

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Petition No. 1425

Gaylord Mountain Solar Project 2019, LLC, Petition
for a Declaratory Ruling, Pursuant to Connecticut
General Statutes §4-176 and §16-50k, for the Proposed
Construction, Maintenance and Operation of a
1.9-Megawatt AC Solar Photovoltaic Electric Generating
Facility Located at 360 Gaylord Mountain Road in
Hamden, Connecticut, and Associated Electrical
Interconnection

Zoom Remote Council Meeting (Teleconference),
on Tuesday, December 15, 2020, beginning at 2 p.m.

H e l d B e f o r e :

JOHN Morissette, Member and Presiding Officer

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

2 **Council Members:**

3 **JOHN MORISSETTE, (Hearing Officer)**

4
5 **ROBERT HANNON,**

6 **DEEP Designee**

7
8 **ED EDELSON**

9 **MICHAEL HARDER**

10 **DANIEL P. LYNCH, JR.**

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12
13 **Council Staff:**

14 **MELANIE BACHMAN, ESQ.,**

15 **Executive Director and Staff Attorney**

16
17 **FRED CUNLIFFE,**

18 **Siting Analyst**

19
20 **LISA FONTAINE,**

21 **Fiscal Administrative Officer**

22
23 **AARON DeMAREST,**

24 **Sound Engineer**

25

1 **A p p e a r a n c e s:(cont'd)**

2 **For Gaylord Mountain Solar Project 2019, LLC**

3 **(Petitioner):**

4 **ROBINSON & COLE, LLP**

5 **280 Trumbull Street**

6 **Hartford, Connecticut 06103-3597**

7 **By: KENNETH C. BALDWIN, ESQ.**

8 **KBaldwin@rc.com**

9 **860.275.8200**

10

11 **For the South Central Connecticut Regional Water**

12 **Authority (Intervener):**

13 **MURTHA CULLINA**

14 **One Century Tower**

15 **265 Church Street, 9th Floor**

16 **New Haven, Connecticut 06510**

17 **by: BRUCE McDERMOTT, ESQ.**

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19 **203.772.7787**

20

21 **INTERVENER PARTY:**

22 **SHAWN O'SULLIVAN (pro se)**

23

24

25

1 THE HEARING OFFICER: Good afternoon, ladies and
2 gentlemen. This continued remote evidentiary
3 hearing is called to order this Tuesday
4 December 15, 2020, at 2 p.m.

5 My name is John Morissette, member and
6 presiding officer of the Connecticut Siting
7 Council. Can everybody hear me okay?

8 Great. Thank you. As everyone is aware,
9 there currently is a statewide effort to prevent
10 the spread of the coronavirus. This is why the
11 Council is holding this remote hearing, and we ask
12 for your patience. If you haven't done so already
13 I ask that everyone please mute their computer
14 audio and/or their telephones now.

15 A copy of the prepared agenda is available on
16 the Council's Petition Number 1425 webpage along
17 with a record of this matter, a public hearing
18 notice, instructions for the public access to this
19 remote public hearing and the Council's citizens'
20 guide to Siting Council procedures.

21 I will now ask the other members of the
22 Council to acknowledge that they are present when
23 introduced for the benefit of those who are only
24 on audio.

25 Mr. Harder?

1 MR. HARDER: I am present. Thank you.

2 THE HEARING OFFICER: Thank you.

3 Mr. Hannon?

4 MR. HANNON: I am here. Thank you.

5 THE HEARING OFFICER: Thank you.

6 Mr. Ed Edelson?

7 MR. EDELSON: I'm here. Thank you.

8 THE HEARING OFFICER: Thank you.

9 Mr. Lynch?

10 MR. LYNCH: Present.

11 THE HEARING OFFICER: Thank you.

12 Executive Director Melanie Bachman?

13 MS. BACHMAN: Present. Thank you.

14 THE HEARING OFFICER: Thank you.

15 Supervising Siting Analyst Fred Cunliffe.

16 MR. CUNLIFFE: Present.

17 THE HEARING OFFICER: Thank you.

18 Fiscal Administrative Officer Lisa Fontaine.

19 MS. FONTAINE: Present.

20 THE HEARING OFFICER: Thank you.

21 This evidentiary session is a continuation of
22 the remote public hearing held on November 17,
23 2020. It is held pursuant to provisions of Title
24 16 of the Connecticut General Statutes and of the
25 Uniform Administrative Procedure Act upon a

1 petition from Gaylord Mountain Solar Project 2019,
2 LLC, for a declaratory ruling pursuant to
3 Connecticut General Statutes Section 4-176,
4 Section 16-50k, for the proposed construction,
5 maintenance and operation of a 1.9-megawatt AC
6 solar volatic electric generation facility located
7 at 360 Gaylord Mountain Road in Hamden,
8 Connecticut.

9 Please be advised that the Council does not
10 issue permits for stormwater management. If the
11 proposed project is approved by the Council the
12 Department of Energy and Environmental Protection,
13 DEEP, a stormwater permit is independently
14 required. DEEP would hold a public hearing on any
15 stormwater permit -- could hold a public hearing
16 on any stormwater permit application.

17 A verbatim transcript will be made available
18 of this hearing and deposited in the Hamden and
19 Bethany Town Clerk's office for the convenience of
20 the public.

21 We have one motion on the agenda. On
22 December 4, 2020, Shawn O'Sullivan submitted a
23 request for intervener status.

24 Attorney Bachman may wish to comment.

25 MS. BACHMAN: Thank you, Mr. Morissette.

1 Staff recommends Mr. O'Sullivan's December
2 4th request for intervener status be granted.

3 Thank you.

4 **THE HEARING OFFICER:** Thank you. Do I have a motion.

5 **MR. EDELSON:** Motion to approve.

6 **MR. HANNON:** Hannon, I'll second.

7 **THE HEARING OFFICER:** I hear a second from Mr. Hannon.

8 Thank you.

9 I'll now ask the Council for any discussions
10 and we will go through one by one.

11 Mr. Harder?

12 **MR. HARDER:** No comments.

13 **THE HEARING OFFICER:** Mr. Hannon?

14 **MR. HANNON:** I have no comment, thank you.

15 **THE HEARING OFFICER:** Thank you.

16 Mr. Edelson?

17 **MR. EDELSON:** As an abutting property owner I think
18 it's always appropriate that they be allowed, but
19 I was concerned about the testimony that called
20 into question whether it was appropriate to do
21 this petition. And I found that language in that
22 to be a little concerning to me as someone who's
23 taking these petitions very seriously.

24 And for someone to just categorically say
25 where this is -- this petition is inappropriate

1 and that our work is somehow not appropriate I
2 found concerning. So I hope the applicant -- or
3 the Intervener will use discretion when speaking
4 to the Council about the appropriateness of our
5 work. Thank you.

6 THE HEARING OFFICER: Thank you for your comment
7 Mr. Edelson.

8 Mr. Lynch?

9 MR. LYNCH: No comment.

10 THE HEARING OFFICER: Thank you.

11 And I have no comment as well.

12 I will now ask for a vote. Mr. Harder?

13 MR. HARDER: Approve.

14 THE HEARING OFFICER: Mr. Hannon?

15 MR. HANNON: Approve.

16 THE HEARING OFFICER: Mr. Edelson?

17 MR. EDELSON: Approve.

18 THE HEARING OFFICER: Mr. Lynch?

19 MR. LYNCH: Approved.

20 THE HEARING OFFICER: And I will also approve. The
21 motion is hereby approved. Thank you.

22 Okay. Now we will continue with the
23 appearance of the Petitioner. If you could,
24 please verify the new exhibits that have been
25 exhibited marked Roman numeral 2, items B10.

1 Attorney Baldwin, please begin by identifying
2 the new exhibits and file these in the matter, and
3 verifying the exhibits in the appropriate sworn
4 testimony?

5 MR. BALDWIN: Thank you, Mr. Morissette. Again Ken
6 Baldwin with Robinson & Cole for the Petitioner,
7 Gaylord Mountain Solar.

8 There is one additional exhibit since the
9 last hearing. It is listed in the hearing program
10 as item ten, Petitioner's list, our last file,
11 late-file exhibit responses dated December 8,
12 2020. And subject to verification I offer that
13 for identification purposes.

14 Mr. Morissette, I think we might be able to
15 shorten the verification process because only a
16 few witnesses were involved in that, in the
17 production of that information. And I understand
18 we have a couple of our witnesses who are still
19 trying to get into the Zoom meeting, but I think
20 we can go ahead and verify those exhibits now.

21 And I will verify those, those responses
22 through Ms. Nicholas, Mr. Parsons, Mr. Gustafson
23 and Mr. Libertine.
24
25

1 J O H N B R A M M A N,
2 A M O L K A P U R,
3 J E N N Y R. N I C O L A S,
4 B R A D L E Y J. P A R S O N S,
5 M I C H A E L L I B E R T I N E,
6 M A T T H E W G U S T A F S O N,
7 M A T T H E W S. G A B O R,

8 recalled as witnesses, having been previously
9 sworn by the Executive Director, were
10 examined and testified under oath as follows:

11
12 MR. BALDWIN: So did you prepare or assist in the
13 preparation of the responses to the petitioner's
14 late-file exhibits dated December 8, 2020.

15 Ms. Nicolas?

16 THE WITNESS (Nicolas): Yes.

17 MR. BALDWIN: Mr. Parsons?

18 THE WITNESS (Parsons): Yes.

19 MR. BALDWIN: Mr. Libertine.

20 THE WITNESS (Libertine): Yes.

21 MR. BALDWIN: And Mr. Gustafson?

22 THE WITNESS (Gustafson): Yes.

23 MR. BALDWIN: Do you have any corrections,
24 modifications or amendments to offer to any of
25 those responses? Ms. Nicolas?

1 THE WITNESS (Nicolas): No.

2 MR. BALDWIN: Mr. Parsons?

3 THE WITNESS (Parsons): No.

4 MR. BALDWIN: Mr. Libertine.

5 THE WITNESS (Libertine): No.

6 MR. BALDWIN: Mr. Gustafson?

7 THE WITNESS (Gustafson): No.

8 MR. BALDWIN: Is the information contained in those
9 responses true and accurate to the best of your
10 knowledge? Ms. Nicolas?

11 THE WITNESS (Nicolas): Yes.

12 MS. BACHMAN: Mr. Parsons?

13 THE WITNESS (Parsons): Yes.

14 MR. BALDWIN: Mr. Libertine?

15 THE WITNESS (Libertine): Yes.

16 MR. BALDWIN: And Mr. Gustafson?

17 THE WITNESS (Gustafson): Yes.

18 THE WITNESS (Bamman): Ken. John Bamman, I'm here.

19 MR. BALDWIN: Thank you, John.

20 And do you adopt the information contained in
21 those responses, true and accurate -- do you adopt
22 that as your testimony this afternoon at this
23 proceeding? Ms. Nicolas?

24 THE WITNESS (Nicolas): Yes.

25 MR. BALDWIN: Mr. Parsons?

1 THE WITNESS (Parsons): Yes.

2 MR. BALDWIN: Mr. Libertine?

3 THE WITNESS (Libertine): Yes.

4 MR. BALDWIN: Mr. Gustafson?

5 THE WITNESS (Gustafson): Yes.

6 MR. BALDWIN: I offer those as full exhibits in this
7 proceeding, Mr. Morissette.

8 THE HEARING OFFICER: Thank you, Attorney Baldwin.

9 Does any intervenor object to the admission
10 of the Petitioner's new exhibits? Attorney
11 McDermott?

12 MR. McDERMOTT: No objection. Thank you.

13 THE HEARING OFFICER: Thank you.

14 Mr. O'Sullivan?

15 MR. O'SULLIVAN: No objection.

16 THE HEARING OFFICER: Thank you. The exhibits are
17 hereby admitted.

18 MR. BALDWIN: Thank you, Mr. Morissette.

19 I'll just remind our witnesses that they
20 remain sworn and under oath.

21 THE HEARING OFFICER: Thank you for that reminder.

22 Okay. We will continue with
23 cross-examination of this Petitioner by the
24 Council. We will give the opportunity for Mr.
25 Cunliffe, Mr. Harder and Mr. Hannon to have

1 follow-up questions.

2 So Mr. Cunliffe, you could begin. Thank you.

3 MR. CUNLIFFE: Thank you, Mr. Morissette.

4 Is the Petitioner required to meet a
5 threshold of electric output necessary for the
6 virtual net metering?

7 MR. BALDWIN: I believe Mr. Gabor is included on the
8 call. Is he un-muted?

9 THE WITNESS (Gabor): Hi. We do have a limit as to the
10 amount of L-RECS that we can be compensated for.

11 MR. CUNLIFFE: But for the virtual net metering
12 agreement you don't need to meet any particular
13 threshold?

14 THE WITNESS (Gabor): I guess, Amol, can you speak on
15 the commercial side of the -- of that?

16 MR. CUNLIFFE: The virtual net metering agreement, do
17 you have a threshold for that?

18 THE WITNESS (Gabor): I imagine there was -- Amol, our
19 contract, who signed the contract should speak on
20 that.

21 Amol, you appear to be muted.

22 MR. BALDWIN: He appears to be un-muted, but we can't
23 hear him.

24 MR. CUNLIFFE: I'll cycle back around on that question.

25 THE WITNESS (Gabor): Thank you, Mr. Cunliffe.

1 MR. CUNLIFFE: The plans have changed to not grub or
2 grade the site to the extent feasible. Do the
3 initial volumes of cut and fill need to be
4 recalculated?

5 THE WITNESS (Parsons): This is Brad Parsons. No,
6 they -- they do not. That was the -- the original
7 intent. No grading is interior to the site.

8 MR. CUNLIFFE: All right. So the soil stockpiles and
9 the construction of the berms and the access road
10 are what the cut and fill will be contributing to?

11 THE WITNESS (Parsons): Correct, and that would come
12 from the -- mainly to the base of excavation.

13 MR. CUNLIFFE: Thank you. Looking at the stormwater
14 report appendix E, the water quality volume
15 calculations, the title within the document
16 states, 100 Sand Road at North Canaan.

17 Could you clarify, please?

18 THE WITNESS (Parsons): That was just a mistake. The
19 title didn't get changed on that, on that page.

20 MR. CUNLIFFE: And is the data correct on that page,
21 correct for the proposed Hamden location?

22 MR. BALDWIN: Mr. Parsons, you still with us?

23 THE WITNESS (Parsons): Yeah, I'm trying to find the
24 page in my -- sorry.

25 MR. BALDWIN: I'm sorry. I didn't know if we lost you.

1 THE WITNESS (Parsons): Yes, the data on that page is
2 accurate.

3 MR. CUNLIFFE: On that page the water quality volume
4 has 3.32 acres of impervious area.

5 What comprises of the impervious areas?

6 THE WITNESS (Parsons): It's mainly considered the --
7 the solar panels themselves.

8 MR. CUNLIFFE: These would be consistent with the
9 DEEP's draft of Appendix I.

10 THE WITNESS (Parsons): That is correct. DEEP's draft
11 of Appendix I, that which -- on this, these
12 calculations were performed.

13 They're number 1A through F, and a list of
14 items that if were not met, that the solar panels
15 were to be considered impervious for the purposes
16 of calculating water quality volume.

17 MR. CUNLIFFE: And explain the difference in the water
18 quality volume calculations and the stormwater
19 calculations?

20 THE WITNESS (Parsons): So the water quality volume
21 calculations, the water quality volume
22 calculations are performed. In essence, they are
23 there to treat the water quality volume.

24 So what you're looking to do is treat what we
25 consider total suspended solids. It consists of a

1 variety of items, one of them, you know, mainly
2 are coming off of parking lots or shopping
3 centers -- would be sand or dirt off of cars
4 mainly used in the wintertime; treating that
5 piece, but also treating for oils and other, other
6 types of material on site.

7 And so the water quality volume is in essence
8 the first inch of rain over that impervious area
9 that is that then looked at to be treated by the
10 stormwater management measures.

11 Does that answer your question, Mr. Cunliffe?

12 MR. CUNLIFFE: Yes. I was wondering about the
13 stormwater calculations and the impervious areas
14 considered in that, because I'm not able to
15 reconcile the 3.32 acres in the document.

16 THE WITNESS (Parsons): So -- so the 3.32 acres are not
17 considered in the overall stormwater calculations.
18 they're not required to be considered in the
19 overall stormwater calculations per -- per DEEP's
20 Appendix I. It is strictly for the purposes of
21 calculating water quality volume, you know.

22 So in essence we're assuming that the panels
23 are impervious to understand what that water
24 quality volume needs to be treated, and in this
25 case it's the -- the volume required is 607 cubic

1 yards of volume and we're providing 659 cubic
2 yards of volume. So as far as the pre versus post
3 calculations, the panels being impervious does not
4 come into play.

5 MR. CUNLIFFE: Thank you.

6 MR. BALDWIN: Mr. Cunliffe, I think we do have
7 Mr. Kapor now off of mute. Do we want to go back
8 to the first questions?

