

BEFORE THE  
STATE OF NEW YORK  
BOARD ON ELECTRIC GENERATION  
SITING AND THE ENVIRONMENT

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In the Matter of  
High River Energy Center  
Case 17-F-0597  
July 17, 2020  
Corrected September 25, 2020

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Prepared Testimony of Staff  
Panel in Support of Settlement:

Andrew Davis  
Chief - Certification &  
Compliance  
Office of Electric, Gas, and  
Water

Jeremy Flaum  
Utility Supervisor  
Office of Electric, Gas, and  
Water

Miguel Moreno-Caballero  
Utility Engineering Specialist 3  
(Acoustics)  
Office of Electric, Gas, and  
Water

John Quackenbush  
Engineering Specialist 2  
Office of Electric, Gas, and  
Water

Lorna Gillings  
Utility Consumer Program  
Specialist 4

Outreach and Education  
Office of Consumer Services

Caitlyn Edmundson  
Associate Economist  
Office of Market and Regulatory  
Economics

State of New York  
Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

1 Q. Please state the names, employer, and business  
2 address of the Staff Panel in Support of  
3 Settlement (the SPSS or Panel).

4 A. Our names are Andrew Davis, Jeremy Flaum, Miguel  
5 Moreno-Caballero, John Quackenbush, Lorna  
6 Gillings, and Caitlyn Edmundson. We are  
7 employed by the New York State Department of  
8 Public Service (DPS or Department). Our  
9 business address is Three Empire State Plaza,  
10 Albany, New York 12223.

11 Q. Mr. Davis, what is your position with the  
12 Department?

13 A. I am the Chief of Environmental Certification  
14 and Compliance, in the Office of Electric, Gas  
15 and Water (or EC&C, OEGW).

16 Q. Please briefly describe your educational  
17 background and professional experience.

18 A. I graduated from the State University of New  
19 York, College of Environmental Science and  
20 Forestry with a Bachelor of Science degree in  
21 Natural Resources Management (Forestry) in 1981.

1 My professional training includes cultural  
2 resources management, visual impact assessments,  
3 remote sensing, ARC-MAP geographic information  
4 systems, habitat evaluation, and wetlands  
5 delineation, among other specialties.

6 Q. Mr. Davis, what are your qualifications and  
7 experience in reviewing major electric  
8 generating and related facilities?

9 A. Since starting as an environmental analyst for  
10 the Department in 1986, I have provided  
11 professional testimony regarding environmental  
12 and land use effects (including natural and  
13 cultural resources, visual impacts, land use,  
14 and local plans, and land use and development  
15 laws consistency) before the Board on Electric  
16 Generation Siting and the Environment (Siting  
17 Board) in at least 18 projects pursuant to  
18 Public Service Law (PSL) Articles X and 10; and  
19 testimony on similar matters in at least 16  
20 projects before the Public Service Commission  
21 (Commission) pursuant to PSL Article VII. In

1           addition, I have provided advisory review and  
2           assessment in approximately 60 DPS Staff team  
3           reviews in various proceedings pursuant to PSL  
4           Articles X, 10, VII, and Section 68, as well as  
5           other proceedings pursuant to the State  
6           Environmental Quality Review Act or the National  
7           Environmental Policy Act environmental analysis.  
8           Analyses include reviews of large-scale  
9           facilities for electric generating, electric and  
10          gas transmission, and energy storage. This is  
11          the fourth major solar electric generating  
12          facility that has come before the Siting Board  
13          or the DPS for licensing subject to agency  
14          jurisdiction under PSL Article 10.

15   Q.    Mr. Flaum, what is your position with the  
16          Department?

17   A.    I am employed as a Utility Supervisor in the  
18          Environmental Certification and Compliance  
19          Section of the Office of Electric, Gas and  
20          Water.

21   Q.    Please briefly describe your educational

1 background and professional experience.

2 A. I graduated from the State University of New  
3 York College at Cortland in 2003 with a Bachelor  
4 of Science degree in Geology. I also received a  
5 Master of Science degree in Environmental  
6 Management from the University of Maryland,  
7 University College, in 2008. I joined the  
8 Department in 2009. Prior to joining the  
9 Department, I held Geologist positions at two  
10 environmental consulting firms where I performed  
11 field investigations, oversight, and data  
12 analysis for multiple environmental remediation  
13 sites.

14 Q. Please describe your responsibilities with the  
15 Department.

16 A. My primary responsibilities include evaluating  
17 environmental impacts and construction  
18 feasibility issues for electric generating  
19 facilities under Article 10 of the PSL and  
20 electric and gas transmission facilities under  
21 Article VII of the PSL. Additionally, I have

1 reviewed utility property site contamination  
2 investigation and remediation (SIR) matters and  
3 provided recommendations for SIR cost recovery  
4 in utility rate cases before the Commission.

5 Q. Have you provided testimony in previous  
6 proceedings before the Siting Board?

7 A. Yes. I provided testimony regarding geologic  
8 and water resource impacts of proposed major  
9 electric generation wind energy facilities in  
10 Cases 14-F-0490, 15-F-0122, 16-F-0062, 16-F-  
11 0328, 16-F-0559, 16-F-0205, 17-F-0282, and 16-F-  
12 0267. I also testified as part of the Staff  
13 Policy Panels for all of those cases, except 16-  
14 F-0267, and as part of the Staff Panel in  
15 Support of Settlement (SPSS) for Case 18-F-0262.  
16 Further, I recently submitted testimony as part  
17 of the SPSS for Case 17-F-0182 - Mohawk Solar  
18 Project, Case 17-F-0617 - Coeymans Solar Farm,  
19 and Case 17-F-0599 - East Point Energy Center,  
20 the first three major solar electric generating  
21 facilities proposed pursuant to Article 10.

1 Q. Have you provided testimony in any other  
2 proceedings as a member of Department Staff?

3 A. Yes. I have testified before the Commission as  
4 part of Department Staff's SIR Panels for  
5 numerous rate cases, including, most recently:  
6 Cases 19-G-0309 and 19-G-0310, KeySpan Gas East  
7 Corporation and Brooklyn Union Gas Company;  
8 Cases 18-E-0067 and 18-G-0068, Orange and  
9 Rockland Utilities, Inc.; and Cases 17-E-0459  
10 and 17-G-0460, Central Hudson Gas and Electric  
11 Corporation. I have also testified before the  
12 Commission regarding the water quality issues  
13 and environmental impacts of proposed major  
14 electric transmission projects in Cases 08-T-  
15 0034 and 10-T-0139.

16 Q. Mr. Moreno what is your position at the  
17 Department?

18 A. I am a Utility Engineering Specialist 3  
19 (Acoustics) in the Environmental Certification  
20 and Compliance section of the Office of  
21 Electric, Gas and Water.

1 Q. Please summarize your educational background and  
2 professional experience.

3 A. I attended the Pontifical Xaverian University in  
4 Bogota, Colombia and received a Bachelor of  
5 Science in Civil Engineering in 1986.  
6 Thereafter, I continued my education at  
7 Universidad del Norte in Barranquilla, Colombia  
8 and graduated with a Master of Business  
9 Administration degree in 1992. I have  
10 accumulated more than 20 years of experience in  
11 the field of acoustics and noise control. I  
12 owned and operated my own business in Colombia  
13 for about 13 years, where I worked as an  
14 acoustical consultant and acoustical contractor.  
15 I designed and built noise abatement solutions  
16 for emergency generators, industrial machinery,  
17 HVAC equipment, and interior acoustical designs  
18 for indoor spaces. I obtained extensive  
19 experience in noise control including noise  
20 surveys and computer simulations of aircraft  
21 noise for two international airports.

1           After my arrival to the United States, I was  
2           employed as a Senior Acoustical Consultant by an  
3           acoustical consulting firm in Washington D.C.,  
4           from October 2005 until May 2008. There, I  
5           analyzed sound surveys and performed computer  
6           noise modeling for roadways and highways and  
7           designed mitigation measures such as barriers  
8           and selected building envelope specifications  
9           for environmental noise control. I also  
10          designed noise control solutions for mechanical  
11          equipment and interior acoustics for indoor  
12          spaces for a variety of projects. From May 2008  
13          to June 2009, I was employed by an acoustical  
14          consulting company in Manhattan and worked for  
15          several acoustical and noise control projects  
16          including data centers and corporate projects.  
17          I joined the Department in November 2013. My  
18          duties include reviewing PSL Article VII and  
19          Article 10 pre-applications, applications,  
20          environmental noise assessments, noise surveys,  
21          and mitigation measures. I also review sound

1 collection protocols and witness sound  
2 measurements to ensure compliance with  
3 Certificate Conditions. I am a full-member of  
4 the Institute of Noise Control Engineering and  
5 an Associate member of the Acoustical Society of  
6 America.

7 Q. Mr. Moreno, which projects have you reviewed  
8 under PSL Article 10 and Article VII  
9 regulations?

10 A. Under Article VII regulations, I have reviewed  
11 the applications for the following certified  
12 cases: New York Power Authority, Case 13-T-0515;  
13 DMP New York, Inc. and Williams Field Services  
14 Company LLC, Cases 13-T-0538 and 13-T-0350; PSEG  
15 Power New York, Inc., Case 15-F-0040; and  
16 Consolidated Edison (Con Edison) Company of New  
17 York, Inc., Case 13-T-0586. I am currently  
18 assigned to numerous PSL Article 10 proceedings  
19 (and some potentially affiliated Article VII  
20 filings) regarding wind generating facilities at  
21 various stages including the following projects:

1 Cassadaga Wind, LLC, Case 14-F-0490; Lighthouse  
2 Wind, LLC, Case 14-F-0485; Baron Winds, LLC,  
3 Case 15-F-0122; Bull Run Energy, LLC, Case 15-F-  
4 0377; Eight Point Wind, LLC, Case 16-F-0062;  
5 Atlantic Wind, LLC, Case 16-F-0267; Canisteo  
6 Wind Energy, LLC, Case 16-F-0205; Number Three  
7 Wind, LLC, Case 16-F-0328; Heritage Wind, LLC,  
8 Case 16-F-0546; Bluestone Wind, LLC, Case 16-F-  
9 0559; Alle-Catt Wind Energy, LLC, Case 17-F-  
10 0282; Atlantic Wind, LLC, Case 16-F-0713; and  
11 High Bridge Wind, LLC, Case 18-F-0262. I am  
12 also assigned to multiple PSL Article 10  
13 proceedings (and some potentially affiliated  
14 Article VII filings) regarding solar generating  
15 facilities at various stages including the  
16 following projects: Hecate Energy Albany 1, LLC  
17 and Hecate Energy Albany 2, LLC, Case 17-F-0617;  
18 and Hecate Energy Greene 1 LLC, Hecate Energy  
19 Greene 2 LLC, and Hecate Energy Greene County 3  
20 LLC, Case 17-F-0619.

