



CONNECTICUT RIVER WATERSHED COUNCIL

The River Connects Us

deKoven House; 27 Washington Street; Middletown, CT 06457

November 22, 2010

Chairman Daniel F. Caruso

Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 225D Public Hearing, Thomas Commission Executive Report

Dear Mr. Caruso,

The Connecticut River Watershed Council (CRWC) submits the following written comments regarding Docket No. 225D and the Thomas Commission's recommendations. Thank you for your consideration.

CRWC appreciates the work of the individuals who have prepared the Thomas Commission Report and the opportunity to comment on this important docket. We also wish to express our condolences to the families and victims of this tragedy.

As a nonprofit membership organization, CRWC has been advocating for the protection and sustainable use of the entire 11,000 square-mile, four-state Connecticut River watershed since 1952. CRWC has an active interest in the operations of the Kleen Energy Plant, which is located in the Maromas area of Middletown and sits right on the Connecticut River. The Maromas area is a nearly unfragmented forest adjacent to the Connecticut River, encompassing approximately 2,500 acres of borderline wilderness, and is uniquely situated in close proximity to the densely populated Middletown city center. Maromas is also an "anchor piece" for the undeveloped Bolton Range Corridor, the Connecticut River Wildlife Corridor, and the Cockaponset Triangle.

CRWC is concerned about the environmental impact to the Maromas area from the Kleen Energy plant. Kleen Energy is permitted to withdraw 7.39 million gallons per day from two collector wells, withdrawals which will fully take place when the plant goes on-line, likely in April (Kleen Energy may use up to 5.89 million gallons per day; the City of Middletown can use the remainder).

In addition, CRWC has received numerous complaints from individuals about the lack of environmental responsibility and supervision that has characterized the Kleen Energy project since its inception. Given the environmental importance of this area, we find this lack of environmental oversight troubling to say the least.

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One complaint came to us in 2008, when a resident sent the attached photos of major sediment erosion at the Kleen Energy construction site that contaminated the Connecticut River. During high rainfall in February 2008, fine tailings washed down the slope causing a large sediment plume flowing into the River. CRWC partnered with Rivers Alliance to bring a complaint to the Council on Environmental Quality. In May 2008 the Connecticut Department of Environmental Protection (DEP) issued a Notice of Violation of their general permit. If it had not been for the follow through of an engaged resident, this gross neglect would have gone unchecked. We have also received reports that Kleen Energy has cleared the majority of vegetation at the 70 acre site.

It is the CRWC's contention that such events would have been significantly mitigated, and handled in a more timely matter, if there had been more effective environmental supervision of the project. In short, the problem was structural: the Siting Council should have had an Environmental Inspector on the site on a daily basis and did not. We bring this up in the context of the Thomas Commission Report because that report offers an excellent model for addressing this situation as well. The solutions of both problems could, therefore, readily be addressed simultaneously.

We understand that the purpose of the Thomas Commission's work is to recommend regulatory changes to prevent future tragedies and to bring a culture of safety and oversight to the operation of the Kleen Energy plant. Although the loss of human life due to the February 7 explosion was something uniquely horrifying in the project's history, the negligence and lack of oversight that led to the explosion applies to other aspects of the project as well, particularly environmental oversight. As such, we would like to suggest that the Siting Council expand its definition of safety to include environmental safety and that along with the requirement for a Safety Inspector, there also be a requirement for an Environmental Inspector. Such Environmental Inspectors have worked well for the Council for Transmission projects and are just as necessary for generation projects, and should not be optional. As done in the past, and as suggested by the Thomas Commission for the Safety Inspector, such Inspectors should be paid for by the Applicant but chosen by the Siting Council, to whom they report. In line with the Commission's Safety Inspector recommendations, the Environmental Inspector's reports should also be available, and the individual should, via the Council, be able to receive direction from pertinent agencies. In this instance the pertinent agency is the Connecticut DEP. This can be accomplished in a number of ways. One way is to add the DEP to the agencies the Thomas Commission recommends for its coordinating council and have that agency receive a copy of the Environmental Inspector's Report as well.

Our point is that there should be an integrated structure for overseeing the construction work of Generation Dockets. That integrated structure should address not only safety but environmental matters, each with their own Inspector. Each Inspector should have its reports examined not only by the Council and its staff, but also by the agencies which have expertise in the area. This is the Thomas Commission model, and is an excellent model. In the case of the Environmental Inspector, there is an added benefit because the DEP also has its own set of regulations that apply to the project, the storm water control plan being one of them. Hence an applicant's failure in maintaining proper erosion and sedimentation control, as required by the Council's Development & Management Plan, is also a violation under DEP permits. Therefore, having the Environmental Inspector not only address the implementation of the Development & Management Plan but also serve as an observer to the DEP makes excellent sense.

A storm water management plan is worthless without a human being who regularly checks that promised measures are being implemented. Had this structure been in place at Kleen Energy, it would not have been necessary to rely on enraged residents to report violations, and remedial action could have been ordered sooner. In fact, an Inspector would have ensured that erosion and sediment control measures matching state guidelines were in place, thus likely avoiding the sediment plume and resulting Notice of

Violation. Moreover, this relatively inexpensive measure would go a far way to restoring some public confidence in the project.

So, to conclude: it is our contention that the Thomas Commission report recommendations offer an excellent model for how to structure oversight over the project, and that this model can and should be extended to environmental areas. In practice, this means two things: (1) the Council's regulations should make it a requirement that there be not only a Development & Management Plan for Generation Projects, but also an Environmental Inspector, who, much like the Safety Inspector, is paid for by the Applicant. This system, which the Council did not use for Kleen Energy but has used for transmission projects, has proved effective in the past. (2) the reports of such Inspectors should go not only to the Council and its staff, but to relevant state agencies as well. In the case of the Environmental Inspector, that means the DEP should also receive the Inspector's reports, so as to be alerted to water quality violations in a more direct and timely manner. That can be accomplished directly, or by folding the DEP and the Environmental Commission into the "coordinating council" proposed by the Thomas Commission.

We appreciate the Siting Council's consideration of our input, and we hope that, by implementing our recommendations, a new climate of safety, accountability and prevention of further devastation will be achieved.

Sincerely,

A handwritten signature in cursive script that reads "Jacqueline Talbot". The signature is written in black ink and is positioned below the word "Sincerely,".

Jacqueline Talbot
Lower River Steward