okay. Do the bifacial
23 panels materially affect your total cost, does it
24 add a significant percentage or --

25 THE WITNESS (Herchel): This is Will

1 Herchel. No, they do not. The module costs are
2 competitive to single sided modules in the
3 marketplace.

4 MR. PERRONE: Earlier it was mentioned
5 that with the project the sand and gravel
6 operations would remain the same. Is that also
7 true for the approximately 8 acres were used for
8 hay operations?

9 THE WITNESS (Herchel): This is Will
10 Herchel. That is correct.

11 MR. PERRONE: And that's true for
12 whether it's the original or revised
13 configuration?

14 THE WITNESS (Herchel): This is Will
15 Herchel. That is correct.

16 MR. PERRONE: In the December 1, 2020
17 DEEP core forest determination letter, DEEP notes
18 that the buffers proposed in the petition may be
19 sufficient to protect the water quality of the
20 site's wetlands and watercourses, but current
21 research calls for the preservation of 300 foot
22 buffers as a best management practice to protect
23 connectivity in the forest along wetland movement
24 corridors. Could the applicant comment on a
25 potential 300 foot buffer to wetlands and

1 watercourses?

2 THE WITNESS (Fitzgerald): This is
3 Bryan Fitzgerald. Eric, would you mind stepping
4 in to comment on that?

5 THE WITNESS (Davison): It's Eric
6 Davison. I'm not sure, I believe the question is
7 about how that would affect the project
8 configuration. I'm not sure if that was a
9 question about the issues raised by forestry. I'm
10 not sure. Is that directed for me or for the
11 project design itself?

12 MR. PERRONE: How would it affect the
13 project design?

14 THE WITNESS (Fitzgerald): Understood.
15 This is Bryan Fitzgerald. Thanks, Eric, and thank
16 you, Mr. Perrone. If we were to go with the 300
17 foot buffers that are outside in addition to the
18 setbacks required through a DEEP stormwater
19 permit, we would have to scale back the project
20 design, and it would likely require the removal
21 and/or relocation of a certain number of modules
22 that currently fall within that 300 foot buffer.
23 We don't have that module count in front of us
24 right now, so we wouldn't be able to give an exact
25 estimate, but it would require the either scaling

1 back or relocation of those modules to additional
2 areas on the parcel.

3 MR. PERRONE: Turning to the response
4 to Council Interrogatory Number 2, the proposed
5 fence height was increased from 7 feet to 8 feet,
6 and privacy slats were included. Is that all the
7 way around, the 8 feet with the privacy slats?

8 THE WITNESS (Fitzgerald): This is
9 Bryan Fitzgerald. Yes.

10 MR. PERRONE: Or just --

11 THE WITNESS (Fitzgerald): Sorry. Mr.
12 Perrone, go ahead.

13 MR. PERRONE: No problem. Okay. Does
14 the applicant believe that it has minimized the
15 land area necessary to achieve its capacity goals?

16 THE WITNESS (Fitzgerald): This is
17 Bryan Fitzgerald. The applicant does believe
18 that.

19 MR. PERRONE: For the electrical
20 interconnection, would your underground route run
21 from the concrete equipment pad out to Prospect
22 Street?

23 THE WITNESS (Perry): This is Kyle
24 Perry of Verogy. The currently proposed design in
25 coordination with Eversource would run from our

1 concrete pads out by the site to our customer
2 owned recloser poles which are our primary
3 protection from the point of change of ownership
4 on Eversource's side of the poles but towards
5 Prospect Street, yes.

6 MR. PERRONE: And how many new poles
7 approximately?

8 THE WITNESS (Perry): In this currently
9 proposed design with Eversource we're looking at
10 nine additional poles.

11 MR. PERRONE: Okay. Do you have an
12 approximate height above grade?

13 THE WITNESS (Perry): I would be
14 guessing here. Sorry, this is Kyle Perry. I
15 would be guessing here, but I would guess 40 or 45
16 foot poles.

17 MR. PERRONE: What kind of traffic
18 control measures would be implemented during
19 construction?

20 THE WITNESS (DeNino): Hi, this is
21 Steve DeNino. Traffic control measures on
22 Prospect Street? The bulk of the work will
23 actually be located adjacent to it on the parcel,
24 so we don't anticipate any traffic concerns on
25 Prospect Street itself.

1 MR. PERRONE: With respect to the noise
2 topic, would the facility only generate noise
3 during daytime hours?

4 THE WITNESS (DeNino): Hi, this is
5 Steve DeNino. The inverters would only be
6 operating during daytime hours.

7 MR. PERRONE: Page 56 of the
8 application which gets into visibility, the
9 facility, based on the original configuration,
10 will have limited year-round visibility in areas
11 in the immediate vicinity, primarily abutting
12 properties to the west, along Main Street and
13 north along Stone Road, and the limited year-round
14 visibilities will depend on the height of the
15 vegetation along the site perimeter. Given the
16 landscaping plan for the original configuration,
17 would there still be limited year-round visibility
18 from abutting properties off Main Street and Stone
19 Road?

20 THE WITNESS (Fitzgerald): This is
21 Bryan Fitzgerald. And yes, Mr. Perrone, based on
22 the revised design which incorporates
23 significantly greater setbacks from those western
24 and northern property boundaries, the applicant
25 has also completed a sight line analysis from

1 three different locations, one from the north, one
2 from the northwest, and one from the west which
3 shows the potential views of the project from a
4 fixed point, one being on Stone Road and the other
5 being two adjacent homes. And at this point, the
6 applicant expects that the visibility from those
7 locations would be drastically reduced due to the
8 landscaping plan and the design setbacks that have
9 been taken into consideration.

10 MR. PERRONE: Regarding the landscaping
11 plan, which was submitted with the interrogatories
12 under Exhibit F, just in the planting list in the
13 upper right-hand corner, we have Sugar Maple or
14 Heritage Birch. Do you have an approximate height
15 on those?

16 THE WITNESS (Fitzgerald): This is
17 Bryan Fitzgerald. We're pulling this landscaping
18 plan up right now.

19 THE WITNESS (Hiltbrand): The maple
20 trees would be 10 to 12 feet, and the Heritage
21 Birch would be the same.

22 MR. PERRONE: And the Smaldones had
23 suggested that the applicant install mature trees
24 rather than ones that would require, say, five to
25 ten years to mature. Based on this planting list,

1 could you comment on the maturity and potential
2 growth of the proposed landscape plantings?

3 THE WITNESS (Fitzgerald): Yes. This
4 is Bryan Fitzgerald. Based on the current
5 landscaping plan, we are planned for 5 to 6 foot
6 Norway Spruce and/or White Pine which is an
7 evergreen native species to the area. And like
8 Mr. Hiltbrand just mentioned, we are planning on
9 10 to 12 foot Sugar Maple and Heritage Birch
10 trees. We are in the process of finalizing the
11 exact planting lists and are open to a more mature
12 evergreen tree, meaning a Norway Spruce or White
13 Pine that would be planted at a taller height from
14 day one. And to be honest, I wouldn't be in the
15 best position to estimate growing heights or
16 growing times year over year.

17 I don't know, Rob, if you wanted to
18 comment on that.

19 THE WITNESS (Hiltbrand): Robert
20 Hiltbrand. I think the first year, obviously,
21 we're not going to see any growth, and then the
22 second year an evergreen would grow, on average,
23 of about a foot a year.

24 MR. PERRONE: And a couple last
25 questions on that landscaping plan. There's a 3

1 to 4 foot tall berm which is adjacent to the 44
2 Main Street property. Did you consider berms at
3 any other location?

4 THE WITNESS (Fitzgerald): This is
5 Bryan Fitzgerald. Yes, we have considered, and we
6 are considering berms for additional locations,
7 specifically in the northern portion of the
8 property where the project abuts the property at
9 56 Stone Road and the residents directly to the
10 north. The applicant and the engineer have had,
11 engineer, Mr. Hiltbrand, have had conversations
12 with the owners of this property, and doing the
13 sight line analysis, which was to ultimately
14 determine the approximate height of berm and
15 planting combination that would need to be
16 installed in that location, and we are still in
17 the process of evaluating that sight line to
18 ultimately determine the necessary berm height and
19 planting height for those specific locations.

20 MR. PERRONE: And also looking at the
21 landscaping plan, I see some gaps in the proposed
22 vegetation in the vicinity of the 30 Main Street
23 property and 34 Main Street property. Did you
24 look at the possibility of filling in those gaps
25 either with additional plantings or utilizing

1 existing?

2 THE WITNESS (Hiltbrand): This is
3 Robert Hiltbrand. In that location the solar
4 array is actually significantly lower than the
5 neighboring property, so you actually see over the
6 top of the array from that area, so you are not at
7 the same elevation running east to west. And that
8 is completely wooded area in that area at this
9 time.

10 MR. PERRONE: And one last question on
11 the visibility topic. Page 56 of application,
12 second to last paragraph it states, the panels
13 will be tilted up towards the southern sky at a
14 fixed angle of approximately 25 degrees, thereby
15 further reducing reflectivity/visibility of the
16 facility. Could you explain how the 25 degree
17 tilt and the southern orientation affects
18 reflectivity/visibility?

19 THE WITNESS (Fitzgerald): This is
20 Bryan Fitzgerald. And I'll get this started and
21 probably ask Kyle Perry to step in. My thought
22 here and assumption is that because the panels are
23 at a fixed tilt nature directly to the south at a
24 25 degree angle versus, for example, a tracking
25 system that would single axis track, we

1 anticipated potential, if any, reflectivity to be
2 less in that situation. I'll let Kyle Perry step
3 in if that's inaccurate.

4 THE WITNESS (Perry): This is Kyle
5 Perry. I would agree with that fact, a 25 degree
6 tilt system would generally with a sun angle of
7 roughly anywhere throughout the year of 25 to 45
8 degrees up in the sky hitting a 25 degree panel
9 would reflect the sunlight mostly up except early
10 morning and afternoon hours would certainly, to
11 Bryan Fitzgerald's point, on a tracking system it
12 would be all day that the sunlight was reflected.

13 MR. PERRONE: Moving on to page 44 of
14 the application, the eastern box turtle relocation
15 zone, which is in yellow, is located along the
16 edges of the wooded areas. With such relocation,
17 what is to prevent to eastern box turtle from
18 entering the sand and gravel mine area?

19 THE WITNESS (Fitzgerald): This is
20 Bryan Fitzgerald.

21 Eric Davison, did you end up getting
22 back on?

23 MR. HOFFMAN: Ms. Bachman, I believe
24 that Eric Davison is the individual who his
25 internet went out, and I believe that he is the

1 individual whose phone number is listed there that
2 ends in 525, if you can make his mic live.

3 MS. BACHMAN: Actually, Attorney
4 Hoffman, I believe Mr. Davison, we just got him on
5 under a different phone number, which I believe is
6 his, is 860-803-0938.

7 MR. HOFFMAN: You are probably correct.

8 MS. BACHMAN: And I believe he is
9 connected to audio, so we're good.

10 MR. PERRONE: I can repeat the
11 question.

12 MR. HOFFMAN: He still appears muted
13 so --

14 MS. BACHMAN: There he is.

15 THE WITNESS (Davison): Can everyone
16 hear me?

17 MS. BACHMAN: Yes.

18 THE WITNESS (Davison): I'm so sorry,
19 my internet and phone keep going out, perfect
20 timing, so I'm on my cell phone. I'm sorry for
21 that.

22 MR. PERRONE: Referencing page 44 of
23 the application, the eastern box turtle relocation
24 zone, which is in yellow, is along the edges of
25 the wooded areas. With such relocation, what is

1 to prevent the eastern box turtle from entering
2 the sand and gravel mine area?

3 THE WITNESS (Davison): Well, we aren't
4 trying to restrict them from the sand and gravel
5 mine area. It's actually a part of their habitat
6 now, primarily the western side of the sand and
7 gravel pit where there's essentially not much
8 activity except for some old stockpiles and there
9 are some, you know, lightly wooded and vegetated
10 areas on that west side. So they've always had
11 access to that area. It's always been a part of
12 their habitat complex, and, yeah, it is not our
13 intention to restrict them from that.

14 MR. PERRONE: Also, regarding the
15 eastern box turtle, Appendix D of the application
16 mentions post-construction habitat enhancement for
17 areas outside of the solar field perimeter fence.
18 Would areas inside the fence, in other words,
19 within the footprint of the solar field, offer
20 suitable box turtle habitat for either nesting or
21 foraging?

22 THE WITNESS (Davison): There's
23 potential for that. You know, we tend to focus on
24 the edge habitat which is generally out, you know,
25 in the solar exposure zone between the fence and

1 the tree line, so the area that gets maintained
2 only to prevent shading, that's generally the
3 habitat area we would consider to be most useful
4 post-construction. There's always potential for
5 use inside the array area, but, generally
6 speaking, the array areas are vegetated with cool
7 season grasses and they're shaded, so there's not
8 a lot of habitat value for box turtles there.

9 MR. PERRONE: Lastly, turning to the
10 response to Council Interrogatory Number 35, the
11 response was, yes, there are wells located in the
12 vicinity of the site. Do you know the location of
13 the nearest well to the proposed facility?

14 THE WITNESS (Hiltbrand): This is Rob
15 Hiltbrand talking. I would say the nearest well
16 to the site is possibly on Prospect Street, and I
17 would say that you're probably looking at 600, 700
18 feet.