21 Q. Mr. Moreno, what is your role in reviewing

1 projects filed under Article 10 of the PSL?

2 A. My duties include the review of Preliminary  
3 Scoping Statements, stipulations and  
4 applications as they relate to the noise  
5 assessments and avoidance or minimization of  
6 environmental noise impacts from major electric  
7 generation facilities. My role regarding  
8 generating projects consists of reviewing  
9 application sections related to noise impact  
10 assessments from construction and operation of  
11 the facilities, which includes: pre-construction  
12 ambient noise surveys; analysis of existing or  
13 potential future prominent tones; noise modeling  
14 parameters; assumptions and results; amplitude  
15 modulation; low-frequency noise; infrasound;  
16 potential for hearing damage; indoor and outdoor  
17 speech interference; interference with the use  
18 of outdoor public facilities and public areas;  
19 community complaint potential or annoyance; and  
20 the potential for interference with  
21 technological, industrial, or medical activities

1 that are sensitive to vibration or infrasound.

2 I also review applicable noise standards and  
3 guidelines, local regulations on noise, design  
4 goals for the facilities, noise abatement  
5 measures, complaint and resolution plans for  
6 noise from construction and operation of  
7 proposed facilities and proposed post-  
8 construction noise evaluations and compliance  
9 for conformance with certificate conditions.

10 Q. Mr. Quackenbush, what is your position with the  
11 Department?

12 A. I am an Engineering Specialist 2 in the  
13 Environmental Certification and Compliance  
14 section of the Office of Electric, Gas and  
15 Water.

16 Q. Please summarize your educational background and  
17 professional experience.

18 A. I attended Hudson Valley Community College in  
19 Troy, New York and received an individual study  
20 Associate Degree, as well as an Associate Degree  
21 in Applied Science in Civil Engineering

1           Technology. Thereafter, I continued my  
2           education at the State University of New York  
3           Polytechnic Institute, formerly known as the  
4           State University of New York Institute of  
5           Technology in Utica, New York and graduated with  
6           a Bachelor of Science in Civil Engineering  
7           Technology. I was employed at CHA Consulting,  
8           Inc. (formerly Clough, Harbour, & Associates  
9           LLP) as a Design and Drafting Technician from  
10          2000 until November 2006. In February 2007, I  
11          joined the Department Staff of Electric  
12          Distribution Section in the Office of Electric,  
13          Gas and Water as a Utility Engineer, where I  
14          performed utility inspections to assess electric  
15          distribution infrastructure conditions,  
16          investigated various electric utility customer  
17          reliability complaints, and reviewed utility  
18          reliability reports. Since October 2009, I have  
19          worked as an Engineering Specialist 2 in the  
20          Environmental Certification and Compliance  
21          section in the Office of Electric, Gas and

1 Water. My duties include reviewing site plans,  
2 proposed major electric generating,  
3 transmission, and distribution facilities  
4 locations and utility routes, construction  
5 practices, and environmental control plans for  
6 various projects, including review of PSL  
7 Article VII and Article 10 applications.

8 Q. Mr. Quackenbush, have you previously testified  
9 before the Commission or the Siting Board?

10 A. Yes. I have testified before the Commission and  
11 the Siting Board in several cases regarding  
12 proposed electric infrastructure upgrades,  
13 electric power transmission routes, the siting  
14 of electric generation plants, electric rates,  
15 and research and development programs. One  
16 representative Article VII case includes Hudson  
17 Transmission Partners, LLC, Case 08-T-0034, in  
18 which I analyzed its proposed electric upland  
19 route in Manhattan, the constructability of the  
20 route, proposal of alternative routes, and  
21 construction practices. Additionally, I

1 reviewed routing and constructability issues  
2 pertaining to the granting of a Certificate  
3 through a Joint Proposal for the Champlain  
4 Hudson Power Express, Inc., Case 10-T-0139. I  
5 have provided testimony regarding  
6 decommissioning plans and provisions of proposed  
7 major electric generation facilities in cases  
8 14-F-0490, 14-F-0122, 16-F-0062, 16-F-0205, 16-  
9 F-0267, 16-F-0238, and 16-F-0559. Additionally,  
10 I testified as part of the Staff Policy Panel  
11 for Case 16-F-0267. I recently submitted  
12 testimony as part of the Staff Panel in Support  
13 of Settlement for the Mohawk Solar Project in  
14 Case 17-F-0182; the Coeymans Solar Farm, Case  
15 17-F-0617; East Point Energy Center, Case 17-F-  
16 0599; and High Bridge Wind, Case 18-F-0262.

17 Q. Please describe other roles you have in the  
18 review processes of Article VII and 10 Projects.

19 A. Currently, I am involved in reviewing and  
20 analyzing routing and construction methods for  
21 ongoing PSL Article VII and Article 10 projects

1 pending before the Commission or Siting Board,  
2 respectively, regarding major electric, wind,  
3 and solar generation projects at various pre-  
4 application and application stages. My primary  
5 role regarding major wind and solar electric  
6 generation projects involves review of proposed  
7 setback distances, preliminary design drawings,  
8 and general construction practices (including  
9 assembly and foundation work), electric  
10 collection lines and related transmission lead  
11 installations, access ways, and any associated  
12 building facilities. I also review the  
13 potential impacts related to transportation due  
14 to general construction and delivery activities  
15 during wind turbine and solar installations.  
16 Lastly, I review the various site restoration  
17 and decommissioning proposals for Article 10  
18 projects.

19 Q. Ms. Gillings what is your position with the  
20 Department?

21 A. My current position is in the Office of Consumer

1 Services as a Utility Consumer Program  
2 Specialist 4. My key responsibility in the  
3 Outreach and Education Unit is to promote  
4 consumer education regarding electric, natural  
5 gas, telecommunication and water utility  
6 services, and ensure opportunities for public  
7 participation in Commission and Siting Board  
8 proceedings.

9 Q. Have you ever provided testimony before the  
10 Commission or the Siting Board?

11 A. Yes. I provided testimony as part of the  
12 Consumer Services Panel for Case 14-F-0490,  
13 Cassadaga Wind; Case 15-F-0122, Baron Winds;  
14 Case 16-F-0328, Number Three Wind; Case 16-F-  
15 0062, Eight Point Wind; Case 16-F-0559,  
16 Bluestone Wind; Case 16-F-0205, Canisteo Wind;  
17 Case 17-F-0282, Alle-Catt Wind; Case 16-F-0267  
18 Atlantic Wind, DPS Staff Policy Panel and Office  
19 of Consumer Services direct testimony; and DPS  
20 Staff Policy Panel in Support of Settlement on  
21 Cases 17-F-0182, Mohawk Solar; 17-F-0617,

1 Coeymans Solar Farm; 17-F-0599, East Point  
2 Energy Center; and 18-F-0262, High Bridge Wind.

3 Q. Ms. Edmundson, what is your position with the  
4 Department?

5 A. I am employed as an Associate Economist in the  
6 Office of Market and Regulatory Economics.

7 Q. Please briefly discuss your related educational  
8 background and professional experience.

9 A. I received a Bachelor of Science Degree in  
10 Economics and a Bachelor of Arts Degree in  
11 Mathematical Sciences from Binghamton University  
12 in 2010. I received a Master of Science in  
13 Agricultural, Environmental, and Regional  
14 Economics from the Pennsylvania State University  
15 in 2012. I have been employed with the  
16 Department since 2012.

17 Q. Have you previously testified before the  
18 Commission or the Siting Board?

19 A. Yes. I testified before the Commission on  
20 management compensation and benefit issues in  
21 Cases 13-E-0030, 13-G-0031, 13-S-0032, 16-E-

1           0060, and 16-G-0061, regarding Consolidated  
2           Edison Company of New York, Inc. (Con Edison);  
3           Cases 15-E-0283, 15-G-0284, 15-E-0285, and 15-G-  
4           0286 regarding New York State Electric & Gas  
5           Corporation (NYSEG) and Rochester Gas and  
6           Electric Corporation (RGE); and Case 15-G-0382,  
7           St. Lawrence Gas Company, Inc. I testified as  
8           part of the Staff Sales Forecasting Panel in  
9           Case 16-E-0060, regarding Con Edison; and Case  
10          17-E-0238, regarding Niagara Mohawk Power  
11          Corporation d/b/a National Grid (Niagara  
12          Mohawk). I testified as part of the Staff  
13          Earnings Adjustment Mechanisms Panel in Case 17-  
14          E-0238, regarding Niagara Mohawk; Case 17-E-0459  
15          regarding, Central Hudson Gas & Electric  
16          Corporation; Case 18-E-0067 regarding, Orange  
17          and Rockland Utilities, Inc; Case 19-E-0065,  
18          regarding Con Edison; and Cases 19-E-0378, and  
19          19-E-0380 regarding NYSEG and RGE. I have also  
20          testified as part of the Staff Advanced Metering  
21          Infrastructure Panel in Cases 19-E-0378 and 19-

1 E-0380, regarding NYSEG and RGE. Additionally,  
2 I have testified before the Siting Board on jobs  
3 impact issues in Case 14-F-0490, Cassadaga Wind;  
4 Case 15-F-0122, Baron Winds; Case 16-F-0205,  
5 Canisteco Wind; and Case 17-F-0617, Coeymans  
6 Solar Farm.

