

CONNECTICUT SITING COUNCIL

REMOTE CONTINUED EVIDENTIARY HEARING
PETITION NO. 1347A
Tuesday, August 4, 2020
AT 1:00 P.M.
VIA ZOOM MEETING/TELECONFERENCE

COUNCIL MEMBERS PRESENT:

Robert Silvestri, Presiding Officer
Robert Hannon, Designee for
Commissioner Katie Dykes of DEEP
Linda Guliuzza, Designee for
Chairman Marissa Paslick Gillett of PURA
John Morissette
Michael Harder
Melody Bachman, Esq., Executive Director
and Staff Attorney
Robert Mercier, Siting Analyst
Lisa Fontaine, Fiscal Administrative Officer

Reporter: Frances L. Van Tienen, CSR 00192

A P P E A R A N C E S

GREENSKIES:

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702

WITNESSES:

Jean-Paul La Marche, Director of Project Development,
Greenskies Renewable Energy, LLC

Jeffrey Shamas, Director Environmental Services, Vanasse
Hangen Brustlin, Inc.

Steve Kochis, Professional Engineer, Vanasse Hangen
Brustlin, Inc.

Peter Schlink, Fire Marshal, Town of Waterford

Maureen Fitzgerald, Environmental Planner, Town of
Waterford

Abby Piersall, Planning Director, Town of Waterford

TOWN OF WATERFORD:

Robert A. Avena, Esq.
Suisman Shapiro
75 State Street
New London, CT 06320

SAVE THE RIVER - SAVE THE HILLS:

Emily Gianquinto, Esq.
EAG Law, LLC
437 Naubuc Avenue, Suite 107
Glastonbury, CT 06033

1 MR. SILVESTRI: Good afternoon, ladies and gentlemen.
2 This remote evidentiary hearing is called to order this
3 Tuesday, August 4, 2020 at 1:01 p.m. My name is Robert
4 Silvestri, Member and Presiding Officer of the Connecticut
5 Siting Council.

6 As all are keenly aware, there is currently a
7 statewide effort to prevent the spread of CORONA virus.
8 This is why the Council is holding this remote hearing, and
9 we ask for your patience. If you haven't done so already,
10 I ask that everyone please mute their computer audio and/or
11 telephone now.

12 A copy of the prepared agenda is available on the
13 Council's Petition Number 1347A webpage along with a record
14 of this matter, the public hearing notice, instructions for
15 public access to this remote public hearing and the
16 Council's Citizen's Guide to Siting Council Procedures.

17 I'll ask the other members of the Council to
18 acknowledge that they are present when introduced for the
19 benefit of those who are only by audio. Mr. Morissette?

20 MR. MORISSETTE: Present.

21 MR. SILVESTRI: Thank you. Mr. Hannon?

22 MR. HANNON: I am here.

23 MR. SILVESTRI: Thank you. Mr. Harder? I'll come
24 back to Mr. Harder. It doesn't look like he's connected
25 yet. Ms. Guliuzza? It doesn't seem like I have Ms.

1 Guliuzza connected yet either. I'll come back. Mr. Lynch?
2 I see Dan on my screen. Well, continuing. Executive
3 Director, Melody Bachman?

4 MS. BACHMAN: Present.

5 MR. SILVESTRI: Thank you. Staff analyst, Robert
6 Mercier?

7 MR. MERCIER: Present.

8 MR. SILVESTRI: Thank you. Fiscal administrative
9 officer, Lisa Fontaine?

10 MS. FONTAINE: Present.

11 MR. SILVESTRI: Thank you. I believe we have Miss
12 Guliuzza connected now; is that correct? She's still
13 connecting to audio is what I have on my screen.

14 Mr. Lynch, were you able to get connected? I also see
15 Mr. Lynch on my screen, but I don't hear from him yet at
16 this point. Ms. Guliuzza, are you connected at this point?
17 Well, I do see people on the screen. I do see some people
18 connected. I'd like to continue, and we can double check
19 back when the time comes.

20 This evidentiary session is a continuation of a
21 remote public hearing that was held on July 14th, 2020. It
22 is held pursuant to the provisions of Title 16 of the
23 Connecticut General Statutes and of the Uniform
24 Administrative Procedure Act upon a Motion to Reopen a
25 Petition from GRE GACRUX, LLC for a declaratory ruling for

1 the proposed construction, maintenance and operation of a
2 16.78 megawatts AC Solar photovoltaic electric generating
3 facility located at 117 Oil Mill Road in Waterford,
4 Connecticut.

5 On February 27th, 2020 the Council pursuant to a
6 request filed by GRE and the provisions of the Connecticut
7 General Statutes Section 4-181A,B reopened the October 26,
8 2018 and a December 24th, 2018 final decisions that were
9 rendered in this matter.

10 A verbatim transcript will be made of this hearing and
11 deposited with the Waterford Town Clerk's Office for the
12 convenience of the public. We will proceed in accordance
13 with the prepared agenda, a copy of which is available on
14 the Council's Petition 1347A webpage, along with the record
15 of this matter, the public hearing notice, instructions for
16 public access to this remote public hearing and the
17 Council's Citizen's Guide to Siting Council Procedures.

18 I will also look at taking a break somewhere along the
19 line between 3 p.m. and 3:30 p.m. this afternoon.

20 There is a motion that is before the Council, and that
21 is on August 23rd, 2020 Save the Rivers - Save the Hills
22 submitted an Objection to and a Motion to Strike the
23 Petitioner's Responses to the Council's late-filed
24 exhibits. Attorney Bachman may wish to comment.

25 MS. BACHMAN: Thank you, Mr. Silvestri. On August 3rd

1 Save the River - Save the Hills submitted an Objection to
2 and Motion to Strike GRE's responses to the Council's
3 late-filed exhibit request. On August 3rd GRE submitted a
4 response to the Objection and the Motion to Strike. Save
5 the River - Save the Hills objects and moves to strike two
6 items in GRE's late-filed exhibits.

7 The first is Item 5 regarding the question of whether
8 solar panels include selenium on the basis that the
9 response relies on a confidential report that is not in the
10 record; and two, correspondence between GRE and DEEP that
11 includes only select portions on the basis that the entire
12 correspondence was not in the record. Save the River -
13 Save the Hills claims a denial of the right to
14 cross-examine both items.

15 First, with regard to Item I, at the permitting
16 stage solar developers typically do not know whether or not
17 they have an approved project, let alone what type of solar
18 panels would be installed if the project were approved. In
19 this Council's experience we've seen technological
20 advancements between when a project is approved and when a
21 development and management plan is submitted for the
22 construction of the project to determine what type of
23 panels would be installed.

24 In its response GRE did indicate it is willing to
25 provide the Council with any information it receives from

1 its selected manufacturer regarding the selenium content of
2 any panels that would be used in the project; that is, if
3 the project is approved.

4 Second, with regard to the correspondence between GRE
5 and DEEP, GRE provided the entire correspondence in its
6 Response to the Objection and Motion to Strike on August
7 3rd, and for both items. GRE's witnesses are available for
8 cross-examination this afternoon, and each party as well as
9 this Council will have the opportunity to cross-examine.
10 Therefore, I ask that the Objection be overruled and the
11 Motion to Strike be denied. Thank you.

12 MR. SILVESTRI: Thank you, Attorney Bachman.
13 Is there a motion from the Council members?

14 MR. MORISSETTE: Move to deny. Morissette

15 MR. SILVESTRI: Thank you, Mr. Morissette. Is there a
16 second?

17 MS. GULIUZZA: I'll second, Linda Guliuzza.

18 MR. SILVESTRI: Thank you, Ms. Guliuzza.

19 We do have a motion and a second for denial. I will
20 now ask the Council members one by one if there's any
21 discussion and as to avoid any communication problems or
22 more than one person speaking at the same time.

23 So I'd like to start with Mr. Morissette if there's any
24 discussion?

25 MR. MORISSETTE: No discussion, thank you.

1 MR. SILVESTRI: Thank you, Mr. Morissette. Ms.
2 Guliuzza, any discussion?

3 MS. GULIUZZA: No discussion. Thank you, Mr.
4 Silvestri.

5 MR. SILVESTRI: Thank you, Ms. Guliuzza. Mr. Hannon,
6 any discussion?

7 MR. HANNON: No discussion, thank you.

8 MR. SILVESTRI: Thank you, Mr. Hannon. Mr. Lynch,
9 were you able to connect? I don't hear from Mr. Lynch.
10 He's probably still having audio issues. Mr. Harder, any
11 discussion?

12 MR. HARDER: Can you hear me now?

13 MR. SILVESTRI: I can hear you now.

14 MR. HARDER: Okay, sorry. Actually, I was having
15 technical problems I guess and only was -- I'm obviously
16 connected by phone now. I got in just as Attorney Bachman
17 was concluding her comments, so I have no comments.

18 MR. SILVESTRI: Thank you, Mr. Harder. With no
19 further discussion, I'll call for a vote again canvassing
20 our members one by one. Again, the motion is for denial.
21 Mr. Morissette, how do you vote?

22 MR. MORISSETTE: Approve the denial.

23 MR. SILVESTRI: Thank you, Mr. Morissette. Mr.
24 Guliuzza?

25 MS. GULUZZA: Approve the denial.

1 MR. SILVESTRI: Thank you, Ms. Guliuzza. Mr. Hannon?

2 MR. HANNON: Approve the denial.

3 MR. SILVESTRI: Thank you, Mr. Hannon. Mr. Harder?

4 MR. HARDER: I'm abstaining since I didn't hear the
5 full discussion prior to my connection.

6 MR. SILVESTRI: Thank you, Mr. Harder. I'll try one
7 more time for Mr. Lynch, and hearing none I will also vote
8 for denial. So we have four votes for denial, one
9 abstention, so the motion carries for denial. Thank you.

10 We did shift our hearing program to accommodate the
11 Town of Waterford, and I'd like to begin with the
12 appearance of the Town of Waterford at this time. Will the
13 party present its witness panels for the purpose of taking
14 the oath, and Attorney Bachman will then administer the
15 oath.

16 MR. AVENA: This is Town Attorney, Robert Avena. I
17 have with me three of the witnesses. I believe I submitted
18 two of the witnesses, but we do have three people that are
19 available, Abby Piersall our Planning Director, Peter
20 Schlink our Fire Marshal and Maureen Fitzgerald our
21 Environmental Analyst. These three are present with me and
22 ready to be sworn in.

23 (Whereupon, the oath was administered)

24 MR. SILVESTRI: Thank you, Attorney Bachman. Attorney
25 Avena, could you please begin by verifying all the exhibits

1 by the appropriate sworn witnesses?

2 MR. AVENA: I don't believe we have submitted any
3 exhibits at this time other than the letter of April 12,
4 2020 and Interrogatory and Production Answers which for the
5 record were answered by Ms. Piersall and Mr. Schlink.

6 MR. SILVESTRI: Now, Attorney Avena, the only other
7 one I have listed on the program was the Town of
8 Waterford's Response to Request to Reopen which was dated
9 February 12, 2020.

10 MR. AVENA: Yes, and that was by my First Selectman
11 who reminding me (inaudible)

12 MR. SILVESTRI: Could you verify those exhibits with
13 the appropriate witnesses?

14 MR. AVENA: Yes. So the April 12th memo to the Siting
15 Council has been signed by Abby Piersall. Abby, is this
16 your signature on the April 12th memorandum?

17 MS. PIERSALL: Yes, it is.

18 MR. AVENA: And are these facts and information
19 gleaned from your experience and from the exhibits that you
20 have reviewed?

21 MS. PIERSALL: Yes, correct.

22 MR. AVENA: Mr. Schlink, you have reviewed the
23 requests and answers you made to the Interrogatories and
24 Requests for Production that you have answered?

25 MR. SCHLINK: Yes.

1 MR. AVENA: And are you familiar with those questions
2 and those exhibits that you refer to?

3 MR. SCHLINK: Yes.

4 MR. AVENA: Thank you.

5 MR. SILVESTRI: Thank you, Attorney Avena. Does any
6 party or intervenor object to the admission of the Town of
7 Waterford's exhibits, starting with Attorney Hoffman?

8 MR. HOFFMAN: Petitioner does not object.

9 MR. SILVESTRI: Thank you. Attorney Gianquinto?

10 MS. GIANQUINTO: Save the River - Save the Hills does
11 not object.

12 MR. SILVESTRI: Thank you very much. The exhibits are
13 therefore admitted. I will now begin with
14 cross-examination of the Town of Waterford by the Council
15 starting with Mr. Mercier.

16 MR. MERCIER: Thank you. I just have a few questions.
17 My first question has to do with questions that were
18 submitted to GRE on June 3rd by the Town, and one of them
19 pertained to landscaping. I'm just trying to get a sense
20 of where the Town thinks some landscaping may be required
21 once the project is constructed if it was approved?

22 MS. PIERSALL: So I think the issue was whether or not
23 along -- so whether along the northwest portion of the site
24 when Town staff was able to gain access to the site with
25 permission of the Petitioner in the past, there was the

1 ability I think to see the portions of development on Route
2 5 and other areas that were visible to the site. I think
3 the question was just was there any opportunity? I don't
4 think the Town was specifically suggesting or requesting
5 particular landscaping be installed, just a question as to
6 whether or not there was any opportunity on the site to
7 shift things to extend the buffer or to down what we
8 already on the subject site rather than allow an adjacent
9 site over which they have no control if someone else were
10 to develop. That's all, whether there was the opportunity
11 or not.

12 MR. MERCIER: Okay, thank you. So I've looked at the
13 site plans, and it looks like there's a 30-foot-wide
14 setback from some of the clearing areas. Would that
15 30-foot setback be sufficient for clearing -- or excuse me
16 for landscaping or would you look for additional
17 landscaping depending on certain types of topography in a
18 localized area?

19 MS. PIERSALL: I think that the topography is such
20 that in the last -- there was discussion about trees
21 planted, and there's really not an opportunity to do that
22 in a particular location. I don't think the Town is
23 requesting specific -- there's no for additional
24 landscaping at this time.

25 MR. MERCIER: Thank you for the clarification. I just

1 have a few questions for the fire marshal. Mr. Schlink,
2 I'm just trying to get a sense if there's any type of fire
3 hydrants or water supply along Oil Mill Road where the
4 access road comes off or just in the general area?

5 MR. SCHLINK: No, there's not.

6 MR. MERCIER: Okay. For areas of town that have no
7 hydrants such as control areas, what type of equipment does
8 the fire department use to respond to fires?

