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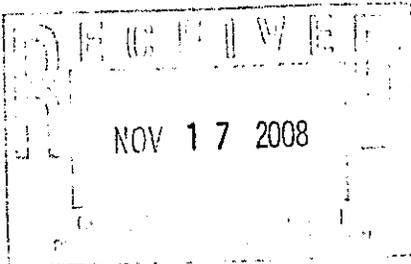
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CENTRAL PINE BARRENS JOINT PLANNING  
& POLICY COMMISSION  
PUBLIC HEARING  
TOWN OF BROOKHAVEN TOWN HALL  
ONE INDEPENDENCE HALL  
FARMINGVILLE, NEW YORK

October 15, 2008  
3:00 p.m.

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PETER SCULLY  
Chairman



Reported By:  
BethAnne Mennonna, Court Reporter

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

MARTY SHEA - Town of Brookhaven

ANN CARTER - Staff

JOHN TURNER - Town of Brookhaven

CARRIE MEEKS-GALLAGHER - Suffolk County

DANIEL McCORMICK - Town of Riverhead

JOHN MILAZZO, ESQ. - Commission Counsel

RAY CORWIN - Executive Director

ROBIN MILLER - Senior Secretary

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2 CHAIRMAN: Good afternoon. We are now  
3 going to open the public hearing, pursuant to  
4 the Environmental Conservation Law Article  
5 57-0121.10 and the Central Pine Barrens  
6 Comprehensive Land Use Plan. Notice is hereby  
7 given that a public hearing will be held by the  
8 Central Pine Barrens Joint Planning and Policy  
9 Commission on Wednesday, October 15, 2008 on the  
10 matter of a Core Preservation Area Compelling  
11 Public Need Waiver Application. This public  
12 hearing is the continuation of a public hearing  
13 held on the subject application on September 17,  
14 2008. The public hearing is continued to  
15 acknowledge the applicant's submission of  
16 additional information for Commission Review and  
17 consideration.

18 The Project Name/Applicant Owner is the  
19 Long Island Power Authority (LIPA). The  
20 location is the Core Preservation Area of the  
21 central Pine Barrens, north of Nugent Drive  
22 (CR94) and south of the Peconic River, in the  
23 Town of Southampton. Suffolk County Tax Map  
24 Number 900-135-2-2.

25 The proposed project consists of the

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2                   expansion and reconfiguration of the Riverhead  
3                   Substation. The 40.5 acre project site contains  
4                   an existing substation covering 6.1 acres, which  
5                   includes two acres of paved and unpaved roads.  
6                   LIPA proposes to clear an additional 88,000  
7                   square feet of the site for the expansion and  
8                   reconfiguration of the substation  
9                   infrastructure.

10                   We have a status report from the Staff.  
11                   I guess I'll turn to Julie Hargrave.

12                   MS. HARGRAVE: Good afternoon, Chairman  
13                   Scully and Commission Members. This is LIPA's  
14                   second public hearing, as you just read in the  
15                   hearing notice. This hearing is to allow LIPA  
16                   to submit additional information. They  
17                   submitted some additional information, as a  
18                   follow-up to the hearing in September; and that  
19                   was submitted on September 30, 2008. Right now  
20                   the deadline for the application is the end of  
21                   the month, October 30th. But the Applicant has  
22                   indicated they are going to ask for an expansion  
23                   of the deadline for your decision and the SEQRA  
24                   determination. We haven't received that in  
25                   writing yet, but I think it would be useful to

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2                   receive it in writing, as they are probably  
3                   going to ask for the record today. So, as far  
4                   as timeline for the extension, I move it would  
5                   be for another month, to your November meeting.  
6                   At that time, the SEQRA determination would be  
7                   due and the decision from the Commission. And I  
8                   would supply you with the Environmental Form,  
9                   Part II, to go over the potential impacts  
10                  identified.