7 Q. Is the Panel sponsoring any exhibits to  
8 accompany or support its testimony?

9 A. Yes, we are sponsoring two exhibits. Exhibit \_\_  
10 (SPSS-1) is the Applicant's confidential  
11 response to DPS IR 2. Exhibit\_\_(SPSS-2) is a  
12 letter from the New York State Office of Parks,  
13 Recreation, and Historic Preservation (OPRHP)  
14 State Historic Preservation Office (SHPO), dated  
15 November 8, 2019, indicating that no  
16 archaeological sites were identified within the  
17 Facility Site and that no additional  
18 archaeological work is required.

19 Q. Please summarize the scope of the Panel's  
20 testimony.

21 A. The Panel is presenting DPS Staff's overall

1            recommendations on whether the Siting Board can  
2            make the required findings pursuant to Article  
3            10 of the PSL under Section 168 necessary to  
4            grant a Certificate of Environmental  
5            Compatibility and Public Need (Certificate) to  
6            construct and operate the Facility. The Panel  
7            is also providing DPS Staff's recommendations on  
8            the stipulated Certificate Conditions proposed  
9            by the Applicant and several parties in this  
10           proceeding that should be considered and adopted  
11           by the Siting Board if a Certificate is issued.

12    Q.    What findings does PSL Section 168 require prior  
13           to the Siting Board granting a Certificate?

14    A.    The Siting Board shall not grant a Certificate,  
15           either as proposed or modified, without making  
16           explicit findings on the nature of the probable  
17           environmental impacts of the construction and  
18           operation of a major electric generation  
19           facility, including the cumulative environmental  
20           impacts of the facility and the related  
21           interconnection facilities, impacts to ecology,

1 air, ground and surface water, wildlife, and  
2 habitat; impacts to public health and safety;  
3 impacts to cultural, historic, and recreational  
4 resources, including aesthetics and scenic  
5 values; and impacts to transportation,  
6 communication, utilities and other  
7 infrastructure (the probable environmental  
8 impacts). Moreover, the Siting Board may not  
9 grant a Certificate for the construction and  
10 operation of a major electric generating  
11 facility, either as proposed or modified, unless  
12 the Siting Board determines that the facility is  
13 a beneficial addition or substitution for  
14 electric generation capacity of the State; the  
15 construction and operation of the facility will  
16 serve the public interest; and the adverse  
17 environmental effects of the construction and  
18 operation of the facility will be minimized or  
19 avoided to the maximum extent practicable. If  
20 the Siting Board finds that the facility results  
21 in or contributes to a significant and adverse

1 disproportionate environmental impact in the  
2 community in which the facility would be  
3 located, it must also find that the Applicant  
4 has avoided, offset or minimized the impacts  
5 caused by the facility upon the local community  
6 for the duration that the Certificate is issued  
7 to the maximum extent practicable using  
8 verifiable measures. The Siting Board must also  
9 find that the facility is designed to operate in  
10 compliance with applicable state and local laws  
11 and regulations, all of which shall be binding  
12 on the Applicant, except that the Siting Board  
13 may elect not to apply, in whole or in part, any  
14 local ordinance, law, resolution or other action  
15 or any regulation issued thereunder, or any  
16 local standard or requirement which would be  
17 otherwise applicable, if it finds that, as  
18 applied to the proposed facility, such is  
19 unreasonably burdensome in view of the existing  
20 technology or the needs of or costs to  
21 ratepayers, whether located inside or outside of

1           such municipality. Finally, in making its  
2           determinations, the Siting Board shall consider  
3           the state of available technology; the nature  
4           and economics of reasonable alternatives; the  
5           environmental impacts found; the impact of  
6           construction and operation of related  
7           interconnection facilities; the consistency of  
8           the construction and operation of the facility  
9           with the energy policies and long-range  
10          objectives contained in the most recent state  
11          energy plan; the impact on community character;  
12          whether the facility would affect communities  
13          that are disproportionately impacted by  
14          cumulative levels of pollutants; and such  
15          additional social, economic, visual or other  
16          aesthetic, environmental and other  
17          considerations deemed pertinent.

18    Q.    Please describe DPS Staff's review of the  
19          Application and subsequent filings in this case.

20    A.    In order to develop our positions, DPS Staff  
21          reviewed the Application; supplements to the

1           Application, including the Application Updates  
2           filed by the Applicant on May 15, 2020, and May  
3           22, 2020; discovery responses; and the proposed  
4           settlement documents stipulated to by DPS Staff  
5           and filed by the Applicant on July 17, 2020,  
6           including proposed Certificate Conditions,  
7           proposed Guidance for the Development of Site  
8           Engineering and Environmental Plans for the  
9           Construction of the High River Energy Center  
10          Project (SEEP Guide), and proposed High River  
11          Energy Center Noise Complaint Resolution  
12          Protocol (NCRP). The documents, stipulated to  
13          by DPS Staff, constitute the Settlement Package  
14          in this case.

15    Q.    How were the proposed Certificate Conditions  
16          developed?

17    A.    Following the Chair's determination that the  
18          Application, as supplemented, was compliant, the  
19          Applicant issued a Notice of Settlement in this  
20          case in an effort to address proposed  
21          Certificate Conditions. Through a series of

1 meetings and other communications, the proposed  
2 Certificate Conditions were developed and  
3 eventually stipulated to by the Settlement  
4 Parties in this case, including DPS Staff.  
5 Thereafter, the Applicant filed the proposed  
6 Certificate Conditions on July 17, 2020. DPS  
7 Staff supports the proposed Certificate  
8 Conditions as filed and without exception.  
9 Thus, DPS Staff recommends that the Siting Board  
10 could make findings in all areas without further  
11 recommendation or modification to the proposed  
12 Certificate Conditions.

13 Q. Please describe the proposed SEEP Guide  
14 document.

15 A. The proposed SEEP Guide is a set of guidelines  
16 for final engineering, construction, and  
17 environmental plans and details that should be  
18 required as a compliance filing for Siting Board  
19 review and approval prior to the construction  
20 and operation of the Facility. The purpose of  
21 the SEEP Guide is to establish a single filing,

1 or series of filings if Project construction  
2 will be performed in phases, that would satisfy  
3 the requirements of numerous individual  
4 compliance filings needed for construction, and  
5 to create a single package of plans and details  
6 for contractors and regulatory agencies. The  
7 component parts may be submitted sequentially  
8 based on construction phasing (see 16 NYCRR  
9 §1000.2(i)) or other rational basis subject to  
10 demonstration.

11 Q. Please describe the parties to this proceeding.

12 A. In addition to DPS Staff and the Applicant, the  
13 following are parties in this proceeding who  
14 have participated in settlement discussions: the  
15 Department of Environmental Conservation  
16 (NYSDEC), the Department of Agriculture and  
17 Markets (NYSAGM), Citizens for Responsible Solar  
18 Farm Placement (Citizens), and the Town of  
19 Florida (Town).

20 Q. Please describe the settlement discussions.

21 A. The settlement discussions included attending

1 settlement conferences and the review of the  
2 proposed Certificate Conditions and SEEP Guide  
3 previously described.

4 Q. Have each of the parties that participated in  
5 the settlement discussions agreed to the  
6 settlement?

7 A. No, Citizens and the Town have not indicated  
8 that they agree to the settlement or any part  
9 thereof. However, several parties did agree to  
10 sign-on to the settlement and that agreement  
11 will be memorialized in the Settlement Package.  
12 Those signatory parties may disagree with  
13 discrete conditions included in the proposed  
14 Certificate Conditions or portions of the  
15 proposed SEEP Guide. Where a party disagrees  
16 with a discrete portion of the Settlement  
17 Package, that party will note its respective  
18 exceptions upon executing the Settlement  
19 Package.

20 Q. Is DPS Staff taking exception to any portions of  
21 the Settlement Package?

1 A. No. DPS Staff has no exceptions.

2 Q. Please explain why the Panel recommends that the  
3 Siting Board adopt the proposed Certificate  
4 Conditions and proposed SEEP Guide.

5 A. The proposed Certificate Conditions and proposed  
6 SEEP Guide reflect extensive consultation among  
7 the Settlement Parties to identify conditions  
8 and guidance that would avoid, minimize, or  
9 mitigate environmental and other adverse impacts  
10 of the Project. These consultations resulted in  
11 agreements on conditions with respect to several  
12 issues, including: grassland bird impacts; noise  
13 impacts; decommissioning requirements; siting  
14 and construction protocols to minimize impacts  
15 to agricultural land uses; conditions for  
16 facility vegetation management; measures to  
17 avoid and protect known archeological resources,  
18 and responsive measures in the event of  
19 unanticipated discovery of additional  
20 archeological sites; details of protective  
21 measures for construction impacts on regulated

1 wetlands; offset provisions for impacts on  
2 historic resources, wetlands, and threatened and  
3 endangered (T&E) species; and avoidance of  
4 offsite exposure to glare from solar panels;  
5 among other measures. In addition, many of the  
6 proposed Certificate Conditions are  
7 administrative, or standard construction  
8 conditions and in the expert opinions of DPS  
9 Staff are reasonable for any major electric  
10 solar generation project. The Facility, as  
11 proposed here and modified pursuant to the  
12 proposed Certificate Conditions, would avoid,  
13 minimize, or reasonably offset the potential for  
14 the Project to result in adverse impacts in the  
15 following areas: Land Use, Visual Resources,  
16 Cultural Resources, Wetlands and Aquatic  
17 Resources, Terrestrial Ecology and Rare Species,  
18 Topography, Geology, Soils and Groundwater,  
19 Transportation and Communication, Noise, and  
20 Electromagnetic Fields, while fulfilling the  
21 objective of constructing and operating a 90-MW

1           generating capacity solar electric facility.  
2           Further, the proposed Certificate Conditions are  
3           generally consistent with Siting Board policy  
4           and precedent developed through certification  
5           proceedings for several wind energy projects;  
6           include specific provisions to address issues  
7           and concerns for solar facility construction and  
8           operation; and adequately address project-  
9           specific concerns. The proposed Certificate  
10          Conditions are supported by the record of this  
11          proceeding.