9 MR. SCHLINK: Fire trucks.

10 MR. MERCIER: So certain fire trucks would have a
11 certain storage capacity for water to be shipped to the
12 site; is that correct?

13 MR. SCHLINK: We got our tankers already there in
14 town, so the biggest one the Town has is 700 gallons.
15 Probably 700.

16 MR. MERCIER: And so they would have to go to the
17 nearest water supply and fill up their tankers from time to
18 time to respond to a fire, let's say a structure fire on
19 Oil Mill Road for that matter?

20 MR. SCHLINK: Yes, absolutely.

21 MR. MERCIER: Thank you. I just have a question
22 regarding some of the responses of the Town to Save the
23 River - Save the Hills Interrogatories regarding some of
24 the fire code. My first question has to do with site
25 access around the perimeter of the solar field. The solar

1 field has about 15-foot-wide access roads around the
2 perimeter, some internal roads. Are those roads sufficient
3 width wise to support your vehicles?

4 MR. SCHLINK: Yes.

5 MR. MERCIER: The other question has to do with the
6 solar field has proposed grass and some type of meadow
7 vegetation throughout the solar array area, and would this
8 type of vegetation meet the requirements of Section
9 11,2.3.2?

10 MR. SCHLINK: Actually, it probably will. What we to
11 know is what is going to be the maintenance schedule of
12 this company to maintain and keep it to a grass instead of
13 letting it grow wild.

14 MR. MERCIER: Is there a specific height requirement
15 that pertains to that code? Is it like three inches, five
16 inches, any idea?

17 MR. SCHLINK: No, there's not.

18 MR. MERCIER: So you want it just cut short to prevent
19 the spread of a grass fire, say?

20 MR. SCHLINK: Right. It's going to have to be
21 properly maintained, the vegetation throughout the whole
22 site.

23 MR. MERCIER: Okay.

24 MR. SCHLINK: It's just a question of how that's going
25 to be accomplished.

1 MR. MERCIER: Thank you. I have no other questions.

2 MR. SILVESTRI: Thank you, Mr. Mercier. I'd like to
3 continue cross-examination of the Town by Mr. Morissette.

4 MR. MORISSETTE: Thank you, Mr. Silvestri. My first
5 question is has the Town met with GRE to discuss any of the
6 items brought up in the -- in the Responses to
7 Interrogatories, set one, that the Town submitted?

8 MS. PIERSALL: Well, there's been no formal meeting,
9 just the correspondence that went to the Council.

10 MR. MORISSETTE: Okay. So at this point in time there
11 still is no tax agreement?

12 MS. PIERSALL: Correct.

13 MR. MORISSETTE: And concerns associated with Oil Mill
14 Road, the petitioner has indicated that it had discussions
15 relating to traffic flows and potential -- I think
16 potential damage to Oil Mill Road as well. Is the Town
17 satisfied at this point that those discussions will be had
18 and your -- well, it's kind of hard to say whether your
19 issues will be resolved?

20 MS. PIERSALL: The Town is working through the Town
21 Attorney to schedule that meeting with the Petitioner to
22 discuss with our Department of Public Works what the
23 potential improvements need to be. That meeting has not
24 occurred yet, but we do anticipate that it will occur in
25 the future.

1 MR. MORISSETTE: Thank you. Now, does that -- does
2 that encompass the entire Oil Mill Road or is it just from
3 the corner -- I forget which route that is -- to the
4 entrance of the site or is it beyond the entrance to the
5 site as well?

6 MS. PIERSALL: No. From my knowledge it does not
7 extend beyond the entrance of the site.

8 MR. MORISSETTE: Thank you. Now, in response to
9 question 11 the Petitioner said that the minimum distance
10 of any proposed basin to either Oil Mill Brook or Stony
11 Brook is approximately 800 feet. Do you agree with that?

12 MS. FITZGERALD: Maureen Fitzgerald. In the Revised
13 Plan there is no basin -- I don't have the plan in front of
14 me, I'm so sorry, but I would agree that the off-site water
15 courses are further than that.

16 MR. MORISSETTE: Okay. I'll also confirm that with
17 the Petitioner, but thank you. Thank you. That's all the
18 questions I have, and good luck with the storm today.

19 MR. SILVESTRI: Thank you, Mr. Morissette. I'd like
20 to continue with Mr. Harder.

21 MR. HARDER: Yes, thank you. I just have one question
22 for the Town. As proposed -- as the project has proposed
23 today and based on any comments you received from the
24 Petitioner or commitments from them, does the Town support
25 this project or oppose it?

1 MS. PIERSALL: The Town has not taken a position of
2 support or opposition. I think it's clear from the
3 correspondence that was submitted on April 12th that this
4 is an area in which the Town has now ruled residential, and
5 the local structure around it on Oil Mill Road is in
6 support of that rural residential development, but the Town
7 has not taken a formal position in either direction on
8 this.

9 MR. HARDER: Okay, thank you. That's the only
10 question I had. Thank you.

11 MR. SILVESTRI: Thank you Mr. Harder. I'd like to
12 turn now to Mr. Hannon to continue cross-examination of the
13 Town. Mr. Hannon?

14 MR. HANNON: I lost my screen. I hit the wrong button
15 on the mouse. I do have some questions for the Town. Some
16 of them relate to like road improvements and things of that
17 nature. I know that you said that you are looking at
18 trying to establish a meeting with the Petitioner. Now,
19 are you looking at the road network within the project? I
20 mean, for example, you do have that logging road which my
21 understanding is they will not be doing anything there or
22 are you also looking at some of the roadways leading up to
23 the site? I believe that you're saying it's maybe only 11
24 feet wide the roadway, and it needs to be widened. So can
25 I just get your feelings on what the Town is looking for

1 for road construction, just an overview?

2 MS. PIERSALL: The Town's interest is in the public
3 right-of-way and the access to it, so we're looking
4 particularly at Oil Mill -- that section of Oil Mill Road
5 from the entrance back to Boston Post Road and the access
6 points along -- you know, where the driveway to the
7 facility would meet Oil Mill Road. The Town has not
8 reviewed the construction or sufficiency of the road
9 specific to the project, only that would be in the public
10 purview for future public meetings.

11 MR. HANNON: Okay. On question 11, and this is Town
12 Interrogatory Question 11, the response toward the bottom
13 talks about infiltration of stormwater and runoff is
14 promoted to the maximum extent feasible in the project.
15 I'm assuming having reviewed the plans, is there much in
16 the way of infiltration that you think would be achieved
17 from this site?

18 MS. FITZGERALD: Maureen Fitzgerald, Environmental
19 Planning Service. I've walked the site a number of times
20 both in the prior application to the new present
21 application as well as during the logging harvest performed
22 by the property owners currently. There's an exposed ledge
23 up on the slopes, but there are also shallower and gentler
24 slopes within the interior. The swales (inaudible) that
25 was provided by the applicant shows that we would have some

1 infiltration (inaudible) protected from sedimentation
2 during construction.

3 MR. HANNON: Okay. In Question 19, one of the Town's
4 comments is clearing and grubbing begins in June. We're
5 now in August so we know that's not going to happen. To
6 establish a grass cover we only have July through October
7 because of frost, you're concerned about a shorter
8 duration. Seeing as how there have been some delays beyond
9 most people's control, what is the Town's thought process
10 about trying to stabilize the site prior to construction?
11 I'm not sure how this plays in given the fact that we're
12 now in August.

13 MS. PIERSALL: So the Town is looking and hoping for a
14 full growing season, spring, summer, fall which is
15 consistent with the DEEP recommendation it sounds like, but
16 certainly the full growing season which the Town fully
17 views as critical to the stabilization of the site.

18 MR. HANNON: Okay. Question 24, the last question
19 "Will additional wetland still be required in tying that
20 in?" The response was that "The revised site plan does not
21 contemplate using the existing wetland crossing that was
22 created by the landowner for logging purposes." Is that
23 crossing something that the Town would like to see removed?
24 Is it something that should stay there and sort of
25 deteriorate naturally? Does the Town have a position on

1 that?

2 MS. FITZGERALD: Maureen Fitzgerald. The actual
3 crossing that's in there was installed prior to the logging
4 operation. It's the way CL&P and now Eversource access the
5 right-of-way, so I don't know if they will continue to use
6 that as part of their operation and management.

7 MR. HANNON: Okay. And there were a number of
8 questions that were raised about various basins, regardless
9 of what type they were. In looking at some of the plans
10 that were originally submitted, you're talking about the
11 basins. It looks like in the C-49 series there are notes
12 there saying you have proposed rip-rap areas being proposed
13 in some of the basins, and in the series 5 -- I'm sorry.
14 In the C-5 series they talk about using some of the erosion
15 control blankets on the side slopes.

16 What I'm wondering is it looks like almost all of the
17 rip-rap that's being proposed or shown pretty much in the
18 C-4 series is on the upland area and not on the downstream
19 side or the downslope side of the basins, and I'm just
20 wondering if that's something that the Town was looking at
21 to try to create a little more stability on the downslope
22 side of the basins, because it looks like it raised a
23 number of issues of about should those earth-filled basin
24 walls stay open? I'm just wondering if that's something
25 that the Town would be looking at for a little more support

1 on the lower portions of the basin?

2 MS. FITZGERALD: Again, I'm the environmental planner,
3 I'm not a civil engineer, so I'm sorry, but the concern was
4 that if these are not stabilized, these risen embankments,
5 and they do have two or three feet of water buildup from a
6 storm that they could get out of line. We've seen it on
7 job sites throughout town. It happens. I believe with the
8 revision I had a chance to look at this morning, they are
9 adding an erosion control blanket, and that combined with
10 the opportunity to allow grass to establish stabilizing
11 soils will certainly lower, if not alleviate, my concern.

12 MR. HANNON: Okay. Thank you for that. Thank you for
13 having me. I have no other questions?

14 MR. SILVESTRI: Thank you, Mr. Hannon. I'd like to
15 continue cross-examination with Ms. Guliuzza.

16 MS. GULIUZZA: Yes, thank you Mr. Silvestri. I have
17 no questions. Thank you.

18 MR. SILVESTRI: Thank you, Ms. Guliuzza. I want to
19 see if Mr. Lynch did get connected to see if he has any
20 questions. Mr. Lynch, are you with us? It doesn't seem
21 that Mr. Lynch did get connected.

22 Unfortunately, for me the questions that I had
23 were actually answered -- were proposed and answered by
24 Council members, so I believe the Council is finished with
25 its cross-examination of the Town, and I'd like to continue

1 with cross-examination of the Town by the Petitioner and
2 Attorney Hoffman.

3 MR. HOFFMAN: Petitioner has no questions for the
4 Town.

5 MR. SILVESTRI: Thank you, Attorney Hoffman. I'd like
6 to continue cross-examination corrosion of the Town by Save
7 the River - Save the Hills. Attorney Gianquinto?

8 MS. GIANQUINTO: Thank you. I'm going to start with
9 some questions for the fire marshal. So I understood the
10 response to be with respect to access to the site that a
11 15-foot-wide road was sufficient for the biggest truck you
12 have; is that right?

13 MR. SCHLINK: Yes, that would be my understanding in
14 that area, yes.

15 MS. GIANQUINTO: What kind of turning radius do those
16 trucks have? It looks like their turning radius is 24
17 feet. Is that sufficient for access for your trucks?

18 MR. SCHLINK: I haven't seen the Revised Plan, and so
19 I don't know what they're talking about. I haven't looked
20 at that. I can't answer that.

21 MS. GIANQUINTO: Okay. So the last version of the
22 plans you reviewed then were the ones that were filed with
23 the Motion to Reopen; is that right?

24 MR. SCHLINK: Yes. Correct.

25 MS. GIANQUINTO: Okay. I believe, although it wasn't

1 to my knowledge labeled on those original plans, but things
2 looked to me like they changed the radius from those
3 original plans. Assuming that's true, is 24 feet
4 sufficient or is just that you don't know if that's too
5 tight or not?

6 MR. SCHLINK: It may be too tight, but for the most
7 part we're going to be -- any truck that will probably go
8 up there the fire chief would send a brush fire truck which
9 is just an over-sized pickup truck.

10 MS. GIANQUINTO: Okay.

11 MR. SCHLINK: That would be it.

12 MS. GIANQUINTO: Okay. Can we just take a little bit
13 of a step back. Could you tell me how the fire department
14 is structured in your town? Is it an all volunteer group?
15 Are there multiple houses in town?

16 MR. SCHLINK: There are five different houses in
17 town. (Inaudible)

18 THE COURT REPORTER: Excuse me. You're
19 breaking up, and it's very hard to understand.
20 Would you just repeat that?

21 (No response)

22 MS. GIANQUINTO: And to date have you had any
23 discussions with any representative of GRE about access to
24 the site or about the grass under the panel issue in the
25 fire code?

1 MR. SCHLINK: No, I have not.

2 MS. GIANQUINTO: Are you planning to have those
3 conversations? Do you know if they're in the works?

4 MR. SCHLINK: I imagine when we -- yeah, at some point
5 we'll have to have discussions about that. You're correct.

6 MS. GIANQUINTO: Okay. But to your knowledge, there's
7 no planning for that yet?

8 MR. SCHLINK: No.

9 MS. GIANQUINTO: So in your response to the
10 interrogatories to Save the River - the Hills, you
11 referenced it looked like a Fire Code Chapter 11.12.
12 That's the section that's specific to ground-mounted solar
13 arrays; right.

14 MR. SCHLINK: Yes.

15 MS. GIANQUINTO: Do you have any previous experience
16 with that part of the code?

17 MR. SCHLINK: No. I've certainly had experience with
18 mounting on top of buildings but nothing ground mounted.

19 MS. GIANQUINTO: And so my understanding is that the
20 code says that there needs to be the installation of gravel
21 or other noncombustible base below the arrays. Is that
22 your understanding too?

23 MR. SCHLINK: That's what it says, yes.

24 MS. GIANQUINTO: And so when you were talking earlier
25 about needing to know about the maintenance of the

1 vegetation under it, is that because if the vegetation is
2 short enough you would consider it noncombustible?