9 MR. CUNLIFFE: Sure, if he's available.

10 THE WITNESS (Kapur): I apologize. There's always one
11 guy. Right? That was me, me from GSP. So I
12 think the short answer is yes, we do have a
13 contractual note with -- our B and F from
14 allocations, it's roughly 3.4 million kilowatt
15 hours?

16 MR. CUNLIFFE: You're going to be able to make that?

17 THE WITNESS (Kapur): Yes.

18 MR. CUNLIFFE: Back to Mr. Parsons. Again the
19 stormwater calculations consider the reduction in
20 soil groups. How would you consider the class D
21 soil to be treated?

22 THE WITNESS (Parsons): In their final condition there
23 is no way to decrease the class D soils any
24 further than they are. So we just have to
25 continue to treat class D soils as -- as class D

1 soils. They cannot be dropped any further.

2 MR. CUNLIFFE: Was the stormwater report dated August
3 2020 the same report provided to the DEEP DM
4 safety office?

5 THE WITNESS (Parsons): Yes, it was.

6 MR. CUNLIFFE: And DEEP's comment letter dated November
7 12, 2020, to the Council observed that the hydro
8 CAD model on the dam safety, this relied on this.
9 It showed that the storage capacity of the basin
10 during a 100-year storm event with the site
11 considering it fully pervious.

12 Do you agree with that?

13 THE WITNESS (Parsons): I will have to review that
14 comment specifically again from -- from CT DEEP,
15 however in the -- the site for the hundred-year
16 storm event should have pretty much considered the
17 site completely pervious, not impervious, but
18 pervious -- if I'm hearing that comment correctly.

19 MR. CUNLIFFE: Okay.

20 MR. BALDWIN: Mr. Cunliffe, could you direct us to that
21 page number for that comment just so we can make
22 sure we respond adequately to that question?

23 MR. CUNLIFFE: I believe that was on the first page.

24 MR. BALDWIN: Thank you.

25 MR. CUNLIFFE: Would the proposed plans for the

1 screening be installed on a berm?

2 THE WITNESS (Gustafson): This is Matthew Gustafson.

3 Yes, the intent is to install plantings on a small
4 earthen berm.

5 MR. CUNLIFFE: What would be the height of the berm?

6 And what would be the height of the plants?

7 THE WITNESS (Parsons): This is Mr. Parsons. The berm,
8 the berm itself is approximately two feet in -- in
9 height.

10 And the height of the plants is -- would
11 probably be at the time of planting around five to
12 six feet in height, but the intention is that
13 those plants would grow to no greater than 15 feet
14 in height to reduce and limit any shading on the
15 facility.

16 MR. CUNLIFFE: Thank you. That concludes my
17 questioning, Mr. Morissette.

18 THE HEARING OFFICER: Thank you, Mr. Cunliffe.

19 We will continue with cross-examination by
20 Mr. Harder. Mr. Harder, please.

21 MR. HARDER: Yes, thank you.

22 MR. EDELSON: Mike, this is Ed Edelson. If I could
23 just interrupt for a second. There's one person
24 who's not on mute. It's a phonecall and it's
25 really affecting my ability to hear.

1 Area code (518)381-0612. If the chairman
2 could ask them to mute? Thank you.

3 **THE HEARING OFFICER:** Thank you Mr. Edelson. Whoever
4 is not on mute, please mute your phone now. I
5 believe the number was (518)381-0612.

6 **MR. DeMAREST:** They have been muted.

7 **THE HEARING OFFICER:** Thank you. Please continue,
8 Mr. Harder.

9 **MR. HARDER:** Okay. Thank you. I had question on a
10 couple of areas both discussed in the late-file
11 responses -- or late-file response. The first is
12 on -- regarding the discussion on page 2, section
13 B, which discusses the slopes greater than
14 15 percent on the proposed area.

15 The first paragraph there talks about the
16 percentage of the fenced area that is greater than
17 15 percent slope. My question is, what is the
18 actual area of panels?

19 So what I'm getting at is, what's the
20 percentage of the panel area which is proposed to
21 be constructed on greater than 15 percent slopes?

22 **THE WITNESS (Parsons):** Mr. Harder, this is Brad
23 Parsons. The solar panels on slopes greater than
24 15 percent is the 0.34 acres, or approximately
25 4 percent of the 8.59-acre fenced in area.

1 MR. HARDER: Right. Well, actually maybe I'm
2 misreading the response here, but the response
3 indicates that the 0.34 acres is greater than
4 15 percent, but that's being compared to the
5 8.59-acre fenced area.

6 My question is, what's the acreage of the
7 proposed panel area? I'm assuming it's something
8 less than the 8.59-acre fenced area.

9 THE WITNESS (Parsons): You're -- you are correct. I
10 do not have that answer at this time. That is
11 something I can look to provide.

12 MR. HARDER: Okay. All right. Thank you. The second
13 question concerns the proposed schedule which was
14 discussed on page 6. There's an indication that
15 there's a requirement to have the system in
16 operation January 1, 2022, and an indication that
17 if construction commences on April 1st of next
18 year with 30 to 60 days built in for site
19 stabilization. It could be ready to go on
20 October 1st. My question is, how do you define
21 site stabilization?

22 And obviously, the reason I'm asking with
23 some higher slopes on the site, if it's not really
24 well stabilized there could be problems. So I'm
25 wondering, you know, what do you mean by site

1 stabilization?

2 **THE WITNESS (Parsons):** So in this instance -- this is
3 Brad Parsons again. In this instance we're --
4 we're looking to see grass germination, grass,
5 some grass growth. We're not looking for what we
6 would consider overall final stabilization, but we
7 are looking for some interim measure where the --
8 the grass is starting to germinate and the root
9 system is -- is starting to form.

10 Ideally because once that root system starts
11 to form that's where -- that's when the -- the
12 stabilization of the soils truly starts to happen
13 even further and allows for those areas that
14 aren't disturbed during construction to -- to
15 bounce back after that much quicker.

16 **MR. HARDER:** Would you want to see, I guess, some more
17 stabilized site in this case than a site with
18 either flat or milder slopes?

19 **THE WITNESS (Parsons):** In this instance I believe
20 we -- we would look to -- to have a more
21 stabilized site than -- than what would be for,
22 say, a flat site.

23 You know, it's tough to kind of put a number
24 to it. It's more of a, you know, case-by-case,
25 and inspection during the field, and this will be

1 a project that is monitored on a weekly basis as
2 part of the stormwater general permit. And that
3 will be part of -- of that conversation as far as
4 when that stabilization is deemed to occur.

5 MR. HARDER: I agree. It's hard to put a number on it.
6 I'm just concerned that looking at the 30-day
7 figure, I mean, granted you have a 30 to 60-day
8 range, but with certain intensity of storms and
9 given the site I'd just be concerned that
10 stabilization could be a problem. I mean, if it's
11 not more stabilized than just grass starting to
12 grow, it could present a problem.

13 I mean, I understand you have three months to
14 play on the backend, but I'm just concerned about
15 that, you know, that time range for site
16 stabilization.

17 A follow-up question. Am I correct, has the
18 site or this proposal not been approved under the
19 stormwater general permit yet?

20 THE WITNESS (Parsons): That is correct. This is Brad
21 Parsons.

22 MR. HARDER: Okay. All right. Thank you. That's all
23 I have right now, Mr. Morissette. Thank you.

24 THE HEARING OFFICER: Thank you, Mr. Harder. We will
25 now continue with Mr. Hannon.

1 MR. HANNON: Thank you. In going back and looking at
2 the Exhibit 3 and 4 -- I guess what the current
3 proposal is, is Exhibit 4. Is that correct?
4 That's what you're proposing, the map for
5 Exhibit 4?

6 MR. BALDWIN: Mr. Hannon, are we talking about the
7 exhibits attached to the late-file exhibits?

8 MR. HANNON: Yes.

9 MR. BALDWIN: Okay. Thank you.

10 THE WITNESS (Parsons): Mr. Hannon, this is Brad
11 Parsons. No, the current proposal is -- is
12 Exhibit 2. So Exhibit 2 is our -- is our current
13 proposal and what is before the Council today.
14 Exhibit 3 was the, what I'll call the first, one
15 of the first initial passes at the site.

16 And then Exhibit 4 was what we went to DEEP
17 originally as part of our pre-application meeting
18 and taking comments from -- from the
19 pre-application meeting as well as further
20 discussions with the DEEP stormwater group led us
21 from Exhibit 4 to Exhibit 2.

22 MR. HANNON: Okay. So if I'm understanding this, so
23 the final package that you've been looking at
24 is -- just so I can concentrate on the correct
25 plan, is Exhibit 2. That's what is currently

1 being looked at by the Council. Correct?

2 **THE WITNESS (Parsons):** That is correct, sir.

3 **MR. HANNON:** Okay. Because again, you know, part of my
4 concern originally were some of the slopes. I
5 mean, there's some still pretty steep slopes in
6 areas where you're proposing to put panels. So
7 what's being proposed as far as grade in those
8 areas? And how are you proposing stabilizing
9 those areas?

10 Because again, with the steepness of slope,
11 when you get one of those nasty little spring
12 storms and you end up having half the hillside
13 wash down. So I'm just curious on how are you
14 planning on dealing with grading, because I don't
15 really see anything on this plan as far as grading
16 goes other than around the roadway and a little
17 bit around the detention basin?

18 Because I, you know, there was more detail I
19 think on the other plans. So where are you
20 proposing to stockpile soils? I'm just concerned
21 about the slopes and how those areas are going to
22 be handled. So can you please provide me some
23 information on that?

24 **THE WITNESS (Parsons):** Yes, sir. This is Brad

25 Parsons. The -- the slopes are a multitude of

1 items and I -- I would like to point out that some
2 of the steeper slopes that -- that we're actually
3 seeing on these plans are associated with rock
4 outcroppings.

5 So in some instances where -- where we have
6 some of those, those steeper slopes shown on the
7 plans, there's also rock outcroppings associated
8 with those areas. We are not proposing to perform
9 any grading interior of the array system. It --
10 it can be designed -- it has been and can be
11 designed to accommodate from a structural
12 standpoint the slopes that are -- that are out on
13 site.

14 The intent as far as to help to keep soil
15 stabilization during construction is upon removal
16 of the trees; is to flush cut the stumps in order
17 to -- and leave them in place.

18 So we will not have to -- to pull out any
19 stumps associated with this. The racking system
20 is -- is a ground screw style racking system that
21 can be, you know, drilled through these stumps
22 and -- and into the ground.

23 From there, you know, we -- once the trees
24 are flush cut the site would be basically raked,
25 in essence, to remove any forest litter and

1 provide a good base that we would -- the site
2 would be able to be hydro-seeded with a tackifier
3 at that time.

4 Furthermore, it is our proposal to have
5 compost filter socks installed at the time of the
6 hydro-seeding every 70 or 80 feet up the grade on
7 contour. So by installing the compost filter
8 socks on grade, or on contour up the grade we
9 would be further breaking up the flow during
10 construction.

11 That would help to reduce and eliminate any
12 rilling erosion on site while the grass is growing
13 at that time. Those compost filter socks would
14 remain in place throughout the -- the racking
15 construction, and they've been laid out to a point
16 where they're actually on the uphill side of the
17 racking posts to provide additional stability to
18 the -- to the compost filter socks themselves.

19 But furthermore, it allows them to remain in
20 place on a point where they are outside of the
21 racking contractor's way, in essence, and
22 therefore can remain on site throughout the
23 duration of the racking construction as well.

24 And as far as the grading again and the
25 location of the temporary stockpiles, you know, we

1 would have one temporary stockpile down in the
2 southeastern corner of -- of the site. And I
3 believe that is on sheet EC-5, and additionally
4 another stockpile area on sheet EC-4 in the
5 northwest corner of the site.

6 And as those stockpiles are filled or need to
7 be removed, you know, they will be removed as
8 necessary throughout the construction of the
9 stormwater basin access road and the swale.

10 MR. HANNON: I'm trying to get my bearings on this and
11 I believe that I'm looking at -- there's one
12 wetland area that's basically at the southern end
13 of where the panels are being proposed both in
14 Exhibit 2, but also in Exhibit 3.

15 So I'm assuming that is sort of the same
16 wetland area that's being delineated on both of
17 those maps. Correct?

18 THE WITNESS (Parsons): That is correct. It is wetland
19 five.

20 MR. HANNON: Okay. Here's the reason why I'm having
21 some issues, because I've got the map up on my
22 screen right now. And if I take a ruler and just
23 run it straight north-south, what I'm looking at
24 based on what's on Exhibit 3 and the slopes, that
25 doesn't really match up with what you're showing

1 in Exhibit 2.

2 I mean, so to me the only way that you're
3 going to get the slopes compared to what you're
4 showing in Exhibit 2 -- if there's going to be a
5 bunch of grade. Am I wrong on that? Because on
6 Exhibit 3 it shows slopes 15 to 20, and 20 to 30,
7 but yet you're not showing those kinds of slopes
8 on Exhibit 2.

9 So where I'm looking at is more of the
10 northwestern corner of that wetland area going
11 north-south.

12 THE WITNESS (Parsons): Yeah. So I think what I -- I
13 can answer that, that question here. So there
14 is -- the construction access road that we're
15 bringing in from the north and along the -- the
16 western side, that will be -- will be graded,
17 graded in slightly there.

18 And so -- but the other piece is, is that the
19 fence line moves in significantly with regards to
20 the -- the overall slopes.

21 And so if you were to reference the
22 hundred-foot upland review area on -- on that
23 Exhibit 3, and in reference where that
24 hundred-foot upland review falls on Exhibit 2,
25 which is pretty much right at the edge of our

1 proposed -- pretty close to the edge of our
2 proposed fence line and the end of that proposed
3 construction access.

4 The majority of the slopes are -- are outside
5 of that area to the -- to the west. Additionally,
6 some of those slopes have been dealt with or are
7 managed through the grading on the interior of the
8 site. And I think the other piece of it is
9 Exhibit 2, those proposed, those existing slopes
10 are just shown inside the fence line. We're not
11 showing those, those outside the fence line as
12 part of -- as part of Exhibit 2.

13 MR. HANNON: Okay. But again, I guess what I'm getting
14 at, maybe in a roundabout way, is where you have
15 areas that were shown to be 20 to 30 percent
16 slope. And now if I'm reading it correctly, it's
17 15 degrees or less. There's a significant
18 difference between what's in Exhibit 2 and
19 Exhibit 3.

20 And I'm just trying to make sure that I
21 understand that there may be a significant portion
22 of this site that will be regraded.

23 THE WITNESS (Gustafson): This is Matthew Gustafson.

24 If I -- if I may provide a point of clarification?
25 I think what Brad is trying to get at is the

1 difference in how the site or the project area has
2 changed.

3 If you take the reference point on figure two
4 of the edge of the existing clearing, the craggy
5 line associated with the transmission corridor --
6 which on figure two if you look at the level
7 spreader that's located in the southwest corner,
8 you can see that craggy line that runs.

9 That same feature that occurs obviously on
10 figure three, and you can see how much of the
11 facility was pulled back to the east.

12 And again to Brad's point, on figure two
13 we're only showing the grade exceeding 15 percent
14 within the fenced array area. On figure three
15 that area is not clear. So obviously you're
16 seeing the full 15 percent grade entirely. So to
17 that point, if -- if we were showing all the
18 grades outside of this fenced parameter on figure
19 two you would see those same slopes exceeding
20 15 percent.

21 And you start to see some of them, you know,
22 to your point, Mr. Hannon, just west of wetland
23 five. Those slopes would continue west and do
24 continue west. You can see from the grade line
25 they're just not being highlighted on figure two.

1 But no grading is needed and is being shown,
2 because there is no change between these two
3 figures. It's really a graphical depiction
4 difference between the two types because of, again
5 this, the current proposal as it stands moved a
6 significant portion of the arrays out of that
7 southwest corner to avoid those steeper slopes
8 that you're seeing on figure three.

9 MR. HANNON: Okay.

10 MR. BALDWIN: If I could? For clarification purposes
11 for the record just so we're not confused, those
12 exhibits are listed as Exhibit 2 and 3.
13 Mr. Gustafson was referring to them as figures. I
14 just want to make sure we're talking about the
15 same thing.

16 The other thing I had for Mr. Morissette and
17 Mr. Hannon -- perhaps if there's a way to share
18 screens here so that if we could pull these maps
19 up it might be a little bit easier to discuss
20 these issues while looking at the plans, the
21 exhibits that were included in those late-file
22 exhibits.

23 If that's possible I have them on my screen
24 now and would be happy to try and share those so
25 that we have an illustration to look at the time

1 we're talking about them.

2 **THE HEARING OFFICER:** Thank you, Mr. Baldwin. I'll ask
3 Attorney Bachman to comment on that.

