

In The Matter Of:
STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Petition No. 1312
November 14, 2017

BCT Reporting LLC
PO Box 1774
Bristol, CT 06010
860.302.1876

Original File 17-11-14 - Part 01.txt

Min-U-Script®

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL

3
4 Petition No. 1312

5 Candlewood Solar LLC petition for a
6 declaratory ruling that no Certificate of
7 Environmental Compatibility and Public Need is
8 required for the proposed construction,
9 maintenance and operation of a 20 megawatt AC
10 (26.5 megawatt DC) solar photovoltaic electric
11 generating facility located on a 163 acre parcel
12 at 197 Candlewood Mountain Road and associated
13 electrical interconnection to Eversource Energy's
14 Rocky River Substation on Kent Road in New
15 Milford, Connecticut

16
17
18 Continued Public Hearing held at the
19 Connecticut Siting Council, Ten Franklin Square,
20 New Britain, Connecticut on Tuesday, November 14,
21 2017, beginning at 11:01 a.m.

22
23
24 H e l d B e f o r e :

25 ROBERT STEIN, Chairman

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

2

3 Council Members:

4 SENATOR JAMES J. MURPHY, JR.,
5 Vice Chairman

6

7 LARRY P. LEVESQUE, ESQ.,
8 PURA Designee

9

10 EDWARD EDELSON

11 MICHAEL HARDER

12 DANIEL P. LYNCH, JR.

13 ROBERT SILVESTRI

14

15 Council Staff:

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

19

20 MICHAEL PERRONE
21 Siting Analyst

22

23

24

25

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

2

3 For Candlewood Solar LLC:

4 MICHAUD LAW GROUP LLC

5 515 Centerpoint Drive

6 Suite 502

7 Middletown, Connecticut 06457

8 BY: PAUL R. MICHAUD, ESQ.

9

10 For the Town of New Milford:

11 TOWN OF NEW MILFORD

12 Roger Sherman Town Hall

13 10 Main Street

14 New Milford, Connecticut 06776

15 BY: REBECCA L. RIGDON, ESQ.

16

17 For Rescue Candlewood Mountain:

18 LAW OFFICES OF KEITH R. AINSWORTH, ESQ., LLC

19 51 Elm Street

20 Suite 201

21 New Haven, Connecticut 06510-2049

22 BY: KEITH R. AINSWORTH, ESQ.

23

24

25

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

2

3 For the Connecticut Department of
4 Agriculture:

5 CONNECTICUT DEPARTMENT OF AGRICULTURE
6 450 Columbus Avenue
7 Hartford, Connecticut 06103

8 BY: STEPHEN ANDERSON

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE CHAIRMAN: Good morning, ladies and
2 gentlemen. I'd like to call to order a meeting of
3 the Connecticut Siting Council today, Tuesday,
4 November 14, 2017, at approximately 11 o'clock.
5 My name is Robin Stein, Chairman of the
6 Connecticut Siting Council.

7 This evidentiary session is a
8 continuation of a public hearing held on September
9 26, 2017 and October 31, 2017. It is held
10 pursuant to the provisions of Title 16 of the
11 Connecticut General Statutes and of the Uniform
12 Administrative Procedure Act upon a petition from
13 Candlewood Solar LLC for a declaratory ruling that
14 no Certificate of Environmental Compatibility and
15 Public Need is required for the proposed
16 construction, maintenance and operation of a 20
17 megawatt solar photovoltaic electric generating
18 facility located on a 163 acre parcel at 197
19 Candlewood Mountain Road and associated electrical
20 interconnection to Eversource Energy's Rocky River
21 Substation on Kent Road in New Milford,
22 Connecticut. The petition was received by the
23 Council on June 28, 2017.

24 A verbatim transcript will be made of
25 this hearing and deposited at the New Milford,

1 Brookfield and New Fairfield Town Clerk's Offices
2 for the convenience of the public.

3 We will proceed in accordance with the
4 prepared agenda, copies of which are available
5 here.

6 And I'd just like to mention we have a
7 new member of the Council, Mr. Edelson, who's
8 sitting to my far left.

9 So we'll now proceed with the
10 appearance of Rescue Candlewood Mountain.

11 And could we begin by swearing in the
12 witnesses? Attorney Ainsworth, would you have
13 your witnesses stand so Attorney Bachman --

14 R U S S E L L P O S T H A U E R,

15 C A R L D U N H A M,

16 L I S A O S T R O V E,

17 T I M O T H Y A B B O T T,

18 called as witnesses, being first duly sworn
19 by Ms. Bachman, were examined and testified
20 on their oaths as follows:

21 MS. BACHMAN: Thank you.

22 THE CHAIRMAN: Attorney Ainsworth, will
23 you begin by verifying the exhibits that you
24 filed?

25 MR. AINSWORTH: Okay. The exhibits

1 that we identified are the prefiled testimony.

2 Now, I notice that there's the comments
3 from members of RCM. We haven't brought all those
4 members for cross-examination. We would prefer
5 that they be admitted as limited appearance
6 materials since, obviously, they will not all be
7 present. Although, I notice that Number 7, the
8 comments from Lisa Ostrove, she is currently
9 present.

10 So there's the prefile testimony,
11 Administrative Number V-B-18. We have the
12 prefiled testimony of Star Childs, Timothy Abbott,
13 Russ Posthauer, Lisa Ostrove, and we have
14 supplemental prefile testimony by Mr. Posthauer.
15 Those are items Number 18A through E. Excuse me,
16 and we also have Carl Dunham prefiled.

17 DIRECT EXAMINATION

18 MR. AINSWORTH: I'm going to ask each
19 witness to verify their prefile testimony.

20 Mr. Posthauer, at the request of my
21 office, did you prepare the prefiled testimony
22 that's noted in the hearing notice as Exhibit 18c,
23 along with your supplemental prefile testimony?

24 THE WITNESS (Posthauer): Yes.

25 MR. AINSWORTH: And do you have any

1 additions, deletions or corrections to make to
2 that prefile testimony?

3 THE WITNESS (Posthauer): No.

4 MR. AINSWORTH: And do you adopt that
5 testimony as your hearing testimony before this
6 Council?

7 THE WITNESS (Posthauer): Yes, I do.

8 MR. AINSWORTH: Thank you.

9 Mr. Dunham, did you prepare at the
10 request of my office your remarks that have been
11 filed as 18e?

12 THE WITNESS (Dunham): Yes, I did.

13 MR. AINSWORTH: And do you have any
14 additions, deletions or corrections to make on
15 that testimony?

16 THE WITNESS (Dunham): No, but I also
17 filed original comments that were put in the
18 record as well.

19 MR. AINSWORTH: Okay. Those are listed
20 as Number B-2, dated July 19th?

21 THE WITNESS (Dunham): Yes.

22 MR. AINSWORTH: Do you have any
23 additions, deletions or corrections to make to
24 that testimony?

25 THE WITNESS (Dunham): No, sir.

1 MR. AINSWORTH: And do you adopt it as
2 your testimony before this Council today?

3 THE WITNESS (Dunham): I do.

4 MR. AINSWORTH: Thank you, sir.

5 Ms. Ostrove.

6 THE WITNESS (Ostrove): Yes.

7 MR. AINSWORTH: Did you prepare at the
8 request of my office comments noted as hearing
9 program Item 18d?

10 THE WITNESS (Ostrove): Yes, I did.

11 MR. AINSWORTH: And do you have any
12 additions, deletions or corrections to that
13 testimony?

14 THE WITNESS (Ostrove): No, I do not.

15 MR. AINSWORTH: You'll have to keep
16 your voice up as well.

17 THE WITNESS (Ostrove): No, I do not.

18 MR. AINSWORTH: And do you adopt that
19 commentary as your testimony before this Council?

20 THE WITNESS (Ostrove): Yes, I do.

21 MR. AINSWORTH: Thank you.

22 And Mr. Abbott, did you prepare at the
23 request of my office comments noted in the hearing
24 program as 18b?

25 THE WITNESS (Abbott): Yes, I did.

1 MR. AINSWORTH: And do you have any
2 additions, deletions or corrections to make to
3 those comments?

4 THE WITNESS (Abbott): One, similar to
5 what Mr. Dunham did, I also submitted prefile
6 testimony. I believe you'll find it as Exhibit
7 B-8.

8 MR. AINSWORTH: Correct. I see that,
9 dated July 26th.

10 THE WITNESS (Abbott): And I do have
11 one addition, but I'm not sure whether people
12 would like to hear it. The addition is that I
13 prepared a very simple map showing what the impact
14 of the current clearing would be on the existing
15 core forest resource. I have 15 copies. I'm not
16 sure if people would like to see it.

17 MR. AINSWORTH: Do you adopt that
18 testimony as your testimony here today?

19 THE WITNESS (Abbott): I do indeed.

20 MR. MICHAUD: Will the petitioner have
21 an opportunity to review that evidence?

22 MS. BACHMAN: Certainly. The Council
23 would also like to review the evidence.

24 I believe you say you have 15 copies?
25 Could you provide one to Attorney Michaud and

1 Attorney Rigdon?

2 MR. AINSWORTH: If I may approach?

3 THE CHAIRMAN: Just to let the town
4 know, assuming that you've arrived, that it took
5 us out of order because you weren't here.

6 MS. RIGDON: I apologize. I followed a
7 pool through the two lanes in Waterbury, so it
8 took me a little bit extra time.

9 THE CHAIRMAN: The Siting Council has a
10 lot of power, but we have no power over traffic.

11 MR. AINSWORTH: Mr. Childs.

12 STARLING CHILDS: Yes, sir.

13 MR. AINSWORTH: Did you prepare
14 comments at the request of my office noted in the
15 hearing program as Number B-18a?

16 MS. BACHMAN: Attorney Ainsworth, I'm
17 sorry. I think we need to swear in Mr. Childs.

18 MR. CHILDS: You do, yes. I'm sorry
19 I'm late.

20 S T A R L I N G C H I L D S ,

21 called as a witness, being first duly sworn
22 by Ms. Bachman, was examined and testified on
23 his oath as follows:

24 MS. BACHMAN: Thank you.

25 THE WITNESS (Childs): Sorry I missed

1 the swearing in.

2 Yes, that is the testimony that I
3 prepared and submitted.

4 MR. AINSWORTH: And do you have any
5 additions, deletions or corrections to make to
6 that testimony?

7 THE WITNESS (Childs): I do not at this
8 time.

9 MR. AINSWORTH: And do you adopt that
10 testimony as your hearing testimony before this
11 Council?

12 THE WITNESS (Childs): I do.

13 MR. AINSWORTH: Thank you, sir.

14 Mr. Chairman, we can make the panel
15 available for cross-examination.

16 THE CHAIRMAN: First we have some
17 clarification from Attorney Bachman.

18 MS. BACHMAN: Thank you, Mr. Chairman.

19 Just so we're all on the same page,
20 Attorney Ainsworth, under Roman Numeral V-B we've
21 admitted Number 1, Rescue Candlewood Mountain's
22 request for party and CEPA intervenor status;
23 Number 2 are the comments from Mr. Dunham; Number
24 3 are comments from Ms. Ostrove; Number 7 are also
25 comments from Ms. Ostrove; Number 8, comments from

1 Mr. Abbott; Number 18a through f, the prefiled
2 testimony; Number 24 is comments from the Ostrove
3 family.

4 THE WITNESS (Ostrove): Sorry.

5 MS. BACHMAN: I just want to make sure.
6 Number 31 is the supplemental prefiled testimony
7 of Mr. Posthauer; Number 36, Rescue Candlewood
8 Mountain's responses to the Council's
9 interrogatories; and the new exhibit, which for
10 now we'll just call the Abbott map --

11 MR. AINSWORTH: We'll number that
12 Number 42, I guess.

13 MS. BACHMAN: For now.

14 MR. AINSWORTH: Thanks. That is all we
15 have. Thank you.

16 MS. BACHMAN: Okay. Thank you.

17 THE CHAIRMAN: So is there any
18 objection to the admission of these exhibits?

19 MR. MICHAUD: The petitioner has no
20 objection.

21 THE CHAIRMAN: Okay. Hearing and
22 seeing none, these exhibits are admitted.

23 (Rescue Candlewood Mountain's Exhibits
24 V-B-1, 2, 3, 7, 8, 18a-f, 24, 31, 36 and 42:
25 Received in evidence - described in index.)

1 THE CHAIRMAN: We will now begin with
2 cross-examination by staff, Mr. Perrone.

3 MR. PERRONE: Thank you, Mr. Chairman.

4 CROSS-EXAMINATION

5 MR. PERRONE: I'd like to begin with a
6 few general questions for RCM. Does RCM have any
7 comments on the proposed revised configuration?

8 MR. AINSWORTH: Absolutely. I believe
9 Mr. Posthauer's additional testimony would address
10 that, as well, I believe, Lisa Ostrove would have
11 additional comments.

12 THE WITNESS (Ostrove): Tim, you also,
13 and Star I think would have some comments.

14 THE WITNESS (Abbott): I would think
15 so.

16 MR. AINSWORTH: So it appears that
17 almost all of the panel members would have
18 comments. If you'd care to ask specific
19 questions, I think they'd be prepared to answer
20 them.

21 MR. PERRONE: I'll start with another
22 general question. As far as the scale of the
23 project, because I understand the footprint has
24 reduced, would a solar project of any scale at the
25 proposed site be acceptable to RCM?

1 THE WITNESS (Dunham): No.

2 MR. PERRONE: I'll move on to some
3 stormwater related questions for Mr. Posthauer.
4 On the prefile testimony, dated October 20th,
5 point number 3 mentions about gravel roads being
6 an impervious area. Are gravel roads generally
7 impervious, or do they become impervious after a
8 certain depth?

9 THE WITNESS (Posthauer): They are
10 generally slightly less impervious than pavement,
11 but very similar. So once a surface is a surface,
12 it's the same as asphalt. Water does get through
13 asphalt but at a very slow rate. It gets through
14 the gravel slightly faster, in my opinion.

15 MR. PERRONE: And in point number 4,
16 there's discussion about rainwater not necessarily
17 getting under the panels and using a table as an
18 analogy. Would you expect some stormwater to get
19 under the panels, or would most of it collect near
20 the lower edge of the panels?

21 THE WITNESS (Posthauer): In my
22 opinion, I would expect it to move off the panels
23 and expect it to come off the edge. Obviously,
24 depending on how tightly packed they are, I
25 understand the new plan is tighter, some water,

1 you know, rain does drive and come under. I would
2 expect the centers to be fairly dry and fairly
3 sparse vegetation.

4 THE CHAIRMAN: We have a follow-up
5 question.

6 Mr. Silvestri.

7 MR. SILVESTRI: Thank you,
8 Mr. Chairman.

9 My understanding is that the solar
10 arrays have holes or gaps that when they're placed
11 in the racking system so that you have some type
12 of drainage rather than just drainage at the lip
13 of the rack. How would that affect what you're
14 talking about in your October 20th submittal,
15 especially with the time of concentration
16 concerns?

17 THE WITNESS (Posthauer): I don't
18 believe it would affect that because I was
19 assuming there was some gaps between the panels.
20 And whether the gap is inches, or even a couple of
21 feet, I still feel the rain coming down would have
22 to drive to get under it -- the size of the
23 panels -- would not get in the center. As far as
24 time of concentration, time of concentration is
25 something, how long does it take the water to get

1 from point A to point B, the slower the time of
2 concentration, meaning -- let me clarify that.

3 The less time, the higher the runoff.
4 So five minutes would have more runoff than 20
5 minutes. I would expect the water coming off the
6 panels to create rivulet type flow, not like a
7 stream, but rivulet, and across to follow the
8 contours downhill and go under the stream, under
9 the panels from that point of view. So the time
10 of concentrations I think were assumed would be
11 different if the panels were -- the rain coming
12 off the panels was taken into account.

13 MR. SILVESTRI: Thank you.

14 Thank you, Mr. Chairman.

15 MR. PERRONE: And I understand there
16 was an interrogatory response related to
17 stormwater impacts for a subdivision versus the
18 solar facility, and it was also mentioned that
19 that might be better addressed under
20 cross-examination.

21 Mr. Posthauer, generally how would the
22 proposed project differ in terms of stormwater
23 issues versus the subdivision that was not
24 approved?

25 THE WITNESS (Posthauer): I did not

1 study the subdivision. It was not approved. I
2 believe it was a housing complex. So I don't know
3 the intensity of the structures or the driveways.
4 I would have to make assumptions.

5 MR. PERRONE: The next one is a
6 wildlife related question. Does RCM believe that
7 a seasonal restriction on tree clearing to allow
8 tree cutting between November 1st and March 30th,
9 would that be protective of the Northern
10 long-eared bat? I can restate that.