3 MR. SCHLINK: In the -- if you go to the appendix in
4 the code it talks about that. It talks about being able to
5 be well maintained for a low risk type of hazard. As it is
6 if you put dirt down or gravel down, you're still going to
7 get vegetation growing. I mean, I get weeds growing out of
8 my sidewalk all the time, so we're still going to be
9 cutting it back. So the proper maintenance of what's going
10 to be up there, and I notice from going to a couple of --
11 visiting another site that it was a very low-cut grass that
12 was underneath all the panels.

13 MS. GIANQUINTO: Okay. And I thought I understood you
14 to say that you would need that maintenance to occur
15 throughout the entire site. Is it just under the panels
16 that you're concerned about or is it the entire site that
17 you would want to see mowed short?

18 MR. SCHLINK: I would say it would be under the panels
19 and so the mowers have access. The key to it is the access
20 to and around. I mean it extends out to -- it doesn't
21 spread beyond the actual site that we're talking about.

22 MS. GIANQUINTO: I'm sorry. Could you explain the
23 last part of that it doesn't spread beyond the site? What
24 were you talking about spreading beyond the site, the fire?

25 A. Yeah, the grass. You want to make sure it's

1 maintained right up to the edge of the fencing that's going
2 to be around it.

3 MS. GIANQUINTO: Okay. In reviewing the earlier
4 version of the plan, I would say generally there are a lot
5 of right-angle turns. Is that an accessibility issue at
6 all for your trucks or is the 15-foot wide enough for them
7 to navigate those turns?

8 MR. SCHLINK: They would be able to navigate that,
9 especially with the smaller trucks, the brush trucks.

10 MS. GIANQUINTO: Okay. And so you mentioned smaller
11 trucks, the brush trucks. Do those carry water?

12 A. Probably about 250 gallons of water on board.

13 Q. Okay. So if a fire breaks out within the
14 installation, do your -- does the fire department have
15 training in dealing with fires involving electrical panels
16 like this?

17 A. We will have the developer provide training to
18 all of our firefighters to make sure that we're handling
19 any incident out there correctly. Whether it be fire or
20 maintenance or anything else, they would have to provide us
21 with the proper training to make sure everybody is aware of
22 how to handle the situations.

23 MS. GIANQUINTO: And is that done at the developer's
24 expense or the Town's expense?

25 MR. SCHLINK: I would hope so.

1 MS. GIANQUINTO: I'm sorry. I cut you off. You think
2 it would be at the developer's expense, I assume?

3 MS. SCHLINK: Yes.

4 MS. GIANQUINTO: Okay. And is that something that
5 happens just generally with developments around town?

6 A. Yes. Normally -- I mean, something like this is
7 unique, but whether it's a new apartment complex we just
8 put up or any other type of building, we will take the fire
9 department through so they're aware of the all the building
10 completely and all the safety systems and everything else.
11 We have the fire department and the fire chief get it all
12 organized so that everybody's aware.

13 MS. GIANQUINTO: Is there any concern with using water
14 to fight a fire that would involve electric panels, do you
15 know, or is it something you would have to learn in the
16 training?

17 MR. SCHLICK: I think we all know you don't put water
18 on electricity. I think we all know that.

19 MS. GIANQUINTO: Okay. So what do you use instead of
20 water to try and suppress an electrical fire?

21 MR. SCHLINK: Inside of a residential, a different
22 type of extinguisher which would be more likely a dry
23 powder agent in an extinguisher. Something like this we
24 have never had a problem yet to have to worry about this
25 yet, but I'm sure that -- the fire chiefs are the ones that

1 are in charge of all the aspects of firefighting, and I'm
2 not a hundred percent sure of that part of the training.

3 MS. GIANQUINTO: Okay. So that's something that you'd
4 have to learn in your training with the developer?

5 MS. SCHLINK: Yes, you'd have to learn what to use to
6 suppress that type of fire.

7 MS. GIANQUINTO: Okay. So you wouldn't know then if
8 whatever you're using to suppress the -- or would need to
9 use to suppress the fire might contain chemicals and that
10 you don't want getting into the water sources nearby?

11 MR. SCHLINK: I really don't know the answer to that
12 one just given the size of this project. At a house we
13 don't put water on them. We've had three houses in the
14 last couple of weeks, and they all had solar panels on them
15 and we never there.

16 MS. GIANQUINTO: You had fires at three house that had
17 solar panels?

18 MR. SCHLINK: Yes.

19 MS. GIANQUINTO: Were the solar panels involved in the
20 fire at all or no?

21 MR. SCHLINK: No.

22 MS. GIANQUINTO: Is the fire department equipped with
23 breathing apparatus or masks?

24 MR. SCHLINK: Actually, we all have the CBAs on our
25 vehicles as well as they're all trained. In the fire

1 department they're all trained on how to use them.

2 MS. GIANQUINTO: Would you expect that the training
3 would include any information about hazardous materials
4 that could be in the panels? Is that something that -- in
5 your experience with other kinds of special exercises, is
6 that something that your team learns about and is trained
7 on?

8 MR. SCHLINK: Yeah. I'm sure the developer would be
9 more than glad to explain the significance of what we can
10 expect.

11 MS. GIANQUINTO: In reviewing the plans that were
12 submitted with the Motion to Reopen, did you have any
13 concerns about the number of gates that were around the
14 site in terms of access for your personnel to get to
15 different parts of the site if there was a fire up there?

16 MR. SCHLINK: I -- you know, I don't remember. I'd
17 say no, but I really can't remember.

18 MS. GIANQUINTO: You had mentioned an appendix to the
19 code that talks about the vegetation issue. Is that
20 something that you might be able to provide?

21 MR. SCHLENK: Sure, absolutely.

22 MS. GIANQUINTO: So Attorney -- and I apologize,
23 Mr. Silvestri, I don't know the proper procedure here, but
24 I think that would be something that would be of value to
25 the Council and to the parties to see, so I was hoping

1 maybe we could get that submitted as a late-filed admission
2 of notice document I guess since it's a state code.

3 MR. SILVESTRI: Yeah. On that one let me just check
4 with Attorney Bachman just to make sure we're okay.
5 Attorney Bachman?

6 MS. BACHMAN: We can certainly take that in as an
7 administrative notice that is subject to any objection from
8 any party.

9 MR. SILVESTRI: So I guess I'll turn it to Attorney
10 Hoffman just to make sure he doesn't have any objection?

11 MR. HOFFMAN: I'm sorry, Mr. Silvestri. I was talking
12 over you. GRE has no objection.

13 MR. SILVESTRI: Thank you, Attorney Hoffman. Thank
14 you Attorney Ganquinto and Attorney Bachman.

15 MS. GIANQUINTO: Thank you, sir. I think that's it
16 for my fire marshal questions. Thank you, sir. I have
17 some more kind of general questions. I don't know -- I
18 don't know who this is for, so I will just ask it. Was
19 anyone, any representative of the Town present for the
20 public comments session at the last hearing? I'm
21 specifically wondering if anyone heard the statement by
22 apparently a neighbor about flooding that already occurs on
23 Oil Mill Road, so I just wanted to ask about the Town's
24 experience with flooding, if any, on that road.

25 MS. PIERSALL: I attempted to listen to the comments

1 and was only able to connect to a portion of it. I can't
2 remember hearing that particular comment. Any updated
3 information or history on Oil Mill Road flooding that we
4 review is obviously a concern for this project. The
5 culverts were recently replaced, so I'm not aware of any
6 ongoing flooding.

7 MS. GIANQUINTO: Were there issues before that culvert
8 was replaced?

9 MS. PIERSALL: (Inaudible) there may have been
10 channels overtopping it in the past (inaudible).

11 MS. GIANQUINTO: Just generally, what kind of road is
12 Oil Mill Road; how wide is it? Is it two lanes?

13 MR. AVENA: This is Town Attorney, Robert Avena.
14 Basically, we look at Oil Mill Road as a residential road
15 at this point. It's pretty narrow. I believe we have the
16 answer to that one. Yeah, we don't have what we feel is a
17 minimum width right now. We're concerned to come up to a
18 total paved width of 24 feet with each lane at least 11
19 feet wide, and we do not have those standards right now.

20 MS. GIANQUINTO: So it's something less than 24 feet?

21 MR. AVENA: For the paved section, yes.

22 MS. GIANQUINTO: Is this a road that needs repairs
23 often in it's current state?

24 MS. PIERSALL: So the current state, to my
25 understanding, is it does not meet the Town's standard for

1 truck traffic in terms of truck traffic. In terms of
2 frequency of repairs, that information I don't have.

3 MS. GIANQUINTO: I understand that there is a bridge
4 or basically Oil Mill Road Brook goes under Oil Mill Road;
5 right.

6 MS. PIERSALL: Uh-huh.

7 MS. GIANQUINTO: Do you know the capacity, the weight
8 capacity of whatever that structure is that carries the
9 brook under the road?

10 MS. PIERSALL: I don't have that information here, no.

11 MS. GIANQUINTO: Is that something that the Town would
12 have somewhere in its records?

13 MS. PIERSALL: We could certainly research it.

14 MS. GIANQUINTO: Okay. Again, I'm sorry, Mr.
15 Silvestri, this may not be the proper procedure, but it's
16 something that I would be interested in too so we can make
17 sure that whatever construction traffic is going to -- you
18 know, that accesses that bridge will withstand the weight
19 of whatever construction traffic might be involved in this
20 project.

21 MR. SILVESTRI: My understanding is you're concerned
22 that whatever the Petitioner, if the project is approved,
23 would be bringing in trucks if the bridge could support the
24 trucks?

25 MS. GIANQUINTO: Yes.

1 MR. SILVESTRI: I don't have an issue provided that
2 Attorney Hoffman doesn't have an issue with that submittal.

3 MR. HOFFMAN: I don't suppose I have an issue, Mr.
4 Silvestri, although I do think that that is an issue with
5 all due respect more properly addressed by the State
6 Department of Transportation than by your agency. I don't
7 have an objection to it. The project will obey weight
8 requirements obviously.

9 MR. SILVESTRI: Thank you, Attorney Hoffman. What I
10 would suggest probably to the Town is if they could get
11 that information because again it needs to come from the
12 state because it's a state bridge, that would be the more
13 appropriate source.

14 MS. GIANQUINTO: Thank you. Generally, the Town of
15 Waterford has adopted low-impact design principles into its
16 regulations; right?

17 MS. PIERSALL: Yes.

18 MS. GIANQUINTO: And why is that?

19 MS. PIERSALL: The purpose is the long-term protection
20 of our environmental resources, following best practices in
21 order to accomplish that.

22 MS. GIANQUINTO: And do those resources include the
23 Niantic River estuary?

24 MS. PIERSALL: They do.

25 MS. GIANQUINTO: Has the Town done any analysis of

1 areas within its borders that might be particularly -- let
2 me rephrase that.

3 Is there any Town document that provides as assessment
4 of the nitrogen load concerns with respect to developing
5 parcels in Town?

6 MS. PIERSALL: There is the existence of hydro
7 watershed plan that has references to the nitrogenation.

8 MS. GIANQUINTO: And so that document contains
9 information about nitrogen load concerns with different
10 parcels?

11 MS. FITZGERALD: This is Maureen Fitzgerald,
12 Environmental Planner, Town of Waterford. I believe that
13 document is the Niantic River Watershed Protection Plan
14 that was prepared by the DEEP. I believe Waterville, East
15 Lyme, Montville and Salem were trying to use that. There
16 was some preliminary total loading pre versus post
17 development scenarios put in that document, and I believe
18 the Town is part of a collaborative in putting that
19 document together, a very rough -- it might be something
20 you would use to calculate the potential loading from a
21 potential development just by way of highlighting which
22 land is more vulnerable if developed.

23 MS. GIANQUINTO: And do you know if this site is
24 highlighted as one of the parcels that would be more
25 vulnerable?

1 MS. FITZGERALD: I don't have that document in front
2 of me.

3 MS. GIANQUINTO: I have no further questions. Thank
4 you.

5 MR. SILVESTRI: Thank you, Attorney Gianquinto. That
6 would conclude cross-examination of the Town. I'd like to
7 express my appreciation to the Town that they were able to
8 join us today in light of what's going on today with the
9 tropical storm, and I'd just like to wish you folks the
10 best as we get through this storm, so thank you.

11 MS. FITZGERALD: Thank you.

12 MR. SILVESTRI: I'd like to continue now with the
13 appearance of the Petitioner, GRE, to verify the new
14 exhibits that are marked as Roman Numeral II, Item B12 on
15 the hearing program. Attorney Hoffman?

16 MR. HOFFMAN: Yes. So for that item it was prepared
17 by three of our four witnesses, so I'll just take them
18 through that. Mr. La Marche, you familiar with the items
19 that Mr. Silvestri just referred to?

20 MR. LA MARCHE: I am.

21 MR. HOFFMAN: Could you speak up a little bit, sir?

22 MR. LA MARCHE: Yes, I am.

23 MR. HOFFMAN: And did you prepare that item or cause
24 it to be prepared?

25 MR. LA MARCHE: Yes, I did.

1 MR. HOFFMAN: And is it accurate to the best of your
2 knowledge and belief?

3 MR. LA MARCHE: Yes, it is.

4 MR. HOFFMAN: And do you have any changes?

5 MR. LA MARCHE: I do not.

6 MR. HOFFMAN: You adopt it as your sworn testimony
7 here today?

8 MR. LA MARCHE: Yes, I do.

9 MR. HOFFMAN: Mr. Kochis, I have the same questions.
10 Are you familiar with the items in this document?

11 MR. KOCHIS: Yes, I am.

12 MR. HOFFMAN: And did you prepare that material or
13 cause it to be prepared?

14 MR. KOCHIS: Yes, I did.

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

17 MR. KOCHIS: Yes.

18 MR. HOFFMAN: Do you have any changes to it?

19 MR. KOCHIS: No.

20 MR. HOFFMAN: Do you adopt it as your sworn testimony
21 here today?

22 MR. KOCHIS: Yes.

23 MR. HOFFMAN: And Mr. Shamas, are you with us?
24 Mr. Shamas? Well, we have suffered our first loss. We
25 have two witnesses that have proffered the exhibits, so we

1 will go with them. I will try and get Mr. Shamas back on
2 the line, but -- oh, there he is. Mr. Shamas?