4 **MR. HANNON:** Yeah, I mean, that won't help me because
5 I'm on the phone with this. Because I actually,
6 while I'm able, I'm sitting up and actually
7 looking at the maps on my screen. So I'm not
8 logged into the computer. So if you showed them
9 on the computer I wouldn't have access to one, but
10 if it's something that will help other people I
11 have no problem with that.

12 **THE HEARING OFFICER:** Thank you, Mr. Hannon. I'm not
13 sure we have the ability to do that. I'll ask
14 Attorney Bachman to comment.

15 **MS. BACHMAN:** Thank you, Mr. Morissette.

16 We don't have the ability to do that at this
17 time. So unfortunately, you know, there are
18 people who are on the phone who can't see the
19 maps, but certainly they can follow along on their
20 own computer if necessary.

21 Sorry for the inconvenience. Thank you.

22 **THE HEARING OFFICER:** Thank you, Attorney Bachman.

23 **THE WITNESS (Parsons):** Mr. Hannon, this is Brad
24 Parsons again.

25 Just to point out, I think I could point a

1 reference here as well. If you're looking on --
2 on Exhibit 2, about halfway up into the array from
3 wetland five, on the left-hand side you can see
4 the grading to the west of the -- the proposed
5 access. And you'll actually see almost two white
6 squares in the -- in that proposed grading. Those
7 are areas of -- of outcropping boulders there.

8 And so just to give you reference when you
9 look on the Exhibit 3, there, that boulder -- one
10 of those boulders is shown in the dark red about
11 halfway up where we actually have a gap in the --
12 the proposed panels that were shown on Exhibit 3.

13 So when you -- when you look at what's east
14 of that red block on Exhibit 3 it -- it really
15 starts to match up with the proposed slopes -- or
16 existing slopes, rather, that are greater than
17 20 -- 15 percent on Exhibit 2, if that helps to
18 clarify.

19 MR. HANNON: Actually it did, because I'm unable to see
20 that very clearly. So thank you for that.

21 THE HEARING OFFICER: If I may interrupt? Mr. Hannon,
22 would it be helpful to have Exhibit 2 updated to
23 reflect everything that's included in Exhibit 3
24 and 4?

25 MR. HANNON: Well, my question about that before I give

1 an answer is, would that have to come in as a late
2 file? And if that's the case, is this beyond
3 today?

4 THE HEARING OFFICER: It is highly likely we would go
5 beyond today.

6 MR. HANNON: I mean, if it can be done, what would help
7 me is if we can figure out a way to actually lock
8 in certain spots, you know, to be able to compare
9 the maps. Because again, just in quickly trying
10 to look at this it looked as though from Exhibit 3
11 the property was much more steep than what is
12 being shown in Exhibit 2.

13 So I'm just trying to make sure that I
14 understand apples to apples and oranges to
15 oranges. That's all. I mean, if that's something
16 that can be done or at least identify, you know,
17 some specific point, whether it be based on
18 elevation to compare the two maps, I mean, that
19 would probably be a little bit easier than trying
20 to superimpose one over the other, because then
21 you start getting pretty busy.

22 THE HEARING OFFICER: I would also ask that the areas
23 that are going to be graded be also identified on
24 the same exhibit. Attorney Baldwin, do you think
25 that's something that we can obtain as a late

1 file?

2 MR. BALDWIN: I think it is, Mr. Morissette. We'll put
3 our heads together and see what we can do to make
4 those depictions clearer, including the
5 differences in grades and provide that to the
6 Council prior to the continuation of the hearing.

7 THE HEARING OFFICER: Very good. Thank you.

8 Does that do it for you, Mr. Hannon?

9 MR. HANNON: Yeah. I mean, that would help. I do have
10 another question that is different than everything
11 else I've raised. But yeah, that would be
12 satisfactory. Thank you.

13 THE HEARING OFFICER: Just one other thing before you
14 continue. I just want to make sure that I'm
15 clear. I would also like to see the areas that
16 are proposed to be graded included in --

17 MR. HANNON: Understood.

18 THE HEARING OFFICER: Great. Thank you.

19 MR. HANNON: Understood.

20 THE HEARING OFFICER: Thank you. Please continue.

21 MR. HANNON: And the other, the last question I really
22 had I guess is a level spreader that's being
23 proposed southwest of the solar field.

24 Is that correct?

25 THE WITNESS (Parsons): Yes. That that is correct,

1 Mr. Hannon. So drainage area associated with the
2 property and -- and the solar field itself
3 actually extends off and -- and beyond the
4 property to the -- to the south and west.

5 At that point where that level spreader is
6 being introduced on the southwestern portion of
7 the site, there is an existing culvert that
8 discharges from the Eversource right-of-way
9 outside of that wetland feature that is in
10 the Eversource right-of-way to that location.

11 So the intent of this, this level spreader is
12 to take that flow and re-intro, you know, make
13 sure that we're reintroducing that flow as a sheet
14 flow rather than what comes out of the existing
15 pipe culvert today.

16 MR. HANNON: Okay. So that kind of ties into what my
17 question was on. One, how are you accessing the
18 property to be able to even build that level
19 spreader, because the area to the east looks like
20 it's extremely steep? And it's not relatively
21 flat through the Eversource right-of-way either.

22 So I'm just curious. How are you even going
23 to get into that area to build this?

24 THE WITNESS (Parsons): So there, there are actually
25 established access roads through the -- through

1 the Eversource right-of-way, and the Petitioner
2 has been in contact with Eversource for an access
3 agreement.

4 And so there, the access road actually comes
5 right along the eastern side of that wetland that
6 is shown with -- within the right-of-way and
7 pretty much almost touches the edge of the
8 treeline there. So in order to build this we'd be
9 coming right on that Eversource access, existing
10 Eversource access road to construct that, that
11 feature.

12 MR. HANNON: Yeah. I mean, I kind of agree with you on
13 that. So if you look very carefully at the site
14 grading, or the topography there it looks like you
15 can almost make out the Eversource roadway because
16 that has changed the topography a bit.

17 The second question I have is in terms of the
18 spillway, how is that going to be constructed?

19 THE WITNESS (Parsons): So it -- it's going to be a
20 fill, kind of a semi-fill, semi-cut situation.
21 And it would be taking those flows and -- and
22 putting them down to a spot where they would be
23 able to discharge as -- as sheet flow again across
24 the site.

25 And there's a proposed riprap going in along

1 the -- the discharge point of that culvert down to
2 the -- the point at which it would overflow to --
3 to a level spreader.

4 MR. HANNON: The reason I'm asking is because we've had
5 on another solar project that came in, there were
6 questions about level spreaders. And one of the
7 issues that came up is water tends to find the
8 lowest spot.

9 So if this is primarily using gravel or some
10 looser materials, if you've got some heavy
11 downpours and all of the sudden you've got that
12 rush of water going down the slope, is there a
13 potential chance of some type of a blowout there?

14 I mean, I don't know if you need to go in
15 with more of a solid base for the level spreader
16 to make sure that water is not going to be seeping
17 out and finding a low spot and undercutting what's
18 being developed. I mean, have you looked at that
19 at all?

20 THE WITNESS (Parsons): I mean, that's -- it's -- it
21 really comes down at that point in time to -- to
22 the construction and ensuring that it is
23 functioning as intended, and ensuring that we're
24 eliminating those, those low spots that you're
25 actually talking about.

1 And as part of the stormwater management and
2 erosion control and monitoring that would occur on
3 site, that would be an area that we would be
4 focused on and looking at. So if there were any
5 points in time where water was getting
6 concentrated out of that proposed level spreader,
7 that that would be remedied as part of -- of
8 those, of that monitoring during construction as
9 well.

10 Because in essence -- in essence you would be
11 creating erosion at that point in time, and it
12 would not be functioning as intended.

13 MR. HANNON: Okay. I think that addresses the comments
14 I have for the late filings that came in. So
15 thank you very much. I'm done.

16 THE HEARING OFFICER: Thank you, Mr. Hannon.

17 We will now continue with cross-examination
18 by Mr. Lynch.

19 MR. LYNCH: You caught me off guard. No questions
20 Mr. Chairman.

21 THE HEARING OFFICER: Thank you, Mr. Lynch.

22 We'll now continue with Mr. Edelson.

23 MR. EDELSON: Thank you, Mr. Morissette.

24 I just want to follow up first with
25 Mr. Harder's question about the stormwater permit.

1 Where are we in the process? Are you waiting to
2 hear from DEEP? Are they waiting to hear from
3 you? What's the trajectory of getting the permit?

4 **THE WITNESS (Parsons):** This is Mr. Parsons. I believe
5 at this point in time we are looking to get
6 through this process here, and then look to file
7 with DEP for the stormwater general permit.

8 **MR. EDELSON:** So you have not formally filed yet?

9 **THE WITNESS (Parsons):** The project has not formally
10 filed yet, correct.

11 **MR. EDELSON:** Okay. I misunderstood. Okay. Thank
12 you.

13 And regarding the DEEP comments that came in,
14 they noted an inconsistency between the
15 environmental assessment and the dam safety review
16 in terms of the percent or the amount of
17 impervious soils. Has that been addressed? And
18 if so, were there any conclusions out of that, any
19 changes? Assuming that should be to Mr. Parsons
20 also? But --

21 **THE WITNESS (Parsons):** That is to me, sir. And I'm
22 trying to get all the documents I need in front of
23 me to confirm that. Bear with me one second.

24 I'll have to get back to you on that,
25 Mr. Edelson. I'm trying to find that reference on

1 page 22 that DEEP is referring to in -- in their
2 response.

3 MR. EDELSON: Okay. Thank you. I also want to just
4 get back to the conversation about site
5 stabilization. You know, one of the concerns is
6 that it doesn't always go -- mother nature isn't
7 always that cooperative when we're trying to get
8 some of this stabilization going. Are you -- and
9 I guess I'm looking to the project manager,
10 Ms. Nicolas.

11 Are you willing to say if the site
12 stabilization doesn't go well in the spring that
13 you would be willing to delay the project, delay
14 the project as far as installation of the solar
15 panels themselves until stabilization has been
16 achieved?

17 THE WITNESS (Nicolas): This is Jenny with DSD. That's
18 correct. I think we have enough cushion within
19 our schedule and the opportunity to petition PURA
20 if we need an extension with this project, that we
21 would wait until we have the stabilization that we
22 need to move forward.

23 MR. EDELSON: And related to that -- or a variation on
24 that is a better way to say it, would you be
25 willing to give more time for stabilization? I

1 mean, I'm thinking you're starting in April. It
2 would, from my point of view, be good to see that
3 it went through the summer and you really had a
4 real opportunity throughout the summer for the
5 site to stabilize.

6 We've heard other solar implementers talk
7 about giving a full season before they actually
8 begin work, and that seemed to be very reasonable
9 to me. It seemed like a judicious use of time.

10 THE WITNESS (Nicolas): Yeah, this is Jenny again. We
11 would be amenable to doing that.

12 MR. EDELSON: Okay. Thank you. I'm not sure who to
13 address this to, but I'm curious about the site
14 itself. It's zoned residential within the town.

15 As far as you know this site could be used to
16 develop -- be developed for housing. Is there
17 anything that would prevent a housing development
18 similar to what's to the -- I think it's to the
19 east of it. Maybe it's to the west, off of Hunter
20 Ridge -- is there anything that would prevent from
21 your perspective, as in analyzing the site from
22 seeing somewhere between eight and a dozen homes
23 located here?

24 THE WITNESS (Nicolas): Yeah, this is Jenny. I think
25 that this land could be used for residential

1 development. I don't see any reason why it
2 couldn't be.

3 THE WITNESS (Parsons): Mr. Edelson, I'd just also like
4 to add that in addition to having frontage along
5 Gaylord Mountain Road this site's parcel also does
6 touch the existing cul-de-sac on -- on Hunting
7 Ridge Road. So it is possible that that
8 cul-de-sac could ultimately be extended into the
9 site as well.

10 MR. EDELSON: Okay. And looking back on the history of
11 the site I've seen the ownership change, but it
12 only goes back to apparently when the radio tower
13 was included.

14 Prior to that do you know if it was used for
15 farming, or whatever purpose was there? Have you
16 been able to delve into the history of the site?

17 THE WITNESS (Libertine): Mr. Edelson, this is Mike
18 Libertine. I can speak to that a bit. We have
19 looked into the site. It's primarily been
20 undeveloped land certainly since the turn of the
21 century back in the 1900s.

22 I did go back and look at there had not been
23 substantial clearing after about that time. So
24 the earliest aerial and mapping sources I could
25 find was about the 1910s, and the first aerial

1 photo was in the 1930s. And it has remained
2 pretty much forested lands since about the
3 mid-thirties or so. I can't speak to what
4 happened before that, but I think as we all know
5 most of Connecticut had been cleared for some form
6 of agricultural use prior to that date.

7 MR. EDELSON: Well, thank you. Because that leads into
8 sort of just some definitional words. We've heard
9 of the forest there. I think the last meeting
10 someone defined it as pristine, and other places
11 I've seen it as mature.

12 But when I looked at your photo log, the
13 trees that I saw did not seem that large to me,
14 did not seem to be that old. Do you have a best
15 guess in terms of the trees that were -- and as
16 you pointed out, it might have been logged over
17 time, too. So the trees we're seeing today are
18 not the ones that maybe were in those photographs
19 from the 1930s.

20 Do you have a sense of what the average age
21 of the trees are there from your walking the site?

22 THE WITNESS (Libertine): I would want to defer --

23 THE WITNESS (Gustafson): This is Matthew Gustafson.

24 THE WITNESS (Libertine): -- to Mr. Gustafson, yes.

25 Excuse me.

1 THE WITNESS (Gustafson): So we did perform a more
2 rigorous inventory of the trees on site, and while
3 it is difficult to determine the precise age of
4 the majority of the trees, generally the forest
5 end is two-aged with the older generation of trees
6 ranging from 14 to 16 inches in diameter.

7 Generally with the stocking that you see on
8 site, it's -- it would be reasonable to assume
9 that the trees probably range somewhere between --
10 somewhere around a hundred years old, would be my
11 best guess based on the stocking density as well
12 as the diameters of those trees.

13 Again, if the stand is fairly densely stocked
14 the only recent intrusion into that stocking has
15 been from storm events over the last couple of
16 years that have created some windthrow patches.
17 Otherwise the majority of the forest canopy is
18 closed with, you know, greater than 80 percent
19 canopy closure.

20 MR. EDELSON: So I believe -- and I don't have the
21 reference here, but I believe at one point in -- I
22 think it's in the narrative -- you describe why
23 you did not believe this site, these acres
24 constitute core forest. Can you just kind of
25 review the thinking on that and why you came to

1 that determination?

2 I think you're still on mute, Mr. Gustafson.

3 **THE WITNESS (Gustafson):** My apologies.

4 Certainly. Again this is Mr. Matthew
5 Gustafson. The UCONN CLEAR, Center for Land Use
6 Education provides a resource that is remotely
7 sensed, a publicly available dataset that
8 identifies core forests in Connecticut using the
9 methodology of any fragmentation feature -- or
10 fragmentation feature being any development or
11 intrusion into a forestland that breaks up that
12 forested habitat and creates a buffer of 300 feet
13 around any of those fragmentation features.

14 And any of those features create what's
15 considered perforated forest or edge, you know,
16 edge forest. Anything beyond that 300 feet can be
17 considered as core forest. And that methodology
18 establishes three critical patch sizes of core
19 forest, the smallest being 250 acres which would
20 be considered a small core forest.

21 Obviously, we as the Petitioner did not rely
22 solely on that publicly available data and
23 performed our own analysis using that same
24 methodology to assess what the core forest on this
25 particular site was, again using the 300-foot

1 buffer from any fragmentation feature.

2 In this case this site is a habitat peninsula
3 in that Gaylord Mountain Road to the east and
4 residential development to the north and south
5 serve as fragmentation features. In addition the
6 transmission corridor, the electrical transmission
7 corridor to the west that runs north to south
8 serves as another compounding fragmentation
9 feature to this habitat blocked from the core
10 forest standpoint.

11 When you take all those into consideration
12 and you run the numbers, the actual twelve acres
13 of forest clearing on site only results in less
14 than one acre of true core forest. It's .9 acres
15 of core forest on site.

16 To further substantiate that the DEEP --

17 Bear with me for a moment. Yeah, my
18 apologies. When I stand up for some reason it
19 kicks me off, mute.

20 So DEEP's letter in regards to -- in their
21 addressing our core forest on the third page,
22 first paragraph, that they agree in the fact that,
23 and I quote, due to development surrounding this
24 site with Gaylord Mountain Road, Hunting Ridge
25 Road and the -- you can see the right-of-way, it

1 is not likely considered to be core forest.

2 So while DEEP does not have jurisdiction, or
3 because this is less than the threshold which they
4 take to review solar projects, if they were to
5 review there -- if I'm interpreting what they're
6 saying correctly -- if they were to review the
7 project, that they agree with our assessment that
8 it is not likely to be considered core forest.