12    Q.    Does the Panel advise that the Application, as  
13           amended, and including all related supplemental  
14           filings and proposed Certificate Conditions, and  
15           pre-filed direct testimonies and exhibits,  
16           provides sufficient detail on the nature of the  
17           probable environmental impacts of the  
18           construction and operation of the Facility, for  
19           the Siting Board to render a determination?

20    A.    Yes. The Application, as originally presented  
21           by the Applicant, did not comply with all

1 Article 10 application requirements, or provide  
2 sufficient design or control measures for  
3 minimizing environmental impacts of the  
4 construction and operation of the Facility, or  
5 identify mitigation measures to address all  
6 potential adverse impacts. However, the  
7 Application, supplements and updates, discovery  
8 responses, and results of technical discussions  
9 and negotiations leading to the Settlement  
10 Package, provide sufficient detail on the nature  
11 of the probable environmental impacts of the  
12 Project. In addition, the proposed Certificate  
13 Conditions and compliance requirements contained  
14 in the SEEP Guide will impose reasonable  
15 controls that, if adopted and enforced, would  
16 enable the Siting Board to make the required  
17 findings that environmental impacts are  
18 minimized to the maximum extent practicable.

19 Electric Generation

20 Q. Does the Panel recommend that the Siting Board  
21 make a finding that the Project provides a

1           beneficial addition or substitution for electric  
2           generation capacity of the State?

3    A.    Yes.   DPS Staff recommends that the Siting Board  
4           find that the Project will result in a  
5           beneficial addition of electric generation  
6           capacity in the State.

7    Q.    Please explain further.

8    A.    DPS Staff does not dispute the Applicant's  
9           estimates of NYS electric energy market emission  
10          impacts, as provided in Exhibit 8 of its  
11          Application.  Environmental emission impacts are  
12          provided in the form of reductions of carbon  
13          dioxide (CO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), and nitrogen  
14          oxides (NO<sub>x</sub>), as shown in Exhibit 8, Table 8-1  
15          of the Application.  These impacts are  
16          consistent with DPS Staff's production modeling  
17          analysis.  The Applicant's production cost  
18          modeling also illustrates that the proposed  
19          Facility would have a de-minimus impact on the  
20          production from must-run units defined as  
21          existing wind, hydro, nuclear, and cogeneration,

1 in the 2023 study year, as shown in Exhibit 8,  
2 Table 8-4. These impacts are also consistent  
3 with DPS Staff's production modeling analysis.

4 Q. Does DPS Staff recommend that the Siting Board  
5 make a finding that the Facility provides  
6 consistency with energy policies and long-range  
7 objectives contained in the most recent state  
8 energy plan?

9 A. Yes. The Facility would provide benefits  
10 consistent with the State's policies regarding  
11 energy generation and more specifically,  
12 renewable energy generation. It would also help  
13 the State meet its regional greenhouse gas  
14 emissions goals.

15 Q. What is New York's current policy on renewable  
16 energy?

17 A. The Climate Leadership and Community Protection  
18 Act (CLCPA), signed into law by Governor Cuomo  
19 on June 18, 2019, establishes a clean energy  
20 mandate of 70 percent renewable electricity by  
21 2030 and 100 percent renewable electricity by

1           2040. Prior to the CLCPA, The Energy to Lead,  
2           2015 New York State Energy Plan (State Energy  
3           Plan), stated that 50 percent of electricity  
4           consumed in the State should be generated by  
5           renewable sources by 2030.

6    Q.    Are there any State-specific policies, plans or  
7           programs currently enacted to effectuate the  
8           State Energy Plan goal of 50 percent consumption  
9           from renewable energy by 2030?

10   A.    Yes. In Case 15-E-0302, Proceeding on Motion of  
11           the Commission to Implement a Large-Scale  
12           Renewable Program and a Clean Energy Standard,  
13           Order Adopting a Clean Energy Standard (issued  
14           August 1, 2016), the Commission established a  
15           Clean Energy Standard (CES) designed to  
16           encourage consumer-initiated clean energy  
17           investments; supports new renewable generation  
18           resources through regular solicitation of  
19           renewable energy credits (RECs) and obligates  
20           load serving entities to provide retail  
21           customers with increasing amounts of electricity

1 from new renewable generation sources; supports  
2 the maintenance of certain at-risk facilities;  
3 maximizes the value of potential new offshore  
4 wind resources; and supports the preservation of  
5 existing at-risk nuclear zero-emissions  
6 attributes to serve retail customers.

7 Q. Does the Project, as proposed by the Applicant,  
8 contribute to the goals as effectuated through  
9 the Renewable Energy Standard?

10 A. Yes. As proposed, the energy for this Project  
11 will be generated within the State of New York.  
12 The Project's renewable attributes will likely  
13 be sold to New York's load serving entities and  
14 energy from the Project will be delivered for  
15 consumption by New York customers.

16 Q. Is New York a member of any regional cap and  
17 trade system aimed at reducing greenhouse gas  
18 emissions?

19 A. Yes, New York is a member of the Regional  
20 Greenhouse Gas Initiative (RGGI) which is a  
21 regional marketplace that limits CO<sub>2</sub> emissions

1 through a cap and trade program.

2 Q. Does the Project help the State of New York  
3 contribute to a regional marketplace for  
4 greenhouse gas emissions reductions?

5 A. Yes. The direct benefits of CO<sub>2</sub> emissions  
6 reductions are realized through the broader  
7 regional marketplace that New York participates  
8 in through RGGI.

9 Q. Will the Project result in a considerable  
10 reduction of greenhouse gas emissions?

11 A. Yes. The Applicant forecasted the environmental  
12 impacts from the proposed commercial operation  
13 of the High River Energy Center, measured  
14 relative to a "business as usual" base-case  
15 (with the Facility not in-service) for the year  
16 2023. The Applicant's analysis estimated New  
17 York's impact on CO<sub>2</sub> emissions is a reduction of  
18 approximately 49,754 short tons, as shown in  
19 Exhibit 8, Table 8-1 of the Application. This  
20 estimated reduction in CO<sub>2</sub> emissions is  
21 consistent with DPS Staff's in-house production

1 modeling analysis.

2 Public Interest

3 Q. Does DPS Staff recommend that the Siting Board  
4 make a finding that construction and operation  
5 of the Facility would serve the public interest?

6 A. Yes, subject to the Siting Board adopting the  
7 Project modifications and conditions presented  
8 in the proposed Settlement Package, including  
9 the proposed Certificate Conditions to minimize  
10 the environmental and other adverse impacts of  
11 the Project.

12 Q. Please elaborate on these proposals.

13 A. If the Siting Board imposes the modifications  
14 and conditions presented in the proposed  
15 Certificate Conditions, as noted above the  
16 Project will result in environmental emissions  
17 benefits in the form of reductions of CO<sub>2</sub>, SO<sub>2</sub>,  
18 and NO<sub>x</sub>, as shown in Exhibit 8, Table 8-1 of the  
19 Application. The Project would also contribute  
20 towards the goals of the RGGI and advance other  
21 State Policy programs for increasing clean

1 electric energy production. Furthermore, the  
2 Project should provide additional income for  
3 participating property owners, additional real  
4 property tax revenues for the local taxing  
5 jurisdictions, short-term construction jobs and  
6 related construction-period expenditures, and  
7 some long-term operation and maintenance jobs.

8 Q. Based on the Application and its supplements, do  
9 there appear to be socioeconomic benefits  
10 associated with the proposed Project?

11 A. Yes. The construction and operation of the  
12 Facility will result in new direct jobs and  
13 wages paid in the immediate Montgomery County  
14 area.

15 Q. Are the Applicant's direct job impact estimates  
16 for the Project reasonable?

17 A. The Applicant's direct construction and  
18 operation job impact estimates, including the  
19 confidential estimate of direct jobs provided by  
20 the Applicant to the New York State Energy  
21 Research and Development Authority (NYSERDA),

1           which is contained in the Applicant's  
2           confidential response to the IR DPS-2 included  
3           in Exhibit \_\_ (SPSS-1), appear to be reasonable  
4           for the scale of the Project as compared to  
5           other New York State solar generation projects.  
6           However, because the job impact numbers are  
7           estimates, which may end up being inaccurate due  
8           to changes in Project timelines, budgets and/or  
9           other factors, Staff is supporting proposed  
10          Certificate Condition 28, which requires the  
11          Applicant to file with the Secretary, within one  
12          year after the Project becomes operational, a  
13          tracking report of the actual number of direct  
14          jobs created and payments to local jurisdictions  
15          made during the construction and operational  
16          phases of the Project.

17   Q.    Why is Staff proposing this recommendation?

18   A.    This after-the-fact tracking will allow Staff,  
19          the relevant Stakeholders, and the Siting Board  
20          to assess the accuracy of the estimated direct  
21          job impacts, and actual payments to local

1           jurisdictions, and will also enable Staff and  
2           the Siting board to ascertain the reasonableness  
3           of job impact estimates for other future major  
4           electric generation projects within the State.  
5           Moreover, this is consistent with several other  
6           Certificate Conditions adopted by the Siting  
7           Board in other Article 10 cases.

8           Environmental Impacts or Mitigation or Avoidance

9           Q.    Does DPS Staff recommend that the Siting Board  
10           make a finding that the adverse environmental  
11           effects of the Facility's construction and  
12           operation are minimized or avoided to the  
13           maximum extent practicable?