3 MR. SHAMAS: I'm back.

4 MR. HOFFMAN: Are you conversant with Petitioner's July
5 28, 2020 court filing?

6 MR. SHAMAS: Yes.

7 MR. HOFFMAN: And did you prepare or cause that
8 material to be prepared?

9 MR. SHAMAS: Yes, I did.

10 MR. HOFFMAN: And is it accurate to the best of your
11 knowledge and belief?

12 MR. SHAMAS: It is.

13 MR. HOFFMAN: And do you have any changes to that
14 submission?

15 MR. SHAMAS: No, I don't.

16 MR. HOFFMAN: And do you adopt it as your fully sworn
17 testimony here today?

18 MR. SHAMAS: I do.

19 MR. HOFFMAN: In that case, Mr. Silvestri, I would
20 offer that up as a full exhibit absent any objections.

21 MR. SILVESTRI: Thank you, Attorney Hoffman. Does any
22 party or intervenor object to the admission of Petitioner's
23 new exhibits? I'll start with Attorney Avena.

24 MR. AVENA: No objection, Mr. Silvestri.

25 MR. SILVESTRI: And Attorney Gianquinto?

1 MS. GIANQUINTO: My objection was overruled, so no
2 further objections.

3 MR. SILVESTRI: I always have to check. Thank you.
4 The exhibits are admitted.

5 Attorney Gianquinto, we had left off the last time we
6 were together with you I guess midway on cross-examination
7 of the Petitioner for Save the River - Save the Hills, and
8 I'd like to continue at this time.

9 MS. GIANQUINTO: Thank you. Okay. Mr. Kochis, I'm
10 going to go back to you. Nice to see you again.

11 MR. KOCHIS: All right.

12 MS. GIANQUINTO: So I'm going to dive right into some
13 of the revisions that you made to the site plans. The
14 first couple of questions I have are about the access roads
15 on the interior of the site. My understanding, and it may
16 have been incorrect, based on your testimony at the
17 previous hearing in response to some questions from
18 Mr. Mercier that you were planning to make changes to the
19 access road around that wetland that includes vernal pool
20 3, and I thought that you were looking at basically
21 substituting that kind of outer road that went around that
22 wetland and then, I don't know, eliminating the gravel
23 improvement to the other road that you originally had that
24 was the wetland crossing. Did I misunderstand that? Am I
25 misunderstanding your current plans, because it looks to me

1 like you've kept both roads in, and you did kind of smooth
2 out the one that went around the wetland but that those
3 roads are still there, and now there's two points that
4 cross the right-of-way?

5 MR. KOCHIS: Yeah. This is Steve Kochis. So to
6 address that question yes, we did revise the primary
7 construction access to come to a new location in the
8 right-of-way and to be revised as on the western side of
9 the wetlands. In concert with Maureen Fitzgerald's
10 comments, we are currently proposing to leave the existing
11 access road as it is pending further discussions on whether
12 it needs to be kept as an access road

13 MS. GIANQUINTO: Okay. So does that mean with respect
14 to the Petitioner's anticipated construction activities and
15 then permanent access afterwards though that it plans to
16 use just that road that's curving around the wetland and
17 the other one's only in there because you might not be able
18 to get rid of it because of Eversource's needs?

19 MR. KOCHIS: That's correct. The construction access
20 will only be around the wetland, not over. It will only be
21 kept for Eversource's needs and I would say for emergency
22 needs as well in the event of emergency.

23 MS. GIANQUINTO: So are you still proposing as of now
24 then to turn that grassy logging road that you won't really
25 be using into a gravel road or is that something that's up

1 in the air.

2 MR. KOCHIS: I would say that's still up in the air
3 pending conversation with Eversource.

4 MS. GIANQUINTO: Okay. And so as of now, do you have
5 an approval from Eversource for either of those
6 right-of-way crossings or is that also up in the air?

7 MR. LA MARCHE: This is Jean-Paul. I think I can
8 speak to that best. As you mentioned last time, we do not
9 have a crossing agreement or easement in place at this
10 time. We had conversations with Eversource a while ago, I
11 don't remember the exact dates, but we have not had more
12 recent conversations. We will expect to do those at the
13 time if and when this is approved through the Siting
14 Council.

15 MS. GIANQUINTO: Okay, thank you. So, Mr. Kochis, in
16 response -- contained within the late-filed exhibit, part
17 of the narrative was responding to how much of the site is
18 going to be regraded, so it's 21.6 percent of the site is
19 being regraded; right?

20 MR. KOCHIS: 21.6 percent of the development area.

21 MS. GIANQUINTO: Understood.

22 Mr. KOCHIS: So 75 percent --

23 MS. GIANQUINTO: Right, and I apologize for not being
24 more precise with my language. So how does that compare to
25 the other solar sites that you've designed? So when we

1 were talking through some of your background we talked
2 about your experience with the Simsbury site and that there
3 was some regrading to make some slopes less than 15
4 percent. Was that more or less than 21.5 percent of the
5 site?

6 MR. KOCHIS: Using Simsbury as a reference, that was
7 actually kind of a unique project in terms of we didn't
8 have to do regrading for slope as much but we still had to
9 do a significant amount of regrading due to the topsoil
10 management that was required within our contract. So ball
11 parking going off that estimate, I would say that at least
12 21.6 percent of the Simsbury site needed to be regraded due
13 to topsoil management.

14 MS. GIANQUINTO: All right. Can you explain the
15 difference for regrading for topsoil management versus
16 what's going to be happening at the Waterford site if it's
17 approved?

18 MR. KOCHIS: Sure. It's just a difference in why they
19 need to be regraded. I would say for topsoil management
20 the plan that was designed for that project was because the
21 topsoil needed to be peeled off and then we had to relocate
22 it to other areas to protect it. So it needed to be spread
23 in other areas of the site rather than removed from the
24 site, and soil excavation from the basins, stormwater
25 basins had to be removed from that area as well, needed to

1 be removed to be relocated to other areas of the site
2 rather than removed from the site.

3 MS. GIANQUINTO: So are you saying that at the
4 Waterford site that the topsoil would be removed? That
5 hadn't been my understanding.

6 MR. KOCHIS: No. So the reason for the regrading at
7 the Waterford site is to reduce the small amount of area
8 that's in excess of 15 percent slopes. It has nothing to
9 do with topsoil management or efforts to keep soil on the
10 site.

11 MS. GIANQUINTO: Okay. All right. But you just said
12 it's a small amount of regrading, so more than 20 is still
13 a small amount of regrading in your mind?

14 MR. KOCHIS: Well, a significant portion of the
15 regrading is for the stormwater basins that we are
16 proposing.

17 MS. GIANQUINTO: So in the new plans you've added
18 forebays for each of the stormwater basins; right? Sir, I
19 think your audio cut out.

20 MR. KOCHIS: That is correct.

21 MS. GIANQUINTO: And what is the purpose of the
22 forebay?

23 MR. SILVESTRI: I think your audio cut out.

24 MR. KOCHIS: I just lost the wifi for a second. Can
25 everybody hear me now?

1 MS. GIANQUINTO: Yes. And you're familiar with the
2 requirements in the Stormwater Quality Manual for forebays,
3 the specifications that are required?

4 MR. KOCHIS: Yes.

5 MS. GIANQUINTO: And the specifications require
6 forebays to be four to six feet deep; don't they?

7 MR. KOCHIS: I do not believe that to be case, no.
8 There is no -- there is no specification of depths of
9 forebays in the Stormwater Quality Manual.

10 MS. GIANQUINTO: Did you do any test pits in the
11 areas where the forebays are proposed?

12 MR. KOCHIS: We have not done soil testing within the
13 footprints of the specified forebays.

14 MS. GIANQUINTO: Is there a plan to -- if this gets
15 approved, is there a plan to do that before construction?

16 MR. KOCHIS: Not as of right now, no. We're relying
17 on the soil testing that was done in very close proximity
18 to the stormwater basins themselves.

19 MS. GIANQUINTO: So isn't the depth of a pre-treatment
20 basin that the forebay impart though? Pre-treatment means
21 that you're trying to get rid of the sediment that's in the
22 water right, or at least some amount of the sediment?

23 MR. KOCHIS: That's correct. The depth is to provide
24 sediment storage.

25 MS. GIANQUINTO: And so a forebay that's only a foot

1 and a half deep probably wouldn't have as much storage for
2 that sediment than something that's four or six feet deep,
3 right, as a general matter?

4 MR. KOCHIS: If the footprint was identical, that's
5 correct, but it's just based off the total storage volume.

6 MS. GIANQUINTO: And where are the calculations for
7 the storage volume of the forebays that you propose?

8 MR. KOCHIS: There are no computations involved with
9 them; however, they were sized based on 25 percent of the
10 required water quality volume from the stormwater report by
11 volumetric analysis.

12 MS. GIANQUINTO: So the calculations for those are
13 completely wrong on calculations for the size of the basin
14 that you already proposed?

15 MR. KOCHIS: That's correct.

16 MS. GIANQUINTO: So if your calculation for the basin
17 was incorrect for some reason, the calculation for the
18 forebay would be sized wrong too; right?

19 MR. KOCHIS: Well, they're based off the required
20 water quality volume, so not necessarily. The basins
21 themselves are sized quite a bit larger than the required
22 water quality volumes. So I would say if there was a
23 problem with the water quality volume, then there would be
24 a problem with the water basin sizing.

25 MS. GIANQUINTO: All right. So several of the

1 forebays that are proposed are under solar panels. How is
2 that going to work.

3 MR. KOCHIS: So where those are proposed in the area,
4 the entire forebay can be located under a rack of panels so
5 it's going to be installed in line under the panel. This
6 was also kind of a technique that was done to success in
7 Simsbury.

8 MS. GIANQUINTO: So every forebay you've proposed
9 that's under panels you're saying is fitting between racks
10 of solar panels?

11 MR. KOCHIS: Directly under the rack of panels.

12 MS. GIANQUINTO: Oh, directly under the rack, okay.
13 Forebays can't have vegetation in them; right?

14 MR. KOCHIS: I believe they can have vegetation.

15 MS. GIANQUINTO: Are yours designed to have vegetation
16 in them?

17 MR. KOCHIS: Yes. They will follow the natural
18 pattern of vegetation as under the remainder of panels.

19 MS. GIANQUINTO: So could you turn to the sheet C3.8
20 for your next answer for me.

21 MR. KOCHIS: Yep, I'm getting there. I have that
22 sheet open.

23 MS. GIANQUINTO: So this shows two forebays related to
24 basin 13; right?

25 MR. KOCHIS: Yes.

1 MS. GIANQUINTO: So to me it looks like both of these
2 forebays are stretched out not underneath kind of
3 horizontally following the underneath the array, but
4 they're going perpendicular through several racks of
5 arrays.

6 MR. KOCHIS: You're correct.

7 MS. GIANQUINTO: How does that jive with what you just
8 told me about how they're to be installed?

9 MR. KOCHIS: You're correct. I apologize. They will
10 be installed prior to the installation of the racking
11 because those forebays will be installed as separate
12 temporary sediment traps. So they will be installed before
13 any of the racking, the piles, anything, and they will be
14 allowed to vegetate through the growing season as well. I
15 apologize, but those ones will be going between racks.

16 MS. GIANQUINTO: I thought most of the forebays are
17 going to also be installed as temporary sediment traps? Is
18 that not right?

19 MR. KOCHIS: No, that is not -- not right. I think
20 the ones that are intended to be installed as temporary
21 sediment traps are labeled as such on the plans. The
22 remainder will just be installed as voluntary measures.

23 MS. GIANQUINTO: But these two -- these two are to be
24 installed before there's any solar panels, they're going to
25 go through a growing season, and then the solar panels are

1 going to be installed on top of the forebays?

2 MR. KOCHIS: That's correct.

3 MS. GIANQUINTO: And is this design something that
4 you've used at a solar facility before? You just said you
5 used the general idea of having forebays installed under
6 racks at the Simsbury site. Did you do anything like that?

7 MR. KOCHIS: Yes. The Simsbury design had probably at
8 least ten temporary sediment traps that were left in
9 perpetuity as stormwater quality basins that spanned under
10 racks of panels, and most of those were quite a bit larger.

11 MS. GIANQUINTO: Does the fact that they're spanning
12 under racks of panels mean that they're going to require
13 any special maintenance?

14 MR. KOCHIS: So what we did in Simsbury was that the
15 maintenance plan would have to be actually described for
16 maintaining basins that were under panels and for sediment
17 under panels, specifically the type of equipment that would
18 be used.

19 MS. GIANQUINTO: And is that somewhere in the revised
20 plan for the site?

21 MR. KOCHIS: No. That would be typically worked out
22 once -- assuming the project is approved, it would be
23 worked out with the GC depending on the contractor that
24 works on the job.

25 MS. GIANQUINTO: All right. Does the information from

1 the fire marshal about the vegetation needing to be, it
2 sounds like mowed shorter than at least I had been
3 anticipating, does that impact your stormwater design at
4 all and in particular with respect to these forebays?

5 MR. KOCHIS: No, I don't believe so. We have assumed
6 grass, a standard grass in the hydrologic computations and
7 as vegetation for the forebays with the idea that that's
8 conservative, and if the grass was to be longer it would
9 probably result in less runoff, but we have assumed a short
10 grass in the hydrologic computations.

11 MS. GIANQUINTO: Okay. So as a general matter, longer
12 grass is better for reducing runoff on the site though?

13 MR. KOCHIS: Longer grass will promote more
14 infiltration and would likely result in less runoff from
15 the site.

16 MS. GIANQUINTO: Have you viewed Mr. Trincas'
17 supplemental pretrial testimony. It just went in
18 yesterday?

19 MR. KOCHIS: Yes, I have.

20 MS. GIANQUINTO: So in there he criticizes the
21 length-to-width ratio that you have for the forebays and
22 says that according to the Stormwater Quality Manual that
23 ratio is supposed to be calculated from inlet to outlet,
24 not just from one end to the other end. Do you disagree
25 with that criticism? Do you think you did it consistent

1 with the manual?

2 MR. KOCHIS: The manual is a recommendation on the
3 inlet-to-outlet ratio. Based on site topography it was not
4 feasible in the locations here, but I do not disagree with
5 the assessment that it is a recommendation to have a
6 two-to-one ratio.

7 MS. GIANQUINTO: You said based on the topography you
8 couldn't do it. Is that because you'd need to take away
9 panels? Is that because of the grading that's already
10 happening on the site? What do you mean by topography?

11 MR. KOCHIS: It's based on the existing topography and
12 the slope going to these basins. It would be infeasible to
13 design a basin that would be able to contribute that
14 two-to-one ratio, but again it's not required per the
15 Manual, it's a recommendation.