9 MR. EDELSON: Okay. Thank you. My next question I
10 think you've already explained it, and I keep
11 getting confused by it -- and this has to do with
12 the access roads for the construction phase.

13 If I understand correctly you'll be using the
14 existing access road used. It used to go to the
15 radio tower, but then it seems like you'll be
16 abandoning that way to get to the site and come in
17 off of Gaylord Mountain Road.

18 Why not stay with just the one road coming in
19 from the existing access road used by the radio
20 tower? Why the need for a second road?

21 THE WITNESS (Parsons): So this Brad Parsons. The
22 requirement for the second road is -- is really to
23 help again facilitate construction and
24 additionally help to -- to minimize disturbance on
25 site.

1 The interconnection point for the project is
2 off of Gaylord Mountain Road in the location where
3 it's shown at the end of the -- the existing
4 driveway there.

5 So in order to be able to do an interconnect
6 off the site and provide access to that
7 interconnection equipment, the -- it really is
8 what necessitates the additional access off of
9 Gaylord Mountain Road there, and the -- really the
10 primary access.

11 The reason for the secondary construction
12 access is to help mitigate a couple things. One
13 is it will reduce -- and it gets kind of two
14 access points for construction, during
15 construction. However, it will also help to
16 facilitate loading and -- and unloading of -- of
17 equipment that comes to site.

18 So obviously there is really not sufficient
19 width to come off of Gaylord Mountain Road there
20 with a tractor-trailer. Then to mitigate the need
21 of, you know, disrupting traffic with regards to
22 deliveries, that was one of the major rationales
23 for the additional road up top.

24 The other, you know, trying to make that road
25 the permanent road is -- we would need to come

1 down to the interconnection point anyways, and
2 provide access through that point for Eversource.
3 And you couldn't change and go up and through the
4 transmission right-of-way with any proposed, you
5 know, distribution runs there.

6 MR. EDELSON: Okay. So during construction you're
7 mostly going to use the existing road, it sounds
8 like. And it's only for -- I hope I'm not
9 mischaracterizing it, but mostly for the
10 maintenance of the facility that you would be
11 using the Gaylord Mountain access.

12 THE WITNESS (Parsons): That is -- that is correct.
13 That's not to say that it wouldn't be used during
14 construction, but for the majority of it, yes. It
15 would be the construction access off the existing
16 vertical bridge driveway.

17 MR. EDELSON: Thank you for that.

18 THE WITNESS (Parsons): If I could, Mr. Edelson? I can
19 get back to your question with regards to the --
20 the DEEP comment letter. And I think this would
21 also clarify Mr. Cunliffe's question potentially
22 earlier.

23 The DEEP letter stated that the environmental
24 assessment on page 22 states that the site was
25 considered fully impervious with determining water

1 runoff. Unfortunately that's not exactly --
2 that's not what our EA said. To be clear the EA
3 said that on page 22 that the basin is designed to
4 treat the water quality volume as defined by
5 Appendix I, which assumes that the solar panels,
6 roadways, gravel surfaces, transformer pads are
7 effective impervious cover, and -- and that is in
8 essence what -- what it is.

9 So it's not the entire site. It is really
10 the solar panels for the purposes of calculating
11 water quality volume.

12 MR. EDELSON: Okay. Well, you probably know a separate
13 question, but we received some pretty dramatic
14 video footage of the, what I would call the runoff
15 and flooding of Gaylord Mountain Road from the
16 site. Whereas I understand the video, or as I saw
17 it, you know, just a large flow of water coming
18 across the street which I would see as a safety
19 issue for people driving. Even worse if you had
20 icing related to all that water coming across.

21 So is it the intent of your design with the
22 spreader that we were just talking about with
23 Mr. Hannon, that that condition would be partly
24 alleviated or completely alleviated from that kind
25 of overflow?

1 THE WITNESS (Parsons): Mr. Edelson, is it possible to
2 clarify which specific videos you're referring to?
3 I believe there were two videos that were from
4 earlier this week. But there was also, if I
5 remember correctly, a video from earlier this
6 month. I do not have the exact dates in front of
7 me.

8 MR. EDELSON: It's the ones that were earlier this
9 month. I think we received them within a week of
10 the last public meeting -- is the one I'm
11 referring to. Not the ones that we -- I think we
12 saw two today that were submitted, but this is the
13 ones from earlier.

14 THE WITNESS (Parsons): Okay. So the --

15 MR. BALDWIN: Brad, before you get there -- just a
16 point of order, Mr. Morissette. Those videos are
17 not in evidence yet, but I think I have seen them
18 as well. And I think Mr. Edelson accurately
19 described them and adequately enough, certainly
20 for Mr. Parsons to respond to this question, but I
21 assume those might be coming in at our next
22 hearing.

23 THE HEARING OFFICER: The two videos that were received
24 today, you are correct.

25 But we'll let the Witness respond in light

1 that they will most likely be issued into evidence
2 at a future date.

3 **THE WITNESS (Parsons):** Okay. This is Mr. Parsons. So
4 I'm going to -- at this point in time I'm going to
5 specifically respond to what I believe Mr. Edelson
6 is referring to is a video received with regards
7 to 3 Hunting Ridge Road, and -- and the water flow
8 that -- that was shown on that property.

9 Am I still correct, Mr. Edelson?

10 **MR. EDELSON:** I think that's the one we got today, or
11 today or yesterday. I'm referring to the one of a
12 couple weeks ago. And if I remember correctly it
13 was actually almost during the storm, versus the
14 one that we saw today was either the day after,
15 you know, it was blue sky.

16 The one I'm referring to it was, you know, it
17 was raining and there was lots of water coming
18 across Gaylord Mountain Road. It had nothing to
19 do with Hunter Ridge. I understood it to be
20 Gaylord Mountain.

21 **THE WITNESS (Parsons):** Okay. Well, I think I can
22 speak to the water that is coming across Gaylord
23 Mountain Road there, and what -- what is occurring
24 and what we feel that the improvements on this
25 site will do there.

1 So first and foremost, I believe there is an
2 existing problem on -- on Gaylord Mountain Road.
3 That is evident and probably has been evident
4 for -- for some time. The Town, from what we can
5 tell did install -- and it's evident via the cuts
6 in the asphalt across Gaylord Mountain Road; what
7 appears to be a 12 or 15-inch HDP culvert pipe
8 that drains out of the south corner of wetland
9 three, which is directly adjacent to Gaylord
10 Mountain Road itself.

11 So it is -- it is probably very evident that
12 today Gaylord Mountain Road, that the flows in and
13 around there inundate wetland three and that the
14 cross culvert that the Town installed to help
15 alleviate that flooding maybe has not functioned
16 as greatly as they had anticipated. And as such,
17 the wetland three gets inundated to a point where
18 it will then likely overtop and continue in the
19 direction where that exits the street.

20 So the installation of our -- our stormwater
21 management basin I believe will help to alleviate
22 some of that condition that is -- is seen there.
23 And that's mainly due to the fact that we are
24 holding back some of the water and ultimately
25 changing, changing the timing of the way the

1 entire drainage area and -- and drainage to that
2 point in essence functions.

3 We are, you know, taking that which will
4 allow for that wetland three and any inundated
5 water along the side of the road to better drain
6 through the existing culvert on the roadway by
7 holding our water back slightly over time.

8 Again you're kind of changing the timing and
9 changing the dynamics there. So holding back the
10 site water that in essence would have gone into
11 wetland three in that point, you're giving the
12 other water that gets to that point time to move
13 off and move away from that location before our
14 site water discharges from the stormwater basin
15 and ultimately reaches the location that it
16 reaches today.

17 MR. EDELSON: Would that water in your mind still go
18 through that same culvert?

19 THE WITNESS (Parsons): Yes.

20 MR. EDELSON: So there's different timing to it?

21 THE WITNESS (Parsons): Yes, it would, correct. It
22 would still -- our water would still go to wetland
23 three as it does today and -- and ultimately to
24 that culvert, just under a different timing.

25 MR. EDELSON: Okay. I think I got it. Let's see. So

1 wetland five has raised, you know, questions
2 because of its proximity to the solar arrays. And
3 I believe the last time you did speak to it, but I
4 would appreciate it if you would kind of go
5 through again the thinking of putting the arrays
6 that close to a wetland.

7 And I say that because, you know, as far as
8 I'm aware every town in Connecticut has some
9 safety mechanism or safety theory about a buffer
10 between a wetland and a development, and this is
11 way short of that. Now we can say whatever we
12 want about a particular wetland, but a wetland is
13 a wetland -- is the way it's explained to me. And
14 therefore the Town's requirement should be adhered
15 to.

16 So if you go through the thinking of wetland
17 five, why the solar array is -- I think it's
18 20 feet distance, minimum distance, I would
19 appreciate that.

20 **THE WITNESS (Gustafson):** Certainly. So I think
21 there's a couple elements to your question. The
22 first I'll address is that, yes, the term -- that
23 most towns established an upland review area to
24 wetlands that serves as a buffer to protect the
25 functions and values provided by said wetland.

1 Obviously, that buffer and the wetland
2 itself, that those -- those protections do not
3 preclude development either in proximity or within
4 wetlands. Certainly towns, the function -- or one
5 of the functions of the inland wetlands commission
6 is to review development in proximity within those
7 upland review areas as well as within wetlands.

8 And similar to the charge of the Siting
9 Council, determine if the needs of the project and
10 if the resulting development will significantly
11 impact that wetland, and that is the key
12 terminology. And the terminology stated in
13 statute is if the development will result in a
14 significant negative impact to that wetland.

15 Certainly when you are providing direct
16 permanent impacts to a wetland it would be hard to
17 argue that you are not in some form or another
18 resulting in a significant negative impact,
19 however this project does not result in a direct
20 permanent impact to wetland five.

21 To your point, we are providing, albeit a
22 narrower buffer, it's still a buffer from our
23 development to wetland five. Certainly, we are
24 proposing tree clearing which will change the
25 vegetative cover type of the wetland, but that

1 does not result in a permanent impact to the
2 wetland resource as it stands.

3 To justify our reasoning behind why we felt
4 that a smaller buffer than that, that is
5 established either at a local level as provided,
6 you know, by the upland review area -- I'll
7 reiterate some of my comments from either previous
8 testimony as well as the environmental assessment,
9 which is that wetland five is an isolated wetland
10 feature, obviously very small in nature --
11 (inaudible).

12 MR. EDELSON: Oh, lost you.

13 THE WITNESS (Gustafson): Yeah. Unfortunately, you
14 know, when I tap to different resources I drop for
15 a second. My apologies. I just wanted to grab
16 the exact dimensions of wetland five. And wetland
17 five is approximately 2,500 square feet. So
18 again in the grand scheme of things, a fairly
19 small isolated wetland.

20 Because of the -- the nature of the size, its
21 isolation and its space hydrology, which is it's
22 fairly minimal, and upon my review and delineation
23 of the wetlands it is highly transitional wetlands
24 with variable seasonal hydrology.

25 It is very easily determined that it's likely

1 most years does not support the hydrology to be
2 considered a wetland, however conservatively
3 during peak flows and peak seasonal saturation it
4 does appear that the seasonal high water table
5 does reside within twelve inches of the growing
6 surface.

7 And you do have, albeit a questionable -- you
8 have a slight dominance of hydrophytic vegetation,
9 which will have a decline. Because of all those
10 features and the -- the position of that wetland
11 in the watershed, it is not determined that that
12 wetland five supports any functions and values at
13 a principal or secondary level.

14 Because it's determined that it is not
15 supporting any of those functioned values at an
16 appreciable level, impacts within proximity, you
17 know, in that buffer zone that we're referencing,
18 the upland review area, is not likely to result in
19 a significant impact, a negative impact to that,
20 that wetland resource because it will not be
21 diminishing the lack of function and values that
22 it provides.

23 So hopefully that provides some
24 clarification, though some of it was reiteration
25 from previous testimony. But that was our

1 rationale behind why we feel it's justified to
2 work in close proximity to that wetland.

3 And in addition, obviously we have
4 established a wetland protection program that will
5 protect the wetland -- or it's the intent of it is
6 to protect the wetland and institute an
7 environmental monitor that will be passed with
8 review in construction activities with the intent
9 of protecting that wetland throughout the duration
10 of that project who will be tasked with monitoring
11 construction to ensure that proper protection
12 protocols are installed and maintained in
13 adjacent -- in proximity to that wetland, as well
14 as that all contractors on site are trained and
15 aware of the location of that wetland, the
16 sensitivity of that wetland, and proper procedures
17 when working in proximity to that wetland to
18 prevent unintentional impacts.

19 MR. EDELSON: Well, I appreciate that. As you know,
20 one of the issues we have is that you are within a
21 watershed that is looking for high-quality water.
22 And high-quality water needs soils that can
23 receive the water, rainfall and filter that
24 through.

25 And I'm just kind of -- I guess I'm wondering

1 much like you were willing to reduce the
2 footprint -- or I shouldn't say footprint, but
3 reduce the amount of solar arrays to provide more
4 shading or more trees for visual buffering, if we
5 should be thinking about a bigger buffer around
6 that wetland? And I'll just leave that for your
7 consideration at this point.

8 I wanted to move on to -- I think it's
9 interrogatory 62. And if you don't mind, let me
10 get that in front of me so I can make sure I'm
11 saying it correctly.

12 I think I've got the right one here. Yeah.
13 So the last paragraph -- and I think this is in
14 the interrogatory page 43, the last paragraph kind
15 of confused me a little bit. It said the removal
16 of trees and brush will be limited to flush
17 cutting leaving the root systems undisturbed.
18 This along with the predrilled ground screw
19 supports will allow the installation to be
20 completed with little or no change in the
21 preconstruction site conditions.

22 And that just seemed to me like a very -- I
23 don't know, bold statement. Like we're going to
24 have all this work done, trucks and everything
25 else moving around, people moving around. And to

1 say that the site conditions are not going to
2 change -- maybe it's a definitional thing, but it
3 would seem to me the site conditions are changing
4 pretty dramatically. What am I missing?

5 THE WITNESS (Parsons): I think the -- the intent of
6 that statement, Mr. Edelson -- this is
7 Mr. Parsons -- is that there would be no -- no
8 grading.

9 So the pre -- well that, that was really --
10 the intent of that statement was that we're not,
11 you know, changing grade within the array area and
12 we are doing as much as possible to limit the
13 amount of -- of soil disturbance.

14 MR. EDELSON: Well, thank you. That clarifies that.
15 The tree commission made a comment regarding
16 harvesting the trees versus creating woodchips.
17 And they seem to be concerned about going to
18 woodchips versus, I guess, whole logging.

19 Can you speak to why you made the decision to
20 go with woodchips, if that's still the case? Is
21 it an economic decision? Well, what's the driver
22 there?

23 Matt, you're muted.

24 THE WITNESS (Gustafson): Am I on now?

25 MR. EDELSON: Yeah.

1 THE WITNESS (Gustafson): Perfect. I'll start the
2 response and then John Bamman who's on the line
3 can maybe speak to and further clarify if I speak
4 out of turn.

5 But the -- the intent of, or you know, the
6 proposal is to still do full tree harvests. The
7 intent is not to shift a hundred percent of the
8 material on site, although that would be primarily
9 left up to the clearing contractor, but there is
10 certainly usable timber on the site.

11 Based on my timber crews, you know, while
12 there is a large portion of the -- the appreciable
13 saw timber on site that may not be used as, you
14 know, for high, high-value wood products, there's
15 certainly enough that it would behoove whatever
16 clearing contractor is out there to harvest,
17 full-tree harvest some of them and -- and you
18 know, sell it off where feasible as -- as timber
19 products.

20 What those timber products go into is
21 obviously beyond our -- our control, but certainly
22 the intent is not to fully woodchip everything
23 that gets cleared on site.

24 MR. EDELSON: Okay. So I mean, they took what you were
25 planning on doing I think and maybe extrapolated

1 that to be the whole site or all the trees, as
2 opposed to a more judicious approach of where it
3 makes sense that the tree contractor will take out
4 the whole tree.

5 **THE WITNESS (Gustafson):** Yeah. That -- I think that's
6 correct.

7 **MR. EDELSON:** Okay. So my last question is just to
8 find out with regard to the site and its impact on
9 the Regional Water Authority.

10 Have you been approached at all? Or are you
11 aware that the Regional Water Authority would
12 consider buying this property, or has ever
13 considered buying this property because of its
14 value to the watershed? Anybody from Gaylord
15 Mountain aware of that?

16 **THE WITNESS (Nicolas):** This is Jenny. I'm not aware
17 of that Regional Water Authority approaching to
18 purchase this land.

19 **MR. EDELSON:** And again just to be clear, you will be
20 leasing the land. So you wouldn't be in a
21 position to sell it. Correct?

22 **THE WITNESS (Nicolas):** That's correct.

23 **MR. EDELSON:** Okay. Mr. Chairman, that's all the
24 questions I have and I might just suggest this
25 might be a good time for a break.

