



Transcript of the Hearing of

Date: September 30, 2014

Volume: 2

Case: PETITION 1104 - SITING COUNCIL

Printed On: October 9, 2014

UNITED REPORTERS, INC.
Phone: 866-534-3383
Fax: 877-534-3383
Email: info@unitedreporters.com
Internet: www.unitedreporters.com

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Petition No. 1104

The United Illuminating Company Petition
for a Declaratory Ruling that No Certificate
of Environmental Compatibility and Public
Need is Required for the Proposed
Construction, Maintenance and Operation for
of a 2.2 Megawatt Solar Photovoltaic Facility
and a 2.8 Megawatt Fuel Cell Facility on
Approximately 22 Acres of the Former Seaside
Landfill Located at 530 Waldemere Avenue,
Bridgeport, Connecticut

Continued Council Meeting held at the
Connecticut Siting Council, 10 Franklin
Square, New Britain, Connecticut, on
September 30, 2014, beginning at 11:04 a.m.

H e l d B e f o r e :

ROBERT STEIN, Chairman

<p style="text-align: right;">Page 211</p> <p>1 A p p e a r a n c e s: 2 Council Members: 3 JAMES J. MURPHY, JR., Vice Chairman 4 PHILIP T. ASHTON 5 ROBERT HANNON, DEEP Designee 6 MICHAEL CARON, PURA Designee 7 DANIEL P. LYNCH, JR. 8 DR. MICHAEL W. KLEMENS 9 DR. BARBARA C. BELL 10 SENATOR EILEEN M. DAILY 11 12 Council Staff: 13 MELANIE BACHMAN, ESQ., 14 Executive Director and 15 Staff Attorney 16 ROBERT MERCIER 17 Siting Analyst 18 19 For the United Illuminating Company: 20 UIL HOLDINGS CORPORATION 21 157 Church Street 22 New Haven, Connecticut 06506 23 BY: BRUCE L. McDERMOTT, ESQ. 24 JAMES MORRISSEY, ESQ. 25</p>	<p style="text-align: right;">Page 213</p> <p>1 THE CHAIRMAN: Good morning. 2 I'd like to call to order this meeting of the 3 Connecticut Siting Council today, Tuesday, 4 September 30, 2014, at approximately 11 a.m. 5 My name is Robin Stein. I'm chairman of the 6 Siting Council. 7 This hearing is a continuation 8 of a hearing held on September 11, 2014, at 9 the Bridgeport City Hall Council Chambers in 10 Bridgeport. It is held pursuant to the 11 provisions of Title 16 of the Connecticut 12 General Statutes and of the Uniform 13 Administrative Procedure Act upon a petition 14 from UI for a declaratory ruling that no 15 Certificate of Environmental Compatibility 16 and Public Need is required for the proposed 17 construction, maintenance and operation of a 18 2.2 megawatt solar photovoltaic facility and 19 a 2.8 megawatt fuel cell facility on 20 approximately 22 acres of the former Seaside 21 Landfill located at 350 Waldemere Avenue, 22 Bridgeport, Connecticut. This petition was 23 received by the Council on May 27, 2014. 24 A verbatim transcript will be 25 made of this hearing and deposited with the</p>
<p style="text-align: right;">Page 212</p> <p>1 A p p e a r a n c e s (Cont'd.): 2 For the City of Bridgeport: 3 PULLMAN & COMLEY, LLC 4 90 State House Square 5 Hartford, Connecticut 06103 6 BY: LEE D. HOFFMAN, ESQ. 7 8 For the Intervenor: 9 ENRIQUE TORRES, Pro Se 10 108 Midland Street 11 Bridgeport, Connecticut 06605 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 214</p> <p>1 City Clerk's office in the Bridgeport City 2 Hall for the convenience of the public. 3 We will proceed in accordance 4 with the prepared agenda, copies of which are 5 available. 6 The Council also has added one 7 item to its Administrative Notice List which 8 is listed as Roman Numeral I, D, Item 46, 9 Public Interest Energy Research Program, 10 California Landfill-based Solar Project. 11 Does any party or intervenor 12 object to this new administrative notice 13 item? 14 Hearing and seeing none, that 15 will be made part of the record. 16 I'm going to begin with the 17 appearance of the Intervenor, Mr. Enrique 18 Torres. 19 Do you have an item that you 20 want to add to your list? 21 MR. TORRES: I suppose -- do 22 these things work, or are we just speaking -- 23 MS. BACHMAN: Yes. 24 MR. TORRES: Mr. Chairman, I 25 worked as much as I could in preparing for</p>

1 this meeting and found that there were two
2 answers to interrogatory questions that I
3 felt were relevant to provide some
4 clarification of the answers provided by the
5 UI. And I have two -- I have a Google map
6 with a half-mile radius depicted from
7 different sections of the project. The
8 project is almost three-quarters of a mile
9 long in its impact area. Therefore, the
10 question as to the half-mile radius, I
11 suppose they must have taken the center of
12 the property, and I looked at half-mile
13 increments from each end, as well as the
14 center of the property, and describe in great
15 detail what is impacted in that half-mile
16 area relative to the three position points on
17 the half-mile radius question that was asked.

18 And then at one point there's
19 an interrogatory question relevant to the
20 500-year flood line as to whether it exists
21 or not. The UI utilized the city's GIS
22 system to answer other questions. And the
23 city's GIS system does provide for a flood
24 map, and I have brought that flood map with
25 me from the city GIS system. And it can be

1 verified through the city GIS system which is
2 available on line, but that, too, I would
3 like to add as an exhibit on the fly. And I
4 have created enough copies for the Council
5 and the UI and the city.

6 THE CHAIRMAN: I guess the
7 best thing is to start by handing them out
8 to -- Mr. Mercier will help you.

9 (Pause.)

10 THE CHAIRMAN: I have a
11 problem with GIS-1. There's no legend as to
12 what these colors mean.

13 MR. TORRES: There aren't any
14 legends available on GIS. There's only two
15 relevant codes. One is the 500-year flood
16 line, which is depicted by the number 500,
17 and that does cross into the area where the
18 fuel cell facility would sit.

19 The other relevant one is it's
20 called the "AE," which is described in the
21 interrogatory by the Petitioner, and that is
22 the 100-year flood line. And the AE does not
23 impact this area from what I can tell, but
24 the 500-year does impact the one area.

25 THE CHAIRMAN: These are taken

1 from the city's GIS, they're not directly
2 from FEMA; is that correct?

3 MR. TORRES: They're directly
4 from the city GIS system. And then I was not
5 able to get workable maps from the FEMA
6 system. It just did not work very well.

7 THE CHAIRMAN: Was there any
8 objection from either the city or from UI as
9 far as --

10 MR. McDERMOTT: Well, should
11 we first mark them for identification and
12 then why don't we -- could I handle my
13 objections during Mr. Torres's introduction
14 of his other exhibits so we can handle them
15 all at once?

16 THE CHAIRMAN: Okay. We're
17 calling the one with the circles, half-mile
18 circles Exhibit 8, and we're calling the GIS
19 with the city's flood Exhibit 9.

20 MR. TORRES: Mr. Chairman, I'm
21 sorry. I didn't hear what you labeled the
22 exhibits.

23 THE CHAIRMAN: Exhibit 8 is
24 the --

25 DR. KLEMENS: Eight as the

1 Number 8?

2 THE CHAIRMAN: Number 8. And
3 Number 9 is the other one. Okay. So we'll
4 take it up that way.

5 Okay. We're going to start
6 with the swearing in of Mr. Torres, of your
7 witness, Mr. Brilvitch. So if you could
8 please stand? Oh, both of you stand. Sorry.

9 ENRIQUE TORRES,
10 CHARLES BRILVITCH,
11 called as witnesses, being first duly
12 sworn by Ms. Bachman, were examined and
13 testified on their oaths as follows:

14 MS. BACHMAN: Thank you.

15 THE CHAIRMAN: And we'll go
16 through the verification process. So I'll
17 ask you a series of questions.

18 Mr. Torres and Mr. Brilvitch,
19 you have offered the exhibits listed under
20 the hearing program as Roman Numeral IV,
21 Numbers 1 through 9, and that includes the
22 two that you've just submitted for
23 identification purposes. So is there any
24 objection to marking these exhibits for
25 identification purposes only at this time?

Page 219	Page 221
<p>1 MR. McDERMOTT: No objection. 2 THE CHAIRMAN: Mr. Torres and 3 Mr. Brilvitch, did you prepare or assist in 4 the preparation of Exhibits 1 through 9? 5 THE WITNESS (Torres): I did 6 them. 7 THE CHAIRMAN: I need a -- 8 yes? 9 THE WITNESS (Torres): Yes, 10 sir. 11 THE WITNESS (Brilvitch): 12 (Nodding.) 13 THE CHAIRMAN: Both of you. 14 Okay. 15 Do you have any additions, 16 clarifications, deletions or modifications to 17 these documents? 18 THE WITNESS (Torres): No, 19 sir. 20 THE CHAIRMAN: Are these 21 exhibits true and accurate to the best of 22 your knowledge? 23 THE WITNESS (Torres): Yes, 24 sir. 25 THE CHAIRMAN: Do you offer</p>	<p>1 understand that to be a letter that was 2 written by Mr. Torres that he submitted to 3 the City of Bridgeport City Council. I don't 4 know if I can voir dire and ask him directly, 5 or if you want to do that through you, 6 Mr. Chairman, but just that the document 7 seems largely, I think, totally irrelevant to 8 the matter before us, and it seemed to be 9 focused on issues that were before the City 10 Council and not before the Siting Council. 11 Do you want me to continue 12 with my general objection? 13 THE CHAIRMAN: We'll just 14 accept that for what it's worth and make a 15 determination. 16 Continue. 17 MR. McDERMOTT: Very good. 18 Thank you, Mr. Chairman. 19 Exhibit Number 3, overlap map 20 with the National Register of Historic 21 Places, I'd object until such time as I can 22 cross-examine to understand exactly what it 23 is. I don't know how it was prepared, who 24 prepared it, what it is exactly. It's 25 without explanation, and I don't think any</p>
Page 220	Page 222
<p>1 these exhibits as your testimony here today? 2 THE WITNESS (Torres): Yes, 3 sir. 4 THE CHAIRMAN: Do you offer 5 these as full exhibits? 6 THE WITNESS (Torres): Yes, 7 sir. 8 THE CHAIRMAN: And is there 9 any objection to these items as previously 10 marked for identification? 11 MR. McDERMOTT: The Company 12 has objections, Mr. Chairman. 13 THE CHAIRMAN: Okay. So would 14 you -- 15 MR. McDERMOTT: First off, I 16 think the easiest one, number one, the 17 National Register of Historic Places 18 Inventory is already in the record as UI 19 Administrative Notice Number 1. It may also 20 be in the Council's administrative notice. 21 So it's just simply duplicative, and I note 22 that only for ease of the record. 23 THE CHAIRMAN: Okay. 24 MR. McDERMOTT: As to Exhibit 25 Number 2, I don't know if you want to -- I</p>	<p>1 has been offered in the introduction of the 2 evidence. 3 THE CHAIRMAN: Maybe then 4 we'll wait until you have a chance to 5 cross-examine. 6 MR. McDERMOTT: Thank you. 7 That would be great. 8 Exhibit Number 4 is a cover 9 letter to the Siting Council. I term it more 10 of a brief than a statement of fact, given 11 the fact that it's arguing about the 12 applicability of Connecticut General Statute 13 7-131n, but I -- I guess I'll withdraw the 14 objection and just note that the company will 15 be briefing that issue as well. 16 THE CHAIRMAN: Sure. Thank 17 you. 18 MR. McDERMOTT: I did have a 19 question though. In the transmittal I think 20 there was also attachments to that letter 21 which on the fourth page begin my comments to 22 the Common Council on March 24th. I just 23 want to make sure, is that also part of this 24 exhibit? Attorney Bachman can probably 25 assist with that or Mr. Mercier.</p>

Page 223

1 THE CHAIRMAN: Yes, it's an
2 attachment.
3 MR. McDERMOTT: Okay. Then
4 the following page looks also to be -- is
5 there another page, the Seaside Park NHR?
6 THE CHAIRMAN: Some of these
7 items are under administrative notice.
8 MR. McDERMOTT: Well, that, I
9 just thought, was duplicative. I'm having
10 trouble figuring out exactly what the range
11 of this exhibit is.
12 THE CHAIRMAN: It might be as
13 you state, but I guess we'll still accept it.
14 MR. McDERMOTT: Okay. And
15 then I guess the reason I'm objecting
16 primarily to this exhibit is there's a couple
17 of attachments called "Sustainability
18 Maintenance," and then there's a map by the
19 company Richter & Cegan, and there's been no
20 offer of relevance on that, so I'd object
21 until such time as I can cross-examine on
22 that, I guess.
23 And then finally there's a
24 letter from the National Association for
25 Olmsted Parks. And it's my understanding

Page 224

1 that no one from the association is going to
2 be here to cross-examine, so it might be best
3 if that was just taken out of the exhibit and
4 made a correspondence, as is typically done
5 with those types of organizations, rather
6 than a full exhibit.
7 THE CHAIRMAN: We have that
8 under administrative notice.
9 MR. McDERMOTT: Okay. Thank
10 you.
11 Number 5 is Mr. Torres's
12 request for intervenor status. The company
13 has no objection to that. That was Number 5.
14 Number 6 is a couple of photos
15 that were submitted electronically on
16 September 11th. Again, a question of
17 relevancy, but if I could reserve on that
18 also just to further inquire as to what the
19 relevance of Number 6.
20 And Number 7 is a plat map.
21 Again, no explanation has been offered as to
22 relevancy, so I'd object until I can
23 cross-examine on that as well.
24 THE CHAIRMAN: Okay.
25 MR. McDERMOTT: As to the maps

Page 225

1 that were submitted today, I guess the circle
2 map, I have no objection to. That's
3 Number 8.
4 Number 9, I would object until
5 I can cross-examine on it. FEMA has updated
6 their mapping, and there's been no offer that
7 the information in Number 9 reflects the most
8 updated FEMA mapping. It may be that the
9 city has not yet updated their GIS and this
10 doesn't reflect the most accurate mapping,
11 which may account for some discrepancy that I
12 think Mr. Torres is alleging. So until
13 Mr. Torres offers a date of the mapping, the
14 company would object to Number 9 as well.
15 THE CHAIRMAN: Okay.
16 MR. HOFFMAN: Mr. Chairman, if
17 I might, I would join in the company's
18 objections with the exception of with respect
19 to Items 8 and 9. I would also point out
20 that there's a timeliness issue associated
21 with these two exhibits. This hearing has
22 been going on and this petition has been
23 going on for some time, and so I would object
24 to the entry of these exhibits today as kind
25 of 11th hour.

Page 226

1 Then also I would object to
2 Exhibit 8, at least until I have a chance to
3 cross-examine, because I don't see any scale
4 on there. I don't really know what those
5 circles represent, and so I'd object to that
6 until I have a chance to cross-examine as
7 well.
8 THE CHAIRMAN: So I'm going to
9 accept the exhibits but subject to the
10 cross-examination, which will enable the
11 Council to better understand the purpose and,
12 in some cases, the accuracy.
13 I have to tell you,
14 Mr. Torres, to present a map without a date
15 or a legend and just say it's from the city's
16 GIS is -- to me is problematic, but why don't
17 we continue and we'll start cross-examination
18 starting with Mr. Mercier.
19 CROSS-EXAMINATION
20 MR. MERCIER: Thank you. I'll
21 also have some questions on these maps. I
22 guess we'll start with Exhibit 8, the one
23 with the circles. And again, what was the
24 purpose of this particular map?
25 THE WITNESS (Torres): Well,

1 with respect to all that goes on here, I want
2 to first make a statement of fact relevant to
3 my participation in this process. I am a
4 city councilman in the City of Bridgeport
5 representing the 130th District.

6 MR. HOFFMAN: Objection.
7 Mr. Torres is here in his personal capacity.
8 The city council voted on these issues. The
9 city is represented by counsel. Mr. Torres
10 is more than welcome to come here as a
11 citizen, but the fact is his district, and as
12 we've submitted, his district split the vote,
13 his cocouncilor voted opposite of Mr. Torres,
14 and he's not here representing the city
15 council or his district.

16 THE CHAIRMAN: Mr. Torres,
17 explain and clarify exactly why you're here
18 because I think it's clear, I mean, we have
19 documentation of what the city council and
20 the city government has done, and I don't
21 think it's fair for you to imply that you
22 somehow represent that.

23 THE WITNESS (Torres): I
24 didn't mean to imply that. It's just a
25 statement of fact as to who I am, that's all,

1 Google Earth Pro. The interrogatory question
2 was relevant to what the half-mile impact
3 zone was. If you take only one point in this
4 very long development area, then you will
5 have one answer, but it's a very long
6 development area.

7 MR. MERCIER: Okay, I
8 understand. So I think what you're talking
9 about is the half mile, what the land use was
10 in a half mile?

11 THE WITNESS (Torres): Correct.

12 MR. MERCIER: That was the
13 question posed.

14 THE WITNESS (Torres): That's
15 the interrogatory question, correct.

16 MR. MERCIER: All right. So
17 this is your attempt to show -- I assume
18 these are half-mile red circles?

19 THE WITNESS (Torres): Correct.

20 MR. MERCIER: And taken over
21 the linear landfill project at half mile
22 segments?

23 THE WITNESS (Torres): That's
24 right.

25 MR. MERCIER: So you're

1 not that I am representing the city council
2 in any way. I'm representing myself. I just
3 happen to also be a city councilman. And the
4 reason that I made the point is that I don't
5 have a staff. I live my own private life. I
6 don't make a salary from my job. So it is
7 very difficult for me to participate in this
8 very extensive process, which obviously has a
9 lot of research and a lot of effort put into
10 it by the UI and by the city, who have very
11 deep means of providing this type of
12 evidence.

13 I did this on my own, mostly
14 yesterday, because it's kind of the first day
15 that I had to devote to this to this level
16 and extent in analyzing the work done by the
17 UI and at the last meeting. And it seemed to
18 me that, when I read the question, it didn't
19 hit me right away, but then it hit me last
20 night sometime around midnight.

21 So, I own Google Maps Pro,
22 which I purchased. Google Maps Pro gives you
23 the ability to create circles with a certain
24 radius. These are circles with a half-mile
25 radius which are easily reproducible through

1 depicting within the red circles land use
2 within a half mile?

3 THE WITNESS (Torres): Correct.

4 MR. MERCIER: So, if I just
5 look at the circles here, the right-hand
6 circle on your map, I see ball fields, is
7 that correct, on Seaside Park, and above the
8 ball fields is that a residential area?

9 THE WITNESS (Torres): Yes, it
10 is. It's called Seaside Village Homes. It's
11 a privately-held residential area.

12 MR. MERCIER: Okay. And then
13 to the left of that little blue box there's
14 larger buildings. Are those commercial or
15 industrial?

16 THE WITNESS (Torres): They
17 are, they're industrial.

18 MR. MERCIER: Okay. And now
19 moving with that circle just go to the left
20 above the waterway, it looks like there's
21 train tracks at the northern extent of the
22 circle; is that correct?

23 THE WITNESS (Torres): No,
24 sir.

25 MR. MERCIER: Is that the

Page 231

1 highway?
2 THE WITNESS (Torres): The
3 highway, sir, yes.
4 MR. MERCIER: Okay. And just
5 south of that highway is that an industrial
6 area?
7 THE WITNESS (Torres): Yes, it
8 is, sir.
9 THE MERCIER: Okay. Continue
10 moving down from the edge of that highway all
11 the way to the waterway within it looks like
12 multiple circles now, is that industrial and
13 it's also a marina?
14 THE WITNESS (Torres): Yes,
15 sir.
16 MR. MERCIER: Okay. Now
17 moving -- I see the marina. It's marked with
18 some kind of a tan icon?
19 THE WITNESS (Torres): That's
20 correct.
21 MR. MERCIER: And to the left
22 of the marina there's kind of like an inlet?
23 THE WITNESS (Torres): Yes.
24 MR. MERCIER: Which is pretty
25 clear, a waterway inlet. And then to the

Page 232

1 left of that inlet is that residential?
2 THE WITNESS (Torres): Well,
3 I'm not entirely sure where you are, but
4 there's two marinas that are depicted by
5 those kind of blue zones.
6 MR. MERCIER: Yes, I see that.
7 THE WITNESS (Torres): Just
8 north of that, though, there are what appears
9 to be residential areas, and that is called
10 P.T. Barnum Apartments. It's a public
11 housing area.
12 MR. MERCIER: Okay. Is that
13 where several circles intersect?
14 THE WITNESS (Torres): That's
15 correct.
16 MR. MERCIER: I see that. And
17 to the left of that P.T. Barnum place --
18 THE WITNESS (Torres): That
19 all becomes residential. It goes from low
20 income residential to moderate income
21 residential to middle income residential.
22 MR. MERCIER: And that's the
23 extreme left-hand I'll call them two circles?
24 THE WITNESS (Torres): Yes.
25 MR. MERCIER: And over to the

Page 233

1 right to the waterway?
2 THE WITNESS (Torres): Correct.
3 MR. MERCIER: All right.
4 THE WITNESS (Torres): Within
5 that area there's also a yacht club and
6 what's known as the Black Rock Historic
7 District, which Mr. Brilvitch will speak to
8 at some point. I believe it's the city --
9 MR. MERCIER: Okay, I guess --
10 THE WITNESS (Brilvitch):
11 city, state and national.
12 MR. MERCIER: -- the only
13 other spot I don't know what it is, it's kind
14 of green, it looks like a circus tent.
15 THE WITNESS (Torres): Yeah,
16 that's the yacht club.
17 MR. MERCIER: Oh, that's the
18 yacht club. Okay.
19 DR. KLEMENS: Mr. Chairman,
20 can I ask a follow-up on this map?
21 THE CHAIRMAN: Yes. I have
22 one too because I still don't understand the
23 purpose other than showing that there's mixed
24 use around the area.
25 DR. KLEMENS: I'm just trying

Page 234

1 to understand how you constructed this. Did
2 you take -- I think I understand. You took
3 the development footprint, including the fuel
4 cell, all the way to the furthest solar
5 array?
6 THE WITNESS (Torres): Correct.
7 DR. KLEMENS: And then drew a
8 half-mile radii around them. So the very one
9 to the southwest, that circle, that last
10 circle, came from the very last point of a
11 solar array. Correct?
12 THE WITNESS (Torres): Correct.
13 DR. KLEMENS: And the one
14 furthest inland came from the fuel cell?
15 THE WITNESS (Torres): Correct.
16 DR. KLEMENS: And then you
17 between those two points you just --
18 THE WITNESS (Torres): The
19 center point.
20 DR. KLEMENS: The center
21 point. Okay, that's what I wanted to
22 clarify.
23 So you used the proposed
24 development area as what you were mapping
25 from, so these are the extremes then?

1 THE WITNESS (Torres): At
2 least from my standpoint. I hope that you
3 can understand that this development is not a
4 pinpoint development. The fuel cell, for
5 instance, could be considered a pinpoint
6 development.

7 DR. KLEMENS: I understand
8 that. I'm just trying to understand how you
9 arrived at this array of circles. Thank you,
10 sir.

11 THE WITNESS (Torres): Very
12 good.

13 DR. KLEMENS: Thank you,
14 Mr. Chairman.

15 THE CHAIRMAN: Mr. Mercier,
16 continue.

17 MR. MERCIER: Thank you. I'm
18 all done with that. I clarified the land use
19 in that particular area.

20 I guess the next exhibit I'd
21 like to ask some questions on is Exhibit 3.
22 This is the overlay map.

23 THE WITNESS (Torres): Yes,
24 sir.

25 MR. MERCIER: And this is one

1 THE WITNESS (Torres): One of
2 the facilities that Google Earth Pro has is
3 that it can provide the use of overlays. The
4 National Historic Register application had a
5 map, the last page of the map, which was the
6 designated historic register area. That map
7 can be imported into Google Earth Pro and
8 overlaid on the actual Google Earth. Then
9 you can overlay the map provided by the UI
10 relevant to the development area that they
11 intend to use. So three maps essentially
12 were overlaid on top of each other.