19 And then heading towards Stone Road,
20 the houses along Stone Road, the wells -- or
21 septic tanks are on the low side along the project and
22 the wells are in the front yards on the high side,
23 I would say, again, probably in the 300 foot range
24 or so.

25 And then along Main Street the houses

1 sit quite aways away from the project site, the
2 houses are generally 500 to 600 feet away, so
3 again I would say at least 500 or 600 feet in that
4 direction.

5 And then on the easterly side towards
6 Wildcat Road you have the wetland dam between the
7 project site and the development off of Wildcat,
8 and I would say that the wells there would be in
9 excess of 600 to 800 feet on that side.

10 MR. PERRONE: Thank you. That's all I
11 have.

12 THE WITNESS (Fitzgerald): Mr. Perrone,
13 this is Bryan Fitzgerald. If you don't mind, I'd
14 just like to follow up to an earlier question
15 where we said we'd get you a response on the
16 certified letters and the receipts.

17 MR. PERRONE: Yes.

18 THE WITNESS (Fitzgerald): We did
19 receive the 17 receipts for the 17 certified
20 letters that were sent out as a part of the
21 official notification process.

22 MR. PERRONE: Thank you.

23 THE WITNESS (Fitzgerald): Thank you.

24 MR. MORISSETTE: Thank you, Mr.
25 Perrone. We will now move to cross-examination by

1 Mr. Silvestri. Thank you.

2 MR. SILVESTRI: Thank you, Mr.
3 Morissette. I'll preface that some of the
4 questions that I'll pose may indeed be answered by
5 the supplemental information that was submitted
6 today. And Mr. Perrone had also posed a couple
7 questions that I was going to ask, but I'm going
8 to follow through on that as well, and we'll see
9 where we go.

10 Regarding Mr. Perrone's question to you
11 about where you stood at this point about moving
12 further south, you had provided an answer to him.
13 But if I go back to what was submitted today under
14 number 2, it has the applicants currently working
15 through the engineering and reviewing feasibility
16 of moving the array further south. Is that now a
17 moot point that there is no other engineering or
18 review that's going to occur for moving it south?

19 THE WITNESS (Herchel): This is Will
20 Herchel. We are certainly going to be moving the
21 project south. Currently we intend to use this
22 revised plan. It just has not been completely
23 finalized because of the quickness with which we
24 produced it from the initial conversations that
25 Bryan Fitzgerald had with the abutters and the

1 standing that we have today. So we fully intend
2 to move it south. I think in general it is moot,
3 but we just did not want to speak in absolutes
4 when there still could be some slight changes to
5 the final design.

6 MR. SILVESTRI: All right. Thank you.
7 Let me stay with that supplement response on
8 number 2. Where you list all the setbacks that
9 were increased, what was moved or rearranged, or
10 how did you increase the setbacks?

11 THE WITNESS (Fitzgerald): This is
12 Bryan Fitzgerald. Mr. Silvestri, in those areas
13 to increase those setbacks our engineer moved the
14 tables of modules from that location and moved
15 them to a couple locations in the southern section
16 of the project currently encroaching on an area
17 that is existing clear and free of vegetation. So
18 they were moved from that location along the
19 western border and the northern border there and
20 moved to a southern location that currently is
21 shown on the plans there.

22 MR. SILVESTRI: Now, is that evident in
23 either the new Exhibit B, Exhibit A or Exhibit E
24 that were submitted today?

25 THE WITNESS (Fitzgerald): This is

1 Bryan Fitzgerald. And yes, I'm pulling that up
2 right now. I just wanted to be for sure here.

3 MR. SILVESTRI: What I'm trying to do
4 is compare it to what was initially submitted to
5 what might have been revised based on the increase
6 in setbacks, and truthfully I'm having a difficult
7 time comparing apples and apples.

8 THE WITNESS (Fitzgerald): Understood.
9 This is Bryan Fitzgerald. And the revised layout
10 that was submitted along with the amended
11 responses to the interrogatories does show
12 approximately three to four rows of solar modules
13 that were moved to the south in the areas that are
14 currently clear. And I understand your comment,
15 Mr. Silvestri, it is a little difficult to tell
16 the difference there, but they were moved from the
17 western and northern sections to the southern
18 extent of what previously was the end of the first
19 design.

20 MR. SILVESTRI: Okay. Again, I'm
21 having a hard time seeing that. Maybe I need to
22 blow up the map to see it a little bit better, but
23 let me move on, at least, for the time being.
24 With the setbacks that you had submitted that will
25 be increased, there was no discussion about 29

1 Wildcat Road. That I guess stayed the same; is
2 that correct?

3 THE WITNESS (Fitzgerald): This is
4 Bryan Fitzgerald. That is correct.

5 MR. SILVESTRI: Okay. Because there
6 was concern that I saw from possibly the Whigville
7 Preservation Group, possibly from the landowners,
8 about visual impacts to 29 Wildcat Road. Would
9 that be addressed rather than with setbacks by a
10 new fence design?

11 THE WITNESS (Fitzgerald): This is
12 Bryan Fitzgerald. Yes, Mr. Silvestri, that is
13 correct, that will be addressed one of two ways
14 with the new fence design or to provide additional
15 landscaping, vegetative screening in those areas.
16 I personally had a conversation with the owners of
17 29 Wildcat Road, and we talked about potentially
18 adding vegetation closer to their property line.
19 And for point of reference, the array in that
20 section of the project is approximately 300 feet
21 from the property line and approximately 450 feet
22 from the residence, and we discussed adding
23 additional vegetation on the project parcel side
24 of that parcel boundary just to provide some
25 additional vegetation in that area comparatively

1 speaking to putting it up against or in front of
2 the array fence.

3 MR. SILVESTRI: I believe I understand
4 you. The question with that though, in addition
5 to vegetation, would you also be looking at some
6 type of a berm?

7 THE WITNESS (Fitzgerald): This is
8 Bryan Fitzgerald. Yes, Mr. Silvestri, we could
9 absolutely look at a berm from that area that
10 would provide an increased height for which to
11 plant that vegetation on.

12 MR. SILVESTRI: Okay. Thank you for
13 your response. One other follow-up to what Mr.
14 Perrone had posed to you. This is on the topic of
15 the 300 foot buffers for the two wetlands. I
16 believe it was Wetland 1 and Wetland 2. Question
17 for you, has there been any additional or further
18 discussions with the Bureau of Natural Resources
19 on what they had written down about the 300 foot
20 buffer?

21 THE WITNESS (Fitzgerald): This is
22 Bryan Fitzgerald. I'll start off by saying that
23 there was no additional commentary from the Bureau
24 of Natural Resources after we received our final
25 NDDB determination in the month of January of

1 2020.

2 With that, Eric Davison, just to make
3 sure we're clear here, did you receive any
4 commentary or feedback from DEEP or the Bureau of
5 Natural Resources on that?

6 THE WITNESS (Davison): Hi, it's Eric
7 Davison. I'm back online. Hopefully, you can
8 hear and see me. No, not since our last
9 discussions with DEEP forestry did we have any
10 additional correspondence about the buffer.

11 And just to clarify, Mr. Silvestri, it
12 wasn't a 300 foot buffer around the streams in a
13 typical sense where their concern was water
14 quality or activities that could affect the stream
15 itself. Their concern was more over a narrowing
16 of the riparian buffer that Wildcat Brook flows
17 through. And again, it goes back to their concern
18 over the overall impact to core forest. Their
19 concern was that this would narrow that forested
20 buffer that surrounds the brook and creates a
21 contiguous forest to the north. So it wasn't a
22 setback, a water quality setback. It was a width
23 to preserve sort of a riparian buffer forest, if
24 that make sense.

25 MR. SILVESTRI: From what they

1 mentioned, protecting the connectivity in the
2 forest along the wetland movement corridors.

3 THE WITNESS (Davison): Correct. One
4 of their issues is, if you look to the far north
5 of this site, there's a state forest property
6 that's a very large forest block, and, you know,
7 some of their concerns from our relatively small
8 project was how it affected this overall forest
9 block that connected north to Nassahegon State
10 Forest, and connection between our site and that
11 site is that Wildcat Brook corridor.

12 MR. SILVESTRI: Understood. Thank you.
13 I want to move on to a new topic. Am I correct
14 that there will be two transformers should this
15 project be approved?

16 THE WITNESS (Perry): This is Kyle
17 Perry from Verogy. That is correct.

18 MR. SILVESTRI: Are these wet
19 transformers or dry transformers in the sense that
20 would they contain oil?

21 THE WITNESS (DeNino): This is Steve
22 DeNino. They would contain oil.

23 MR. SILVESTRI: Any estimate of how
24 much oil?

25 THE WITNESS (DeNino): I do not have

1 that information. This is Steve DeNino. I do not
2 have that information at this point, but we could
3 look to get that.

4 MR. SILVESTRI: Let me have a follow-up
5 question to that. Would they arrive pre-filled
6 with oil or would they be filled on site?

7 THE WITNESS (DeNino): This is Steve
8 DeNino. They are typically filled prior to
9 getting to the site.

10 MR. SILVESTRI: So they would come in
11 pre-filled?

12 THE WITNESS (DeNino): Steve DeNino.
13 That is correct.

14 MR. SILVESTRI: Okay. Thank you.
15 Would the transformers have secondary containment
16 or, say, low fluid level alarms or other type of
17 alarms?

18 THE WITNESS (DeNino): This is Steve
19 DeNino. They can be configured to have those
20 types of alarms, yes.

21 MR. SILVESTRI: Again, my concern is
22 obviously with spills. You know, if they're
23 secondary containment, secondary containment could
24 hold a spill if it's designed properly. If there
25 is some type of leakage, you do have a low fluid

1 level alarm that would indicate that there could
2 be a problem with the oil level in the
3 transformers, which is why I bring that up. But I
4 do want to -- that kind of leads me to Exhibit C
5 to Set One of the original interrogatory
6 submittal. It's the petroleum materials storage
7 and spill prevention document that you have, IF
8 you could take a second to turn to that. Good so
9 far?

10 THE WITNESS (Fitzgerald): Yes, Mr.
11 Silvestri.

12 MR. SILVESTRI: The comment I want to
13 make, I think the document does need to address
14 the transformer portion of the project. Again, if
15 it goes with alarms or something like that, I
16 think that needs to be included unless you have
17 some other type of document that might be more
18 specific for transformers.

19 THE WITNESS (DeNino): Hi, this is
20 Steve DeNino. I just wanted to point out that the
21 fluid in the transformer is a biodegradable fluid.

22 MR. SILVESTRI: I appreciate your
23 comment on that. The only way I could put it is I
24 don't buy it. Oil is oil, and everything takes a
25 period of time before it degrades, so it's not

1 instantaneous. I think it's something that needs
2 to be considered and looked at going forward with
3 the petroleum materials storage and spill
4 prevention document. But also with that document
5 where you have contact, again, should this project
6 be approved, I think it's very prudent that that
7 document include phone numbers, other contact
8 information as to who to call should there be a
9 problem. So let me stop my discussion with those
10 items for at least that portion of what I want to
11 talk about.

12 THE WITNESS (Fitzgerald): This --

13 MR. SILVESTRI: Go ahead.

14 THE WITNESS (Fitzgerald): Sorry. This
15 is Bryan Fitzgerald. We just want to mention that
16 we agree, and we can adjust the document to
17 reflect those items.

18 MR. SILVESTRI: Thank you. Let me have
19 you turn now to Exhibit E to Set One of the
20 interrogatories. This is related to the
21 greenhouse gas information that you presented.
22 There's two spreadsheets that are devoted to
23 NextEra Petition 1352, and there's one spreadsheet
24 here for Burlington. To be honest with you, I'm
25 having an awful hard time trying to decipher the

1 information that's on these. So could you take a
2 moment to explain to me what you're trying to
3 present along with whatever comparisons that
4 you're making to Petition 1352?

5 THE WITNESS (Herchel): Sure. The
6 question -- this is Will Herchel. The question
7 specifically referred to NextEra Petition 1352 and
8 the methodology used to identify the carbon
9 emissions that would take place both for a natural
10 gas facility and for a facility that involves
11 cutting down, you know, existing forestland or
12 taking over habitat that was open farmfield, et
13 cetera. And so what this is meant to do is to
14 show you the baseline analysis completed by the
15 NextEra petition for their GHG greenhouse gas
16 emission analysis compared to the Burlington
17 project, which is a much smaller installation in
18 terms of the solar technology, and then show you
19 the difference between what you would receive in
20 terms of greenhouse gas emissions for a renewable
21 energy project, solar renewable energy project at
22 Burlington versus a natural gas facility with the
23 same megawatt total.

24 MR. SILVESTRI: Let me have some
25 follow-up questions for you on that. There is one

1 spreadsheet that at the top of the spreadsheet it
2 has natural gas figures, parenthesis NextEra
3 Petition 1352, it has production 744,038. Do you
4 see that sheet?

5 THE WITNESS (Herchel): Yes.

6 MR. SILVESTRI: All right. Below that
7 you have life cycle emissions for NextEra Petition
8 1352, and then below that also you have life cycle
9 emissions for NextEra Petition 1352. Is the
10 second one mislabeled? Should that be Burlington?

11 THE WITNESS (Herchel): This is Will
12 Herchel. I apologize, commissioner or Council
13 member, I'm not sure I follow. On the left side
14 of the Excel spreadsheet, columns C, D, and E
15 there's the NextEra petition and their individual
16 project. In columns H, I and J there's the
17 Burlington project and that individual project
18 specifics. And then in M, N and O you have the
19 comparison between the two individual projects.