1 THE HEARING OFFICER: Thank you, Mr. Edelson. That's a
2 great idea. Why don't we take a 15-minute break
3 or 14-minute break and reconvene at 3:45.

4 Thank you.

5
6 (Pause: 3:31 p.m. to 3:45 p.m.)
7

8 THE HEARING OFFICER: Okay. We're ready to go back
9 onto the record. I have some questions for the
10 Petitioner, and I would like to start with the
11 Siting Council's first set of interrogatories and
12 starting with response to number four, having to
13 do with virtual net metering.

14 Could someone describe what virtual net
15 metering is for the record?

16 THE WITNESS (Kapur): Amol Kapur from DSD. I'll take
17 that. I'll give my best shot here.

18 So virtual net metering, the way that we
19 understand it is it's a program that the -- the
20 State has that allows a solar system, as long as
21 it qualifies, to virtually allocate monetary
22 credits to specific post-utility accounts.

23 In order to qualify for virtual net metering
24 credits you have to be one of either three types
25 of utility accounts: a public entity account, a

1 municipality or a town or a county, a state entity
2 or a state agency, or an agricultural firm. And
3 as long as you fall under one of those buckets and
4 the -- the project qualifies for net metering you
5 can receive credits on your utility bill from the
6 solar system.

7 **THE HEARING OFFICER:** Thank you. Just a followup. So
8 essentially you're getting a one-for-one kilowatt
9 hour credit for the host facilities?

10 **THE WITNESS (Kapur):** Correct. It's not so much
11 volumetric. It's monetary. So the kilowatt hour
12 is -- is a credit that's turned into a dollar
13 amount on your utility bill.

14 **THE HEARING OFFICER:** Based on kilowatt hours, though?

15 **THE WITNESS (Kapur):** Yes. Yes.

16 **THE HEARING OFFICER:** Okay. Moving onto question 35, I
17 was a little confused by the comment relating to
18 the interconnection agreement.

19 Well, maybe it wasn't 35.

20 Anyways, my question is that I saw somewhere
21 relating to the interconnection agreement that
22 Southern Connecticut State University was a party
23 to the agreement. Did I just misunderstand that?
24 I wouldn't think they would need to be.

25 **THE WITNESS (Kapur):** This is Amol from DSD. They --

1 they're not party to the interconnection
2 agreement.

3 **THE HEARING OFFICER:** Okay. I didn't think they would
4 be. I just wanted to make sure that was clear.

5 Okay. Moving onto question 44, having to do
6 with the wells. Where are the wells located, and
7 how far are they from the project?

8 **THE WITNESS (Parsons):** Mr. Morissette, this is Brad
9 Parsons. I don't believe we have an actual
10 physical location of any of the wells.

11 However, they would be, you know, ideally
12 the -- the same distance or -- or a little greater
13 than the distance of any of the limits of
14 disturbance on the project from the -- from the
15 property line.

16 **THE WITNESS (Gustafson):** Correct. And there are no --
17 there are no known wells located on the property.
18 The only known wells are private wells associated
19 with the residencies along Gaylord Mountain Road,
20 or to the south off of Hunting Ridge Road. And
21 those being on private properties, we do not have
22 exact locations of those -- but Mr. Parsons would
23 be correct saying they would be in excess of the
24 minimum distance from our project to those
25 property boundaries.

1 THE HEARING OFFICER: Okay. So they could be across
2 the street, across Gaylord Road -- Gaylord
3 Mountain Road would probably be the closest
4 distance if they were there?

5 THE WITNESS (Gustafson): Correct.

6 THE HEARING OFFICER: Okay. All right. In the
7 response to 44 it indicates that the topsoil is 8
8 to 12 inches, and the glacial till is 3 to 12 feet
9 and the bedrock is 5 to 10 feet. And it goes on
10 to say that the piles for the structures to hold
11 the panels would go down approximately ten feet.

12 So what did you get into the bedrock area
13 where some of the well water may be filtering
14 from?

15 THE WITNESS (Parsons): This is Mr. Parsons. So with
16 regards to -- to any of the ground screws going
17 into bedrock, again those would likely go in, you
18 know, maybe a few feet into the -- the top surface
19 of that bedrock.

20 However, it is -- it is our understanding in
21 most cases within the state of Connecticut that
22 any drinking wells are -- are drilled to a much
23 deeper depth, upwards and over a hundred feet in
24 depth to the level of the actual groundwater
25 aquifer.

1 THE HEARING OFFICER: Okay. Do we know what that is in
2 this area?

3 THE WITNESS (Parsons): I do not, sir.

4 THE HEARING OFFICER: Mr. Gustafson, do you have any
5 idea?

6 THE WITNESS (Gustafson): I do not.

7 THE HEARING OFFICER: Well, I would like to know what
8 the typical well in this area is drilled to. If
9 we could have that as a late file?

10 THE WITNESS (Parsons): Yes, sir.

11 THE HEARING OFFICER: Thank you. Okay. Moving on to
12 question 51. Okay. In the second paragraph where
13 there's a response, in the second to the last
14 sentence it says, additionally surface runoff
15 currently does not infiltrate the soils of the
16 project area, and thus would not recharge the
17 groundwater associated with this drinking water
18 aquifer.

19 So that statement says, runoff currently.
20 What does that mean, after the project is built?
21 Does it still apply?

22 THE WITNESS (Parsons): I would say that that is --
23 that it would still apply. I would also state
24 that I think the intent of that statement was to
25 say that it does not significantly recharge the

1 groundwater. I mean, obviously there is some
2 infiltration associated with any soil, but with
3 the slopes and the underlying glacial till and --
4 and bedrock it is not something that is -- was
5 considered in, you know, a significant piece in
6 this portion of the -- the watershed and on this
7 site.

8 So -- but as such, the -- in its final
9 condition with the site functioning more like a
10 meadow, the same, essentially the same type of
11 infiltration would be able to occur on site as
12 does today.

13 **THE HEARING OFFICER:** Thank you for that clarification.

14 Okay. Moving on to question 64, I've got a
15 question for -- we talked a little bit earlier
16 about the culvert, and that today it's not
17 functioning as the Town probably intended it to.

18 Has there been any discussion about fixing
19 that culvert with the Town to ensure that it
20 operates properly if under a condition where it's
21 needed it would be fully operational?

22 **THE WITNESS (Parsons):** There's not been any specific
23 conversation with the Town and the full upsizing
24 of that culvert at this time. It -- it gets a
25 little more complicated when you just look to

1 potentially upsize a culvert in this case.

2 That would need to be reviewed on a more, you
3 know, larger and -- and global basis versus what
4 our stormwater report has -- has analyzed. I
5 mean, our stormwater report is analyzing a
6 specific discharge point to that watershed, which
7 is pretty much wetland three and just to the west
8 of that existing culvert.

9 So you know, you would have to understand a
10 little bit more of the entire watershed associated
11 with that existing culvert and what upsizing that
12 culvert would potentially do overall to the
13 watershed. By upsizing any type of culvert you
14 could actually introduce more flows at, you know,
15 at a specific time point to -- to other places of
16 the watershed.

17 **THE HEARING OFFICER:** All right. So your basic
18 assumption is, is that there's no need to fix the
19 culvert because all the stormwater will be
20 contained within the site, and that's specifically
21 up to a hundred-year storm discharge?

22 **THE WITNESS (Parsons):** With regards to this project
23 specifically?

24 **THE HEARING OFFICER:** Yeah.

25 **THE WITNESS (Parsons):** I would -- I would state that,

1 you know, there's no need to upsize that culvert.
2 With regards to how it functions and the -- with
3 the Town and the existing roadway system and the
4 drainage? I -- I couldn't answer that question.
5 That would be a question for the Town.

6 **THE HEARING OFFICER:** Okay. Fair enough. Okay.

7 Moving onto the phot sims in attachment one.

8 **THE WITNESS (Nicolas):** If I might -- sorry. If I
9 might add? This is Jenny with DSD. Just on that
10 question?

11 **THE HEARING OFFICER:** Yes.

12 **THE WITNESS (Nicolas):** I just want to note we did
13 reach out to the Town Mayor and to Dan Kops the
14 Town Planner multiple -- on multiple occasions
15 just to go through the site plans. And I think as
16 Brad mentioned, you know, to also maybe just
17 discuss the culvert and how it relates to the
18 Town.

19 But we just never received a response back
20 from the Mayor in having a further discussion on
21 that.

22 **THE HEARING OFFICER:** Thank you. Okay. Moving to the
23 photo sims, proposed photo one. In the center of
24 that photograph there's that gray area. Could you
25 explain what that represents?

1 THE WITNESS (Libertine): Pardon me for the delay.

2 That's the -- the gravel level spreader coming off
3 of the berm that is surrounding the stormwater
4 basin. So the basin is primarily vegetated on
5 the -- on the, I'll call it, the -- the downslope
6 edge of that, but there will be some control.

7 And so that is to represent the gravel level
8 spreader that is part of that feature.

9 THE HEARING OFFICER: Okay. So there, they are
10 actually panels in front of the level spreader,
11 and then there's the basin?

12 THE WITNESS (Libertine): I'm having some technical
13 difficulties. I apologize.

14 THE WITNESS (Parsons): It should be that the heading
15 from west to -- to east on the site with Gaylord
16 Mountain Road being on the far east, that you
17 would have the solar panels, the stormwater basin,
18 the outlet level spreader and then additionally --
19 as long as I'm looking at the correct photo you're
20 referencing, Mr. Morissette, there is also the
21 riprap swale and plunge pool that is right
22 adjacent to Gaylord Mountain Road.

23 THE WITNESS (Libertine): And just for clarification --
24 and I apologize. It took me a while for -- to get
25 some resolution on my computer here. I'm

1 experiencing some technical difficulties.

2 One of the things we tried to show or depict
3 in that photograph, or in that simulation was that
4 area of the solar arrays that appear to be in
5 front of that gray area that you pointed out,
6 Mr. Morissette, that's outlined in red because
7 that is really to depict where the actual arrays
8 are behind the berm that is surrounding the
9 stormwater detention basin.

10 So it's a little confusing without an
11 explanation, but as you can see we call out that
12 that's the location of the solar panels beyond.
13 So that is just to represent that it's actually at
14 a lower elevation as the eye is looking at it. So
15 if you want to use some imagination you can
16 eliminate everything that's outlined in red, and
17 that would actually be behind the features that
18 we're trying to depict there.

19 So I apologize. It is a little bit
20 confusing.

21 **THE HEARING OFFICER:** Okay. That's very helpful.

22 Thank you.

23 **THE WITNESS (Libertine):** Yeah, so those solar panels
24 are not in front or are not between the road and
25 the stormwater basin. They're actually behind it.

1 THE HEARING OFFICER: So actually you may not even see
2 those on the left and on the right?

3 THE WITNESS (Libertine): That's -- that's
4 correct and --

5 THE WITNESS (Gustafson): This is Matthew Gustafson.
6 If you -- if you scroll up from that, to the --
7 just the previous photo simulation, photo one,
8 that shows what you will actually be --

9 THE WITNESS (Libertine): Correct.

10 THE WITNESS (Gustafson): -- seeing without the
11 depiction of what's behind the berm.

12 THE HEARING OFFICER: Very good. That's very helpful.
13 Okay. Staying with the photo sims, moving onto
14 photo three I was a little confused by the third
15 photo of photo three, Huntington Ridge Road, the
16 approximate location of panels. Now is that the
17 same situation where it's really on the other side
18 of the trees?

19 THE WITNESS (Libertine): That that is correct. And
20 again, what we tried to do is to show this is a
21 very -- the way the site has been designed, it's
22 not going to be highly visible from a lot of
23 public locations. And so what we wanted to is to
24 demonstrate a straight photo simulation.

25 And as you can see in that, that second

1 representation of -- or it would be the first
2 proposed conditions along Huntington Ridge
3 Road and the cul-de-sac, there's some opening in
4 the forest that you'd see through there, but
5 certainly when trees are vegetated there's not a
6 lot of visibility.

7 And the -- you're right, that the solar
8 arrays themselves are actually at a lower
9 elevation than where you would be standing. So
10 again, we tried to represent what would be beyond
11 what's in the view that we're depicting in that
12 third shot. So yes, it's the same, same
13 situation.

14 THE HEARING OFFICER: Great. Thank you.

15 THE WITNESS (Libertine): You're welcome.

16 THE HEARING OFFICER: Okay. I'm going to switch to the
17 late-file exhibits. We talked at length about
18 exhibit -- excuse me for a second.

19 Exhibit 2, and this is the exhibit that's
20 going to be updated, but I think I'll hold off on
21 my questions until the revised exhibit is
22 submitted. I think it will be helpful for my
23 questions.

24 And then my final comment actually has to
25 do -- we have already had some discussion on the

1 30 to 60 days for stabilization. And I agree with
2 some of the comments that have been made already
3 in having to do with I think where we're heading
4 is a full growing season, i.e., the spring or the
5 fall for site stabilization. And I believe the
6 answer -- or the response to that discussion was
7 that the Petitioner would be willing to do
8 something like that.

9 Is that correct? Did I hear that right?

10 THE WITNESS (Nicolas): This is Jenny. Yeah, that's
11 correct.

12 THE HEARING OFFICER: Okay. Thank you. All right.
13 That's all the questions I have.

14 THE WITNESS (Parsons): Mr. Morissette, this is
15 Mr. Parsons. Just to kind of clarify that
16 statement with regards to -- to a full growing
17 season.

18 THE HEARING OFFICER: Uh-huh?

19 THE WITNESS (Parsons): Is there a possible way to
20 clarify what -- what the Council is thinking and
21 what would, you know, define the potential
22 requirements of -- of a full growing season?

23 THE HEARING OFFICER: Well, we have defined it in a
24 couple ways, and I'm not suggesting we define it
25 in this way. There's a full year as a growing

1 season, or the summer season or the fall season.
2 And the month associated with that I don't have
3 offhand, but it would be either one of those. So
4 for your schedule I think the spring would be the
5 appropriate growing season.

6 THE WITNESS (Parsons): Yeah, and that's part of where
7 my question is -- is lying there -- is a little
8 bit of, if the site is, you know, I believe the
9 seeding window -- and I'm going a hundred percent
10 from memory right now -- is April 1st through
11 June 15th. That's -- that's really, you know, the
12 seeding window of -- of a site.

13 And so if that site were, say, planted
14 towards the -- the end of April and seeded at that
15 point in time and is, you know, established by
16 June 15th, does that still constitute a full, full
17 growing season? And that, that's why I was
18 looking for it, versus if the site was seeded on
19 May 15th, what then constitutes the full -- the
20 full growing season? I think that's the rationale
21 for the question.

22 THE HEARING OFFICER: I don't think that would
23 constitute a full growing season, but not having
24 what the previous definitions were in front of me,
25 unfortunately I can't answer that question.

1 THE WITNESS (Parsons): Okay.

2 THE HEARING OFFICER: Okay. Moving on. We'll continue
3 with cross-examination of the petitioner by South
4 Regional Water Authority Attorney McDermott.

5 MR. McDERMOTT: Thank you, Mr. Morissette. RWA has no
6 questions for the Petitioner.

7 THE HEARING OFFICER: Thank you, Attorney McDermott.

8 We'll continue with cross-examination of this
9 Petitioner by Sean O'Sullivan. Mr. O'Sullivan?

10 MR. O'SULLIVAN: Thank you very much, Mr. Morissette.

11 I just want to say thank you to Executive Director
12 Bachman and the Honorable Commissioners for this
13 privilege to ask questions and cross-examine the
14 Petitioner.

15 So I do want to state that we to take this
16 very serious in our neighborhood. We realize that
17 this is the appropriate venue for this, for this
18 application. Our contention is, is that it's
19 inappropriate for the site. So I don't want
20 anything to be misconstrued in that matter, but
21 thank you.

22 So I do have some questions I would like to
23 start about the access road which affects myself
24 and my neighbors the most.

25 Can you tell me, how long is the access road

1 at the southeast corner of the property before it
2 takes a 90 degree right-hand turn? And you can be
3 approximate.

4 THE WITNESS (Parsons): It's approximate -- this is
5 Brad persons. It's approximately 250 to 300 feet,
6 Mr. O'Sullivan.

7 MR. O'SULLIVAN: Okay. And how close is that proposed
8 access road to the southern property line?

9 THE WITNESS (Parsons): The edge of the proposed -- so
10 the southern edge of the proposed access road is
11 approximately 28 feet at it's closest point to the
12 southern property line.

13 MR. O'SULLIVAN: Thank you. How close is that road to
14 the wetlands at the base of the hill on Gaylord
15 Mountain Road?

16 THE WITNESS (Parsons): Approximately -- at pretty much
17 its closest point following the easterly property
18 line along Gaylord Mountain Road, you're looking
19 at around 162 feet to the start of wetland three.

20 MR. O'SULLIVAN: Okay. And then how far is the
21 equipment pad to that wetlands? I believe that's
22 wetlands four. Right -- wetland three?