13 Now, again, I want to
14 apologize to the Commission for not providing
15 a professional to do this. I will say,
16 however, that I consider myself competent in
17 the use of Google Earth Pro, and I'm just not
18 sure if my personal competence is something
19 that you can take into consideration in
20 creating these maps, but they are
21 reproducible. So if this Commission so
22 chooses, they can have an independent agent
23 reproduce this map.

24 THE CHAIRMAN: We accept it,
25 and we understand where you're coming from.

1 you created yourself?

2 THE WITNESS (Torres): That's
3 correct.

4 MR. MERCIER: And the box on
5 the bottom says "Seaside Park NHR." Is that
6 information you wrote in?

7 THE WITNESS (Torres): Yes, it
8 is.

9 MR. MERCIER: Okay. I
10 understand the blue -- reading it, it says
11 the green area represents the area
12 registered, and the blue is the overlap.

13 THE WITNESS (Torres): Yes.

14 MR. MERCIER: So I assume by
15 saying overlap, you're saying the solar
16 fields extend onto the registered district by
17 5 acres or so?

18 THE WITNESS (Torres): No, by
19 one-third.

20 MR. MERCIER: Okay. So it
21 says 5 acres or one-third of the project.

22 So, how do you determine the
23 actual boundaries of the green area? That's
24 the area shown as the historic register
25 district.

1 This is not the first time that we have
2 either homeowners or individuals come before
3 and are challenged, and so we'll accept it
4 for what it's worth, but it obviously will be
5 up to, ultimately, the staff and the Council
6 to weigh the various materials and documents.
7 But let's continue.

8 MR. MERCIER: Okay. So just
9 let me understand what you -- what you said
10 was you took the map that was in the National
11 Register of Historic Places Inventory
12 Nomination form, the last page --

13 THE WITNESS (Torres): Right.

14 MR. MERCIER: -- and you
15 overlaid it onto Google Earth to match up the
16 land forms?

17 THE WITNESS (Torres): That's
18 right, sir.

19 MR. MERCIER: How do you know
20 this actual map in the National Register of
21 Historic Places is actually correct?

22 THE WITNESS (Torres): That's
23 all --

24 MR. MERCIER: It appears
25 like -- I guess, how did you get them to

Page 239

1 match up? How did you get these two maps to
2 match up?

3 THE WITNESS (Torres): Well,
4 it's really quite easy. You scan this into
5 an image. The image is then imported to
6 Google Earth Pro. That image becomes
7 translucent by your choice. There's a
8 mechanism to make it translucent so that it's
9 not completely translucent, but the edges are
10 still there. You overlay that in the actual
11 Google Earth satellite image, and it pretty
12 much falls exactly on that.

13 Now, what I want to tell you
14 is that just visual inspection, your natural
15 eye inspection, if you compare the two maps,
16 you'll see that the two actually do overlap.
17 Now, as to the specificity and the accuracy
18 with which they overlap, that is something
19 you can certainly question. But you will
20 most certainly see that there is an overlap
21 of the UI solar facility onto the National
22 Historic Register map. That's easily done
23 through eye inspection.

24 MR. MERCIER: Okay. And just
25 in regards to this filing that you have as

Page 241

1 We didn't go out there with calipers and
2 measure precisely where it was. It was just
3 kind of a by-eye that this chunk where dump
4 trucks were dumping stuff on a daily basis
5 back then was the active portion of the dump.

6 THE WITNESS (Torres): If I
7 may?

8 MR. MERCIER: Okay. So, as I
9 just understood it, the actual boundary of
10 the dump, when you created this map on the
11 nomination form, might not be drawn
12 correctly?

13 THE WITNESS (Brilvitch):
14 Right. I should point out it wasn't that the
15 dump was excluded. It was that the active
16 dump was excluded.

17 MR. MERCIER: Did you check
18 any aerial photography in the generation of
19 this document to verify if the dump grew to
20 the east from say 1971 onward?

21 THE WITNESS (Brilvitch):
22 Okay. What happened was there was a major --
23 it was called a capping of the dump, when Joe
24 Gannon was mayor in the late 1990s, when the
25 entire level of the dump was raised to

Page 240

1 your Exhibit 1, the nomination form, doesn't
2 the text actually exclude the dump area from
3 the National Register of Historic Places?

4 THE WITNESS (Torres):
5 Mr. Brilvitch is a coauthor of this
6 application, and he can speak to that, if you
7 like.

8 MR. MERCIER: I was wondering
9 when this was created. Wasn't the dump
10 specifically excluded from the
11 National Register of Historic Places?

12 THE WITNESS (Brilvitch):
13 Initially, the boundaries of the national
14 registry nomination were consistent with the
15 boundaries of the park. At the request of
16 Jack Shanahan, who was then the state
17 historic preservation officer and director of
18 the Connecticut Historic Commission, he asked
19 us to remove what was then the active dumping
20 area which was, as shown on the map, kind of
21 the western two-thirds of what we now
22 consider that large landfill. So it was the
23 active portion when the national register
24 nomination was undertaken in 1981/1982.

25 So it's not an exact thing.

Page 242

1 something like 80 feet, and he used the
2 entire historic dump rather than what in
3 1981/82 had been the active landfill area.

4 MR. MERCIER: I guess my
5 question is did the dump grow to the east --

6 THE WITNESS (Brilvitch): Yes.

7 MR. MERCIER: -- since
8 1971/1972, took more land towards the east,
9 or is that boundary already set?

10 THE WITNESS (Brilvitch):
11 Again, it's a matter of definition. What had
12 become an inactive dumping area was
13 reactivated, and this cap was placed over the
14 entire landfill rather than what had been the
15 active portion of the dump in the small
16 window of time when the national register
17 nomination was done. So yes, it did grow to
18 the east.

19 THE WITNESS (Torres): Sir,
20 the dump was officially closed -- and I put
21 that in quotes because nothing seems to be
22 official in Bridgeport -- in 1986. Joe
23 Gannon kind of reopened it and allowed
24 construction debris to be added to the tune
25 of increasing effectively the size by one

Page 243

1 third.
2 MR. MERCIER: That's okay. My
3 question was: In the seventies did this dump
4 grow to the east, and I assume you said --
5 THE WITNESS (Brilvitch):
6 Well, post 1981/82, when this boundary was
7 arrived at, yes.
8 MR. MERCIER: Okay. So you're
9 saying after 1982 this dump did grow to the
10 east?
11 THE WITNESS (Brilvitch): Yes.
12 MR. MERCIER: Was that
13 confirmed in any other way like aerial
14 photography or anything of that nature when
15 you drew this overlay map?
16 THE WITNESS (Brilvitch):
17 Well, that accounts for the discrepancy in
18 the map with these boundaries vis-a-vis where
19 the present elevated landfill is located.
20 And, you know, whether there is aerial
21 photographs that would corroborate that, I'm
22 not sure, but I'm just explaining why these
23 boundaries were set where they are at that
24 point in time.
25 MR. MERCIER: Okay. Thank

Page 245

1 border of the dump, blah, blah, blah.
2 THE VICE CHAIRMAN: But it
3 doesn't say active though?
4 THE WITNESS (Brilvitch): No,
5 it just says the dump.
6 THE VICE CHAIRMAN: Okay.
7 I have no other questions,
8 Mr. Chairman.
9 THE CHAIRMAN: Dr. Bell?
10 DR. BELL: Thank you,
11 Mr. Chair. I don't have any questions of
12 this panel.
13 THE CHAIRMAN: Mr. Ashton?
14 MR. ASHTON: If I can just go
15 back and pick up a little bit between Exhibit
16 8 and 9. You've indicated what the circles
17 were, although the center point of a radius
18 is not shown, so we can accept it for what
19 it's worth.
20 In overlaying Exhibit 9 onto
21 Exhibit 8 approximately, they are of a
22 different scale; is that not correct?
23 THE WITNESS (Torres): Well,
24 all I can tell you, sir, is that Google Earth
25 Pro is the satellite image of the earth.

Page 244

1 you.
2 I don't have any other
3 questions. Thank you.
4 THE VICE CHAIRMAN: I'm a
5 little confused. To follow up on that, the
6 proposal was made to the national register
7 and then the request was made to change the
8 boundary?
9 THE WITNESS (Torres): Yes.
10 THE VICE CHAIRMAN: Where is
11 the definition of the changed boundary, the
12 metes and bounds of it?
13 THE WITNESS (Brilvitch): That
14 should be -- I did not do the final draft of
15 the nomination. There should be a metes and
16 bounds within the --
17 THE VICE CHAIRMAN: Because it
18 seems to me that's really what we should be
19 talking about is whatever that description
20 is. Those metes and bounds from which you're
21 testifying are crucial.
22 THE WITNESS (Brilvitch): The
23 verbal boundary description is on the final
24 page of the nomination form, and it just says
25 then east and northeast along the south

Page 246

1 MR. ASHTON: Yes, right. I
2 understand what that is, and I understand
3 you've shown by the circles what a one-mile
4 distance would be.
5 THE WITNESS (Torres): Across
6 the circles --
7 MR. ASHTON: Right. But on
8 Exhibit 9 I don't see any scale, and it
9 appears, as I just sort of eyeball it, that
10 it's a different scale.
11 THE WITNESS (Torres): It is,
12 sir. It's a different system that produced
13 the two things.
14 MR. ASHTON: Do we know what
15 the scale for Exhibit 9 is?
16 THE WITNESS (Torres): No.
17 MR. ASHTON: Okay, no scale.
18 THE WITNESS (Torres): I can
19 guess, but I don't want to.
20 MR. ASHTON: I'm sorry?
21 THE WITNESS (Torres): I can
22 guess, but I think --
23 MR. ASHTON: Well, okay, I'll
24 accept that for what I can get out of it, but
25 I want to probe a little bit. There is some

1 lovely colors on this thing. The green
2 apparently is just water and it's nothing
3 remarkable.

4 THE WITNESS (Torres): Right.

5 MR. ASHTON: What I'm going to
6 call the magenta, which is the part that
7 comes from southwest, northeast up towards
8 I-95, is also the normal water level in that
9 reach of the harbor; is that right?

10 THE WITNESS (Torres): Sir,
11 unfortunately, I did not -- is there one
12 extra copy because I gave all of my copies
13 away? Sorry.

14 Yes, that is Cedar Creek, sir.

15 MR. ASHTON: Right. And so
16 Cedar Creek, in its magenta color is the
17 normal elevations that are there, the mean,
18 high water or whatever it is; is that fair to
19 say?

20 THE WITNESS (Torres): I think
21 that is fair to say.

22 MR. ASHTON: Okay. Then as we
23 move away from the magenta, we get into what
24 I will call a pinkish color?

25 THE WITNESS (Torres): Correct.

1 it's just an overlap, sir. The buildings are
2 delineated on the city GIS system. When it
3 creates an overlap of the colors, it just
4 changes color there.

5 MR. ASHTON: All right. Then
6 I guess the rest of it is answered for me
7 then.

8 But anyway, what I ought to
9 take note of is the proximity of the 100 --
10 or the limit of the 500-year flood line and
11 so forth?

12 THE WITNESS (Torres):
13 Correct. And then that's all that I had
14 hoped to do with this piece. And frankly, I
15 discovered it by chance by studying the
16 answers to the questions. One of the
17 questions the UI cited utilization and the
18 city GIS system, which I think is terrific.

19 MR. ASHTON: Okay. I was just
20 trying to understand what it was, just
21 showing the rough limits of the various
22 floods.

23 And do you have any technical
24 background?

25 THE WITNESS (Torres): I have

1 MR. ASHTON: And that's
2 labeled at the right "AE," and that is the
3 100-year flood limit?

4 THE WITNESS (Torres): That's
5 correct, sir.

6 MR. ASHTON: And then just
7 beyond that, still going west from Cedar
8 Creek, I see an olive color labeled "X500",
9 and that would be expanded area shown in a
10 500-year flood?

11 THE WITNESS (Torres): That's
12 correct, sir.

13 MR. ASHTON: Okay. Now, on
14 the east side of Cedar Creek there is also a
15 designation "X500"?

16 THE WITNESS (Torres): Correct.

17 MR. ASHTON: And then right
18 above it is a different color, which I'm not
19 quite what it is. I think it's the Sikorsky
20 buildings.

21 THE WITNESS (Torres): Yes.

22 MR. ASHTON: But is there any
23 significance to the color other than just
24 differentiation?

25 THE WITNESS (Torres): I think

1 a degree in biology from Washington
2 University in St. Louis, a couple of years
3 graduate research at UConn Health Center in
4 biochemistry, microbiology and genetics.

5 MR. ASHTON: Okay, good. Does
6 your cohort in crime have a technical
7 background?

8 THE WITNESS (Torres): He
9 does.

10 THE WITNESS (Brilvitch): I
11 have a degree in urban and environmental
12 studies from Case Western Reserve University.

13 MR. ASHTON: Out in Cleveland?

14 THE WITNESS (Brilvitch): Yes.

15 MR. ASHTON: Okay.

16 THE WITNESS (Torres): He's
17 also the city, the former city --

18 THE WITNESS (Brilvitch):
19 Historian.

20 THE WITNESS (Torres): --
21 historian, and the --

22 THE WITNESS (Brilvitch):
23 Former city environmental review officer.

24 MR. ASHTON: Going to the
25 point of historian, my last question, what

1 was this neck of land originally? Was it a
2 park that was filled in, or was it a swamp or
3 what?

4 THE WITNESS (Brilvitch):
5 Okay. Going back before the hurricane of
6 1821 --

7 MR. ASHTON: I wasn't around
8 then for the record.

9 THE WITNESS (Brilvitch):
10 Well, the records aren't very good, but just
11 what we have from historic sources, this was
12 a long narrow breach, very similar to Long
13 Beach on the east side of Bridgeport Harbor,
14 and behind it was a salt marsh. Fayerweather
15 Island, now it's like a 7-acre island, but it
16 was a figure-eight shaped island. We have an
17 interview with light keeper Kate Moore in
18 1878, and she talks about, in her girlhood,
19 this island was 160 acres.

20 So what's now the big parking
21 lots to the west of the landfill area would
22 have been a part of this original 160-acre
23 Fayerweather Island figure-eight shaped.
24 This land in between the long narrow barrier
25 beach was breached in the hurricane of 1821,

1 Bridgeport, and all the refuse, the coal
2 cinders, whatever was dumped there. And this
3 was a dump that was actively burned up until
4 the late 1960s, I believe. And this was a
5 flat -- we have a photograph here. It's a
6 flat area. And I've got newspaper articles
7 how this is land being stolen from the sea to
8 create beautiful park land. And it wasn't
9 until the 1980s when this started to rise
10 above the level of the remainder of the park.
11 So there -- I guess I can't say in a
12 nutshell, but that's kind of the history.

13 MR. ASHTON: That's helpful.
14 Thank you.

15 Nothing further.

16 THE CHAIRMAN: Thank you.
17 Dr. Klemens?

18 DR. KLEMENS: Thank you,
19 Mr. Chairman. I do have several questions.

20 First, let's go back to the
21 Seaside Park National Historic Register map
22 that you produced in Google Earth.

23 THE WITNESS (Torres): The
24 overlap map, correct, sir?

25 DR. KLEMENS: The overlap map,

1 the salt marshes became subject to tidal flow
2 and, I guess, eroded somewhat. And Seaside
3 Park was an elevated portion of the coast.
4 It was 44 acres initially when it was created
5 in 1865. There was an area to the west that
6 was salt marsh between Park Avenue and
7 Iranistan Avenue where they built a dike
8 similar to the dikes that were built in
9 Holland, pumped out the land, which is
10 technically below sea level, and that portion
11 was added to the park in its initial stages.
12 P.T. Barnum continued that west to what's now
13 Barnum Dike where the old bath house is
14 located between 1882 and 1885.

15 And then beginning in 1917 --
16 in 1911 the city purchased Fayerweather
17 Island, and there was talk of building this
18 Great Seaside Boulevard along the oceanfront
19 to go between Main Street all the way out to
20 the tip of Fayerweather Island. So they
21 created this stone jetty, completed in 1919,
22 that's still in place, and they began filling
23 the salt marsh behind it, initially I
24 believe, with clean fill. And then, after
25 1920, this became the city dump for

1 this one here. I have a couple of questions
2 on that.

3 First, I see sort of a thin
4 red line between the blue overlay and the
5 green, and I imagine that is just an error
6 from overlay, you didn't overlay it tightly
7 enough?

8 THE WITNESS (Torres): I
9 actually hand painted the color blue so that
10 you could actually see it versus the red
11 covering the green and so that you can see
12 it. So I did leave the edge on there so that
13 you can see where the previous edge or where
14 the two edges kind of overlapped each other.

15 DR. KLEMENS: Okay. Now, I
16 actually have the privilege or lack thereof
17 of actually owning a home on the National
18 Historic Register, and I understand there are
19 a lot of provisions and standards that are
20 required. One of them is the concept of
21 having historical significance and basic
22 integrity. So we're talking about a piece of
23 what's now a dump that may be included.

24 Do you think if you went and
25 tried to get -- went back to the people that

1 do these nominations whether they would still
2 include it, given the change in the context?
3 A lot of discussion has to be on the context
4 of materials. Would this still qualify if
5 you went back and asked the people that do
6 these analyses do you really think this would
7 still qualify as part of a National Historic
8 Register site in its current condition?

9 THE WITNESS (Brilvitch): Yes,
10 I would say no, it would no longer qualify
11 because, as I said, the boundaries were
12 somewhat arbitrary in the way we arrived at
13 them. Initially, it was the whole park
14 because its significance as an Olmsted Park
15 as an example of American engineering
16 history. The whole layout of this park was
17 pioneering in so many ways, extending for
18 purposes of a city park by way of
19 experimental dikes, and so on.

20 But anyway this landfill, I
21 would say if these boundaries were being
22 drawn in the year 2000 rather than 1981, this
23 portion probably also would have not been
24 within the national register district.
25 However, you know, it certainly has an impact

1 artifact of something that has no longer
2 been -- no one's caught up with it in the
3 National Historic Registry database, what is
4 the point of showing us this?

5 THE WITNESS (Brilvitch):
6 Well, I would go back to the initial concept
7 of putting Seaside Park on the national
8 register. I was the one who got the
9 determination of eligibility for Seaside
10 Park, got it accepted for study for the
11 national register, I think it was 1978, and
12 this was to put the entire park on the
13 national register. Despite the fact this is
14 no longer the original Olmsted Park, as they
15 conceived it, it has grown so much. It's
16 grown from 44 acres to 370 acres, but it was
17 the changes and additions to the park that
18 were also part of its history.

19 We were asked to delete that
20 section of the park that was an active
21 landfill, which we did. I could also argue
22 that this is no longer an active landfill,
23 this is something that has softened and
24 become part of the landscape of the park, the
25 backdrop, so the entire thing might have been

1 on what is on the national register.

2 DR. KLEMENS: I understand
3 that argument, but I'm trying to get to the
4 heart of this argument. So, this probably
5 would no longer be -- it would no longer be a
6 national historic register -- the piece would
7 be removed?

8 THE WITNESS (Brilvitch): This
9 blue area right here --

10 DR. KLEMENS: Would be
11 removed.

12 THE WITNESS (Brilvitch): I
13 would say, if I was determining the
14 boundaries today, I would say the entire
15 raised landfill would probably be omitted.
16 And I would try to get inside John Shanahan's
17 head, and I would think that that's how he
18 would direct me to determine the boundaries.

19 DR. KLEMENS: I think I agree
20 with you.

21 So what is the purpose, then,
22 of showing -- if the boundary no longer is --
23 de facto, if this has been destroyed through
24 land use and no longer has historic
25 significance and this boundary is only an

1 included were the boundaries drawn today.

2 DR. KLEMENS: Thank you.
3 That's been very illuminating. I appreciate
4 it. I'm trying to get to understand this.

5 Now, let's go to Exhibit 9.
6 And I've been and voiced already my concern
7 about flood, and when I go back and talk to
8 the Applicant, I will have questions for them
9 also about flood preparedness and resiliency.
10 But I'm trying to line up your map, the
11 Seaside Park National Historic Register site,
12 with your Exhibit Number 9, and as I can best
13 see it, which is quite interesting, you go
14 onto the white, which is the landfill, go to
15 the very northeast end of it near where it
16 says X500, you'll see what looks like a wide
17 road. It's shown, and then peters out to a
18 dirt road. You see that sort of shown as a
19 road with two lines. You go back to your
20 overlay map here, which is exhibit -- is this
21 4, this exhibit?

22 THE WITNESS (Torres): One.

23 DR. KLEMENS: Exhibit 1. And
24 you look at this exhibit and look at the
25 location of the fuel cell, as best I can see

1 on your Bridgeport GIS map, the fuel cell
2 lies outside of the 500-year flood and out of
3 the 100-hundred year flood.

4 THE WITNESS (Brilvitch):
5 (Nodding.)

6 THE WITNESS (Torres): All
7 right. That I was going to -- I thought you
8 were going to claim that the fuel cell that
9 lies outside the historic district, and it
10 does, that I was going to easily say. But
11 the Barnum Dyke, if you look at the colorful
12 map, Barnum Dyke is kind of --

13 DR. KLEMENS: Which map, sir,
14 are you talking about? Exhibit 9?

15 THE WITNESS (Torres): Exhibit
16 9, I'm sorry. So Exhibit 9 has a roadway.
17 Atlantic Street you can see, South Avenue you
18 can see, and then the road that kind of
19 connects the two through a diagonal, that's
20 Barnum Dyke. Barnum Dyke is kind of the
21 eastern edge of the fuel cell facility. When
22 we walked it that day, that large parking lot
23 that we first met at, was the location of the
24 fuel cell, and that is adjacent to Barnum
25 Dyke. The X500 that you see there basically

1 crosses right through the center of the fuel
2 cell facility, and it's a very narrow -- I
3 mean, it's probably less than 25 feet this
4 X500 there. It's very narrow, but
5 nonetheless, it's there.

6 The reason that I included
7 this in here was for the purpose of providing
8 the Commission information that was available
9 through city GIS, perhaps not so through
10 FEMA, but nonetheless I've provided it.

11 DR. KLEMENS: If you look at
12 South Avenue as it goes by the Sikorsky
13 building and then goes down to the Barnum
14 Dyke and scale on your Seaside Park National
15 Historic Register map that same distance on
16 this Exhibit 9, I think you will see actually
17 that the fuel cell is sort of almost where
18 that triangular-shaped part of the dyke is
19 where the dyke ends and becomes a single
20 line, that, just looking at it, roughly, so I
21 think you may be a bit off on the location.

22 But anyway, could you explain
23 why the City of Bridgeport has a 500-year
24 flood map, and we've heard testimony from the
25 Applicant that there is no 500-year flood,

1 that there is a 100-year and a storm surge
2 map, and why is the city so different?

3 THE WITNESS (Torres):
4 Sometime around midnight last night I
5 discovered this map. I have no understanding
6 of why it wasn't used before. No accusations
7 here in any way. I just thought it necessary
8 to provide the Commission with this
9 additional resource, should it be considered
10 a resource at all. I don't have an answer
11 for you as to why the city has this
12 information and not FEMA. I don't know.