20 MR. SILVESTRI: I don't have the
21 spreadsheet in front of me. I just have what I
22 had printed out.

23 THE WITNESS (Herchel): It could be a
24 formatting issue perhaps in the printout versus
25 what the Excel spreadsheet looks like. I

1 apologize if that's the case, but I'm not directly
2 following because I am looking at the Excel
3 spreadsheet. This is Will Herchel.

4 MR. SILVESTRI: All right. Let me try
5 to clarify this then. The natural gas electricity
6 where you have U.S. slash 46 percent shale gas,
7 the number is 214,562.71, that's specific for
8 Burlington; is that correct?

9 THE WITNESS (Herchel): Correct.

10 MR. SILVESTRI: Okay. And again, the
11 solar installation scenario at 30,000 change is
12 also for Burlington?

13 THE WITNESS (Herchel): That is
14 correct.

15 MR. SILVESTRI: Okay. So when I do
16 look at the two columns that are shaded at least
17 on my material in blue, natural gas versus solar
18 installation scenario, those two columns are
19 specific for Burlington in this case, would that
20 be correct?

21 THE WITNESS (Herchel): This is Will
22 Herchel. If I'm understanding you correctly, then
23 yes.

24 MR. SILVESTRI: Okay. I think you
25 solved the mystery as to what I'm looking at.

1 Thank you.

2 All right. New topic for you. First
3 of all, let me say I appreciate the response to
4 Interrogatory Number 39 that the panels proposed,
5 should the project be approved, do not contain
6 PFAS. However, when I look back at Interrogatory
7 38, there really wasn't an answer regarding
8 whether the proposed panels were subject to TCLP
9 testing. There was some information that was
10 presented why TCLP testing may or not be
11 appropriate, but I don't think the answer was
12 really there as to whether the panels were
13 subjected to such testing. So my question is were
14 they?

15 THE WITNESS (Herchel): This is Will
16 Herchel. So we have not received for this
17 particular module type, to our knowledge, an
18 answer on the TCLP side for both the Risen and the
19 Trina modules that are at the location. However,
20 we stand by our response in the interrogatories
21 that these individual modules will be recycled.
22 And to the extent that they are not recycled and
23 they are considered hazardous material, if that
24 were to be the case, then they would be disposed
25 of as hazardous material, but we do not know at

1 this time if the specific module types that we
2 have right now would qualify for that disposal
3 requirement.

4 MR. SILVESTRI: I want to get to the
5 recycling aspect in a few minutes. Let me stay
6 right now on the TCLP. Are you amenable to using
7 panels that pass the TCLP test?

8 THE WITNESS (Herchel): As of right now
9 for this individual project, we have already
10 purchased modules for this project. They are from
11 tier one module manufacturers that are of the
12 highest standard to our understanding. If for
13 some reason they did not pass the TCLP test, we
14 would not be able to use modules that would pass
15 the TCLP test. But this is Will Herchel again. I
16 would like to reiterate that this is an end of
17 life requirement. And to the extent that there is
18 costs associated with disposing of that material
19 as hazardous material, then we would bear those
20 costs.

21 MR. SILVESTRI: I heard the second part
22 loud and clear. I didn't hear the first part.
23 Could you repeat how you started off the answer to
24 that?

25 THE WITNESS (Herchel): Sure. This is

1 Will Herchel. We have purchased the modules for
2 this individual facility. To the extent that
3 these individual modules that have been purchased
4 from tier one module manufacturers who are of the
5 highest quality to our knowledge, if these
6 individual modules tested, that they failed the
7 test for the TCLP test, then we would not be able
8 to use other modules that pass that test, but we
9 would face the burden and the cost of disposing of
10 them at the end of their life cycle as hazardous
11 materials if we were not to recycle them; however,
12 recycling them is our current plan.

13 MR. SILVESTRI: Okay. I heard you on
14 that. Thank you for repeating that. One of my
15 concerns, obviously, is if it passes or does not
16 pass. But the other thing that's always in the
17 back of my mind is, should the project be
18 approved, constructed and somewhere down the road
19 in the future sold to another entity and the
20 certificate eventually gets transferred to that
21 entity, I would think that that entity would want
22 to know how to handle panels when their life span
23 is reached. So I'm kind of looking at a proactive
24 approach to this to know what might be going on
25 ahead of time should different stars align in a

1 different manner, if you will.

2 All right. Let's get on to recycling.
3 Again, should the project be approved and the
4 solar panels reach their finite life span, you
5 stated that your intent is to recycle the panels.
6 Are there suitable recycling facilities in the
7 United States right now?

8 THE WITNESS (Herchel): This is Will
9 Herchel. To our understanding, there are suitable
10 facilities in the United States to perform the
11 function. The question would be if it's cost
12 effective to do so.

13 MR. SILVESTRI: Got it. Go ahead.

14 THE WITNESS (Herchel): So that
15 technology is still, to our understanding, being
16 developed and becoming more cost competitive to
17 allow us to do so, but as of right now it could be
18 done, it would probably be cost prohibitive.

19 MR. SILVESTRI: My understanding is the
20 US currently lags behind Europe and other regions
21 in PV recycling programs and policies. Would you
22 agree with me on that one?

23 THE WITNESS (Herchel): I would. This
24 is Will Herchel.

25 MR. SILVESTRI: Any idea how much it

1 costs at this point to recycle a panel?

2 THE WITNESS (Herchel): This is Will
3 Herchel. I do not, no.

4 MR. SILVESTRI: Let me put this out and
5 see if it makes any sense. National Renewable
6 Energy Laboratory estimates it might cost between
7 20 and \$30 per panel to recycle. I kind of found
8 that high, but do you have any information that
9 might support or negate that?

10 THE WITNESS (Herchel): This is Will
11 Herchel. That sounds high to me as well. It is
12 not unusual for NREL to provide estimates that may
13 be more conservative than you're going to see in
14 the open market just because of the way that they
15 pull data, but I do not have a pinpoint datapoint
16 to contradict that number.

17 MR. SILVESTRI: Okay. Thank you.
18 Yeah, NREL also put out that they estimate it
19 might cost between a dollar to two dollars to
20 landfill a panel. And again, I don't know if
21 that's correct or not. It's just some interesting
22 information that I saw from NREL.

23 THE WITNESS (Herchel): Yes.

24 MR. SILVESTRI: Do you know that, if
25 you do send panels out for recycling, do you know

1 if money comes back from a recycling facility for
2 metals or other components that might offset the
3 facility's cost to recycle?

4 THE WITNESS (Herchel): This is Will
5 Herchel. Yes, we expect that that would be the
6 case, especially for the casing, aluminum and
7 other metals that are part of that module
8 component.

9 MR. SILVESTRI: So, a recycling
10 facility might quote you a number but that number
11 could be reduced based on what they're getting
12 back for truly reusable materials; would that be
13 correct?

14 THE WITNESS (Herchel): This is Will
15 Herchel. That is correct.

16 MR. SILVESTRI: Okay. Also, to my
17 knowledge, only a few states have developed PV
18 policies. My understanding is California just
19 declared them as universal waste under strict
20 guidelines. Question for you, would a federal
21 universal waste designation aid in the handling,
22 recycling or disposal of panels?

23 THE WITNESS (Herchel): This is Will
24 Herchel. I believe that it would.

25 MR. SILVESTRI: In what aspect, any

1 idea?

2 THE WITNESS (Herchel): This is Will
3 Herchel. Standardization across the country in
4 terms of disposal would allow for a better market
5 to develop for the most cost effective way to
6 dispose and/or recycle those individual modules.

7 MR. SILVESTRI: Thank you. And again,
8 what would be the life span of the panels here, 20
9 years, 30 years?

10 THE WITNESS (Herchel): This is Will
11 Herchel. We're currently expecting a useful life
12 of 35 years.

13 MR. SILVESTRI: 35 years. Thank you.

14 Mr. Morissette, I believe those are all
15 the questions that I have at this time. Thank
16 you.

17 MR. MORISSETTE: Thank you, Mr.
18 Silvestri. We will continue with
19 cross-examination with Mr. Harder.

20 Mr. Harder.

21 MR. HARDER: Yes. Thank you. A couple
22 of my questions were already answered, but I have
23 a few more. First, regarding the response to
24 Interrogatory Number 53, paragraph C talked about
25 minimal alteration of existing slopes, paragraph D

1 references the grubbing operations will maintain
2 ground cover, but then in paragraph F it talked
3 about 12,000 yards of cut and 7,000 yards of fill.
4 And I wanted to ask someone to maybe correct my
5 misread of that, but to discuss or explain, I
6 guess, how you get 12,000 yards of cut and 7,000
7 yards of fill when there's going to be minimal
8 alteration of existing slopes.

9 THE WITNESS (Hiltbrand): This is
10 Robert Hiltbrand, project engineer. When you look
11 at the grading plan, a couple things that we did
12 was in the northwest corner of the site we
13 excavated into the corner of the site to actually
14 get the panels down below grade so that the sight
15 line from Stone Road would look over the top of
16 the system. We also have two stormwater basins
17 that are fairly large that require quite a bit of
18 excavation. And we also, if you look on Item B
19 where we list the slopes of the property in the
20 end, the 1 percent to 5 percent of 58 percent of
21 the area, 6 to 7 percent of the 20 percent, and 8
22 percent, which was our goal to keep it 8 percent
23 or less, of 22 percent, also for maintenance
24 reasons to keep a reasonable grade for maintenance
25 and mowing and taking care of this.

1 So what it equates to is, if you take
2 12 acres and you take 12,000 cubic yards of cut,
3 it adds up to 7 inches over the entire site. So
4 it's a fairly large area. It seems like a big
5 number, but when you look at it from that
6 perspective it's really not a large amount of
7 grading. I think I calculated about 58 percent is
8 of the 2 foot or less, and then the other 42
9 percent is the 2 foot or more, and that's
10 primarily our stormwater basins where we have
11 substantial excavation to handle our stormwater.

12 MR. HARDER: Okay, I see what you're
13 talking about in paragraph B. So what you're
14 saying is it relates -- I don't know if it's a
15 majority, but a substantial amount of the cut is
16 concentrated in those areas, the northwest corner
17 and the said basins; is that correct?

18 THE WITNESS (Hiltbrand): That is
19 correct, sir.

20 MR. HARDER: All right. Thank you for
21 that. I had a question also, the virtual field
22 review, at least one, maybe a couple of the
23 photos, seemed to show an area, it's hard to tell
24 how large it is, but an area where there's a large
25 number of what appeared to be dead or dying pine

1 trees. Could someone comment on that, whether
2 that's correct or not, or a misread of the photos;
3 and if is correct, is any of that in the area or
4 in any of the areas that are going to be left as
5 buffer or screen areas, and if that would have any
6 effect, I guess.

7 THE WITNESS (Fitzgerald): Mr. Harder,
8 this is Bryan Fitzgerald. We are looking at the
9 remote field review right now. If you don't mind,
10 was there a specific photograph that you're
11 referencing just so we know which one.

12 MR. HARDER: I'm sorry, I did not write
13 down the number. I'm sorry, I did not do that.

14 THE WITNESS (Fitzgerald): No worries
15 at all. We'll take a quick look here and orient
16 ourselves with that portion of the parcel.

17 (Pause.)

18 THE WITNESS (Fitzgerald): Apologies,
19 Mr. Harder, it's quite a large file and we're just
20 getting it open here.

21 MR. HARDER: I could go on to another
22 question and we could come back to that, if you
23 like. It's your call, I guess.

24 THE WITNESS (Fitzgerald): If that
25 works, yes, we could proceed that way, and then

1 we'll provide a follow-up either at the end of the
2 break --

3 MR. HARDER: Okay, sure. Well, I
4 guess, this question, I guess, may be affected a
5 little by the recent submissions from earlier
6 today, but it appears that I guess as a result of,
7 at least partially as a result of moving the
8 arrays south, you're now proposing that the
9 stormwater basins will be, at least one of the
10 stormwater basins, anyway, the one to the west
11 will be in the array area. But both for that area
12 and for the basin, which I guess is number 2,
13 there's a notation indicating where they are, but
14 it doesn't appear, at least from the recent
15 submission, it's unclear as to how they're going
16 to be located, exactly how they're going to be
17 constructed, I guess.

18 So is that something that hasn't been
19 finalized yet? I understand that you've been
20 doing some work fairly recently, obviously, as a
21 result of your discussions with the neighbors, but
22 is that in the works?

23 THE WITNESS (Hiltbrand): Yes. This is
24 Robert Hiltbrand again. That is true, there will
25 not be panels in the basin area. We did not

1 sketch out the basin area that is on the west as
2 of yet. The basin area to the east remained
3 intact as it is. There will be a basin area
4 exactly similar to the one that you saw on the not
5 revised plan, and that will be just to the south
6 of the array and will connect to the other basin
7 as it does now. So we are in the process of doing
8 that, and it will be in the same fashion, and the
9 array will not be through the basin.

10 MR. HARDER: Okay. So the one to the
11 west will be actually south of the array. I guess
12 I have to ask the question, what's shown on the
13 map, or on the drawing, rather, is what's
14 described as an existing septic sand stockpile.
15 I'm assuming that will be removed if that's in the
16 general vicinity of where that basin is proposed;
17 is that correct?