14          A.    Yes.  The Siting Board can find that the adverse  
15           environmental effects of construction and  
16           operation of the Facility are minimized or  
17           avoided to the maximum extent practicable,  
18           subject to the adoption of the modifications and  
19           conditions presented in the Settlement Package,  
20           including the proposed Certificate Conditions,  
21           as necessary to minimize the environmental and

1 other adverse impacts of the Project. As  
2 initially proposed by the Applicant, DPS Staff's  
3 opinion was that the Project did not minimize or  
4 avoid, to the maximum extent practicable,  
5 adverse environmental impacts. However, with  
6 the Project modifications, as well as the  
7 design, performance, and mitigation measures  
8 included in the proposed Certificate Conditions,  
9 which, among other things, propose measures to  
10 avoid, minimize or mitigate impacts to:  
11 wildlife; geology, wetlands and water resources;  
12 land uses, including adjoining residential  
13 properties and agricultural lands comprising the  
14 Facility Site; visual, historic and cultural  
15 resources; and potential noise receptors, DPS  
16 Staff recommends that the Siting Board can make  
17 the required findings. These conditions also  
18 include specific requirements for the filing,  
19 review, and approval of Compliance Filings  
20 including: clearing and grading plans; final  
21 construction plans; traffic control plans;

1 access road designs; visual resource controls  
2 including exterior lighting plans, site  
3 screening and planting plans; and environmental  
4 monitoring which will ensure that the Facility  
5 is constructed and operated in a safe and  
6 responsible manner.

7 Q. Please explain further how the Applicant has  
8 avoided and minimized impacts to wetlands,  
9 archeological resources, T&E species habitat,  
10 and agricultural resources.

11 A. The Applicant agreed to Facility design layouts  
12 that avoid and minimize wetlands, T&E species  
13 habitat, and agricultural resources to the  
14 maximum extent practicable. The proposed  
15 Facility design also takes into consideration  
16 constraints from archeological resources in the  
17 Project Area, and landowner preferences; direct  
18 effects on archeological and historic resource  
19 sites and cemeteries are avoided by detailed  
20 facility arrangement and establishment of  
21 resource buffers. Subject to adopting the

1 Settlement Package, the Siting Board can,  
2 accordingly, find that the Facility's  
3 construction and operation minimizes or avoids  
4 significant adverse impacts to environmental and  
5 cultural resources, community character, and  
6 natural resources including prime agricultural  
7 soils, wetlands and T&E species and habitats, to  
8 the maximum extent practicable.

9 Q. Has the Applicant avoided or minimized the  
10 impact to State-protected streams?

11 A. Yes. As noted in Exhibit 23 of the Application,  
12 there are no State-protected streams within the  
13 proposed Facility site that would be crossed or  
14 otherwise affected by the construction and  
15 operation of the Facility.

16 Q. What measures has the Applicant taken to avoid  
17 or minimize impacts to T&E species?

18 A. As indicated in Exhibit 22 of the Application,  
19 no federally or State-listed threatened or  
20 endangered grassland bird species were observed  
21 within the Study Area. Consequently, impacts to

1           federally or State-listed T&E grassland bird  
2           species are not anticipated. The Applicant has  
3           agreed to proposed Certificate Conditions to  
4           require restoration measures for temporary  
5           disturbance or modification of established  
6           grassland vegetation coverage that occurs at any  
7           time of year in the Project Area as a result of  
8           construction, restoration, or maintenance  
9           activities. Further, the proposed Certificate  
10          Conditions establish tree-clearing time of year  
11          restrictions and setbacks to avoid and minimize  
12          impacts to potential hibernacula and maternity  
13          roosts of T&E bat species. The proposed  
14          Certificate Conditions also include protocols  
15          for incidental observations of T&E species and  
16          discovery of T&E species nests or dead, injured  
17          or damaged T&E individuals.

18    Q.    Does DPS Staff recommend that the Siting Board  
19           make a finding that the Applicant has avoided,  
20           offset, or minimized the impacts caused by the  
21           Project upon the local community to the maximum

1 extent practicable using verifiable measures?

2 A. Yes. DPS Staff asserts that, as originally  
3 proposed, the Facility would not avoid,  
4 minimize, or provide offsets for impacts on the  
5 environment or the community to the maximum  
6 extent practicable. However, with the proposed  
7 Certificate Conditions agreed upon in the  
8 Settlement Package, DPS Staff believes the  
9 Siting Board can make the required findings and  
10 recommends that the Siting Board adopt these  
11 Conditions.

12 Q. Has the Applicant minimized the impact to the  
13 local community from noise generated by the  
14 Project?

15 A. Yes. DPS Staff believes that the potential  
16 adverse environmental noise impacts from  
17 operation of the Facility have been minimized  
18 with the design presented in the Application if  
19 the Siting Board adopts the proposed Certificate  
20 Conditions on noise and vibration, the SEEP  
21 Guide provisions on noise, and the NCRP

1 (collectively, the Noise Package), contained in  
2 the Settlement Package filed by the Applicant.

3 Q. What are the anticipated sound impacts from the  
4 Facility as designed and as presented in the  
5 Application?

6 A. The Application shows that the Project, as  
7 designed, will produce a maximum daytime sound  
8 level of 44 dBA at participating residences and  
9 42 dBA at non-participating residences. The  
10 Application also shows that the Project will  
11 produce a maximum nighttime sound level of 35  
12 dBA at participating residences and 39 dBA at  
13 non-participating residences. The maximum sound  
14 level at boundary lines and portions of non-  
15 participating lands is estimated to be 50 dBA  
16 during the daytime from the  
17 inverters/transformer packages and 49 dBA during  
18 the nighttime from the substation transformers.

19 Q. What is the scope of the proposed Certificate  
20 Conditions concerning noise stipulated to for  
21 this Project?

1 A. The parties stipulated to proposed Certificate  
2 Conditions that contain noise limits for non-  
3 participating residences, non-participating  
4 portions of lands, and for participating  
5 residences that reasonably limit the daytime and  
6 nighttime impacts from noise. Proposed  
7 Certificate Conditions also include provisions  
8 for construction noise and refer to the NCRP,  
9 which contains provisions about how complaints  
10 from construction and operation of the Facility  
11 will be filed, documented, handled, reported,  
12 and resolved, should they occur. Also, the SEEP  
13 Guide specifications on noise contain specific  
14 provisions about how the final computer noise  
15 modeling and tonality assessment will be  
16 presented during Compliance Filings. The  
17 proposed Noise Package will ensure that adverse  
18 environmental effects from noise will be  
19 minimized to the maximum extent practicable.

20 Q. Do the proposed Certificate Conditions and SEEP  
21 Guide include a post-construction sound test?

1 A. No. Based on the estimated sound impacts from  
2 the design and the Noise Package agreed to by  
3 the Applicant, the Project does not require a  
4 post-construction sound test at the most  
5 impacted participating and non-participating  
6 residences during the first year of operation  
7 (during leaf-on and leaf-off seasons), as has  
8 been previously adopted for wind generating  
9 facilities under Article 10. Instead, the  
10 Applicant has agreed to present final design and  
11 computer noise modeling 60 days prior to the  
12 start of construction to demonstrate that the  
13 final design, including any changes to the  
14 design presented in the Application, complies  
15 with all proposed Certificate Conditions on  
16 noise. The Applicant has agreed to perform the  
17 modeling and calculations by following the  
18 provisions included in the section entitled  
19 "Sound" in the proposed SEEP Guide. In  
20 addition, the Applicant has agreed to follow the  
21 NCRP to investigate noise complaints during

1 construction and operation, perform noise  
2 measurements, and reduce sound levels or provide  
3 mitigation, if necessary.

4 Q. What does DPS Staff recommend on noise impacts?

5 A. DPS Staff recommends that the Siting Board adopt  
6 proposed Certificate Conditions 44 through 46,  
7 49, 75 through 77, 83, and 84 (a), the SEEP  
8 Guide protocols on noise, and the NCRP so that  
9 the adverse environmental noise effects from the  
10 operation of the Facility are minimized or  
11 avoided to the maximum extent practicable.

12 Q. Are there other areas where the Siting Board  
13 should consider adverse environmental impacts?

14 A. Yes. The Siting Board should also consider the  
15 potential adverse environmental impacts  
16 associated with decommissioning and site  
17 restoration.

18 Q. Has the Applicant minimized or avoided probable  
19 adverse environmental effects from the  
20 construction and operation of the Facility?

21 A. Yes. If the Siting Board adopts the proposed

1 Certificate Conditions and SEEP Guide, it can  
2 make the required findings that adverse  
3 environmental effects of construction and  
4 operation of the Facility will be avoided or  
5 minimized to the maximum extent practicable. As  
6 part of proposed Certificate Condition 51, the  
7 Applicant has committed to providing, as a  
8 compliance filing, a final "Decommissioning  
9 Plan" and proving financial assurance in the  
10 form of a letter of credit to be held by the  
11 Town of Florida.

12 Q. Please explain the "Decommissioning Plan"  
13 further.

14 A. The "Decommissioning Plan" will be required to  
15 include an estimate based on final Facility  
16 design. The proposed Certificate Conditions as  
17 stipulated prohibit the inclusion of salvage  
18 value of Project components as decommissioning  
19 cost offsets in this estimate. Furthermore,  
20 this estimate will be updated by a qualified  
21 independent engineer licensed to practice

1           engineering in the State of New York to reflect  
2           inflation and any other changes after one year  
3           of Facility operation and every fifth year  
4           thereafter. Such estimates will be submitted to  
5           the Secretary as a compliance filing. As part  
6           of that filing, the Applicant must file proof  
7           that a letter of credit has been obtained based  
8           on the final decommissioning and site  
9           restoration and updated estimates along with  
10          copies of agreements between the Applicant  
11          (Certificate Holder) and the Town of Florida,  
12          establishing a right for the Town to draw on the  
13          financial security. Also, the Plan will include  
14          procedures and timeframes for providing notice  
15          to the Town of Florida, NYSDEC, NYSAGM, and  
16          participating landowners prior to commencement  
17          of decommissioning activities and will describe  
18          provisions for decommissioning and restoration  
19          activities within former agricultural land in  
20          accordance with Solar Energy Projects -  
21          Construction Mitigation for Agricultural Lands

1 (Revision 10/18/2019). Finally, as required in  
2 proposed Certificate Condition 51,  
3 decommissioning will commence if the Project has  
4 not generated electricity for a period of 12  
5 continuous months, unless the period of no  
6 energy output is a result of repair or  
7 restoration activities being diligently pursued,  
8 in which case the Certificate Holder may  
9 petition the Secretary for additional time to  
10 conduct repairs, or similar activities, as  
11 detailed in Certificate Condition 140.