11 THE WITNESS (Abbott): Why don't you go
12 first, Star.

13 THE WITNESS (Childs): As I'm
14 understanding, you're suggesting a seasonal
15 clearing of the trees --

16 MR. PERRONE: Right.

17 THE WITNESS (Childs): -- would be
18 protective of the long-eared bat?

19 MR. PERRONE: Right, that the
20 petitioner is proposing to limit tree clearing to
21 November 1st through March 30th. And my question
22 is, would that be protective of the Northern
23 long-eared bat, in your opinion?

24 THE WITNESS (Childs): In a normal
25 forestry operation that would be. That's exactly

1 what is advised as best management practice. But
2 in the total clearing of trees in a core forest
3 area, you're completely removing the habitat for
4 the long-eared bat permanently, and so that's not
5 a normal best management practice. That's a
6 serious environmental affront to the population of
7 the long-eared bat, yeah, which is in serious
8 decline.

9 MR. PERRONE: The petitioner also notes
10 that such a tree clearing schedule would occur
11 prior to the initiation of nesting for most
12 species of breeding birds. Would such seasonal
13 restriction on tree cutting, would that also be
14 protective -- I'm sorry, not also -- but would
15 that be protective of breeding birds?

16 THE WITNESS (Abbott): It really
17 depends which birds you are speaking about, and
18 I'm not aware of a comprehensive survey of the
19 birds that currently nest in that forest. Great
20 horned owls will be nesting in January;
21 neotropical migrant birds will not.

22 THE WITNESS (Childs): And if I could
23 add to that?

24 MR. PERRONE: Sure.

25 THE WITNESS (Childs): Starling Childs.

1 There again, I mean, the interior forest component
2 of the site, I mean, that's the nesting potential.
3 And once that's cleared, then it's very similar to
4 the bats, you've lost the breeding area for those
5 specific species when they return to breed. I
6 mean, it's gone. And you've created edge habitat,
7 which affects further into the surrounding forest,
8 so that's important too. The tree clearing won't
9 bother them at that time because they won't be
10 nesting. They're gone. But Tim is right, there
11 are winter birds using the area.

12 MR. PERRONE: Thank you. That's all I
13 have.

14 THE CHAIRMAN: Okay. We'll now
15 continue with questions from the Council.

16 Senator Murphy.

17 SENATOR MURPHY: Let me just ask a
18 general question in your particular area of
19 expertise. In the initial question from Mr.
20 Perrone, the answer was answered by one member of
21 the panel "No."

22 Going down the line, I guess, we'll
23 start here on the left, is a solar field of
24 approximately 70,000 or 75,000 panels a doable
25 project on this property in your judgment?

1 THE WITNESS (Posthauer): I believe a
2 small project might be possible, but I don't -- I
3 have not walked the property. There's a lot of
4 ledge out there. I'd be concerned with permanent
5 installation and water running off and eroding the
6 soil permanently and being very difficult to
7 control. That's what I wrote in my comments. I
8 really need to see a lot more detail to see if it
9 is possible. I'm not convinced it is possible at
10 this point.

11 SENATOR MURPHY: You're not convinced
12 what?

13 THE WITNESS (Posthauer): That it is
14 possible at this point with the information I
15 have.

16 SENATOR MURPHY: To do a solar project
17 on this property?

18 THE WITNESS (Posthauer): Excuse me?

19 SENATOR MURPHY: To do a solar project
20 on this property?

21 THE WITNESS (Posthauer): Of this
22 magnitude, yes.

23 SENATOR MURPHY: Okay. Mr. Abbott?

24 THE WITNESS (Abbott): Well, given that
25 I'm not a developer of solar arrays, I can only

1 speak to what I know. And my testimony relates to
2 the wildlife habitats that are in the forest and
3 adjacent to it in the wetlands. And so for that
4 portion of the property, I cannot conceive of the
5 clearing that I'm told is necessary for solar
6 panels there to be compatible at all. I'm not
7 giving testimony to the southern portion which is
8 currently field. My expertise is on the wildlife
9 habitat in the north and east.

10 SENATOR MURPHY: And Mr. Childs, your
11 answer is pretty similar?

12 THE WITNESS (Childs): Yes, very
13 similar. I think that some further study by the
14 applicants revealed that surrounding very shallow
15 to bedrock nature of the area is not immediately
16 proposed for the solar array. I'm not saying you
17 couldn't put that number of panels. It's a good
18 site in terms of the exposure. But my concern,
19 and in my testimony, was that you're taking
20 probably the most permeable part of the site and
21 making it as impermeable as possible.

22 And the southern portion, as Tim says,
23 Mr. Abbott says, is already open field, so it
24 would be very possible to put a solar array there.
25 But my concern was both the habitat and the

1 permeability of the site which would be impacted
2 by the development. And I don't think it's a wise
3 location given the topography, geology.

4 SENATOR MURPHY: Thank you. And I
5 don't want to leave you out.

6 THE WITNESS (Ostrove): Thank you.
7 There's another point here that this is only phase
8 1 of what they have described as a phase 2
9 project. If they are allowed to do this project,
10 they will certainly look to expand, and the
11 habitat and the culture up there can't survive it.

12 SENATOR MURPHY: What do you mean by
13 "expand"?

14 THE WITNESS (Ostrove): This is only
15 phase 1. They're going to expand the project to
16 phase 2. They spoke about it in the past.

17 THE CHAIRMAN: Excuse me?

18 THE WITNESS (Ostrove): Yes, please.

19 THE CHAIRMAN: I'm sorry. I'm not
20 aware of a phase 2. So if you could provide some
21 documentation or something that they have stated
22 that they have a -- because you mentioned it, so
23 I'd really like to know.

24 THE WITNESS (Ostrove): Yes. I believe
25 the town is also aware of it and can address that.

1 Rebecca Rigdon is here, and she can address that,
2 that in 2016 when Ameresco, Candlewood Solar came
3 to propose a solar power plant on the mountain,
4 that they spoke about a two-phase project, and
5 that they are definitely looking to expand. And
6 that was also why we suggested that they look at
7 Century Brass to expand because it has abutting
8 properties and it's a cleared site.

9 THE CHAIRMAN: Okay. We'll also get a
10 chance to ask the applicant whether there's a
11 phase 2 since it's the first time --

12 THE WITNESS (Ostrove): Sure. It's in
13 the record. I just don't have it in front of me,
14 sir.

15 SENATOR MURPHY: I don't recall it.

16 THE CHAIRMAN: Okay.

17 SENATOR MURPHY: And in your prehearing
18 disclosure, Mr. Ainsworth, Milan Bull, Sr. is not
19 going to be here today or --

20 MR. AINSWORTH: No, he cannot make it.
21 So those materials would have to be accepted only
22 as limited appearance materials.

23 SENATOR MURPHY: Okay. I have nothing
24 further, Mr. Chairman.

25 THE CHAIRMAN: Mr. Harder?

1 MR. HARDER: Just one question. I'm
2 not sure if any of you can answer this. But we
3 received a memo, or a letter, actually, from the
4 Watsons with a map. And there's other maps, other
5 drawings that have been submitted by the
6 applicant. And these show, I guess, on the
7 Watson's property, which is 64 Candlewood Mountain
8 Road, there's a couple of ponds. And I don't
9 know, one appears to straddle the property line.
10 Do you know if -- do any of you know if those --
11 could you describe those ponds? Are any of them
12 used for any purpose other than just are they just
13 there in kind of a passive way? Are they used by
14 the property owners for any purpose?

15 THE WITNESS (Dunham): I can speak to
16 that. Carl Dunham. I sold the property to Albert
17 Watson. What he has submitted to you in his
18 letter or testimony is an accurate depiction of
19 his property. There are two ponds on it.
20 Actually we dug them both historically. The ponds
21 are very beautiful. He has a building in the
22 back, which is a studio, which looks out over the
23 ponds. He is very attached to his ponds. They
24 are very important to him. We landscaped them.
25 The lower pond has beautiful boulders all around

1 it. And his property is really beautiful. I sold
2 him the property in the eighties, and he built his
3 studio in the back overlooking these ponds.

4 So the proposal, as it's submitted by
5 the petitioner, is right up against the edge of
6 his property. It abuts right on it. His property
7 is definitely below the petitioner's parcel, so
8 any drainage will go directly onto his property,
9 much like it will happen to all of the owners,
10 Ms. Ostrove, myself. So those were built a long
11 time ago. They are beautiful ponds. And they are
12 important.

13 MR. HARDER: How would you describe the
14 stream system that flows through those ponds?

15 THE WITNESS (Dunham): What happens is
16 on my property to the north -- or to the south of
17 this there's a spring, and the spring releases
18 water along the edge of the field. Years ago a
19 ditch was put in, which I put in, which goes along
20 and creates the water for all the ponds. Even
21 where the petitioner is proposing going across for
22 access, the water goes right through there.

23 There's a culvert there, and it leads into our
24 pond. Then from that it leads into the ponds on
25 the Albert property, the Watson property, and

1 further goes down to the pond that is in Ms.
2 Ostrove's property. So the water comes from the
3 spring and fills those. And actually the ponds
4 stay full all the time. So they are very
5 effective. They haven't silted in. And all of
6 them are beautiful.

7 MR. HARDER: Is there any stream flow
8 or discernable flow on the surface from the side
9 of the mountain?

10 THE WITNESS (Dunham): Yes, I'm sure
11 there is, yes. But historically there was a
12 little change further to the east of the stream,
13 just to the south of where the access is, but
14 basically now the water basically is contained in
15 this channel that is on the easterly side of the
16 open field along Candlewood Mountain Road.

17 MR. HARDER: Thank you.

18 THE WITNESS (Dunham): But it's all
19 down grade from the site that they're talking
20 about developing.

21 MR. HARDER: Thank you. No further
22 questions.

23 THE CHAIRMAN: Mr. Levesque?

24 MR. LEVESQUE: I don't have any
25 questions.

1 THE CHAIRMAN: Mr. Silvestri?

2 MR. SILVESTRI: Thank you,
3 Mr. Chairman.

4 I'd just like to follow up to
5 Mr. Perrone's and Senator Murphy's questions about
6 any solar project. Mr. Dunham, you basically said
7 no, but you really didn't say why.

8 THE WITNESS (Dunham): I'd be glad to
9 elaborate, if I could?

10 MR. SILVESTRI: Sure.

11 THE WITNESS (Dunham): I was asked the
12 question. Okay. Number one, they have shifted to
13 400 watt panels. And I was at a meeting of the
14 companion case in Simsbury, which you're hearing
15 currently, and the question was asked of those
16 experts whether or not they could switch from the
17 size of the panel that they had proposed to a 400
18 watt panel. And the answer was that they're not
19 reliable, that if they felt that they were
20 workable, they would have started with that and
21 then they would have had a larger energy
22 production.

23 So I'm not clear that those panels are
24 workable. I don't know -- I've yet to find out
25 the model, the manufacturer, about them. I've

1 looked into it, and I'm not getting good
2 information about that. So I feel that when they
3 switched from the panels that had been used to
4 those panels, there are questions that arise with
5 respect to the use of those panels.

6 There are a number of other issues that
7 I have, and that is with respect to the fact that
8 the panels were reduced from 15 degrees to, I
9 believe, 12. And I would suspect that that's
10 going to do a number of things. That's going to
11 reduce the output because they're flatter, and
12 they're going to be covered with snow longer. I
13 would suggest that it's going to affect the
14 permeability.

15 And I have an issue when everybody says
16 that they're permeable. I cannot understand that,
17 and I have a problem with that. So when you talk
18 about doing your stormwater analysis, I think it
19 should be recognized that they are, in fact --
20 there's a level of permeability that has been
21 diminished from the traditional way that it is
22 now.

23 Moreover, I have an issue with the fact
24 that this application keeps changing. And when it
25 was before other elements of public hearing where

1 people could comment, these issues weren't put on.
2 So we have an application that is continually
3 changing, which I question how that works. In
4 fact, I begin to wonder whether or not it was a
5 complete application to begin with, seeing that
6 it's continually changing.

7 So I have real issues with the project,
8 the size of it. I think that there are real
9 issues because of the ledge. So I don't think
10 that a 20 megawatt proposal on this site is
11 doable. If they came in with a different proposal
12 that didn't have to be so large, perhaps so.
13 That's a different issue. But their whole filing
14 to you is based on a minimum megawatt of 20
15 megawatts.

16 So given that that's a consideration, I
17 have a problem with it, and I don't think that it
18 works on the site. You've heard testimony already
19 that people may not be so concerned if it's in the
20 open fields, but when you're cutting down all this
21 core forest and changing the habitat of the
22 existing terrain and what's there, I can't support
23 it.

24 So even the modified effort that's been
25 made, now that they found the salamanders, or did

1 investigations to that and found an additional
2 vernal pool, which they didn't acknowledge to
3 begin with, now they're jammed into a smaller
4 area. And I think if they had done their
5 homework, all that information should have been
6 presented prior to filing your application.

7 I don't think that this has been done
8 properly. I think they've hurried along because
9 of the change in the statute. I think the statute
10 should apply. And I think what they've done is
11 hurried to get something in so that it wouldn't be
12 considered on a full assessment. So that's kind
13 of a little bit of my background when I say I
14 don't think it's appropriate on the site.

15 MR. SILVESTRI: Very good. Thank you,
16 Mr. Dunham.

17 Ms. Ostrove, I just want to have a
18 follow-up with you as well on the same topic. You
19 mentioned expansion. I'm not aware of it, so I
20 just want to keep it to the current project that
21 we have in front of us.

22 THE WITNESS (Ostrove): Okay. But we
23 have it in writing from the town minutes about
24 phase 2.

25 MR. SILVESTRI: Okay. But again, I

1 want to keep my question to what's being proposed
2 right now.

3 THE WITNESS (Ostrove): Right.

4 MR. SILVESTRI: And again, why would
5 any other type of solar project, this project or
6 any other project on that site, be unacceptable to
7 you as it stands with what we see right now?

8 THE WITNESS (Ostrove): If you're
9 referring to just a solar project up there, I
10 would have to say that we have concerns about
11 putting a solar utility power plant on a
12 recreational mountain where they're destroying,
13 let's say, 12,000 trees instead of the original
14 plan that was 15,000 trees. There's habitat that
15 goes along with that. There's property values
16 that will be declining considerably because
17 they're not respecting the proper buffers from the
18 different property lines that are back there.
19 They're supposed to be 60 to 100 feet if they're
20 an industrial power plant.

21 There's also heavy machinery that's
22 going to be used up there. I can't imagine what's
23 going to happen to a vernal pool when somebody
24 didn't understand the instructions and drove
25 through the vernal pool to get to the trees. I

1 mean, that's just an accident waiting to happen.

2 And who's watching these people? Who
3 is going to be in charge of making sure that they
4 stay out of the vernal pools, that they do five
5 acres at a time of trees, that they respect the
6 habitats that are going on up there? There seems
7 to be an argument about how many feet they're
8 supposed to be away from a vernal pool. There are
9 people that say that 750 feet that they should be
10 away from a vernal pool. I think Tim Abbott would
11 agree with me. They just wrote an article in the
12 New Milford Spectrum about vernal pools and how to
13 protect endangered habitat and what's proper.

14 I think that there's one country road
15 in and out of that place, and I think residents
16 are concerned. Yes, it was a six-month
17 construction period, and now they're saying it may
18 be a nine-month construction period. But once
19 they get approval, who's going to hold them to the
20 construction period if there's bad weather, or
21 they can't get up there, or there's heavy snow? I
22 mean, I can't be in charge of that. I don't have
23 the qualifications to be anything near that, but I
24 can voice my concerns to you.

25 MR. SILVESTRI: And we appreciate that.

1 Thank you.

2 THE WITNESS (Ostrove): Thank you.

3 MR. SILVESTRI: Thank you,
4 Mr. Chairman.

5 THE CHAIRMAN: Mr. Edelson?

6 MR. EDELSON: No.

7 THE CHAIRMAN: Mr. Dunham, you said you
8 used to own this property at one point?

9 THE WITNESS (Dunham): Yes, I did.

10 THE CHAIRMAN: And when did you say you
11 sold it?

12 THE WITNESS (Dunham): I sold it in
13 2005. And when I sold it, I sold it for a
14 particular use. In other words, my only reason
15 that I contracted to sell it was for an active
16 adult community, which they had presented to me
17 exactly what it was. So once I got that
18 understood, then I entered into a contract with
19 them to allow them to proceed with the permitting
20 for it. That was done.

21 What we did, instead of getting the
22 permitting, what they did is they got the zone
23 changed, which was critical to getting it. Once
24 the zone change was given, then I closed on the
25 property with them. In the zone, the zone does a

1 number of things. The zone is only -- sets it up
2 that that property can only be used for one
3 purpose, which is exactly what that is. It sets a
4 definition as to what the project should look
5 like.