16 MS. GIANQUINTO: Would it be a more conservative
17 approach to do that in accordance with the recommendation
18 in the manual?

19 MR. KOCHIS: If the topography allowed for it, yes.

20 MS. GIANQUINTO: For several of the basins there's --
21 with the forebays that you've added upstream the gravel
22 road is in between the forebay and the basin. How will
23 that work? Won't having the forebay putting more flow over
24 the road mean more erosion from the road and more sediment
25 getting into the basin that you're trying to pre-treat?

1 MR. KOCHIS: No, I don't believe so, because the roads
2 are going to be installed as crushed stone roads in those
3 areas. So no, I don't believe there will be increased
4 erosion from the roads in those areas.

5 MS. GIANQUINTO: Okay. Speaking of the composition of
6 the roads, Mr. Mercier had asked you some questions at the
7 first hearing about whether there might be
8 some alternatives to the road surface. I think
9 particularly with respect to an area above basin 4, he
10 mentioned choosing grass pavers, and it sounded to me like
11 that was something you were going to explore. I didn't see
12 any notes about changes to the composition of the surface
13 of the road anywhere. Did you look at that? Were there
14 changes made that I missed?

15 MR. KOCHIS: We did not look at different alternatives
16 for that area with basin 4.

17 MS. GIANQUINTO: Why is that?

18 Mr. KOCHIS: We are proposing crushed stone in that
19 area, and unless we're asked otherwise to do to so, to use
20 something alternative, we are proposing crushed stone.

21 MS. GIANQUINTO: I understood your testimony to be
22 that there might be alternate road surfaces that might
23 result in less erosion than crushed stone or gravel roads.
24 Is that as a general principle true?

25 MR. KOCHIS: There may be some alternatives; however,

1 they would also affect the hydrologic computations.

2 MS. GIANQUINTO: And so you're saying that the
3 alternatives would affect them negatively? I mean, I would
4 think that having grass pavers in at least some of the
5 locations might result in less runoff and therefore be a
6 more conservative design. Am I wrong?

7 MR. KOCHIS: You're not wrong. It definitely depends
8 on the alternative.

9 MS. GIANQUINTO: So then there are alternative road
10 surfaces that may be able to be used at least in certain
11 parts of the site that would more conservative than the
12 crushed stone that you're proposing.

13 MR. KOCHIS: It's feasible, yes.

14 MS. GIANQUINTO: How deep do temporary sediment traps
15 need to be per the Stormwater Quality Manual?

16 MR. KOCHIS: I don't have that rendition in front of
17 me at the moment, but I believe it's on the order of three
18 feet.

19 MS. GIANQUINTO: And so the forebays -- several of the
20 forebays that you're proposing are also to be temporary
21 sediment traps; right?

22 MR. KOCHIS: That's correct.

23 MS. GIANQUINTO: And are all of those forebays at
24 least three feet deep?

25 MR. KOCHIS: I'm not sure without reviewing the plans

1 at this time?

2 MS. GIANQUINTO: There was some testimony at the last
3 hearing about the distance -- and even earlier today about
4 the distance from stormwater basins to Stony Brook and then
5 to Oil Mill Brook, and think I had asked you at the earlier
6 hearing about the sentence from the nearest basin to that
7 unnamed tributary. Do you remember me asking about that?

8 MR. KOCHIS: The unnamed tributary to the Oil Mill
9 Brook?

10 MS. GIANQUINTO: Yes, the unnamed stream there.

11 MR. KOCHIS: I don't recall those questions, but I'm
12 familiar with that tributary.

13 MS. GIANQUINTO: Okay. Have you ever looked at where
14 that tributary flows? Have you looked at any, you know,
15 maps or anything like that to try to get a feel for how far
16 it goes?

17 MR. KOCHIS: Yes.

18 MS. GIANQUINTO: And so it's your position that it
19 connects directly to Oil Mill Brook; is that right?

20 MR. KOCHIS: Base on my findings it appears that that
21 tributary connects to Oil Mill Brook somewhere in the
22 vicinity of the 95 and 395 crossing, under it or in close
23 proximity to that.

24 MS. GIANQUINTO: So then you would agree that anything
25 that -- any sediment that is getting into that unnamed

1 stream, I guess I'm going to call it for lack of a better
2 word, any sediment that's getting into that unnamed stream
3 is going to end up in Oil Mill Brook; right?

4 MR. KOCHIS: I'm not going to say that any sediment
5 that gets into that tributary is certainly going to end up
6 in the brook. However, I can confirm that that tributary
7 connects to Oil Mill Brook. That's my belief at least.

8 MS. GIANQUINTO: Okay. A couple questions about level
9 spreaders. At the last hearing you told me that there were
10 no level spreaders proposed within the site. Do you recall
11 that?

12 MR. KOCHIS: I do not recall that.

13 MS. GIANQUINTO: Okay. I don't know if you have the
14 transcript there. I can pull it up, but it was in the
15 context of you talking about sheet flow conditions, and you
16 said that the sheet flow conditions -- we were going
17 through Appendix I, and I was asking you questions about
18 one portion of it that talks about, you know, this is all
19 going to whether you treat the panels as pervious or
20 impervious. But one of the requirements to treat them as
21 pervious was for certain slopes you had to have level
22 spreaders, berm, so we were talking about those and whether
23 they were in the plans. Do you remember generally that
24 conversation?

25 MR. KOCHIS: I apologize. When I said that I was

1 thinking of level spreaders as outlets from basins, so I do
2 recall that there we're not -- we're not proposing level
3 spreaders, terraces and berms.

4 MS. GIANQUINTO: Oaky, so I see the distinction. But
5 you agree that you had been proposing level spreaders
6 coming out of the basins; right?

7 MR. KOCHIS: That's correct.

8 MS. GIANQUINTO: Okay. And DEEP had some concerns
9 about the design of those level spreaders; right?

10 MR. KOCHIS: I believe their only concern was
11 converting the timber lip to a concrete curb and ensuring
12 that long-term inspections of it included ensuring that
13 that concrete curb remains level over time as well as the
14 stability of it.

15 MS. GIANQUINTO: And it's important for that to be a
16 level concrete lip because water's going to find the lowest
17 point; right? So if there was a dip in it or if you'd been
18 using a timber and over time a part of it eroded, that's
19 where the water's going to go; right?

20 MR. KOCHIS; That's correct.

21 MS. GIANQUINTO: And then it would be channelized
22 instead of a sheet flow; right?

23 MR. KOCHIS: There is a potential for that to occur in
24 the event of damage to the curb.

25 MS. GIANQUINTO: Both Mr. Mercier and I asked you some

1 questions about the vernal pool disturbance area
2 calculations, and in the new late filing you submitted some
3 new calculations; right?

4 Mr. KOCHIS: That's correct.

5 MS. GIANQUINTO: And that's Attachment V to that
6 filing?

7 MR. KOCHIS: I'm not sure on the exact attachment
8 number at this time, but it was attached to the filing,
9 yes.

10 MS. GIANQUINTO: Okay. Do you have it front of you?
11 I was going to ask you questions about numbers so --

12 MR. KOCHIS: I'll make sure I have it in front of me.
13 I have that map open in front of me, yes.

14 MS. GIANQUINTO: So according to the calculations that
15 you submitted per this attachment, it's your position that
16 based on your calculations there's not going to be any
17 increase in either the vernal pool envelope or the CTH4,
18 any of the vernal pools except vernal pool 3; right?

19 MR. KOCHIS: That's correct.

20 MS. GIANQUINTO: And that's only with respect to the
21 CTH, and that's a 20 percent increase in activity or
22 disturbance in there?

23 MR. KOCHIS: That's correct.

24 MS. GIANQUINTO: Okay. So I understood that the exact
25 pre-development and post-development numbers are different

1 because we're talking about including the clearing that had
2 been done or not, but I am confused about why that
3 percentage difference is so dramatically different from the
4 Interrogatory Responses that have been submitted. So the
5 Interrogatory Responses in April for that same area -- and
6 I can give you the date. It was April 6th, and it was
7 question 15 if you wanted to pull it up, but those
8 responses say that there was only going to be a .4 percent
9 increase in activity in the CTH for that vernal pool. So
10 in looking at the figure that you provided it doesn't look
11 to me -- the green area doesn't look to me to be new
12 activity from the time that those Interrogatories were
13 responded to, so I'm trying to figure out like how do you
14 explain the difference between the .4 percent increase in
15 activity and now a 20 percent increase in activity? What
16 am I missing?

17 MR. KOCHIS: The April computations of the disturbance
18 within the critical terrestrial habitat included the
19 existing timber harvest. So it was the fact that we were
20 reviewing work within an area of the existing timber
21 harvest, and that's why that increase is so small -- was so
22 small.

23 MS. GIANQUINTO: Okay. So the timber harvest area
24 kind of -- I guess I'm still not -- I'm still not quite
25 understanding how both the pre -- I could see that

1 affecting one of the numbers but not both. But I'm a
2 lawyer and not a mathematician so this is possibly entirely
3 on me. I guess I had expected there to be some differences
4 in some of the numbers, but I had not expected the
5 percentages to be dramatically different, but you're
6 telling me because -- is it kind of where the clearance
7 fell that it's different for this CPH?

8 MR. KOCHIS: That's correct. It's because the
9 majority of the work within the critical terrestrial
10 habitat of vernal pool 3 falls within the area of the
11 existing timber harvest, so the amount of development that
12 we were proposing outside of that timber harvest was very,
13 very small.

14 MS. GIANQUINTO: Okay, I think I've got it. I don't
15 know if this is a question for you or someone else. Do you
16 have any information or do you guys have any information on
17 the expected weight of a construction truck? I'm assuming
18 the construction trucks that are bringing in the panels
19 themselves are probably going to be pretty loaded and might
20 be heavy, but I don't know that for sure. Is there
21 information on that anywhere?

22 MR. LA MARCHE: This is Jean-Paul. I do not have
23 those numbers. I think -- the exact weights of the truck I
24 think will be determined based off of the number of modules
25 that are being shipped, the timing, the phasing, all of

1 that, so those are not numbers that we have at this time.

2 MS. GIANQUINTO: Is that -- I guess for Mr. Kochis, is
3 that something that you would need to know to do the final
4 design of the road to make sure that they can handle that
5 load or are you confident that the way they're designed now
6 should be fine?

7 MR. KOCHIS: I'm fairly confident that the way the road
8 is designed right now should be fine, but we can certainly
9 visit that once we have those numbers for construction.

10 MS. GIANQUINTO: I just have a little bit about the
11 construction phasing, and I know that this has been
12 revisited a couple of times, and I know that no one knows
13 if or when this is going to be approved, and so that has an
14 impact. There has been discussion about a full growing
15 season even when Tom was talking about it, and I want to
16 make sure that I'm clear. Petitioner is considering a full
17 growing season to just be the spring season or the fall
18 season, right, it's not the spring, summer and fall season
19 or two of those seasons together, it's just either spring
20 or fall; is that right?

21 MR. KOCHIS: That's correct. As of right now
22 Petitioner's understanding of the term growing season would
23 be either the spring or the fall season.

24 MS. GIANQUINTO: And do you have written communication
25 from DEEP that says that that's their understanding too,

1 because I thought -- even the thing I got yesterday I
2 wasn't quite clear on that.

3 MR. KOCHIS: I don't believe we have that ready from
4 CT DEEP.

5 MS. GIANQUINTO: So it's possible that there's still,
6 I don't know, kind of an ambiguity about that, that you
7 don't know for sure that -- I guess I'm wondering if it's
8 possible that you might be talking growing season to DEEP,
9 and DEEP might think full growing season means a longer
10 period of time than you think it is?

11 MR. KOCHIS: Well, I can tell you that it was
12 discussed verbally with CT DEEP, and that was their
13 understanding either spring or fall. I just don't think I
14 have it.

15 MS. GIANQUINTO: Okay. So there was conversation at
16 the last hearing about the different phases of the
17 construction and how things were going to be stabilized in
18 between the phases. And my general understanding was that
19 all of the clearing, all of the regrading and the
20 installation of the traps which will become the basins and
21 the road, that will all be done at the same time but kind
22 of in different chunks of the property. Is that a fair,
23 very general way to describe it?

24 MR. KOCHIS: Yes. Yeah, it's proposed to handle all
25 of the erosion control and road installation procedures

1 generally within the same phase at the same time.

2 MS. GIANQUINTO: Okay. And so each of those, as I'm
3 describing them chunks, each of those pieces of clearing
4 and regrading, how many acres are you going to be doing at
5 a time before you then put down the erosion control
6 blankets and the hydroseed or whatever else you need to do
7 and then move to a different part of it?

8 MR. KOCHIS: There's not necessarily a restriction on
9 the amount of acreage during that phase. It's just a
10 matter of having the equipment and controls and the
11 temporary sedimentary traps up.

12 MS. GIANQUINTO: So I guess what I'm wondering is
13 we're sitting here and there's a tropical storm coming, and
14 I don't know, at least up here there's a tornado watch, I
15 don't know if there's one down in Waterford. So is it
16 possible that if this project gets approved, you guys go
17 through a spring growing season next year or I guess maybe
18 a fall growing season, but is it possible that we could be
19 in this position next year where the whole site has
20 actually been cleared, some of it's got hydroseed, some of
21 it's in the process and boom we have a huge storm event; I
22 guess I'm kind of envisioning in my mind that there's just
23 going to be 75 acres of cleared property, some of it's
24 already going to -- you know, you're going to start it with
25 one end, you know, so maybe that's fairly stabilized, you

1 got the hydroseed in a couple of months ago and you're
2 still on the other end and then boom, there's a washout.
3 How do you plan for that? Because that's -- you know,
4 that's my client's worst nightmare, right, and so I'm
5 trying to figure out how the phasing of this would prevent
6 that.

7 MR. HOFFMAN: Mr. Silvestri, I'd like to object to
8 that question. It's pretty much Counsel testifying and an
9 incredibly speculative scenario that Counsel has proffered.

10 MR. SILVESTRI: I hear what you're saying, Attorney
11 Hoffman. In my mind what -- well, I don't want to put
12 words into Attorney Gianquinto's mouth. What I think she's
13 trying to get at is, you know, how much do you stabilize
14 before you go on to something else and looking at
15 preventative measures? I think that's kind of what I'm
16 hearing.