12 Q. Did the Applicant request any waivers of local  
13 laws related to decommissioning?

14 A. Yes, the Applicant requests that a portion of  
15 Article VIII Section 45.5.C.3.j of the Town of  
16 Florida Zoning Ordinance be waived, which states  
17 that "[u]pon abandonment or discontinuance of  
18 use, the system owner or operator shall in  
19 addition to complying with the decommissioning  
20 plan, assure, if not part of the approved  
21 decommissioning plan, physical removal of the

1           Solar Energy System, and all accessory  
2           structures and/or equipment within 90 days from  
3           the date of abandonment or discontinuance of use  
4           (Decommissioning Schedule)."

5   Q.   What justification did the Applicant provide in  
6           supporting the above noted waiver request?

7   A.   As explained in Exhibit 31 of the Application,  
8           the Applicant notes that the decommissioning  
9           process is expected to take approximately four  
10          to six months; and decommissioning a solar  
11          facility as large as the Project takes  
12          significant effort, including preparation,  
13          disassembling components, and removing access  
14          roads. It cannot be done safely and completely  
15          within 90 days. Furthermore, the Applicant  
16          requests that the Board elect not to apply the  
17          90-day requirement because the necessary  
18          facility component bulk and materials make  
19          compliance technologically impossible.

20   Q.   What is DPS Staff's recommendation regarding the  
21          waiver of Article VIII Section 45.5.C.3.j,

1           pertaining to the Decommissioning Schedule, of  
2           the Town of Florida Zoning Ordinance?  
3    A.    DPS Staff recommends that the Siting Board waive  
4           the local law requirement regarding that  
5           completion of decommissioning and site  
6           restoration be done within 90 days of  
7           abandonment or discontinuance of use of the  
8           Facility, as it believes the local law is  
9           unreasonably burdensome.  The proper removal of  
10          a large-scale solar generation plant is a  
11          significant construction project; and requiring  
12          the completion of such an undertaking in a  
13          shorter duration of time than anticipated by the  
14          individuals that prepared the estimate of 4 to 6  
15          months is not prudent.  The dismantling of  
16          potentially dangerous electrical equipment and  
17          other decommissioning and site restoration  
18          activities should be done in a safe and thorough  
19          manner.  Therefore, DPS Staff recommends that  
20          the Siting Board grant the Applicant's requested  
21          waiver of Article VIII Section 45.5.C.3.j,

1           pertaining to the Decommissioning Schedule, of  
2           the Town of Florida's Zoning Ordinance.

3   Q.    Is there anything further the Siting Board  
4           should consider related to decommissioning?

5   A.    Yes.  The proposed Certificate Conditions and  
6           requirements for the "Decommissioning Plan" are  
7           consistent with DPS Staff's position in prior  
8           cases and prior Siting Board orders.  Provisions  
9           and requirements included in proposed  
10          Certificate Condition 51 are consistent with DPS  
11          Staff's recommendations for past Article 10  
12          cases and Siting Board orders, in for example,  
13          Cases 14-F-0490, 15-F-0122, 16-F-0062, 16-F-  
14          0205, 16-F-0328, and 16-F-0559.

15   Visual Impacts

16   Q.    What does the Application demonstrate and  
17           conclude regarding solar photo-voltaic panel  
18           glint and glare exposure and mitigation?

19   A.    The Glint and Glare analysis (Application Appx.  
20           24-2) follows the Sandia National Laboratories  
21           Solar Glare Hazard Analysis Tool (SGHAT)

1 methodology and adopts recommendations for  
2 determining significance of predicted exposure  
3 from a guidance document published by Pager  
4 Power that concludes that 60 hours of exposure  
5 annually is a threshold of significance (based  
6 on industry standard of 30 hours annual  
7 residential exposure to shadow flicker resulting  
8 from wind turbine operation). DPS notes that  
9 literature regarding assessment of residential  
10 exposure to solar glare is limited; and that  
11 other publications referred to in the assessment  
12 make general statements about the limited amount  
13 of glare from solar panels rather than providing  
14 any detailed assessment of operational  
15 experience. DPS advises, however, that the  
16 Glint and Glare analysis provides analysis for  
17 the few residential locations predicted to  
18 potentially be exposed to glare between 30 and  
19 60 hours and identifies specific locations of  
20 landscape screening that should reduce or avoid  
21 those potential exposures. These provisions

1           should be implemented to provide mitigation as  
2           predicted. In addition, DPS advises that  
3           provisions of the proposed Certificate  
4           Conditions can be applied to effectively respond  
5           to landowner requests for additional relief  
6           should exposure impact exceed Applicant  
7           predictions: proposed Certificate Condition  
8           60(g), providing for remedial mitigation (or  
9           complaint resolution), should be interpreted to  
10          apply to residences experiencing solar glare, as  
11          well as for minimization of visibility of  
12          Facility visibility generally.

13    Q.    What other provisions for visual impact  
14          minimization and mitigation are recommended to  
15          be implemented?

16    A.    Several measures are recommended to be required  
17          conditions of certification, and final facility  
18          design plans as reflected in recommended  
19          Compliance Filings included in the SEEP Guide  
20          and should be adopted as recommended by  
21          Settlement Documents. Proposed Certificate

1           Conditions addressing visual impacts include:  
2           Condition 55, which requires final Exterior  
3           Lighting Plans including provisions for avoiding  
4           off-site light trespass and minimizing lighting  
5           effects generally; Condition 60 as described  
6           above; Condition 74 that implements mitigation  
7           measures for cultural resource impacts including  
8           final recommendations by the SHPO for impacts on  
9           Historic Resources; and Condition 86, which  
10          generally requires minimization of existing tree  
11          and vegetation clearing as part of final  
12          Facility design. Also, the recommended SEEP  
13          Guidance document includes details applicable to  
14          visual mitigation measures. Applicable SEEP  
15          provisions for visual impact mitigation include:  
16          Detail vegetation screening mitigation plans  
17          (1.e., p. 1;) Exterior lighting plan (1.o., p.  
18          5); vegetation protection measures (3.h., p. 6)  
19          and (13.a. & b., p. 9); and Landscape and  
20          Screening Plan (14.a. p. 17-18).

21          State and Local Laws

1 Q. Does the Application identify applicable New  
2 York State Laws and regulatory requirements?

3 A. Yes, Exhibit 32 lists provisions of NYS laws and  
4 regulations.

5 Q. Does DPS Staff recommend that the Siting Board  
6 make a finding that the Facility is designed to  
7 operate in compliance with applicable State laws  
8 and regulations?

9 A. Yes, subject to the Siting Board adopting the  
10 proposed Certificate Conditions filed by the  
11 Applicant. In addition, the following must be  
12 demonstrated in the final Facility design,  
13 construction plans and compliance filings:  
14 protection of archeological resources;  
15 conformance with water quality standards and  
16 permitting standards for State-protected water  
17 bodies and State-regulated wetlands; an approved  
18 Stormwater Pollution Prevention Plan to  
19 demonstrate conformance with State Pollution  
20 Discharge Elimination Standards; and if  
21 required, compliance with provisions addressing

1 incidental take of a threatened species at 6  
2 NYCRR Part 182 and development of a final net  
3 conservation benefit plan.

4 Q. Has the project been proposed to avoid or  
5 minimize adverse effects on cultural resources,  
6 including archeological resources and historic  
7 properties?

8 A. The Application Exhibit 20 and supporting  
9 documents provide information regarding results  
10 of studies for archeologic and historic  
11 resources. The archeologic resources study  
12 included Phase 1A and 1B reports that provided  
13 review of reports regarding known resources in  
14 the Project Area, and results of field studies  
15 including test pit excavations and analyses. As  
16 demonstrated in its letter dated November 8,  
17 2019, included as Exhibit\_\_(SPSS-2), OPRHP SHPO  
18 reviewed the archeologic test results for the  
19 original Project layout and issued a  
20 determination based on the Study that "No  
21 archaeological sites were identified. It is

1 OPRHP's opinion that no additional  
2 archaeological work is necessary."  
3 Subsequently, the Applicant updated the Project  
4 by adding a property and revising some facility  
5 locations as described in the May 15, and May  
6 22, 2020 filings. The May 22, 2020 Exhibit 20  
7 update reports that desktop Phase 1A  
8 archeological resource review of the additional  
9 property area was performed; and stated that  
10 additional Phase 1B field work was needed for  
11 areas proposed for Facility components including  
12 fencing, access roads, inverter locations and  
13 areas requiring tree clearing (Exhibit 20 May  
14 22, 2020 Update p. 5). The Update report also  
15 states that the Phase 1B field investigations  
16 will be conducted as soon as possible now that  
17 New York on Pause restrictions are lifted, and  
18 the results will be submitted following analysis  
19 (Exhibit 31 May 22, 2020 Update p. 6).

20 Q. Have the updates to the Phase 1B report been  
21 provided?

1 A. Yes, DPS received a copy of the High River Phase  
2 1B Addendum Report on July 15, 2020. This  
3 report was provided to SHPO Cultural Resources  
4 Information Service (CRIS) as follow-up to the  
5 Project file regarding the additional Phase 1B  
6 field work recommended by the Applicant in the  
7 May 22, 2020 Update and based on other  
8 refinements of the Facility design. DPS notes  
9 that the Phase 1B Addendum includes a  
10 recommendation that essentially concludes that  
11 the limited artifact finds are in areas of minor  
12 proposed disturbance (within areas of proposed  
13 solar arrays) and are of little significance and  
14 are "recommended as ineligible for inclusion in  
15 the National Register of Historic Places (NRHP)  
16 and no further archaeological investigations are  
17 recommended." (Phase 1B Addendum p. 34).