6 That project did a number of things
7 which I felt was very worthwhile for the area. We
8 protected 100 acres around the core. It was a
9 Smart Growth Project. It also did a number of
10 things. It required the construction and
11 reconstruction of a road from Route 7 such that
12 none of the traffic came out on Candlewood
13 Mountain Road. I required all these things. And
14 that they were going to bring sewer up, or do a
15 package treatment plant on the property.

16 So there was a very specific project
17 that I sold -- I sold the property for. And very
18 honestly, I've owned the property on that mountain
19 since the seventies. And every time I sell a
20 piece of property, I always protect it from the
21 standpoint of what's going on. When I sell a
22 residential parcel, I have the right to approve
23 what it is, and the right to repurchase it. So I
24 did everything I could to create a parcel that
25 made sense there. That project created much more

1 tax revenue for the town, and it was very well
2 done.

3 The problem was, when they came back
4 for their final site plan approval, which was
5 required under the zone, there were all sorts of
6 questions that came up. And people got against
7 it. People from out of town got against it. They
8 changed the state plan of conservation and
9 development to eliminate the possibility of
10 bringing sewer up. They created a myriad of
11 problems for the developer, which I felt very sad
12 about, but that's what happened.

13 And so when they filed the final site
14 plan approval, you'll see denials in the record of
15 both from the wetlands and from zoning. And what
16 it was, was a combination of lack of all the
17 information, kind of like what you're getting
18 here. And rather than accept the applications
19 with conditions, they just used those issues for
20 rejection. And that's what happened, and that's
21 the history of it. People say, Well, why would
22 you sell the property? I sold it for a particular
23 purpose, which I felt was very valuable to the
24 town, and it certainly didn't include doing a
25 solar array.

1 THE CHAIRMAN: Okay. I hear you, and I
2 want to thank, I guess, whoever it was who
3 provided the information from the history, the
4 chronology of this project. I was curious as to
5 at what point you were still involved in the
6 project.

7 Also, I must admit, and I'll ask the
8 town this because I'm a little bit, I guess,
9 confused as to what people want there. I know
10 you've told us what you don't want. But, as I
11 read it -- and I haven't seen the site plan -- but
12 since it was denied ultimately, presumably, under
13 that same zoning category, the same type of use
14 could be developed there. And it's hard to
15 imagine 500 some odd units with roads and parking
16 facilities, et cetera, et cetera, and --

17 THE WITNESS (Dunham): May I comment?

18 THE CHAIRMAN: -- sewage treatment.

19 No. I'm talking now.

20 THE WITNESS (Dunham): I'm sorry.

21 THE CHAIRMAN: I'm just trying to --
22 and you can -- I guess, actually I'd like to hear
23 other people answer that because you've already
24 answered it. You thought it was a great project.
25 Obviously not everybody did. And I'm not sure I'm

1 seeing everybody nodding affirmative. So I'm just
2 sort of curious as to what people want, number
3 one; and number two, how you believe -- and this
4 is really a question for the town, but since we've
5 reversed the order, how do you believe that the
6 current zoning really provides the protections
7 that others in this group have stated that they're
8 looking for?

9 THE WITNESS (Dunham): May I just --

10 THE CHAIRMAN: No. I'd really like
11 somebody else. You've given us --

12 THE WITNESS (Dunham): I can give you
13 more information, if you'd like.

14 THE CHAIRMAN: You've given us plenty
15 of information on why you thought it was a good
16 project.

17 THE WITNESS (Dunham): No. There's
18 follow-up information also, Chairman.

19 THE CHAIRMAN: Well, sir, let other
20 people speak. If nobody wants to speak -- but I
21 think some others have a right to.

22 THE WITNESS (Ostrove): Carl and I have
23 been on opposite sides, and we've been on the same
24 side. I like being on the same side as him. But
25 the Dunham Farms project, as the town will tell

1 you, if you ask them the question, please --

2 THE CHAIRMAN: Excuse me. What?

3 THE WITNESS (Ostrove): If you can ask
4 the question to the town as well to wetlands, I
5 believe that they will answer as well that the
6 project was declined because it had a poor
7 stormwater management plan, a poor sewage plan,
8 and because it had too steep a road that they were
9 proposing to build. And I think that that's why
10 it was denied. And the town obviously can answer
11 better than I can. A bad plan is a bad plan. I
12 keep saying that.

13 There is a movement to make Candlewood
14 Mountain open land. Wells Fargo is the current
15 owner. Commercial Services Realty is proposing to
16 buy it from them for \$2 million and lease it to
17 Ameresco for \$450,000 a year. That's \$9 million
18 over the 20-year lease, and more if the lease gets
19 extended, which it can for at least one or two
20 five-year periods, I believe. The realtor has a
21 huge stake in industrializing Candlewood Mountain,
22 and they have also made plans to call it the New
23 Milford Energy Park, which there is another
24 parcel, I believe it was the Sempra parcel, that
25 someone had tried to build an energy plant there

1 as well and was defeated.

2 So there is a huge movement in New
3 Milford. And I don't just speak for myself that
4 people want to make it open land. I believe the
5 only people that can change the zoning is the
6 owner can apply for a zoning change. I'm not sure
7 how much power the town has to make it open land
8 without purchasing it from Wells Fargo, but
9 certainly that is being talked about. Because I
10 probably have about one or two more fights left in
11 me before I get too old to do this. And we're
12 giving this all we have because we just think it's
13 the wrong site. We're not against solar. I have
14 kids. My kids are 19 and 15 -- oops, 16.

15 THE CHAIRMAN: You're going way beyond
16 what my question was, so much so that I don't even
17 remember what it was.

18 THE WITNESS (Ostrove): I'm sorry.

19 THE CHAIRMAN: But really -- so I don't
20 have anymore questions, I think.

21 So petitioner, do you have any
22 questions?

23 MR. MICHAUD: We have no questions.

24 THE CHAIRMAN: Does the town have any
25 questions?

1 MS. RIGDON: No questions.

2 THE CHAIRMAN: Department of
3 Agriculture?

4 MR. ANDERSON: No. We have no
5 questions.

6 THE CHAIRMAN: Okay. Then you're
7 dismissed for this part of it. If you could move
8 so the town can, now that they're here.

9 (Witnesses excused.)

10 THE CHAIRMAN: Have your panel sworn
11 in, please.

12 MS. RIGDON: Would you like me to
13 introduce them, Chairman?

14 THE CHAIRMAN: Sure.

15 MS. RIGDON: Sure. To my left is
16 William Taylor. He is the chairman of the New
17 Milford Zoning Commission. Then we have Laura
18 Regan, who is the land use supervisor/zoning
19 enforcement officer for the Town of New Milford.
20 Then we have James Ferlow, who is the inland
21 wetlands enforcement officer and on the New
22 Milford Inland Wetlands and Watercourses
23 Commission. And then we have Steve Kleppin, who
24 is the chairman of the New Milford Farmland and
25 Forest Preservation Committee.

1 And I would like to present these
2 witnesses to be sworn in.

3 THE CHAIRMAN: Please rise.

4 W I L L I A M T A Y L O R ,

5 L A U R A R E G A N ,

6 J A M E S F E R L O W ,

7 S T E V E K L E P P I N ,

8 called as witnesses, being first duly sworn
9 by Ms. Bachman, were examined and testified
10 on their oaths as follows:

11 MS. BACHMAN: Thank you.

12 MS. RIGDON: So we are missing one of
13 our witnesses. So in terms of the program, I'm
14 going to jump around a little bit with regard to
15 exhibits. At this time, Chairman, we would have
16 six exhibits that we would be marking for
17 identification purposes, and they are consistent
18 with III-B of the program. Because we're down a
19 witness, and I don't believe that the request for
20 party status necessarily needs to be one of our
21 exhibits, I would exclude Number 1, and I will
22 exclude the conservation commission's letter,
23 which is Number 7.

24 THE CHAIRMAN: Can you offer -- even
25 though you don't have the witness here, you can at

1 least offer it just so we get it --

2 MS. RIGDON: I can offer them. My
3 witnesses didn't prepare it so they can't --

4 THE CHAIRMAN: I understand. But it
5 was originally offered.

6 MS. RIGDON: Yes, it was. Yes, it was.
7 So they just can't testify as to what's contained
8 in that letter.

9 THE CHAIRMAN: Unless there's
10 objection, we'll just put that in for what's it's
11 worth.

12 MS. RIGDON: Okay.

13 DIRECT EXAMINATION

14 MS. RIGDON: So with regard to our
15 exhibits, I'll start with Mr. Taylor and Ms.
16 Regan. Did you prepare, or cause to be prepared,
17 or contribute in the preparation of the exhibits
18 as they pertain to the zoning commission?

19 THE WITNESS (Taylor): Yes.

20 THE WITNESS (Regan): Yes.

21 MS. RIGDON: And with regard to
22 Mr. Ferlow, did you prepare, cause to be prepared,
23 or contribute in the preparation of the inland
24 wetlands exhibit?

25 THE WITNESS (Ferlow): Yes, I did.

1 MS. RIGDON: And Mr. Kleppin, did you
2 prepare, or cause to be prepared, or contribute in
3 the preparation of exhibits as they pertain to the
4 Farmland and Forest Preservation Committee?

5 THE WITNESS (Kleppin): Yes, I did.

6 MS. RIGDON: And with regard to the
7 panel, do you adopt these exhibits as part of your
8 sworn testimony?

9 THE WITNESS (Taylor): Yes.

10 THE WITNESS (Regan): Yes.

11 THE WITNESS (Ferlow): Yes.

12 THE WITNESS (Kleppin): Yes.

13 MS. RIGDON: I would submit these
14 exhibits at this time, Chairman.

15 THE CHAIRMAN: Is there any objection?

16 MR. MICHAUD: No objection.

17 MR. AINSWORTH: No objection.

18 MR. ANDERSON: No objection.

19 THE CHAIRMAN: Okay. These exhibits
20 are admitted.

21 (Town of New Milford's Exhibits III-B-1
22 through III-B-8: Received in evidence - described
23 in index.)

24 THE CHAIRMAN: We'll now have
25 cross-examination by staff.

1 Mr. Perrone.

2 MR. PERRONE: Thank you, Mr. Chairman.

3 CROSS-EXAMINATION

4 MR. PERRONE: I'll begin with the --
5 this is Item Number 8, dated September 18th, from
6 the New Milford Farmland and Forest Preservation
7 Committee.

8 Mr. Kleppin, on bullet point number 2
9 it notes that a solar farm is a better use of land
10 than a built-out subdivision. Could you tell us
11 why?

12 THE WITNESS (Kleppin): I guess the
13 quick answer would be that, you know, the typical
14 subdivision process there is more disturbance of
15 land potential than there would be with a solar
16 array. And part of that statement was based on
17 the presentation that was given by Ameresco to the
18 committee in which they indicated that the panels
19 could be installed in a manner where there would
20 be limited site disturbance, and it would be a
21 contained facility.

22 MR. PERRONE: Would part of that be
23 related to subsurface disturbances, such as
24 foundations for construction, versus just posts
25 that go into the ground?

1 THE WITNESS (Kleppin): Correct. And
2 if it was a conventional subdivision, there is a
3 possibility of septic systems, driveways, pools,
4 any other kind of hard surface that would be
5 incorporated with that, in addition to landscape,
6 lawn, et cetera.

7 MR. PERRONE: And those types of
8 installations, like paving, for example, would be
9 more permanent?

10 THE WITNESS (Kleppin): Correct. And
11 once you remove the soils, which are really the
12 valuable resource that our committee would be more
13 concerned with, you can't put those back. And as
14 proposed by the applicant, they were simply going
15 to be driving posts into the ground. So in that
16 case, you know, given the diameter of the posts --
17 and I believe they weren't very large -- that the
18 disturbance would be very minor.

19 MR. PERRONE: And one last question on
20 that topic. The petitioner's equipment would be
21 on concrete pads. Would you consider those to be
22 permanent, or something that could be easily
23 removed?

24 THE WITNESS (Kleppin): I would say
25 permanent. It would be similar to installing a

1 driveway where the damage to the underlying soils
2 would probably already be done at that point.

3 MR. PERRONE: And lastly, and any of
4 the town's witnesses could respond to this, do you
5 have any comments on the proposed revised
6 configuration?

7 THE WITNESS (Ferlow): James Ferlow,
8 wetlands enforcement officer. Most of us have not
9 seen any formal drawings on the proposed revision.
10 The only thing I pulled off line was an air photo
11 that shows reduction, but it doesn't give us any
12 distances or anything else like that. So at this
13 time I think we are unaware of exactly what the
14 reduction of the application is. The first
15 application came with a set a drawings and a lot
16 more information than an air photo on an 8 and a
17 half by 11 sheet of paper. So at this juncture
18 it's very difficult to tell what that revision
19 would be, and how it relates to the comments that
20 we've already addressed.

21 MR. PERRONE: Thank you. That's all I
22 have.

23 THE CHAIRMAN: Senator Murphy?

24 SENATOR MURPHY: I take it the
25 conservation commission is not here on this panel?

1 MS. RIGDON: That's correct.

2 SENATOR MURPHY: And nobody here is a
3 member of that?

4 MS. RIGDON: Has anyone been a part of
5 any of their meetings?

6 THE WITNESS (Taylor): No.

7 THE WITNESS (Regan): No.

8 THE WITNESS (Ferlow): No.

9 THE WITNESS (Kleppin): No.

10 SENATOR MURPHY: For what it's worth, I
11 was just curious. The last paragraph on page 2 is
12 to reiterate their position with respect to the
13 application. They do not recommend the
14 endorsement of the Candlewood Solar Project as
15 presented. And I'm wondering what they would have
16 recommended in way of presentation, but I guess I
17 won't get an answer to that.

18 MS. RIGDON: I can certainly request
19 that they submit a follow-up letter, if that would
20 be helpful?

21 THE CHAIRMAN: It's too late.

22 SENATOR MURPHY: It would be too late.

23 THE CHAIRMAN: We're going to close the
24 hearing.

25 SENATOR MURPHY: We're hoping to close

1 the door today.

2 MS. RIGDON: Understood.

3 THE CHAIRMAN: Whether it's midnight or
4 not.

5 MS. RIGDON: Got you.

6 SENATOR MURPHY: I'm curious, but not
7 that curious.

8 I think others will take care of the
9 rest. That's all I have, Mr. Chairman.

10 THE CHAIRMAN: Mr. Harder?

11 MR. HARDER: No questions. Thank you.

12 THE CHAIRMAN: Mr. Silvestri?

13 MR. SILVESTRI: Thank you,
14 Mr. Chairman.

15 A couple questions for you. Are there
16 any businesses, such as commercial establishments
17 or light industry, that use Route 37 to Candlewood
18 Mountain for access or egress?

19 THE WITNESS (Regan): I can probably
20 answer that. Laura Regan, zoning enforcement
21 officer. Without redoing the zoning map, I'm not
22 aware of any properties that are currently zoned
23 business, industrial, commercial between Route 37
24 and Candlewood Mountain Road. Candlewood Mountain
25 Road is exclusively single-family residential with

1 the exception of this property.

2 MR. SILVESTRI: Thank you.

3 Also, are there time periods, in your
4 estimation, during the week when traffic would be
5 considered the heaviest on Route 37 and Route 7,
6 rush hour traffic, if you will?

7 THE WITNESS (Ferlow): James Ferlow,
8 Wetlands Enforcement Officer. Route 7 obviously
9 has a tremendous amount more traffic for morning
10 rush hour, as is a collector from many of the
11 towns up north. Certainly anywhere between 6 and
12 9 o'clock in the morning, and then again starting
13 at about 4 o'clock to 7 o'clock in the evening are
14 probably the highest traffic ratios. There are
15 quite a few trucks that do travel during the day
16 up and down to avoid the rush hour traffic,
17 commuter traffic that goes up for the commercial
18 traffic for the afternoon.

19 Route 37 is the interconnection to the
20 Town of Sherman, so anybody that goes out there,
21 that's not so heavy truck traffic, as that is more
22 of a commuter location. And again, the morning
23 hours and the evening hours are more traveled at
24 that point.

25 MR. SILVESTRI: Thank you.

1 THE WITNESS (Regan): Sorry. If I can
2 just clarify my last question? I forgot. There
3 is one property on the top of Candlewood Mountain
4 Road that is in our lake business zone. It's the
5 Candlelight Farms Inn. It's an old historic inn
6 that does hold wedding and party-type venues.

7 MR. SILVESTRI: Thank you.

8 The conversation came up before about
9 Dunham Farm. Were there any other proposals for
10 development on this site other than Dunham Farm?