23 THE WITNESS (Parsons): Wetland three, or just to be
24 clear, Mr. O'Sullivan --

25 MR. O'SULLIVAN: The one along Gaylord Mountain Road.

1 THE WITNESS (Parsons): The one along Gaylord Mountain
2 Road? Okay. That's wetland three.

3 From the edge of the northeasterly corner of
4 that, of the proposed equipment pad to the -- to
5 wetland three is approximately 275 feet.

6 MR. O'SULLIVAN: From what I read in the application
7 your inverted step-up transformers are located at
8 each equipment pad; will use oil for cooling.

9 Where will that oil run if it leaks?

10 THE WITNESS (Parsons): I have to understand whether or
11 not there is secondary containment within the
12 proposed trans -- transformer. Ideally if there
13 was secondary containment it would be contained
14 within the transformer itself.

15 If for whatever reason it were not to be
16 contained in that transformer, based on the -- the
17 grading there, depending on where it actually
18 sits, it could either end up in the stormwater
19 basin or potentially in and down the access road.

20 MR. O'SULLIVAN: Okay. Also where will --

21 THE WITNESS (Gustafson): This is Matthew Gustafson.

22 If I may clarify a point in that question? The
23 oil proposed to be used in those structures is a
24 biodegradable oil as well. And obviously, the --
25 the intent of the manufacturer is that those,

1 those structures will -- are not intended to leak,
2 or not built to leak.

3 MR. O'SULLIVAN: Where will the five proposed
4 distribution poles go on the property? Are those
5 going on the access road?

6 THE WITNESS (Parsons): That is correct, sir. They run
7 along the southern side of the access road.

8 MR. O'SULLIVAN: And all five will be on the southern
9 access? And how far would they be from the border
10 from the property line?

11 THE WITNESS (Parsons): They would be approximately
12 28 feet as well. They're proposed right on the
13 edge of that proposed access road.

14 MR. O'SULLIVAN: All right. So again, I have a
15 question here. Do you agree that there is an
16 elevated risk that the wetland at the base of the
17 hill will be degraded by sediment in view of the
18 steep slopes and floatable fine-textured soil and
19 high seasonal groundwater table; also that soil
20 situation at or near the surface after several
21 successive rain storms makes soils especially
22 prone to erode even during moderate intensity
23 rainstorm?

24 THE WITNESS (Parsons): Just to clarify. Are you
25 talking pre or -- or post construction?

1 MR. O'SULLIVAN: This would be post -- with the access
2 road, which the neighbors will consider that a
3 major, major erosion hazard to that wetland.

4 THE WITNESS (Parsons): So the -- well, I guess what
5 I'll -- I'll say is a post-construction situation
6 per the Connecticut DEEP's stormwater general
7 permit, a site cannot be considered stabilized
8 until there is no active -- active erosion on
9 site.

10 So it is our understanding that in a, you
11 know, post-construction condition we would not see
12 erosion on site here. And additionally,
13 additionally the runoff from -- from the access
14 road is currently being directed, or some of that
15 is being directed towards the swale on the -- the
16 northeast side, or the north side of the access
17 road and ultimately to a plunge pool prior to
18 wetland three.

19 MR. O'SULLIVAN: So the neighbors that see this, again,
20 this road as a major erosion hazard, will you be
21 willing to move the road to the north end of the
22 proposed site to preserve the wetlands?

23 THE WITNESS (Gustafson): This is Matthew Gustafson.

24 Because of the extent of wetland three, moving the
25 road to the north would result in direct impacts

1 and unavoidable degradation to wetland three,
2 which is why it's currently proposed in the
3 location that is.

4 THE WITNESS (Parsons): There's -- just to add to that,
5 Mr. O'Sullivan, there is -- from the edge of
6 wetland three to the north, to that specific north
7 property line along Gaylord Mountain Road there's
8 only about 30 feet of width.

9 MR. O'SULLIVAN: Can you move the equipment pads up to
10 the north end of your construction access road if
11 you maintain it there?

12 THE WITNESS (Parsons): I don't believe so, because
13 it's providing -- it really comes down to the --
14 the interconnection with the -- the utility at
15 that point in time. And they have certain
16 requirements with regards to how far you are from
17 your -- from your interconnection point and where
18 that, those utility poles are located there.

19 MR. O'SULLIVAN: Okay. So moving on.

20 Mr. Gustafson said that on November 17th that
21 the wetland regulations regarding the hundred-foot
22 buffer are arbitrary. Why are they arbitrary to
23 you and not everybody else? Why is this different
24 from other projects that have had to comply with
25 these regulations?

1 THE WITNESS (Gustafson): I think I would request some
2 clarification without the context, the full
3 context of my testimony. I'm not sure --

4 MR. BALDWIN: Mr. O'Sullivan --

5 THE WITNESS (Gustafson): -- how I would --

6 MR. O'SULLIVAN: It's in the minutes.

7 MR. BALDWIN: Mr. O'Sullivan, do you have a transcript
8 citation we can pull up real quickly?

9 MR. O'SULLIVAN: It was on page 103 in the transcript.

10 I just had to turn the heat down.

11 Are you looking up the transcript?

12 MR. BALDWIN: I am.

13 THE WITNESS (Gustafson): Yes, sorry. Bear with me.

14 Can you better direct to what's on that page. I'm
15 having difficulty finding it.

16 MR. O'SULLIVAN: It's on my computer.

17 MR. BALDWIN: It's actually on page 102, Matt.

18 THE WITNESS (Gustafson): Yeah, I found it now. Thank
19 you, yeah. Page 102. The intent of my statement
20 not that -- was not that I consider wetland
21 buffers to be arbitrary, but that the -- but the
22 posting of the question was that the Council was
23 trying to establish a buffer.

24 And that that buffer, without proper -- or
25 consideration of the intent of that buffer may be

1 arbitrary in just picking a buffer zone that is
2 commonly accepted at various regulatory levels.

3 THE WITNESS (Parsons): Mr. O'Sullivan, if I could -- I
4 could also add? I think I added to -- to that
5 statement as well that Connecticut DEEP --
6 actually DEP at the time in the late 'nineties
7 established a guidance document for municipalities
8 which was in regards to the upland review area.

9 And in that document it actually states that
10 state agencies including DEEP does not actually
11 recognize the -- the upland review area.

12 MR. O'SULLIVAN: So the next question I have is, why do
13 you think you can build this project so close to
14 the wetlands when I couldn't do that, and no one
15 else in the town of Hamden could do that? Hamden
16 has a hundred-foot requirement as well.

17 THE WITNESS (Gustafson): Certainly I cannot speak to
18 your ability or your desire to build within and
19 approximate to wetlands.

20 But as I stated previously today, that
21 hundred-foot upland review area does not prohibit
22 development within wetlands in the municipality of
23 Hamden or anywhere in the state of Connecticut.
24 It is simply a review, review buffer where the
25 local inland wetlands commissions can take

1 jurisdiction on review of the project. It is at
2 that point that their -- their task, or their goal
3 is to assess whether those impacts will result in
4 significant negative impacts to the wetland
5 resource in question.

6 MR. O'SULLIVAN: I'm going to move onto my next
7 question. It has to deal with who we're dealing
8 with here. So when you first notified the
9 adjacent property owners of your plans you
10 identified yourselves in a letter to all of us as
11 Distributed Solar Development, LLC, but you're
12 applying as Gaylord Mountain Solar Project 2019,
13 LLC.

14 Who are we really dealing with here?

15 THE WITNESS (Kapur): I Amol Kapur from DSD. So
16 Distributed Solar Development is the parent
17 company of our firm, and we're a solar developer
18 based in New York.

19 Gaylord Mountain, LLC, that's a project
20 company that we wholly own. And just to go a step
21 further, the way these transactions are -- are
22 typically structured is a project company will own
23 the -- the solar system, but ultimately the
24 company that owns that, that project company is
25 Distributed Solar Development, so DSD.

1 MR. O'SULLIVAN: So you'll see the videos of the water
2 runoff from my backyard from Gaylord Mountain
3 Road. So who do we call when the water is washing
4 out our backyards and our septic systems? Who do
5 we reach out to?

6 THE WITNESS (Nicolas): This is Jenny. You would reach
7 out to Distributed Solar Development and our
8 own MT will be monitoring this should this --
9 should some issue arise.

10 But I think what's important to point out is
11 that, as Amol mentioned, you know, DSD is coming
12 in and proposing the site to develop and wants to
13 be good neighbors, but we will also be owning and
14 operating the system. So it's in our best
15 interest as well to make sure that there are no
16 issues on site.

17 THE WITNESS (Parsons): Mr. O'Sullivan, this is Brad
18 Parsons. Just to further clarify things here, you
19 know, in our -- in our review and analysis of the
20 drainage areas associated with the -- the project
21 and the overall site which includes reviewing
22 where the -- the water goes and -- and comes
23 around the site and where the water from our site
24 leaves; in reviewing that, that analysis, you
25 know, the contours in this case show us that

1 almost no water from the Gaylord Mountain site,
2 our property, actually leaves our property and
3 enters the -- any properties to -- to the south.
4 The contours run basically parallel to Gaylord
5 Mountain Road both on Huntington Ridge and on
6 the -- the site here.

7 Furthermore, I would say that, you know,
8 there is some -- some off-site drainage that is as
9 a result of what we saw from Eversource's
10 construction along the right-of-way that has
11 actually probably helped the situation, because it
12 is directing additional water to the Gaylord
13 Mountain Road site, our -- our subject property
14 here, down that access road.

15 And that can be reviewed on our -- within our
16 drainage report. And it is -- you can look at the
17 figures EDA-1, which shows that full area of the
18 site, and the area even south and west of the site
19 that flow -- flow to us.

20 So again, I don't -- from what I've seen and
21 what we've analyzed here it does not appear that
22 any water is, from our site is actually leaving
23 the site and -- and heading onto any of the
24 Huntington Ridge properties.

25 MR. O'SULLIVAN: Have you seen the video yet that I

1 submitted?

2 THE WITNESS (Parsons): Was that the video from 3
3 Hunting Ridge Road?

4 MR. O'SULLIVAN: Five Hunting Ridge?

5 THE WITNESS (Parsons): Or 5 Hunting Ridge? Yes, I
6 have seen that video, sir.

7 MR. O'SULLIVAN: And that water is coming off of 360
8 Gaylord Mountain Road. It washes out. You'll
9 notice on the back, on your maps you'll see a
10 white line on the back, at the end of property.

11 I had to dig 160-foot trench and my neighbor
12 and to continue it for the water runoff. It
13 constantly washes out on my backyard. When the
14 snowpack melts I look for trout in that stream.

15 THE WITNESS (Parsons): I would say that I don't
16 believe I've actually seen a video from your yard,
17 sir. I believe that the video I saw was from 3
18 Huntington Ridge Road, possibly looking north
19 towards your --

20 MR. O'SULLIVAN: All right. That's a different video.

21 THE WITNESS (Parsons): But again, when I look at that,
22 that drainage area that is draining through that
23 area that was shown, all of that is coming from
24 areas on Huntington Ridge Road.

25 MR. BALDWIN: Mr. Morissette, could I make a request of

1 Mr. O'Sullivan? I realize he just got into the
2 docket and that's fine, and fully understandable.

3 To the extent that there will be continual
4 references to certain videos that we may or may
5 not have seen already, it might be helpful if
6 following the hearing today we could get copies of
7 all of those videos that Mr. O'Sullivan is
8 referring to so that we can, you know, have a look
9 at them to make sure that -- I just want to make
10 sure our witnesses are looking at the same videos
11 that Mr. O'Sullivan is referencing. It would just
12 make it easier to respond to his questions.

13 **THE HEARING OFFICER:** Yes, although those videos I
14 believe were received today. And we will be
15 admitting them into the record probably at the
16 next hearing. And at that point Mr. O'Sullivan
17 will be available for cross-examination on those
18 videos.

19 So to the extent that the videos need to be
20 discussed today, if the parties could reserve
21 those questions and comments until they're
22 actually into evidence that would be appreciated.

23 Does that work for you, Mr. Baldwin?

24 **MR. BALDWIN:** It would. Thank you, Mr. Morissette.

25 And if we could just get those well enough in

1 advance of the next hearing that would be helpful.

2 THE HEARING OFFICER: Thank you, Attorney Baldwin.

3 MR. O'SULLIVAN: Okay. I had some questions about your
4 virtual net metering agreement and I see that you
5 signed that back in November 2090. I did obtain a
6 copy of it through the Freedom of Information
7 request. And I see that it was signed as Gaylord
8 Mountain Solar Project 2019, LLC, with the
9 Connecticut state colleges and university systems.

10 Again, why didn't you identify yourself as
11 Gaylord Mountain Solar Project when you told us
12 you were in partnership with Southern Connecticut?

13 THE WITNESS (Kapur): This is Amol from -- Amol Kapur
14 from DSD.

15 I don't think I understand the question.

16 MR. O'SULLIVAN: You know, some of the neighbors feel
17 we were deceived. We want to know who we're
18 dealing with. We want to know who to call.
19 You're changing your name. Today you're GMS.
20 Last time you were DSD.

21 MR. BALDWIN: Mr. O'Sullivan?

22 MR. O'SULLIVAN: It's very concerning to the
23 neighborhood.

24 MR. BALDWIN: Mr. Morissette, I think Mr. Kapur
25 answered that question when Mr. O'Sullivan asked

1 it last time. We talked about the project entity
2 that is a wholly-owned subsidiary of DSD. So I
3 think that question has been asked and answered.

4 **THE HEARING OFFICER:** Yes it has, unfortunately.

5 Mr. O'Sullivan, if you could move on?

6 **MR. O'SULLIVAN:** Absolutely. With the virtual net
7 metering agreement why did you not ask the Town of
8 Hamden if they would be interested in it? The
9 Town of Hamden can certainly benefit from
10 something like that, so why weren't they asked?

11 **THE WITNESS (Kapur):** This is Amol Kapur from DSD. So
12 the origination of the virtual net metering
13 agreement was through a public RFP that was issued
14 by the State.

15 **MR. O'SULLIVAN:** And the State responds to RFPs, awards
16 them before projects are completed?

17 **THE WITNESS (Kapur):** I'm sorry? Could you repeat
18 that?

19 **MR. O'SULLIVAN:** You said it was awarded by an RFP, and
20 I see that was in your application. I just don't
21 understand why the State would award an RFP to a
22 project that has not even been approved yet?

23 **THE WITNESS (Kapur):** Amol Kapur from DSD. Very
24 standard project for -- for the award from an RFP
25 to having first to give you sort of the path to go

1 develop a project, and not the other way around.
2 You -- you need to have a qualified virtual net
3 metering customer in order to have a project.

4 MR. O'SULLIVAN: All right. I want to ask you about
5 your lease on the property. Do you have a signed
6 lease for the property? Or do you just have an
7 option to lease if this project is approved?

8 THE WITNESS (Kapur): Amol Kapur from DSD. We have an
9 executed lease agreement with the site owner.

10 MR. O'SULLIVAN: So you're stuck to that agreement
11 whether this project is approved or not?

12 MR. BALDWIN: Mr. Morissette, the actual terms of that
13 agreement are not really relevant to this
14 proceeding -- but you know, I think Amol, if you
15 want to answer Mr. O'Sullivan's question.

16 But I don't know how much further we want to
17 go down this road?

18 THE HEARING OFFICER: Yes, I would request that the
19 question be responded to for informational
20 purposes only. And then we need to move off the
21 questioning on this topic.

22 MR. O'SULLIVAN: Okay. So if this project is not
23 approved what are your plans for the property?

24 THE WITNESS (Kapur): Amol Kapur from DSD. We wouldn't
25 have any plans for the property at that point.

1 MR. O'SULLIVAN: So you just continue to pay the lease?

2 THE WITNESS (Kapur): Amol Kapur from DSD. We would --
3 we'd look to see if there were contractual or
4 mitigants for us to -- to terminate the lease.

5 MR. O'SULLIVAN: So I think one of the commissioners,
6 Mr. Edelson asked about your construction
7 deadline -- is January 22nd. What happens if that
8 deadline is not met?

9 What happens to the project then?

10 THE WITNESS (Nicolas): This is Jenny with DSD. We
11 have the opportunity to get an extension so we can
12 continue with this project.

13 MR. O'SULLIVAN: Okay. And who do you need that
14 extension from?

15 THE WITNESS (Nicolas): This is Jenny from DSD. We
16 need the extension -- sorry. From PURA, the --
17 the Public Utilities Regulatory Authority.

18 MR. O'SULLIVAN: And how likely are they to grant that
19 extension?

20 THE WITNESS (Nicolas): I can't speak on behalf of
21 PURA, but we have had projects receive extension
22 from them in the past.

23 MR. O'SULLIVAN: Okay. And then I just have one last
24 question here for you. Are you familiar with the
25 Governor's council on climate change, the GC3, the

1 forest subgroup of the working and natural lands
2 working group. Are you familiar with that?