18 Q. What about review of potential impacts on  
19 Historic Architectural Resources: has there been  
20 any determination regarding potential effects of  
21 the proposed facilities on Historic resources?

1 A. The Application provides a detailed report  
2 regarding Historic Architectural resources in  
3 the Project area, including consideration of  
4 direct impacts on potentially historic  
5 properties, and potential visibility of the  
6 Project from the buildings and properties that  
7 were reviewed. (Application Ex. 20, Appendix  
8 20-2). The Applicant's cultural resources  
9 consultants recommend in that report that there  
10 are no direct effects on historic resources  
11 identified, and recommends findings be made that  
12 the Project will have no effect on the resources  
13 within the Area of Potential Effect either  
14 listed, previously-determined Eligible, and  
15 recommended Eligible historic resources in  
16 terms of criteria for NRHP listing.  
17 (Application Update May 22, 2020; Appendix 20-2;  
18 page 89.) That recommendation by the  
19 consultants is supported by the report with  
20 resource-specific considerations at pp. 89-107.  
21 The Historic Resources suggests no effects of

1 Project visibility on those properties.  
2 (Appendix 20-2). As described above for  
3 archeological resources, additional review of  
4 historic resource effects due to the additional  
5 property identified in the May 15 and 22, 2020  
6 Application Update, additional analysis and  
7 assessment was recommended by the consultants.  
8 The Applicant provided to DPS Staff a  
9 supplemental report titled Historic  
10 Architectural Resources Survey and Effects  
11 Report for the updated layout on July 16, 2020.  
12 The Report was submitted to the OPRHP SHPO for  
13 thorough review and development of an effect  
14 determination and recommendations. DPS advises  
15 that on August 31, 2020, SHPO provided a letter  
16 in response to the July 16, 2020 Report,  
17 indicating that the Office had "concluded its  
18 review of the undertaking" and "found that no  
19 additional archaeological survey is warranted  
20 for this project. We have also assessed  
21 potential, impacts to historic buildings and

1 districts. Based upon our review we have  
2 identified a total of nine historic resources,  
3 including the NYS Barge Canal National Historic  
4 Landmark District. After reviewing the  
5 previously submitted visual assessment report,  
6 we found none of the identified resources will  
7 be impacted by this undertaking." (OPRHP  
8 Historic and Cultural Resources Finding 2020).

9 Q. Is this review subject to State Parks,  
10 Recreation and Historic Preservation Act §14.09?

11 A. The Article 10 Application indicates that  
12 federal permitting by the US Army Corps of  
13 Engineers is anticipated; thus, federal agency  
14 review, pursuant to National Historic  
15 Preservation Act §106 applies. Regardless of  
16 that distinction, the Article 10 regulations  
17 require showings and impact characterizations,  
18 and the Siting Board generally considers  
19 cultural resource impacts and impact avoidance  
20 and mitigation considerations in considering the  
21 public interest. The Applicant has proposed to

1           adopt certain measures for: avoiding direct  
2           impacts to known resources; avoiding  
3           construction in areas that have not been  
4           reviewed for cultural resource impacts;  
5           addressing unanticipated archeological resources  
6           discovered during construction; and providing  
7           offset mitigation for historic resource impacts.  
8           These provisions are included in proposed  
9           Certificate Condition 74.

10   Q.    Does the Application adequately address visual  
11           resources and impact minimization?

12   A.    Application Exhibit 24 and the supporting Visual  
13           Impact Assessment (Appendix 24-1 - "VIA") and  
14           Glint and Glare Analysis (Appendix 24-2) address  
15           the impact analysis and mitigation requirements  
16           of the Article 10 regulations and the  
17           Stipulation regarding Application requirements.  
18           The VIA provides information including: viewshed  
19           mapping which indicates areas of predicted  
20           Facility visibility in relation to various  
21           receptor locations of potential visual interest;

1 photo-simulations of predicted Facility  
2 appearance from several representative receptor  
3 locations; contrast assessment of effect of  
4 change in the existing views; and effect of  
5 visual mitigation measures including landscape  
6 screen plantings. In addition, the Application  
7 addresses Project operational effects, including  
8 preliminary exterior lighting plans for  
9 substation and switchyard sites, and the  
10 assessment of areas of exposure to potential  
11 glint and glare of reflected sunlight from solar  
12 panel collector surfaces. These analyses  
13 suggest that reasonable efforts have been made  
14 to identify potential impacts, and that measures  
15 for impact reduction have been identified.

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1 Q. Does DPS Staff recommend that the Siting Board  
2 make a finding that the Project is designed to  
3 operate in compliance with applicable  
4 substantive provisions of local laws and  
5 regulations?

6 A. As indicated in Exhibit 31 of the Application of  
7 the Application, the Applicant has requested  
8 that the Siting Board elect not to apply eleven  
9 substantive requirements of the Town of  
10 Florida's Zoning Ordinance.

11 Q. Does the Panel agree that those eleven specified  
12 requirements of the Town of Florida's Zoning  
13 Ordinance include substantive provisions that  
14 warrant consideration for waiver?

15 A. Yes. The Application presents analysis to  
16 demonstrate that the substantive provisions of  
17 those Sections of the Town of Florida's Zoning  
18 Ordinance are unreasonably restrictive based on  
19 the state of technology and the needs of New  
20 York consumers based on the mandates for clean  
21 energy in the New York State CLCPA and the Clean

1 Energy Standard. The Applicant's request for  
2 waivers are reasonably supported by the analysis  
3 provided in Application Exhibit 31(e)  
4 (Application Ex. 31(e), pp. 5-20), as required  
5 by the applicable Article 10 regulations.

6 Q. Has the Applicant requested delegation of  
7 permitting authority for any aspect of the  
8 proposed project?

9 A. Yes, at Exhibit 31(c), the Application requests  
10 that the Siting Board delegate Building Code  
11 review to the Town of Florida for permit  
12 administration by either the Town Code  
13 Enforcement officer or qualified consultants to  
14 the Town. The Applicant requests that this  
15 delegation specify that intervenor funding not  
16 be used to support permit or review fees for  
17 this review. Staff does not object to such  
18 delegation as requested.

19 Public Involvement

20 Q. What does Article 10 require in terms of public  
21 involvement?

1 A. Article 10 regulations mandate that an applicant  
2 actively seek public involvement throughout the  
3 Article 10 process, including planning, pre-  
4 application, certification, compliance and  
5 implementation phases.

6 Q. For what purpose?

7 A. It is the policy of the Siting Board to enable  
8 the public to participate in the decisions that  
9 affect their health, safety and the environment.  
10 The goal is to facilitate communication between  
11 applicants and interested or affected  
12 stakeholders; solicit public comments, ideas and  
13 local expertise; provide timely notice of  
14 proposed project milestones and events; and to  
15 encourage the public and interested parties to  
16 engage in the process and provide input into key  
17 decisions. A robust public involvement program  
18 will ensure that the Siting Board is aware of  
19 stakeholder concerns when deciding whether to  
20 award a Certificate of Environmental  
21 Compatibility and Public Need to the Applicant.

1 Q. How does public involvement become part of the  
2 Article 10 process?

3 A. Applicants are expected to communicate with the  
4 public early in the process and establish a  
5 community presence. The Article 10 regulations  
6 at 16 NYCRR §1000.4 require applicants to  
7 develop and implement a public involvement  
8 program (PIP) plan. The PIP must include  
9 consultation with affected agencies and other  
10 stakeholders; pre-application activities to  
11 encourage stakeholder participation at the  
12 earliest opportunity, as well as activities  
13 during certification and compliance; activities  
14 to educate the public about the proposed project  
15 and the Article 10 process; and the  
16 establishment of a project website to  
17 disseminate information to the public.

18 Q. Did the Applicant for the High River Energy  
19 Center Project develop a PIP Plan?

20 A. Yes. The Applicant filed a PIP Plan with the  
21 Department in September 2017. Staff reviewed

1 the plan and the Applicant filed a revised PIP  
2 Plan in November 2017.

3 Q. What elements were included in the Applicant's  
4 PIP Plan?

5 A. The Applicant stated in the PIP Plan that it had  
6 identified several categories of stakeholders  
7 that may be interested or affected by the  
8 Project, including affected federal, state and  
9 local agencies, municipalities and school  
10 districts in the facility and study areas, host  
11 and adjacent landowners, legislative  
12 representatives, highway departments, emergency  
13 responders, utilities, public interest groups,  
14 area residents, airports and heliports and other  
15 stakeholders based on DPS guidance, experience  
16 in developing other projects, knowledge of its  
17 local representatives to identify potential  
18 stakeholders, review of Montgomery County GIS  
19 data, tax records, personal visits to project  
20 and study areas, and consultation with  
21 environmental/regulatory counsel in addition to

1           its research efforts. The PIP Plan described  
2           how the Applicant planned to foster  
3           participation in the Article 10 process by  
4           disseminating Project information using the  
5           stakeholder list, soliciting knowledge through  
6           consultation with affected agencies and  
7           stakeholders, and conducting activities designed  
8           to educate the public about the Project, the  
9           process and intervenor funding opportunities.  
10          The Applicant established a Project website,  
11          document repositories, and a toll-free telephone  
12          number for public access to Project information.  
13          Throughout the process, the Applicant has  
14          completed a log recording its consultation and  
15          outreach activities covering the period May 2018  
16          through November 2019. The logs are included in  
17          the High River Energy Center case file (Case  
18          number 17-F-0597) on the Department's website  
19          at, [www.dps.ny.gov](http://www.dps.ny.gov).

20    Q.    Throughout the pre-application, scoping and  
21          application phases, did the Applicant implement

1 a public involvement program as described in the  
2 PIP Plan?

