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C E N T R A L   P I N E   B A R R E N S  
C O M M I S S I O N   M E E T I N G

-----x

CVE US NY Southampton 243 LLC

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May 15, 2024  
2:30 p.m.

340 Smith Road  
Shirley, New York

TRANSCRIPT OF PROCEEDINGS

A P P E A R A N C E S:

ROBERT T. CALARCO, Governor's Representative

MICHELLE DI BRITA, Brookhaven Representative

JANICE SCHERER, Southampton Representative

MATTHEW CHARTERS, Riverhead Representative

MARIA Z. MOORE, Southampton Town Supervisor

MARTIN E. SHEA, Southampton Representative

JUDITH E. JAKOBSEN, Executive Director

JULIE HARGRAVE, Joint Planning and Policy Manager

JOHN C. MILAZZO, Commission Counsel

ANGELA BROWN-WALTON, Administrative Assistant

ALSO PRESENT:

Steven Engelmann

Charles Voorhis

PUBLIC SPEAKERS:

Nina Leonhardt

1  
2 MR. CALARCO: It's 2:35. We're going  
3 to go right to our public hearing next.  
4 Notice has been given that the Central Pine  
5 Barrens Commission will hold a public hearing  
6 on the matter of the application for Core  
7 Preservation Area Hardship Waiver of CVE US  
8 NY Westhampton 243 LLC.

9 Let's go to the Board members here  
10 for the stenographer's purpose.

11 MR. CHARTERS: Matt Charters,  
12 designated representative for the Town of  
13 Riverhead.

14 MS. SCHERER: Janice Scherer,  
15 designated representative for the Town of  
16 Southampton.

17 MS. MOORE: Maria Moore, Supervisor  
18 for the Town of Southampton.

19 MR. CALARCO: Robert Calarco,  
20 representative of the governor's office.

21 MS. DI BRITA: Michelle DiBrita,  
22 representative for the Town of Brookhaven.

23 MR. CALARCO: With that we'll go into  
24 the public hearing. Ms. Hargrave, do you  
25 want to kick it off?

1 MS. HARGRAVE: Just to remind  
2 everyone, there was a public hearing on this  
3 application on April 17th at the Town of  
4 Southampton. Since then the Commission has  
5 received the hearing transcript. The  
6 applicant had by May 1st to submit material  
7 for the application to address comments at  
8 the hearing, which they did. It was posted  
9 on the website. May 10th was the deadline to  
10 receive additional public comments and none  
11 were received during that time. So, this was  
12 a hearing recessed after April 17th, and we  
13 continue. If the Commission any things they  
14 would like to address was on the material  
15 that was submitted on May 1.  
16

17 In that material, just to summarize,  
18 it was provided to the Commission and posted  
19 on the website. There was information  
20 explaining the hardship, the environmental  
21 hardship and economic hardship. They talked  
22 about the proximity to the grid connection as  
23 a benefit for the project, the value of the  
24 property and how that affects the project in  
25 the area.

1  
2 They clarified a few things,  
3 including that they will be expediting the  
4 mining, which they mentioned will be complete  
5 by 2039, rather than the end date that was  
6 expected to be 2044. So, they will complete  
7 that work by five years and have the material  
8 removed from the mine.

9 So, again, obviously, the vendor is a  
10 sand mine on this property, a 50 acre solar  
11 property. The property, in 2012, the mine  
12 was conditioned by a hardship waiver, granted  
13 by the Commission. As a condition of that  
14 approval, it said that the applicant cannot  
15 submit a development application, and it also  
16 required the applicant, at the time, the  
17 owner, placed conditions on the property to  
18 protect it forever as a natural area. Part  
19 of it has been restored to date, and it was  
20 planned to be restored to natural area.

21 Again, the other information, they  
22 provided some information that 24 acres of  
23 the new propose to protect 24 acres of the  
24 project growth area portion of the project  
25 site. The total property is 115 acres. The

1 sand mine occupies 91 acres. The remaining  
2 area the is compatible growth area. The CGA  
3 portion is potentially over cleared, and that  
4 would be protected. Anyway there was a  
5 development project. There is a 50 acre  
6 build-out of the solar facility. 25 acres  
7 are in the core, the other 25 acres of the  
8 solar facility are split between the core and  
9 the CGA.  
10

11 The applicant explained that it's  
12 their position that the Commission and the  
13 applicant come to a mutual agreement on the  
14 property. They also offered not to mine one  
15 and a half acres, and that would keep the  
16 yard for material on the property.