11 THE WITNESS (Taylor): I think I
12 predate all you guys on that one. Bill Taylor,
13 zoning. I chair the commission now. I was vice
14 chair at the time that Dunham Farm was being
15 brought before the commission. There has been
16 since my tenure there -- and it's now my 12th
17 year -- no other activity has been done on that
18 site. I believe that the denial was included in
19 your packet of information as to why the zoning
20 commission denied it.

21 MR. SILVESTRI: But no other project
22 that you're aware of?

23 THE WITNESS (Taylor): Not that I'm
24 aware of, no.

25 MR. SILVESTRI: Thank you.

1 THE WITNESS (Taylor): The only other
2 ones that have come before us on Candlewood
3 Mountain are the Candlelight Inn, a wedding venue.

4 MR. SILVESTRI: During the proceedings
5 also the former Century Brass site was mentioned.
6 Are there any other large-scale brownfield sites
7 in New Milford?

8 THE WITNESS (Taylor): I'll take the
9 answer to that. We do have one closed landfill.
10 And the landfill generally has been, at least
11 around the east coast, from what I understand,
12 something of the premium spots for solar
13 development because there is no clearing.

14 MR. SILVESTRI: And I believe the last
15 question I have for you, over the past year or so,
16 and a couple weeks ago, Connecticut and
17 Massachusetts have experienced short duration
18 rainfall periods where we've had accumulation of
19 rain to 4 or 5 inches or so in a very, very short
20 period of time. Have these, to your knowledge,
21 impacted the Candlewood Mountain area?

22 THE WITNESS (Ferlow): Obviously,
23 rainfalls of 4 or 5 inches in an hour or two hours
24 is definitely problematic to wetlands and
25 watercourses and flow problems. Candlewood

1 Mountain -- I was also here on review of the
2 Dunham Farm application -- so I have walked it. I
3 have not walked it since that time frame. There
4 are rivulets that are obvious in the landscape,
5 and probably those would be flowing at that
6 particular point in time.

7 But have we had any excessive flooding
8 in the Town of New Milford associated with those?
9 Thankfully we were very lucky. The last one hit
10 Oxford very heavily, but did not hit New Milford
11 very heavily. But that doesn't mean that we can't
12 have, like we had in Gaylordsville a couple years
13 back, 6.2 inches of rain in two hours. It took
14 out the entire railroad track system, 200 feet,
15 four roads, et cetera. That is going to happen at
16 some point in time to everywhere in the State of
17 Connecticut. It's just going to happen.

18 MR. SILVESTRI: Thank you.

19 Thank you, Mr. Chairman.

20 THE CHAIRMAN: First a follow-up. You
21 mentioned a brownfield landfill site. What's the
22 size of that?

23 THE WITNESS (Taylor): I don't
24 remember. Do you remember?

25 THE CHAIRMAN: Approximately? 1,000

1 acres, 100 acres, 50 acres?

2 THE WITNESS (Ferlow): It's got to be
3 more than 100 acres, it might be up to 200 acres,
4 in terms of total land. There's also a second
5 smaller landfill, but it's on a larger property of
6 153 acres associated with Kimberly-Clark, and that
7 is now recently being closed by the State of
8 Connecticut's Department of Environmental
9 Protection.

10 THE CHAIRMAN: I want to get back to it
11 because, again, I'm trying to understand what it
12 is that the town would like to see on this site.
13 And I did read the sort of history of the zoning.
14 And I may have the dates wrong. But in 2004/2005
15 the town, through zoning, did approve, whatever
16 it's called, a major planned residential
17 development -- I don't know if that's the exact
18 name of it -- and also a GDP, a general
19 development plan, for development of that of
20 approximately 500 housing units in an adult
21 community. Is that correct?

22 THE WITNESS (Taylor): That predates my
23 time on zoning, sir, so I can't say whether that
24 history is correct. I can attest only to what I
25 experienced, and that was we reviewed the entire

1 site plan from the MPRDD in 2007, and the hearings
2 that went with that, and our letter of denial, it
3 was part of that, but I cannot predate the other
4 aspects of it. I apologize.

5 THE CHAIRMAN: Okay. What is it
6 presently zoned for now?

7 THE WITNESS (Taylor): MPRDD. We have
8 not changed the zone. There's been no request.

9 THE CHAIRMAN: And in order to change
10 it, would presumably -- I mean, the town could do
11 it on their own, or the property owner?

12 THE WITNESS (Taylor): The town cannot
13 do it. Only the property owner can initiate a
14 zone request to the zoning commission. The five
15 member zoning commission has sole discretion
16 whether to grant that zone change or not.

17 THE CHAIRMAN: So in order to develop
18 it -- and I read -- obviously, I didn't read all
19 the documentation. But going through the denial,
20 there was -- I forget -- there was a procedural
21 issue. And I don't want to get into the weeds
22 here, hopefully, so I'm careful, but there was a
23 procedural issue, I think. There was a lack of
24 information, and then there were specifically
25 issues related to drainage. Is that general --

1 THE WITNESS (Taylor): The draining was
2 probably one of the biggest issues. I reread
3 through the denial this morning. The other aspect
4 of it was the sewage treatment, how you were going
5 to do that, whether it could be connected to our
6 own sewage treatment plant, how are you going to
7 treat the sewage down below the development
8 itself. And that was the two primary causes.

9 There was also a road up on the side
10 that was not concurrent with -- because it would
11 be public access, it needed to conform to town
12 requirements, and it did not.

13 THE CHAIRMAN: So my question is
14 really, which relates to what I guess is more than
15 what do we want, or what does the town want on the
16 site. Obviously, we heard from the previous group
17 that presumably they want it to stay as it is.
18 But with the current zoning, is there a way to
19 ultimately protect the site, or would some kind of
20 development be something that you would prefer?

21 Can I get any kind of a sense of what
22 the town is looking for? I understand you've got
23 a, I guess you call it, a master plan or whatever.
24 The state conservation development plan talks
25 about conservation, but do you really have the

1 tools to preserve this?

2 THE WITNESS (Kleppin): I'll take a
3 crack. Why not? And then I'm just speaking as
4 much for myself as anything else. The town does
5 have an open -- a waste management fund where
6 they've drawn from previously for land protection,
7 and obviously there are state funds available and
8 other mechanisms, if they wish to pursue that.
9 I'm not sure if there is in the plan of
10 conservation and development itself, if there is
11 that property designated for preservation, or if
12 it's to that level of detail. That I couldn't
13 speak to.

14 THE CHAIRMAN: Okay. Thank you.

15 THE WITNESS (Regan): I can add a
16 little bit. The Major Planned Residential
17 Development District Regulation actually requires
18 that 50 percent of the total site be left in its
19 natural state, so almost like a deed restriction,
20 open-space deed restriction.

21 THE CHAIRMAN: Are you aware that the
22 proposed solar project is proposing to maintain as
23 open space, I believe, permanently much more than
24 50 percent of the property?

25 THE WITNESS (Regan): Yes, I was aware

1 of that.

2 THE CHAIRMAN: At no cost to the town.

3 THE WITNESS (Regan): (Nodding head in
4 the affirmative.)

5 THE CHAIRMAN: I guess I have no more
6 questions.

7 Mr. Silvestri.

8 MR. SILVESTRI: Just a quick follow-up
9 so I can get my bearings. The landfill is located
10 off of Route 7, kind of behind Tractor Supply. Is
11 that correct?

12 THE WITNESS (Taylor): Yes.

13 THE WITNESS (Regan): Yes.

14 MR. SILVESTRI: Thank you.

15 MR. HARDER: Mr. Chairman, excuse me.
16 I have a follow-up.

17 THE CHAIRMAN: A follow-up question.

18 MR. HARDER: Thank you, Mr. Chairman.

19 Just referring back to a comment that
20 Ms. Ostrove made earlier about a phase 2, she
21 indicated she thought you would have some
22 knowledge of that. Can anyone comment on that?

23 THE WITNESS (Taylor): Yes, I have the
24 minutes of the meeting here. Just give me a
25 second to pull them up, if you wouldn't mind.

1 Yes, we had -- I will butcher his name,
2 so my apologies -- Mr. LaMontagne from Candlewood
3 Solar came to the zoning commission for an
4 informational meeting on May 10, 2016. At that
5 point in time we have any business proper to come
6 before the commission at the end of our meeting,
7 and he gave a presentation. There were several
8 questions asked and provided in those minutes,
9 which I believe are included in your packet.

10 The last question in the minutes said
11 Mr. O'Brien inquired if fuel cells would be part
12 of this application.

13 Mr. LaMontagne stated that would be
14 addressed in phase 2 in the future.

15 That's a matter of public record.

16 MR. HARDER: So there's no further
17 details provided on what phase 2 meant?

18 THE WITNESS (Taylor): Not specifically
19 to the zoning commission. I don't remember that
20 they left anything behind with them as far as a
21 presentation goes, just commentary. That's all we
22 had was that they planned to expand the site and
23 do a phase 2, including fuel cells, et cetera.

24 MR. HARDER: Thank you.

25 That's all I have. Thank you,

1 Mr. Chairman.

2 THE CHAIRMAN: We'll have to ask the
3 applicant whether, in fact, they could even do
4 that as part of their response to the RFP, but
5 we'll try to get that information before the day
6 is done.

7 THE WITNESS (Taylor): Yes.

8 THE CHAIRMAN: Okay. The petitioner?

9 MR. MICHAUD: No questions.

10 THE CHAIRMAN: Rescue Candlewood?

11 MR. AINSWORTH: If I may, a couple of
12 questions.

13 THE CHAIRMAN: Sure.

14 MR. AINSWORTH: So you were asked about
15 the relative disturbance between the subdivision
16 and the solar farm, and I think the testimony was
17 that the solar farm is a better use of the land
18 than a subdivision because there's more
19 disturbance of land, and there's a limited
20 disturbance because of the solar use.

21 Do you consider the amount of the
22 removal of core forest that they're proposing to
23 be a limited disturbance?

24 THE WITNESS (Kleppin): I guess that
25 was directed towards me. The presentation that we

1 received at the time -- and I don't remember the
2 exact area of disturbance that we discussed with
3 the applicant at that time -- based on the
4 information they provided us, was going to be
5 limited disturbance of the site in terms of
6 installation of the actual panels. That's where
7 that statement comes from.

8 MR. AINSWORTH: But you're talking
9 about the installation of a post as opposed to the
10 site preparation?

11 THE WITNESS (Kleppin): Yes.

12 MR. AINSWORTH: Do you consider the
13 site preparation that they proposed to be a
14 limited disturbance of that location?

15 THE WITNESS (Kleppin): Again, the
16 comments that we provided were in relation to how
17 it was described to us in terms of access to the
18 site in terms of how the actual panels would be
19 installed.

20 MR. AINSWORTH: Was there discussion at
21 all of the site preparation that would incur in
22 terms of the amount of clearing that would happen
23 at the site?

24 THE WITNESS (Kleppin): We did talk
25 about that. I don't recall the exact area we

1 discussed. It seems that information that was
2 submitted afterward was more detailed than what we
3 discussed and possibly expanded in terms of the
4 scope that we discussed.

5 MR. AINSWORTH: So to be more specific
6 then, would you consider 72 acres of core forest
7 to be cleared to be a limited site disturbance?

8 THE WITNESS (Kleppin): It's kind of a
9 relative question. I guess 72 acres in what scope
10 are you talking about? If it's a matter of how --

11 MR. AINSWORTH: Regarding this site,
12 not a theoretical one.

13 THE WITNESS (Kleppin): Well, the
14 committee I chair is not a conservation
15 commission, so we don't -- we try to stick to
16 what's relative to us, and we're farmland and
17 forest preservation. It doesn't necessarily imply
18 that forest preservation is making sure forest
19 remains as open space. Forest can be used as a
20 resource in terms of harvesting. So we tried not
21 to comment on the conservation aspect.

22 MR. AINSWORTH: Although it would be
23 fair to say that in a harvesting situation,
24 clearcutting is not considered to be a best
25 practice, is it?

1 THE WITNESS (Kleppin): That's beyond
2 my ability to answer.

3 MR. AINSWORTH: And with regard to the
4 potential use of this property, could your
5 regulations, or at least your zoning process,
6 could allow this property to be rezoned to allow
7 for a cluster development that would allow for the
8 preservation of significant forest resources and
9 wetlands resources; would it not?

10 THE WITNESS (Taylor): Theoretically,
11 yes, our processes allow for a zone change.

12 THE CHAIRMAN: But let me just make
13 sure. I have a follow-up, if I may? But you said
14 the property owner would have to initiate that?

15 THE WITNESS (Taylor): The person that
16 owns the property, or an agent wishing to buy the
17 property with the representation of the owner,
18 would have to initiate that, that is correct. The
19 zoning commission does not initiate zone changes.

20 THE CHAIRMAN: Thank you.

21 THE WITNESS (Regan): As a follow-up,
22 the current MPRDD district does require cluster
23 housing currently.

24 MR. AINSWORTH: And even under the
25 current zoning, that clustering could be done in a

1 way to protect critical natural resources on the
2 site; could it not?

3 THE WITNESS (Regan): I would say yes.

4 MR. AINSWORTH: Are there other power
5 plants located in New Milford?

6 THE WITNESS (Ferlow): Yes, there are.
7 We have Rocky River Hydroelectric Power Plant,
8 which is just down the hill from this. We also
9 have a Gas to Energy power plant associated with
10 Kimberly-Clark. There are certain fuel cells
11 associated with different businesses within the
12 town. These are obviously all smaller components
13 within the Town of New Milford. So there are
14 various other entities associated with power
15 generation.

16 MR. AINSWORTH: So would it be fair to
17 say that New Milford is holding up its end of the
18 bargain to host energy producing facilities?

19 THE WITNESS (Taylor): I don't know
20 which bargain you're referring to. I apologize.

21 MR. AINSWORTH: Fair enough.

22 Would you say it's a fair description
23 to say that New Milford is a host to other energy
24 producing facilities?

25 THE WITNESS (Taylor): Yes.

1 THE WITNESS (Regan): Yes.

2 MR. AINSWORTH: I have no further
3 questions.

4 THE CHAIRMAN: Thank you.
5 Department of Agriculture?

6 MR. ANDERSON: No questions from us.

7 THE CHAIRMAN: The town, you're
8 excused.

9 MS. RIGDON: Thank you, Chairman.
10 (Witnesses excused.)

11 THE CHAIRMAN: So now there will be
12 cross-examination of the petitioner by Attorney
13 Ainsworth.

14 MR. MICHAUD: Chairman Stein, I believe
15 in the last hearing Attorney Bachman indicated
16 that our panel would be up at 1:45, so our panel
17 is not here yet. They're in transit.

18 THE CHAIRMAN: Are any of your team
19 present so maybe we can --

20 MR. MICHAUD: Yes. We have two of the
21 company witnesses are here, but not our
22 environmental.

23 THE CHAIRMAN: Maybe, if that would be
24 all right, we'll start with questions.

25 MR. MICHAUD: Okay. If we can limit

1 the scope to their testimony, that's fine.

2 THE CHAIRMAN: Right. If there's a
3 question that you need the others to answer, just
4 let us know.

5 MR. MICHAUD: Very well. Thank you.

6 THE CHAIRMAN: Okay. Mr. Ainsworth.

7 J A M E S W A L K E R,

8 J O E L L I N D S A Y,

9 called as witnesses, being previously duly
10 sworn, were examined and continued to testify
11 on their oaths as follows:

12 CROSS-EXAMINATION

13 MR. AINSWORTH: Good morning,
14 gentlemen. My name is Keith Ainsworth. I
15 represent Rescue Candlewood Mountain. I've got a
16 few questions. And I'm just going to go down the
17 list. And to the extent that you can't answer
18 them, let me know if it's proper for this panel as
19 opposed to the ones who are missing.

20 THE WITNESS (Walker): Do you have our
21 testimony? Do you know which questions you have
22 that relate to our testimony? Have you done the
23 homework on that?

24 MR. AINSWORTH: I have actually not
25 broken it out by particular individual. I have

1 questions for the panel to be directed to the
2 appropriate person.

3 THE WITNESS (Walker): Okay. All
4 right.

5 MR. AINSWORTH: I generally don't break
6 it down by witness.

7 So again, just let me know if it's
8 within your bailiwick or not.

9 So property access is currently only
10 from Candlewood Mountain Road. Is that correct?

11 THE WITNESS (Lindsay): That's correct.

12 MR. AINSWORTH: Is there any
13 contingency for producing or developing another
14 access to Route 7, or another road, as an
15 alternative, in case of a fire or other blockage
16 to the sole road out?