18 THE WITNESS (Hiltbrand): That is
19 correct. That stockpile will be removed, and the
20 new basin would be graded in that area.

21 MR. HARDER: Have you done or will you
22 propose to do any sampling to identify any
23 potential concerns? I mean, I'm wondering, if
24 there's a basin constructed and located there and
25 then there's stormwater that's directed into that

1 basin that flows out, are there any contaminants
2 in the soil that would remain? Even if you remove
3 all of the septic sand, what's remaining in the
4 soil, you know, the ground, does that present any
5 potential concern regarding transport of those
6 contaminants into the water that's in the basin
7 and then with that being then discharged?

8 THE WITNESS (Hiltbrand): Let me
9 explain. It probably will solve the question.
10 The existing septic sand stockpile, a septic sand
11 stockpile is a very well graded sand that is used
12 to construct septic systems. There are no
13 contaminants. It's a natural material that meets
14 a very fine gradation. It's commonly referred to
15 by the Connecticut Health Department as select
16 septic material. So we sell that for people who
17 are actually making septic systems, and that fill
18 is used to complete the package, sand package
19 around that. So that is a very clean, well graded
20 native sand. There's no contaminants in it.

21 MR. HARDER: Okay. Thank you. I
22 appreciate that. I was maybe looking at it from
23 just the opposite direction. I thought maybe you
24 were stockpiling material that was dug up from
25 existing septic systems, but, okay, we're good on

1 that.

2 THE WITNESS (Hiltbrand): I'm glad we
3 cleared that up. Thank you.

4 MR. HARDER: Okay. So I think you made
5 reference to a continued intent to direct the
6 overflow or the flow from basin number 1 to basin
7 number 2, and I'm wondering why would that be the
8 case. I mean, it seems to me then basin number 2
9 would have to be sized to basically function with
10 the runoff from the entire site. And again, why
11 would that be, wouldn't you be able to direct the
12 discharge from basin 1 around basin number 2 to
13 some appropriate location where it wouldn't cause
14 any problems by itself but then allowing basin
15 number 2 just to accept the flow from, you know, a
16 much smaller part of the site?

17 THE WITNESS (Hiltbrand): This is
18 Mr. Hiltbrand speaking again. Everything from the
19 site eventually sheet flows to the interior
20 wetland that you see there noted as a .44 acre
21 interior wetland that is not connected to the
22 other wetlands around the site. So the site
23 essentially here is very unique in a way in that
24 this entire site drains onto itself and
25 infiltrates into the ground in the area of that

1 wetland.

2 The advantage of connection of the two
3 basins is that we get treatment and we get the
4 first basin to bring down the overall peak, the
5 effects of the peak flow. And the first basin, we
6 multi-stage outlet that into the second basin.
7 And then the second basin additionally causes some
8 multi-stage metering of the peak flows, and, in
9 essence, we're able to get the overall peak flow
10 much reduced from the predeveloped. And, for
11 instance, and we did this for the 2, 5, 10, 25 and
12 50 and 100-year storms.

13 So, for instance, the net metering
14 effect of our multi-stage project is, for
15 instance, on a 100-year storm where we would have
16 46.7 cubic feet per second of peak flow, we've now
17 routed it down to 19.94, or a reduction of 26 cfs.
18 So by putting the two together, it allows us a
19 really great tool of really reducing the peak
20 flows from this site down to a very manageable
21 level before they're outletted, and that is the
22 reason for the connection. The connection gives
23 us the ability to make that happen.

24 MR. HARDER: Okay. I understand that.
25 I guess I'm still, and again without looking at

1 numbers, I'm just thinking more of the function of
2 these basins related to the removal of solids.
3 And, you know, with the flow from number 1 going
4 into number 2, it seems to me that that could
5 limit the effectiveness of basin number 2 and
6 impede or interfere with, I guess, some of the
7 function of removal of solids. Now that's, you
8 know, unless basin number 2 is sized large enough
9 where it would operate and meet the desired
10 effluent quality even though it's also accepting
11 flow from number 1, basin number 1.

12 So, could you comment on that, I guess?
13 It sounded like most of your point that you made
14 was with the hydraulics, and you didn't really
15 discuss so much removal of solids. Maybe it's
16 inherent in the same thing. But could you just
17 comment on that, please?

18 THE WITNESS (Hiltbrand): Certainly.
19 Robert Hiltbrand speaking again. For instance, we
20 could have used the diversion of the sheet flows
21 from the western array to, let's say, a ditch to a
22 culvert end and then brought that to basin number
23 2, but, in essence, by having the two separate
24 basins, we actually improve the ability of the
25 site to handle solids because we treat the entire

1 western array in the basin before it -- in basin 1
2 before it goes to basin 2.

3 The other thing it does for us is it
4 gives us a chance, if you look very closely at the
5 staging plan on this site, we've staged this in
6 three separate pieces so that the western array
7 gets built while the eastern arrays actually stay
8 intact with the clearing. The clearing is done,
9 but the stumping and grubbing is left so that
10 actually the land is not disturbed on the eastern
11 array while the western is being built. While the
12 western is being built, you have the western basin
13 working. The basin for basin number 2, which is
14 the ultimate basin for the east side, is already
15 constructed and being allowed to vegetate during
16 the process, so it allows us to stage things and
17 allows certain parts to grow as the overall
18 project moves along.

19 Now, the basin to the west will
20 actually improve the water quality overall by
21 allowing that to happen there before it gets into
22 the second basin and again allow us to stage this
23 very well and not bring water right away to a
24 basin that hasn't been constructed and vegetated.

25 The other thing that we've done, which

1 is a little unusual, is 20 feet upslope of our
2 basins we've provided a 2 percent grade sheet flow
3 section with an infiltration drain, crushed stone
4 infiltration drain above the basin, so that sheet
5 flows are allowed to come down, hit the
6 infiltration trench, we get as much into the
7 ground as possible as we can, and whatever doesn't
8 flows over a fairly shallow grass slope and then
9 into the stormwater quality basin. So we've done
10 quite a few controls to get the ultimate amount of
11 cleanliness done and allow us to stage the
12 property in a very organized manner.

13 MR. HARDER: Okay. Thank you. I
14 appreciate that. And the infiltration trenches
15 are purely infiltration in terms of function,
16 there's no, they're not collection with any
17 discharge from them, right, it's just purely
18 infiltration?

19 THE WITNESS (Hiltbrand): Purely
20 infiltration for the upslope sheet flow that comes
21 towards the basin.

22 MR. HARDER: Okay. Thank you. Have
23 you had discussions with the stormwater folks at
24 DEEP in general and especially about the basin
25 arrangements that we just talked about?

1 THE WITNESS (Hiltbrand): We did have a
2 discussion. I don't know the exact date, but
3 Bryan could comment on that.

4 THE WITNESS (Fitzgerald): This is
5 Bryan Fitzgerald. We had a meeting with the DEEP
6 stormwater team on or about December 18th of 2020
7 where Mr. Stone from the stormwater team discussed
8 the project and the functions of those basins.

9 MR. HARDER: And at that time you had
10 been proposing at that time or prior that basin 1
11 would flow to basin 2, and so they know about
12 that?

13 THE WITNESS (Hiltbrand): That is
14 correct, sir. Rob Hiltbrand. That's correct,
15 sir.

16 MR. HARDER: Okay. I appreciate that
17 information. Thanks very much. And that's all I
18 have right now, Mr. Silvestri. Thank you. Or Mr.
19 Morissette. Sorry.

20 MR. MORISSETTE: Thank you, Mr. Harder.
21 We will now break for 15 minutes, and
22 we will resume at approximately 4 o'clock. Thank
23 you.

24 (Whereupon, a recess was taken from
25 3:44 p.m. until 4:00 p.m.)

1 MR. MORISSETTE: Okay. We will now
2 continue with cross-examination by Mr. Hannon.

3 MR. HOFFMAN: Mr. Morissette?

4 MR. MORISSETTE: Yes, Attorney Hoffman.

5 MR. HOFFMAN: Before we continue with
6 cross-examination, over the break we had the
7 opportunity to get a couple of facts related to
8 both Mr. Perrone's and Mr. Silvestri's lines of
9 questioning specifically about the cost and the
10 transformer fluid that doesn't contain any PCB.
11 And if we could just very quickly go back to those
12 two things before we continue cross so we can
13 shore up the record, I'd appreciate it.

14 MR. MORISSETTE: That would be good.
15 Thank you.

16 MR. HOFFMAN: So I'll first ask
17 Mr. DeNino to talk about the project cost.

18 THE WITNESS (DeNino): Steve DeNino
19 with Verogy. And to answer Mr. Perrone's
20 question, we do not anticipate any impact to the
21 project budget with the revised design.

22 MR. PERRONE: Thank you.

23 MR. HOFFMAN: And then Mr. Perry has
24 additional information about the transformer
25 fluid.

1 THE WITNESS (Perry): This is Kyle
2 Perry. The transformers we would propose to use
3 would use an FR3 fluid as the oil, which the oil
4 comes from renewable resources, commodity seeds
5 like sunflower seeds, and is recyclable and
6 reusable. And the overall environmental impact is
7 about a quarter of the impact as traditional
8 mineral oil.

9 THE WITNESS (Fitzgerald): Mr.
10 Morissette, if you don't mind, this is Ryan
11 Fitzgerald, I just wanted to address Mr. Harder's
12 question regarding the remote field review. I
13 believe, Mr. Harder, I found the photo. I think
14 it's photo 34 that may show a dozen or two dozen
15 dead pines. And if this is in fact the photo
16 you're referencing, this photo is located interior
17 to the array area on the eastern most side of the
18 array near the fence line and is centrally located
19 along that eastern array border. So it would be
20 what's in the area that would be proposed for tree
21 removal. That's photo 34.

22 MR. MORISSETTE: Thank you. Mr.
23 Harder, are you all set?

24 MR. HARDER: I don't have that photo up
25 yet, but I'll check it out. It's probably the

1 same one, but I will take a look and let you know
2 if it's not.

3 MR. MORISSETTE: Very good.

4 THE WITNESS (Fitzgerald): Thank you.

5 MR. MORISSETTE: Thank you.

6 Thank you, Attorney Hoffman.

7 Mr. Hannon, please continue.

8 MR. HANNON: Thank you. In reading
9 through some of the documents, I guess one
10 question that I have is I'm assuming that the sand
11 and gravel operation will be continuing while the
12 solar project, assuming it's approved, is
13 installed and operational, is that in fact the
14 case?

15 THE WITNESS (Hiltbrand): This is
16 Robert Hiltbrand speaking. That is correct, sir.

17 MR. HANNON: Okay. The reason that I'm
18 asking is because typically we don't see this. So
19 I'm curious as to how wind dust from the operation
20 may impact the effectiveness of the panels.

21 THE WITNESS (Herchel): This is Will
22 Herchel. We recognize that that operation will
23 continue to go on to the south of the array
24 location. We currently do not anticipate having
25 to do any additional cleaning of those solar

1 panels to allow for the production that we
2 forecasted for this location.

3 THE WITNESS (Hiltbrand): And this is
4 Mr. Hiltbrand again, sir. This is a very low
5 level operation. Our area of excavation comprises
6 about 1 acre and about 3 acres of stockpile. We
7 do not operate this on a daily basis. Sometimes
8 we're not there for a week at a time. We do
9 employ dust control being calcium on our roadways
10 and our operational areas, and we keep dust down
11 as a matter of practice. But again, this is not a
12 high volume operation that operates on a daily
13 basis or anything like that.

14 MR. HANNON: Thank you. A couple of
15 questions as it relates to core forest,
16 forestland, things of that nature. In the
17 petition on page 34 you talk about the total
18 contiguous forest block within and adjacent to the
19 site is 108 acres. Does that include the land
20 associated with Wildcat Mountain Forest?

21 THE WITNESS (Davison): It's Eric
22 Davison. Give me a second, Mr. Hannon, just to
23 dig that up.

24 MR. HANNON: No problem.

25 THE WITNESS (Davison): If you want to

1 jump to another question.

2 MR. HANNON: And the reason I'm asking
3 about this, I'm just trying to get a better feel
4 for the overall forest area in the area, what's
5 being proposed to be removed, and that corridor of
6 connectivity, so that's kind of where I'm going
7 with this.

8 THE WITNESS (Davison): Sure. There's
9 a figure that we developed. I just want to
10 reference that so you can look that up and see the
11 figure that I'm talking about. Well, I guess
12 firstly to answer your question, no, it doesn't
13 include Nassahegon State Forest. The core forest
14 analysis looks at forests to the point at which it
15 narrows to that 300 foot edge forest width at
16 which you would, when you're mapping core forest
17 you would then cut that off and the core forest
18 block would end.

19 So, the connection of Nassahegon is a
20 riparian corridor that at places becomes only edge
21 forest and not core which was the driving force in
22 my argument to the forestry division that, you
23 know, I thought they were sort of overinflating
24 the extent of the core forest. Because you've got
25 a residential development bordering the site to

1 the north on both the east side and the west side
2 of Wildcat Brook, and so the forest narrows. And
3 so during our back and forth and what they asked
4 us to go back and do in the field was to kind of
5 document the condition of that riparian corridor.
6 So they conceded that it's technically not core
7 because the width doesn't comply with the core
8 requirement, but they thought it was significant
9 in the sense that it's a riparian connection to
10 another core forest.

11 So, just going back to your original
12 question, no, the 108 acres does not include
13 Nassahegon. That's hundreds and hundreds of
14 acres.