17 The applicant is here, if there are  
18 any comments from the Commission.

19 MR. CALARCO: "Chick."

20 MR. VOORHIS: Good afternoon,  
21 everyone. Just for understanding --

22 MR. CALARCO: For the record, state  
23 your name.

24 MR. VOORHIS: Charles Voorhis, also  
25 known as "Chick," of Nelson, Pope and

1 Voohris, on behalf of the applicant.

2 I contacted the Pine Barrens  
3 commission office to find out the procedure.  
4 We submitted all the materials that Julie  
5 just mentioned by May 1st. I was sent back  
6 the agenda that identified this as a  
7 continuation of the hearing. So, it was a  
8 bit of a little stress and a significant  
9 effort to get all of the material submitted  
10 May 1th, but there were a couple of  
11 outstanding question. So, we did prepare  
12 information today, which is new information,  
13 that we'd like to go through for you. It  
14 mostly has to do with the analysis of  
15 alternative sites, which we wanted to go into  
16 more detail on.

17 So I'm here. Also here is Steve  
18 Engelmann, who will be speaking during the  
19 presentation, and David Gilmartin is here,  
20 the attorney on behalf of the application.

21 It's fairly short and quick, since we  
22 have gone through this quite a few times. I  
23 appreciate your indulgence. You know our  
24 team. This is the timeline. As Julie said,  
25

1 the last hearing was April 17th. We did  
2 respond and we have a continuation today, so  
3 you're familiar with all the background we  
4 presented previously.  
5

6 Julie mentioned each of these points.  
7 The owner has offered to forego mining of  
8 1.55 acres, about 100,000 cubic yards of  
9 material that would have otherwise been  
10 mined. That's a fairly significant financial  
11 commitment. And any other items that Julie  
12 mentioned are all just restated here.

13 One of the things that is important  
14 is that in shortening the length of the  
15 mining period, we can work to quickly  
16 transition the mine to natural restoration  
17 and vegetation. I did contact the applicant  
18 and the owner, and they are willing to plant  
19 trees, after the solar use is complete, with  
20 pine trees. So, that was one of the  
21 questions from the last meeting. That  
22 commitment is made.

23 I think I'm going to bring Steven up  
24 and have him talk about some of the studies  
25 with respect the suitable sites and the grid,



1  
2 and then I'll present a few slides with the  
3 alternative analysis.

4 MR. ENGLEMAN: Steven Engelmänn.  
5 I'm here from CVE North America. Thank you  
6 very much for the time to discuss the site  
7 today. I'm going to talk to you a little bit  
8 about the unique character of this property.  
9 There are many unique characters of the  
10 property, but what I want to highlight here  
11 is the utility grid, the access that's needed  
12 in order to connect to a project like this  
13 and in order for us to create power at a site  
14 like this and send it back into the grid, and  
15 send it back against the typical flow of  
16 power from a power plant into an end user.  
17 This power will be sent in an opposite flow  
18 of that, used by end users in the area.

19 Ultimately, the utility is to make  
20 sure that all of their circuitry, switchgear  
21 and the substation itself can handle that  
22 power in reverse load. That is technology  
23 that is new. Our utility grid, in many  
24 cases, is 50, 60 more years old and it does  
25 not really accept power like that. Very

1 surely, the utility needs to upgrade that.  
2 In the meantime, a lot of solar projects are  
3 stranded without the ability to have an  
4 interconnection to the grid. We have done a  
5 full analysis of all of Long Island, all of  
6 the open space in Suffolk County. We have  
7 some slides about that.  
8

9 The CAESAR study is a coordinated  
10 interconnection review that the utility  
11 performs. After a full application and  
12 engineering study that we supply, the utility  
13 goes through this and determines whether or  
14 not their equipment can actually receive this  
15 power at this particular location and bring  
16 it back to the grid. We have gone through  
17 that process. There are some things we'll  
18 need to do there, but very unique in its  
19 approval. The utility approved this project  
20 to be able to interconnect at this site. We  
21 have a full application submission and a full  
22 approval of this is CASEAR study. So, PSEG  
23 is in approval of this, and we have found  
24 that against all other sites that we'll talk  
25 to you about today, this site, of all of

those, is the only one right now that would be able to achieve that.