17 THE WITNESS (Lindsay): No, there is
18 not.

19 MR. AINSWORTH: Has there been any, or
20 will there be a traffic plan during construction
21 and after to avoid conflicts with traffic for the
22 residents of Candlewood Mountain?

23 THE WITNESS (Lindsay): I would say
24 that we plan to provide any documentation or
25 planning that's necessary as part of the

1 development and management plan, as required by
2 the Siting Council.

3 MR. AINSWORTH: So that information or
4 that plan has not yet been developed?

5 THE WITNESS (Lindsay): We don't have a
6 specific plan that has been required in terms of
7 traffic at this point.

8 MR. AINSWORTH: Has it been determined
9 where the employees and construction crews will
10 park during the site development?

11 THE WITNESS (Lindsay): They will park
12 up at the site, and also we plan to potentially
13 use the portion of the property that abuts
14 Candlewood Mountain Road.

15 MR. AINSWORTH: So that would be within
16 the interior of the site or adjacent to the road?

17 THE WITNESS (Lindsay): As I said, up
18 at the site where the array will be built there
19 will be space during construction for parking up
20 there for a time, and then there will also
21 potentially be use of part of the property that's
22 down adjacent to Candlewood Mountain Road.

23 MR. AINSWORTH: And has the applicant
24 devised a plan for decommissioning the solar array
25 at the end of its useful life?

1 THE WITNESS (Lindsay): We have a
2 provision in the pilot that was executed with the
3 town to provide a decommissioning plan, and that
4 was to be done in accordance also with any
5 requirements from the Siting Council.

6 MR. AINSWORTH: And when does that plan
7 take place?

8 THE WITNESS (Lindsay): In terms of the
9 plan taking place, you mean from the development
10 of that plan or the decommissioning itself?

11 There's a requirement for -- there's specifics in
12 the pilot for how decommissioning needs to be
13 done, and that there will be a requirement to
14 provide decommissioning assurance to the town.

15 MR. AINSWORTH: And is there a date
16 that that decommissioning is currently planned to
17 occur?

18 THE WITNESS (Lindsay): Decommissioning
19 would occur at the end of the project life.

20 MR. AINSWORTH: What's that project
21 life projected to be at the moment?

22 THE WITNESS (Lindsay): 20 years. It's
23 a 20-year contract.

24 MR. AINSWORTH: And has that plan been
25 developed currently?

1 THE WITNESS (Lindsay): A specific
2 decommissioning plan has not been developed.

3 MR. AINSWORTH: Do you know if the
4 proposed plan for decommissioning includes the
5 removal of both the supports for the arrays and
6 the arrays themselves?

7 THE WITNESS (Lindsay): Yes, it would.

8 MR. AINSWORTH: Does it also involve
9 restoration of the property, or would it?

10 THE WITNESS (Lindsay): It would
11 typically, when we decommission a site, it
12 involves restoration of the property in accordance
13 with what the plan says. So the disturbance of
14 the property is going to be limited, and the
15 property will be restored. Obviously, it's not
16 going to be restored exactly the way it was in
17 terms of the trees that were cleared, but it would
18 be restored in accordance with the requirements of
19 the plan and the desires of the owner of the
20 property.

21 MR. AINSWORTH: And specifically to
22 that point of the trees, is it your understanding
23 that a future decommissioning plan would include
24 replanting of trees, or would it just be turned to
25 fields?

1 THE WITNESS (Lindsay): That has not
2 been specifically determined at this point.

3 MR. AINSWORTH: Does the applicant or
4 the petitioner have any objection to the
5 restoration of the forest by planting trees at the
6 end of the useful life?

7 THE WITNESS (Lindsay): That's really
8 not a question for us to answer as the -- we are
9 the lessee.

10 MR. AINSWORTH: And to that point,
11 who's the current owner of the property?

12 THE WITNESS (Lindsay): I think it's
13 been stated that Wells Fargo is the current owner.

14 MR. AINSWORTH: And the proposed owner
15 of the property, once this project goes -- if this
16 project goes through, is who?

17 THE WITNESS (Lindsay): New Milford
18 Clean Power.

19 MR. AINSWORTH: And isn't it true that
20 only the owner has the ability to make either
21 zoning changes or changes to the land?

22 THE WITNESS (Lindsay): I'm not an
23 expert, but that's what's been stated, yes.

24 MR. AINSWORTH: And it's fair to say
25 that New Milford Clean Power has not been a party

1 to these proceedings?

2 THE WITNESS (Lindsay): New Milford,
3 no.

4 MR. AINSWORTH: And are you aware that
5 Connecticut General Statute Section 47-42a
6 provides that only the owner of a property can
7 grant a conservation restriction?

8 MR. MICHAUD: I'm going to have to
9 object to that question. It's a legal question.
10 He's not an attorney.

11 THE CHAIRMAN: Okay. So if you're not
12 capable of answering it, just say that. You don't
13 have to answer it.

14 MR. AINSWORTH: All right. Then
15 perhaps I'll ask counsel -- or let me ask the
16 panel. There's a proposal to place a conservation
17 restriction on a portion of the property; is there
18 not?

19 THE WITNESS (Lindsay): That is what we
20 provided in our latest submittal.

21 MR. AINSWORTH: And the petitioner
22 actually has no ability to actually put that
23 conservation restriction in place. Correct?

24 THE WITNESS (Lindsay): It's really --
25 I'm not really equipped to answer that.

1 MR. AINSWORTH: Well, do you know if
2 Ameresco has been given the authority to place a
3 conservation restriction on the property?

4 THE WITNESS (Lindsay): No. Again,
5 we're the lessee.

6 MR. AINSWORTH: So is there anything
7 that's in the record before the Council that
8 indicates that this promise to put in a
9 conservation restriction will actually come to
10 fruition?

11 THE WITNESS (Lindsay): I can only say
12 what's in the record that we proposed it.

13 MR. AINSWORTH: This unfortunately is
14 probably an environmental question. It's
15 regarding the environmental use and the breeding
16 bird survey, so I'll skip over that.

17 Is it true that the ground underneath
18 the arrays is going to be regraded so that it
19 doesn't have a slope greater than 10 degrees?

20 THE WITNESS (Lindsay): I think we'd
21 like to leave that for our --

22 MR. AINSWORTH: Sure.

23 Is the land going to be de-stumped in
24 preparation for putting in the solar panels?

25 THE WITNESS (Lindsay): Probably best

1 to leave it for Amec.

2 MR. AINSWORTH: Fair enough.

3 At the last hearing the panel had
4 testified that the contract, your RFP, required
5 the development to be completed by the end of
6 2019. At the September meeting I believe you had
7 testified or indicated that it needed to be
8 completed by 2018. Which is actually accurate?

9 THE WITNESS (Walker): We corrected --
10 during the panel discussion I think it was subject
11 to check, and we checked it and verified it. So
12 what you have in writing is what's correct.

13 MR. AINSWORTH: So 2019?

14 THE WITNESS (Walker): 2019.

15 MR. AINSWORTH: At the September
16 meeting, if I understand it correctly, the
17 requirement to complete the work at the end of
18 2018 was linked to the inability to actually
19 complete all the environmental studies for a
20 full -- that would be required of a full
21 environmental assessment.

22 Does the additional year give the
23 applicant an ability to actually conduct those
24 full environmental assessments?

25 THE WITNESS (Lindsay): We'll leave

1 that for the full panel.

2 MR. AINSWORTH: Does Candlewood Solar
3 have power contracts for the power that would be
4 generated at the site currently?

5 THE WITNESS (Walker): Yes, we do.

6 MR. AINSWORTH: And with whom are those
7 power contracts?

8 THE WITNESS (Walker): They're in our
9 testimony. You have them. They're with the
10 utilities in Massachusetts, National Grid,
11 Eversource.

12 MR. AINSWORTH: And so will any of the
13 power that's been generated at this facility be
14 used in the State of Connecticut?

15 THE WITNESS (Walker): All the power
16 will flow into the State of Connecticut. The
17 utilities are using the contracts for their
18 renewable energy credits. Power flows by laws of
19 physics, not by the laws of legal contracts.

20 MR. AINSWORTH: I understand that.
21 Obviously, the power is going to flow into the New
22 England grid. Am I correct?

23 THE WITNESS (Walker): It's flowing
24 into the New England grid, but it's flowing into
25 Connecticut, and it will be used wherever the laws

1 of physics have it to be used. But to be more
2 specific, ISO New England is putting controls on
3 our system so that they control how that power
4 will be used for maintaining the voltage and
5 safety of the grid within this region. I am not
6 an electrical engineer, so I can't go beyond that.
7 As far as I know.

8 MR. AINSWORTH: Okay.

9 THE CHAIRMAN: Excuse me. We'll have a
10 follow-up from Mr. Lynch.

11 MR. LYNCH: If you don't mind, Attorney
12 Ainsworth.

13 MR. AINSWORTH: Not at all.

14 MR. LYNCH: I just want to get a
15 clarification. Are you saying that the ISO -- I
16 know ISO controls dispatch. But they would
17 control your dispatch, and you have no idea where
18 it's going?

19 THE WITNESS (Walker): They've required
20 us to change the inverters so that they can
21 control through CL&P the operation of our
22 inverters. So they want to have greater control
23 than what normally can be controlled so that they
24 can make sure that there's enough voltage control
25 in the area that's supplying the voltage that they

1 need. If some other part of the system is having
2 trouble, they want to ramp us up and down, and we
3 don't have control over that.

4 MR. LYNCH: Okay. That's all I want to
5 know. I just wanted to get a clarification.
6 Thank you.

7 MR. AINSWORTH: In the Amec Foster and
8 Wheeler letter on page 6 it mentions that there's
9 out-of-property land to be conserved. It wasn't
10 specific. Where is that property that is
11 out-of-property that's going to be conserved?

12 THE WITNESS (Lindsay): There's an
13 adjacent parcel that's part of the overall
14 property that's being purchased. It's immediately
15 adjacent to the parcel that the solar array is on.
16 I think that's shown on the maps that were
17 submitted.

18 MR. AINSWORTH: Okay. But who
19 currently owns that property?

20 THE WITNESS (Lindsay): That's also
21 owned by Wells Fargo.

22 MR. AINSWORTH: Is there a contract in
23 place to purchase that property for conservation?

24 THE WITNESS (Lindsay): There's a
25 contract in place to purchase the property. In

1 terms of you're talking about the plan for
2 conservation, I thought we already talked about
3 that. No, there's not a contract in place for the
4 conservation portion, no. We proposed that to the
5 Council.

6 MR. AINSWORTH: So has there been any
7 commitment from any organization to provide the
8 hosting or recipient services for the conservation
9 restriction?

10 THE WITNESS (Lindsay): To my
11 knowledge, that's in discussion.

12 MR. AINSWORTH: So currently there's no
13 contract that the Council could review to
14 determine the terms and conditions of that
15 conservation restriction?

16 THE WITNESS (Lindsay): We have not
17 provided that, no.

18 MR. AINSWORTH: What does the
19 petitioner propose to do if an agreement is not
20 reached on the conservation restriction?

21 THE WITNESS (Walker): I'm sorry. I
22 didn't hear the question.

23 MR. AINSWORTH: Certainly. What does
24 the petitioner propose to do if an agreement is
25 not reached on the out-of-property conservation

1 restriction?

2 THE WITNESS (Walker): We don't see any
3 reason why it's not going to be accepted, so I
4 guess we haven't contemplated that.

5 MR. AINSWORTH: With whom are you
6 currently negotiating the conservation
7 restriction?

8 THE WITNESS (Lindsay): We are not
9 engaging in that ourselves. That's New England
10 Clean Power.

11 THE COURT REPORTER: That's New --

12 THE WITNESS (Lindsay): New Milford
13 Clean Power. Excuse me.

14 THE COURT REPORTER: Thank you.

15 MR. AINSWORTH: And so is New Milford
16 Clean Power going to participate further in these
17 proceedings at some point?

18 THE WITNESS (Lindsay): I can't really
19 answer that.

20 MR. AINSWORTH: Do you have any
21 knowledge of whether they will?

22 THE WITNESS (Walker): No, we have no
23 knowledge that they're participating in this. If
24 there's a follow-on question we can provide, or
25 interrogatories, or provide more information, but

1 Ameresco cannot provide the level of detail that
2 you're looking for.

3 MR. AINSWORTH: Perhaps you can answer
4 this: There was some discussion about the use of
5 brownfields being used potentially for a solar
6 array, and I think the testimony previously was
7 that the bank would not provide funding for solar
8 farm development on a brownfield site. Do I have
9 that correct?

10 THE WITNESS (Walker): That's correct.
11 Brownfields are different than landfills. And
12 brownfields do not -- unless you know something I
13 don't know -- but brownfields don't have the same
14 protection for the land developer that a landfill
15 has. A landfill that's a municipal landfill, we
16 have quite a large number of solar PV systems that
17 Ameresco has built. We're one of the largest
18 developers of solar PV projects on landfills
19 certainly in Massachusetts, and probably that
20 includes the northeast. We have one in Bethel,
21 Connecticut too. Those have legal protections for
22 the developer. Brownfields do not have those same
23 sort of protections.

24 MR. AINSWORTH: Have you explored using
25 liability relief provisions in the Connecticut

1 Brownfields Redevelopment Programs provided under
2 Connecticut General Statute 32-768, which provides
3 third-party and state liability relief?

4 MR. MICHAUD: That's a legal question.
5 Objection.

6 MR. AINSWORTH: Actually I don't think
7 that's actually a legal question. The program --

8 THE CHAIRMAN: It sounds legal to me.
9 If you can answer it, fine; but if you can't, just
10 say you can't.

11 THE WITNESS (Walker): I'm not familiar
12 with that law. I'm not as familiar with
13 Connecticut law as you are. I'm not familiar at
14 all, actually. But we have the project before us,
15 and that's the project that we're petitioning on
16 and applying for. All the projects are
17 hypothetical.

18 MR. AINSWORTH: Sure. However, your
19 panel testified that the bank wouldn't provide the
20 funding on brownfield sites given the additional
21 liability. I'm just asking whether or not you
22 explored the liability relief programs that exist.

23 THE WITNESS (Walker): I gave the
24 answer based upon my knowledge of our past
25 experience trying to get -- I guess real-world

1 experience of trying to get projects developed on
2 brownfields, which has been not successful.

3 MR. AINSWORTH: Are you aware that the
4 US EPA and DOJ issued a contract for bona fide
5 prospective purchasers in 2002 providing federal
6 --

7 THE WITNESS (Walker): I'm not that
8 technically knowledgeable as you are on
9 brownfields. All I know is, when we've tried to
10 develop them from a business standpoint, we've
11 been unsuccessful getting our banks to approve
12 them. That's as far as I can answer that
13 question. Anymore legal details would have to go
14 to legal counsel.

15 MR. AINSWORTH: And you are represented
16 by legal counsel?

17 THE WITNESS (Walker): But I can't
18 answer that question.

19 MR. AINSWORTH: Understood.

20 MR. MICHAUD: We'd be glad to respond
21 to those questions in briefs, which is probably
22 appropriate.

23 MR. AINSWORTH: That would be fair.

24 The remainder of my questions were
25 relating to the other part of the panel that's not

1 present. So I have no further questions at this
2 time. Thank you.

3 THE CHAIRMAN: Okay. We'll break for
4 lunch until 1:45.

5 MR. MICHAUD: Chairman Stein, can I be
6 allowed to ask some quick redirect of my witnesses
7 based on the questions?

8 MS. BACHMAN: Perhaps, Attorney
9 Michaud, the best time to do that would be once
10 Attorney Ainsworth has had the opportunity to
11 cross-examine your full panel.

12 MR. MICHAUD: Okay.

13 MS. BACHMAN: And then maybe you'll
14 have more by that point. And rather than do it
15 twice, we'll just do it once.

16 MR. MICHAUD: Okay. Thank you,
17 Attorney Bachman.

18 (Whereupon, the witnesses were excused
19 and a recess for lunch was taken at 12:43 p.m.)
20
21
22
23
24
25

1 AFTERNOON SESSION

2 1:46 P.M.

3 J A M E S W A L K E R ,

4 J O E L L I N D S A Y ,

5 R O B E R T B U K O W S K I ,

6 P A T R I C I A F O S T E R ,

7 B R I A N B U T L E R ,

8 called as witnesses, being previously duly
9 sworn, testified further on their oaths as
10 follows:

11 THE CHAIRMAN: We'll resume the
12 hearing.

13 I assume we have the full panel, or as
14 full as it's going to get?

15 MR. MICHAUD: Yes, we're all here.

16 THE CHAIRMAN: Thank you.

17 Attorney Ainsworth.

18 MR. AINSWORTH: Thank you,

19 Mr. Chairman.

20 CROSS-EXAMINATION

21 MR. AINSWORTH: Again, my name is Keith
22 Ainsworth. I represent Rescue Candlewood
23 Mountain. And I'll be asking questions generally
24 to the panel. And whoever is most appropriate to
25 answer the question, feel free to jump in.