15 MR. HANNON: That's what I thought. I
16 just wanted to be sure.

17 THE WITNESS (Davison): It was Figure 7
18 in my report shows that larger landscape context.

19 MR. HANNON: Okay. So, in essence,
20 with what is being proposed on this site, it would
21 take that sort of riparian area north of the site
22 and in essence just sort of continue that down to
23 the south, correct, but ultimately that entire
24 corridor would still connect with the state
25 forest?

1 THE WITNESS (Davison): Correct. See,
2 the forest that we're impacting by this project is
3 the very southern terminus of this entire forest
4 block, as you can see from the air photos in my
5 report. It doesn't continue to the south. So
6 this is really, you know, it's what, you know, we
7 call terminal edge forest, it's at the edges. In
8 other words, we're not bifurcating or fragmenting
9 a larger interior block, we're just chipping away
10 at the edges, which, you know, in my evaluation
11 makes it a little less impactful, in other words,
12 we're not taking a -- we're not installing the
13 panels in the interior of a larger core forest and
14 fragmenting it, so we're just working on the
15 edges.

16 And that was sort of some of the back
17 and forth I had with Chris Martin at DEEP forestry
18 was, you know, he said you're fragmenting the core
19 forest, and I said, well, we're at the very
20 southern tip, how can we fragment it, we can
21 shorten its southern extension, but it doesn't
22 continue past our site, so therefore it's not a
23 fragmentary feature was some of the back and forth
24 that we got into.

25 MR. HANNON: Okay. Thank you. Moving

1 over to the eastern box turtle, hognose snake
2 protection plan. I just have a couple of
3 questions trying to get a better picture of what
4 you mean by on number 2, targeted searches. So
5 what do you mean by "targeted searches"? What I'm
6 used to seeing is that every morning somebody is
7 going to go out, they're going to police the area,
8 you know, if they find the turtles they're going
9 to relocate them. And here you've got an area
10 specified to relocate the turtles. So does
11 targeted searches mean that somebody is going to
12 be out there daily doing this?

13 THE WITNESS (Davison): So the
14 intention of the protection plan was to install,
15 you know, we just, obviously that motion request
16 was denied, but the intent was driven by what is
17 the best way to minimize impacts to box turtles.
18 So the intent was, if we can install the silt
19 fence in the entirety of the limits of the
20 disturbance now, with the assumption that some of
21 the box turtles that we observed are hibernating
22 in that small forest block that we're going to be
23 clearing and converting to panels, we know that
24 they emerge in April and roughly late April to mid
25 May they move from that forest down into the edges

1 of the gravel pit. So we were trying to take
2 advantage of that seasonal movement when they're
3 most active, most observable, if we can ring the
4 site with the silt fence. As they try to move out
5 of their forest hibernation site, they hit the
6 fence.

7 At that point we locate them, we're
8 going to affix them with radio transmitters, ship
9 them over the fencing outside of the project area,
10 and we were going to continue to sweep the
11 interior of the project area until we felt like
12 there were no more turtles present inside that
13 silt fence limit. Then we could conduct the
14 clearing, we could construct, and really, you
15 know, that would be the best case scenario for
16 minimizing impacts to the box turtle.

17 The whole two-year monitoring plan was
18 driven by NDDB comments. You know, Dawn McKay,
19 who's the environmental analyst that reviewed the
20 project for NDDB, she wanted to, you know,
21 understand in the construction zone what's going
22 to happen to them post-construction, you know,
23 will they shift back into the site, will they
24 hibernate in the remaining forest patch on the
25 edges of the arrays, will they move to a different

1 forest patch, you know, how will they react
2 post-construction to the development of the solar
3 field.

4 So, you know, she was looking for some
5 post-construction monitoring. And I guess part of
6 her reasoning was, you know, I think I've been
7 doing solar sites now for 15 years and we
8 propose all -- you know, we do these initial
9 surveys, we speculate on impacts, we develop
10 mitigation plans, but how often do we do any kind
11 of followup to find out what was the actual
12 on-the-ground impact to the listed species that we
13 design mitigation measures for? And that was sort
14 of what drove NDDB to ask this.

15 And we sort of got talking, well, why
16 don't we look and see, actually see what happens
17 to the box turtles post-construction. So that was
18 the idea of affixing the radio transmitters to
19 them and tracking them through the construction
20 period and then one full growing season afterward
21 so we can see how they adapt. And hopefully that
22 information can inform future projects because I'm
23 sure you see box turtles come up on a vast amount
24 of projects that come before the Council.

25 MR. HANNON: Thank you. One of the

1 other critters out there that we talk about some
2 type of a protection plan is the eastern hognose
3 snake. I'm just curious though, is there really
4 any difference between the plan for the turtles
5 and the snake? I mean, I'm not aware of any.

6 THE WITNESS (Davison): There isn't.
7 And so the barrier fencing will capture any
8 reptile, including, you know, some snakes can
9 climb over a silt fence without any trouble. A
10 hognose snake isn't one of those species, they're
11 not climbers, so they'll be captured in that silt
12 fence. We included them just, you know, in the
13 write-up of the protection plan. We surveyed the
14 site. We did not find that species. However,
15 it's a highly cryptic species. You don't see a
16 lot of them. So it is possible that they're
17 there, we just didn't see them. So, once we
18 install the silt fence and tree cutting, you know,
19 ensues, they will start to move, they will get
20 trapped along the fence, and we'll be able to
21 remove them from the site, but we don't have any
22 monitoring plan for that species.

23 THE WITNESS (Herchel): This is Will
24 Herchel. I just have a quick point of
25 clarification. I know during the earlier

1 discussion on the silt fence application it was
2 mentioned or there was discussion about the
3 landowner taking action to install the silt fence.
4 Was that something that would be permitted by the
5 Siting Council or stated so that could occur by
6 the Siting Council, or am I understanding that
7 incorrectly in terms of the earlier discussion
8 with regards to the silt fence that Eric was just
9 mentioning?

10 MR. MORISSETTE: You're directing that
11 question to the Council. I would say that the
12 landowner's property is his property to do with
13 whatever he wishes to do, but I'll have Attorney
14 Bachman reply from a legal perspective. Thank
15 you.

16 MS. BACHMAN: Thank you, Mr.
17 Morissette. I'm not quite sure I understood the
18 question.

19 THE WITNESS (Herchel): Sure. I can
20 try to rephrase. I believe during the discussion
21 on the previously mentioned motion for installing
22 the silt fence as it pertains to Burlington Solar
23 One, some of the discussion was about the
24 landowner taking action to do this, which was
25 separate and apart from the not the petitioner but

1 the applicant. And I was wondering if that would
2 be permitted by the Siting Council in this
3 circumstance if the landowner under his own
4 volition wanted to install these types of
5 protections.

6 MS. BACHMAN: Well, it certainly
7 wouldn't be under our jurisdiction if the
8 landowner sought on his existing operations,
9 whether it's the haying or the gravel operations.
10 It wouldn't come to us for permission to put
11 fencing up. That would be in the jurisdiction of
12 the town which does actually complicate the lease
13 addendum that was submitted with the motion,
14 because if the project is denied and the landowner
15 opts to keep the fence, we kind of leave the
16 burden on the town to determine the fate of the
17 fence. So it's more of a jurisdictional issue.
18 But certainly if the project were approved and the
19 landowner consented to additional fencing on his
20 property, we wouldn't have jurisdiction over that
21 fencing because we don't have jurisdiction over
22 property that's not subject to development as this
23 the solar site. I hope that's helpful.

24 MR. MORISSETTE: Thank you, Attorney
25 Bachman.

1 Mr. Hannon, please continue.

2 MR. HANNON: Okay. I've got a
3 follow-up question on wetlands and watercourses.
4 There's a comment about the impact of this project
5 on the wetlands, and it says there will be no
6 direct impacts to identified wetlands, which I do
7 not disagree with, or, I guess put in the
8 positive, I agree with. But because -- there's a
9 statement in here, "Because development activity
10 is proposed adjacent to the wetlands, there is the
11 potential for secondary impacts to these
12 resources." Can you explain what you mean by the
13 "secondary impacts"?

14 THE WITNESS (Davison): Is that from my
15 report?

16 MR. HANNON: I believe was part of
17 yours. It was on page 49 under number 2, "Impacts
18 to Wetlands."

19 THE WITNESS (Davison): I just want to
20 see where you're seeing that reference.

21 MR. HANNON: I mean, it's under Section
22 D, "Wetlands and Vernal Pools."

23 THE WITNESS (Davison): Okay. Sorry.
24 I do see that here, yeah.

25 MR. HANNON: Okay. It's on page 49,

1 the fourth full paragraph, and about halfway down,
2 "Because development activity is proposed adjacent
3 to the wetlands, there is the potential for
4 secondary impacts." I'm just curious as to what
5 you thought could possibly be some secondary
6 impacts.

7 THE WITNESS (Davison): Yeah. I mean,
8 that's a lead-in sentence. In the following
9 discussion after that it talks about, you know,
10 the stormwater measures being the -- well, erosion
11 and sedimentation controls during construction and
12 then the post-construction stormwater measures
13 being how you prevent secondary impacts. That
14 sentence basically is generic in the sense that
15 just because a project tells you that they have no
16 direct impact that therefore they won't impact
17 wetlands or watercourses. It's just simply saying
18 that secondary impacts can occur when you're not
19 necessarily working right next to a wetland or
20 watercourse. In this case, that's the lead-in to
21 my discussion of the erosion sedimentation control
22 plans and the stormwater plans being protective
23 and therefore preventing secondary impacts.

24 MR. HANNON: Thank you. Because in
25 looking at Table 3, I mean, you're talking about a

1 fairly significant setback from the wetlands. So
2 from what we have been seeing, this is a nice
3 measure that the closest one is Wetland 3, and
4 it's 111 feet so --

5 THE WITNESS (Davison): Right, I agree.
6 And again, this was, you know, the initial review
7 from DEEP forestry was their concern over riparian
8 habitat impacts. And one of our counters to that,
9 you know, I was frankly a bit surprised because I
10 feel like we do have sizable setbacks from
11 watercourses, especially from the watercourses,
12 but also from the wetlands that border the
13 watercourses.

14 MR. HANNON: And then tying in with
15 some of the stormwater, the proposed grass lined
16 swales that are being offered, is the material
17 being placed in these swales to help also maybe
18 pull out some of the contaminants? I mean, I'm
19 familiar with using grass lined swales and using
20 particular plants to be able to pull out certain
21 types of metals, things of that nature, so is that
22 the intended purpose of this as well?

23 THE WITNESS (Davison): I think that's
24 probably a better question for Rob Hiltbrand, the
25 engineer.

1 THE WITNESS (Hiltbrand): This is
2 Robert Hiltbrand speaking. I'm not exactly sure
3 where you're heading with that question. Could
4 you phrase that again, sir?

5 MR. HANNON: Yeah. On page 53 it says
6 grass lined swales to mitigate stormwater runoff
7 from the project. And there's a 2 percent
8 gradient grass infiltration and filter strip to
9 provide primary treatment of up-gradient sheet
10 flows. I'm familiar with using grass lined swales
11 as a way to pull out contaminants from the water.
12 So I'm just trying to verify that that is in fact
13 the purpose of putting in grass lined swales
14 associated with this project.

15 THE WITNESS (Hiltbrand): That is
16 correct. Robert Hiltbrand speaking. The purpose
17 is to use the grass lined swale where we have
18 adequate slopes that are low enough that won't
19 cause erosion rather than using a riprap or a
20 stone lined swale. The grass lined with an
21 erosion control mat as an initial stabilizer is a
22 much better treatment process. And the 20 feet
23 upslope of the basin at a lower slope was to give
24 the sheet flows a chance to hit the infiltration
25 trench that I spoke of earlier, and then whatever

1 doesn't infiltrate into the ground at that point
2 sheet flows over the 20 feet at 2 percent and then
3 into the detention basin. So that is considered
4 to be a filter strip as well to help filter out
5 the stormwater, that is correct.

6 MR. HANNON: Okay. Thank you. In the
7 interrogatories, this ties in with I think where
8 Mr. Silvestri was going earlier, on number 38 it
9 talks about the TCLP testing. I mean, I think the
10 reason that you're starting to see the Council
11 question applicants about this is because
12 typically we'll get a response in the
13 decommissioning plan saying, oh, well, we'll get
14 all the costs back out because we can recycle all
15 the materials.

16 And that may be true for most panels,
17 because what I've been reading is most of the
18 newer panels will comply with the TCLP test. The
19 issue that comes up is if you happen to select
20 panels that do not pass that test and therefore
21 they are not going out as solid waste but
22 hazardous waste, the cost estimate for the
23 decommissioning plan is going to be significantly
24 altered. That's kind of, I think, where we're
25 going with this, just to make sure that somebody

1 doesn't come up with a big surprise at the end of
2 this package and then somebody just walk away from
3 the site, because as far as I know right now there
4 is no bonding or anything along those lines to
5 secure that at the end of the life of the project
6 that is in fact dismantled. So I think that's
7 where some of the questions are coming in.

8 So I'm not asking any questions, but I
9 just want to clarify that's kind of what I'm
10 looking at when we talk about the TCLP test is
11 more for end of life, not so much for what's going
12 on now, and how that can be factored in as far as
13 making sure the costs are available to
14 decommission the site.