13 DR. KLEMENS: And you don't
14 know if it's more recent or less recent than
15 the FEMA map?

16 THE WITNESS (Torres): I don't
17 know.

18 THE WITNESS (Brilvitch): This
19 was something that the city came out with. I
20 remember from my tenure as environmental
21 review officer something that the engineering
22 department of the City of Bridgeport came out
23 with in the early 1990s, and I remember being
24 provided with this whole new set of maps that
25 included the 500-year flood plain.

1 DR. KLEMENS: So this is
2 probably then, if it was the 1990s, the map
3 that was submitted by the Applicant revised
4 July 8, 2013, probably supercedes this map?

5 THE WITNESS (Brilvitch):
6 Probably.

7 DR. KLEMENS: Okay.
8 Thank you. I have no further
9 questions, Mr. Chairman.

10 THE CHAIRMAN: Thank you.
11 Senator Daily?

12 SENATOR DAILY: I don't have
13 any questions at this time.

14 THE CHAIRMAN: Mr. Hannon?

15 MR. HANNON: I have no
16 questions at this time.

17 THE CHAIRMAN: I'm still
18 trying to understand the reason why you
19 submitted the map with the -- I guess it's
20 Exhibit 8 -- with the circles because all I
21 get out of that map is that within those
22 circles you have water, you have park, you
23 have a landfill, you have some residents, you
24 have some industry, you have a highway. It's
25 a mixed-use urban environment. So am I

Page 263

1 missing something because I don't see, other
2 than the background, which I appreciate,
3 maybe that's all your purpose, I don't see
4 what this -- what I'm supposed to get from
5 this map. And if it requires a long
6 explanation, you can forget it.

7 THE WITNESS (Torres): No,
8 it's not a long explanation, sir. And I
9 don't want to presume in any way to tell you
10 your business as you know it very well, and I
11 certainly don't know it as well as you do.
12 But I did look at, essentially, the mission
13 statement of this Commission, and it provides
14 for consideration of historic assets; it
15 provides for consideration of environmental
16 assets and protection of those assets as best
17 you can.

18 In the answer to the
19 interrogatory question relevant to this, I
20 believe it was 19, Interrogatory 19 that asks
21 for what is near the -- the half-mile
22 coverage area of this issue --

23 MR. McDERMOTT: Mr. Chairman,
24 just to interrupt, it's Interrogatory
25 Number 4.

Page 265

1 MR. McDERMOTT: Mr. Chairman,
2 may I be heard?

3 THE CHAIRMAN: I think I
4 understand sufficiently.

5 MR. HOFFMAN: But
6 Mr. Chairman, I think we've been led down a
7 rabbit hole a little bit with this. If you
8 look at the drawing that the utility -- that
9 UI provided in response to Interrogatory
10 Number 4, you will see that it is not a
11 single circle, but rather it is an oval shape
12 that almost identically matches up with
13 Exhibit 8, and as such, I think we've already
14 covered this.

15 THE CHAIRMAN: Okay. I'm --

16 THE WITNESS (Torres): Can I
17 answer that?

18 THE CHAIRMAN: You can answer,
19 but I'm ready to go on. Go ahead, if it's a
20 quick answer.

21 THE WITNESS (Torres): The
22 relevant aspect of this mapping, why I
23 provided it, has not so much to do with the
24 mapping technology or efficiency that the UI
25 provided, but that it excluded in their

Page 264

1 THE WITNESS (Torres): Sorry.
2 MR. McDERMOTT: Just so the
3 record is clear.

4 THE CHAIRMAN: All right.
5 Thank you.

6 Go ahead.

7 THE WITNESS (Torres): I
8 appreciate that. Thank you.

9 So Interrogatory 4 asked the
10 question as to what was impacted within a
11 half a mile, and I thought it was a valid
12 question. However, the project is very long.
13 I mean, just the impact on the top of the
14 landfill is close to a half-a-mile impact,
15 and then the fuel cell is almost a quarter of
16 a mile away from that.

17 So I thought it relevant to
18 consider the end points, particularly because
19 the westernmost end point impacts one of the
20 city's greatest assets, which is the Black
21 Rock Historic District. And Mr. Brilvitch
22 can speak to that, as he was instrumental in
23 creating it.

24 THE CHAIRMAN: Okay. Well,
25 I --

Page 266

1 answers, in their written answers,
2 consideration of very significant other
3 entities that were not listed in the impact
4 zone in their written statement. So what
5 I've done is to add to the impact zone in
6 written methods, if I may. As I said, I
7 don't know entirely what I'm doing here, but
8 I'm doing the best I can. So I have in my
9 presentation, if I get to make one at some
10 point, I would like to explain what other
11 major significant objects exist in the area.

12 THE CHAIRMAN: Okay. Well,
13 the way this works is you answer questions.

14 THE WITNESS (Torres): Okay,
15 I'll answer them.

16 THE CHAIRMAN: Okay, let me --
17 one more.

18 I think it's clear that you
19 are opposed to this specific site for this
20 specific form of renewable energy?

21 THE WITNESS (Torres): Correct.

22 THE CHAIRMAN: Since it wasn't
23 last night that you discovered this, but this
24 has been going on for some time, did you, at
25 any point, recommend either to the city or to

1 UI other sites that would provide the same
2 amount of renewable energy or just focused on
3 this one?

4 THE WITNESS (Torres): No,
5 I -- look, I'm a fan of technology, a big fan
6 of technology. I think that the future of
7 the ecological world's positive impact will
8 come from technological improvements. So I'm
9 a great fan of solar, and I'm a great fan of
10 fuel cell. I don't particularly care for
11 their cost, but that's another issue.

12 In any event, there are
13 several other locations that I have stated
14 loudly at times, you know, in meetings, by
15 the way, as a councilman, and in my role as a
16 councilman in a local public hearing kind of
17 format, I've provided other alternatives.
18 However, I have probably not done it
19 administratively correct in providing the UI
20 or the city with written documentation as to
21 other locations.

22 But among the many locations
23 that exist in the city, which are cited in
24 other places, among other places, the letter
25 from the National Association for Olmsted

1 that anymore.

2 We'll now go to UI for your
3 cross-examination, sir.

4 MR. McDERMOTT: Thank you,
5 Mr. Chairman. Did you make a ruling on
6 Exhibit Number 8 after Attorney Hoffman's
7 objection?

8 THE CHAIRMAN: We're going to
9 accept it for what it's worth.

10 MR. McDERMOTT: And then I'd
11 move again that Exhibit 9 be excluded from
12 evidence. Based on Dr. Klemens'
13 cross-examination, the witness has even
14 admitted that UI's maps supersede this. We
15 don't know what year this is. We don't know
16 if it's based on current information. I did
17 quickly check the city's GIS website, and
18 under approximate flood plains, the last
19 update was listed as unknown. Overall the
20 last update was of the GIS system was in
21 2011, and that was regarding zoning. So I
22 think this is stale, and I'd move that it not
23 be admitted into evidence. That's Number 9,
24 Mr. Chairman.

25 THE CHAIRMAN: Mr. Torres, do

1 Parks, are the countless brownfields that we
2 have throughout the city, the countless flat
3 rooftops that we have throughout the city.
4 Of particular interest to me, and I thought
5 almost in a brilliant sort of way, are the
6 800-acre airport that we have in Stratford
7 that we own as a city. And I have provided
8 one of my -- one of my exhibits is this
9 technical guidance for evaluating solar
10 technology on airports from the FAA. Denver,
11 for instance, is executing a large solar
12 project on their airport. As it turns out,
13 solar panels absorb light, they don't reflect
14 it as much, and they have the reflectivity of
15 grass. And so given that there's grass
16 everywhere, solar panels would do not much
17 more to provide a problem to aviation from
18 the standpoint of reflectivity. However, if
19 you crash into them, you may have a
20 situation. So that's another story.

21 THE CHAIRMAN: I suspect that
22 your suggestion may be under active
23 consideration. The question is whether it
24 would be instead of or to supplement this,
25 but that would not -- no point on dwelling on

1 you want to respond to that because it does
2 have a lot of -- it's very problematic.

3 THE WITNESS (Torres): You
4 know, what's interesting about all of this
5 is, in fact, I think the best case scenario
6 lies in the past and not in the future.
7 Given the fact that this is old data, it
8 probably provides a much more beneficial
9 answer to the UI than does current data in
10 consideration of sea level rise, climate
11 change, et cetera. So Superstorm Sandy, as
12 an example, impacted Bridgeport nowhere near
13 as significant as it impacted New Jersey and
14 the southern coast of New York. Had we had
15 this storm move ahead by two hours,
16 Bridgeport would have been impacted
17 dramatically. I lived through it and I
18 waited out the storm at the edge of one of
19 the very significant flood areas of
20 Bridgeport.

21 So that said, it seems to me
22 that this is an example of something, by the
23 way, which was only meant as informational
24 for the purpose of the Commission, use it as
25 you see fit, but the fact that it was in the

1 past actually provides a better answer than
2 the future.
3 THE CHAIRMAN: Okay. Well, I
4 think you -- FEMA, in coming up with FEMA's
5 up-to-date maps, I'm sure they look at the
6 past.
7 THE WITNESS (Torres): I
8 agree.
9 THE CHAIRMAN: As somebody who
10 just said a moment ago that you believe in
11 technology --
12 THE WITNESS (Torres): I do.
13 THE CHAIRMAN: -- I'm a little
14 surprised by your response.
15 But I'm going to accept this
16 document, Number 9, with all the reservations
17 which I think the Council can for what it's
18 worth just so we can continue on.
19 (Enrique Torres Exhibits
20 IV-B-1 through IV-B-9: Received in evidence
21 - described in index.)
22 MR. McDERMOTT: Thank you,
23 Mr. Chairman. I just have one line of
24 questioning.
25 Is it Brilvitch?

1 drew up proposed boundaries, et cetera.
2 MR. McDERMOTT: Okay. So
3 Ms. Gilchrist, if I understand, prepared the
4 form, but it wasn't submitted by her; it was
5 submitted by the state historic preservation
6 officer?
7 THE WITNESS (Brilvitch):
8 Well, she was the consultant that was
9 employed by the Connecticut Historical
10 Commission to create the nomination.
11 MR. McDERMOTT: Okay. But her
12 signature doesn't appear on the nomination?
13 THE WITNESS (Brilvitch): No.
14 John Shanahan's, I believe, is the signatory.
15 MR. McDERMOTT: And are you
16 comfortable with the information that was
17 contained in the -- I mean, at the time
18 you --
19 THE WITNESS (Brilvitch): Yes,
20 there's a lot of further information that has
21 come to light since 1981.
22 MR. McDERMOTT: But at the
23 time it was submitted, do you agree with the
24 contents of the application form?
25 THE WITNESS (Brilvitch): Yes.

1 THE WITNESS (Brilvitch): It's
2 Brilvitch.
3 MR. McDERMOTT: You allege
4 that you were a coauthor of the national
5 register application -- I didn't mean to
6 allege it that way.
7 Am I correct that your
8 signature does not appear on it, so you were
9 not the actual submitter of it?
10 THE WITNESS (Brilvitch): No,
11 I was not. I was not the author. That was
12 Mr. Torres that called me the coauthor. I
13 consulted with Alison Gilchrist for many
14 months. I do have correspondence between
15 myself and Ms. Gilchrist in my files.
16 Basically, we figured the whole thing out,
17 the boundaries, the significance. I provided
18 her with copies of all my extensive newspaper
19 articles going back to the creation of the
20 park in 1863. Those are her words, but
21 basically a lot of it was my concept. I also
22 explained that I was the person who submitted
23 Seaside Park to the State Historic Commission
24 initially, circa 1978, for consideration for
25 the national register, drew up a proposal,

1 I reviewed it, and I had a few corrections,
2 which she incorporated into the final copy.
3 MR. McDERMOTT: Thank you.
4 Are you aware that the
5 application form contains the following:
6 "The nominated property consists of the
7 entire area historically associated with
8 Seaside Park with the exception of the
9 landfill area at its west end. This section,
10 which extends to the edge of Cedar Creek, has
11 been excluded because of the total loss of
12 its original integrity as a historic park."
13 THE WITNESS (Brilvitch): I
14 was not aware that that particular wording
15 was in there, and I probably would -- I read
16 the nomination back 35 years ago, whenever,
17 and didn't feel strongly enough about that
18 wording to correct it.
19 MR. McDERMOTT: In fact, you
20 just testified that you were comfortable with
21 the contents of the application?
22 THE WITNESS (Brilvitch): Yes.
23 MR. McDERMOTT: Thank you.
24 No further questions,
25 Mr. Chairman.

Page 275

1 THE CHAIRMAN: Attorney
2 Hoffman?
3 MR. HOFFMAN: I have no
4 questions. Thank you.
5 DR. KLEMENS: Mr. Chairman,
6 may I ask a question?
7 THE CHAIRMAN: Go ahead.
8 DR. KLEMENS: Mr. Torres, I've
9 gone through all the papers and things you've
10 submitted, and I'm trying to figure out, if
11 this project was to go forward, what in your
12 mind could make it better rather than say
13 stop the project, which I think I don't
14 really know where your head is at, but if it
15 was going to go forward, what things would
16 make this project, in your mind, better, more
17 acceptable? It's a different question.
18 THE WITNESS (Torres): You
19 know, one of the interrogatory questions that
20 the UI answered was -- and I think it was
21 Interrogatory Question Number 3. And I hope
22 to be able to cross-examine the UI at some
23 point; is that correct?
24 THE CHAIRMAN: Yes.
25 THE WITNESS (Torres): Okay.

Page 276

1 But in any event, they stated that there
2 would be no environmental, no visual, and no
3 historical impact whatsoever on this site.
4 All three are false.
5 Sir, to me, just so you get an
6 understanding, I grew up on this park. So, I
7 mean, there's an emotional tie, aside from
8 whatever intellectual capacity I can --
9 THE CHAIRMAN: Do you have a
10 specific question?
11 DR. KLEMENS: I really would
12 like to --
13 THE WITNESS (Torres): Sir,
14 there's nothing --
15 DR. KLEMENS: There's nothing
16 this project could be done to make this
17 better environmentally, visually, or in terms
18 of historic viewshed protection?
19 THE WITNESS (Torres): No,
20 sir.
21 DR. KLEMENS: There's no
22 mitigation that you could suggest?
23 THE WITNESS (Torres): I can't
24 think of any, sir. I'm sorry.
25 DR. KLEMENS: Thank you, sir.

Page 277

1 THE WITNESS (Torres): Do you
2 have any?
3 THE WITNESS (Brilvitch): I'm
4 just thinking the address is Waldemere
5 Avenue. Waldemere was the name of P.T.
6 Barnum's estate that he built on Seaside Park
7 in 1868. It means woods by the sea. And I
8 think of this landfill in terms of what
9 Frederick Law Olmsted and Calvert Vaux would
10 have done given the existence of this
11 landfill and just to make it a backdrop for
12 the park, beautifully landscaped, forested or
13 whatever, but I'm really not seeing that.
14 I'm seeing something that looks like a
15 half-mile long set of stadium bleachers, and
16 something that, you know, could be a win/win
17 situation here, I would think, would be
18 perfectly acceptable, but I don't see that in
19 the current proposal.
20 DR. KLEMENS: When you say the
21 backdrop to the park, you're talking the view
22 from Seaside Park up to the landfill; is that
23 the major view concern?
24 THE WITNESS (Brilvitch):
25 Well, also from the Black Rock neighborhood

Page 278

1 looking in the opposite direction towards the
2 park. What you have now you've got trees.
3 They're basically invasive species, but they
4 are beginning to form a forested backdrop
5 that looks like what might have been there
6 back in the 17th Century when Black Rock
7 Village was founded.
8 DR. KLEMENS: But there was
9 never a mound of -- there was never a -- it
10 was always flat?
11 THE WITNESS (Brilvitch):
12 There was never a mound there, no. We
13 assumed Fayerweather Island would have been
14 wooded. We have one reference in Schenck's
15 history of Fairfield that it was covered with
16 all kinds of oaks. So we know that
17 Fayerweather Island was wooded. There would
18 have been the salt marshy area that was, you
19 know, a salt marsh. Something that could
20 re-create that in some way I think would be
21 something that Calvert Vaux, the plainsman,
22 would have done in Seaside Park given this
23 set of circumstances. But from the
24 depictions I've seen of what this project is
25 going to look like, I think that's a whole

1 different thing altogether that really
2 impacts not only Seaside Park, but the Black
3 Rock Historic District and the whole environs
4 of Black Rock Harbor.

5 DR. KLEMENS: Thank you.

6 THE CHAIRMAN: Mr. Ashton has
7 a question.

8 MR. ASHTON: Mr. Torres, your
9 line of argument that I've heard really
10 addresses only the solar array. It doesn't
11 really -- I don't hear objections about the
12 fuel cell; is that a fair assessment?

13 THE WITNESS (Torres):
14 Industrialization of parkland to me is
15 something that we should avoid. I understand
16 the concept that this thing was once a
17 landfill. It's not anymore.

18 MR. ASHTON: I understand
19 that, but come to my point.

20 THE WITNESS (Torres): The
21 fuel cell facility is a really cool facility,
22 but that could go anywhere.

23 MR. ASHTON: Okay. Are you
24 objecting to the fuel cell?

25 THE WITNESS (Torres): Just

1 fuel cell, but you object in total, or those
2 are my words, to the solar array; is that
3 fair to say?

4 THE WITNESS (Torres): I
5 object to both of them. The solar array has
6 a much greater visual negative impact so
7 that's --

8 MR. ASHTON: You're arguing.
9 I just want to get a simple answer.

10 Okay. Thank you,
11 Mr. Chairman.

12 THE CHAIRMAN: Okay. We're
13 now going to go to the City of Bridgeport and
14 see if there's any questions.

15 I understand, Attorney
16 Hoffman, you don't have any specific
17 witnesses; is that correct?

18 MR. HOFFMAN: No, we don't,
19 but we're happy to go now, if that's what the
20 Council's pleasure is.

21 THE CHAIRMAN: So there's no
22 prefile, but you have witnesses available if
23 we have questions?

24 MR. HOFFMAN: Yes, sir. If
25 there are questions that come up. I had

1 locationwise, that's all. It just shouldn't
2 be at the park.

3 MR. ASHTON: But you're
4 objecting to the solar array?

5 THE WITNESS (Torres): Both,
6 sir.

7 THE WITNESS (Brilvitch): If I
8 could interject one thing? I heard that this
9 was to be constructed to withstand a 13-foot
10 tidal surge. In the hurricane of 1938 we
11 have reports of a 19-foot tidal surge at
12 Bridgeport Harbor and a 22-foot tidal surge
13 at Fairfield. So given another hurricane
14 like that or the 1821 hurricane which was
15 certainly significantly worse than that.

16 MR. ASHTON: Well, now we're
17 arguing over the 500-year flood or whatever
18 it's going to be. But I'm trying to find out
19 whether there's any differentiation in your
20 objections to the project between the solar
21 array and the fuel cell.

22 THE WITNESS (Torres): No.
23 Sir --

24 MR. ASHTON: As I heard you,
25 you're saying you object to the location of a

1 thought that if there were questions that
2 came up during UI's presentation that the
3 Council had that the City can answer better,
4 the City would be happy to do so. The city
5 is happy to make the witnesses available now.
6 We have two witnesses if the Council has
7 questions, yes.

8 THE CHAIRMAN: Attorney
9 Hoffman, would you be comfortable then we'll
10 go to UI, and then if there are questions
11 after that, we'll come back?

12 MR. HOFFMAN: That's perfectly
13 acceptable to the City. Thank you.

14 THE CHAIRMAN: Okay.
15 (Witnesses excused.)

16 MR. HOFFMAN: Just as a matter
17 of -- do you want Mr. Torres and I to stay
18 here while UI goes up? Do you want me to sit
19 in the back? I'll do whatever the Council
20 wants to do for seating purposes.

21 THE CHAIRMAN: I don't know
22 whether UI needs both tables.

23 MR. McDERMOTT: I think
24 between the back row there and the table we
25 should be fine.

Page 283

1 MR. HOFFMAN: Let me move.
2 That way you have all the space you need.
3 (Pause.)
4 THE CHAIRMAN: Okay. We
5 apparently have additional witnesses to be
6 sworn in?
7 MR. McDERMOTT: That's right,
8 Mr. Chairman. Based on the hearing on the
9 11th, we thought there might be additional
10 questions on wetlands and the analysis
11 thereof, so we've added Laurel Stegina,
12 project manager from Fitzgerald & Halliday,
13 and Daniel Hageman, project manager from
14 Fitzgerald & Halliday, to the panel to answer
15 any wetland-specific questions. And you are
16 absolutely right, they do need to be sworn.
17 THE CHAIRMAN: Would you
18 please stand?
19 DANIEL HAGEMAN,
20 LAUREL STEGINA,
21 called as witnesses, being first duly
22 sworn by Ms. Bachman, were examined and
23 testified on their oaths as follows:
24
25

Page 284

1 THOMAS JUDGE,
2 ANTHONY MARONE,
3 MICHAEL LIBERTINE,
4 DUANE HIMES,
5 JOSEPH PERUGINI,
6 having been previously duly sworn, were
7 examined and testified further on their
8 oaths as follows:
9 MR. McDERMOTT: And with that,
10 the panel is ready for cross-examination, Mr.
11 Chairman. The materials that Fitzgerald &
12 Halliday prepared were previously submitted
13 into the record and admitted as evidence.
14 THE CHAIRMAN: Okay. So we'll
15 start. Mr. Mercier may have additional
16 questions from last time.
17 MR. MERCIER: Yes, I do have a
18 few.
19 Just in regards to the panels
20 themselves, the whole solar field that is,
21 what's the service life of all that
22 equipment?
23 THE WITNESS (Judge): The
24 warranty on the panels themselves is 25
25 years. The panels have gotten up to 30

Page 285

1 years. So when we bid our agreement with the
2 City, we were looking for 20 years as a base
3 agreement and then two five-year increments
4 to get us up to 30 years. If the facilities
5 are performing well, we want to keep them.
6 MR. MERCIER: How about the
7 associated electrical equipment, is that also
8 good for 25 years or so or --
9 THE WITNESS (Judge): Certain
10 equipment, transformers, inverters, have 15,
11 20 years or greater, depending on the
12 equipment, but that would be replaced as O&M.
13 MR. MERCIER: And how about
14 the fuel cell components, what's the service
15 life of that unit?
16 THE WITNESS (Judge): So the
17 warranty on the fuel cells are 20 years, and
18 we have maintenance agreements for 20 years.
19 And the same thing, we would look to see how
20 the fuel cell is performing, how the stacks
21 are performing. And the nice thing about
22 them is, once they're paid for, the upgrades
23 and keeping them going is less expensive to
24 get more output.
25 MR. MERCIER: Thank you. I

Page 286

1 touched upon this last time. It has to do
2 with, you know, if there was a grass fire on
3 the solar field what's the main component of
4 the panel, I mean, would they catch fire,
5 melt, anything of that nature?
6 THE WITNESS (Judge): So the
7 melting point or the combustion point of the
8 panels, the components, is extremely high.
9 So the nature of a fire that would be on a
10 facility like this would be just a flash fire
11 coming across with some brush. The
12 components would not combust in that
13 situation, the silicon, the aluminum, the
14 different components don't really combust.
15 There would be some damage from a fire, but
16 we will be maintaining these facilities.
17 We'll be cutting the brush down a couple
18 times a year so to keep it to a minimum.
19 MR. MERCIER: Okay. And just
20 say there was a brush fire and firefighters
21 are there spraying water around, is there any
22 type of hazard they would be exposed to?
23 THE WITNESS (Judge): So the
24 fire department does go through specific
25 solar training because when the sun is out,

1 solar panels are producing electricity, so
2 there's no shutting them off. So there is
3 specific training for solar facilities. We
4 will be putting together a health and safety
5 plan and an emergency response plan. We
6 worked with the City of Bridgeport and the
7 fire department, and as the project develops,
8 we will be putting together site-specific
9 training for the project.