3 THE WITNESS (Parsons): Yes, we are.

4 THE WITNESS (Kapur): Yes.

5 THE WITNESS (Nicolas): Yes.

6 MR. O'SULLIVAN: Okay. And you would know that
7 the forest subgroup of the Governor's task force
8 on climate change researched and prepared a
9 detailed report on forests which does not
10 recommend using mature forests sites for solar
11 facilities in view of their value for carbon
12 sequestration, air pollution filtering and
13 associate health benefits, cooling, as well as for
14 wildlife, property values and spiritual and
15 psychological health.

16 So if you're aware of that, why do you think
17 you just ignored this recommendation?

18 THE WITNESS (Nicolas): This is Jenny with DSD. I can
19 take a first stab at it maybe, but in looking at
20 the GC-3 report, two of the recommendations that
21 are made are to ensure that impacts upon forests
22 as they're habitats and other natural climate
23 solutions and priorities, wetland soils, reverse
24 farmland, et cetera, are considered at every
25 level.

1 And I think that we have considered the
2 impacts at every level, and we go through that in
3 our environmental assessment. And one of the
4 other recommendations that's made in this report
5 is that it's not practical to protect all forested
6 areas from conversions, and periodic natural
7 disturbances may also result in temporary forest
8 losses.

9 So I think this report is with the
10 understanding that the goal is to protect forested
11 areas, but that's not necessarily practical in all
12 cases.

13 But I'm sure Matt can add more to that.

14 **THE WITNESS (Parsons):** One other thing I'd like to
15 add, Mr. O'Sullivan, before Matt maybe answers
16 that is this petition was actually submitted to
17 the Council on August 7th of -- of this year. The
18 draft of the four sub -- subgroups, that draft
19 report was not issued for public comment until
20 9/11 of this year.

21 So over a month after our application was
22 submitted to -- to the Council and it was -- that
23 report was also not finalized until I believe, it
24 looks like it was -- the final report was received
25 on November 6th of -- of 2020.

1 MR. O'SULLIVAN: So that was my final question. So I
2 do believe that my expert witness will be able to
3 talk at the next meeting.

4 Is that correct, Commissioners?

5 THE HEARING OFFICER: Yes, for our next session both
6 you and your expert witness will be available for
7 cross-examination by the parties.

8 MR. O'SULLIVAN: Okay. Thank you.

9 THE HEARING OFFICER: Thank you.

10 MR. O'SULLIVAN: And thank you for this opportunity. I
11 do appreciate it, Commissioners.

12 THE HEARING OFFICER: Thank you, Mr. O'Sullivan.

13 Okay. We will continue with the appearance
14 of the Intervenors, South Central Connecticut
15 Regional Water Authority.

16 Will the Intervener present it's witness
17 panel for the purpose of taking the oath?
18 Attorney Bachman will administer the oath.

19 MR. McDERMOTT: Good afternoon. Bruce McDermott from
20 Murtha Cullina on behalf of the South Central
21 Connecticut Regional Water Authority. We have one
22 witness today, Mr. Morissette.

23 John Hudak, and he is -- was online the last
24 I checked, and is available to be sworn by
25 Attorney Bachman.

1 THE HEARING OFFICER: Thank you.

2 J O H N H U D A K,

3 called as a witness, being first duly sworn
4 by the Executive Director, was examined and
5 testified under oath as follows:

6
7 MR. McDERMOTT: Mr. Hudak, did you prepare or assist in
8 the preparation of the RWA exhibits? For
9 identification, number one is the RWA motion to
10 intervene dated September 21st; and number two is
11 the prefiled testimony of you dated November 9,
12 2020.

13 THE WITNESS (Hudak): Yes, that's correct.

14 MR. McDERMOTT: And do you have any changes or
15 revisions to either of those documents?

16 THE WITNESS (Hudak): I do not.

17 MR. McDERMOTT: And do you adopt those as the RWA's
18 exhibits in this proceeding?

19 THE WITNESS (Hudak): I do.

20 MR. McDERMOTT: Thank you.

21 Mr. Morissette, I ask that the two exhibits
22 be admitted into evidence and that Mr. Hudak is
23 available for cross-examination.

24 THE HEARING OFFICER: Thank you, Attorney McDermott.

25 Does any party or intervener object to the

1 admission of RWA's exhibits? Attorney Baldwin?

2 MR. BALDWIN: No objection.

3 THE HEARING OFFICER: Thank you.

4 Mr. O'Sullivan?

5 MR. O'SULLIVAN: No objection.

6 THE HEARING OFFICER: Thank you. The exhibits are
7 hereby admitted.

8 We will begin with cross-examination of RWA
9 by the Council beginning with Mr. Cunliffe.

10 MR. CUNLIFFE: Thank you, Mr. Morissette.

11 How does the RWA acquire property or
12 development rights, and how would these properties
13 be ranked?

14 THE WITNESS (Hudak): Well, we do it in a number of
15 different ways. We've done pretty simple
16 acquisitions. We've done partnerships with others
17 like the land trust or -- or municipalities and
18 we've also purchased conservation easements.

19 We do have a prioritization matrix where we
20 can rank properties, but there's a lot that goes,
21 you know, that's just a tool. There's a lot that
22 goes into each individual case in -- in terms of
23 assessing the value, assessing the economics of
24 it. So it's -- it's really case-by-case.

25 MR. CUNLIFFE: So the RWA doesn't necessarily shop,

1 let's say, abutting properties if they have a
2 particular issue?

3 THE WITNESS (Hudak): We're typically opportunistic.

4 So you know, if a property goes on the market
5 we're often actually approached by property owners
6 who are interested in preserving their land. So
7 we will negotiate over a period of time.

8 Sometimes it can be a very involved process, but
9 yeah, we do it in a variety of different ways.

10 MR. CUNLIFFE: And you're not aware that the vertical
11 bridge had property available?

12 THE WITNESS (Hudak): To my knowledge we have not been
13 approached or engaged in any negotiations.

14 MR. CUNLIFFE: And your prefiled testimony indicated
15 that a solar facility was built within a disturbed
16 area on a well field in 2015. Did RWA consider
17 restoring the disturbed area to a forest to
18 enhance water quality?

19 THE WITNESS (Hudak): Yes. Actually the area was a
20 formal gravel pit near a well field, and very
21 sandy soils, flat. And there was in the late
22 'eighties, early 'nineties there was an attempt at
23 planting white pines. It did not go well. There
24 the trees that did grow were stunted. Many died
25 from deer browse and drought. There was really no

1 natural regeneration going on.

2 And much of the site was actually colonized
3 by invasives like autumn olives.

4 MR. CUNLIFFE: And what is the ground cover at the
5 solar facility now?

6 THE WITNESS (Hudak): It is, I believe, grass.

7 MR. CUNLIFFE: Those are my questions, Mr. Morissette.

8 THE HEARING OFFICER: Thank you, Mr. Cunliffe.

9 We will now continue with cross-examination
10 by Mr. Harder.

11 MR. HARDER: Yes. Thank you. Reviewing the last
12 question that Mr. Cunliffe asked, or the subject
13 of that; the solar facility that you mentioned,
14 what's the size of that facility?

15 THE WITNESS (Hudak): It's one megawatt.

16 MR. HARDER: So roughly what land --

17 THE WITNESS (Hudak): I think it's about five acres.

18 MR. HARDER: Okay. Are there other, other than systems
19 that may have been constructed on buildings, are
20 there other -- and also other than residential
21 systems, are there other larger solar facilities
22 that you're aware of within the watershed
23 comparably sizing?

24 THE WITNESS (Hudak): That, I'm not sure. I -- I don't
25 know if any large, large arrays like -- like this

1 one or ours, quite frankly.

2 **MR. HARDER:** Okay. Thank you. That's the only
3 question I had. Thank you.

4 **THE HEARING OFFICER:** Thank you, Mr. Harder.

5 We will continue with cross-examination by
6 Mr. Hannon.

7 **MR. HANNON:** Thank you. I have one question and it's
8 on page 5 of the prefiled testimony. It has to do
9 with -- it talks about the Applicants attempting
10 to meet with RWA on several occasions, but you've
11 responded to those offers.

12 In your answer you state, however, given the
13 location of the project the RWA does not believe
14 that any changes to the project design can address
15 the RWA's concerns. Can you be a little more
16 specific as to what those specific concerns are?

17 **THE WITNESS (Hudak):** The specific concern is the loss
18 of forestland. Forestland in our watersheds is --
19 or for all drinking water supplies is a gold
20 standard.

21 So if there was a way to construct a solar
22 array while leaving the forest intact, we'd be
23 glad to engage the applicant, but frankly we
24 didn't see any way that our fundamental concern
25 about this project would be addressed by design

1 changes.

2 MR. HANNON: So your primary concern is about the
3 removal of forestland and how that can impact the
4 water quality?

5 THE WITNESS (Hudak): Correct, it's -- it's the siting
6 of the solar array as opposed to the design.

7 MR. HANNON: Okay. I mean, that was the primary
8 question I had. I mean, I think I understand all
9 of your other responses. So thank you.

10 THE WITNESS (Hudak): Thank you.

11 THE HEARING OFFICER: Thank you, Mr. Hannon.

12 Will now continue with cross-examination by
13 Mr. Lynch.

14 MR. LYNCH: No questions.

15 THE HEARING OFFICER: Thank you, Mr. Lynch.

16 Mr. Edelson?

17 MR. EDELSON: Sorry. My mouse didn't want to work
18 there. It fell asleep. All right. Thank you,
19 Mr. Chairman.

20 Mr. Hudak, I just want to confirm the
21 watershed management plan for your area indicates
22 that you own over 27,000 acres of land, and of
23 that about 948 acres have been purchased since
24 2007. Is that approximately correct?

25 THE WITNESS (Hudak): Correct.

1 MR. EDELSON: Now if I understood your answer to
2 Mr. Cunliffe, you're opportunistic in terms of
3 your acquiring new land, and it sounds like you've
4 been pretty successful with that. But why haven't
5 you in this case approached the property owner. I
6 understand you're saying how often the property
7 owner approaches you, but if this has value to the
8 water authority, this land to keep it forested,
9 why haven't you approached them?

10 THE WITNESS (Hudak): Yeah. Well, it's -- there's, you
11 know, a lot of properties when you look at all of
12 the watershed that feeds our resources, I mean, we
13 go out to Haddam, Killingworth, north of Bethany.
14 And so it's a vast area.

15 We frankly have not had the time or resources
16 to approach every property owner of every forested
17 parcel. And also we do have acquisitions that are
18 actively going on and that's where we devote our
19 time. So it's -- it's just more cost effective
20 and time effective for us to -- to monitor parcels
21 as they come on the market, or again as if we're
22 approached for a possible negotiation.

23 MR. EDELSON: And just to be clear, I mean, the Town of
24 Hamden could also buy this property. Have you
25 approached them? You know, I understand your

1 workload or your area is much larger where there
2 are opportunities. For the Town of Hamden whose
3 residents are directly affected, as we've seen,
4 have you approached them or suggested to them that
5 they buy it?

6 THE WITNESS (Hudak): We have not. There's many other
7 parcels that we've bought in Hamden, so.

8 MR. EDELSON: I'm sorry. I didn't hear that?

9 THE WITNESS (Hudak): There have been many other
10 parcels we've bought in Hamden.

11 MR. EDELSON: By the Regional Water Authority?

12 THE WITNESS (Hudak): Correct.

13 MR. EDELSON: And a lot of that abuts this property
14 right on the other side of the transmission
15 corridor?

16 THE WITNESS (Hudak): Yeah. Frankly, there's probably
17 thousands of acres that extend, that are connected
18 all the way down to -- close to New Haven going
19 into -- to Bethany. So -- and some, you know,
20 they've been -- some of the parcels have been
21 acquired, you know, over a hundred years ago and
22 some have been more recent, but it's been an
23 ongoing process. Could take some time.

24 MR. EDELSON: And I think in your testimony you noted
25 that the Department of Public Health would

1 probably -- most probably not permit this project
2 to go forward if you were the owner of the land?

3 **THE WITNESS (Hudak):** That's correct. I believe so.

4 **MR. EDELSON:** And then they say that for land that is
5 not owned by a water company no permit is
6 required?

7 **THE WITNESS (Hudak):** Correct. It just applies to
8 what's called class-one and two lands, which are
9 by definition water company owned lands on public
10 water supply watersheds and aquifers.

11 And any time you put a shovel in the ground
12 on our property within a watershed we need to get
13 a permit from the Department of Public Health.

14 **MR. EDELSON:** Why do you think the Department of Public
15 Health makes that distinction between land that's
16 owned by a water company versus land that is not
17 owned by a water company?

18 **THE WITNESS (Hudak):** This is actually legislation that
19 happened in the late 1970s, and it was prompted by
20 the New Haven Water Company. They were looking to
21 finance the state drinking water act improvements
22 that would be needed, like building filtration
23 plants.

24 So they actually proposed to build -- to sell
25 16,000 acres of land for development. And this

1 led to a moratorium on land sales by water
2 companies. It led to this legislation about water
3 company lands. So it really was totally focused
4 on the water companies.

5 Now we'd -- we'd like to see additional
6 statewide protections for watershed lands. It is
7 done -- with exception to aquifer protection
8 areas, surface water watersheds are -- really go
9 by local zoning.

10 MR. EDELSON: Now I raised the question before with
11 regard to residential development. This area is
12 zoned residential?

13 THE WITNESS (Hudak): Yes.

14 MR. EDELSON: And if a developer came in, much like I
15 assume a developer came in on Hunting Ridge and
16 proposed a subdivision, what would your
17 position be with regard to residential
18 development?

19 THE WITNESS (Hudak): For this particular site we're
20 actually very concerned with the steep slopes
21 and -- and the fact of forested watershed land.

22 However, I don't think it's a given that a
23 residential development for this site would
24 disturb as much or more forest than a solar array.

25 And another thing is that a lot of the land

1 that is developable has been built out already.
2 In many cases it's cost prohibitive, or at least
3 difficult to develop a site like this. What we're
4 concerned about is -- is this added stressor now
5 being presented of an incentivized solar array by
6 whether it's RECs or tax credits, that can be
7 built much easier on a site like this than a
8 residential development.

9 So it's really creating a whole other
10 challenge for watershed managers if this is going
11 to be the norm going forward where pristine
12 forests that are difficult to develop can actually
13 be cleared by a solar developer. And actually in
14 a sense it may be enabling future residential
15 development because the solar development -- which
16 as I understand an array has a life of 15 to 20
17 years, that essentially the first step in
18 developing a property is clearing it, grubbing it,
19 taking down the trees, putting stormwater
20 management basins in.

21 So a lot of the work of a developer has
22 already been done in this case. So it might
23 actually make the site easier to develop than it
24 is today.

25 MR. EDELSON: Just to be clear, you mean after the

1 solar development is removed 20, 30 years down the
2 road. Is that what you're referring to?

3 THE WITNESS (Hudak): Correct, that's what I'm
4 referring to.

5 MR. EDELSON: Okay. So a question came up before about
6 core forests, and Mr. Gustafson gave an
7 explanation of why they determined that most of
8 this is not core forest.

9 And as I read the position of the climate
10 change workgroup on forests, their concern with
11 solar was when it affects core forests.

12 So I'd like to basically make sure I
13 understand your perception or your understanding
14 of what a core forest is, and then how this
15 particular site is or is not a core forest?

16 THE WITNESS (Hudak): Yeah. I don't think if it's
17 not -- just because the site doesn't meet the
18 definition of core forest doesn't mean it has
19 valuable services for water quality.

20 I think primarily core forests is referring
21 to the more ecological value of the site, as
22 opposed to drinking water protection.

23 If -- if a site is, you know, smaller, or
24 relatively small and it's, you know, less than
25 300 feet from a cleared area or an edge habitat, I

1 don't think that necessarily renders the site,
2 really lessens the value all that significantly
3 for drinking water protection, particularly on a
4 site that has steep slopes, shallow soils and is
5 up in the headwaters of a drinking water
6 watershed.

7 MR. EDELSON: The last thing maybe you can help me on
8 is I understand your concern about, you know, good
9 drinking water, quality of water that a forested
10 area is going to infiltrate and go down into the
11 aquifer, feed the rivers, et cetera.

12 But we've seen and heard testimony --
13 Mr. O'Sullivan just testified that so much of the
14 water at this property seems to just shed and go
15 right out onto the street and not be infiltrated
16 at this particular spot.

17 The improvements that are going to be made
18 here, don't you see that they have some value to
19 the overall infiltration of water from this
20 acreage?

21 THE WITNESS (Hudak): No, quite frankly. No, why --
22 well, meadows and high-quality meadows can, you
23 know, have -- have value in terms of their
24 ecological services, I do -- the gold standard as
25 I said is forests. You have a tree canopy that

1 branches and leaves are intercepting
2 precipitation. You have that duff layer of
3 leaves that -- that's resistant to erosion, also
4 it enhances infiltration.