15 MR. HOFFMAN: But Mr. Hannon, let me
16 clarify your statement there.

17 MR. HANNON: Yes.

18 MR. HOFFMAN: If you're talking about
19 recycling, the item that is being recycled never
20 becomes solid waste under the federal definition,
21 and therefore never becomes hazardous waste
22 because a hazardous waste is a subset of solid
23 waste under the Resource Conservation Recovery
24 Act, correct?

25 MR. HANNON: Yeah, but I mean even

1 recyclables are considered solid waste when they
2 go out, but they can be recycled. I mean, that's
3 how I'm looking at it. My concern is basically
4 with what we have been told in terms of how
5 decommissioning a project will be financed. And
6 basically everybody is telling us that we can get
7 most of the cost to decommission the site through
8 the recycling of the materials at the back end of
9 the project, but nobody is talking about what
10 happens if some of those materials can't be
11 recycled. And I think that's why we're bringing
12 up the issue, just to try to eliminate that
13 potential surprise at the end of life on the
14 project.

15 MR. HOFFMAN: But not to get off on a
16 tangent here, sir, but whether or not you can
17 recycle something doesn't have anything to do with
18 its hazardous constituencies or not. You can
19 recycle contaminated motor oil, you can recycle
20 copper wire out of televisions. It's why we have
21 those facilities. Those would all be hazardous
22 wastes if they weren't recycled, but if you can
23 put them in productive use they're never
24 considered waste under the federal program or
25 under the state for that matter.

1 MR. HANNON: Okay. I mean, we may
2 disagree on our approach, but I understand what
3 you're saying. That's fine.

4 On I think Interrogatory Number 45 it's
5 a question. It talks about the NDDDB letter, or
6 DEEP notes that "Please be advised that a DEEP
7 Fisheries biologist will review the permit
8 applications you may submit to DEEP." Has anybody
9 talked to anybody from fisheries on any of the
10 potential permits associated with the project?
11 There was a letter saying a name was given. I
12 think people had tried to contact the DEEP name,
13 but they had not contacted them yet or had not
14 been in touch with them.

15 THE WITNESS (Fitzgerald): Mr. Hannon,
16 this is Bryan Fitzgerald. Yes, since we responded
17 to that interrogatory, Eric Davison and myself
18 reached out to Dawn McKay at CTDEEP, and she put
19 us in touch with the correct individual at the
20 Connecticut DEEP Fisheries division, and we
21 have -- I'll have to confirm with Eric -- I think
22 we sent out that email correspondence to start
23 that correspondence with DEEP Fisheries.

24 MR. HANNON: Okay. That's fine. I
25 have no more questions. Thank you.

1 THE WITNESS (Fitzgerald): Thank you.

2 MR. MORISSETTE: Thank you, Mr. Hannon.

3 We will now move to cross-examination by

4 Mr. Nguyen.

5 Mr. Nguyen.

6 MR. NGUYEN: Thank you, Mr. Morissette.

7 I have a few questions regarding the construction

8 schedule and phasing. Let me start with a

9 follow-up question regarding the number of poles

10 that will be installed. I believe the answer was

11 nine 45-foot poles will be installed for this

12 project; is that right?

13 THE WITNESS (Perry): This is Kyle

14 Perry. That is currently the proposed design

15 directly by the utility company.

16 MR. NGUYEN: Who would install those

17 poles, is that by the utility company or by the

18 applicant?

19 THE WITNESS (Perry): This is Kyle

20 Perry again. The first five poles would be by the

21 utility company, and the following four would be

22 by us.

23 MR. NGUYEN: And why is that, why is it

24 split?

25 THE WITNESS (Perry): The utility sets

1 their own poles for their utility-owned equipment,
2 and the owner of the project would set their own
3 poles for their equipment.

4 MR. NGUYEN: And going forward, who
5 would be responsible to maintain those poles?

6 THE WITNESS (Perry): The owner of the
7 project. This is Kyle Perry again. The owner of
8 the project would be required to maintain anything
9 after the POCO, or the point of change of
10 ownership. And the point of change of ownership
11 is defined by the utility as the primary meters
12 which are their last two poles. So the utility,
13 just to clarify, the utility would maintain up to
14 from the existing distribution circuit to the two
15 primary metering poles.

16 MR. NGUYEN: To the extent that the
17 applicant installed their own poles --

18 THE WITNESS (Perry): That is correct.

19 MR. NGUYEN: -- would the applicant own
20 those poles?

21 THE WITNESS (Perry): This is Kyle.
22 The applicant would own those poles, yes.

23 MR. NGUYEN: I'm not sure the
24 construction time frame information is in the
25 record, but if you could please tell me the

1 projected timeline that the applicant expects to
2 commence and to complete the project?

3 THE WITNESS (DeNino): Hi, this is
4 Steve DeNino with Verogy. We intend to start
5 construction on the project in Q3 of this year and
6 have it completed by -- I'm pulling up the current
7 schedule right now so I can give you better dates.

8 MR. NGUYEN: I'm sorry?

9 THE WITNESS (DeNino): I'm pulling up
10 the current construction schedule right now to
11 give you better dates than quarterly.

12 THE WITNESS (Herchel): This is Will
13 Herchel. Obviously, any construction would be
14 subject to the approval of all necessary
15 permitting authorities, including the Connecticut
16 Siting Council.

17 THE WITNESS (DeNino): Yes. That being
18 said, we're currently, provided that we get those
19 approvals, forecasting starting construction in
20 September and completing the project in December
21 of this year.

22 MR. NGUYEN: And again, when does the
23 company or the applicant expect to commission the
24 project?

25 THE WITNESS (DeNino): Steve DeNino.

1 We would look to commission it directly after the
2 completion of the construction, so December of
3 2021.

4 MR. NGUYEN: In terms of the number of
5 hours and the days, what does the applicant plan
6 to perform in terms of the number of hours and
7 days to perform the construction activities.

8 THE WITNESS (DeNino): This is Steve
9 DeNino. We would anticipate construction taking
10 place between the hours of 7 and 4 o'clock,
11 typically 7 to 3:30, 7 to 4, Monday through Friday
12 would be our normal work week. You know, there
13 may be work performed on Saturdays. We don't
14 currently anticipate that.

15 MR. NGUYEN: Now, with respect to the
16 phasing, and I believe the applicant presented
17 their four phases that would be involved in the
18 project presented in the application on page 17 to
19 19; is that right?

20 THE WITNESS (Fitzgerald): This is
21 Bryan Fitzgerald. Yes, that is correct.

22 MR. NGUYEN: Now, in terms of the
23 associated time frame, what are we expecting?
24 First of all, are these phases performed
25 concurrently or are they in sequence?

1 THE WITNESS (DeNino): This is Steve
2 DeNino with Verogy. There would be -- so phase 1
3 is clearing the site, erosion controls, you know,
4 we would obviously establish our perimeter
5 controls and any erosion control measures that the
6 engineer deems necessary.

7 Can you just scroll to phase 2, 3 and
8 4?

9 So once the necessary precautions or
10 bases were in place, then we would start working
11 on phase 2, the western array. I will have to see
12 the revised one from the new drawing. I just want
13 to make sure.

14 THE WITNESS (Herchel): This was the
15 original.

16 THE WITNESS (DeNino): This is the
17 original one. So both Rob and I would consult on
18 making sure that the phase of the new drawings
19 were accurate. But per the initial application,
20 we would work on the western side of the array,
21 stumping and grubbing. We would then work on
22 grading, on drainage, restoring those areas with
23 topsoil, installing the racking and solar panels.

24 And we would move on to the eastern
25 array. That work could happen -- it wouldn't

1 necessarily follow, you know, complete 1, start 2,
2 there could be some overlap to that. But
3 throughout construction we would make sure that
4 all the necessary precautions were in place to
5 begin construction in those areas.

6 MR. NGUYEN: With respect to the
7 on-site ground inspection represented on Table 2,
8 page 21 of the application, it's indicated that
9 the internal frequency will be monthly on-site
10 ground inspection. Can you tell us what does that
11 involve?

12 THE WITNESS (DeNino): Steve DeNino
13 with Verogy. The on-site ground inspections would
14 have to do with the erosion control basins and
15 stormwater devices, the fence, the stormwater
16 management system.

17 MR. NGUYEN: I'm sorry, I missed the
18 last part of it.

19 THE WITNESS (DeNino): I'm sorry. I
20 mentioned the stormwater management systems, the
21 basins, the fences, items like that.

22 MR. NGUYEN: Okay. That's all I have.
23 Thank you very much.

24 Thank you, Mr. Morissette.

25 MR. MORISSETTE: Thank you, Mr. Nguyen.

1 We will now continue with
2 cross-examination by Mr. Edelson.

3 Mr. Edelson.

4 MR. EDELSON: Thank you, Mr.
5 Morissette. Can everybody hear me okay?

6 Just a couple of quick ones to just
7 button up some prior questions. When Mr. Perrone
8 asked about the water wells within the area, are
9 all of those private wells, or are any of them
10 public wells used by either a larger water company
11 or municipal water company?

12 THE WITNESS (Hiltbrand): This is
13 Robert Hiltbrand. The wells would all be private
14 wells. We are not aware of any publicly-owned
15 wells in the area.

16 MR. EDELSON: Thank you. So although I
17 agree with my colleague, Mr. Silvestri, that oil
18 is oil, from the standpoint of DEEP, that only
19 applies to notification if there's a spill, but
20 when it comes to biodegradable oil that you're
21 describing, DEEP says there is really no reason to
22 recover that, remediate it, or move it to
23 somewhere else. But that brings me to I think
24 it's field review photograph number 36. If I
25 understand that picture, it looks like there's an

1 abandoned vehicle there. And I guess I would like
2 to begin with, are you aware of whether or not
3 that vehicle had the oil and gasoline withdrawn
4 from it or was it just abandoned as a vehicle
5 containing the potential contaminating oils and
6 gas?

7 THE WITNESS (Hiltbrand): This is
8 Robert Hiltbrand speaking. As far as I know,
9 those vehicles have been there since the 1950s,
10 and I don't know at that point in time whether
11 they were abandoned appropriately in the 1950s.

12 MR. EDELSON: So you sort of led me to
13 my next question because you seem to have used
14 plural. I only saw one in that picture, but I
15 realize the field review is much more of a going
16 around the circumference or the perimeter of the
17 project. Are there more vehicles like that that
18 are abandoned on the site?

19 THE WITNESS (Hiltbrand): There is one
20 other frame of a vehicle. There's not much left
21 to it. It's a rotting away frame. It is not
22 within the compounds of the solar away, but it is
23 on the property.

24 MR. EDELSON: And for the record, you
25 would obviously be removing those to do the

1 project?

2 THE WITNESS (Hiltbrand): We'd be
3 removing both of those even though the other one
4 is not within the array.

5 MR. EDELSON: Okay. Thank you. So if
6 I understood the discussion at the beginning when
7 Mr. Perrone asked about the, let's say the early
8 conversation with DEEP about the core forest and
9 their reasons for you taking this from being a
10 petition, especially given the size of the project
11 to an application, it was about the core forest
12 concern. And I have to admit trying to follow the
13 conversation about core forest can get me very
14 confused. We realize that legally right now DEEP
15 sort of has a right of refusal, probably too
16 strong a word, or maybe it isn't. I don't always
17 understand all the legalities. But at this point
18 in your conversation with DEEP and in terms of
19 their determination, have they decided that there
20 is no longer an issue with regard to this project
21 with respect to core forest, or is that an
22 outstanding issue right now? I wish I knew names
23 so I could ask the right person. But it seems to
24 me it's one of the major questions here, so I'd
25 like to better understand it.

1 THE WITNESS (Herchel): This Will
2 Herchel. And perhaps Eric Davison can do a better
3 job of describing it, but as of right now, and
4 part of the reason that we're in the certificate
5 process as opposed to the petition process was
6 that DEEP determined there was a material impact
7 on core forest if we were to install a solar array
8 at this location. And that was the determination
9 that was made. Whether that material impact is
10 negative enough to allow the project go forward or
11 not was not the point of the determination they
12 made. It was simply as to whether there was a
13 material impact and whether we had to go through
14 the certificate process or remain in the petition
15 process.

16 MR. EDELSON: And maybe I'm going to
17 need to refer to Attorney Bachman, but I thought
18 the existing legislation says that we need to have
19 a letter from DEEP indicating that they do not
20 have a concern with the project with respect to
21 core forest. And as far as I can tell, we, the
22 Council do not have that, if I could use the term,
23 sign-off from DEEP.

24 So Mr. Morissette, maybe it would be
25 worth clarifying that because I think that's

1 pretty important at least for me to know that this
2 project is or is not in compliance with that
3 requirement, and maybe I'm misunderstanding the
4 requirement.

5 MR. MORISSETTE: Thank you. Attorney
6 Bachman, would you like to comment?

7 MS. BACHMAN: Thank you, Mr.
8 Morissette.

9 Mr. Edelson, you're more polite than I
10 am. I call it a veto. But the Department of
11 Agriculture and DEEP determinations as to material
12 impact to core forest or prime farmland are
13 specifically for projects with a generating
14 capacity of 2 megawatts or more. And if they are
15 submitted as a petition, the determinations from
16 DEEP and Agriculture would prevent the project
17 developer from proceeding under a petition for a
18 declaratory ruling process but requires them to
19 submit an application for a certificate, which is
20 precisely what happened here, a petition was
21 submitted, they got an adverse determination from
22 DEEP on the core forest question, and they filed
23 an application for a certificate subsequently,
24 which has no veto from agriculture or DEEP.