10 (Whereupon, Mr. Lynch entered
11 the hearing room.)

12 MR. MERCIER: Thank you.

13 Now, referring to the actual
14 petition, the large binder that was filed,
15 Attachment 5, this was the Weston & Sampson
16 report dated April 2014. On page 3-7 of this
17 report it basically says the certification of
18 the closure of the municipal waste portion of
19 the landfill is pending. So I guess, reading
20 this, there has been no actual DEEP accepted
21 closure of the municipal waste portion of the
22 landfill; is that correct?

23 THE WITNESS (Judge): I refer
24 to Joe Perugini.

25 THE WITNESS (Perugini): Yes.

1 use plan which has not been accepted for this
2 site yet. I know something that was
3 discussed earlier was the requirement for a
4 disruption permit and also the stewardship
5 permit, but I think one of the other issues
6 is an approval of a postclosure use plan. I
7 think that may be something that's still out
8 there lingering.

9 THE WITNESS (Judge): Yes,
10 there is. So right now the city is
11 responsible for the postclosure use plan, and
12 their consultant is LBG, Leggette, Brashears
13 & Blunt. They are preparing or they have
14 prepared a draft of the postclosure use
15 application. UI's contractor, American
16 Capital Energy, has prepared the disruption
17 application. Right now they're being
18 reviewed jointly. DEEP wanted to see them
19 submitted together. So we had spoken to Dave
20 McKeegan and Amanda Killeen, and rather than
21 submitting them individually, we'll go
22 through the approval process together. So we
23 are working out the details of who's going to
24 submit it, whether it's going to be the city
25 or UI, but they are both ready to be

1 I think that refers to the special hazardous
2 waste cell which is not part of this project.
3 It's that little isolated area in the
4 northwest corner.

5 MR. MERCIER: It does say
6 municipal waste portion and talks about the
7 toxic sludge cell.

8 THE WITNESS (Perugini):
9 Right, there's municipal waste below that,
10 and there's special waste above, and that
11 area is, the closure of that is ongoing.

12 MR. MERCIER: You're talking
13 about the --

14 THE WITNESS (Perugini): The
15 hazardous waste cell. And that's the one
16 that's the fenced-in area that you may have
17 seen in the maps.

18 MR. MERCIER: Doesn't the DEEP
19 closure -- I have to look at that. I'll
20 withdraw that.

21 On this page again on 3-7 --

22 THE CHAIRMAN: Mr. Hannon has
23 a follow-up.

24 MR. HANNON: I think the issue
25 is dealing with an approval of a postclosure

1 submitted.

2 MR. MERCIER: Also on 3-7 it
3 talks about postclosure activities, such as
4 maintenance, quarterly inspections,
5 maintenance of the ground water system.
6 These are things the city has to do as part
7 of their monitoring for the landfill.

8 Now, if the project is
9 constructed on top of the landfill, is UI
10 going to handle any of the postclosure
11 maintenance and inspection aspects, or is it
12 just the city itself?

13 THE WITNESS (Judge): So the
14 areas within our boundary we're going to
15 monitor for erosion, sedimentation and just
16 to make sure that there's no erosion taking
17 place. The area outside of our project area,
18 the city would continue to maintain and
19 monitor that area.

20 MR. MERCIER: Okay.

21 THE WITNESS (Judge): However,
22 the largest area that you're concerned about
23 erosion on the side slopes, I believe they
24 have some monitoring wells out there with the
25 disruption area of the stewardship permit

1 area of the hazardous waste cell. So the
2 area within our project is really just
3 observation and inspection.
4 MR. McDERMOTT: Mr. Mercier,
5 you're asking specifically about the three
6 bullets on --
7 MR. MERCIER: Yes, I am. So
8 I'm trying to determine who's going to do
9 that in your leased area.
10 THE WITNESS (Judge): Yes,
11 everything except for the groundwater
12 sampling. We'll be doing the first two in
13 our area.
14 MR. MERCIER: So you're going
15 to keep records. Are you going to file those
16 separately with DEEP, or are you going to
17 give them to the city, how is this going to
18 be arranged?
19 THE WITNESS (Judge): So in
20 our area we would be able to give that
21 information to the city for the city's
22 consultant.
23 MR. McDERMOTT: Just so the
24 record is clear, Mr. Mercier, when he said
25 the first two bullets, that's the maintenance

1 of the final cover and the quarterly
2 inspection for signs of erosion, et cetera.
3 MR. MERCIER: Thank you.
4 I have no further questions at
5 this time. Thank you.
6 THE CHAIRMAN: Okay. We're
7 now going to go back through questions from
8 the Council. I just remind council members
9 some of you had a chance to ask questions
10 last time, and you received answers. We
11 don't need to go back through that. We
12 really want to keep this thing moving, but I
13 know there were some issues that were
14 outstanding.
15 THE VICE CHAIRMAN: I did it
16 in Bridgeport, so I'll pass.
17 THE CHAIRMAN: Okay. Dr.
18 Bell?
19 DR. BELL: Yes, Mr. Chairman,
20 I did have a couple questions further on the
21 matter of storm water management erosion
22 issues on the site.
23 One specific question is: Can
24 you estimate for us the portion of the solar
25 panel array that's pretty much level that you

1 don't worry about it, and how much is on the
2 steeper slopes where you're going to try and
3 level the panels more? Is it possible to
4 give kind of a ballpark figure or proportion?
5 THE WITNESS (Judge): If I
6 gave you a ballpark figure, it would be just
7 a rough estimate off the top of my head. But
8 basically from the top being flat, it starts
9 sloping in all directions immediately, but
10 there's a general flat area on top, and then
11 it starts getting into the side slopes which
12 goes down. We're going to build to a maximum
13 grade of 12 percent. Fourteen percent is
14 what we have in there. I would say the areas
15 that are between zero and 8 percent probably
16 make up 75 percent of the area we're
17 building. And that's just a best guess.
18 Joe, would you concur with
19 that?
20 THE WITNESS (Perugini):
21 That's correct. The stones below the
22 concrete ballasts are going to be used to
23 provide a leveling surface and also provide a
24 little friction below the ballasts, and those
25 will be used to get the ballasts and the rack

1 and the panels closer to a level surface.
2 DR. BELL: Thank you. Can you
3 explain to me why you say that the ground
4 cover won't be disturbed at all so that you
5 can effectively say it's just the same as
6 when it started, given that there needs to be
7 installation of these panels, heavy equipment
8 needs to drag them in and set them up, and
9 you're also going to be doing this leveling
10 procedure that you just described by adding
11 gravel which would be a significant area
12 around the pad that the panel is sitting on.
13 I'm just trying to get a better clarification
14 on why you would say the ground cover isn't
15 disturbed at all.
16 THE WITNESS (Perugini):
17 Right. When we talk about a disturbance,
18 we're looking at elimination or disturbance
19 in terms of removing the topsoil and exposing
20 the existing ground so that if there was a
21 rain event you get erosion. So when we're
22 talking about a disturbance, we're not doing
23 any of that except for the installation of
24 the roadways, and that's a -- we're digging
25 down and placing a gravel roadbed, and there

1 will be erosion and sedimentation control
2 measures placed in the vicinity of those.
3 When you're talking about the
4 concrete ballasts and how they are placed,
5 we're not digging up or disturbing the
6 landfill cap. Because it's a landfill and
7 it's a cap, that has to be maintained. We're
8 doing everything possible to minimize any
9 disturbance to that cap. So the way the
10 ballasts are placed, there would be a
11 geotech-style fabric placed onto the existing
12 grass, and then a bedding of crushed stone
13 will be used above that, just enough to get
14 the ballast level. And so you're really not
15 exposing an area or a large area that would
16 be susceptible to erosion from a rain event.
17 THE WITNESS (Judge): Dr.
18 Bell, I believe from your -- the last time
19 you asked the question, you were talking
20 about impervious area and increasing the
21 impervious area. So the panels are actually
22 constructed up in the air and are at a tilt.
23 So when the rainwater hits the panels, it
24 comes off the panels, and it starts to drain.
25 So we're not changing the characteristics of

1 the ground underneath it. So when the water
2 hits the ground, it continues to drain
3 underneath the adjacent panels.
4 The only area that is really
5 being affected, as Joe had mentioned, is the
6 area underneath the ballast blocks
7 themselves. And from the storm water
8 calculations that were put together and
9 submitted as an exhibit, I believe it changed
10 the characteristics by about 3.44 percent
11 change in the runoff area or the impervious
12 area. And really that 3.44 percent is spread
13 out among the entire 12 acres. So in
14 individual areas there's minimal impact.
15 DR. BELL: Okay. I'll leave
16 that matter and go to one other question.
17 Can you tell us what specific
18 ways the site lines to Captain's Cove and
19 Black Rock were minimized?
20 THE WITNESS (Libertine): Dr.
21 Bell, you asked how they are minimized?
22 DR. BELL: Yes, there's a
23 statement in one of your answers to the
24 questions that the site lines to Captain's
25 Cove and Black Rock have been minimized. I'm

1 asking what were the specific ways in which
2 they were minimized.
3 THE WITNESS (Libertine):
4 Really, the general layout of the facility
5 would be the only way to minimize those by
6 not bringing it down on that side of the
7 landfill any further than it has been
8 designed to do so.
9 DR. BELL: Okay. I'm just
10 trying to get a specific on that.
11 THE WITNESS (Libertine):
12 There's no -- there hasn't been any form of
13 visual mitigation proposed in that area.
14 Again, we're using the land form to the best
15 of our abilities. It does drop off fairly
16 steep on that side. That's kind of the
17 northwest side of the landfill for lack of a
18 better directional. So again, it's only
19 coming down a portion off that side of the
20 slope, and everything else is being
21 maintained below that. So that's really the
22 only form of mitigation on this, that we
23 really do design it such that it is using as
24 much of the top of the landfill as possible
25 without bringing it down on the side slopes.

1 DR. BELL: Okay. I have one
2 more question. At the public hearing,
3 Mr. Gilmartin, who was speaking for NuPower
4 Thermal, LLC, said that the waste heat
5 generated by the proposed fuel cell would be
6 captured as a fuel source for the development
7 of the planned thermal heating district that
8 NuPower is involved in. I know that molten
9 carbonate fuel cells do cast off a high heat
10 or they operate in a high heat environment,
11 but all I had heard about was the electrical
12 input to the grid.
13 So my question is: Is
14 NuPower's plan something that's actually
15 factored into the design of the fuel cell at
16 this point?
17 THE WITNESS (Judge): No, it's
18 not. The City of Bridgeport and NuPower
19 reached out to UI. They had reached out to
20 all sources of heat throughout the city for a
21 concept design for a thermal loop, and all UI
22 said was that, you know, we have a facility
23 that produces -- that does have some off
24 heat. We have no intent to use it on this
25 project at this time because of the

1 technology that can support it. However, if
2 they were bringing their thermal loop in the
3 area, we would have no problems giving them
4 our off heat as long as they paid for the
5 facilities to make the upgrades and it didn't
6 affect our ratepayers in any way.

7 DR. BELL: All right.

8 Thank you, Mr. Chair.

9 THE CHAIRMAN: Thank you.
10 Mr. Ashton?

11 MR. ASHTON: Following along
12 that same question, as I recall, the overall
13 efficiency of the fuel cell is about 40
14 percent?

15 THE WITNESS (Judge): Correct.
16 I believe it's a little bit higher 42, 48,
17 somewhere.

18 MR. ASHTON: Did UI make any
19 contact with Sikorsky to see whether they
20 could use the waste heat?

21 THE WITNESS (Judge): Tony, do
22 you know if we looked at that --

23 THE WITNESS (Marone): Early
24 on in the project, I think we looked at that,
25 and we did not determine that there was --

1 as I know, there's been no testing done.

2 MR. ASHTON: No testing at
3 all?

4 THE WITNESS (Himes): No.

5 MR. ASHTON: Do you know if
6 when they did the closure of the dump did
7 they run sheepsfoot rollers over it to get
8 compaction?

9 THE WITNESS (Himes): I don't
10 know if they did or not.

11 MR. ASHTON: Did UI look at
12 rooftop versus this array as an alternative?

13 THE WITNESS (Marone): The
14 cost of rooftop and the amount of rooftop
15 needed, you would have many smaller projects,
16 and so that was not what we thought was a
17 viable alternative when you think about
18 somewhere in the area of 8500 panels.

19 MR. ASHTON: No further
20 questions. Thank you.

21 THE CHAIRMAN: Thank you.

22 Dr. Klemens?

23 DR. KLEMENS: I didn't have a
24 chance in Bridgeport to say much. It's great
25 to be in a place where you actually have good

1 that the quality of the heat was sufficient
2 to make it work bringing it over to Sikorsky.
3 We're not opposed to that in the same way
4 with the other thermal loop if it makes sense
5 to do so.

6 MR. ASHTON: You mentioned
7 bringing it over. Why not a joint -- would
8 it be any better to make the site adjacent to
9 the Sikorsky plant so it's right there?

10 THE WITNESS (Marone): I don't
11 believe that that was an option that locating
12 it at the Sikorsky plant. I can't say what
13 their heat needs are and how they match up
14 with the Sikorsky plant, but the site that we
15 had available was the site, the city site,
16 and so I don't believe that we looked at
17 locating it on Sikorsky property.

18 MR. ASHTON: Okay. Have any
19 studies been done of the soil bearing
20 competence, the compaction, that you're
21 likely to run into on the solar arrays?

22 THE WITNESS (Judge): For the
23 solar arrays?

24 Duane, can you speak to that?

25 THE WITNESS (Himes): As far

1 acoustics and can hear the questions and
2 answers. I have a bunch of questions focused
3 on different areas.

4 The first is going to deal
5 with storm water management. And there was a
6 response in the interrogatories that
7 Mr. Judge gave. I believe it's -- let me
8 find the right interrogatory here -- right,
9 it was on Interrogatory Number 23. You may
10 be aware that there was another solar site
11 that recently had a large-scale catastrophic
12 failure of substrate that was caused
13 basically by water that came off the panels,
14 hit the unprotected soil, and blew out all
15 the soil, the soil types were highly erodible
16 and compacted, but the concept of treating
17 storm water management on the site like this,
18 you're going to be concentrating a lot of
19 runoff similar to a roof.

20 That's going to hit the ground
21 presumably on gravel. And I'd like to
22 understand how much gravel you're going to
23 have, how you can assure us that we're not
24 going to have a perilous situation in a heavy
25 storm with everything blowing out, how that

1 gravel will dissipate the velocity of the
2 water and be able to convey the storm water
3 off in the manner that you describe because
4 I'm unconvinced we won't have a catastrophic
5 failure in a heavy rainstorm with all those
6 small roofs basically concentrated.

7 It's not the same as basically
8 falling on the ground. It's going to be
9 hyperconcentrated coming off those panels.
10 And I'd like someone -- then you also said
11 about brush clearing. I assume the brush
12 clearing is at the periphery, there's not
13 going to be brush between the panels, the
14 whole area is going to be gravel. Correct?

15 THE WITNESS (Judge): No, the
16 whole area is not going to be gravel. The
17 whole area is going to maintain a grass
18 surface. The only gravel areas will be
19 beneath the ballasts and beneath the pads
20 themselves.

21 DR. KLEMENS: So how are you
22 going to ensure that you're not going to have
23 a blowout situation both from storm water
24 management, also the fact this is a landfill?
25 You don't want to be digging into the cap.

1 You don't want to be having problems. I
2 don't understand how you've engineered this
3 in a way that protects the environment.

4 THE WITNESS (Judge): Joe?

5 THE WITNESS (Perugini): Sure.

6 When we look at storm water, we're
7 specifically interested in the ground, what's
8 happening at the ground level. And you're
9 correct in thinking that when you have a
10 roof, what's below it is typically
11 impervious, but in this case the area of the
12 panels, what's below it, is essentially the
13 same. It's what happens at the ground level
14 when we calculate the peak runoff for any
15 site, we compare what's there now versus
16 what's going to be there as proposed. And
17 the critical factors when we calculate the
18 runoff is the amount of impervious area and
19 what the ground surface is or changes to and
20 the pathway of that runoff.

21 Because of what's happening
22 under the panels, you just have these small
23 areas of concrete ballasts. We've calculated
24 what that area is and added that as
25 impervious area. The increase of that

1 impervious area is .88 acres. That's the
2 increase. Over 41 acres of the entire
3 landfill site, it's only an increase of 2.1
4 percent. It's a very small area. It would
5 be very different if that .88 acres was a
6 singular impervious area, then overall it
7 would change the runoff calculation because
8 you would have an increase in time of
9 concentration.

10 In this case they're all
11 separate little individual areas, so when
12 taken together, when calculated, it's not
13 changing the pathway of the runoff, the
14 ability of that runoff to infiltrate into the
15 ground, we're not changing the ground cover,
16 and so the increase, the slight increase that
17 we see we consider negligible over the entire
18 site.

19 DR. KLEMENS: So you're saying
20 basically that as the water comes off the
21 panel, like a drip line, that that water then
22 is going to move down the hill underneath the
23 next array and the next array through the
24 gravel, but there's not consistent gravel,
25 there's also --

1 THE WITNESS (Perugini):
2 Right. The only gravel that's going to be on
3 that landfill is below those
4 24-inch-by-6-foot long ballasts, an
5 approximate area. It's dependent on the
6 final design. Everything else is going to be
7 the vegetative cover.

8 DR. KLEMENS: But you're
9 telling me that underneath those tipped
10 panels that they're going to be equally as
11 saturated and as equally available to the
12 infiltration of water runoff as they are now,
13 that there's no difference, even -- how big
14 are these panels?

15 THE WITNESS (Judge): They're
16 3 foot by 6 foot.

17 DR. KLEMENS: And there are
18 not going to be dry spots or areas that are
19 less available to storm water than they are
20 now on the open surface?

21 THE WITNESS (Perugini): Once
22 the water hits the ground, it's going to be
23 allowed to run off as it currently does.
24 It's not enough of an impervious area or roof
25 area that you get -- we're not even seeing on

Page 307

1 other sites. We inspect them quite a bit.
2 We're looking for erosion under that drip
3 edge, and we're not even seeing that because
4 of the dense nature of the vegetative cover
5 that's typically on landfills. That's a
6 requirement by DEP to maintain that
7 vegetative cover.

8 And also what we'll typically
9 see is the vegetative cover we may, if
10 necessary, have to go to means by
11 overseeding, if necessary, to maintain that,
12 and the drip edge is one of the specific
13 things that during monthly monitoring, we
14 look for to see if there's any type of
15 erosion, but there's no increase in --
16 significant increase in storm water runoff.

17 DR. KLEMENS: So you see in
18 these installations, of other ones, you look
19 at the edges, you don't see a channel forming
20 in the grass?

21 THE WITNESS (Perugini): Not
22 typically, no.

23 DR. KLEMENS: That if the
24 ground was bare, then you could get a
25 channel?

Page 309

1 to renew. Like I said, if the fuel cells are
2 performing well and we can replace the stack
3 or the stacks are performing well, then we
4 plan to extend if they're performing well.

5 DR. KLEMENS: For how long?

6 THE WITNESS (Judge):
7 Five-year increments.

8 DR. KLEMENS: So this could be
9 something that could be 30 or 40 years in
10 this location?

11 THE WITNESS (Judge): Up to 30
12 years.

13 DR. KLEMENS: Has anyone
14 looked at the various models of sea level
15 rise into the future? We hear a lot of
16 discussion about resiliency. You've raised
17 this one foot above the current FEMA storm
18 surge. Is that going to be adequate in 30
19 years for the current sea level rise
20 trajectories? There are three or four
21 different models? Are any of you familiar
22 with the models of sea level rise, and which
23 one are you using?

24 THE WITNESS (Judge): Joe.

25 THE WITNESS (Perugini): We

Page 308

1 THE WITNESS (Perugini):
2 Correct. And the measure to deal with that,
3 there's a couple of ways using a wood chip
4 mulch to reduce the erosiveness or even go to
5 like a gravel drip edge.

6 DR. KLEMENS: Will that be
7 part of your monitoring of this site as you
8 operate it --

9 THE WITNESS (Perugini): Yes.

10 DR. KLEMENS: -- that you'll
11 be looking for that?

12 THE WITNESS (Perugini):
13 That's correct.

14 DR. KLEMENS: Okay. Let me go
15 next to the fuel cell. With the fuel cell
16 we've had various -- we've had the map you
17 submitted, which is the FEMA map, the current
18 map, you had another map that was somewhat
19 unclear that Mr. Torres presented. But what
20 is the anticipated life of the fuel cell of
21 that project? What is the duration in years
22 of that project?

23 THE WITNESS (Judge): It's 20
24 years is the anticipated or the contract
25 life, I should say, and then we have option

Page 310

1 don't typically look at future sea level
2 rises. We would construct to the current
3 FEMA regulations which is managed by the City
4 of Bridgeport flood management. It's all
5 according to building codes. And that level,
6 the one foot constructed above the FEMA flood
7 elevation, is the elevation at which flood
8 insurance is -- the eligibility for flood
9 insurance is determined.

10 DR. KLEMENS: I appreciate
11 what you're saying, but there is a huge body
12 of evidence, and it's happening all over the
13 country in the construction of municipal
14 projects from the New York City subway system
15 onward, that it's projecting outward to
16 create structures that are going to be
17 resilient 30, 40, 50 years. Why can't we do
18 that? I don't understand when I've asked
19 that structure to be raised, I'm looking at
20 that area. It's a parking lot. And I've had
21 such resistance about raising it more than a
22 foot. Why can't it be raised higher?

23 MR. McDERMOTT: Mr. Chairman,
24 first off, I don't know that the company
25 appreciated the fact that we had a request to

Page 311

1 raise the structure. But if that's a
2 condition of this body, as we did in I
3 believe it was the Shelton substation where
4 we increased the level due to the Council's
5 concern, we would do that.

6 THE CHAIRMAN: Let me just
7 have a follow-up then. Would it be feasible,
8 and I don't know what the number is, but
9 let's say that instead of one foot to raise
10 it 2 feet?

11 MR. McDERMOTT: Absolutely.
12 Let me back off --

13 THE WITNESS (Judge): Just to
14 be clear --

15 THE CHAIRMAN: I'd like the
16 answer from Mr. McDermott.

17 THE WITNESS (Judge): From the
18 current elevation today, it's coming up over
19 4 feet or on one side 4 feet and the other
20 side 3 and a half feet, so it is raising
21 substantially from today's elevation.

22 DR. KLEMENS: I understand
23 that. Only one foot above this projected
24 storm surge. And I'm saying if this facility
25 is going to be with us for 30 years, maybe it

Page 313

1 That's correct. The date of the most recent
2 increase for the FEMA flood elevation was
3 July of 2013. This was last year, and it was
4 raised 2 feet from the prior documented
5 100-year flood elevation. So it's a very
6 recent increase.

7 DR. KLEMENS: It is. And I
8 would anticipate, I would respectfully
9 suggest that by the time we're 20, 30 years
10 out, we're going to be 2 feet more, if not
11 more, higher, given the current level of sea
12 rise, whatever model, whether you use the
13 Hadley model or the more conservative model,
14 we're in a sea rise episode, and the more we
15 can build resiliency into the structures, the
16 better. That's just my opinion.

17 Let's talk about the backdrop
18 to Seaside Park. We've heard a lot of
19 discussion. I mean, there's a Black Rock
20 neighborhood that I don't quite know how to
21 deal with that, but I would like to ask you:
22 What could you do to enhance visually the
23 forested appearance of the backdrop to
24 Seaside Park that people are looking at from
25 the park? What could be done there to

Page 312

1 would be prudent to raise it somewhat higher
2 based on projected sea level rise.