5 This, the situation at Gaylord Mountain Road
6 is really an engineering solution and --

7 MR. EDELSON: But to an existing problem?

8 THE WITNESS (Hudak): Right, but I don't think it
9 necessarily has to be fixed with -- in conjunction
10 with clearcutting twelve acres of forest.

11 MR. EDELSON: Okay. Mr. Chairman, I think that's all
12 my questions. Thank you.

13 THE HEARING OFFICER: Thank you, Mr. Edelson.

14 Okay. Mr. Hudak, I'd like to refer you to
15 your prefiled testimony and the exhibit that is
16 attached?

17 THE WITNESS (Hudak): Yes, the map.

18 THE HEARING OFFICER: Yes. I'd like to, if you could,
19 give me a rundown on what we have here as far as
20 RWA areas that they would like to protect. And
21 which is the watershed and what is not in the
22 watershed that you're trying to protect?

23 THE WITNESS (Hudak): Sure. Well, the entire solar
24 array site is actually on the watershed of Lake
25 Whitney Reservoir, which is in southern Hamden.

1 There, there are some -- over the divide on the
2 same mountain it actually goes to another
3 reservoir system known as the West River System,
4 but this site itself is on the Lake Whitney
5 Watershed. Lake Whitney is just basically a dam
6 on the Mill River. This side drains to Eaton
7 Brook which joins up with the Mill River just
8 north of Quinnipiac College.

9 Just a little further downstream south of
10 Quinnipiac College there's -- we do have a couple
11 of wells that draw from the sand and gravel
12 aquifer along the Mill River. So those are, you
13 know, those are groundwater resources, and then
14 Lake Whitney's surface water source where we can
15 provide up to 15 million gallons a day of water.
16 It is one of ten reservoirs in our reservoir
17 system.

18 **THE HEARING OFFICER:** Thank you. So the RWA property
19 on the upper left-hand corner, is that there to
20 protect Lake Bethany? Or is it there to protect
21 Lake Whitney? Or both?

22 **THE WITNESS (Hudak):** Yeah, that's exactly right. It's
23 there to protect both because the watershed divide
24 is very close to this site. So -- so it can
25 either go west and south to the West River System,

1 or it can go southeast to Lake Whitney.

2 THE HEARING OFFICER: Okay. Very good. Thank you.

3 That's all the questions I have.

4 We will continue with cross-examination of
5 RWA by the petitioner. Attorney Baldwin?

6 MR. DeMAREST: You're muted, Ken.

7 THE HEARING OFFICER: Ken, you're muted.

8 MR. BALDWIN: It would be nice if I un-muted my phone.

9 What I was saying, Mr. Morissette, is I do have a
10 number of questions, but I didn't know how late
11 you were planning on going tonight and whether we
12 should put that off until the next meeting.

13 THE HEARING OFFICER: Well, I was thinking of going
14 until 5:30. You think you can get it in in half
15 an hour? Or do you need longer?

16 MR. BALDWIN: Why don't I give it a shot.

17 THE HEARING OFFICER: Thank you.

18 MR. BALDWIN: Since Mr. Edelson and Mr. Cunliffe asked
19 some of my questions perhaps I can speed through
20 some of these.

21 Just real quickly, Mr. Hudak, your
22 educational degrees are in biology and Marine
23 biology. Correct?

24 THE WITNESS (Hudak): Marine science, marine
25 environmental science, yes.

1 MR. BALDWIN: Thank you. You're not a professional
2 engineer?

3 THE WITNESS (Hudak): I am not.

4 MR. BALDWIN: Thank you. Following up on the issue of
5 land acquisition by the RWA, you said that --
6 essentially I'm paraphrasing and tell me if I got
7 it wrong. You wouldn't want to see any
8 development on this parcel, residential or
9 otherwise?

10 THE WITNESS (Hudak): I guess I would prefer that it
11 stay in a forested condition.

12 MR. BALDWIN: And yet the water authority didn't
13 approach the property owner about acquiring this
14 property?

15 THE WITNESS (Hudak): As I said, no, we don't. We
16 don't typically, you know, but we have a long list
17 of properties, probably over a hundred or so which
18 we keep confidential, obviously, but on a
19 prioritization matrix, but which is just -- it
20 wouldn't be an effective use of our time to go
21 pursuing every single property on a watershed.

22 MR. BALDWIN: Okay. As it relates to the watershed in
23 the town of Hamden, isn't it true that the RWA
24 watershed lands in the town encompass a
25 significant portion of the town? Almost two

1 thirds of the town? Does that sound about right?

2 **THE WITNESS (Hudak):** In Hamden it is a significant
3 amount. It's about a 36 square-mile watershed.
4 You know, it actually extends up into Cheshire.

5 **MR. BALDWIN:** And would it surprise you if I told you
6 that the area of what I'll call developed land in
7 its unnatural state is about 20 percent of the
8 watershed. Is that consistent with your
9 understanding?

10 **THE WITNESS (Hudak):** It would not surprise me at all.
11 That's about right.

12 **MR. BALDWIN:** If you look at the map you attached to
13 your testimony it appears as though a majority of
14 that development of the town of Hamden that's in
15 the watershed is all located approximate to the
16 Mount Carmel well field, the Mill River and Lake
17 Whitney. Do you agree with that?

18 **THE WITNESS (Hudak):** Yeah. Most of the land on the
19 Mill River watershed that we own is along the Mill
20 River corridor itself.

21 **MR. BALDWIN:** I'm just talking about general
22 development overall?

23 **THE WITNESS (Hudak):** Can you repeat the question, Ken?

24 **MR. BALDWIN:** Sure. It appears to me based on the map
25 that you provided that a significant portion of

1 the town of Hamden, approximate to those
2 resources, the Mill River, Mount Carmel well field
3 and Lake Whitney, are developed?

4 THE WITNESS (Hudak): Correct. It's one of the --
5 probably one of the most urbanized watersheds in
6 the state.

7 MR. BALDWIN: On page 3 of your testimony you make a
8 series of general statements about the benefits of
9 forests, and you say that forests have less soil
10 erosion. Forests have less runoff, reduced
11 stormwater velocities and sediment transport.

12 I know you're not an engineer. Neither am I,
13 but you have reviewed the petition that the
14 petitioner has filed including the stormwater
15 management plan and the project plans. Haven't
16 you?

17 THE WITNESS (Hudak): Yes.

18 MR. BALDWIN: Okay. And you understand the plans
19 include extensive soil erosion and sedimentation
20 control measures, stormwater control measures
21 including permanent stormwater basins, riprap
22 drainage swales, et cetera, all the improvements
23 that we've been talking about for the last two
24 hearing dates, all that's been designed to control
25 runoff and soil erosion control on the property.

1 Is that right?

2 **THE WITNESS (Hudak):** Yes.

3 **MR. BALDWIN:** And you're aware that the
4 post-development project site is not going to be
5 bare soil. Right? It's going to be a meadow,
6 ground cover. Correct?

7 **THE WITNESS (Hudak):** It will be meadow, is my
8 understanding. So the contractor seed mix, I'm
9 not sure what kind of meadow it will be, but.

10 **MR. BALDWIN:** Okay. Fair enough. And you've seen and
11 heard members of our team talk about the
12 post-development meadow structure, meadow ground
13 cover as you just stated.

14 **THE WITNESS (Hudak):** Right.

15 **MR. BALDWIN:** And you've heard and read the testimony
16 in the record about the benefits of the meadow
17 ground cover and how it will help control
18 stormwater runoff flows and velocity similar to a
19 forest?

20 **THE WITNESS (Hudak):** I wouldn't say it's similar to a
21 forest, but --

22 **MR. BALDWIN:** If you look at -- and we've responded to
23 this in LFE-D which is our Exhibit 10, where
24 Mr. Parsons talked about curve number. I'm not an
25 engineer, so I'm not going to profess and talk too

1 much comfortably about curb numbers, but the curb
2 numbers are numbers that are used by engineers to
3 predict stormwater infiltration and direct runoff
4 from rainfall, and they're virtually identical to
5 forests --

6 THE WITNESS (Hudak): Yeah.

7 MR. BALDWIN: -- in this case. Correct?

8 THE WITNESS (Hudak): In this case, there I do know of
9 a 2018 paper by the Center for Watershed
10 Protection that contends that runoff models
11 including the one used in this application do not
12 adequately consider the trees in terms of
13 attenuating runoffs and enhancing infiltration.

14 And this paper actually recommends that --
15 that these benefits of trees versus just an open
16 meadow be -- or any other type of ground cover be
17 considered, including adjusting curve numbers.

18 MR. BALDWIN: Okay. But you're not suggesting that
19 Mr. Parsons didn't use the right numbers. Are
20 you?

21 THE WITNESS (Hudak): I am not suggesting he didn't
22 follow standard protocol, but I don't think it
23 necessarily factors in the benefits of trees
24 versus an un-treed site.

25 MR. BALDWIN: If we go back quickly to your concerns

1 about the watershed area I want to reference your
2 map again.

3 You say page 4 of your testimony that the
4 project is in the watershed for Eaton Brook --

5 **THE WITNESS (Hudak):** Yes.

6 **MR. BALDWIN:** -- which flows to the Mill River and then
7 flows past the Mount Carmel well field and into
8 Lake Whitney. And say that the project site is
9 about five miles from Lake Whitney. That's as the
10 bird flies. Correct? In a straight line.

11 **THE WITNESS (Hudak):** Yeah, that's as the crow flies.
12 Correct.

13 **MR. BALDWIN:** Crow flies, pick your bird. And if I
14 used your map it appears as though the project
15 site is a little more than a mile away from the
16 closest point of Eaton Brook.

17 Would you agree with that?

18 **THE WITNESS (Hudak):** I think that's reasonably
19 accurate.

20 **MR. BALDWIN:** Okay. And again using your math, there
21 appears to be quite a bit of development between
22 the project site and that point of Eaton Brook?

23 **THE WITNESS (Hudak):** There's some residential
24 development in that vicinity, yes.

25 **MR. BALDWIN:** And from the closest point of Eaton Brook

1 to where Eaton Brook flows into the Mill River,
2 does it sound right if I tell you it's about a
3 mile and a half?

4 THE WITNESS (Hudak): Yeah.

5 MR. BALDWIN: Okay. And then the Mill River flows for
6 about another five and a half miles before it
7 enters Lake Whitney.

8 Does that sound about right to you?

9 THE WITNESS (Hudak): Yeah, I haven't measured it. You
10 mean along the stream course?

11 MR. BALDWIN: Yes.

12 THE WITNESS (Hudak): That sounds like it.

13 MR. BALDWIN: Okay. So again, I went to law school
14 because I don't do math -- but if I do the math
15 it's about eight miles, a little bit more than
16 eight miles from the project site through the
17 rivers and streams to Lake Whitney.

18 So your concern is that sediment in the
19 stormwater is somehow going to get through the
20 existing proposed on-site system into Eaton Brook
21 through the Mill River system and into Lake
22 Whitney over eight miles away. Is that right?

23 THE WITNESS (Hudak): Well, we look at the -- the
24 cumulative impacts. A watershed doesn't get
25 deteriorated all at once, or protected all at

1 once. That's why we -- we acquire land piece by
2 piece.

3 And just the fact that it's -- I -- I
4 wouldn't even consider distance so much. Frankly,
5 if this -- if this project was closer to Lake
6 Whitney it's more likely it would be on a better
7 site. But the fact that you're in the headwaters
8 of the Mill River which is a forested watershed,
9 the headwaters are actually the cleanest waters in
10 the system, and in fact, are diluting some of
11 the -- probably the less desirable runoff in the
12 lower watershed.

13 So I wouldn't, you know, our -- our strategy
14 for watershed protection is -- is to look at this
15 on an incremental cumulative basis.

16 MR. BALDWIN: But it's clearly not the only forested
17 parcel in this part of Hamden. Right?

18 THE WITNESS (Hudak): Certainly not, no.

19 MR. BALDWIN: Let me jump over to the Governor's
20 GC-3 report that you reference in your testimony.
21 I think Mr. Morissette also asked a question about
22 it.

23 The report of the forest subgroup
24 specifically discourages the instillation of -- I
25 think they call it industrial solar facilities in

1 forested areas. Aren't there many other types of
2 developments like industrial parks? I think you
3 mentioned Quinnipiac University and their new
4 campus up on the hill there in town. A large
5 building -- with large buildings, parking lots,
6 driveways that are all impervious, obviously.

7 It just seems odd to me that the GC-3 report
8 calls out solar facilities that have the ability
9 to maintain meadow type ground cover instead of
10 all of these other types of what I would think
11 would be more detrimental uses to a water system.
12 Fair statement?

13 And I realize you're not part of the G3
14 panel.

15 THE WITNESS (Hudak): Yeah, I'm not -- I mean, I'm not
16 sure where you're going with that, but certainly
17 there's -- there's development on the watershed,
18 but -- and there's universities. There's houses.

19 And watersheds are vast areas that have --
20 have all these developed uses, but our point is
21 really that there's better places to put solar.
22 And it's unfortunate that, you know, two very
23 worthwhile objectives of protecting forests needed
24 for drinking water and having renewable energy
25 and -- and meeting our goals for climate change

1 are clashing. I really think there's a better way
2 to meet both these objectives.

3 MR. BALDWIN: Again, I can shortcut some of the rest of
4 my question, so I'll just jump to the last two.
5 Are you familiar with the comments that the
6 Connecticut Department of Public Health issued in
7 this petition? It includes a number of
8 recommendations that DPH offered to the Council so
9 that the project will protect public water supply
10 watersheds. Correct?

11 THE WITNESS (Hudak): Yes.

12 MR. BALDWIN: And the recommendations focus on erosion
13 and sedimentation controls, the use of fuels and
14 hazardous materials, consultation with the RWA as
15 we talked about earlier; and suggests that the
16 petitioner allow the RWA personnel to inspect the
17 site during and after construction first.

18 I assume the RWA would be interested in
19 participating in that type of inspection if the
20 project is approved?

21 THE WITNESS (Hudak): Absolutely. We have a watershed
22 inspection program. So we inspect businesses and
23 construction sites. So I would anticipate we'd be
24 very involved as this -- if the site, or if this
25 project was approved, so.

1 MR. BALDWIN: But interestingly enough, nowhere in the
2 Department of Health recommendations do they
3 recommend that the Siting Council deny the
4 petition. Correct?

5 THE WITNESS (Hudak): Right.

6 MR. BALDWIN: Thank you, Mr. Morissette. I'm all set.

7 THE HEARING OFFICER: Thank you, Attorney Baldwin.

8 Mr. O'Sullivan, you're next for
9 cross-examination, but I don't want to cut you
10 short. But if you have a limited amount of
11 questions we'll let you continue, or we'll pick it
12 up at the next hearing.

13 MR. O'SULLIVAN: No questions for Mr. Hudak at all.

14 THE HEARING OFFICER: Thank you. Well, that makes it
15 easy. Okay.

16 Well, we're going to close the hearing for
17 today. And the Council announces that it will
18 continue the evidentiary hearing session on
19 January 7, 2021, at 2 p.m., via Zoom remote
20 conferencing.

21 A copy of the agenda for the continued remote
22 evidentiary hearing will be available on the
23 Council's Petition 1425 webpage along with the
24 record of this matter, the public hearing notice,
25 instructions for public access to the remote

1 evidentiary hearing session and the Council's
2 citizen's guide to Siting Council procedures.

3 Please note that anyone who has not become a
4 party or intervener, but who desires to make his
5 or her views known to the Council may file written
6 statements with the Council until the public
7 comment period closes.

8 Copies of the transcript of this hearing will
9 be filed with the Hamden and Bethany's Town's
10 clerk's offices for the convenience of the public.

11 I hereby declare this hearing adjourned.
12 Thank you for your participation and we'll see you
13 on January 7th.

14 Thank you, and have a good evening.

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16 (End: 5:15 p.m.)
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CERTIFICATE

I hereby certify that the foregoing 127 Pages are a complete and accurate computer-aided transcription of my original verbatim notes taken of the Zoom Remote Siting Council Meeting (Teleconference) in Re: CONNECTICUT SITING COUNCIL PETITION NO. 1425, GAYLORD MOUNTAIN SOLAR PROJECT 2019, LLC, PETITION FOR A DECLARATORY RULING, PURSUANT TO CONNECTICUT GENERAL STATUTES §4-176 AND §16-50K, FOR THE PROPOSED CONSTRUCTION, MAINTENANCE AND OPERATION OF A 1.9-MEGAWATT AC SOLAR PHOTOVOLTAIC ELECTRIC GENERATING FACILITY LOCATED AT 360 GAYLORD MOUNTAIN ROAD IN HAMDEN, CONNECTICUT, AND ASSOCIATED ELECTRICAL INTERCONNECTION, which was held before JOHN MORISSETTE, Member and Presiding Officer, on December 15, 2020.

Robert G. Dixon, CVR-M 857
Notary Public
BCT Reporting, LLC
55 Whiting Street, Suite 1A
Plainville, CT 06062
My Commission Expires: 6/30/2025

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