This is, again, a small project. We found it to be a unique project of all the sites we looked at. There are costs involved to connect, but that will be something that the project will have to pay for in order to enter into the solar program. This is about hosting capacity. Essentially, PSEGLI did a lot of work to determine what their hosting capacity is, which is the ability to connect and put it on the map. That kind of indicates this. And of course it's different when you're interconnecting residential homes. Solar project have four of five kilowatts compared to five megawatts. At this scale, there are restrictions pretty much at all of the substations where there is open land and open space to develop.

Where there are small -- with our load pockets on Long Island, in Suffolk County, it's unfortunately there is not obviously open space or open areas to be able to develop projects because they are densely

1  
2 populated areas where there is not the  
3 ability to do this.

4 The infrastructure where we could  
5 build projects in a more isolated site allows  
6 that energy to be delivered to the pockets  
7 that we're talking about. It's PSEG's intent  
8 to try and find opportunities to build larger  
9 projects at cost scale to be able to deliver  
10 that power. We have direct utility regarding  
11 this site, of course, as well as the others,  
12 and there is no ability for us to  
13 interconnect those projects.

14 I also wanted to mention that  
15 carports, because one of the sites we looked  
16 at was a parking lot. Carports are a  
17 fantastic idea. I'm sure some of you have  
18 seen them around. Many of them are a few  
19 years old. They have been developed under  
20 previous incentive programs where a very  
21 lucrative value was offered by the utility to  
22 supply that energy called a feeding  
23 narrative. That energy could be delivered  
24 under a 20 to 25 year contract paid directly  
25 by the utility. So, it makes it very simple

1 to finance a project like that. The value of  
2 the energy is very high, so it allowed for  
3 the carports to be developed. Since then,  
4 all those projects have all dried up. The  
5 amount of money that is available for  
6 renewable energy now have declined quite a  
7 bit. At the same time, the cost of steel has  
8 gone intensely in the last couple years.  
9 Essentially, carports have now become not  
10 financially feasible for projects here. It  
11 requires a lot of steel to build these  
12 projects.  
13

14 So our best opportunities are  
15 impacted sites like the one we are talking  
16 about today where the environment is impacted  
17 with open space. Projects can be built for  
18 rooftops, but they are increasingly hard to  
19 fine.

20 I think I'm going to hand it back to  
21 Chick here to talk about methodology. I'm  
22 happy to answer any questions about the  
23 information I provided.

24 MR. VOORHIS: So, we looked at three  
25 towns -- Riverhead, Southampton and

1  
2 Brookhaven -- for the purposes of identifying  
3 potential alternative sites. It's a sieve  
4 analysis. I'll describe how the analysis was  
5 done. Part of the parcels were 50 acres or  
6 greater, which is roughly the southern phase  
7 of this project, and would allow for the  
8 proper scale solar project.

9 We looked at the zoning districts.  
10 In Brookhaven, solar is allowed in L1, L2,  
11 J2, J4 and J5 Zoning Districts. In  
12 Riverhead, it's limited to LI Industrial A  
13 and Industrial B, as well as PIP District.  
14 In Calverton only, Calverton zip code, per  
15 the code, solar is only allowed in Industrial  
16 C parcels. It turns out there are very few  
17 parcels outside of Calverton. In Southampton  
18 there is an opportunity to area definition  
19 that involves agricultural, residential,  
20 parks, in this case, etcetera, potentially  
21 being viable for solar under zoning.

22 We used the Suffolk County Tax Map  
23 database and identified parcels of the  
24 required size. Based on that analysis, there  
25 are 37 total sites that were identified, and

the breakdown of the type of parcels is institutional, commercial, industrial, utility, vacant, transportation and waste handling are shown along with each of those types of parcels that can potentially locate solar in the 50 acre criteria.