3 THE WITNESS (Marone): I'll
4 say on behalf of the company that we believe,
5 and I think we've testified before that we
6 thought that -- we still believe -- that one
7 foot above the FEMA elevation is appropriate.
8 If it was a condition by this Council that it
9 be some increment higher than that, we would
10 be fine with that. I can tell you that other
11 infrastructure in the city, electrical
12 infrastructure and other infrastructure, will
13 be compromised long before this at that
14 elevation, at the elevation we already are
15 planning to build this at. So in the scheme
16 of problems to solve, I'm not sure that it's
17 necessary, but if that was a condition, we
18 would be okay with that.

19 DR. KLEMENS: Thank you.

20 THE WITNESS (Judge): And Joe,
21 just a quick question. The new FEMA flood
22 plain elevations, are they based on -- those
23 have been raised from the old FEMA flood
24 plain --

25 THE WITNESS (Perugini):

Page 314

1 improve it, bearing in mind that it is a
2 landfill cap?

3 MR. McDERMOTT: I'm sorry. So
4 I understand, where are you positioned for
5 your view that you're looking to --

6 DR. KLEMENS: Well, I think
7 we've heard about the Olmstedian view from
8 Seaside Park which is that strip along there
9 that looks up at the landfill. I don't know
10 how we can deal with the view from across
11 Black Rock Harbor, but I'd like to -- I'm
12 sort of sympathetic to the concept of trying
13 to buffer the view from the what I consider
14 the bona fide National Historic Register part
15 of the property, which is the park.

16 MR. McDERMOTT: Okay. Maybe I
17 can ask Mr. Libertine to opine about the
18 viewshed and whether he sees that there will
19 be an impact before we start the mitigation
20 of it.

21 DR. KLEMENS: Please.

22 THE WITNESS (Libertine):
23 Working your way down the boulevard through
24 the park, we do have a couple of photos that
25 were submitted as evidence as part of the

Page 315

1 interrogatories, and I think it's clear that
2 there's very little visibility of the
3 facility installation from those locations.
4 That leading edge, southern edge, you will
5 certainly see some of the fence line and
6 perhaps some of the arrays.

7 The concern I've had all along
8 with doing any kind of landscaping is, well,
9 twofold: One is from a strict facility
10 installation we have a shading concern in
11 terms of tall trees, but probably more
12 importantly, in this situation, is we've got
13 a capped landfill. There shouldn't be trees
14 up there in the first place. There are tree
15 there today, and I think someone had
16 mentioned correctly there are invasive
17 species.

18 If you were going to do
19 something, I think your opportunity is at the
20 toe of the slope, adjacent to the boulevard,
21 and in that general area would be well
22 outside of the area of influence for any
23 shading but could provide some backdrop to
24 folks who are using the resource, which is
25 the park, from that particular perspective.

Page 316

1 But I think that's really -- you're going to
2 be somewhat limited just because of those two
3 conditions.

4 DR. KLEMENS: I understand
5 that. But there's going to be an 8-foot
6 chain-link fence or some material around the
7 facility. How would you feel about just
8 getting Virginia creeper to grow over it or
9 some other vine just to cover the fence?
10 Would that provide a green backdrop?

11 THE WITNESS (Libertine): It
12 would. My only concern there again is you
13 start to get a weight factor. If you
14 remember from the first hearing, this is kind
15 of a unique fence installation just because,
16 again, of the limitations of the landfill and
17 the cap. It's, again, my understanding it's
18 somewhat of a ballasted system, so we'd have
19 to have some element of, I guess, engineering
20 to take a look at it. I'm concerned with
21 wind speeds, ice, that type of thing, you
22 know, throughout the whole season and the
23 weight factor.

24 I agree with you, Dr. Klemens,
25 if we could do something that's either a

Page 317

1 creeper or shrubs that could work in that
2 vein, it would probably be a great thing, but
3 there are just some technical limitations.

4 DR. KLEMENS: I understand the
5 technical limitations on all of this are
6 difficult.

7 THE WITNESS (Libertine):
8 Agreed, something of that. If we had a fixed
9 fence, I'd say absolutely, it's low
10 maintenance, it's not going to do anything
11 except look nice if it turns colors during
12 the season, it would be a viable option.

13 DR. KLEMENS: But you're
14 afraid with the heavy vines on the fence
15 there that it would actually, because the
16 fence is not fixed into the ground, that it
17 would actually disrupt the fence?

18 THE WITNESS (Libertine): My
19 experience on my own property just with trees
20 when Virginia creeper or those type of things
21 get up there, they will tend to with gravity
22 and everything else start to cause those
23 problems. I would imagine, and maybe one of
24 the engineers could weigh in better than I,
25 I'd have some concerns. I'm not saying it

Page 318

1 couldn't be done, but I think we'd have to
2 think pretty hard about how you would do it.

3 DR. KLEMENS: How about
4 something on the fence itself? We've talked
5 about a chain-link fence or something. Is
6 there any other thing you could do with the
7 fence itself that would be lightweight and
8 more camouflaging that might actually provide
9 more visual relief? I won't use the word
10 "paint." I will use the word color, some
11 color or some attachment or some trellising
12 or something or camouflaging that the fence
13 could actually be made to give more visual
14 relief and hide some of the arrays? I
15 understand, I looked at your visuals, and
16 they were minimal so --

17 THE WITNESS (Judge): The
18 other thing I would consider about those
19 visuals is they were taken in the
20 wintertime --

21 THE WITNESS (Libertine):
22 That's correct.

23 THE WITNESS (Judge): -- when
24 the vegetation is at its lowest. So I
25 pointed out in some of the pictures the

Page 319

1 vegetation is much higher in the summertime,
2 which is the peak season when people are out
3 there. So I think the impacts, the visual
4 impacts will be less during the summer
5 season.

6 THE CHAIRMAN: We're going to
7 break for lunch, and we'll continue.

8 I will make a comment that's
9 probably totally contrary to what Dr.
10 Klemens, I would think that you might want to
11 showcase that you've got something here and
12 not hide it. It seems to be what Bridgeport
13 is trying to do, but I'll leave that for
14 another discussion. But we are going to
15 break for 45 minutes, so we'll resume
16 promptly at 1:45.

17 (Whereupon, the witnesses were
18 excused, and a lunch recess was taken at
19 12:59 p.m.)
20
21
22
23
24
25

Page 321

1 really clear record and understanding here of
2 what was done, I'd like to know who did the
3 wetland delineation?

4 THE WITNESS (Hageman): I did
5 the wetland delineation. My name is Dan
6 Hageman, soil scientist, with Fitzgerald &
7 Halliday.

8 DR. KLEMENS: And could you
9 explain to me who Josh Weiss is? Because I
10 looked at this -- this is unusual for me. I
11 look at a lot of wetland reports, and usually
12 I see the person who delineates it, fills out
13 the forms, and does the functions and values,
14 and I see three different names associated
15 with this report. I see you, I see Josh
16 Weiss' name on the forms, and I see Laurel
17 Stegina doing the faculty functions and
18 values analysis. And this strikes me as a
19 bit unusual. Could you explain that to me?

20 THE WITNESS (Hageman):
21 Certainly. On June 16th myself, Laurel
22 Stegina, and Josh Weiss went to the site.
23 Josh is in the process of becoming a soil
24 scientist. He's taken the classes. So Josh
25 Weiss is currently in the process of becoming

Page 320

1 AFTERNOON SESSION
2 1:47 P.M.
3

4 THOMAS JUDGE,
5 ANTHONY MARONE,
6 MICHAEL LIBERTINE,
7 DANIEL HAGEMAN,
8 LAUREL STEGINA,
9 DUANE HIMES,
10 JOSEPH PERUGINI,

11 having been previously duly sworn, were
12 examined and testified further on their
13 oaths as follows:

14 THE CHAIRMAN: Okay. We'll
15 resume cross-examination.

16 Dr. Klemens.

17 DR. KLEMENS: Thank you,
18 Mr. Chairman.

19 I'd like to now -- my final
20 set of questions are dealing with the
21 environmental reports.

22 I guess my first question is
23 there was a report submitted in the record by
24 Fitzgerald & Halliday on the wetlands, on the
25 wetland evaluation, and as I want to have a

Page 322

1 a soil scientist. So it's common practice
2 for someone like myself to take them out in
3 the field and work with him. However, I'm
4 responsible for the wetland delineation. And
5 again, Laurel is the project manager and also
6 works on the habitat side of things. So when
7 we do a wetland delineation, we always like
8 to go out and also always keep an eye out for
9 any wildlife species and assess habitat at
10 that time.

11 So during the delineation I
12 was hanging the flags, checking the soils,
13 vegetation, hydrology, discussing all of that
14 information with Laurel and Josh at the same
15 time. At a later date, I believe it was June
16 26th, Laurel and Josh went back to complete
17 the actual data forms. So they were apprised
18 of that knowledge. They were actually
19 present during the wetland delineation and
20 they, as we discussed, the three parameters
21 essentially that have to be documented.

22 DR. KLEMENS: So the wetland
23 delineation forms that are in the report are
24 filled out by someone who was not a certified
25 soil scientist, is that what I'm

<p style="text-align: right;">Page 323</p> <p>1 understanding? They were dated June 26th. 2 THE WITNESS (Hageman): They 3 were filled out by Josh Weiss; that's 4 correct. 5 DR. KLEMENS: Who was not a 6 certified soil scientist? 7 THE WITNESS (Hageman): 8 Correct. 9 DR. KLEMENS: Were you on the 10 site there on June 26th? 11 THE WITNESS (Hageman): Not on 12 the 26th, no. 13 DR. KLEMENS: So these 14 determinations were made by him, not by you? 15 THE WITNESS (Hageman): The 16 forms were filled out by him, but as I said, 17 we did have previous discussions on the 16th 18 about types of vegetation and soils that are 19 out there. 20 DR. KLEMENS: I find that a 21 little bit troubling, to be honest with you. 22 I mean, I think we have a pretty strong 23 wetland system here in Connecticut with 24 certified wetland scientists, and I would 25 expect to see the forms and the whole thing</p>	<p style="text-align: right;">Page 325</p> <p>1 the road, if there is, I don't know where we 2 go with this, as part of the D&M plan maybe 3 we can get this sort of stuff straightened 4 out for the record with the right names on 5 these with the people who actually did the 6 work or add Mr. Hageman's name to it as a 7 wetland scientist who actually did the 8 functions and values. Part of this is to 9 create a proper record that we've looked at 10 these things correctly. That's what the 11 Council is charged with doing, and that's why 12 I'm asking you these questions. 13 I understand there's a whole 14 structure, corporate structure, but I for one 15 like to speak to the people who actually did 16 the work, not the project managers. I like 17 to know who actually did the work and how 18 they did it and their qualifications. 19 Now let's move to the other 20 report. It had to do with the various 21 species. Can you tell me who did the 22 ornithological work requested by the state, 23 particularly the meadowlark assessment -- the 24 Horned Lark, excuse me? 25 THE WITNESS (Hageman): The</p>
<p style="text-align: right;">Page 324</p> <p>1 done by a wetland scientist. 2 Let's go to the functions and 3 values. 4 Ms. Stegina, are you a 5 certified soil scientist? 6 THE WITNESS (Stegina): I'm 7 not. However, if I could just say that Dan 8 and I worked on them together. I filled out 9 the actual forms, but we sat side by side, 10 and I discussed each of the things as I went 11 through it with Dan. 12 DR. KLEMENS: So the functions 13 and values were actually done by you and Mr. 14 Hageman then together? 15 THE WITNESS (Stegina): We did 16 it together. I filled them out. I filled 17 them out by hand on the 16th, and then Dan 18 and I returned to the site on July 30th, and 19 we sat down and we went over the forms 20 together. 21 DR. KLEMENS: So this is a 22 joint work product? 23 THE WITNESS (Stegina): That's 24 correct. 25 DR. KLEMENS: So maybe down</p>	<p style="text-align: right;">Page 326</p> <p>1 Horned Lark, that would be me. 2 DR. KLEMENS: And you are 3 qualified to -- you have ornithological 4 qualification? 5 THE WITNESS (Hageman): Yes. 6 I've done a lot of ornithological work in my 7 time. 8 DR. KLEMENS: And that's 9 reflected in your resume, which is on file. 10 Right? 11 THE WITNESS (Hageman): Yes. 12 DR. KLEMENS: Thank you. 13 The various endangered or 14 state listed plants, particularly the 15 sickle-leaf golden aster, beach needlegrass, 16 the sand dropseed, who did those surveys? 17 THE WITNESS (Hageman): That 18 was a joint, basically a combined field 19 effort. I have specific experience with the 20 sickle-leaf golden aster and also the 21 arista. I conducted habitat assessments 22 earlier in the year. And I believe it was 23 August, end of August 29th, Mr. Bill Moorhead 24 also accompanied us in the field to do 25 specific surveys for those species within the</p>

<p style="text-align: right;">Page 327</p> <p>1 habitat areas that we identified. And he is 2 a highly qualified botanist. 3 DR. KLEMENS: Oh, I'm aware of 4 his qualifications. And he's not available 5 here to be cross-examined. Correct? 6 THE WITNESS (Hageman): He's 7 not here today, no. 8 MR. McDERMOTT: He's not here 9 today, but, Mr. Chairman, we left the 10 September 11th hearing asking if we needed to 11 bring the wetlands expert. We would have 12 certainly been willing to bring any other 13 witness that the Council wanted to 14 cross-examine. We could try to get him on 15 the phone and do it telephonic, if it's 16 appropriate. 17 DR. KLEMENS: Not necessary. 18 I'm just trying to establish who did the 19 work. It's not necessary. 20 Who reached the conclusions as 21 to -- their conclusions that it wasn't a 22 suitable habitat or marginal habitat for 23 these three plant species and the one bird, 24 who reached those conclusions? 25 THE WITNESS (Hageman): I</p>	<p style="text-align: right;">Page 329</p> <p>1 who had what piece of the pie, and you've 2 answered that. Thank you very much. 3 I have no further questions, 4 Mr. Chairman. 5 THE CHAIRMAN: Thank you. 6 Mr. Hannon? 7 MR. HANNON: Thank you, 8 Mr. Chairman. I do have some questions. 9 Some of it is just trying to get a better 10 idea specifically of what's being proposed. 11 So for example, it looks like one of the 12 items that is being proposed for this site is 13 the Smart Grid PV inverters, but I'm not sure 14 if that's going to also be placed on these 15 concrete ballasts and, if so, if it's going 16 to be done the same way basically that the 17 solar panels are also being installed? 18 THE WITNESS (Judge): They're 19 going to be placed on separate foundations. 20 They are inverter, slash, transformer 21 foundations. So the inverter takes us from 22 DC to AC at a lower voltage, and then the 23 transformer steps it up to an thirteen eight 24 voltage. They're both placed on the same pad 25 with gravel underneath them but independent</p>
<p style="text-align: right;">Page 328</p> <p>1 reached the conclusions regarding the Horn 2 Lark. I also spoke with Mr. Moorhead about 3 my observations and conclusions regarding the 4 habitat for the three plant species, and when 5 he went out in August, he concurred 6 essentially. So he ultimately made the 7 decision on that. 8 DR. KLEMENS: So those are his 9 conclusions -- 10 THE WITNESS (Hageman): Yes. 11 DR. KLEMENS: -- as to the 12 suitability of the habitat? 13 THE WITNESS (Hageman): Yes. 14 DR. KLEMENS: Okay. I think 15 that sort of concludes my questions. I think 16 it would be helpful in the future in other 17 applications you may be involved with is to 18 maybe try to parse this out so I don't have 19 to ask these questions. It would be nice to 20 know who actually did the work, who reached 21 the conclusions and their qualifications. It 22 makes for a more robust record. I think the 23 qualifications of Mr. Moorhead, your 24 qualifications, Ms. Stegina's qualifications 25 are all very good. It's just I want to know</p>	<p style="text-align: right;">Page 330</p> <p>1 pads separate from the ballast. 2 MR. HANNON: But that's going 3 to be a pad for each one, not just like a 4 little ballast when you're seeing -- 5 THE WITNESS (Judge): It will 6 be a ballasted pad, yes. 7 MR. HANNON: Thank you. 8 In the application, Exhibit 8, 9 you start getting into some of the photos. 10 I'm assuming this is an example of another 11 facility. It looks as though there are some 12 pieces of the concrete ballast that's not on 13 gravel, some are on gravel. So is that going 14 to be the same scenario here, or is this sort 15 of the general understanding that you're 16 going to be using the crushed stone across 17 the board on all just for leveling? 18 THE WITNESS (Judge): Can I 19 take a quick look at the picture? 20 MR. HANNON: Okay. I believe 21 it's the fifth page. 22 THE WITNESS (Judge): This 23 picture? 24 MR. HANNON: Yes. 25 THE WITNESS (Judge): Okay.</p>

Page 331

1 So this is actually from a different site.
2 This is not --
3 MR. HANNON: Understood.
4 THE WITNESS (Judge): So we
5 use this as a relevant example for the size
6 to understand that this is not a three-tiered
7 system, that it's relatively flat, ballast
8 blocks. But this is on a site that was
9 mostly graveled. This is not -- I believe
10 this is not a landfill, this property here,
11 it's just a regular property. So our site
12 would not be graveled completely. It will be
13 grass.
14 MR. HANNON: Because I'm just
15 looking at it because in one sense you're
16 saying that the ballasts are going to be on
17 crushed stone, but yet some of these aren't,
18 so I'm just trying to -- if the ground is
19 level in a particular area, you may not need
20 gravel?
21 THE WITNESS (Judge): No. We
22 will always put a filter fabric and the
23 gravel, and that's because of the landfill
24 cap.
25 MR. HANNON: Okay. Thank you.

Page 332

1 One of the comments is there
2 are invasive species that are pervasive on
3 the site. Is anything going to be done, any
4 plans to remove invasive species?
5 THE WITNESS (Judge): Joe,
6 Duane, could you speak to that?
7 THE WITNESS (Himes): Pardon
8 me. What was the question?
9 MR. HANNON: Invasive species.
10 I was just wondering if there were any plans
11 to do anything to remove some of the invasive
12 species.
13 THE WITNESS (Himes): I'm
14 sure, yes, whenever if they're on the
15 landfill where the solar facilities go on,
16 they'll have to be removed.
17 MR. HANNON: And then what
18 would the plan be for trying to maintain the
19 solar panel area as the invasive species
20 continually move back in?
21 THE WITNESS (Himes): Well,
22 annual or even more, semiannual mowing,
23 clearing of the landfill that hopefully those
24 would not be able to establish because
25 they'll constantly be removing the

Page 333

1 vegetation, cutting the vegetation down.
2 MR. HANNON: So there's no
3 intent right now to cut back, maybe spot
4 paint with some chemicals to try and control
5 it that way, so it's going to primarily be
6 through the mowing?
7 THE WITNESS (Himes): Yes,
8 usually. We try not to use chemicals if we
9 can if we don't have to.
10 MR. HANNON: Okay. There have
11 been a number of comments that basically
12 stated that for the ballast, I think it's a
13 geotextile fabric that would go under it with
14 some crushed stone, and my understanding is
15 there would be no excavation of the grass
16 area other than the --
17 THE WITNESS (Perugini):
18 That's correct.
19 MR. HANNON: So then in
20 Exhibit 12 --
21 THE WITNESS (Judge): There
22 are a couple of areas where we would do some
23 excavation of the topsoil, and I believe for
24 those converter transformer foundations or
25 ballasted foundations the intent is, I

Page 334

1 believe, to excavate 4 to 6 inches and then
2 replace with gravel.
3 MR. HANNON: Okay. Because
4 where I was going with this is in Exhibit 12,
5 although it says page 1 of 1, I'm assuming
6 there may be others. It's after the
7 application. It said there's no ground
8 disturbance associated with the solar
9 panel -- that's fine -- but then shallow
10 excavation associated with the access road
11 and concrete pad installation.
12 So is that related more to the
13 inverters that you were talking about?
14 THE WITNESS (Judge): Correct.
15 Inverter pads, and then there would be,
16 depending on the DEEP construction
17 application, for the ballasted fence, there
18 may be excavation for the ballast, but once
19 again, not into the cap, into the soil.
20 MR. HANNON: Okay. One of the
21 things I found I would like to maybe try and
22 get an explanation on is in Exhibit 15 there
23 is a topo map, and then it also identifies in
24 black and red coloring the delineation of
25 where the solar panels would go?

Page 335

1 THE WITNESS (Judge): Yes.
2 MR. HANNON: Can you explain
3 the difference in the topography that you're
4 showing there than you are in -- so going
5 back into Exhibit 14, the UI topo map that's
6 here, shows a significantly higher area on
7 the western side of the site than what's
8 currently shown on that other grading, so I'm
9 not sure what's actually out there. Because
10 if you look at the -- I mean, this was the
11 mapping for the rare and endangered species,
12 and that's what the topo is, and there are
13 elevations there that are showing it as high
14 as 105, but yet when I'm looking at the other
15 topo map, it looks like it's more in the 60
16 to 50-foot range. So, can you explain what
17 the difference is there?
18 THE WITNESS (Judge): This
19 map, Joe, right here?
20 THE WITNESS (Perugini): It
21 sounds like a difference in horizontal datum.
22 Yes. This map here was taken from --
23 MR. McDERMOTT: Sorry. Could
24 you just identify for the record what you're
25 looking at so we can all -- make sure

Page 336

1 everyone can see it?
2 THE WITNESS (Perugini): This
3 map here is labeled "Figure B." It was
4 submitted. The environmental features impact
5 plan. And the elevations shown on this plan
6 are taken from City of Bridgeport GIS
7 topography. The datum for that is NAD 88.
8 THE WITNESS (Judge): Is that
9 83?
10 THE WITNESS (Perugini):
11 Eighty-three, I'm sorry. It sounds like -- I
12 don't have that figure, but if I can look at
13 it, it sounds like that might be a different
14 datum, having a difference of elevation.
15 MR. HANNON: The balance of
16 the topography looks to be pretty accurate.
17 So, on one you've got a downward slope, as
18 you see on that map, but on the other one it
19 goes from an elevation of 80 up to 105, and
20 I'm just trying to figure out what the
21 difference is.
22 MR. McDERMOTT: Mr. Hannon,
23 what is the reference?
24 MR. HANNON: This right here,
25 105, and I'm just trying to figure out what

Page 337

1 the difference is.
2 DR. KLEMENS: Can we get the
3 reference where it is in the tab, please?
4 MR. HANNON: It was in Exhibit
5 14.
6 DR. KLEMENS: Thank you.
7 MR. HANNON: It was the last
8 page before you get to Exhibit 15, and I
9 believe there is another similar map.
10 THE WITNESS (Perugini): It's
11 a different datum. When it was prepared it
12 was -- I don't know the source of it.
13 MR. HANNON: Because I'm
14 thinking, you know, 35, 40 feet, that's a
15 pretty significant difference when you're
16 looking at topo maps.
17 THE WITNESS (Perugini): Right.
18 MR. HANNON: So is it a
19 general grading downward slope like that map
20 shows, or is it the 105 elevation like this
21 map shows?
22 THE WITNESS (Perugini): This
23 is the most recent available topographic
24 information that we have.
25 MR. McDERMOTT: Which is the

Page 338

1 most available, please, for the record?
2 THE WITNESS (Perugini): This
3 information here.
4 MR. McDERMOTT: Please don't
5 say "this." Just identify it so the record
6 is a little bit clearer.
7 THE WITNESS (Perugini): For
8 the record, Figure 7B is the most recent
9 available information that we have on
10 elevation.
11 MR. HANNON: Because the map
12 that I'm looking at has original and cover
13 dated 4/11/2014, so that's pretty current to
14 me. So I'm just curious as to where the
15 difference came from.
16 THE WITNESS (Perugini): I'd
17 have to find out the source of that
18 information.
19 MR. HANNON: Okay. Thank you.
20 One of the comments that was
21 discussed a little earlier was the
22 possibility of any type of visual buffer. I
23 don't know if there's been a whole lot of
24 thought that's gone into that, but if this
25 project were to proceed, I would think that

Page 339

1 sort of in the northwestern edge, which tends
2 to be the longer running side of the site, it
3 would seem like there could be some type of
4 buffering put in there. There shouldn't be
5 any shading issues because it's on the
6 northern side of the site, and I'm thinking
7 something along the line of small shrubs,
8 shallow root system, things of that nature.
9 I'm wondering if that's something that can be
10 looked at.