17 MS. GIANQUINTO: That would be a much more artful way
18 of saying it. I apologize.

19 MR. SILVESTRI: And if that's okay, Attorney Hoffman,
20 I'd like to continue along the path that I just went.

21 MR. HOFFMAN: Sure.

22 MR. SILVESTRI: Thank you.

23 MR. KOCHIS: So I think that puts it in my court at
24 this point. So I would say generally speaking the
25 regrading efforts are broken into specific areas of the

1 site if you look at the areas of regrading, and we have
2 committed in accordance with CT DEEP's guidance
3 documentation my understanding is that within 72 hours of
4 completion earth work in a specific area, and before earth
5 work can even take place the temporary sediment traps and
6 perimeter controls need to be in place.

7 So I would say that any specific area of regrading,
8 contiguous area of regrading would need to be hydroseeded
9 within 72 hours of installation. That would be the time
10 line of when things would need to be hydroseeded as far as
11 what the process is.

12 MS. GIANQUINTO: Okay. But just having hydroseeded
13 part of the property doesn't mean that it's stabilized,
14 right, I mean it needs time to actually stabilize to when
15 that's done? It's not automatic?

16 MR. KOCHIS: Well, in CT DEEP -- in consultation with
17 CTD DEEP, their intention is that the inclusion of the
18 tachofier and the polyethelmine in the hydroseed mixture
19 acts as a temporary stabilization measure which is an
20 accepted temporary stabilization technique.

21 MS. GIANQUINTO: And I kind of thought it requires
22 more than just the 72 hours, right? It's either 72 hours
23 or whenever there is, what is it, one inch or two inches of
24 rain expected in a 25-hour period; right? There's a rain
25 trigger, too?

1 MR. KOCHIS: Yes. I believe so, yes.

2 MS. GIANQUINTO: So I saw in the Revised Site Plan the
3 notes about the 72 hours. I don't see anything about the
4 anticipated rain event that's required by Appendix I. Am I
5 missing that somewhere? I saw the 72 hours on multiple
6 pages.

7 MR. KOCHIS: I don't believe you're missing that, no.

8 MS. GIANQUINTO: Is that something that's going to be
9 added? How does that -- how does that get communicated and
10 done on site?

11 MR. KOCHIS: We can add that to the site plans. We
12 can just add that.

13 MS. GIANQUINTO: And who makes that determination on
14 the site? You know, when the rainfall's coming, like who's
15 the person who's doing that? Is that whoever DEEP
16 identifies or approves as your inspector?

17 MR. KOCHIS: Well, I will admit that CT DEEP Appendix
18 I is a guidance document that's open for public comment
19 right now. It's a very new document that I haven't had
20 experience with a construction project with. So to answer
21 your question, I think it would have to come from either
22 the contractor or a qualified inspector, but I don't have
23 experience with a construction project and that guidance
24 document to be able to give you an answer.

25 MS. GIANQUINTO: Okay. This is probably a question

1 more for Jean-Paul. Would the Petitioner be willing to
2 commit to that inspection being done by Waterford town
3 officials?

4 MR. LA MARCHE: I don't think we can commit to the
5 inspection being done by the officials, but I have no issue
6 with them being involved in the inspection.

7 MS. GIANQUINTO: And I'm talking specifically about
8 the part where there's a determination about whether it's
9 72 hours or the rainfall. So I guess I'd be looking for a
10 commitment about consulting with the Town when a rain event
11 is expected so that they could see what's going on.

12 MR. LA MARCHE: I can't make a commitment for what the
13 code is from my position.

14 MS. GIANQUINTO: Okay. But that's at least something
15 you're open to discussing if the Town is interested in
16 participating in that?

17 MR. LA MARCHE: If they're interested in participating
18 and if it's within DEEP requirements, then absolutely,
19 we're happy to work with them.

20 MS. GIANQUINTO: And the next question I think is for
21 Mr. Shamus.

22 MR. HOFFMAN: Mr. Shamas may only be available by
23 phone. He has lost power at his site. Mr. Shamas, are you
24 available?

25 MR. HOFFMAN: Mr. Shamas might be muted.

1 MS. GIANQUINTO: I can come back.

2 MR. HOFFMAN: No, no, he's being muted by the Siting
3 Council.

4 MS. BACHMAN: Attorney Hoffman, what number is he
5 calling from so I can identify him? I have about five
6 numbers here.

7 MR. HOFFMAN: I understand.

8 MR. KOCHIS: I'm trying to get that for you now. I
9 believe he's the 203-400-1558 number.

10 MR. SILVESTRI: And this is why I preface thank you
11 for your patience. Especially today, I mean my back yard
12 is getting wrecked right now.

13 MR. SHAMAS: I'm here.

14 MS. GIANQUINTO: All right. Thank you. Mr. Shamas,
15 we had talked very briefly about bats at the last hearing,
16 and I just -- in reading through the testimony I wanted to
17 make sure it was clear. You had said that -- I think we
18 agreed that no bat surveys were done on the site, and then
19 you said that you knew that the site was not in a roosting
20 area, and when I asked you a question about that I believe
21 you corrected yourself and said you know it's not in a
22 hibernacular area. Is that an accurate statement, all you
23 know about the site is it's not in a hibernacular area?

24 MR. SHAMAS: Correct. Yes.

25 MS. GIANQUINTO: Okay. And hibernacular that's where

1 bats over winter, so that generally means caves?

2 MR. SHAMAS: Generally.

3 MS. GIANQUINTO: Okay. And so we don't know anything
4 about whether they might be roosting in trees on the site?

5 MR. SHAMAS: Is there a question?

6 MS. GIANQUINTO: Yes. I'm asking you don't know if
7 there are bats roosting in the trees on the site; right?

8 MR. SHAMAS: Correct.

9 MS. GIANQUINTO: So then I just had some questions,
10 and I don't know if these are for you, but about the
11 post-construction vernal pool monitoring plan.

12 MR. SHAMAS: Yes.

13 MS. GIANQUINTO: So one of my questions about that was
14 just about the kind of timing of the reporting. So it
15 looks like there will be someone out there inspecting once
16 a year, is that right, am I interpreting that correctly,
17 during the spring season?

18 MR. SHAMAS: Yeah, exactly. During the spring, yes.

19 MS. GIANQUINTO: And I guess I wasn't clear. It
20 looked like there's only going to be a report generated
21 from that visit if there's actually a problem; is that
22 right?

23 MR. SHAMAS: No. We would need to issue a report
24 after every inspection to document what we observed.

25 MS. GIANQUINTO: Okay.

1 MR. SHAMAS: The formal reporting to the Connecticut
2 DEEP is something that's standard in the industry where if
3 you do find a listed specie on a site, you report it to
4 them so they have a record of it, and so if we did find
5 something, if we did find a listed specie we would take a
6 photo, fill out the proper reporting form and submit it to
7 them.

8 MS. GIANQUINTO: Okay. So what if you don't find a
9 listed species but you find that -- I guess what I'm
10 looking for is it sounds to me like there's going to be an
11 inspection every year during the breeding season, which is
12 all well and good, but it didn't sound to me like there was
13 going to be any sort of report to the Siting Council that
14 there's no problem, you know, we didn't find any amphibians
15 or frogs in these ponds so it's not acting as a decoy this
16 year. It only seemed like there would be a report if there
17 is a problem and you guys needed to do something to, you
18 know, shore up the exclusion. Is that an accurate
19 interpretation of what the current plan there is?

20 MR. SHAMAS: Sure. I mean, I'm not opposed to
21 submitting a report that again provides a summary of each
22 year's inspection and if there was any action taken and the
23 need for that action taken.

24 MS. GIANQUINTO: Okay. And you'd be willing to submit
25 that to the Siting Council so then the parties to the

1 Petition can also look at it?

2 MR. SHAMAS: I mean, I don't have a problem with that.
3 Yeah, if we -- you know, if we do find something kind of as
4 spelled out in that narrative, we would provide, you know,
5 the inclusionary measures to make sure that they're not
6 getting in there if in fact they are.

7 MR. SILVESTRI: I have to ask a question on that
8 before you go any further, Attorney Gianquinto for
9 clarification for my part.

10 The second page of that is item Roman Numeral II,
11 Number 3 says, "Provide a vernal pool monitoring report
12 following each monitoring event that will include methods,
13 observations and actions taken." So the question I have is
14 who gets that report then?

15 MS. GIANQUINTO: Yeah. I guess that was probably more
16 my question, Mr. Silvestri, it's not like it was going to
17 DEEP, so ---

18 MR. SILVESTRI: Well, then there's a part two that
19 says, "If state listed species is endangered, threatened or
20 of special concern, the biologist will document and submit
21 a formal report to the Connecticut DEEP and DBB office."
22 So it sounds like there's two reports that are there, so
23 I'm looking for a verification of if I'm correct on that.

24 MR. SHAMAS Correct. There's the yearly or annual
25 inspection report that we can provide to the Siting

1 Council, and there would be a separate report if we find a
2 listed specie, and what I was getting at is it's no
3 difference with this type of report going to DEEP on this
4 project versus any other where you find a listed species,
5 but so that's the difference between the two reports.

6 MS. GIANQUINTO: And if you did find a listed species,
7 would that report be provided not just to DEEP but also to
8 the Siting Council?

9 MR. SHAMAS: That would be included in the yearly
10 monitoring report of again what we observed. It's just a
11 separate and distinct reporting form that DEEP has that we
12 would submit to them.

13 MS. GIANQUINTO: Okay. And have you used this -- it
14 looks like it's the e-fence that you're proposing to use to
15 exclude the salamanders and frogs; right?

16 MR. SHAMAS: Yes.

17 MS. GIANQUINTO: Have you used this as an exclusionary
18 measure with those species before?

19 MR. SHAMAS: I personally have not, but the staff in
20 our region has.

21 MS. GIANQUINTO: Do you know if their experience has
22 been limited to just during construction or more permanent
23 as it's proposed here?

24 MR. SHAMAS: Offhand, I'm sorry, I don't know that.

25 MS. GIANQUINTO: All right, thank you. Couple quick

1 questions about decommissioning. So I'm guessing those are
2 for Mr. La Marche. Has GRE decommissioned any solar
3 projects?

4 MR. LA MARCHE: I am not aware of any projects that
5 have really been decommissioned. I think there may have
6 been one rooftop project where there was an owner of the
7 building or something moved out and it may have been
8 removed off the roof, but I don't have the details on it.
9 As far as I know, we have not decommissioned any
10 ground-mount projects.

11 MS. GIANQUINTO: Okay. So with respect to the tax
12 agreement that's to be negotiated with the Town, when are
13 you anticipating -- it sounds like that meeting is sort of
14 in the works. When are you anticipating that to take
15 place?

16 MR. LA MARCHE: I don't have a date for a scheduled
17 meeting. We did meet with the Town I believe on June 11th
18 and just sort of talked high-level, asked questions, had
19 some clarification about that, both the strategy for
20 resolving the road issue and intended to schedule another
21 meeting to finalize and continue to work through it, but no
22 more has happened since that meeting.

23 MS. GIANQUINTO: Okay. Does GRE generally classify
24 their solar panels as personal property or is there real
25 property included in that? Do you know? Is it consistent?

1 MR. HOFFMAN: I'm going to object to that question.
2 We're getting beyond the scope of the Siting Council's
3 jurisdiction here. It's not something (inaudible) for tax
4 purposes.

5 MR. SILVESTRI: Sorry, I keep going back and forth on
6 that, Mr. Hoffman. I'll agree with you. I'll sustain your
7 objection. I'll ask Attorney Gianquinto to please move on.

8 MS. GIANQUINTO: Sure. Mr. La Marche, any update on
9 the status of interconnection discussions or is that kind
10 of on hold until you know the project is approved?

11 MR. LA MARCHE: I can't remember the timing of the
12 update, but we have received word from Eversource that they
13 in coordination with New England ISO have completed the ISO
14 review of the project and have had no issues with it. So
15 we are looking into the next phase of finalizing the exact
16 engineering requirements over protection, design to
17 actually interface with their system, but that has not been
18 done.

19 MS. GIANQUINTO: Okay. Has GRE ever proposed a
20 conservation easement in connection with any of its
21 projects?

22 LA MARCHE: I don't know if GRE has, but I have with
23 this job in the sister company of Plain Focus.

24 MS. GIANQUINTO: Okay. Has there been any discussion
25 about doing that for this project? I mean, you acknowledge

1 that this is within a core forest; right?

2 MR. LA MARCHE: There's been no discussion of a
3 conservation easement within the property boundaries of
4 this project, no.

5 MS. GIANQUINTO: And a couple of questions just on the
6 composition of panels. Hold on, actually, I may have
7 already covered this.

8 Mr. La Marche, have you ever had any experience
9 with panels breaking during installation on the site?

10 MR. LA MARCHE: Yes. I have seen modules where the
11 glass breaks or a connector breaks, sure.

12 MS. GIANQUINTO: How are those disposed of, and is
13 there any sort of remediation on the site?

14 MR. LA MARCHE: I mean, they're generally disposed of
15 by the contractor. I don't know if there are methods for
16 disposing of them. I'm sure there is written methods from
17 the manufacturer of how to directly dispose of them, but I
18 mean the damages that I've seen is that the glass is
19 cracked and, you know, we can't leave it on site but it's
20 not like it's really a challenge to dispose of.

21 MS. GIANQUINTO: Okay, I think I have just a couple
22 more and I'm done.

23 Mr. Kochis, a question about soil classes. So my
24 understanding is that even with the revised plans that you
25 have dropped one soil class, right, not two?

1 MR. KOCHIS: We have dropped one soil class, one
2 hydraulic soil group.

3 MS. GIANQUINTO: And as a general matter, dropping
4 down two would be more conservative; right?

5 MR. KOCHIS: As a general matter, that would be more
6 conservative, that's correct.

7 MS. GIANQUINTO: What would happen if -- have you ever
8 run the numbers assuming that the panels are impervious?

9 MR. KOCHIS: Is that question for the sake of peak
10 rate analysis or the water quality volume?

11 MS. GIANQUINTO: Let's start with peak rate. Have you
12 ever done that?

13 MR. KOCHIS; No, we have not run the numbers for peak
14 rate analysis assuming the panels are impervious. However,
15 we have run the numbers assuming that the panels are
16 impervious to the water quality volume, and what we
17 actually found was that the site plan as designed is able
18 to meet the water quality volume requirements even assuming
19 that the panels are impervious and into each subwater shed
20 and stormwater basin.