In Brookhaven, there were a total of 13 parcels. They included five industrial, one institution, one utility and six vacant parcels. And the zoning of the sites are the various districts as I indicated where solar is permitted, L1, L2, and those were the primary sites in Brookhaven. This is the map that shows those parcels in Brookhaven.

Riverhead there was one parcel. It's zoned Industrial C in Calverton, and that was the only one that met the criteria.

In Southampton, there were 23 parcels: Commercial, industrial, institutional, utility, vacant, transportation and waste.

So, these were the starting points of the analysis to look at in terms of the sieve. All of the seven institutional

1 parcels were ineligible, based on existing  
2 acting development or undisturbed wooded  
3 land. We wouldn't want to be clearing  
4 natural wood parcels for solar use. So the  
5 breakdown of the individual parcels are shown  
6 with each of the reasons why those parcels  
7 are not suitable. There's also a commercial  
8 parcel immediately by Gabreski Airport in the  
9 core preservation area, which is also  
10 ineligible due to the majority of the parcel  
11 being covered by trees.  
12

13 So, as far as those institutional and  
14 commercial sites, these are some of the  
15 examples. They have included Suffolk  
16 Community College and Stony Brook University.  
17 These are not parcels eligible to be used.

18 Continuing on the analysis, we looked  
19 at 12 industrial. In going through,  
20 Northville is an active operation. Roanoke  
21 you are familiar with, it's a lake parcel  
22 requiring floating solar installation which  
23 is not really economically feasible. Parking  
24 lots. Steven talked about that.

25 Calverton is an active sand mine.



1  
2 Calverton Shooting Range is a compromised  
3 site and the owner is unwilling to sell.  
4 Constructs is an active operation in the  
5 compatible area, as is NexGen, along with  
6 split parcel of East Quogue Mines, which is  
7 in the CPA and the CGA. And Sandlin Corp  
8 which is an active operation.

9 So, the only parcel that really is  
10 available of the industrial sites was the  
11 Westhampton mine site, obviously, we're  
12 winding down the mine in our application, and  
13 that's why we're here. These are some of the  
14 examples of the suitable sites for the  
15 reasons that we've mentioned.

16 These are a couple of the other  
17 parcels: Constructs, NexGen, East Quogue  
18 Mines parcel.

19 So the utility parcels, these were  
20 ineligible through the extensive clearing.  
21 There is a Suffolk County Water parcel  
22 southeast of the Gabreski Airport with a  
23 water tower. The Holtsville Gas plant that  
24 you're familiar with is an active operation.  
25 And the two transportation parcels are both

1 associated with Gabreski Airport in  
2 Brookhaven. The Northeast Transfer Station  
3 is already under solar construction  
4 application.

5  
6 We identified vacant sites. Eight  
7 are completely wooded or undeveloped.  
8 Brookhaven doesn't allow clearing for solar.  
9 In the Southampton parcels do not meet the  
10 opportunity area definition. One of the  
11 sites out of the 12 is already developed with  
12 solar. One is owned by the Long Island  
13 Country Club with fresh water wetlands and is  
14 mostly wooded would not be suitable. One is  
15 adjacent to Brookhaven Calabro Airport, owned  
16 by Rose Breslin. It's also mostly wooded.  
17 And there's one site at Number One Lewis Road  
18 that is under development. These are  
19 examples of some of those vacant sites that  
20 would not be suitable.

21 So at this point I'm not going to  
22 reiterate the other aspects of the  
23 application. I'll let the attorney kind of  
24 sum up why we believes we meet the criteria,  
25 but we did want to present some information

1  
2 on the sieve analysis of alternative sites  
3 and why Westhampton is the only mine site  
4 that was chosen and why we believe it's  
5 suitable and meets the criteria and allows  
6 for really addressing the solar needs and  
7 energy management for the future.