11 And then I don't know how
12 that's going to tie in to possibly the area
13 that would be due west. The site may not be
14 able to do that, but I'm just wondering if
15 that's something that can be looked at
16 because, at least on that northwestern
17 section, it shouldn't create any problems
18 with shading whatsoever because the panels
19 are going to be directed away. And even if
20 something was there that was 20, 30, 40 feet,
21 it would not have an impact on the panels.

22 THE WITNESS (Judge): So yes,
23 that is something we can look at. We are
24 going to have to submit something like that
25 to DEEP as to a routing system and, you know,

Page 340

1 what would be appropriate for that, and then,
2 once again, with the design of the fence and
3 everything, if it's off the fence and as long
4 as it doesn't impact the cap, we could look
5 at it.

6 MR. HANNON: And then my final
7 question is at the end of life of project,
8 what are you doing with the site?

9 THE WITNESS (Judge): So, per
10 our lease agreement, we are responsible to go
11 out and remove all facilities. So we will
12 return the site back to way it was. That's
13 one of the reasons why we wanted to do a
14 ballasted system and we didn't even want to
15 entertain the possibility of doing a standard
16 mounting system.

17 MR. HANNON: I guess the plan
18 would be to go back and restore it to pretty
19 much its natural state as it is today?

20 THE WITNESS (Judge): Yes.

21 MR. HANNON: Thank you. I
22 have no further questions.

23 THE CHAIRMAN: Thank you.
24 Mr. Lynch?

25 THE WITNESS (Perugini): If I

Page 341

1 may add? I'm sorry.

2 MR. LYNCH: Go ahead.

3 THE WITNESS (Perugini): May I
4 add to the question about the topography? We
5 have submitted a plan, which was a settlement
6 plan in which we had surveyors go out to the
7 site, get current day elevations, to compare
8 that with the drawing that's there. And so
9 we found very minimal settlement between that
10 plan, which was dated 2005, to the survey
11 which was conducted in 2013, December 2013,
12 and that plan was submitted for the record.
13 So we have confirmation that the grades shown
14 on that plan are consistent with current day
15 elevations, just there was an overall
16 settlement over the entire site.

17 MR. HANNON: And I can
18 appreciate that. My issue is when I go in
19 and I'm looking at two basically similar maps
20 and one is telling me an elevation of 60 and
21 one is telling me an elevation of 105, I have
22 a tendency to maybe look at some of the data
23 a whole lot closer than I would have if they
24 matched, so that's my issue.

25 THE WITNESS (Perugini): I

Page 342

1 understand.

2 THE CHAIRMAN: Mr. Lynch.

3 MR. LYNCH: Mr. Chairman, I
4 did not attend the previous hearing, and I'm
5 still trying to catch up on the reading, and
6 the transcript wasn't available last week
7 either so -- but I don't really have any
8 questions regarding that, but I'd like to
9 follow up on something that Dr. Klemens
10 talked about this morning, and that is the
11 life cycle of the fuel cell I think you said
12 was 20 years plus an option?

13 THE WITNESS (Judge): Two
14 options for five years.

15 MR. LYNCH: Now, if this was
16 answered previously, let me know, and I'll
17 read it. But it's my understanding that fuel
18 cell technology is constantly evolving over
19 the years, and in the past, older fuel cells
20 have been either replaced or upgraded as
21 years go by. Is that a factor here at all?

22 THE WITNESS (Judge): It is a
23 factor, and it is something that we
24 considered in our contract, and it has more
25 to do with stack life than the actual

<p style="text-align: right;">Page 343</p> <p>1 components of the ballasted plans of the 2 facility. So the stack technology is 3 improving, and they're expecting the 4 improvements to accelerate. So we do have 5 open to our contract opportunities to take 6 advantage of better technology in the future, 7 and that just has to do with the regularly 8 scheduled stack replacements. 9 MR. LYNCH: Thank you. 10 Thank you, Mr. Chairman. 11 THE CHAIRMAN: Senator Daily? 12 SENATOR DAILY: Thank you. 13 I understand that the site was 14 covered already. Has there been any 15 provision for methane release? 16 THE WITNESS (Judge): Duane, 17 do you want to talk about that? 18 THE WITNESS (Himes): As far 19 as this project, no, there's been no -- 20 nothing into the solar system that we'd look 21 for methane relief from the landfill. We've 22 done a near surface study out there to look 23 for possible methane leaking from the 24 landfill and found nothing. So based on 25 that, we don't feel that it's --</p>	<p style="text-align: right;">Page 345</p> <p>1 intent is and from a construction standpoint 2 they're going to go and clear-cut everything 3 down as low as possible, go out and do their 4 construction, some of the vegetation will get 5 disturbed during construction, and then, when 6 we're done, we're going to go back out and 7 establish a low height vegetation, and it 8 will be something that's not invasive. So we 9 were hoping that will be the dominant species 10 and maintain it as it goes forward. That's 11 the design idea. 12 Duane, do you want to speak 13 more to that or Joe? 14 THE WITNESS (Perugini): 15 That's correct. We're trying to maintain the 16 meadow grass vegetative cover. So if 17 overseeding is determined necessary after 18 construction, that is the type of vegetative 19 cover that we're trying to promote and 20 cutting down anything that's invasive that 21 grows and encroaches upon the panels 22 themselves. 23 MR. MERCIER: When you say 24 meadow grass, is there any meadow grass there 25 now?</p>
<p style="text-align: right;">Page 344</p> <p>1 SENATOR DAILY: Any need. 2 Thank you. 3 THE WITNESS (Judge): To just 4 add, I believe there's been two, at least 5 two, methane gas surveys done, and both found 6 no methane release. 7 THE CHAIRMAN: Director Caron? 8 MR. CARON: No questions, 9 Mr. Chairman. 10 THE CHAIRMAN: Mr. Mercier? 11 MR. MERCIER: I just wanted to 12 clarify something I heard a minute ago about 13 the vegetative cover on the landfill. 14 Existing out there now, the DEEP comments 15 that are in the record, says that it consists 16 of mugwort, an invasive species; is that 17 correct? 18 THE WITNESS (Judge): Yes. 19 MR. MERCIER: That's in the 20 solar field area? 21 THE WITNESS (Judge): Yes. 22 MR. MERCIER: Are you planning 23 to tear all that mugwort out and plant 24 something else, or you're just cutting it? 25 THE WITNESS (Judge): The</p>	<p style="text-align: right;">Page 346</p> <p>1 THE WITNESS (Perugini): Yes. 2 MR. MERCIER: So you're saying 3 there's mugwort everywhere, but there's 4 meadow grass interspersed? 5 THE WITNESS (Perugini): 6 That's correct. 7 MR. MERCIER: So you cut down 8 the mugwort, and it will promote the growth 9 of the meadow grass? 10 THE WITNESS (Perugini): There 11 will be overseeding, if deemed necessary, and 12 measures to promote the growth of the meadow 13 grass which is typical for a landfill. It's 14 what you would -- DEP would prefer to see. 15 MR. MERCIER: Okay. So there 16 won't be any -- do you anticipate large areas 17 of bare soil with fresh seed on it? 18 THE WITNESS (Perugini): We 19 don't expect large disturbances of soil, 20 maybe isolated areas that may be disturbed 21 due to equipment use, but that will be 22 balanced by the need for an emergency 23 vehicle -- not emergency but vehicle access 24 road, temporary vehicle access roads. 25 THE WITNESS (Judge): In</p>

Page 347

1 addition, erosion sedimentation measures will
2 be kept in place until ground growth is
3 established. Even if it takes a year to
4 establish, we're going to keep the erosion
5 sedimentation control measures in place.
6 MR. MERCIER: Okay. So you're
7 not going to have bare soil and tear up the
8 mugwort and plant seed; you're just going to
9 cut it?
10 THE WITNESS (Perugini):
11 That's correct.
12 MR. MERCIER: Thank you.
13 THE CHAIRMAN: Dr. Klemens?
14 DR. KLEMENS: I want to follow
15 up on Mr. Mercier's question. Your plan to
16 eliminate the mugwort is to just cut it down
17 and seed around it?
18 THE WITNESS (Perugini):
19 That's --
20 DR. KLEMENS: Have you ever
21 pulled up mugwort and seen what mugwort
22 consists of subsurface to get rid of it?
23 THE WITNESS (Perugini): No.
24 DR. KLEMENS: Does anyone on
25 your team know how to get rid of mugwort

Page 348

1 effectively and what the subsurface structure
2 of a mugwort plant is?
3 THE WITNESS (Hageman): I know
4 it has a very large root system underneath.
5 DR. KLEMENS: A very large
6 root system. How deep would that root system
7 go?
8 THE WITNESS (Hageman): I'm
9 not sure how deep it would go, but I know
10 it's --
11 DR. KLEMENS: More than a few
12 inches?
13 THE WITNESS (Hageman):
14 Absolutely.
15 DR. KLEMENS: And your
16 understanding of mugwort, a slight little
17 piece of it can regenerate new mugwort; is
18 that correct?
19 THE WITNESS (Hageman): It
20 can.
21 DR. KLEMENS: So in response
22 to Mr. Mercier's question, to eradicate the
23 mugwort you're going to have to be going down
24 minimally several inches into the soil layer
25 and remove all that root system. Correct?

Page 349

1 THE WITNESS (Hageman): Well,
2 I think the idea is we're not going to, and
3 correct me if I'm wrong, Joe, we're not going
4 to be excavating any mugwort. It's a mowing
5 regime to mow the mugwort. There's already
6 other grasses that are growing underneath the
7 mugwort.
8 DR. KLEMENS: And, in your
9 professional experience, does mowing mugwort
10 effectively remove it or does it do like
11 pruning rose bushes actually increase its
12 vigor?
13 THE WITNESS (Hageman): I
14 wouldn't say it would remove it. It would
15 certainly still remain there because it does
16 have a large energy source in that root
17 system. I think the hope is that with
18 regular mowing more than once a year and
19 allowing some of the grasses underneath it to
20 get exposed to the sun and grow, I think the
21 hope is to keep it at a manageable level.
22 DR. KLEMENS: And what is the
23 height you're going to set the mowing around,
24 the raise, what is your height going to be,
25 your mower height, for the grasses?

Page 350

1 THE WITNESS (Judge): I'm not
2 sure exactly what the mower height. We're
3 going to cut it down as low as possible, and
4 we're going to try to set a schedule for
5 mowing as often as necessary to keep it from
6 growing up over 2 feet.
7 DR. KLEMENS: Two feet is
8 your --
9 THE WITNESS (Judge): Is the
10 bottom of the panels.
11 DR. KLEMENS: Is the bottom of
12 the panels. So you're prepared to be mowing
13 this several times in a season, if necessary?
14 THE WITNESS (Judge): Yes. I
15 think right now we have two and then a
16 provision for a third mowing in a season.
17 DR. KLEMENS: Because I think
18 it's going to be very hard to eliminate in
19 that way, personally, it's my opinion, to
20 eliminate the mugwort in that manner.
21 THE WITNESS (Judge): And I
22 think from a business standpoint, when we get
23 to look at the performance of the system,
24 we're going to have to make a determination
25 as to, you know, if the effect of the mugwort

1 growing at a rate that's too high, then we'll
2 have to make a determination in the future
3 from a maintenance standpoint as to whether
4 we're going to remediate somehow and with
5 guidance from the DEEP or whether we're just
6 going to continue our maintenance schedule.

7 DR. KLEMENS: So that means
8 you're leaving open the possibility at some
9 point you may actually pull the mugwort out
10 and disturb the soils in the manner that Mr.
11 Mercier suggested?

12 THE WITNESS (Judge): I don't
13 know if we would say we're going to disturb
14 the soils. We would have to come up with an
15 appropriate response to --

16 THE WITNESS (Marone): I guess
17 my answer would be it would be unlikely that
18 we would go through the process of
19 eradicating it in the manner that you
20 described. And I have no expertise on
21 mugwort, but it would seem that if it were
22 growing at a rate that was more than we have
23 anticipated, then we would have to mow at a
24 greater frequency. That's the likely
25 scenario.

1 Analysis, as best I could tell, was accurate
2 when you wrote it, but in the future wind is
3 not a fatal flaw based on a decision made by
4 both the legislature and the state supreme
5 court, so just something to consider in the
6 future.

7 The question has to do with
8 technology. And I heard the discussion
9 regarding the fuel cells, and I understand or
10 I've been told with the solar panels that
11 they have been -- they're sort of reaching
12 their theoretical maximum as far as
13 efficiency. I don't know if that's true or
14 not, but I assume, if there was some
15 breakthrough in technology, they could be
16 replaced because 20 or 30 years is a long
17 time in technology because there's been such
18 incredible advances up till now. But the one
19 area I am interested in, I want to know if
20 you planned for it, is storage. I would say
21 without a doubt that in ten years, probably
22 five years, with the advances in storage is
23 going to be so advanced that I would be
24 really concerned if you have not made any
25 plans on how this might be utilized on the

1 DR. KLEMENS: That's the
2 likely scenario?

3 THE WITNESS (Marone): Yes.

4 DR. KLEMENS: And just one
5 other comment. Have you considered -- I
6 don't know who's doing the vegetation on the
7 screening -- the use of bayberry, myrica
8 pensylvanica, as a very approximate way to
9 screen the fence? It's shallow rooted, runs
10 by rhizomes, good wildlife habitat, makes a
11 thick hedge, very salt tolerant. It's all
12 the right things to screen. Have you --
13 anyone considered that as a screening
14 alternative?

15 THE WITNESS (Judge): We have
16 not, but we could.

17 DR. KLEMENS: Thank you,
18 Mr. Judge.

19 No further questions,
20 Mr. Chairman.

21 THE CHAIRMAN: Thank you.
22 One comment and then a
23 question.

24 The comment, which I guess I
25 can't resist, is Exhibit 2, your Fatal Flaw

1 site.

2 THE WITNESS (Marone): Yes.
3 And one of the reasons that I was late to
4 today's hearing, unfortunately, was I was
5 upstairs at DEEP in a conversation with some
6 of the energy policy people on exactly that
7 subject and thinking about how we look at
8 that as utilities for the future. The likely
9 scenario, to the extent that storage
10 continues to be more of an attractive and
11 cost-effective solution, as far as it relates
12 to the site, it would probably not be located
13 on the site but somewhere on the distribution
14 system. It does not have to be located right
15 on the property.

16 So I'm not saying that that
17 eliminates that. It could make sense to be
18 put there, but to the extent that any time
19 you have an intermittent resource, such as
20 the PV panels, ideally you'd want to be able
21 to couple that with storage to the extent
22 that storage is a cost-effective technology,
23 whether it be at the substation, somewhere
24 else in between the site and the substation,
25 or potentially on the site.

1 So a lot of those things are
2 under development right now, but -- so we
3 sort of leave the door open for that, but it
4 certainly doesn't have to be located on
5 premises.

6 THE CHAIRMAN: Okay. But does
7 that effect your lease agreement with the
8 city and, I don't know, the other agreement
9 with either DEEP or PURA as far as -- because
10 that could be a considerable change in the,
11 you know, over time the amount of electricity
12 produced if you can store significant -- when
13 the sun is not shining. So is that all
14 factored into your lease agreements and your
15 other agreements that --

16 THE WITNESS (Marone): It's
17 not factored or it's not contemplated in the
18 lease agreement that provisions for storage,
19 but to the exact that -- and others on the
20 panel can correct me if I'm wrong -- that we
21 wanted to utilize some portion of the parcel
22 to locate storage on-site. If that was the
23 best solution of where to put the storage, I
24 believe that the lease would allow us to be
25 able to do that, but the nature of the

1 storage is such that you don't have to locate
2 it there.

3 And because of the relative
4 size of this system, it's unlikely that it
5 would make sense to dedicate storage just for
6 this site. It would probably be that you
7 would put storage maybe closer to a
8 substation and have other intermittent
9 resources that are in the area, and there are
10 many, that would be able to provide storage
11 into that one storage facility, and then it
12 gets redistributed out to the system.

13 So, while I can't say no we'd
14 never want to locate it on the site, it
15 doesn't make sense to me that that's where
16 you'd put it.

17 THE CHAIRMAN: Okay.

18 I think now we'll go to --

19 SENATOR DAILY: Could I ask?

20 THE CHAIRMAN: Yes, Senator
21 Daily.

22 SENATOR DAILY: Thank you.

23 It's not a matter for us in
24 terms of decision, but I'm curious, are you
25 using American panels or Chinese panels?

1 THE WITNESS (Judge): Right
2 now in our agreement there's a -- the panel
3 market right now is in great fluctuation, so
4 until we have reached a date where we're 100
5 percent going to procure the exact location
6 or the manufacturer of panels, is we've
7 approved a few equals, most of them are
8 Chinese, one of them is actually North
9 African, and that's where we are. There are
10 no American companies right now in this
11 consideration.

12 SENATOR DAILY: Thank you.

13 THE CHAIRMAN: Okay. So we'll
14 now continue.

15 Attorney Hoffman, do you
16 have -- and I guess --

17 MR. HOFFMAN: I have all of
18 two or three questions. There's no need for
19 anybody to get up.

20 THE CHAIRMAN: Well,
21 Mr. Torres, I'm sure, has more questions, so
22 I think that the four of you will have to
23 move but be close enough so if there's a
24 question for you, you can pop back up.

25 MR. HOFFMAN: If it's okay

1 with you, Mr. Chairman, I'll just stand while
2 Mr. Torres gets situated. The questions I
3 have are similarly for the Weston & Sampson
4 folks. We had heard a little bit about storm
5 water earlier, and I had a few questions
6 about that.

7 How many commercial scale
8 solar projects have you two done over the
9 course of your careers approximately?

10 THE WITNESS (Himes):
11 Approximately about 16.

12 MR. HOFFMAN: And how many of
13 those have been on landfills?

14 THE WITNESS (Himes): Sixteen.

15 MR. HOFFMAN: All of them?

16 THE WITNESS (Himes): Yes.

17 MR. HOFFMAN: Okay. We heard
18 issues about storm water and erosion coming
19 from, what I could hear in the back -- the
20 mikes weren't on in the beginning -- but that
21 there was runoff from the panels and that
22 caused significant sedimentation problems and
23 erosion problems. What has your experience
24 been with that?

25 THE WITNESS (Himes):

Page 359

1 Actually, out of those 16 we've permitted, 9
2 have been completed in construction. I've
3 been out to all of the sites to do final
4 inspections for a certification report, and I
5 have not seen erosion on any of the sites
6 caused by the dripped edge or anything like
7 that.

8 MR. HOFFMAN: Thank you.

9 THE CHAIRMAN: And just to
10 follow up, are any of those in comparable
11 geographic locations where you have the
12 comparable amount of rainfall, in other
13 words, they're not all in the middle of the
14 desert?

15 THE WITNESS (Himes): No.
16 They're are up pretty much all up in
17 Massachusetts, so I'd say they're very
18 comparable. Most of them are out on the
19 Cape.

20 DR. BELL: Can I ask a
21 follow-up?

22 THE CHAIRMAN: Yes. We have a
23 follow-up question.

24 Dr. Bell.

25 DR. BELL: Just to follow up

Page 361

1 THE CHAIRMAN: Mr. Torres.

2 MR. TORRES: I have a good
3 amount of questions to ask you today. I'll
4 start in order relative to some of the
5 questions that have been asked today, and
6 they do relate to runoff.

7 One of the interrogatory
8 questions related to the distribution of
9 weight across the top of this. At no time
10 have we been told what the actual weight is
11 of this overall project. Just for the hell
12 of it, I calculated it myself --

13 MR. McDERMOTT: Objection.

14 THE CHAIRMAN: Excuse me,
15 Mr. Torres. Your job is to ask questions,
16 not to provide answers.

17 MR. TORRES: Okay.

18 So do you have an estimate as
19 to the actual weight of the overall project?
20 And I'm not sure who I'm asking, but I'll ask
21 everyone.

22 THE WITNESS (Himes): Based on
23 experience, the weight at each individual
24 ballast is about 500 pounds per square foot.

25 MR. TORRES: How many square

Page 360

1 on the Chairman, what about the topography?
2 We've got a situation here where we have some
3 level ground, but we also have steeper ground
4 where panels will be. Is that comparable
5 with the examples that we're talking about?

6 THE WITNESS (Himes): Yes.

7 DR. BELL: Okay. Thank you.

8 THE CHAIRMAN: Okay. I think
9 then we're doing cross-examination by Mr.
10 Torres, and I guess we'll give him a seat.

11 MR. McDERMOTT: Chairman
12 Stein, this setup makes me uncomfortable.
13 Either can I have my witnesses on the witness
14 side of the panel or --

15 THE CHAIRMAN: It's not a
16 court proceeding, so we're not exactly having
17 people in the dock, but if you feel more --

18 MR. McDERMOTT: No, no, it's
19 just --

20 THE CHAIRMAN: I actually feel
21 a little better now that he's taken down the
22 sign so I'm not --

23 MR. McDERMOTT: We'll get to
24 microphones, as necessary, for Mr. Torres's
25 questions.

Page 362

1 foot are under each individual ballast, is it
2 12? There was testimony before that said the
3 ballast size are 60-by-2 feet, I think was
4 the number. Correct?

5 THE WITNESS (Judge): That's
6 correct. That was an example of what a
7 ballast may be.

8 MR. TORRES: Okay. So that's
9 12 square feet. So what you're saying is
10 it's 500 pounds times 12 feet. And how many
11 ballasts are there?

12 THE WITNESS (Judge): I don't
13 have the exact number of ballasts.

14 THE WITNESS (Himes): I don't
15 have the exact number of ballasts.

16 MR. TORRES: It's kind of
17 relevant to the overall weight of the unit.

18 How many panels sit on each
19 ballast?

20 THE WITNESS (Himes): I think
21 it's about eight panels per two ballasts.
22 There's two ballasts, there's a racking
23 system in between, and there's like eight
24 panels that sit on that racking system.