25 It is within the discretion of the

1 Council in accordance with its statutory criteria
2 that does include an evaluation of forest and
3 farmland, among many other criteria, and we are to
4 review that criteria and conduct the balance of
5 the public benefit for this particular facility
6 with those environmental impacts and make a
7 determination whether we think there would be a
8 material impact to core forests or farmland or
9 wetlands or the riparian corridor. But it's
10 completely within this Council's discretion in an
11 application for a certificate process to make that
12 determination. As you are aware, state agency
13 comments are advisory. We are not obligated to
14 follow them. I hope that's helpful, Mr. Edelson.

15 MR. EDELSON: That is extremely
16 helpful, and I apologize that you probably have
17 explained that to me before, but I doubt it will
18 be the last time, so that's very helpful. And I
19 hope other commissioners actually found it a
20 little bit illuminating as far as this distinction
21 of when that veto power is in there.

22 But again, going back to the
23 description of this forest, I should have
24 mentioned at the outset I did have the opportunity
25 the other day to drive by the site, I didn't go on

1 the site, just drove around on the public streets,
2 and I have to conclude that the description of
3 this as edge forest is extremely accurate. I
4 mean, you've got residential all around it on two,
5 if not three sides, and so it's clearly to me an
6 edge, and it's a question of how much. But I
7 would like a clarification on some of these
8 buffers.

9 THE WITNESS (Davison): Mr. Edelson,
10 I'm sorry to interrupt. It's Eric Davison. I
11 don't know, do you want me to elaborate on some of
12 the discussions I had with DEEP forestry about
13 their concerns about the core forest?

14 MR. EDELSON: Quite honestly, I thought
15 you did a pretty good job before.

16 THE WITNESS (Davison): Okay.

17 MR. EDELSON: And I appreciated that,
18 but I guess I was unclear what Attorney Bachman
19 helped me with which is understand where do we fit
20 into this at this point. And again, that's more a
21 legal issue than a forest issue, if you will.

22 THE WITNESS (Davison): Sure. One
23 quick comment. It's Eric Davison again. You
24 know, again, I've worked on a number of solar
25 sites over the past decade or so, and I understand

1 the concerns with forest clearing. I guess the
2 concern from DEEP and issuing of the letter of
3 material impact did surprise me. So we did have a
4 number of calls and conferences with Chris Martin
5 from DEEP forestry. Because if you look at the
6 sheer numbers here, 16 acres of forest clearing,
7 which has now been reduced to closer to 14, and
8 just under 7 acres of core forest, it didn't occur
9 to me, having looked at so many solar projects
10 with forest impacts that exceeded this, it didn't
11 occur to me that this site, again, being at the
12 very edge of a core forest block that's smaller
13 than what is typically considered significant, the
14 250 acre threshold, I was surprised.

15 And frankly, I asked Chris Martin point
16 blank, you know, is DEEP forestry sort of
17 attempting to right the ship and is this sort of
18 the new -- is this going to be a new method.
19 Because as a consultant, you want to be able to
20 advise your clients when they start a project, you
21 know, do you think this is going to be an issue,
22 and I certainly didn't with this scale of project.
23 They assured me that this site was unique, and so
24 I asked them for what criteria they used to
25 evaluate it to determine that it was significant.

1 And they sent me their list of seven
2 criteria, which are in my follow-up core forest
3 analysis report. And again, if you look at our
4 project against those criteria, I mean, I'm still
5 sort of at a loss. And again, I just -- they
6 never -- you know, the letter is very brief, and
7 it never explains, you know, what their
8 significant issues are. They did say to me one of
9 their primary concerns is the impact to the
10 eastern box turtle, which I clarified is not a
11 core forest species, it's a species that uses
12 forests but does not use core forests or require
13 core forests. It's a habitat generalist.

14 So that's one of the reasons we
15 developed this very detailed box turtle mitigation
16 plan. That was sort of the agreement with NDDB.
17 In the absence of them throwing a large generic
18 buffer at us to, in their eyes, protect box turtle
19 habitat, they would accept a more detailed study
20 to understand what the impacts are and then
21 provide a conservation plan post-construction.
22 That was sort of why we agreed on this more
23 detailed box turtle plan. I hope that helps.

24 MR. EDELSON: Well, thank you very
25 much. I'm going to be jumping around because a

1 lot of different topics have already been covered.
2 I just want to button up one other thing regarding
3 the question I think Mr. Perrone asked about noise
4 after sundown, and I think the answer was the
5 inverters would not make any noise once the solar
6 generation was happening. But just to be clear
7 about the answer. Is there any other source of
8 noise from this project that would be occurring at
9 night?

10 THE WITNESS (DeNino): Steve DeNino
11 with Verogy. Yes, you are correct. I was
12 commenting on the inverters operating at night.
13 The facility would also have the transformers that
14 would produce a small amount of noise. I believe
15 the second paragraph under noise indicates that
16 the noise level is not anticipated to be greater
17 than 14.5 dBA which is underneath the limits for
18 the area.

19 MR. EDELSON: But just to be clear, I
20 thought that 14.5 was cumulative of the inverters
21 and the transformers, so that's a daytime reading,
22 if you will?

23 THE WITNESS (DeNino): Correct, yes,
24 that should be the maximum decibel level of the
25 site at the perimeter, I believe.

1 MR. EDELSON: So it wouldn't be silent,
2 but it would still be way below the threshold,
3 even below the 14.5. So if I understand
4 correctly, this piece of property is zoned
5 industrial and is operating industrial today. And
6 as far as your working with the town, by right if
7 the landowner wanted to cut down trees for a
8 different project, let's say putting up a
9 warehouse as an example, is there any provision
10 other than the buffers or the spacing with regard
11 to the wetlands that would prevent him from doing
12 that or the landowner from doing that?

13 THE WITNESS (Fitzgerald): Mr. Edelson,
14 this is Bryan Fitzgerald. And to my knowledge, I
15 believe there is nothing that would prevent the
16 landowner from doing that if they have a permitted
17 project within the permitted use of the industrial
18 zone in Connecticut.

19 MR. EDELSON: Thank you for that. And
20 then regarding the buffer to the area or to the
21 waterways, if I understand correctly, we're
22 talking about 300 feet. I'm assuming that's your
23 determination, that's way above what Burlington's
24 inland wetlands -- wetlands and watercourses would
25 require. Does that sound accurate to you?

1 THE WITNESS (Fitzgerald): Mr. Edelson,
2 this is Bryan Fitzgerald. That is accurate, yes.

3 MR. EDELSON: I want to talk a little
4 bit about the panels. And part of this could be
5 my own lack of understanding, but I think the
6 description was that you were going to have a
7 landscape orientation four high. And I tried to
8 look through the site plans, and I could not see a
9 diagram of what you actually meant by this. And
10 before you answer that question, one of the
11 reasons I'm concerned about this is lately we've
12 been -- well, we used to be very concerned about
13 the drip line coming off of panels, and lately
14 people are saying, well, it's really not an issue
15 because there's spacing between the panels. But
16 without seeing a diagram of how those panels are
17 going to be configured, we're left with a
18 narrative as opposed to a drawing.

19 Now, again, I might have missed the
20 drawing and that might be part of it. So, in
21 general, I guess I'd like you to talk about your
22 panel configuration, your panel layout. You did
23 mention that they're bifacial, although in the
24 narrative I could not see any reference to the
25 bifacial. So I'm kind of curious about how that

1 affected your spacing between the rows. I want to
2 understand better how you're spacing the panels as
3 they're, let's say, approximate to each other, as
4 you called it the four high landscape. And I'd
5 also be interested in knowing why landscape and
6 not portrait, because that would seem to me you
7 could get more panels in a square footage in a
8 panel orientation than a landscape. So, as you
9 can see, I'm a little confused about the panels,
10 and anything you could do to help clarify that
11 would be appreciated.

12 THE WITNESS (Fitzgerald): Understood.
13 Mr. Edelson, this is Bryan Fitzgerald. And I'll
14 get this started and ask Kyle Perry, our manager
15 of engineering to step in. And to touch on the
16 panels and the drip edge here, what we had
17 responded to in Interrogatory 46 of Set One was
18 that the rows of the panels are not contiguous,
19 they're going to have about a quarter inch to a
20 half inch gap between each panel, and the panels
21 themselves would be mounted in a four-high
22 landscape configuration due to the type of racking
23 that was most optimized to hold and structurally
24 support the bifacial modules.

25 And based on the racking vendor we

1 chose for the project, a four-high landscape
2 configuration that was optimized, four bifacial
3 modules, which effectively means the amount of
4 support brackets and wire management on the back
5 side of racking is engineered to optimize
6 reflectivity, or as Kyle may call it albedo, that
7 could be received by those bifacial modules.

8 And as to the description of portrait
9 versus landscape, Kyle, if you want to step in on
10 that end.

11 THE WITNESS (Perry): Yes. This is
12 Kyle Perry. Normally in a two -- to answer which
13 is utilizing the space available more efficiently,
14 a two high portrait orientation, each module is
15 roughly 3 foot by 6 foot, you know, to round it
16 off. So if you have a two high landscape, it's
17 roughly 12 feet and 2 high. And a two high
18 portrait is roughly 12 feet and 2 deep. A four
19 high landscape at 3 foot width would roughly be
20 around the same 12 feet. So I've done a couple
21 hundred designs going two high portrait and four
22 high landscape, and they do utilize roughly the
23 same area. In some cases where you have a lot of
24 wetland buffers to adhere to or other
25 considerations to make, one may make more sense

1 than the other just for table sizing, but
2 generally they utilize roughly the same area.

3 THE WITNESS (Fitzgerald): Mr. Edelson,
4 this is Bryan Fitzgerald. I'll just add that the
5 project was designed from a perspective to where
6 the interrow spacing of the rows of modules is
7 greater than the module plane width effectively to
8 adhere to Appendix I considerations in the
9 Connecticut DEEP stormwater permitting process.
10 If we missed anything, please feel free to let us
11 know, and we can go back and address it.

12 THE WITNESS (DeNino): This is Steve
13 DeNino with Verogy. To address why the reason
14 that you go landscape with the bifacial modules.
15 So the bifacial module still has an aluminum frame
16 just like a standard module. To be mounted to the
17 racking system in a portrait scenario, what you
18 would have is the east-west purlins would actually
19 be mounted, if you were looking at a module, about
20 a third of the way up and a third of the way down,
21 which then you would have purlins, which are
22 pieces of metal steel, directly behind the module
23 which would take away from the ability of that
24 albedo light to hit the back of the module, it
25 actually creates shade on the back of the module.

1 So orientating them in a landscape fashion allows
2 us to mount on the longer rail side and hit the
3 mounting holes the way they need to be hit for the
4 manufacturers. So the back sides of the modules
5 are actually open if you're looking at it from the
6 back side.

7 MR. EDELSON: So, I mean, I'm glad you
8 clarified some of that because I thought maybe you
9 were doing this landscape as a way to keep a lower
10 profile, but I think what one of you mentioned is
11 really you end up at the same height whether it's
12 two portraits or four landscape. But again, if
13 you could direct -- what I'm a little concerned
14 about is you say in the interrogatory about the
15 quarter inch, and I saw that, but what I'm more
16 interested in seeing are drawings that say these
17 are your intentions of the drawing that says
18 they're going to be mounted this way with this
19 gap.

20 I mean, I'm still a little perplexed
21 though even with the quarter inch that we still
22 have that concern about channelization because
23 we've got that -- I'm probably not doing the math
24 right -- but we still have something on the order
25 of 18 square feet, 3 by 6, of impervious surface,

1 and it's dripping off the bottom of that panel and
2 then the panel below that. And so it's been said
3 this takes care of the channelization. I haven't
4 really seen it described or, what's the right
5 word, proven that this really eliminates
6 channelization completely. But again, if you
7 can -- I would appreciate if you could direct me
8 towards the diagrams that show the layout and the
9 use of bifacial and some of the things that you
10 mentioned in terms of the racking so I can kind of
11 see that. You know, you can pass that along
12 afterwards. You don't need to find it right now.

13 So I think that was -- I just would
14 like, one request, at least for me, in the
15 narrative page 16 there's a diagram there about
16 the interconnection, and in the version I got it
17 was unreadable. When I tried to make it larger or
18 smaller, it was indecipherable letters. And so I
19 don't know if that's something that other people
20 experienced and it was just something in
21 translation as I took it off of the internet, but
22 I would appreciate it if you could resubmit that
23 picture and making sure it's clear and readable.

24 With regard to the discussion about
25 construction phases, you know, I'm not -- well, my

1 concern with construction phases is that we don't
2 rush this. I appreciate the phasing. I think it
3 shows some innovation there about how to move
4 forward with the two arrays, but there was nothing
5 really about kind of a timing and milestones along
6 the way to make sure that stabilization has
7 happened. We're taking, or you're proposing to
8 take a forested area and make it more or less into
9 a meadow. And going back to the channelization,
10 what we want to make sure is that the ground is
11 stable before we start to see panels going up and
12 a big rainstorm comes the next day and right away
13 we've got channels in a meadow that hasn't really
14 been stabilized.

15 So I am very concerned at this point
16 that the schedule that's in the narrative does not
17 refer to how long these phases will take and what
18 are your milestones before saying that phase is
19 complete. And although some of that might be
20 addressed in a D&M plan, conceptually I find it's
21 missing here. If you'd like to either show me
22 that this exists somewhere else, I'd be glad to
23 hear that, but it's something that I feel is a
24 missing piece of this application right now.