1 I assume all the witnesses are still
2 sworn in from last time?

3 MR. MICHAUD: That's correct.

4 MR. AINSWORTH: Thank you.

5 During this environmental review, did
6 the petitioner conduct any breeding bird surveys
7 for the property?

8 THE WITNESS (Butler): No, we did not.

9 MR. AINSWORTH: Then is the petitioner
10 sufficiently aware of what breeding bird
11 populations might exist on the premises?

12 THE WITNESS (Butler): Yes, we are.
13 There's a fairly typical suite of species that
14 would be associated with a deciduous forest of
15 this kind, and as well as the pasture lands on the
16 southern part of the property.

17 MR. AINSWORTH: In the October 5th --
18 or, excuse me, page 5 of the October 27, 2017
19 letter to the NDDDB coordinator by Amec Foster
20 Wheeler, it was noted there was no suitable
21 breeding habitat for the Golden-winged warbler,
22 but there's no mention of any other state-listed
23 species like the Brown thrasher which utilizes a
24 similar habitat.

25 Did the applicant look for other

1 species?

2 THE WITNESS (Butler): We looked for
3 other species, but more so for the characteristics
4 of the habitat. And specifically the pasture
5 lands that are on the property, on adjacent to the
6 property, are smaller dimensions than would be
7 typically associated with a number of the
8 grassland associated birds and, as you said, the
9 thrasher. The habitat is clearly not suitable for
10 the Golden-winged warbler, and we could elaborate
11 on that, but I think we have it in testimony. And
12 similarly with the Brown thrasher, it's
13 virtually -- very unlikely, virtually, not
14 unthinkable, but it's not something that would be
15 associated with that habitat.

16 THE WITNESS (Foster): As you're aware,
17 the National Diversity Data Base provided a letter
18 asking us specifically to do an assessment for the
19 Golden-winged warbler, and we performed the study
20 as requested by the National Diversity Data Base.

21 MR. AINSWORTH: And so you didn't go
22 any further than what the NDDB coordinator
23 requested?

24 THE WITNESS (Foster): No.

25 MR. AINSWORTH: Speaking of the NDDB,

1 does the Oxbow report list -- because it wasn't
2 clear to me -- does the Oxbow report list all of
3 the NDDB identified species for that site?

4 THE WITNESS (Butler): Yes, we do.

5 MR. AINSWORTH: And could you tell me
6 what those species are?

7 THE WITNESS (Butler): From memory, the
8 golden-winged warbler, slimy salamander, wood
9 turtle, box turtle.

10 MR. AINSWORTH: So that list of species
11 were all of the species that the NDDB identified?

12 THE WITNESS (Butler): As well as
13 vernal pools, yes. I may have omitted something
14 but --

15 THE WITNESS (Foster): They did
16 identify concerns relative to bats, but that was
17 also addressed in our letter in response to the
18 National Diversity Data Base that you referenced,
19 the October 27th letter.

20 MR. AINSWORTH: And was that the June
21 2017 version of the NDDB that was used?

22 THE WITNESS (Butler): July 10.

23 THE WITNESS (Foster): July 10.

24 MR. AINSWORTH: Thank you.

25 Now, the solar panels that are going to

1 be put in, it was testified that there's going to
2 be footings for them, or there's going to be posts
3 that are going to be put in. Are there footings
4 for those posts that go in?

5 THE WITNESS (Bukowski): No, just the
6 posts.

7 MR. AINSWORTH: So the posts are just
8 driven straight down?

9 THE WITNESS (Bukowski): Either driven
10 or screwed in.

11 MR. AINSWORTH: There's a road called
12 Old Rocky River Road that exits onto Route 7. Was
13 that evaluated as an alternative access to the
14 property for the purpose of both the transmission
15 lines and the site access?

16 THE WITNESS (Bukowski): No, it wasn't.

17 MR. AINSWORTH: Was there a reason why
18 that was not looked at?

19 THE WITNESS (Lindsay): It's really not
20 a feasible route, but it's not something we looked
21 at in detail. The access that we have currently
22 was viewed as sufficient.

23 MR. AINSWORTH: But if you believe that
24 the other route was infeasible, what was the
25 infeasibility with regard to that route?

1 THE WITNESS (Lindsay): We did not look
2 at it in detail. The route that we have now is
3 the route that we have stuck with from the
4 beginning.

5 MR. AINSWORTH: So is it fair to say
6 that you don't know if there are alternative --
7 that this route is the alternative of least
8 impact?

9 THE WITNESS (Lindsay): This route is
10 an existing road. The other road is not in any
11 way an existing road. This route is a driveable
12 access that we have now.

13 MR. AINSWORTH: So it's your testimony
14 that Old Rocky River Road is not a cleared
15 accessway to the property?

16 THE WITNESS (Lindsay): To my
17 knowledge, no.

18 MR. AINSWORTH: Is it true that the
19 ground beneath the arrays is going to be designed
20 so it will not have a slope greater than 10
21 degrees?

22 THE WITNESS (Bukowski): That's
23 correct, for the most part, except for the
24 northern-most part of the array which slopes
25 towards the south, so the racking manufacturer can

1 allow a little bit more than 10 degrees.

2 MR. AINSWORTH: Will there be regrading
3 to make some of that terrain meet the requirement
4 of less than 10 degrees on the parts where it is
5 required?

6 THE WITNESS (Bukowski): Some minimal
7 grading, yes.

8 MR. AINSWORTH: And how will that
9 grading be accomplished?

10 THE WITNESS (Bukowski): Either adding
11 fill or cutting material away to meet that slope.

12 MR. AINSWORTH: Would that be done with
13 a backhoe, bulldozer, or grader, that kind of
14 equipment?

15 THE WITNESS (Bukowski): Typical earth
16 work equipment.

17 MR. AINSWORTH: And isn't it true that
18 those types of equipment would result in some
19 compaction of the soil as a result of their use at
20 that site?

21 THE WITNESS (Bukowski): It really
22 depends on the type of equipment. We haven't
23 specified the type of machinery. Usually that's
24 up to the contractor. But if they use low ground
25 pressure equipment, that's pretty minimal

1 compaction.

2 MR. AINSWORTH: And in order to prepare
3 the site for the panel installations, do you plan
4 to de-stump the site?

5 THE WITNESS (Bukowski): Within the
6 fence line, yes.

7 MR. AINSWORTH: And the fence line is
8 what goes immediately around the entire array.
9 Correct?

10 THE WITNESS (Bukowski): Correct.

11 MR. AINSWORTH: And the removal of the
12 stumps will involve the use of what kind of
13 equipment?

14 THE WITNESS (Bukowski): Similar earth
15 work equipment.

16 MR. AINSWORTH: And would that have an
17 impact on the soil integrity?

18 THE WITNESS (Bukowski): There may be
19 some disturbance when the equipment goes over the
20 soil, if that's what you mean.

21 MR. AINSWORTH: Also the removal of the
22 stumps itself?

23 THE WITNESS (Bukowski): Yeah, any
24 stump removal there will be material put in place
25 to fill those voids in.

1 MR. AINSWORTH: Would the material be
2 found on site or elsewhere?

3 THE WITNESS (Bukowski): The idea is to
4 reuse as much on site as possible.

5 MR. AINSWORTH: So is it possible that
6 material from off site will be used to fill those
7 voids?

8 THE WITNESS (Bukowski): It's hard to
9 say right now, but the idea would be once the
10 trees are cut and the stumps removed that any
11 material that's left over would be used. The idea
12 is to keep what we can on site.

13 MR. AINSWORTH: Now, going back to the
14 fence, what kind of fence is proposed to go around
15 the entire array?

16 THE WITNESS (Bukowski): Standard
17 chain-link.

18 MR. AINSWORTH: That would make the
19 entire array area unavailable for mammalian
20 species and turtles; would it not?

21 THE WITNESS (Butler): For larger
22 mammals and adult turtles it would. With regard
23 to turtles, that's the intent. With regard to
24 mammals, it's not positive or negative. We're
25 trying to exclude adult turtles from that area so

1 they don't conflict with mowing -- or so the
2 mowing doesn't conflict with their existence.

3 MR. AINSWORTH: It would also prevent
4 turtles from getting from the southwestern part of
5 the site to the main wetland in the central
6 portion of the site; would it not?

7 THE WITNESS (Butler): By direct
8 access, yes. Box turtles, which are the species
9 that would be at least speculatively present here,
10 is not an aquatic species; it's a terrestrial
11 species.

12 MR. AINSWORTH: What about Wood
13 turtles?

14 THE WITNESS (Butler): Wood turtles
15 have a high affinity with perennial high water
16 quality streams, which we don't have anywhere near
17 the array.

18 MR. AINSWORTH: There is a river
19 located, I guess, to the northeast of the center
20 part of the array; is there not? I believe it's
21 called the Rocky River?

22 THE WITNESS (Butler): Yes, it is
23 northeast. It's quite a distance. It's a
24 combination of the drainage emanating from
25 Candlewood Lake and Wetland 1 on the subject

1 property, and it flows north, discharging onto
2 Route 7 to the Housatonic, but it's over 1,000
3 feet, I believe, from the activities proposed
4 through some pretty steep topography.

5 MR. AINSWORTH: But it's also adjacent
6 to the central wetland and only about 300 feet
7 from the fence line. Correct?

8 THE WITNESS (Butler): No. The stream
9 character in that area is intermittent. It's an
10 excavated channel draining Wetland 1 down to a
11 very steep precipice on site, but in the
12 southeastern quadrant there all of it is
13 unsuitable for Wood turtle habitation until after
14 the confluence with the outfall from Candlewood
15 Reservoir where the stream becomes a little more
16 substantial going north.

17 MR. AINSWORTH: So your comments would
18 apply also to the area to I guess immediately to
19 the east of the central part of the array?

20 THE WITNESS (Butler): Yes. Wetland 1
21 there is not a stream. It's certainly not a
22 perennial stream system, if that's where you
23 referred to. The actual stream that constitutes
24 the Rocky River main stem is I think removed by
25 two properties from the project site to the east.

1 I would say it's about 1,500 feet from the nearest
2 work associated with the array, just eyeballing it
3 on this plan in front of me.

4 MR. AINSWORTH: One moment.

5 (Pause.)

6 MR. AINSWORTH: Now, with regard to the
7 mole salamander, did you do any studies of that
8 population?

9 THE WITNESS (Butler): There are two
10 species of mole salamander present, spotted
11 salamander and the marbled salamander, *Ambystoma*
12 *macalatum* and *Ambystoma opacum* respectively.
13 Neither of those are state listed. We didn't do a
14 formal study of them. We documented their
15 presence associated with the vernal pools within
16 Wetland 1. We found adults in that area and
17 metamorphs or juveniles in that area.

18 MR. AINSWORTH: And isn't it true that
19 a very short -- relatively short period of their
20 life cycle is actually in the vernal pool itself,
21 and that most of their life cycle is in the
22 forest?

23 THE WITNESS (Butler): That is true.

24 MR. AINSWORTH: And isn't it true that
25 the removal of the forest to the west of Wetland 1

1 will remove a substantial portion of the 750 foot
2 critical terrestrial habitat area for Wetland 1?

3 THE WITNESS (Butler): That is true,
4 substantial being greater than 5 percent, if
5 that's what you mean.

6 MR. AINSWORTH: And the remaining
7 habitat, or out of vernal pool season habitat for
8 those salamanders is a fairly narrow band of
9 habitat on a very steep rocky slope to the
10 northeast. Correct?

11 THE WITNESS (Butler): Northeast of
12 relative to where?

13 MR. AINSWORTH: To Wetland 1.

14 THE WITNESS (Butler): No, there's a
15 considerable area due west of Wetland 1 in the
16 vernal pools inherent there, and then everything
17 to the east, northeast and southeast of Wetland 1
18 is completely untouched.

19 MR. AINSWORTH: Well, the area to the
20 west is obviously the solar panel array because
21 it's immediately adjacent to Wetland 1. Correct?

22 THE WITNESS (Butler): It's not
23 immediately adjacent, but it is adjacent to it. I
24 believe the minimum offset is in excess of 100
25 feet for limited clearing.

1 MR. AINSWORTH: And that's a fairly
2 narrow band of forest, is it not, for the purpose
3 of habitat protection?

4 THE WITNESS (Butler): It's narrow in
5 relative terms to the east side where it will be
6 boundless.

7 MR. AINSWORTH: And this project does
8 create a significant amount of edge habitat; does
9 it not?

10 THE WITNESS (Butler): Forested edge,
11 yes.

12 MR. AINSWORTH: And forested edge
13 habitat is --

14 THE WITNESS (Foster): Well, I wouldn't
15 say it creates a significant amount of forested
16 edge habitat. When we look at it, there is change
17 to the interior forest and increase in the edge.

18 MR. AINSWORTH: I think that may have
19 been what I asked is that it creates a significant
20 increase in the edge habitat.

21 Isn't edge habitat particularly
22 vulnerable to the invasion by invasive species
23 which colonize due to the increased light access
24 and disturbance?

25 THE WITNESS (Butler): There's a

1 greater propensity for a change in the immediate
2 boundary zone because, as you say, light
3 penetration and so forth, but the forest itself
4 will remain intact, the tree canopy and the
5 understory will remain intact. There will be
6 microscale changes in the physiography of the edge
7 area.

8 MR. AINSWORTH: Well, I mean, the
9 forest area that's not being cut down will remain
10 intact?

11 THE WITNESS (Butler): Correct.

12 MR. AINSWORTH: And also, doesn't that
13 edge habitat tend to increase the habitat for
14 undesirable competitive species like the
15 brown-headed cowbird?

16 THE WITNESS (Butler): Cowbirds are
17 more frequently found in disturbed areas than in
18 closed canopy forests.

19 MR. AINSWORTH: And this would be a
20 disturbed area once this project gets underway.
21 Correct?

22 THE WITNESS (Butler): Yes.

23 THE WITNESS (Foster): So to give you
24 an idea, the increase in edge forest is 8 to 9
25 percent.

1 MR. AINSWORTH: Thank you. That's
2 helpful.

3 THE WITNESS (Foster): You're welcome.

4 MR. AINSWORTH: A fair amount of say
5 testimony or conversation during these proceedings
6 has been with regard to the alternative of the
7 development that could be done under the existing
8 zoning. Was there any comparison of the impacts
9 done comparing the current project with the
10 existing site?

11 THE WITNESS (Butler): You're referring
12 to the previously proposed residential project
13 specifically or --

14 MR. AINSWORTH: Correct.

15 THE WITNESS (Lindsay): We have not
16 made any comparison with the previous project.

17 You're talking about the previous
18 proposed project in 2007?

19 MR. AINSWORTH: Correct.

20 THE WITNESS (Lindsay): We've not made
21 any specific comparisons. It's not been required
22 in the filings that we've made.

23 MR. AINSWORTH: And I asked some
24 questions earlier about the possibility of the
25 conservation restrictions and before some of the

1 new panel members came on. Are any of the new
2 panel members involved in the negotiations over
3 the potential conservation restrictions?

4 THE WITNESS (Lindsay): No, they're
5 not.

6 MR. AINSWORTH: Do we know what the
7 terms of the proposed conservation restriction are
8 currently?

9 MR. MICHAUD: I believe you asked this
10 question already.

11 MR. AINSWORTH: I'm not sure if I asked
12 what the terms were. Because, I mean, you would
13 agree that conservation restriction can mean many
14 things. There's no standard definition of
15 conservation restriction.

16 THE WITNESS (Lindsay): Again, I think
17 we answered your question previously that we're
18 not negotiating that.

19 MR. LYNCH: Mr. Lindsay, is your
20 microphone on?

21 THE WITNESS (Lindsay): Yes. I'm just
22 speaking too softly.

23 MR. AINSWORTH: Almost done.

24 I believe I've covered all my
25 questions. Thank you.

1 THE CHAIRMAN: Thank you,
2 Mr. Ainsworth.

3 Does the town have any further cross?

4 MS. RIGDON: I have a couple questions.

5 Going back to the issue of the
6 decommissioning plan, in previous solar projects
7 that you have completed, when is that plan
8 typically provided?

9 THE WITNESS (Walker): For every
10 project that we have done and built, the
11 communities have not required a specific plan 20
12 years out in advance. They've required that we
13 give assurances for such decommissioning, and
14 we've done such.