21 MS. GIANQUINTO: Then why wouldn't you just go ahead
22 and make that assumption if it works?

23 MR. KOCHIS: Well, to answer that question, we started
24 off by trying to be more conservative and looking at things
25 like hydroseeding within 72 hours and providing a lot of

1 those extra conservation measures within the site plan
2 rather than just relying on just providing the water
3 quality volume as an end-of-treatment plan.

4 MS. GIANQUINTO: So you're saying that rather than
5 just assuming they're impervious and designing it that way
6 which you just said would work for at least water quality
7 volume, instead you're jumping through all the hoops of
8 Appendix I that require different things for the different
9 slopes?

10 MR. KOCHIS: That's correct. That's where we started
11 our analysis to try to jump through the hoops, but as a
12 backup the site plan does work and provides the required
13 water quality volume, even assuming the panels are
14 impervious.

15 MS. GIANQUINTO: But you don't know if that's true
16 with respect to the peak rate?

17 MR. KOCHIS: No. As stated, we have not run a
18 hydrologic analysis of impervious to peak rate.

19 MS. GIANQUINTO: Why not, if you're looking to be the
20 most conservative you can be?

21 Mr. KOCHIS: There's no regulation or requirement in
22 the State for -- for -- even surrounding states to consider
23 the panels to be impervious for the sake of peak rate
24 runoff.

25 MS. GIANQUINTO: Do you ever design a site doing more

1 than is required by regulations?

2 MR. KOCHIS: If required by the regulators, yes.
3 Otherwise, we're typically -- as site designers we are
4 typically designing to regulation. It's not our job to
5 question policy.

6 MS. GIANQUINTO: But it's your job to meet your
7 professional standards, right, so to make sure that the
8 off-site resources in this case, for example, aren't going
9 to be impaired by what happens with respect to your site
10 design?

11 MR. KOCHIS: That's correct. Our job is to meet the
12 regulations and meet good engineering practices.

13 MS. GIANQUINTO: And so you've never had a situation
14 where good engineering practices made you go beyond the
15 bare bones of what the regulations are?

16 MR. KOCHIS: I certainly am not -- am not thinking of
17 any specific examples where that's been the case, but I
18 can't rule it out.

19 MS. GIANQUINTO: Okay. I have no further questions.
20 Thank you.

21 MR. SILVISTRI: Thank you, Attorney Gianquinto. I'd
22 like to continue with cross-examination of the Petitioner
23 of the Town of Waterford. Attorney Avena, are you ready to
24 go?

25 MR. AVENA: Attorney Avena. We have no questions at

1 this time.

2 MR. SILVESTRI: Thank you, sir. All right. Well, I
3 will continue with cross-examination of the Petitioner by
4 the Siting Council starting with Mr. Mercier.

5 MR. MERCIER: Thank you. I have one question
6 pertaining to some earlier discussion regarding the
7 elevated crossing of the wetland by the main access road
8 into the site. There was discussion that Eversource might
9 require that crossing to be maintained or in place so they
10 could access their power lines with their equipment. So
11 I'm just wondering if it has to be in place, why not use
12 that crossing to access the solar field, whether you might
13 have to fix up the crossing yourself or maybe coordinate
14 with Eversource to maybe strengthen it if it's not strong
15 enough? It seems like a better option than building a
16 whole new road around the wetland.

17 (Whereupon, the Court Reporter lost power and the
18 hearing was continued via Zoom audio recording)

19 MR. LA MARCHE: This is John-Paul. I can answer that
20 in terms of we want our site to be as best as we possibly
21 think it can be, and by relocating that road we see it as
22 an improvement. Therefore, we're willing to do it and
23 happy to do it. The remaining, I guess you could call it
24 road, access, whatever is there right now, we don't really
25 see it as -- with this change to the access, we don't see

1 it as a project requirement or part of the design of this
2 project so it's more on Eversource if they need that.

3 I think that question came up for us in terms of is it
4 sensible to include removing it in our plans, and we
5 decided it was not out of concern for making sure not to do
6 something against Eversource's wishes, but if they're happy
7 to use our road if they don't need that road, then there's
8 no reason to have that road and it can go away. I don't
9 know if that makes sense.

10 MR. MERCIER: So the intention is just to avoid it
11 altogether. I understand that. I guess the second
12 question is regarding the new alignment of the access road
13 that goes up toward I believe that's basin 16, you know,
14 that isolated area, isolated array at the north end of the
15 site. I saw you eliminated some of the curves, as I talked
16 about in the previous hearing, but is it also possible to
17 move it, I don't know, just a 100-foot buffer moving it
18 slightly to the west if the grades are favorable that way
19 to maintain a 100-foot buffer around the wetland? Seems to
20 cross in, you know, maybe 85 -- within 80 feet of the
21 wetland as it was designed today. What are your thoughts
22 on that?

23 MR. KOCHIS: This is Steve Kochis. I think I can
24 field that one. Just to clarify, I think the basin you're
25 referring to is basin 1 for that isolated area. The reason

1 why the road wasn't brought further to the west is because
2 there's a big area of exposed ledge there, so it's -- so
3 the only way to completely get it out of the 100-foot
4 buffer in that area would be to actually have it come
5 further to the north around that exposed ledge and come in
6 a little building bit more east, west than north, south.
7 We can look into that, but I avoided doing that because
8 that would require a little more tree clearing in that
9 area.

10 MR. MERCIER: Okay, understood. I have no further
11 questions.

12 MR. SILVESTRI: Thank you, Mr. Mercier. I'd like to
13 continue cross-examination Mr. Morissette.

14 MR. MORISSETTE: THANK you, Mr. Silvestri.

15 Concerning the access road over vernal pool 3, how are
16 you going to restrict access through the access road over
17 the vernal pool?

18 MR. KOCHIS: This is Steve Kochis again. I think that
19 will have to just be discussed with the contractor.
20 Following up on Mr. La Marche's point, it's going to have
21 to be determined if Eversource needs that road, so it won't
22 be as simple as just blocking that road off because it may
23 need to be accessible to Eversource in perpetuity. So it's
24 going to have to be in consultation with the Petitioner,
25 Eversource and the contractor to determine the best way to

1 avoid the use of that road for our construction access.

2 MR. MORISSETTE: It could be as simple as a sign.

3 MR. KOCHIS: I'm sorry. If that was the easy answer,
4 then that's what I would want to go with.

5 MR. MORISSETTE: Thank you. One second. in response
6 to Waterford's First Set of Interrogatories Number 11, it's
7 stated that the proposed basin, at the bottom of the
8 response, either Oil Mill Brook or Stony Brook is
9 approximately 800 feet, and in testimony during the first
10 hearing it was said that Stony Brook was 600 feet. Could
11 you clarify is it 600 or is it 800, and then Oil Mill is I
12 have it down as 3,000 feet. Are those distances correct?

13 MR. KOCHIS: Yeah. This is Steve Kochis again. I
14 believe the discrepancy is because the 600 foot is the
15 closest that a parcel line gets to the brook, and the 800
16 foot that was referenced is the closet that a stormwater
17 basin is to the brook with the stormwater basin being set
18 back from the parcel line.

19 MR. MORISSETTE: Thank you. One point of question.
20 Now, given that there's talk about a 100-foot buffer in
21 pre-filed testimony to cold water fishery resources, how
22 does that plan into the numbers that we just discussed?

23 MR. LA MARCHE: Steve, are you there? Are you able to
24 answer that?

25 MR. HOFFMAN: Steve is frozen. He is going to call

1 in. I will look up his number before Miss Bachman asks me
2 to. Oh, wait, his power just got restored, so we'll see if
3 he can -- we'll, see if he comes back into the Zoom. But,
4 Attorney Bachman, if you get a new phone number dialing in
5 in the next few minutes, it's probably him, but I'm sure
6 his whole system went down.

7 MR. MORISSETTE: What we can do is I can ask questions
8 of Jean-Paul while we're waiting. Now, this has to do with
9 the response to the late-filed Exhibit I relating to
10 selenium. Now, given that it's believed that panels would
11 have .05 milligrams below the limit of 1 milligram does not
12 leach, what level is considered to be toxic?

13 MR. LA MARCHE: I don't know the answer to that. I
14 don't know the answer to that question of what level is
15 toxic.

16 MR. MORISSETTE: Well, I'm trying to put the .05 in
17 perspective when you say it's trace amounts.

18 MR. LA MARCHE: I -- I was -- I was providing
19 information from what I read in the report from the
20 manufacturer. I really can't give you that perspective. I
21 think the most important thing to take away from that
22 specific report for those specific modules is that when
23 they did the leach test there was not -- nothing was
24 detected to leach. So whether or not in the specific
25 module that is used, there is some selenium used in the

1 manufacturing process of the semiconductor, the most
2 important part is that nothing has leached and there was no
3 detectable trace or amount that leached from the modules.

4 MR. HOFFMAN: Mr. Morissette, if the Council is
5 willing, we would be happy for the Council to take notice
6 of EPA's drinking water standards for selenium which is you
7 can drink .05 parts per million of selenium directly, and I
8 think you can take administrative notice of that?

9 MR. SILVESTRI: I appreciate your comment, Attorney
10 Hoffman. I think Attorney Morissette has his answer to the
11 question?

12 MR. MORISSETTE: Yeah. I think if it's .05 that you
13 can drink, it's enough for me. Thank you.

14 MS. GIANQUINTO: I'm sorry to interrupt. Mr.
15 Silvestri, can we make sure that's in the record as an
16 administrative notice item? Not that I think Lee is lying,
17 but can we just put the drinking standards in so we're all
18 on the same page?

19 MR. SILVESTRI: We can make that an administrative
20 notice. Sure thing.

21 MS. GIANQUINTO: Thank you.

22 MR. MORISSETTE: Okay, we just need a response to my
23 previous question and I'm done.

24 MR. SILVESTRI: If he's back.

25 MR. HOFFMAN: He is not yet. He is still trying to

1 log in. The storm has screwed things up.

2 MR. SILVESTRI: Mr. Morissette, if that was your last
3 question, how about we move on to Mr. Harder, and then we
4 can come back provided that we get your appropriate witness
5 back for you?

6 MR. MORISSETTE: Okay. That would be great, thank
7 you.

8 MR. SILVESTRI: Mr. Harder, would you like to
9 continue?

10 MR. HARDER: Yes, thank you. I just have one
11 question. Sitting here watching trees bend over to the
12 ground and sheets of rain hitting the window, I'm just
13 wondering especially as it relates to the -- to the part of
14 the system proposed for the -- I guess the southern, maybe
15 southeastern section, the steeper areas, what provisions if
16 there's a catastrophic event or a rainfall event that
17 significantly exceeds the capability of the stormwater
18 control system there, what provisions have you made or
19 would you make to recover significant amounts of sediment
20 that may have escaped and especially also considering the
21 fact that some of the systems are located pretty close to
22 the property line so that in some situations it may very
23 well be located on adjacent properties.

24 MR. LA MARCHE: This is Jean-Paul. I would like Steve
25 to provide something, but I can say that in that

1 hypothetical situation if there is an event like that, we
2 would look to remedy the situation in its entirety and work
3 with whatever land owners are nearby if that is needed. I
4 know that's sort of a general answer, but it's also a
5 little bit of a general question too.

6 MR. HARDER: Well, yes, it's both a general question
7 that I'm hoping for a more specific answer, although
8 obviously I don't expect that you would know exactly what
9 you do and when you do it and all that, but as it relates
10 to -- I guess my question is have you had discussions with
11 adjacent property owners to talk about those possibilities
12 number 1; and number 2, I guess in a more specific way,
13 what kind of approaches would you envision using given the
14 topography, given the proximity to those receiving waters
15 and also given the proximity to adjacent properties?

16 MR. LA MARCHE: Yeah, I can't speak to exact
17 approaches. I don't have that expertise. I hope that
18 Steve does. In terms of number 1, yeah, we have had some
19 conversations with neighboring land owners in looking to be
20 able to access those sites if needed.

21 MR. HARDER: Have they been fruitful conversations?

22 MR. HOFFMAN: Mr. Harder, I believe that Steve Kochis
23 is back on the line.

24 MR. KOCHIS: Yeah, I'm back. Can you guys hear me
25 okay?

1 MR. HARDER: Yes.

2 MR. KOCHIS: I caught the beginning or the second half
3 of the question from Mr. Harder. Would you mind repeating
4 the first question you had regarding stormwater management?

5 MR. HARDER: Well, I guess my question was, I think
6 you went through these, one adjacent property that the
7 Petitioner and the owner of the site in question here would
8 not -- potentially would not be the property owner that
9 receives excessive sediment that might, you know, leave the
10 site. So, you know, what kind of discussions have been had
11 with those property owners, but number 2, if there are any
12 more specific methods or systems or thoughts you have as to
13 how that kind of problem could be addressed, specifically
14 significant amounts of sediment that would be -- you know,
15 that would leave the site, leave the control systems if
16 their, you know, capacities are exceeded, how would you
17 deal with it if a lot of sediment escapes those control
18 systems?

19 MR. KOCHIS: This is Steve Kochis again. I'm going to
20 tackle the first part of your question regarding the
21 off-site impacts from the project. To speak generally, you
22 know, in that sense this project isn't really different
23 than any other project. Every project has to be designed
24 to the State standards of protecting off-site resources.
25 That is a goal of CT DEEP making protections at the

1 property line and not having sediment cross property lines.
2 I think that any solar development, not just this one in
3 Waterford, would run across that same issue of potentially
4 having sediment travel across property lines in the event
5 of a failure, so I don't -- I don't believe that this
6 property is unique in that way.

7 Regarding how it would be addressed in the event that
8 it did happen, I can speak from experience having been to
9 the cleanup sites in Sprague and Pomfret that we would
10 have -- whoever was responsible for doing the cleanup would
11 have to work CT DEEP, gain access to neighboring
12 properties, develop a plan of access as to how that would
13 be done, and I should say first analyze the impacts of the
14 failure and of the sediment deposition and come up with a
15 cleanup plan.

16 So it's going to be unique in that regard based upon
17 where the failure takes place and what the extent of the
18 problem are, but typically in a solar development or in any
19 development and really in any real estate development,
20 you're not usually asked to look at what -- what you would
21 do in the event of a cleanup. You design so that isn't a
22 problem.

23 MR. HARDER: Right, but sometimes things happen, and I
24 guess I'm wondering, you know, especially considering the
25 nature of the site out there, the fact that it is fairly

1 steep in some sections anyway immediately below the
2 property and the proposed system, I guess my question is do
3 you see any particular difficulty or would this just be a
4 normal situation, you know, if those kinds of problems
5 occurred?