8 MR. GILMARTIN: Good afternoon.

9 David Gilmartin of Greenberg Traurig, 2317  
10 Montauk, Bridgehampton for the applicant.  
11 I'd just like to conclude with two issues  
12 that I think are important here, and one that  
13 you are struggling with, and that's the  
14 precedent argument. If you do this today for  
15 this application, will that extend to others  
16 who are assigned a conservation easements? I  
17 say no. One, you have absolute discretion  
18 within the conservation easement. As we look  
19 at conservation easements, we have to look at  
20 the language. I assume the language in most  
21 of them are the same. If you look at the Boy  
22 Scouts, we use that as simply the opportunity  
23 to tell you that it can be done. We have  
24 done it before and it can be done. Whether  
25 you would should do it or not is really up to

1  
2 the Commission. Again, you have absolute  
3 discretion to do that.

4 The second part of that argument,  
5 which I think is equally important, is the  
6 fact that there are some really unique  
7 characteristics to this. This is an  
8 incredible benefit to the environment, right?  
9 You're not putting in a gas station, or a  
10 strip mall, there's no waste water proposed  
11 with this. It's really an incredible benefit  
12 to the environment.

13 The second issue is a little more  
14 general. There's no mistake that key leaders  
15 of the town, the county, and the governor's  
16 office are here. I say this often to key  
17 leaders in town boards, you're the best of  
18 us. We picked you to make these difficult  
19 decisions. We understand it's a difficult  
20 decision, but I think we need to look through  
21 the small issues here and see the greater  
22 good, and it's why you were elected and put  
23 in your position, and we ask you to do that  
24 with this application. Thank you.

25 I think Steve and "Chick" are here to

answer any questions.

MR. VOORHIS: I want David's words to resonate, but I have one small point to add. One of the questions we were asking for is whether we need to amend the mine land reclamation plan. I spoke to your office today, Rob.

MR. CALARCO: Not my office.

MR. VOORHIS: The mine land reclamation section head. We would have to make that amendment. It sounds as though it's providing a lot of information already provided to this Commission. Hopefully we can do that. And we hope that the Commission will keep in mind Mr. Gilmartin's words. Thank you.

MR. CALARCO: Are there any questions?

(No response was heard.)

MR. CALARCO: Seeing none.

MR. MILAZZO: "Chick," in your presentation you went through you said that Calverton LLC active sand mine is not an eligible site because it's an active sand

1 mine. You said the sand mine corporation is  
2 not an eligible site because it's an active  
3 sand mine. How do you distinguish that from  
4 the active sand mine that we're facing today?  
5

6 MR. VOORHIS: This site has got a  
7 known closure date, and we are on track to  
8 meet that date and make it earlier. 26 acres  
9 is already restored under the prior grant of  
10 this commission and, you know, those sites  
11 are all being actively mined for whatever  
12 period of time they recognize under the  
13 mining zoning. Some of them are just not  
14 available, at least for purchase, and we  
15 discount for those for our site.

16 One of the factors that Steven  
17 Engelmann addressed before was when you run  
18 all these through the filter, we didn't have  
19 to apply CAESAR criteria for the grid  
20 connection, but that basically discounts many  
21 of those sites, regardless of zoning, active  
22 use or anything else. That was an important  
23 point I wanted Steve to go into and he can  
24 answer that to a greater extend.

25 MR. MILAZZO: The CAESAR sieve

1  
2 doesn't apply to those sites?

3 MR. ENGELMANN: That's right.

4 Correct. We did look at that, just to make  
5 sure there wasn't. This site has 25 that is  
6 not being applied to. We can move on that.

7 MR. MILAZZO: The other question I  
8 had is, "Chick," you mentioned, I think, you  
9 put in materials, that you are willing to  
10 forego, or the owner is willing to forego  
11 mining on 1.55 acres. And you indicated that  
12 there is a financial impact to do that. So,  
13 is it fair to say there is a significant  
14 financial benefit from mining all the other  
15 acres?

16 MR. VOORHIS: I think we recognized  
17 that there is a benefit in obtaining  
18 approval. It's also important to note that  
19 the material that comes out of that site are  
20 used for state and local highway projects,  
21 construction, etcetera. That mine was  
22 approved to go through 2044 and this  
23 Commission approved the mine. We are at the  
24 point where, as I said, 26 acres will be  
25 restored and we'll continue along with those

other approvals. The site is suitable for some solar.