15 MS. RIGDON: So in terms of a
16 decommissioning plan, and the pilot agreement
17 calls for a surety bond for that decommissioning
18 plan, how do you plan for that bond if you don't
19 know what you're doing? So, for example, let's
20 just say that decommissioning plan consisted of
21 fully restoring this forest with whatever tree
22 height is in there now, and it could cost you
23 millions of dollars, how do you plan for that?

24 THE WITNESS (Walker): Our plan, the
25 basic plan -- I don't know what level of detail

1 you're asking -- the basic plan is to remove the
2 system entirely and to reseed any areas that have
3 been disturbed by pulling up the posts and leaving
4 it as a field. The town didn't put any other
5 requirements on it.

6 THE WITNESS (Lindsay): No.

7 THE WITNESS (Walker): So we don't have
8 any other requirements.

9 MS. RIGDON: It says in the pilot
10 agreement that the property be restored. So I'm
11 not sure, I don't think "restored" is
12 unfortunately defined in this agreement.

13 THE WITNESS (Walker): There's no way
14 that we can have 50 year old trees growing after
15 we leave the property.

16 MS. RIGDON: Right. But as opposed to
17 a requirement that a seedling be planted on the
18 property, or a 20 or 30 or a 60 foot tree, there's
19 a difference in cost there. So how do you plan
20 for that?

21 THE WITNESS (Walker): As Joel
22 mentioned, we're not the property owners. We will
23 restore the project site as is. We are open for
24 other considerations, but we're not the property
25 owners.

1 MS. RIGDON: But in the pilot agreement
2 that you signed as developer, you agreed to
3 restore the property.

4 THE WITNESS (Walker): In our mind,
5 restoring the property doesn't mean putting 50
6 year old trees back. But we will restore it in
7 the sense of we'll completely remove the system.
8 There will be no more system there, and we'll
9 plant grass seed where there's any disturbance.
10 That's the plan right now.

11 MS. RIGDON: And has that plan been
12 reduced to writing anywhere?

13 THE WITNESS (Walker): No, it has not.

14 MS. RIGDON: Going back to testimony
15 last time I just briefly wanted to touch on, we
16 had talked about emergency first responder
17 training. Have you spoken to the emergency first
18 responders or the Town of New Milford concerning
19 that training?

20 THE WITNESS (Lindsay): We have not had
21 any discussions yet. At this stage it's something
22 that we would be doing as we, you know, assuming
23 we move into actually building the project.

24 THE WITNESS (Walker): But I think we
25 mentioned the last time that we have a vice

1 president of safety and security, and he has a
2 team of people. And for all of our projects we
3 provide that training. We provide manuals. We
4 show them where the shut-offs are. I think we
5 mentioned that in our last --

6 MS. RIGDON: You did. My concern is --
7 oh, I'm sorry.

8 THE CHAIRMAN: You got the answer?

9 MR. LYNCH: Thank you, Mr. Chairman.
10 But you just answered it, providing training.
11 That was my question.

12 MS. RIGDON: So if the town's
13 understanding with their emergency first
14 responders would be that they're not allowed to
15 touch this system, they're not allowed to turn a
16 key, they're not allowed to do anything, are you
17 going to produce a local key holder?

18 THE WITNESS (Walker): We allow the
19 emergency responders to shut off the main switch,
20 and they'll have the key and --

21 MS. RIGDON: But if a town were to have
22 in place an agreement and a directive to their
23 emergency first responders that they are not
24 allowed to do that, how do you handle that?

25 THE WITNESS (Walker): I guess we'd

1 work with the town on what works best for the
2 town. We want to do what's best for the town from
3 the standpoint of emergency first responders.

4 MS. RIGDON: So are you able to have a
5 local key holder, which would be someone -- that's
6 a town term -- but it would be someone who could
7 go to the system and turn it off, if necessary?

8 THE WITNESS (Walker): Our plan is that
9 the first responders would have that key, but if
10 you prefer someone else, we can do that.

11 MS. RIGDON: Okay. No further
12 questions.

13 THE CHAIRMAN: Thank you.

14 Does the Department of Agriculture have
15 any questions?

16 MR. ANDERSON: No, we don't.

17 MR. LYNCH: Mr. Chairman, just one
18 follow-up question. If the emergency services
19 gets inside and turns off the transformers and
20 inverters and it's the middle of the afternoon,
21 aren't those panels still hot?

22 THE WITNESS (Walker): Yes. In our
23 last session we described it. They can turn it
24 off with respect to the power leaving the system,
25 but the panels, as long as there's sun on them,

1 will always be generating electricity, and there's
2 no way to stop that.

3 MR. LYNCH: So I guess the question
4 should be, how do you teach first responders or
5 your own employees to deal with that situation?

6 THE WITNESS (Walker): Our safety --
7 I'm not sure what the specific situation is, but
8 our safety group -- and I'm not an expert on the
9 safety procedures -- teach them how to safely
10 respond to any type of an emergency that might be
11 there.

12 MR. LYNCH: Now, if those panels are
13 hot, is there any type of flashing or anything
14 that can occur while someone gets close to them
15 with any other equipment?

16 THE WITNESS (Walker): Not that I'm
17 aware of. There will be equipment there all the
18 time. But I guess you're asking if there's a fire
19 there or --

20 MR. LYNCH: If there's a fire or some
21 emergency, an accident or some emergency, if
22 someone is around those hot panels, I know
23 sometimes electricity can jump where it doesn't
24 belong.

25 THE WITNESS (Walker): All the wires

1 are insulated. But if you have a specific
2 question, I'll ask the experts on how that's
3 managed. I'm not the expert on that.

4 MR. LYNCH: But you said earlier there
5 will be training. If the town needs special
6 equipment for their volunteer fire department,
7 would that also be provided, if it's needed, in
8 like a community agreement?

9 THE WITNESS (Walker): I'm unaware of
10 special equipment that any town has ever required.
11 We have about 200 megawatts of projects, I think
12 300 project sites, and no equipment has been
13 required to date. So I'm not familiar with what
14 equipment might be required, but again, I could
15 ask our safety people what that --

16 MR. LYNCH: I was just wondering if any
17 would be required.

18 THE WITNESS (Walker): I know of none.

19 MR. LYNCH: Okay. Thank you.

20 Thank you, Mr. Chairman.

21 THE CHAIRMAN: Mr. Silvestri has a
22 follow-up.

23 MR. SILVESTRI: Just one quick one to
24 what Mr. Lynch was talking about. You mentioned
25 the insulated wires. But if the wires were to be

1 cut, shorted out, wherever they may be, could the
2 panels actually short to ground and cause you a
3 problem there?

4 I think that's what you were trying to
5 get at.

6 MR. LYNCH: Yes.

7 THE WITNESS (Walker): I would have to
8 ask our electrical engineers how that would work.
9 But if a wire is cut and it's near something
10 electrical, there could be a short to ground, but
11 I really -- that's conjecture on my part. I'm not
12 the electrical engineer.

13 MR. SILVESTRI: Thank you.

14 Thank you, Mr. Chairman.

15 THE CHAIRMAN: Okay. We'll go through
16 a final round with the Council, starting with
17 Mr. Perrone.

18 MR. PERRONE: Thank you, Mr. Chairman.

19 Also on that topic, if you were to shut
20 the plant down, is it shut off before the
21 inverters and transformers so the inverters and
22 transformers from then on are off, or shut off
23 after?

24 THE WITNESS (Walker): Again, I'm not
25 the expert. We follow the NEC, National

1 Electrical Code rules, and whatever those rules
2 are, we follow those rules.

3 MR. PERRONE: Regarding the sale of
4 electrical energy relative to your PPAs, do you
5 have the percentages that would be sold to each
6 utility?

7 THE WITNESS (Walker): Not off the top
8 of my head, but it's in the contract. We can
9 provide that to you, if we haven't already
10 provided it. But 100 percent of it is sold, and
11 it's split up among the utilities.

12 MR. PERRONE: Okay. And the utilities
13 would basically be purchasing a package of both
14 the electrical energy and the RECs?

15 THE WITNESS (Walker): That's correct.
16 It's our understanding from our conversations with
17 them -- we don't know exactly what they'll do --
18 but they told us during our negotiations that they
19 would sell the electricity immediately after it
20 left us. So it will not -- they'll sell it
21 immediately into the Connecticut wholesale market,
22 then they'll take the RECs. They have no interest
23 in the actual energy itself. What they do,
24 though, is under their control, not our control.

25 MR. PERRONE: And this would all be

1 subject to the final approval of the PPA by the
2 Mass. DPU?

3 THE WITNESS (Walker): The contract is
4 under the final approval of the Mass. DPU.
5 Although, I will say that the contract was pretty
6 much the same contract that was already approved,
7 so we don't expect any -- since they had already
8 approved the pro forma contract, and there's
9 hardly any changes to it, we don't see any issues
10 there.

11 MR. PERRONE: On page 14 of the
12 petition it notes a public forum was conducted on
13 December 7, 2016. Do you know the venue or
14 location of that?

15 THE WITNESS (Lindsay): It was -- if I
16 can, it was at a -- I think it's where the chamber
17 of commerce meets. It's at the railroad station
18 in town. It's a location that's used for many
19 different kinds of meetings. I don't recall the
20 address. I'm sorry.

21 MR. PERRONE: All right. Page 29 of
22 the petition notes that the only equipment at the
23 site that would generate noise would be the
24 inverters. Would there also be some transformer
25 noise buried into that?

1 THE WITNESS (Lindsay): I would have to
2 check, but the primary noise would be from the
3 inverters.

4 MR. PERRONE: So is it correct to say
5 that you modeled the sound based on the dominant
6 source of noise?

7 THE WITNESS (Lindsay): Yes.

8 MR. PERRONE: I think we touched on
9 this a little bit last time, but just to be clear,
10 as a solar facility, it would not necessarily be a
11 black start facility. Right?

12 THE WITNESS (Walker): For ISO New
13 England?

14 MR. PERRONE: Yes.

15 THE WITNESS (Walker): No.

16 MR. PERRONE: And with the panels
17 facing the south, so your racks would basically be
18 oriented east-west. Is that correct?

19 THE WITNESS (Lindsay): The racks, the
20 azimuth that they're facing is directly south.

21 MR. PERRONE: I understand there will
22 be a modified stormwater design to take into
23 account the proposed modified configuration. And
24 in the prefile testimony of Mr. Bukowski, the
25 modified design would comply with the 2002

1 guidelines for E&S. Would the modified stormwater
2 design also comply with the 2004 Connecticut
3 Stormwater Quality Manual?

4 THE WITNESS (Bukowski): Yes.

5 MR. PERRONE: In the comments from
6 DEEP, dated September 21, 2017, DEEP notes that
7 very light rain events would not generate any
8 overland flow, and grass under the panels should
9 be drought tolerant as well as shade tolerant.
10 Does the petitioner agree with that?

11 THE WITNESS (Bukowski): I think I
12 mentioned this before. But, in our experience,
13 the grass underneath the panels actually ends up
14 growing a little bit better because it does get
15 some shade, and it still does get runoff. So in
16 our experience, it hasn't really been an issue.

17 MR. PERRONE: So you wouldn't expect to
18 need a drought tolerant species type of grass?

19 THE WITNESS (Bukowski): We'll follow
20 the DEEP guidelines for that. They have different
21 seed mixtures that would be applicable to the
22 site.

23 MR. PERRONE: On the prefile testimony
24 of Mr. Posthauer, page 2 of that document notes
25 that the southern portion of the project would be

1 visible from homes across the lake. Does the
2 petitioner agree with that?

3 It was the September 18th document,
4 page 3, and it would be the third paragraph under
5 the stormwater management section. It says, My
6 review of the grades indicates that the southern
7 portion of the project would be visible from the
8 houses across the lake, his included, and
9 Candlewood Springs Beach. I was wondering if the
10 petitioner agreed with that statement or not?

11 THE WITNESS (Foster): So the solar
12 array and the electrical interconnect will be
13 visible to the west when the leaves are off. And
14 that's over by Fox Run and also Candlelight Farms
15 Airport. Across the lake, if he's referring to
16 the east over by Lynn Deming Park, the solar array
17 will not be visible, nor will the electrical
18 interconnect. At the last hearing we did talk
19 about an approximate 100 foot area, but that is
20 actually not on the main body of Candlewood Lake;
21 it's actually just the discharge canal which is to
22 the northeast of Lynn Deming Park.

23 MR. PERRONE: And also while we're on
24 the same document, back to the erosion control
25 plan review. I know at the last hearing

1 Mr. Bukowski responded to the comments relative to
2 stormwater. I was wondering if the petitioner
3 could respond to these points 1 through 11 on the
4 erosion control plan?

5 THE WITNESS (Bukowski): Do you want me
6 to run through all these?

7 MR. PERRONE: Sure.

8 THE WITNESS (Bukowski): So number 1,
9 the phasing plan will be worked out. As I think I
10 mentioned at the last hearing, we met with DEEP
11 and discussed the requirements in more detail.
12 And we'll be working to complete the phasing plan
13 for their review.

14 Number 2, the details of that still
15 need to be worked out, and that would be part of
16 the phasing plan too.

17 For number 3, if topsoil is imported,
18 there will be a specification on that provided.

19 Number 4, we realize it's harder to
20 grow grass in the summer than it is in the spring
21 and fall, so in that case there may be some
22 temporary stabilization that will be required.

23 Number 5, inspections will be done in
24 accordance with the DEEP guidelines.

25 Number 6, at this point I think our

1 intention is to use water for dust control.

2 MR. PERRONE: So no calcium chloride
3 there?

4 THE WITNESS (Bukowski): Right. I
5 think water is --

6 THE WITNESS (Lindsay): Yes.

7 THE WITNESS (Bukowski): Right.

8 I'm not sure how much need there will
9 be for washing trucks. It really depends on the
10 situation and what happens there. That would be
11 addressed in the DEEP submittal.

12 Number 8, we're still revising that
13 final design.

14 Number 9, that information will also be
15 provided to DEEP.

16 The same response for number 10.

17 Number 11, again, that will be
18 finalized in the design, but we're reassessing the
19 roads, and the idea would have them flush with the
20 existing grade. There may be some conveyances to
21 the side with drainage swales.

22 MR. PERRONE: Thank you.

23 One last item on the visibility topic.
24 With the revised configuration, would the project
25 be visible from the Housatonic Range Trail?

1 THE WITNESS (Lindsay): I'll let Trish
2 also chime in, but I believe there's a significant
3 forested buffer between the termination of that
4 trail, the blue trail, and the area of the array.

5 THE WITNESS (Foster): Correct.

6 MR. PERRONE: And then at the last
7 hearing we received two documents. One was the
8 cover letter memo to SHPO with the Phase 1B
9 report. To date, have you received any response
10 from SHPO since that letter?

11 THE WITNESS (Foster): I've had email
12 communications with Ms. Wisniewski just indicating
13 to me that she's received it and she plans to
14 review it this week.

15 MR. PERRONE: And similarly, have you
16 received a response from DEEP regarding the NDDB
17 response that was filed on or about October 27th?

18 THE WITNESS (Foster): There's been no
19 written communication with NDDB. However, I have
20 spoke with Ms. McKay, and she is in the process of
21 reviewing it.

22 MR. PERRONE: Mr. Bukowski, in one of
23 the earlier interrogatories, Number 64, we had
24 asked the cut and fill amounts. It was about 280
25 yards net for the access roads and 175 net for the

1 arrays. Would those numbers have to be adjusted
2 for the revised configuration?

3 THE WITNESS (Bukowski): Potentially,
4 yes.

5 MR. PERRONE: And you wouldn't have
6 that here?

7 THE WITNESS (Bukowski): I don't.

8 MR. PERRONE: That's okay.

9 And, Mr. Walker, I had asked you about
10 the total project cost taken into account the
11 proposed modified configuration. Going back to
12 the original configuration, would the cost of the
13 two options be comparable?

14 THE WITNESS (Walker): To the best of
15 my knowledge, they're comparable, still a 20
16 megawatt project. The panels are a little bit
17 more expensive, but we have less panels. So
18 there's a cost difference. I don't have it off
19 the top of my head.

20 MR. PERRONE: And while we're on the
21 topic of the panels, I believe you went from
22 something like a 350 watt panel to a 400 watt
23 panel. Is that correct?

24 THE WITNESS (Lindsay): Yes, that's
25 correct.

1 MR. PERRONE: And when RCM was up
2 earlier, there was some discussion and some
3 concerns about potential reliability issues of the
4 400 watt panel. Could you tell us about the
5 reliability of the 400 watt panel?

6 THE WITNESS (Walker): Before we can
7 order and buy panels, they have to be approved by
8 financing. We've been through this before. They
9 inspect all the -- all the panels are inspected
10 where they're made on the manufacturing line. And
11 they have to be Tier 1 panels from a Tier 1
12 manufacturer. So for those reasons, we have no
13 concerns over the wattage.