6 MR. KOCHIS: I think I do agree with you that it is a
7 bit more challenging of a logistics situation to get to
8 those areas on the east face of the site if a problem were
9 to occur there. However, I do believe there are some ways
10 to get off of our property in the northern and northeastern
11 corners of the site if we did need to get equipment down
12 there. We haven't looked into it in very much detail, but
13 I do believe there is a bridge over the brook at some point
14 in the vicinity of the site where we may be able to gain
15 access there to.

16 I do have some reason to believe that we could get
17 down there on the west side of the brook in the event of a
18 problem on the face of the site, but it would just depend
19 on where the problem took place, and we would have to look
20 at how to get down there.

21 MR. HOFFMAN: I think Mr. Shamas may have something to
22 say as well. He was --

23 MR. SHAMAS: Yes. Can you hear me? This is Jeff.
24 Can you hear me?

25 MR. HARDER: I can hear you.

1 MR. SHAMAS: Okay, I wasn't sure. So yes, to just add
2 on to what Steve was saying and to give an example, about
3 two and a half, three years ago being brought in on the
4 Pomfret solar site, there was a situation that kind of fell
5 along with the hypothetical where there was both on-site
6 and off-site impacts. We worked with the State, with the
7 local municipalities. In that case there were two
8 different ones and the land owners.

9 We were able to provide a plan for restoration
10 immediately, get the -- as we were brought on to start the
11 inspection and handle the issues out there, the impact, we
12 were able to come up with a variety of means and methods to
13 identify what the impacts were, design a fix and implement
14 it in the field for restoration both in wetlands on and off
15 the site which included people using buckets and shovels
16 and, you know, all done by hand and then on site doing the
17 same thing and then installing additional BMPS, whether it
18 be berms and diversions so that bad runoff did not impact
19 an off-site land owner, and since that time over two years
20 have gone by with multiple major storm events and there has
21 not been any other problems with that site.

22 MR. HARDER: Thank you. I appreciate that. I guess
23 I'll ask the same or a similar question of you following up
24 on that. Is there anything about the site in question
25 here, at least that eastern, southeastern, portion of it

1 where it's fairly significant slope and drops off
2 dramatically, is there anything about that area that would
3 present difficulties or would you say that it's within, you
4 know, the realm of reasonableness to get in there and to
5 remediate any excessive loss of sediment?

6 MR. SHAMAS: We would likely do the same thing and use
7 manual labor getting in there by hand, you know, depending
8 on the extent, depending on what the actual loss would be.
9 Like I said there were buckets of -- you know, five-gallon
10 buckets used, and there was means and methods to be able to
11 get in there and do that.

12 MR. HARDER: Okay, thank you. that's the only
13 questions I have, Mr. Silvestri. Thank You.

14 MR. SILVESTRI: Thank you, Mr. Harder. I'd like to go
15 back to Mr. Morissette now that we have our witnesses here.

16 MR. MORISSETTE: Okay, thank you. Just one final
17 question, and it relates to the distance from the parcel
18 line to Stony Brook as being 600 feet and then to Oil Mill
19 at 3,000 feet. I need some clarification as to the
20 proposal to add a cold water fish resources buffer
21 considered under the construction general permit to include
22 a 100-foot buffer and how it relates to those two
23 distances.

24 MR. KOCHIS: I'll handle that. Steve Kochis. I think
25 your question -- so my understanding is that the

1 recommendation that I've seen being circulated is for a
2 100-foot buffer for a cold water fishery, and we provide
3 100 even on our own site and, you know, obviously I think
4 that 600 and the 3,000 are conservatively over the 100, but
5 maybe I'm missing what the question is that you're asking.

6 MR. MORISSETTE: Well, the question is relating to that
7 100-foot buffer is included in your 600, so I am comparing
8 apples to apples.

9 MR. KOCHIS: Yes.

10 MR. MORISSETTE: Okay. So you are basically 500 feet
11 greater than the proposed 100-foot buffer?

12 MR. KOCHIS: At a minimum, yes.

13 MR. MORISSETTE: Okay. And I would think that would
14 be a good thing?

15 MR. KOCHIS: I would agree.

16 MR. MORISSETTE: And that's from the property line?

17 MR. SHAMAS: This is Jeff Shamas. That 600 feet I
18 believe that you're talking about is also not from the
19 basin but from the property line.

20 MR. MORISSETTE: Correct.

21 MR. SHAMAS: And you have another 200 feet to the
22 basin.

23 MR. MORISSETTE: Okay, thank you for that
24 clarification. Those are all the questions I have.

25 MR. SILVESTRI: Thank you, Mr. Morissette. I'd like

1 to continue cross-examination with Mr. Hannon. Hopefully
2 we still have Mr. Hannon online.

3 MR. HANNON: I lost power but I was able to get back.

4 I just have a couple of questions. One is really
5 dealing with I want to make sure I'm clear in my head about
6 how the grading is impacting the design. In particular in
7 the DEEP Guidelines for Stormwater General Permit there are
8 a number of design and construction guidance criteria. So
9 in order to not consider the panels to be impervious, there
10 are a number of conditions that need to be met pursuant to
11 that Appendix I. I just want to make sure I'm
12 understanding that the Petitioner is saying is that they
13 meet all of those criteria?

14 MR. KOCHIS: Yes, we do believe that we meet the
15 criteria, and we feel that CT DEEP is in agreement with
16 that as well.

17 MR. HANNON: And about how much of the area is being
18 regraded to get to the 15 percent or lower, I think this
19 was asked before, but I just want to make sure I have it in
20 my head.

21 MR. KOCHIS: Yes, that was asked on the latest round.

22 MR. HANNON: Another question. There are perimeter
23 swales that are being proposed for the project, and if I
24 understand everything, those swales are all being directed
25 towards some basin; is that correct?

1 MR. KOCHIS: That's correct. Every swale is going to
2 be stretched to one of the stormwater basins.

3 MR. HANNON: Okay. And do any of the swales that are
4 intercepting the stormwater take water away from any of the
5 existing wetland areas?

6 MR. KOCHIS: I would say no to that. In the overall
7 stormwater analysis we broke each area up into sub
8 watersheds. Specifically the watershed that gets to the
9 eastern wetlands as well as multiple iterations of the
10 watersheds that get to the western wetlands, and every
11 effort was made to preserve those watersheds so that we're
12 not taking water that's going to one location today and
13 changing where that water goes in the future when the
14 project is developed.

15 MR. HANNON: Thank you. So one last question. I just
16 want to make sure that I heard this correctly today. So
17 that where you have proposed level spreaders coming out of
18 a number of the basins, you're now proposing to go in with
19 a concrete footing for all of those? Did I hear that
20 correctly?

21 MR. KOCHIS: The change that was made on this most
22 recent iteration of the plan was to change the actual lip
23 of the energy dissipater at the basin from timber to a
24 concrete curb. So it's actually go be either a pre-cast or
25 a formed concrete curb that acts as the level spreader lip

1 which each of the level spreaders, not a concrete
2 foundation.

3 MR. HANNON: Okay. Thank you for clarifying that for
4 me. I have no other questions at this time.

5 MR. SILVESTRI: Mr. Hannon, I don't know if you got an
6 answer to your first question?

7 MR. KOCHIS: And I was just going to -- this is Steve
8 again. I have that number, and I was just going to read it
9 off, but it's anticipated that approximately 9.0 acres
10 within the development footprint are in excess of 15
11 percent, and I propose that they be less than 15 percent.

12 MR. HANNON: Okay, thank you. Thank you,
13 Mr. Silvestri.

14 MR. SILVESTRI: Thank you, Mr. Hannon. I'd like to
15 turn now to Ms. Guliuzza. Hopefully we still have her.
16 Ms. Guliuzza, are you still with us?

17 MR. HOFFMAN: She appears to be muted, sir.

18 MR. SILVESTRI: Yeah, I kind of see that. I don't
19 have mute control.

20 MS. GUILUZZA: Mr. Silvestri, if you can hear me, I
21 don't have any questions. Thank you.

22 MR. SILVESTRI: I could hear you loud and clear, and
23 thank you as well. I'm not sure if Mr. Lynch has actually
24 joined us at this point, but I'll ask if Mr. Lynch has any
25 cross-examination questions for the Petitioner? And it

1 seems like Mr. Lynch was unsuccessful in getting to us,
2 which leaves me with a couple of questions.

3 In your July 28th, 2020 letter back to the Council,
4 you talk about the revised plans, removal of panels within
5 200 feet of the wetland area. How many panels in total
6 were removed from 200 feet of the wetland areas?

7 MR. KOCHIS: I don't have the exact number, but it's
8 very close to about 300 panels.

9 MR. SILVESTRI: And assuming 300, what does that loss
10 of panels do to either your expected nameplate and/or the
11 output from the project?

12 MR. LA MARCHE: I can answer that question. We do not
13 expect to change the AC output at all based off of that
14 change. We are estimating that those modules would be
15 about .12 or 120 kilowatts so it's pretty small overall,
16 and given that we don't know the exact module it is
17 possible that the final wattage of the modules is higher
18 which could slightly make up that difference, but it's --
19 overall it's a small percentage of the whole project.

20 MR. SILVESTRI: Thank you for your response, and the
21 only other question that I had is in item number 7 of that
22 letter where you talked about a letter of credit. What
23 does a letter of credit provide for?

24 MR. LA MARCHE: I'm not sure I understand that
25 question. Can you ask it in different words?

1 MR. SILVESTRI: I'll try. There's a letter of credit
2 in the value of \$15,000 per acre of disturbance shall be
3 provided to I guess it's Connecticut DEEP?

4 MR. LA MARCHE: Correct.

5 MR. SILVESTRI: When would that -- I guess when would
6 that money be used or I guess on what occasion might that
7 money be used?

8 MR. LA MARCHE: My understanding is that that is part
9 of the new proposed changes from Connecticut DEEP of their
10 general permit, both Appendix I and Appendix J, and it
11 would be used for the purposes if there is a major failure
12 during construction and the contractor or the project owner
13 is not able to fix those, DEEP has that letter of credit on
14 hand if needed.

15 MR. SILVESTRI: Okay, thank you for that
16 clarification. Just before we head to a break, I think
17 that Mr. Mercier maybe had one other question to pose.
18 Mr. Mercier?

19 MR. MERCIER: Yes, thank you. Just going back to the
20 previous testimony about the 600-foot value, I believe you
21 said it was 600 feet from the parcel to Oil Mill Brook; is
22 that correct?

23 MR. KOCHIS: This is Steve Kochis. No, I apologize.
24 That 600 feet would be from the parcel to Stony Brook. If
25 I did say that I mis-spoke, and I apologize.

1 MR. MERCIER: Yes, because sheet 3.1 shows Oil Mill
2 Brook actually on the parcel on the northwest corner near
3 Oil Mill Road itself. I just wanted to clarify that 600
4 feet.

5 MR. KOCHIS: Yeah. That 600 feet would be in front of
6 the parcel line to Stony Brook. You are correct in the
7 analysis that Oil Mill Brook does pass across the
8 northwestern part of our site. However, in the course of
9 this refiling of the petition, reopening of the petition,
10 that area of the project was removed, and no portions of
11 the project drain directly into Oil Mill Brook.

12 MR. MERCIER: Okay, thank you.

13 MR. SILVESTRI: All set, Mr. Mercier?

14 MR. MERCIER: Yes, thank you very much.

15 MR. SILVESTRI: Why don't we try to take a 15-minute
16 break at this point. Hopefully nobody else gets
17 disconnected. I have just about close to 3:40, so if we
18 could meet back at let's say 3:55 and we can continue from
19 there and we'll look at our yards and survey what damage we
20 may have from the tropical storm. So see you in about 15
21 minutes. Thank you.

22 (Whereupon, a recess was taken.)

23 MR. SILVESTRI: I have 3:55. Too many people have
24 been dropped off. Too many people are losing power.
25 Mr. Hannon knows he's going to lose it pretty soon. Really

1 what I think the best thing to do is to make a continuance
2 to August 25th. Again, I hope nobody really objects on
3 that, but I think it's the right way to go. So I
4 appreciate everybody's patience. I know I have Attorney
5 Hoffman back. I know I have Attorney Avena back and
6 Attorney Gianquinto back.

7 So to make the formal statement, the Council announces
8 that it will continue the remote evidentiary session of
9 this hearing on Tuesday, August 25th, 2020 at 2. p.m.
10 Please note that anyone who has not become a party or
11 intervenor but who desires to make his or her views known
12 to the Council may file written statements with the Council
13 until the public comment record closes. Copies of the
14 transcript of this hearing will be filed with the Waterford
15 Town Clerk's Office. I do hereby declare this hearing
16 adjourned. I thank you all very, very much for your
17 participation. Mr. Hoffman?

18 MR. HOFFMAN: Just a real point of clarification.

19 MR. SILVESTRI: Yes.

20 MR. HOFFMAN: I don't have a right of redirect for my
21 witnesses and that my witnesses are done with respect to
22 this hearing?

23 MR. SILVESTRI: When we come back we will have an
24 appearance by Save the River - Save the Hills, that is
25 correct.

1 MR. HOFFMAN: My assumption is correct. Very good,
2 thank you.

3 MR. SILVESTRI: Thank you. Attorney Gianquinto, do
4 you have a question.

5 MS. GIANQUINTO: No, I did not, sir.

6 MR. SILVESTRI: And Attorney Avena?

7 MR. AVENA: All set. Thank you.

8 MR. SILVESTRI: Very good. Again, I thank you all
9 very, very much for your participation, especially under
10 these struggling weather circumstances. The only thing I
11 can say is be safe out there, and we'll see you folks on
12 the 25th.

13 MR. AVENA: Thank you.

14 MR. HANNON: Thank you.

15 MS. GIANQUINTO: Thank you.

16 (Whereupon, the hearing was adjourned at 4:08 p.m.)
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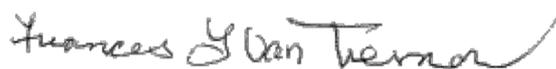
C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn, and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to typewriting under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor attorney to either of the parties to said suit, nor am I an employee of either party to said suit, nor of either counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public
this 18th day of August, 2020.



Frances L. Van Tienen
Notary Public
CSR License No. 00192

My Commission expires:
October 31, 2024