25 MR. TORRES: All right.

1 Anybody with a calculator can give me the
2 overall weight here if you wanted to so --
3 MR. McDERMOTT: Okay. Why
4 don't we go on, and we'll have somebody do
5 that.
6 MR. TORRES: Okay. Relevant
7 to the question, and I'm going slightly out
8 of order, my questioning, so that I can speak
9 to the questions that have been asked --
10 THE CHAIRMAN: All I'm asking
11 you to do is ask questions.
12 MR. TORRES: Okay, sir. I'll
13 do that.
14 I find that due to the
15 relative methodology used for holding these
16 panels up that the weight is actually not
17 evenly distributed; am I wrong in that
18 estimation?
19 THE WITNESS (Judge): I
20 believe you're wrong in that estimation, yes.
21 MR. TORRES: Can you explain
22 to me why?
23 THE WITNESS (Judge): The
24 ballasts are spread out. They take the
25 weight of the panels, and they equally

1 distribute them in a row to each ballast.
2 MR. TORRES: Correct. So the
3 weight is distributed under the ballast and
4 not across the panels?
5 THE WITNESS (Judge): Correct.
6 Everything goes down to the ground like a
7 foundation, yes.
8 MR. TORRES: It's like a
9 woman's heel going into a wood floor. Right?
10 The heel carries most of the weight of the
11 body. Right? So then, again, asking the
12 specific question, to me the weight is not
13 evenly distributed but unevenly distributed
14 at the ballast. Correct?
15 MR. McDERMOTT: It's been
16 asked and answered, Mr. Chairman. He doesn't
17 agree with the premise of the question.
18 THE CHAIRMAN: Again, you
19 received your answer. You don't have to
20 agree with the answer, but you can't keep
21 second guessing. Your job is to ask
22 questions.
23 MR. TORRES: All right.
24 Mayor Finch testified that
25 5,000 homes would be powered by this

1 facility. The PURA documents that you
2 provided reports that 3,345,000 kilowatt
3 hours will be produced on annual production.
4 The federal agency, U.S. Energy Information
5 Administration, recorded the average yearly
6 usage by a household to be 11,000 kilowatt
7 hours per household. My math states
8 that's --
9 MR. McDERMOTT: I'm going to
10 object.
11 MR. TORRES: -- 304 homes; is
12 that correct?
13 THE WITNESS (Marone): Your
14 math is wrong, or your facts are wrong.
15 MR. TORRES: All right.
16 MR. McDERMOTT: Mr. Chairman,
17 we'd be happy to answer the question which I
18 think he's driving at, how many homes' worth
19 of electricity will the panels produce, if
20 that's -- I think beginning with the Mayor
21 Finch statement I think he was looking for
22 clarification on that.
23 THE CHAIRMAN: Is that, in
24 fact, what you're asking?
25 MR. TORRES: Well, the numbers

1 are dramatically different, so I'm asking for
2 clarification. I would like to know how many
3 homes would be powered by this, but I would
4 also like to know if the math is correct.
5 THE CHAIRMAN: Let's see if we
6 can get answer to that. Let's take one at a
7 time.
8 THE WITNESS (Marone): So
9 without regurgitating the facts there, I can
10 just tell you that, as a general rule of
11 thumb, we assume an average residential
12 customer consumes between 600 and 700
13 kilowatt hours per month. That's a typical
14 customer. Some customers are significantly
15 less than that and some are more than that,
16 obviously.
17 So if we use 600, just as a
18 point of reference, that would be 7,200
19 kilowatt hours per year for a typical home.
20 I'm not sure if that answers the question you
21 asked or not. You had mentioned 11,000.
22 Eleven thousand does not make sense to me.
23 MR. TORRES: Okay. With
24 respect, I got my numbers from the federal
25 agency, U.S. Energy Information

<p style="text-align: right;">Page 367</p> <p>1 Administration which has very specific data 2 for every state. 3 MR. McDERMOTT: Mr. Chairman, 4 I think Mr. Marone's is probably based on -- 5 THE CHAIRMAN: Again, you ask 6 a question, you got an answer. You're not 7 testifying; they are. 8 MR. TORRES: Okay. It's hard. 9 Sorry. I apologize. 10 THE CHAIRMAN: Well, you're 11 making it hard. 12 MR. TORRES: I'm trying not 13 to, sir. 14 Mr. Judge you testified 15 that -- well, I'll skip that one. Sorry. 16 You testified at some point, 17 Mr. Judge, that there would be no visible 18 exhaust from the facility. What are the 19 exhaust stacks used for if there are no 20 exhaust? 21 THE WITNESS (Judge): There is 22 heat that's generated, and these exhaust 23 stacks put out water vapor. 24 MR. TORRES: So, is water 25 vapor visible?</p>	<p style="text-align: right;">Page 369</p> <p>1 THE WITNESS (Marone): I know, 2 but you're asking a question that I can't 3 answer because you're not providing the 4 necessary information. 5 THE CHAIRMAN: Okay. Let 6 me -- 7 MR. TORRES: I'm referring to 8 the Council's minutes on page 27 and 28, and 9 there was a very specific question relative 10 to the visibility of any vapors and exhaust. 11 MR. McDERMOTT: I'm sorry, Mr. 12 Torres. Are you talking about the transcript 13 from the 9/11 hearing? 14 MR. TORRES: Right. 15 MR. McDERMOTT: Okay. Let us 16 just get that. 17 The page reference again? 18 MR. TORRES: Twenty-seven and 19 28. There's two types of page references, 20 one is the actual page, but there's four 21 pages per page. 22 (Pause.) 23 THE WITNESS (Marone): I can 24 tell you -- in an effort to try and answer 25 your question, I can tell you that another</p>
<p style="text-align: right;">Page 368</p> <p>1 THE WITNESS (Marone): It 2 depends on the dew point. 3 MR. TORRES: In the winter? 4 THE WITNESS (Marone): It 5 depends on the dew point and the difference 6 in temperature between the external air and 7 the internal and the heat and the quality of 8 the heat coming out. So there could be times 9 where there could be a slight visible 10 discharge, but generally speaking, no, it 11 will not be visible. 12 MR. TORRES: In the colder 13 months where the dew point is very low, will 14 there be a greater visibility of water vapor? 15 THE WITNESS (Marone): There 16 could be. 17 MR. TORRES: So the question 18 was would there be visible vapor. I think 19 that the answer in that case is yes. 20 Correct? 21 THE WITNESS (Marone): No. 22 From what distance, from where -- what is the 23 point of reference? 24 MR. TORRES: That wasn't part 25 of the question.</p>	<p style="text-align: right;">Page 370</p> <p>1 local fuel cell project in the area that has 2 an output similar to this in terms of any 3 vapors, that the vapors associated with this 4 are dramatically less. And the reason that 5 they're dramatically less is because the 6 other fuel cell project in the area has an 7 additional what's called a bottoming cycle 8 process on it where it extracts more energy 9 out of that exhaust, and because it does 10 that, it changes the temperature of the 11 exhaust that comes out and makes more of a 12 visual plume than what this would. 13 THE WITNESS (Judge): So 14 Mr. Torres, from the previous testimony, the 15 question was asked, "Will there be any 16 visible vapors from the operation of these 17 units?" 18 The question was answered, "We 19 don't anticipate any visible vapors." A 20 comparison was made to the other project, and 21 the question was answered, "We don't 22 anticipate any visible vapors." 23 MR. TORRES: So the answer is 24 no? 25 THE WITNESS (Marone): We</p>

<p style="text-align: right;">Page 371</p> <p>1 already provided the answer. It's in the 2 record. Check the record. 3 MR. TORRES: Mr. Judge, you 4 also testified in those minutes on page 36 5 that you are proposing an 8-foot fence around 6 the solar facility? 7 THE WITNESS (Judge): That's 8 correct. 9 MR. TORRES: The Bridgeport 10 City Council requested a 6-foot fence, and 11 you agreed to that, and your lease was 12 amended to that end; isn't that correct, sir? 13 THE WITNESS (Judge): That is 14 incorrect. 15 MR. TORRES: Okay. I guess 16 that's all I can say on that. 17 Mr. Judge, on page 40 you 18 stated that "The panels must be separated to 19 such an extent that one row does not cheat 20 another at the summer equinox at high noon." 21 It seems to me that you should 22 be more concerned about the winter months as 23 opposed to the summer months. The sun is 24 lower in the sky; is that correct? 25 MR. McDERMOTT: I'm going to</p>	<p style="text-align: right;">Page 373</p> <p>1 equinox the sun is highest in the sky. 2 So, in the document, in the 3 picture that you showed, you showed the 4 conduit running across from ballast to 5 ballast. Correct? If a child were to jump 6 over the fence and jump on one of those 7 conduits, could he break through that conduit 8 and possibly electrocute himself? 9 THE WITNESS (Marone): No. 10 MR. TORRES: The state 11 historic preservation office has approved 12 this project; however, it's recommending 13 screening vegetation to be installed. Does 14 this challenge the rationale of the historic 15 preservation office from the standpoint of 16 recognizing the significance of the impact of 17 the historic area? 18 THE WITNESS (Marone): No. 19 THE WITNESS (Judge): I'm 20 sorry. I might be able to answer that 21 question a little more definitively. Let me 22 get the state historic preservation office 23 response out. 24 THE CHAIRMAN: Isn't that 25 really for SHPO to answer?</p>
<p style="text-align: right;">Page 372</p> <p>1 object. There's no question, Mr. Chairman. 2 THE CHAIRMAN: Well, let me 3 make it into a question. Should you not be 4 considering the winter equinox? Come on, 5 let's not nit-pick at the panels. 6 THE WITNESS (Judge): So my 7 take on this answer is that you want to get 8 the most production when the sun is at its 9 highest point. And in the wintertime at the 10 lower angle of solar radiance, I believe is 11 what it's called, you won't get as much 12 collection. So we're more concerned with 13 getting the most production in summer peak. 14 MR. TORRES: Relative to that 15 point, it seems to me that the panels would 16 be better off closer together; isn't that 17 correct? 18 THE WITNESS (Judge): No, 19 that's not correct. 20 MR. TORRES: So as to 21 maximize -- 22 THE WITNESS (Judge): No. You 23 don't want to have shading from the adjacent 24 panels. 25 MR. TORRES: But at the summer</p>	<p style="text-align: right;">Page 374</p> <p>1 THE WITNESS (Judge): We did 2 have a response from SHPO. 3 MR. McDERMOTT: And just for 4 the record so we're all clear, the SHPO 5 encourages UI to continue working with the 6 City of Bridgeport to develop appropriate 7 screening is the only language that appears 8 in the SHPO's approval of the project. 9 THE CHAIRMAN: Okay. So I 10 don't think second guessing SHPO's thought 11 process behind that is really necessary. 12 MR. TORRES: Mr. Judge, you 13 represented, at least indirectly, that 14 Superstorm Sandy was the epitome of a 15 disastrous storm hitting the area. This is 16 on the minutes, page 59, 60 and 61. 17 Isn't it true though that 18 Superstorm Sandy missed Bridgeport by -- 19 missed the worst in Bridgeport by two hours 20 and the fact that the two did not align 21 themselves? 22 THE WITNESS (Judge): I have 23 no idea. 24 MR. TORRES: Mr. Judge, 25 Councilman Ashton asked you about efficiency</p>

Page 375

1 of the solar panels over time. You argued
2 several things. One was the overall project
3 has a half a percent degradation over time
4 and efficiency but that the panels do not
5 lose efficiency over time. I didn't
6 understand that. Could you explain that?

7 THE WITNESS (Judge): Yes.

8 The panels have an output, and the output
9 degrades over time. All right. So they have
10 a 310 watt output, and they degrade over
11 time. However, the efficiency of the panel,
12 it's a different -- output versus efficiency
13 is a different calculation. The efficiency
14 of the panel decreases by aging of the wires,
15 aging of the panels themselves. So they're a
16 little bit different. One is degradation and
17 one is loss of efficiency.

18 MR. TORRES: Then that result,
19 however, is degradation by a half a percent a
20 year. Correct?

21 THE WITNESS (Judge): Correct.

22 MR. TORRES: At least?

23 THE WITNESS (Judge): No,
24 that's not at least. That's the way it was
25 written in there. It's a half a percent per

Page 377

1 you're getting no -- you have no fuel, right,
2 so you really are -- the operational cost
3 associated with PV panels is very, very low.

4 If you look at it over the
5 life cycle and you compare it to gas, it
6 depends on a lot of factors that you put in
7 your estimates of the cost of the gas as far
8 as fuel goes and other things like that. So
9 there's not a direct answer. But generally
10 speaking, the cost of producing energy with
11 solar is not as economical as natural gas, a
12 large combined cycle natural gas plant, that
13 is true.

14 MR. TORRES: I took the
15 information from your PURA documents as to
16 the costs and compared them to costs
17 associated with producing electricity through
18 gas.

19 In any event, a half a percent
20 reduction in a large number is a large
21 number; half a percent reduction in a small
22 number tends to be a very small number. So
23 it's relevant that there's a degradation
24 in --

25 THE CHAIRMAN: A question,

Page 376

1 year, and it actually caps out at a number
2 over time.

3 MR. TORRES: Excuse me while I
4 read through these questions because a lot of
5 them are statements, and I'm trying not to
6 make statements and instead provide --

7 So, relative to that question
8 that I just asked, the cost of providing
9 electricity from a solar panel is
10 dramatically higher than producing
11 electricity from gas; isn't that correct?

12 THE WITNESS (Marone): I'm not
13 sure I understand your question.

14 MR. TORRES: The cost of
15 producing electricity via a solar panel array
16 is dramatically higher, in my estimation is
17 38 times higher, than producing electricity
18 from a gas turbine?

19 THE WITNESS (Marone): Without
20 getting way off the tangent, there's a lot of
21 details that go into the cost. So there's
22 the life cycle cost, there's the first cost,
23 you know, factoring in O&M, all of those sort
24 of things. The cost of producing electricity
25 with PV, once you install the panels is

Page 378

1 please.

2 MR. TORRES: Is it relevant to
3 you that the degradation, the half percent
4 degradation in solar, is significantly more
5 than gas relative to what the ratepayers are
6 having to pay for this electricity?

7 THE WITNESS (Marone): This is
8 a renewable energy project, and so it's not
9 really comparable with a natural gas project
10 or nuclear project or all sorts of other
11 types of generation projects. It's not even
12 apples and oranges. They are just completely
13 different things. And so the fact that this
14 project has renewable attributes to it makes
15 it unique.

16 MR. TORRES: Mr. Judge and
17 Mr. Marone, you both testified that the angle
18 of deflection of the solar panels was set to
19 20 versus 35 degrees, which was 35 being
20 considered the optimal production; is that
21 correct?

22 THE WITNESS (Judge): That's
23 correct.

24 MR. TORRES: It seems
25 counterintuitive to me to explain, though,

Page 379

1 how you got the 2.8 megawatts. You must have
2 done that by increasing the number of panels,
3 correct, so that you lowered the efficiency,
4 but you increased the number of panels,
5 correct?

6 THE WITNESS (Judge): It's 2.2
7 megawatts; it's not 2.8 megawatts.

8 MR. TORRES: I know, but the
9 PURA document states 2.86 megawatts.

10 THE WITNESS (Judge): That's
11 2.86 DC.

12 MR. TORRES: So it's 2.2 AC;
13 is that what you're saying?

14 THE WITNESS (Judge): Correct.

15 MR. TORRES: So is that how
16 you did it, you just increased the number of
17 panels to get to that number, 2.2?

18 THE WITNESS (Judge): No.
19 There's losses and there's other things that
20 are considered when you go to your AC
21 conversion, when you convert from DC to AC.

22 MR. TORRES: Okay. If you had
23 had a different location where you could have
24 spread the panels out perhaps a little bit
25 farther apart, would the 9,000 panels have

Page 381

1 assume if we had infinite space that we could
2 put the panels and space them apart so
3 there'd be no effect, the answer would be yes
4 in the scenario where we have infinite space
5 and a perfectly flat surface.

6 MR. TORRES: Infinite space?
7 You have a limited number of panels. It's
8 9,000 panels. You don't need infinite space.

9 THE CHAIRMAN: I think you got
10 the answer to your question.

11 MR. TORRES: In page 84 of the
12 minutes, Ms. Daily asked about lighting at
13 the solar facility. You stated that there
14 would be no lights. Correct?

15 THE WITNESS (Judge): Which
16 minutes are you referring to?

17 MR. TORRES: The --

18 THE WITNESS (Judge): There
19 are no lights. We're not anticipating -- or
20 we're not putting any lights on the landfill.

21 MR. TORRES: The nature of
22 that landfill is that the moon rises above it
23 nearly on a nightly basis. Would moonlight
24 reflect off of these panels and effect the
25 people that are on the north side of --

Page 380

1 produced a greater amount of electricity
2 should they have been angled to the 35 degree
3 point?

4 THE WITNESS (Marone): No. I
5 believe that, in this general geographic
6 location, nothing to do with the landfill or
7 some other site, that angle that is the
8 optimal angle for here in southern
9 Connecticut has nothing to do with being on
10 the landfill or not being on the landfill.
11 That's an angle based on being in Connecticut
12 as opposed to Arizona.

13 THE WITNESS (Judge): I just
14 want to correct that a little bit. It does
15 have something to do -- this was the optimal
16 layout for that site, the orientation, the
17 slopes, everything else on that site, that's
18 what was determined by our designers.

19 MR. TORRES: And my question
20 was had you a different site that was flat
21 and you were able to place 9,000 panels at 35
22 degrees such that it would not have provided
23 shading to the other panels, would that not
24 have been a more cost-effective answer?

25 THE WITNESS (Judge): I would

Page 382

1 THE WITNESS (Marone): No.

2 MR. TORRES: How do you come
3 to that conclusion?

4 THE WITNESS (Marone): Well,
5 the very simple answer is that the people on
6 the north side would be facing the back of
7 the panels. The panels are facing to the
8 south, so the reflective side of the panels
9 is facing towards the ocean or towards the
10 sound. And so even if there was a
11 reflection, I couldn't imagine seeing the
12 reflection on the back side. That's my
13 answer.

14 MR. TORRES: On page 86 of the
15 minutes, Mr. Judge, you answered Dr. Klemens'
16 question about flooding and specifically
17 stated -- I don't know. Let me just refer to
18 these minutes for one second.

19 You stated that you did not
20 know where exactly the FEMA flood plain
21 elevation was, the 500-year FEMA flood plain
22 elevation was. I'm a little concerned, and
23 I'm trying not to -- this is a question, but
24 from my standpoint as a resident of the City
25 of Bridgeport, I would like to know how it is

Page 383

1 that the answer "I don't know" is acceptable
2 to me.

3 MR. McDERMOTT: Mr. Chairman,
4 for the record, it was Mr. Perugini, and it
5 says, "With regard to the FEMA 500-year flood
6 elevation that is directly from FEMA that
7 they -- they do not depict any five-year
8 flood line in the vicinity of the fuel cell."
9 There is no qualification that he doesn't
10 know the information about the 500-year flood
11 plain, so Mr. Torres is mischaracterizing
12 Mr. Perugini's testimony.

13 MR. TORRES: As of the
14 testimony that we heard today relative to the
15 new FEMA information, do you have information
16 that would specifically answer that question
17 today as to the location --

18 MR. McDERMOTT: Objection.
19 The question has already been answered. I
20 just read it.

21 MR. TORRES: Well, no, that's
22 from here. I'm just saying today there was a
23 mention that --

24 THE WITNESS (Marone): We
25 stand by the answer that was already provided

Page 385

1 photographic evidence of what this thing is
2 going to look like. I brought those
3 photographs out with me and stood in those
4 same spots and my eyesight saw something
5 different. Can you explain why it is that my
6 eyesight sees something different than the
7 photograph?

8 THE WITNESS (Marone): I
9 can't.

10 MR. McDERMOTT: I'm going to
11 object. Without knowing what you saw, Mr.
12 Torres, I don't think we can explain what you
13 saw and why it's different.

14 MR. TORRES: Okay. I can tell
15 you which frame of reference it was. It was
16 standing in front of the bathhouse, which is
17 one of your photographs.

18 MR. McDERMOTT: Which
19 photograph, Mr. Torres?

20 MR. TORRES: I don't have
21 those photographs with me. It doesn't look
22 like I brought the photographs.

23 MR. McDERMOTT: Can you tell
24 me which interrogatory? I just want to make
25 sure we're on the same --

Page 384

1 in the record. If we had to update that
2 answer, I believe the witnesses will do so.

3 MR. TORRES: In Question
4 Number 3 of the interrogatory, you stated
5 that there would be no apparent
6 environmental, visual or historical impact.
7 Do you consider P.T. Barnum a historical
8 figure?

9 THE WITNESS (Judge): Sure.

10 MR. TORRES: Do you consider
11 the Olmsted & Vaux landscape design company
12 historical in the work that they've done
13 throughout the nation?

14 THE WITNESS (Marone): I don't
15 have an opinion.

16 THE WITNESS (Judge): I don't
17 have an opinion on that.

18 MR. TORRES: No answer on
19 Olmsted?

20 MR. McDERMOTT: They have no
21 opinion.

22 MR. TORRES: On Question
23 Number 3 and Number 34 there's a discussion
24 about what this actually looks like, and
25 you've provided testimony and evidence,

Page 386

1 MR. TORRES: Thirty-four is
2 the one that it references.

3 THE WITNESS (Libertine): It
4 was from the West Beach Bathhouse, is that
5 the one you're referencing?

6 MR. TORRES: Yes, from the
7 West Beach Bathhouse, correct.

8 MR. McDERMOTT: Just for the
9 record, the response to Interrogatory 34 says
10 please refer to Interrogatory 28. I think
11 we're working off of the visual assessment in
12 Interrogatory 28.

13 MR. TORRES: Okay. My
14 apologies.

15 MR. McDERMOTT: I just want to
16 make sure the record is clear.

17 MR. TORRES: In any event, the
18 issue of focal point is relevant to recreate
19 a photograph relative to what a human being
20 can see.

21 THE WITNESS (Libertine):
22 Correct.

23 MR. TORRES: If you use the
24 wrong focal point, the photograph moves the
25 object at a greater distance even though

1 you're standing at the some spot as the
2 observer. It worries me --
3 MR. McDERMOTT: Question,
4 please, Mr. Chairman?
5 THE CHAIRMAN: Can you frame
6 it into a question?
7 MR. TORRES: I'm working on a
8 good question.
9 Are you satisfied that these
10 photographs are a true representation of what
11 a human being would see from that position?
12 THE WITNESS (Libertine): I
13 think it's a fair representation. I'm not
14 sure about a true representation. In the
15 report, if you read it, we try to use a
16 standard of a 50 millimeter lens setting when
17 we do our photographs and our simulations.
18 That approximates essentially what the human
19 eye sees peripherally and standing at a point
20 looking at a reference point. There are
21 times, however, when we like to use a little
22 bit wider lens. That particular view was
23 shot with a 24 millimeter lens setting.
24 Anything from about 24 millimeter to slightly
25 above 50 can approximate what we would see in

1 the real world.
2 You're right, as we start to
3 use wider lens settings, you're going to get
4 some distortion. It's going to make some
5 things appear a little bit further away,
6 similar to what you might see in a car
7 mirror. The point we made in that particular
8 shot was to get context of the area. If we
9 had shown the 50 millimeter version only, it
10 would have been a very narrow field of vision
11 from that particular point, and you kind of
12 lose that idea of peripheral vision that we
13 all have.
14 So we have to make some
15 choices when we're presenting this
16 information. It's still a fair
17 representation of what we would see.
18 Granted, it might not be exactly at the focal
19 length that you and I may see from that
20 particular point, but it's a representation
21 of what someone might see from that general
22 area, and that's all we were trying to show.
23 MR. TORRES: Were all of the
24 pictures taken, aside from this one, with a
25 50 millimeter?

1 THE WITNESS (Libertine): No.
2 There were several, one, two, three, four.
3 It's all in the response to interrogatory
4 Number 26. Actually four shots were taken
5 with a 24 millimeter lens setting, again, for
6 the same reason, to give some context.
7 One of the problems when
8 they're out there, challenges when they're
9 out there trying to shoot that landfill, as
10 you suggested, it's a fairly broad hill. So
11 to just focus in on one area, my professional
12 judgment was that that really wasn't going
13 to -- wasn't really representative of the
14 entire installation. We were really trying
15 to show as much of the installation as we
16 possibly could to give everyone an idea of
17 what you might see.
18 MR. TORRES: I appreciate
19 that. However, to many other people a
20 specific view of --
21 MR. McDERMOTT: Objection.
22 THE CHAIRMAN: Again, I think
23 we've exhausted this subject. And you really
24 have to try to -- I mean, I intend to close
25 this hearing whether we're going to be here

1 till midnight or not, so I'd really like you
2 to keep your questions as questions. Thank
3 you.
4 MR. TORRES: In Interrogatory
5 Question Number 3, Mr. Judge, you stated that
6 there would be no apparent environmental
7 impact.
8 THE WITNESS (Judge): Yes.
9 MR. TORRES: Your habitat
10 assessment report which, by the way, was
11 awesome, showed deer and extensive amount of
12 biodiversity that's been restored to a once
13 burning heap.
14 How is it possible that solar
15 panels are going to have no impact,
16 environmental impact, on a mountain that has
17 ecologically restored itself?
18 THE WITNESS (Judge): Joe, do
19 you want to speak to the Fatal Flaw Analysis
20 and the -- I can speak to it. This question
21 is in reference to what shows UI to select
22 this site, and we had done analysis of sites.
23 On this property we did what's called a Fatal
24 Flaw Analysis. It looks at the general
25 things that could stop a project from moving

1 forward. It just gives you the clear to move
2 ahead and invest a little more money and do
3 your national diversity database filing and
4 your detailed wetlands delineation. It's
5 attempting to disqualify a property from
6 moving forward with due diligence.