25 THE WITNESS (Herchel): This is Will

1 Herchel. In general, I believe that the
2 stormwater protections that are in place are meant
3 to protect during construction, specifically to
4 protect against stormwater runoffs that would be
5 detrimental to the surrounding areas, but I think
6 Rob can speak specifically about the individual
7 stormwater protections and why we phased out the
8 construction the way that we did in the
9 application.

10 MR. EDELSON: Again, just to be clear,
11 my concern is not that the stormwater system is
12 not going to work. It's that the grass that
13 you're trying to grow or the mixture you're trying
14 to grow is not going to stabilize, and then you've
15 got the panels up, and once you've got the panels
16 up it's even harder for that grass to -- or the
17 seed to establish itself. And so we've seen with
18 other applications people talking in the sense of
19 we will wait one growing season or we will wait a
20 certain number of months to verify it's stabilized
21 before proceeding. If that was in your
22 description, I missed it.

23 THE WITNESS (Herchel): This is Will
24 Herchel. So as part of the process in going
25 through the DEEP stormwater permit, construction

1 general permit, we're going to be working directly
2 with those engineers to obtain that approval. And
3 in order for them to provide that approval, they
4 need to verify that the calculations that we're
5 putting forth in our design sets are going to
6 equal the pre and post runoff for that individual
7 site. And so in working with them and them
8 discussing and directing us to install any of
9 those protections for the grow seasons or other
10 seed mixes that are required, we will definitely
11 adhere to those requirements for all of our
12 construction purposes. So if they come back to us
13 and require any sort of growing season based off
14 the phasing that we have in place with the
15 stormwater protections that are installed, then we
16 will definitely adhere to those individual
17 restrictions.

18 MR. EDELSON: Great. I think I've made
19 my point and I think you've made yours.

20 I want to talk to the 35 year project
21 life. So that's kind of a new number for me. I
22 think what you're saying is that's what the
23 manufacturer is saying the life expectancy of
24 these panels is. Is that where the 35 comes from?

25 THE WITNESS (Herchel): This is Will

1 Herchel. That's correct, and that extends beyond
2 the warrantied life of those individual solar
3 modules. So what may have been provided
4 previously to you is the warrantied life of those
5 individual modules. We expect them to be
6 productive. Their productivity is going to go
7 down considerably over time in terms of
8 efficiency, but they are expected to have a 35
9 year useful life for production.

10 MR. EDELSON: I don't think the
11 narrative speaks too much about this, but I assume
12 you have some agreement with the landowner, either
13 an option to lease for 35 years or maybe there's
14 some other provisions in there. But can you say a
15 word or two about what your agreement with the
16 landowner is relative to this 35-year life?

17 THE WITNESS (Herchel): This is Will
18 Herchel. That's correct. So there's an initial
19 term with renewal options that would go out to
20 that full 35-year useful life.

21 MR. EDELSON: So, if you will, what's
22 the initial term, is it like 20 years and then
23 five-year renewals?

24 THE WITNESS (Herchel): This is Will
25 Herchel. That is correct.

1 MR. EDELSON: Okay. Now, in the, I
2 think it's in the interrogatory where you mention
3 that the degradation is about half a percent per
4 year. Now, I didn't have my calculator with me,
5 but at a half a percent a year I believe that's
6 off of the capacity factor which started out at
7 21.8 percent. If we did some compound interest at
8 .5 percent a year for 35 years, I'm feeling like
9 you get to a pretty low capacity factor. Can you
10 explain or help me understand what you would
11 expect to be the capacity factor of this array at
12 year 20, year 30, year 35?

13 THE WITNESS (Herchel): That is correct
14 in terms of the reduction.

15 Kyle, I don't know if you want to speak
16 directly about any of the degradation assumptions
17 that we have for this individual project, but I
18 can speak to the end of life if you want to do
19 that first.

20 THE WITNESS (Perry): This is Kyle
21 Perry. You were correct with the assumption that
22 it would be compounded, but it's actually
23 compounded on the power output of a single panel,
24 and the capacity factor is the generation from the
25 combination of all these panels through the output

1 of the inverter. So through the bifacial aspects
2 and through the front side power bed it would be
3 degradating at a half a percent per year over 35
4 years, but the capacity factor would not have that
5 exact correlation to a half a percent per year.

6 MR. EDELSON: So do you have a pretty
7 good estimate of what you believe the capacity
8 factor would be at 20 years, 30 years? I assume
9 you had to calculate that in order to do the
10 project economics because that's, you know, that's
11 what you're producing is kilowatt hours at the end
12 of the day, it's your meat and potatoes.

13 THE WITNESS (Herchel): This is Will
14 Herchel. That is correct. And so we have
15 kilowatt hour numbers that we can refer to and
16 back into capacity factors, and we could probably
17 pull that information for you in short order.
18 We'll try to get that done as soon as we can.

19 The last thing I would like to say
20 about that is at that point that far out in the
21 lifetime of this individual project it would be a
22 fully depreciated asset in terms of its financing
23 costs, if any, and it would also be outside of any
24 contracted revenue streams. So in terms of our
25 fuel, fortunately for this type of technology is

1 free, so long as it has access to solar
2 insulation, and so the revenue that can be
3 generated from that fully depreciated asset is
4 considerably valuable versus what you might expect
5 for something else that has fuel costs that
6 degrades at that rate.

7 MR. EDELSON: Although, I assume you're
8 still going to be paying the land lease every
9 year.

10 THE WITNESS (Herchel): That's correct.

11 MR. EDELSON: So, I mean, this really
12 doesn't affect this project, but I would expect
13 you would have to consider replacing panels at
14 some point, say, you know what, given the land
15 lease it pays for us to put -- and if you've got
16 the agreement of the landowner, we're going to
17 want to roll this over for another 20 or 30-year
18 life cycle. But again, for the State of
19 Connecticut what I think we're finding is the
20 limiting resource is land. And so if we've got a
21 solar array running at, and again, I don't have a
22 good working number here, a very reduced capacity,
23 that's a concern to me as far as utilization of
24 land that we're finding harder and harder to come
25 by. But that's just a comment. I don't want to

1 go off into that tangent, if you will.

2 Let's see. I guess my next area, a
3 little concerned about -- this has already come
4 up -- is the decommissioning. The narrative
5 statement that your decommissioning costs are
6 going to be offset by the recycled value of the
7 materials seem to me to be a bit disingenuous
8 given all the unknowns that are out there,
9 including an estimate of what the costs are. So I
10 was pretty disappointed with that section.

11 And then when you add the complexity of
12 what we mean by recycling and what would be
13 available is a concern for me that you haven't
14 really thought this through. But at the end of
15 day, it's not the commission's problem, it's the
16 landowner's problem, because they're the ones who
17 retains the land. And if you are no longer a
18 company that's around 35 years from now, what I
19 want to be sure of is the resources are there.

20 So my question for you is, what is in
21 the lease agreement to guarantee that the money
22 necessary to doing the decommissioning will be
23 there at that time?

24 THE WITNESS (Herchel): Hi, this is
25 Will Herchel. Pursuant to our lease, we are

1 obligated, or the tenant is obligated to remove
2 the system at the end of term, whether that's the
3 end of the initial term or any of the renewal
4 options. Understand what you're saying about our
5 individual company. For this particular project
6 the intent is to have a long-term owner of NextEra
7 Energy, who is the largest utility company in the
8 world, and the resources that they bring to bear
9 have provided sufficient assurance to the
10 landowner to allow them to go forward and have
11 that contractual obligation against the tenant.

12 MR. EDELSON: I don't think I expected
13 that. Maybe I didn't pick it all up. You're
14 saying you plan on selling this to NextEra after
15 the project is up and running?

16 THE WITNESS (Herchel): That is
17 correct. Utility companies -- this is Will
18 Herchel -- tend to want to be the long-term asset
19 owner for these types of individual projects.
20 They like coming in when the system is fully
21 operational, taking it over, and can bring their
22 cost of capital to bear for an individual project
23 while as developers do the work to bring the
24 project to bear and the actual construction of the
25 facility.

1 MR. EDELSON: Like I say, I wasn't
2 aware of that. And if it was in the narrative,
3 it's just another thing that passed me by. So
4 thank you.

5 So I want to talk to now the viewshed
6 analysis, and obviously you all have been working
7 very hard with the abutting owners about
8 visibility. And so I was looking forward to
9 reading the appendix on the viewshed analysis and
10 kind of expecting to see many more pages, but at
11 least the version I took off of the web was pretty
12 short. It had the overall map showing that it's
13 basically the abutters who can see this, and again
14 from having driven in the streets, I can see why
15 they would be the only affected people able to see
16 the site.

17 My question is very often, and I'm sure
18 you've seen this in other applications before the
19 commission, we'll see photo simulations from
20 various viewpoints, and to the best of my reading
21 there were none of those. So my question is, is
22 that because you made the determination a priority
23 that there's no reason to take photos because this
24 site or this project is not visible from any
25 public lands or public roads in and around the

1 project itself?

2 MR. MORISSETTE: Excuse me, Mr.
3 Edelson. Is this your -- do you have additional
4 questions or is this your last one? I don't want
5 to cut you short. We will be having a
6 continuation.

7 MR. EDELSON: I see your dilemma. I
8 would say I do have a few more. So I think in the
9 interest of time and dinner --

10 MR. MORISSETTE: That would be great.
11 Thank you very much. Sorry to cut you off. But
12 we will have a continuation to April 13th,
13 Tuesday, April 13th, to cover the material that
14 was filed today that I'm sure Council members have
15 not had a chance to review, and to continue with
16 your cross-examination and my cross-examination.

17 Just one point of clarification
18 though --

19 MR. EDELSON: Mr. Morissette, if I
20 could just, I didn't know that we were going to do
21 that, but I would be -- I very much would like to
22 see that exhibit before then that I mentioned, I
23 think page 16, as well as the calculation of the
24 capacity factors. I think it would be very
25 helpful to have both of those.

1 MR. MORISSETTE: Yes. Just for
2 clarification, you asked for three things. You
3 asked for the racking drawings?

4 MR. EDELSON: Yes.

5 MR. MORISSETTE: You asked for a
6 clearer picture of the interconnection related to
7 page 16. Now, there are interconnection drawings
8 that were provided today.

9 MR. EDELSON: Right. But it's the
10 original one that I would like, because I think
11 what we got today is sort of just like a little
12 variation on that, so it's not as complete, but
13 I'm a hundred percent positive.

14 MR. MORISSETTE: Very good. We'll have
15 the applicant look at that, and then the
16 calculation of capacity factors over time. Okay.
17 Very good. Thank you, Mr. Edelson.

18 So the Council will now recess until
19 6:30, at which time we will commence the public
20 comment session of this remote public hearing.
21 Thank you everyone. Have a nice dinner. And
22 we'll see you at 6:30.

23 (Whereupon, the witnesses were excused,
24 and the above proceedings were adjourned at 5:12
25 p.m.)

1 CERTIFICATE OF REMOTE HEARING

2
3 I hereby certify that the foregoing 139 pages
4 are a complete and accurate computer-aided
5 transcription of my original stenotype notes taken
6 of the Remote Public Hearing in Re: DOCKET NO.
7 497, BURLINGTON SOLAR ONE, LLC APPLICATION FOR A
8 CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
9 PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND
10 OPERATION OF A 3.5-MEGAWATT-AC SOLAR PHOTOVOLTAIC
11 ELECTRIC GENERATING FACILITY LOCATED AT LOT 33,
12 PROSPECT STREET, BURLINGTON, CONNECTICUT, AND
13 ASSOCIATED ELECTRICAL INTERCONNECTION, which was
14 held before JOHN MORISSETTE, PRESIDING OFFICER, on
15 March 23, 2021.

16
17
18 

19 -----
20 Lisa L. Warner, CSR 061
21 Court Reporter
22 BCT REPORTING, LLC
23 55 WHITING STREET, SUITE 1A
24 PLAINVILLE, CONNECTICUT 06062
25

I N D E X

WITNESSES: (SWORN ON PAGE 17)

WILLIAM HERCHEL
STEVEN DeNINO
BRYAN FITZGERALD
KYLE PERRY
ROBERT HILTBRAND
ERIC DAVISON

EXAMINERS:

	PAGE
Mr. Hoffman (Direct)	19
Mr. Perrone (Cross)	23
Mr. Silvestri	52
Mr. Harder	71
Mr. Hannon	86
Mr. Nguyen	105
Mr. Edelson	111

APPLICANT'S EXHIBITS
(Received in evidence)

EXHIBIT	DESCRIPTION	PAGE
II-B-1	Application for a Certificate of Environmental Compatibility and Public Need filed by Burlington Solar One, LLC, received January 22, 2021, and attachments and bulk file exhibits including: Bulk file exhibits: a. Town of Burlington Planning and Zoning regulations b. Town of Burlington 2020 Plan of Conservation and Development c. Town of Burlington Inland Wetlands and Watercourses regulations	23
II-B-2	Applicant's response to Council's incomplete letter, dated January 27, 2021	23
II-B-3	Applicant's affidavit of publication, dated February 11, 2021	23
II-B-4	Applicant's responses to Council interrogatories, Set One, dated March 16, 2021	23
II-B-5	Supplemental interrogatory responses, dated March 23, 2021	23