MR. ENGELMANN: They are in contract for a number of years to be able to provide material.

MR. VOORHIS: That is an important point. I spoke with the owner and he can't forego more than that.

MR. MILAZZO: I don't have any other questions.

MR. CALARCO: Any questions?

MS. MOORE: Did you look at the site North Summit sand mine is going through mediation already?

MR. MILAZZO: There's the owner right there. Old Country Road.

MR. ENGELMANN: What parcel is that?

MS. MOORE: That's 47 acres.

MR. CALARCO: Any other questions?  
Gentlemen, thank you.

Is there anybody else in the audience who would like to address at this public hearing at this time? Come on up.

MS. LEONHARDT: Nina Leonhardt.



Long Island Pine Barrens Society.

I don't want to rehash everything that I said last time, but basically we do appreciate the importance of solar in the state and national; an energy portfolio is important. We do appreciate that the interconnect is important, and that's true of any location where there is a solar "farm." There must be interconnect, there must be a way to connect the distribution and power.

This is not a disagreement in the importance of solar. It's not solar versus Pine Barrens. We have to make that distinction. Our objection here is we're supposed to be protecting the Pine Barrens. That's what we do, and that's what you people do as well. So, we objected initially when the original hardship waiver was requested way back in 2012 and we lost that battle. As I said last time, it was adjudicated very clearly that self-inflicted hardship is not a reason to grant another hardship waiver. At that time, the conservation easement was required. Now we're being hold we'll have

1  
2 another conservation, we'll put aside this  
3 plan. How do we know that will be protected  
4 in perpetuity? We don't know. There's  
5 nothing stopping people from coming back  
6 again and saying now we want to do this.

7 So, what are we really preserving?  
8 Yes, we had a little bit of restoration going  
9 on, but are we protecting mammals? Do we  
10 know about that? So, that's where we stand.  
11 It's not solar versus Pine Barrens, it has to  
12 do with what was agreed upon by the property  
13 owner and what is being asked now. Thank  
14 you.

15 MR. ENGELMANN: CVE absolutely  
16 respects the need to preserve the Pine  
17 Barrens. We put forth that this project has  
18 little to no impact on the Pine Barrens.  
19 This is the lightest form of development, the  
20 lowest form of impact on the site. We have  
21 fully agreed to re-vegetate. We will be  
22 adding no new impervious material, we will be  
23 adding no services, waste water, no cars, no  
24 parking, no snow plowing. This is setting  
25 panels in the soil. We will plant that soil

1 with vegetation, creating habitat for  
2 pollinator species, and we will provide an  
3 enhanced environmental impact on the site.  
4 There is no negative impact whatsoever on  
5 this site by adding solar panels. This is a  
6 different kind of development. This is not a  
7 parking lot, it's not a building. I would  
8 ask the Commission to see the wider picture  
9 here about the environmental impact. We will  
10 be taking hundreds of thousands tons of CO2  
11 out of the air by producing renewable energy  
12 and how that impacts the environment as well  
13 without having an impact on our panels.  
14 Thanks.

16 MR. CALARCO: Anybody else? Seeing  
17 none, I'll take a motion to close the public  
18 hearing.

19 MR. VOORHIS: We will submit the  
20 PowerPoint presentation from today.

21 MR. CALARCO: Take a motion.

22 MR. CHARTERS: Motion.

23 MS. DI BRITA: Second.

24 MR. CALARCO: All in favor.

25 (WHEREUPON, there was a unanimous

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May 15, 2024

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affirmative vote of the Board.)

MR. CALARCO: Opposed, abstentions?

(No response was heard.)

MR. CALARCO: It's closed.

(Time Ended 3:08 p.m.)

\* \* .

May 15, 2024

29

C E R T I F I C A T E

I, BETHANNE MENNONNA, a Notary Public  
within and for the State of New York do  
hereby certify that the foregoing is a true  
and accurate transcript of the proceedings,  
as taken stenographically by myself to the  
best of my ability, at the time and place  
aforementioned.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of May, 2024.



BETHANNE MENNONNA