7 So what we found is there were
8 no apparent environmental, visual or
9 historical impacts to the site at that time
10 in our site investigation.

11 MR. TORRES: How about at this
12 time?

13 THE WITNESS (Judge): I
14 believe the record -- everything we've put on
15 the record so far shows --

16 MR. TORRES: So then you
17 believe even today there's no environmental
18 impact on the site?

19 THE WITNESS (Judge): That's
20 what our documents say, yes.

21 THE WITNESS (Perugini): If I
22 may add, we have Connecticut DEP concurrence.
23 They have reviewed for environmental impacts
24 and are in agreement that the project is not
25 causing environmental impact. We had a

1 that meeting.

2 THE CHAIRMAN: Yes, the
3 Council has that information.

4 MR. TORRES: In interrogatory
5 Number 5 also you stated that --

6 THE WITNESS (Judge): I'm
7 sorry, Mr. Torres, to clarify, I do recall
8 many meetings where you had said that the
9 landfill was in Seaside Park, but however,
10 nobody from the city had said that.

11 MR. TORRES: Okay. Thank you.
12 Again, in Interrogatory

13 Question Number 5 you used the reasoning that
14 the City of Bridgeport controls the site as
15 proof that the land is not designated for
16 public use; however, the city controls many
17 sites that are designated for public use. Is
18 that an accurate statement to make relative
19 to determining whether something is or is not
20 part of a park?

21 MR. McDERMOTT: Mr. Chairman,
22 I'm going to object. The question was: "Are
23 these areas presently accessible to the
24 public; if not, how are these areas
25 regulated?"

1 letter from the Connecticut DEP after having
2 reviewed the habitat assessment and
3 environmental reports concurring with the
4 project as not having environmental impact.

5 MR. TORRES: In Question 5 of
6 the interrogatory, Mr. Judge, you stated that
7 this site -- let me just look at the record.

8 You stated, "A thorough review
9 of the land records provided no evidence of
10 the boundaries of Seaside Park extend to
11 include the landfill area."

12 You attended many meetings at
13 which I saw you -- we were there together.
14 The City of Bridgeport testified that the
15 landfill was in Seaside Park. This
16 interrogatory was procured in August
17 sometime, I suppose. Is it still your
18 contention that this landfill is not in
19 Seaside Park?

20 THE WITNESS (Judge): I don't
21 recall a single public hearing or a single
22 meeting where anyone said that the landfill
23 was in Seaside Park.

24 MR. TORRES: In any event, I
25 have provided minutes to the Chairman from

1 The answer was: "UI
2 understands that the landfill area is neither
3 designed nor designated for public use. The
4 City of Bridgeport controls access to the
5 site."

6 So it has nothing to do with
7 the part of the question that deals with
8 whether it's a park or not, so I'll object to
9 the mischaracterization of the answer.

10 THE CHAIRMAN: Do you want to
11 make a more specific question because I don't
12 want to listen about what Bridgeport and all
13 their, you know, parks and other properties.
14 I mean, let's be specific to this site.

15 MR. TORRES: I understood the
16 question to be that the questions all to be
17 relevant to each other, but perhaps Mr.
18 McDermott is correct in saying so.

19 MR. TORRES: In Question
20 Number 6, you testified that the City of
21 Bridgeport Seaside Park is 195 acres. The
22 city website and other documents show it to
23 be 375 acres. I see that you got that
24 information from the city GIS system. How
25 did you determine that? The two don't jibe.

Page 395

1 THE WITNESS (Judge): We --
2 MR. McDERMOTT: Mr. Judge,
3 hold on.

4 Mr. Chairman, I need the
5 reference to the 375 acres of Seaside Park.
6 That's not information that we have or is in
7 the record.

8 MR. TORRES: Well, I think we
9 both have made part of the record the city
10 park's master plan which is that it's --

11 THE CHAIRMAN: Is your
12 question relevant whether -- I mean, I
13 understand there's a huge discrepancy, but is
14 it relevant to what's being proposed on the
15 site?

16 MR. TORRES: It's relevant
17 based on the fact that the understanding or
18 the initial understanding of this project was
19 that the landfill was not part of Seaside
20 Park. At no time has the city ever, up until
21 the point that this project came through,
22 ever excluded the landfill from being part of
23 Seaside Park. Part of the justification for
24 putting --

25 THE CHAIRMAN: Well, that

Page 397

1 good time to take a five-minute recess.

2 (Whereupon, the witnesses were
3 excused, and a recess was taken from 3:07
4 p.m. until 3:14 p.m.)

5 THE CHAIRMAN: I'd like to
6 resume our hearing.

7 So there are no redirect
8 questions?

9 MR. McDERMOTT: That's
10 correct, Mr. Chairman. Thank you. No
11 redirect from UI.

12 THE CHAIRMAN: Okay. So now
13 we have the city, Attorney Hoffman, do you
14 want to swear in, or do you want to just wait
15 and see if there are questions?

16 MR. HOFFMAN: I suppose we
17 might as well wait and see if there are any
18 questions, Mr. Chairman. I would like to at
19 least make introductions.

20 We have Mr. John Cottell, the
21 Deputy Director of Public Facilities for the
22 City of Bridgeport, to my immediate left; and
23 next to him is Michael Manolakas, who is an
24 environmental engineer with Leggette,
25 Brashears & Graham. They are available to

Page 396

1 might be a good question to ask the city. I
2 don't know whether that's something that UI
3 really has the expertise to answer that
4 question.

5 MR. TORRES: I think that's
6 the extent of my questions, Mr. Chairman.

7 THE CHAIRMAN: Okay. Thank
8 you.

9 MR. TORRES: I think next time
10 I'll be better prepared, if there is a next
11 time.

12 THE CHAIRMAN: Okay.
13 Now we'll have the City come
14 up and take your slot. Attorney Hoffman.

15 MR. McDERMOTT: I believe
16 Attorney Hoffman already asked the panel our
17 questions.

18 THE CHAIRMAN: Now I think
19 we're, if I am correct, we're finished asking
20 cross-examination of the Applicant.

21 MR. McDERMOTT: If I could,
22 could I ask for a five-minute recess so I can
23 confer with the panel about redirect before
24 we dismiss the UI panel, Mr. Chairman?

25 THE CHAIRMAN: Maybe it's a

Page 398

1 answer any questions the Siting Council might
2 have. We did not submit any prefile
3 testimony, but we recognize that, given the
4 interplay of the landfill and everything
5 else, there may be questions that the city
6 can answer that UI was not capable of doing,
7 and we make these witnesses available for
8 that purpose.

9 THE CHAIRMAN: I think we
10 should swear, so there's no point in waiting
11 and then somebody has questions.

12 MR. HOFFMAN: Absolutely.

13 THE CHAIRMAN: So if don't
14 mind standing up?

15 JOHN COTTELL,
16 MICHAEL MANOLAKAS,
17 called as witnesses, being first duly
18 sworn by Ms. Bachman, were examined and
19 testified on their oaths as follows:

20 MR. HOFFMAN: I suppose,
21 Mr. Chairman, since we swore in the
22 witnesses, should we mark the City's request
23 for party status that's already been granted
24 by the Council as an exhibit just for
25 purposes of making the record complete? It's

Page 399

1 up to you.
2 THE CHAIRMAN: Yes.
3 MR. HOFFMAN: Okay.
4 THE CHAIRMAN: So do you want
5 to proceed?
6 MR. HOFFMAN: Sure.
7 Mr. Cottell, did you prepare
8 or cause to be prepared the City of
9 Bridgeport's request for party status, dated
10 August 5, 2014?
11 THE WITNESS (Cottell): Did I
12 cause to prepare?
13 MR. HOFFMAN: Cause to
14 prepare.
15 Did you direct its preparation
16 in conjunction with the rest of the city?
17 THE WITNESS (Cottell): I
18 worked on it, yes.
19 MR. HOFFMAN: And is it
20 accurate?
21 THE WITNESS (Cottell): Yes.
22 MR. HOFFMAN: And do you adopt
23 that as part of your testimony here today?
24 THE WITNESS (Cottell): Yes.
25 MR. HOFFMAN: Thank you.

Page 400

1 MR. LYNCH: Excuse me,
2 Mr. Hoffman. Could you have him speak up a
3 little?
4 MR. HOFFMAN: Yes. Are the
5 mikes still on?
6 THE CHAIRMAN: Yes.
7 THE WITNESS (Cottell): Sorry
8 about that.
9 THE CHAIRMAN: All right.
10 MR. HOFFMAN: I'd offer it up
11 as a full exhibit.
12 THE CHAIRMAN: Okay. Is there
13 any objection?
14 Seeing none, okay, add it to
15 the record.
16 (City of Bridgeport Exhibit
17 III-B-1: Received in evidence - described in
18 index.)
19 THE CHAIRMAN: So we'll just
20 go around and see if, starting with Mr.
21 Mercier, do you have any questions?
22 MR. MERCIER: Not at this
23 time.
24 THE CHAIRMAN: Vice Chair?
25 THE VICE CHAIRMAN: No

Page 401

1 questions.
2 THE CHAIRMAN: Dr. Bell?
3 DR. BELL: I do have one
4 question that's kind of come out from the
5 reading. It's appeared several times people
6 are pointing out that the city -- that UI
7 has -- in the contracts with the city was
8 given power over the site, but the city has
9 accepted liability for matters at the site.
10 My question relates to any damage to the
11 environment that's done by the project.
12 A, is it, in fact, correct
13 that the contract does accept liability in
14 the way that the various statements that
15 we've heard at public hearings suggests; and
16 B, would that have anything to do with
17 liability from environmental damage to the
18 site that would be worrisome for the city?
19 THE WITNESS (Cottell): The
20 city has the landfill, the dump. And are
21 responsible for what's been put into the
22 landfill and the dump, there's a hazardous
23 waste cell that we're responsible for. We
24 were not expecting UI to just take over all
25 our responsibility that was in that dump.

Page 402

1 Anything that the project that UI does that
2 they create, they're responsible for, but we
3 are responsible for what was initially there
4 right now.
5 DR. BELL: I see. That helps
6 me understand what was in the written
7 statements that I didn't fully understand.
8 Thank you.
9 THE WITNESS (Cottell): You're
10 welcome.
11 DR. BELL: Thank you,
12 Mr. Chair.
13 THE CHAIRMAN: Mr. Ashton?
14 MR. ASHTON: A couple of
15 questions.
16 If I understand it, Bridgeport
17 is merely a contracting party with UI who is
18 the project owner, if you will, you're
19 providing land, and that's it; is that fair
20 to say?
21 THE WITNESS (Cottell):
22 Correct, we're leasing them the property.
23 MR. ASHTON: Nothing further.
24 Thank you.
25 THE CHAIRMAN: Thank you.

Page 403

1 Dr. Klemens?
2 DR. KLEMENS: Dr. Bell asked
3 my primary question. My only other question
4 to ask the city is: Do you have some bond or
5 are you ensuring some way that this will all
6 be restored at the end, or you're just
7 relying on your contract with UI? I'm
8 talking about taking down the arrays and
9 leaving the site as they found it and the
10 fence and getting rid of everything. Is
11 there some way you're ensuring that, or are
12 you just relying on the contract?
13 THE WITNESS (Cottell): I
14 don't recall whether we actually have a bond.
15 I have to check with my counsel who worked
16 with me on that, but being that they are a
17 utility and are regulated, I know similarly
18 with streets when they do openings in streets
19 and all, they have -- they don't put a bond,
20 per se, because they're the utility and are
21 regulated.
22 DR. KLEMENS: Thank you. No
23 further questions.
24 THE CHAIRMAN: Senator Daily?
25 SENATOR DAILY: Thank you,

Page 405

1 Mr. Chairman.
2 MR. HOFFMAN: There's a
3 clarification on Mr. Hannon.
4 THE CHAIRMAN: Okay,
5 clarification.
6 THE WITNESS (Manolakas): I'm
7 sorry, if there was a condition put on it, it
8 would have to be approved by the DEEP as part
9 of postclosure care modification. So other
10 than that, that's all the hurdles would be.
11 THE CHAIRMAN: Is the city
12 satisfied because I guess the preface is my
13 understanding is the city's current
14 administration prides itself on being green
15 and sustainable, I mean, that's part of this
16 whole effort, are they satisfied that as
17 technologies advance and we mentioned storage
18 and something else, that this project will be
19 kept up, you know, up to date with the latest
20 whatever technological advancements?
21 THE WITNESS (Cottell): Yes.
22 THE CHAIRMAN: Okay. That's
23 the kind of answer we like. Thank you. It's
24 a long-winded question.
25 Okay. Anybody else? No.

Page 404

1 Mr. Chairman. I have no additional
2 questions.
3 THE CHAIRMAN: Director Caron?
4 MR. CARON: No questions,
5 Mr. Chairman.
6 THE CHAIRMAN: Mr. Hannon?
7 MR. HANNON: I do have one
8 question I'd like to follow up with.
9 What would be the city's
10 position about some type of buffering put
11 around the solar array in the area, and if
12 that also involves dealing with some of the
13 invasive species, what is the city's
14 position?
15 THE WITNESS (Cottell): I
16 think, at this point in time, we're open to
17 any items with that.
18 MR. HANNON: So it doesn't
19 sound like there's an objection to it but --
20 THE WITNESS (Cottell): Not
21 that I know of.
22 MR. HANNON: Thank you. I
23 have no further questions.
24 THE CHAIRMAN: Mr. Lynch?
25 MR. LYNCH: No questions,

Page 406

1 Okay. So yes, Mr. Torres,
2 cross-examination?
3 MR. TORRES: Mayor Finch has
4 testified that 92 jobs would be created from
5 this facility. Do you have any sense of what
6 sort of jobs he's talking about, given the
7 fact that solar panels could mean jobs and
8 the fuel cell doesn't require any human work?
9 MR. HOFFMAN: I'm going to
10 object to that. That wasn't testimony.
11 Mr. Finch wasn't sworn in. He was making a
12 public statement as being the mayor of the
13 host city to open up the proceedings. I
14 don't believe that his comments carry any
15 evidentiary weight as a result.
16 THE CHAIRMAN: Okay, but let
17 me ask: Do you see any -- well, are
18 construction jobs and/or permanent jobs being
19 created through this process?
20 MR. HOFFMAN: That's a fairer
21 question, as long as we don't link it to his
22 testimony at all.
23 THE WITNESS (Cottell): Yes, I
24 would say that there's several electrician
25 jobs for hooking up and landscaping and

Page 407

1 bringing the site to the level that it's at
2 as far as and also with clearing it,
3 installation of the concrete work and
4 installation of the pad, of the fuel cell.
5 For ongoing after-construction jobs, I would
6 think it's not -- I would not say 92
7 personally. I would think you would have a
8 couple monitoring personnel as well as have
9 people having to go out and do field checks
10 and continue with the proper maintenance and
11 access to the facility.

12 THE CHAIRMAN: Mr. Lynch has a
13 question.

14 MR. LYNCH: Does the city or
15 UI have a PLA with the unions?

16 THE WITNESS (Cottell): I have
17 not seen it myself, so I'm not sure.
18 Normally they do work with PLAs.

19 MR. LYNCH: Thank you.

20 MR. ASHTON: Those jobs would
21 not be city jobs, would they?

22 THE WITNESS (Cottell):
23 Correct.

24 MR. ASHTON: They'd be UI jobs
25 presumably?

Page 409

1 If there's a question there, that's fine, but
2 the lease is part of the record, and we don't
3 need to go over what the document says.

4 THE CHAIRMAN: So maybe you
5 can put your question in a different way to
6 get at your point?

7 MR. TORRES: I'm afraid
8 English is a second language for me, I guess,
9 in this case, but I thought there was a
10 question.

11 So, is it or is it not correct
12 that the lease holds, you know, the tenant
13 harmless for environmental injuries caused to
14 any employee?

15 THE CHAIRMAN: It may be the
16 better way to put it is: Who wouldn't be
17 responsible -- forget about what the lease
18 says. In your understanding, who would be
19 responsible?

20 THE WITNESS (Cottell): For
21 the work that UI does for their people that
22 they are responsible for the work that's
23 being done in the installation. As I said,
24 the City is responsible for the items that
25 are in the landfill that exist there today.

Page 408

1 THE WITNESS (Cottell): They'd
2 be -- well, whoever UI --

3 MR. ASHTON: Or UI contracted
4 with?

5 THE WITNESS (Cottell):
6 Contracts out. And again, as we said, this
7 is their project that they're building it.

8 THE CHAIRMAN: Mr. Torres.

9 MR. TORRES: Do you see the
10 number of jobs ever going to 92?

11 THE WITNESS (Cottell): The UI
12 would probably best be able to answer that
13 one as to how many people they are hiring to
14 do the construction and the installation of
15 all the equipment at one time and the timing
16 sequence of how it's done.

17 MR. TORRES: The lease holds
18 the tenant environmentally harmless -- this
19 is kind of to follow up Commissioner Bell's
20 question -- to anyone that works there; isn't
21 that correct?

22 THE WITNESS (Cottell): The
23 lease holds --

24 MR. HOFFMAN: I'm going to
25 object to that. The lease says what it says.

Page 410

1 MR. TORRES: Excuse me one
2 second.

3 (Pause.)

4 MR. TORRES: Who's responsible
5 for people that are injured while working on
6 the site?

7 THE WITNESS (Cottell): I'm
8 sorry, Mr. Torres, I didn't hear you.

9 MR. TORRES: Who is
10 responsible for workers working on the site
11 should they be injured on the site?

12 THE WITNESS (Cottell): Well,
13 UI, all their subcontractors would be held by
14 the insurance indemnifications for the city
15 during the work, as well as providing bonds
16 for the work being done.

17 MR. TORRES: One of the
18 contentions of that lease that you should all
19 read. That's just a statement. Sorry for
20 making it. That's all I have.

21 DR. KLEMENS: Mr. Chairman,
22 may I ask a question?

23 THE CHAIRMAN: Yes. Go ahead.

24 DR. KLEMENS: Is there any
25 danger, in your opinion, of people working on

1 that land? We've heard all this testimony
2 again in the public hearing that it's a
3 dangerous place to be. We all went up there.
4 Do you see that there's any risk to workers
5 actually working on that landfill, anything
6 extraordinary?

7 THE WITNESS (Cottell): None
8 from normal construction environments other
9 than the fact, once they stay out, the
10 fenced-in hazardous waste cell area.

11 DR. KLEMENS: Thank you.

12 THE CHAIRMAN: Attorney
13 McDermott, do you have any cross?

14 MR. McDERMOTT: No. Thank
15 you, Mr. Chairman.

16 THE CHAIRMAN: Thank you.
17 Before closing this hearing,
18 the Siting Council announces that briefs and
19 proposed findings of fact may be filed with
20 the Council by any party or intervenor no
21 later than October 30, 2014. The submission
22 of briefs or proposed findings of fact are
23 not required, but we leave it to the choice
24 of the parties and intervenors.

25 Anyone who has not become a

1 CERTIFICATE

2 I hereby certify that the foregoing 203
3 pages are a complete and accurate
4 transcription of my original stenotype notes
5 taken of the Continued Council Hearing in Re:
6 PETITION NO. 1104, THE UNITED ILLUMINATING
7 COMPANY PETITION FOR A DECLARATORY RULING
8 THAT NO CERTIFICATE OF ENVIRONMENTAL
9 COMPATIBILITY AND PUBLIC NEED IS REQUIRED FOR
10 THE PROPOSED CONSTRUCTION, MAINTENANCE AND
11 OPERATION FOR OF A 2.2 MEGAWATT SOLAR
12 PHOTOVOLTAIC FACILITY AND A 2.8 MEGAWATT FUEL
13 CELL FACILITY ON APPROXIMATELY 22 ACRES OF
14 THE FORMER SEASIDE LANDFILL LOCATED AT 530
15 WALDEMERE AVENUE, BRIDGEPORT, CONNECTICUT,
16 which was held before ROBERT STEIN,
17 Chairperson, at the Connecticut Siting
18 Council, 10 Franklin Square, New Britain,
19 Connecticut, September 30, 2014.

20
21
22
23 -----
24 Lisa L. Warner, L.S.R. 061
25 Court Reporter
UNITED REPORTERS, INC.
90 Brainard Road, Suite 103

1 party or intervenor but who desires to make
2 his or her views known to the Council, may
3 file a written statement with the Council
4 within 30 days of the date hereof.

5 The Council will issue draft
6 findings of fact, and thereafter parties and
7 intervenors may identify errors or
8 inconsistencies between the Council's draft
9 findings of fact and the record; however, no
10 new information, no new argument, no new
11 evidence or reply briefs will be considered
12 without our permission.

13 Copies of the transcript of
14 this hearing will be filed at the Bridgeport
15 City Clerk's Office.

16 And I hereby declare this
17 hearing adjourned. And thank you all for
18 your participation.

19 (Whereupon, the witnesses were
20 excused, and the above proceedings were
21 adjourned at 3:30 p.m.)
22
23
24
25

1 I N D E X

2 WITNESSES ENRIQUE TORRES
3 CHARLES BRILVITCH Page 218

4 EXAMINERS:
5 Mr. Mercier

6
7 WITNESSES DANIEL HAGEMAN
8 LAUREL STEGINA Page 283

9 THOMAS JUDGE
10 ANTHONY MARONE
11 MICHAEL LIBERTINE

12 DUANE HIMES
13 JOSEPH PERUGINI Page 284

14 EXAMINERS:
15 Mr. Mercier
16 Mr. Torres

17
18 WITNESSES JOHN COTTELL
19 MICHAEL MANOLAKAS Page 398

20 EXAMINERS:
21 Mr. Torres
22
23
24
25

Page 415

EXHIBIT	DESCRIPTION	PAGE
I N D E X (Cont'd.)		
ENRIQUE TORRES EXHIBITS		
(Received in evidence.)		
IV-B-1	National Register of Historic Places inventory nomination form, 1982	271
IV-B-2	Comments to Bridgeport City Council, July 30, 2014	271
IV-B-3	Overlap map with National Register of Historic Places, August 21, 2014	271
IV-B-4	Cover letter to Siting Council, August 21, 2014	271
IV-B-5	Request for intervenor status, August 28, 2014	271
IV-B-6	Photo of Bridgeport South End flooding after Superstorm Sandy, September 23, 2014	271

Page 416

EXHIBIT	DESCRIPTION	PAGE
I N D E X (Cont'd.)		
ENRIQUE TORRES EXHIBITS		
(Received in evidence.)		
IV-B-7	Photo of 1971 Plat Book Map of Seaside Park, Sept. 23, 2014	271
IV-B-8	Circle map	271
IV-B-9	Map	271
CITY OF BRIDGEPORT EXHIBITS		
(Received in evidence.)		
III-B-1	City of Bridgeport request for party status, August 5, 2014	400