3 A. Yes. The Applicant encouraged participation from  
4 municipal officials and affected local, state  
5 and federal agencies, and as evidenced in the  
6 meeting tracking logs, sought input from these  
7 stakeholders. In addition, the Applicant  
8 communicated with other stakeholders by  
9 telephone, letter, email, and in-person  
10 meetings. The Applicant also hosted two open  
11 houses for the public on August 29, 2018, at the  
12 Town of Florida, Town Hall prior to the  
13 submittal of the Preliminary Scoping Statement  
14 on November 16, 2018, and on September 12, 2019,  
15 at the Fonda Fairground, Scott Hall, prior to  
16 the Application filing on October 10, 2019. The  
17 Applicant posted notice of the open house  
18 meetings in the local newspapers of record and  
19 on its website and sent notification letter to  
20 stakeholders. The Applicant also attended Town  
21 and County Board Meetings which were open to the

1 public. The Applicant provided access to  
2 Project information through the Project website  
3 and the establishment of local document  
4 repositories.

5 Q. In addition to the PIP plan developed and  
6 implemented by the Applicant, did the Siting  
7 Board conduct other public involvement  
8 activities?

9 A. Yes. As part of the Document and Matter  
10 Management (DMM) system on the Department's  
11 website, the Department maintains a list of  
12 parties to the case, as well as individuals and  
13 organizations that request to be informed of  
14 Project filings.

15 Q. How does the Siting Board use the party list and  
16 service list?

17 A. The individuals and organizations on the party  
18 and service lists are advised, by mail or email,  
19 of filings, rulings, and notices of Project  
20 milestones, such as the availability of  
21 intervenor funding. The lists are also used to

1 inform parties of Project activities, such as  
2 comment periods, procedural conferences,  
3 technical conferences, and public statement  
4 hearings.

5 Q. Has the Siting Board issued press releases or  
6 conducted mailings concerning public statement  
7 hearings about the Project?

8 A. The Siting Board issued a letter on March 13,  
9 2020, that the Application was deemed complete  
10 and that on or about May 6, 2020, a public  
11 statement hearing will commence. Due to the  
12 COVID-19 pandemic, public statement hearings  
13 were not scheduled. However, the public has a  
14 variety of ways that they can have their  
15 concerns communicated to the record in this  
16 proceeding. Members of the public that desired  
17 to make a statement could do so by mail, e-mail,  
18 telephone hotline, or go directly to DPS DMM  
19 system tab to place their public comments.

20 Q. Besides the development and implementation of  
21 the PIP plan, are there other ways for the

1 public to be involved in an Article 10 process?

2 A. Yes. Applicants are required at several stages  
3 in the Article 10 process to provide funds to be  
4 used by parties that participate in the Article  
5 10 process. The funds, known as "intervenor  
6 funds," are collected by assessing a fee on the  
7 Applicant. The fee, as set forth by PSL §163(4)  
8 and §164(6), varies depending on the stage of  
9 the project: applicants submitting a PSS are  
10 assessed a fee equal to \$350 for each megawatt  
11 (MW) of generating capacity of the project with  
12 a cap of \$200,000. When an application is  
13 filed, a fee of \$1,000 per 1 MW generation  
14 capacity is assessed on the applicant, with a  
15 cap of \$400,000. Additional fees may be  
16 assessed if the applicant revises the  
17 application requiring additional scrutiny or to  
18 ensure an adequate record for the Siting Board's  
19 review. Upon filing the PSS and Application,  
20 the Applicant submitted intervenor fees of  
21 \$31,500 and \$90,000, respectively.

1 Q. How do the intervenor funds ensure public  
2 participation in the process?

3 A. The intervenor funds can be used to help defray  
4 expenses incurred by municipalities and local  
5 parties that participate in the scoping process  
6 and in the proceeding to consider the  
7 application. The funds can be used to pay for  
8 expert witnesses, consultants and legal fees.

9 Q. Have intervenor funds been assessed and awarded  
10 in this proceeding?

11 A. Yes. The Town and Citizens were awarded pre-  
12 application and application stage funding. The  
13 intervenors have been granted awards to ensure  
14 their constituents are represented in the  
15 Article 10 process and that the Siting Board has  
16 a complete record on which to base their  
17 decision regarding the facility.

18 Q. Will there be additional public involvement and  
19 education requirements during the certification  
20 and compliance stages of the Article 10 process?

21 A. Yes. There are public involvement procedures

1 identified in the Project Application regarding  
2 notifying the public of project milestones and  
3 site activities, as well as development and  
4 implementation of a complaint resolution plan.  
5 In addition, the proposed Certificate Conditions  
6 identified in the testimony of the Staff Policy  
7 Panel include conditions that the Certificate  
8 Holder is required to meet regarding public  
9 notifications and complaint resolution  
10 procedures. These conditions will ensure that  
11 complaints regarding the facility are handled  
12 consistently and that the public will continue  
13 to receive information about the project. They  
14 are reasonable for a project of this type and  
15 should be adopted by the Siting Board.

16 Q. Have there been public comments submitted to the  
17 Siting Board regarding the proposed Project?

18 A. Yes. There have been approximately 159 public  
19 comments, including comments submitted as group  
20 petitions, throughout the process to date,  
21 beginning in August 2018, and continuing through

1 December 2019.

2 Q. Did Department Staff review public comments  
3 received by the Siting Board about the High  
4 River Energy Center Project?

5 A. Yes. Staff reviewed comments received through  
6 various means such as DMM filings, letters, and  
7 e-mails to the Siting Board. Staff analyzed the  
8 case record, including the public comments, when  
9 developing the testimony regarding various  
10 topical areas in the case.

11 Q. Are copies of these comments kept for public  
12 review?

13 A. Yes, the comments can be found in the  
14 Department's DMM system, on the Department's  
15 website, under the High River Energy Center case  
16 file.

17 Q. Can you characterize the nature of the comments?

18 A. There were commenters who were in favor of the  
19 project, but the vast majority were opposed to  
20 the Project.

21 Q. What type of comments did the Siting Board

1 receive from people in support of the Project?

2 A. In summary, the commenters in support referred

3 to the Project as a good neighbor to the

4 community that will provide economic benefits to

5 the area, such as, increased job opportunities;

6 tax benefits and reliable revenue to the County

7 and Town; income to boost farming operations as

8 a supplemental revenue source; the low impact,

9 high volume development that will stimulate

10 positive economic activity for the Town. In

11 addition, commenters added that the Project will

12 help to maintain agricultural operations in the

13 town, i.e., farmers are not forced to sell off

14 land for non-agricultural uses and the land will

15 be returned to substantially the same condition

16 for agricultural purposes when the facilities

17 are decommissioned; the Project is a source of

18 safe, clean, and quiet energy generation; and

19 the Project will provide support for New York

20 State Independent System Operators wholesale

21 energy market.

1 Q. What type of comments did the Siting Board  
2 receive from people opposed to the Project?

3 A. In summary the commenters in opposition to the  
4 Project had concerns regarding environmental,  
5 health, wildlife disruption, community impacts,  
6 visual impacts, and property value.  
7 Specifically, commenters concerns included, but  
8 were not limited to, height of the substation,  
9 Project panels and substation directly in the  
10 line of sight from their homes; possible use of  
11 horizontal drilling and/or hydrofracking; use of  
12 chemicals and pesticides which may be approved  
13 for use presently, but could be carcinogenic in  
14 the future; contamination of ground and well  
15 water; height of vegetative barrier to conceal  
16 solar panels, the accuracy of the drawings  
17 showing the location of the roadway to the  
18 substation; lease agreements made with entity  
19 other than NextEra/High River; restoration of  
20 property to its original state; reduced sale  
21 value for property; interference with the

1 panoramic views from the Town's hillside; soil  
2 erosion; glare; impact to the scenic beauty of  
3 the surroundings; wildlife migration; endangered  
4 species; pollution during construction; noise  
5 and the town's zoning laws. In addition,  
6 comments from resident(s) from the Town of  
7 Amsterdam and Swart Hill area indicated that  
8 prior to receiving an invitation to an Open  
9 House in Fonda, there was no notification about  
10 the Project. Commenters also questioned why the  
11 land will remain zoned as "agricultural" since  
12 the solar farm is not agricultural. Commenters  
13 also had concerns about non-participating  
14 City/Town who will receive no monetary benefits  
15 but are affected by the Project. Commenter(s)  
16 who stated they are not opposed to solar,  
17 suggested that the placement of the facilities  
18 should be sited elsewhere from visible lands to  
19 lowlands or another location where the views are  
20 not affected. Commenters also stated that they  
21 did not receive answers to questions asked at

1 the Open Houses. Overall, the commenters'  
2 position is that the negative impacts on the  
3 community far outweigh the benefits of the  
4 Project.

5 Q. Did the Applicant address the concerns raised by  
6 the public about the proposed solar facility?

7 A. The concerns brought to the Applicant's  
8 attention by members of the public have been  
9 addressed in the various exhibits in the  
10 Application and proposed Certificate Conditions.

11 Q. Is there anything else the Siting Board should  
12 consider in rendering its determination?

13 A. If the Siting Board decides to grant a  
14 Certificate, it should, at a minimum, adopt the  
15 proposed Certificate Conditions and SEEP Guide,  
16 including many provisions for compliance filings  
17 to be submitted for review and approval pursuant  
18 to 16 NYCRR §§1002.2 and 1002.3, and information  
19 reports documenting compliance, submitted  
20 pursuant to 16 NYCRR §1002.4. Further, any  
21 grant of a Certificate should include delegation

1 of inspection and stop-work authority to  
2 appropriate DPS Staff to enforce the  
3 environmental, engineering, public safety, and  
4 public interest requirements in those  
5 Certificate Conditions.

6 Q. Is there anything further?

7 A. Yes. Through the settlement process and the  
8 documents that parties have stipulated to in the  
9 Settlement Package, the issues that DPS Staff  
10 anticipated raising early in this proceeding  
11 have been resolved. Based on its initial review  
12 of the Application, DPS Staff's potential issues  
13 for litigation included socioeconomic and site  
14 restoration and decommissioning issues. Through  
15 information provided in discovery, proposed  
16 Certificate Conditions, and the proposed SEEP  
17 Guide, DPS Staff is satisfied that all potential  
18 issues and issues it initially believed would  
19 require litigation have been resolved.

20 Q. Does this conclude the Panel's testimony at this  
21 time?

1 A. Yes.