14 THE CHAIRMAN: Can I follow up? Have
15 you used those panels before?

16 THE WITNESS (Walker): We have not used
17 the 400s yet. They are new.

18 THE CHAIRMAN: Thank you.

19 MR. PERRONE: Maybe two more. I
20 understand the seasonal restriction with the tree
21 cutting, the petitioner's intent was to -- with
22 respect to breeding birds, that tree cutting would
23 occur prior to the initiation of the nesting
24 activity for breeding birds. Would such seasonal
25 restriction, even though it was originally

1 intended for bats, would it be protective of
2 breeding birds also?

3 THE WITNESS (Butler): Yes, it would.
4 Migratory birds and other passerine birds don't
5 breed in the spring season before which the tree
6 felling will be done.

7 MR. PERRONE: And as far as air
8 emissions from construction vehicles, have you
9 considered any best available controls technology
10 vehicles or low emissions vehicles for
11 construction purposes?

12 THE WITNESS (Lindsay): That's not
13 something that we've specifically looked into, but
14 our intent is always to have as little impact as
15 possible so that's --

16 THE WITNESS (Walker): It's a
17 contractor decision, generally speaking, not a
18 decision that we make.

19 MR. PERRONE: Thank you very much.
20 That's all I have.

21 THE CHAIRMAN: Okay. We'll now see if
22 there are anymore questions by any of the panel.

23 Senator Murphy?

24 SENATOR MURPHY: No.

25 THE CHAIRMAN: Mr. Harder?

1 MR. HARDER: No questions.

2 THE CHAIRMAN: Mr. Silvestri?

3 MR. SILVESTRI: Thank you,
4 Mr. Chairman.

5 Two topics. First, I wanted to get
6 back to the 400 watt panels. Are they readily
7 available?

8 THE WITNESS (Walker): No panels are
9 readily available today because of the -- you may
10 be aware of the proposed tariff. We have
11 contacted the manufacturers, and they said they'll
12 be available after the tariff decision is made.
13 So we expect they'll be available in January.
14 We'll not be buying them at that point in time.
15 When we purchase them, we've been told that they
16 will be available.

17 MR. SILVESTRI: What's the lead time
18 once you would order them to when you'd receive
19 them?

20 THE WITNESS (Lindsay): That varies.
21 It's difficult to predict that right now, but it's
22 anywhere from two weeks to eight weeks.

23 MR. SILVESTRI: Okay. Then related to
24 the panels, we talked last time about the
25 inverters, that you had mentioned there will be a

1 change there but it was ISO voltage related.

2 THE WITNESS (Walker): I'm sorry. It
3 was control related so that they could have
4 control over our system.

5 MR. SILVESTRI: Right. But again,
6 related to voltage.

7 THE WITNESS (Walker): I don't know all
8 the controls that they want, because I'm not the
9 electrical engineer, but it included they wanted
10 more flexibility on the voltage. That was one of
11 the things that they wanted.

12 MR. SILVESTRI: With the panels, do you
13 anticipate any other changes that would need to be
14 made, say, to transformers to accommodate the 400
15 watt panels?

16 THE WITNESS (Walker): No. Right now
17 the system has been fully designed, submitted to
18 CL&P and ISO New England, and to my -- we're still
19 waiting to hear the final results from ISO New
20 England, but I'm not expecting any further
21 changes.

22 MR. SILVESTRI: The other topic I had
23 goes back to some earlier discussion we had today,
24 and also back to Set Three of the interrogatories,
25 Question 111, in particular. This was dealing

1 with other sites that were considered by
2 Candlewood Solar to look for sufficient land to
3 build the project. And the question I had was, I
4 didn't see -- and I could have missed it --
5 anything about the New Milford landfill. Did you
6 consider that in the process?

7 THE WITNESS (Lindsay): I don't believe
8 so.

9 MR. SILVESTRI: Any reason behind it,
10 seeing that we heard before Ameresco did put
11 panels on other landfills in other locations?

12 THE WITNESS (Lindsay): This was the
13 site that we were presented with, and this is what
14 we went with. We did not, to my knowledge -- we
15 did look at, as is mentioned in the testimony, the
16 Kimberly-Clark property, but to my knowledge, the
17 other property was not looked at.

18 MR. SILVESTRI: You don't have any
19 knowledge on if it would be suitable for your
20 needs or not at this point?

21 THE WITNESS (Lindsay): We have not
22 looked at it. The site that we chose to submit to
23 the RFP was this site.

24 MR. SILVESTRI: Thank you.

25 That's all I have, Mr. Chairman.

1 THE WITNESS (Walker): I just would
2 like to follow up on the answer on that is that
3 this site does have a particular advantage -- and
4 I don't know where the other site is -- but the
5 Rocky River Substation, which is a major
6 substation, is right next to this site, and that
7 had quite a bit of advantages for CL&P and ISO New
8 England because it doesn't require running long
9 transmission lines along the road. It can go just
10 right across the road into the substation. So
11 there are electrical advantages that we're able to
12 utilize.

13 MR. SILVESTRI: I'm not sure what's on
14 Route 7 as far as voltage goes, so I can't even
15 help you there. But thank you.

16 THE CHAIRMAN: Mr. Lynch?

17 MR. LYNCH: Just one clarification. I
18 think I heard both Mr. Lindsay and Mr. Walker say
19 in testimony this morning or this afternoon that
20 at the end of 20 years, that after
21 decommissioning, the ultimate control of the
22 property is with the property owner. Correct?

23 THE WITNESS (Walker): That's correct.

24 MR. LYNCH: So --

25 THE WITNESS (Walker): Our lease will

1 be up, and we will not have that lease any longer.

2 MR. LYNCH: So the land would not
3 necessarily have to be restored to farmland or
4 forestland, hypothetically Amazon can come in and
5 say I want to build a new facility here?

6 THE WITNESS (Walker): Well, except
7 that we agreed with the town to do rezoning, and
8 it's going to be rezoned from the high density
9 zoning that it was to 2 acre zoning, residential 2
10 acre zoning.

11 MR. LYNCH: Thank you.

12 THE WITNESS (Walker): So Amazon, they
13 would have to go back after 20 years back to get
14 it rezoned.

15 MR. LYNCH: But all I'm saying is
16 whatever happens at the end of 20 years you're off
17 the hook, it has to go back to the town?

18 THE WITNESS (Walker): Well, I wouldn't
19 refer to it as "off the hook." We'll complete our
20 obligation --

21 MR. LYNCH: That I understand. But the
22 ultimate control --

23 THE WITNESS (Walker): We don't control
24 the property from here on to the rest of --

25 MR. LYNCH: That's what I thought.

1 Thank you.

2 THE CHAIRMAN: I have a couple of
3 questions. First, we heard about -- and I guess I
4 didn't do my homework for the first time -- that
5 there's a phase 2 proposed. Can you enlighten us
6 on what this phase 2 is all about?

7 THE WITNESS (Walker): We propose no
8 phase 2. We have no phase 2 planned. We have no
9 intention of a phase 2. And I heard earlier that
10 the phase 2 was a fuel cell. I would not propose
11 a fuel cell project in Connecticut. There's not
12 enough natural gas for a fuel cell -- there's not
13 enough firm transportation capacity in the
14 interstate pipeline system for a fuel cell. So I
15 wouldn't propose it myself. We have no plans
16 for -- we have no plans. We had no plans. It was
17 news to me when I heard it today.

18 THE CHAIRMAN: I'm glad you clarified
19 that.

20 I'd also like to mention or maybe quote
21 one or two sentences from a very short letter just
22 to make sure that this is what you're used to. We
23 received a letter. It was dated the 25th of
24 October of this year from Chief Todd Russell of
25 Water Witch Hose Company No. 2, which is a

1 volunteer fire department, which I assume this is
2 within their jurisdiction, although otherwise I
3 have no clue why they would be responding.

4 But in any case, and I'm quoting, "As
5 chief of the Water Witch Hose Company No. 2 of New
6 Milford, I have no safety or fire concerns about
7 the proposed solar power panel project."

8 And he also goes on to say, "We have
9 had trainings in the past on how to deal with
10 electrical hazard and how to eliminate the
11 dangers."

12 Is this similar to the kind of reaction
13 you get from other fire departments, or is there
14 something special about this one that would lead
15 to more concern than apparently this chief has?

16 THE WITNESS (Walker): I don't know
17 anything about that letter, but each fire
18 department that we work with, it depends on their
19 level of experience. So if we're in a
20 community -- most of our projects are municipal,
21 with the municipalities. If we're in a community
22 where it's a new project, then they would like
23 quite a bit more training. If they're already
24 familiar with it, then they seek less training.
25 It really depends upon the --

1 THE CHAIRMAN: As I just mentioned,
2 this letter is in the record for those -- and I
3 assume the town is aware of it.

4 MS. RIGDON: I was not aware of it.

5 THE CHAIRMAN: Well, it's a big record.
6 But for some bizarre reason I happened to come
7 across it when I was reviewing my material.

8 I guess the last question -- and this
9 relates to process, which I'm not sure everybody
10 is aware of -- and I start with the two letter
11 word called "if" to make sure everybody knows it.
12 And we're not beyond "if." But if this project
13 were to be approved by the Council, we have a
14 follow-up process, which is called the D&M
15 process, where a number of the details that have
16 been -- questions or detailed questions would
17 presumably be answered or conditioned.

18 So again, if this were to be approved,
19 would you be prepared, when it comes to the D&M
20 plan, to provide more specifics on your apparent
21 willingness to dedicate 100 acres in conservation
22 easements? So I'll admit it's confusing to us,
23 and I think it's confusing to a number of people
24 that there is a separate -- there's a present
25 owner, and there's going to be -- you're going to

1 lease it from another entity, and you're making
2 certain representations. And I think at some
3 point there's going to need to be a little bit
4 more assurance than you saying we're making it but
5 the owner is really going to be responsible.

6 That's a little bit -- so just --

7 THE WITNESS (Walker): I agree and
8 understand with your statement, and we will
9 condition our, if there's approval, such approval
10 on providing the information that you need
11 relative to having that land put into whatever is
12 the appropriate conservation restriction. But I
13 understand, and I agree with your concerns.

14 THE CHAIRMAN: Because it's not
15 something -- since part of it is -- that we could
16 normally require, but when someone makes an offer,
17 we jump. So again, and I just say "if" because I
18 don't know what -- I don't even know how the
19 Chairman is going to vote on this yet, so I'm
20 certainly not speaking for the Council, but I just
21 want to say that there is a process, and some of
22 these details, and I think that's an example of
23 one in particular, we're going to want to see more
24 than a pledge by an entity that may not even be
25 able to deliver.

1 THE WITNESS (Walker): I understand.

2 THE CHAIRMAN: The Chair is ready to
3 close the hearing.

4 So before closing this hearing, the
5 Connecticut Siting Council announces that briefs
6 and proposed findings of fact may be filed with
7 the Council by any party or intervenor no later
8 than December 14, 2017. And that's a firm date.
9 We're under statutory requirements as to when we
10 can conclude our work. And we do understand that
11 there's a holiday season. The submission of
12 briefs or proposed findings of fact are not
13 required by the Council, rather we leave it to the
14 choice of the parties and intervenors.

15 Anyone who has not become a party or
16 intervenor, but who desires to make his or her
17 views known to the Council, may file written
18 statements with the Council within 30 days of the
19 date hereof.

20 The Council will issue draft findings
21 of fact, and thereafter parties and intervenors
22 may identify errors or inconsistencies between the
23 Council's draft findings of fact and the record;
24 however, no new information, no new evidence, no
25 argument -- and no reply briefs without our

1 permission -- will be considered by the Council.

2 Again, copies of the transcript of this
3 hearing will be filed at the New Milford,
4 Brookfield and New Fairfield Town Clerk's offices.

5 I hereby declare this hearing
6 adjourned. Thank you all for your participation.
7 And drive home safely.

8 (Whereupon, the witnesses were excused,
9 and the above proceedings were adjourned at 2:49
10 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

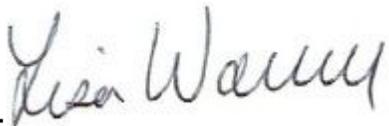
24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing 130 pages are a complete and accurate computer-aided transcription of my original stenotype notes taken of the Continued Hearing in Re: Petition No. 1312, Candlewood Solar LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt AC (26.5 megawatt DC) solar photovoltaic electric generating facility located on a 163 acre parcel at 197 Candlewood Mountain Road and associated electrical interconnection to Eversource Energy's Rocky River Substation on Kent Road in New Milford, Connecticut, which was held before ROBERT STEIN, Chairman, at Ten Franklin Square, New Britain, Connecticut, on November 14, 2017.



Lisa L. Warner, L.S.R., 061

Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESSES RUSSELL POSTHAUER	PAGE 6
CARL DUNHAM	
LISA OSTROVE	
TIMOTHY ABBOTT	
STARLING CHILDS	11
EXAMINERS:	
Mr. Ainsworth (Direct)	7
Mr. Perrone (Start of cross)	14
Mr. Murphy	
Mr. Harder	
Mr. Silvestri	
The Chairman	
WITNESSES WILLIAM TAYLOR	42
LAURA REGAN	
JAMES FERLOW	
STEVE KLEPPIN	
EXAMINERS:	
Ms. Rigdon (Direct)	43
Mr. Perrone (Start of cross)	45
Mr. Murphy	
Mr. Silvestri	
The Chairman	
Mr. Harder	
Mr. Ainsworth	

1 I n d e x: (Cont'd)

2

3 WITNESSES JAMES WALKER PAGE 66

4 JOEL LINDSAY

5 EXAMINERS:

6 Mr. Ainsworth (Cross) 66

7 WITNESSES JAMES WALKER 84

8 JOEL LINDSAY

9 ROBERT BUKOWSKI

10 PATRICIA FOSTER

11 BRIAN BUTLER

12 EXAMINERS:

13 Mr. Ainsworth (Continued cross) 84

14 Ms. Rigdon

15 Mr. Lynch

16 Mr. Silvestri

17 Mr. Perrone

18 The Chairman

19

20 RESCUE CANDLEWOOD MOUNTAIN'S EXHIBITS

21 (Received in evidence)

22 EXHIBIT DESCRIPTION PAGE

23 V-B-1 RCM's request for party and CEPA

24 intervenor status, dated 9/6/17 13

25

1	I n d e x: (Cont'd)	
2	V-B-2 RCM's comments from Carl M. Dunham,	
3	Jr., dated July 19, 2017	13
4	V-B-3 RCM's comments from Lisa Ostrove,	
5	dated July 19, 2017	13
6	V-B-7 RCM's comments from Lisa Ostrove,	
7	dated July 26, 2017	13
8	V-B-8 RCM's comments from Timothy Abbott,	
9	Housatonic Valley Association, dated	
10	July 26, 2017	13
11	V-B-18 RCM's prefiled testimony, dated	
12	September 19, 2017	13
13	a. Starling Childs	
14	b. Timothy Abbott	
15	c. Russell Posthauer	
16	d. Lisa Ostrove	
17	e. Carl Dunham	
18	f. Milan G. Bull	
19	V-B-24 RCM's comments from Ostrove family,	
20	dated October 8, 2017	13
21	V-B-31 RCM's supplemental prefiled testimony	
22	of Russell Posthauer, dated 10/20/17	13
23	V-B-36 RCM's responses to Council	
24	interrogatories, dated October 24, 2017	13
25	V-B-42 Abbott Map	13

1 I n d e x: (Cont'd)

2

3 TOWN OF NEW MILFORD'S EXHIBITS

4 (Received in evidence)

5	EXHIBIT	DESCRIPTION	PAGE
6	III-B-1	Town of New Milford's request for	
7		party status, dated July 19, 2017	44
8	III-B-2	Town of New Milford's Zoning	
9		Commission correspondence, dated	
10		July 14, 2017	44
11	III-B-3	Town of New Milford's Planning	
12		Commission correspondence, dated	
13		July 24, 2017	44
14	III-B-4	Town of New Milford's Zoning	
15		Commission regular meeting minutes,	
16		dated July 25, 2017	44
17	III-B-5	Town of New Milford's Zoning	
18		Commission correspondence, dated	
19		September 11, 2017	44
20	III-B-6	Town of New Milford's Office of	
21		Inland Wetlands Commission correspondence,	
22		dated September 18, 2017	44
23	III-B-7	Town of New Milford's Conservation	
24		Commission correspondence, dated	
25		September 18, 2017	44

1 I n d e x: (Cont'd)

2

3 III-B-8 Town of New Milford's Farmland and
4 Forest Preservation Committee correspondence,
5 dated September 18, 2017, and attached
6 memorandum, dated December 7, 2016 44

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25