11                  Just a few highlights of what is sort of  
12                  outstanding at this point. Again, we submitted  
13                  a package of materials that updated the site  
14                  plans. I believe you each got a copy. And the  
15                  applicant has been on the site, indicated that  
16                  they identified the Buck Moth on the project  
17                  site; a study is forthcoming. I don't believe  
18                  they have it today. It will be submitted  
19                  shortly. I think that was last week that they  
20                  did the survey and some other things. Maybe  
21                  some alternatives are coming, as far as ways to  
22                  avoid impact to the wetlands that are about ten  
23                  or so feet from the clearing, for the limit of  
24                  clearing for the expansion. And some other  
25                  information that you asked for at the last

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1  
2 hearing. Some cost analysis of their  
3 alternatives, that really hasn't been submitted.  
4 I don't know if they are going to submit more  
5 information about that. And some updating of  
6 the site plans to add all of the data. Just for  
7 the record, the site area, the clearing, is  
8 missing information; and I believe they are  
9 working on that, or maybe they'll submit that  
10 today. And so, they are here to discuss any  
11 additional information.

12 CHAIRMAN: Are there any questions for  
13 Julie?

14 (Whereupon, no response was heard.)

15 CHAIRMAN: For the applicant.

16 MS. PINCUS: Good afternoon. My name is  
17 Michele Pincus, Associate General Counsel for  
18 Long Island Power Authority, located at 333  
19 Earl Ovington Boulevard in Uniondale. We  
20 appeared before you on September 17th and had  
21 verbally submitted some additional information  
22 on our application. Our staff indicated, on  
23 September 30th, we submitted a written  
24 submission containing several exhibits, as well  
25 as a ten paged written report attempting to

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2                   address many of the issues that were raised  
3                   here.  Additionally, after we received a copy of  
4                   the transcript, we reviewed that transcript to  
5                   make sure that we had hit, basically, all the  
6                   points that had been raised at that  
7                   September 17th hearing; forwarding our  
8                   submission addressed by counsel for the  
9                   Commission the issues you wished us to further  
10                  address for the Commission to guide.  And we are  
11                  prepared to do that.

12                  The two main issues are the presence of  
13                  the Buck Moth on the site, as well as the  
14                  protection of the recently identified wetlands.  
15                  Based upon the request of the Commission, we did  
16                  have consultants go out and investigate the  
17                  presence of the Buck Moth on the site.  They did  
18                  find Buck Moth; and they are here today to  
19                  submit their report and speak about their  
20                  findings.  In connection with that report, we're  
21                  prepared to present to you our proposals for  
22                  mitigation.  We're prepared to offer a  
23                  restoration program to enhance the areas of the  
24                  Buck Moth habitat; some of which is existing and  
25                  has been degraded.  That's included in the

1                   Public Hearing - October 15, 2008  
 2                   report. We recognize the need for the balance  
 3                   of LIPA's need to serve the public and the  
 4                   preservation of a very sensitive environmental  
 5                   area.

6                   At this point, I'd like to call up Bill  
 7                   Jacobs and Laura Schwanof, as well as Adam  
 8                   Yablonsky.

9                   CHAIRMAN: You'll each need to identify  
 10                  yourself and be sworn.

11                 B I L L         J A C O B S,  
 12                   having been first duly sworn by a Notary  
 13                   Public of the State of New York, was examined and  
 14                   testified as follows:

15                 L A U R A         S C H W A N O F,  
 16                   having been first duly sworn by a Notary  
 17                   Public of the State of New York, was examined and  
 18                   testified as follows:

19                 A D A M         Y A B L O N S K Y,  
 20                   having been first duly sworn by a Notary  
 21                   Public of the State of New York, was examined and  
 22                   testified as follows:

23                   CHAIRMAN: Thanks. Mr. Turner points  
 24                   out I neglected to identify the members.

25                   MR. McCORMICK: Daniel McCormick, for

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2 the Town of Riverhead.

3 MR. SHEA: Marty Shea, representing  
4 Southampton Town Supervisor.

5 MR. TURNER: John Turner, Town of  
6 Brookhaven.

7 MS. MEEKS-GALLAGHER: Carrie  
8 Meeks-Gallagher, Suffolk County.

9 CHAIRMAN: Peter Scully, representing  
10 Governor David Patterson.

11 MR. JACOBS: I'll start. In regard to  
12 the Coastal Barrens Buck Moth EEA site test,  
13 myself and Erin Brosnan went to the proposed  
14 expansion area on October 8th, and then also on  
15 October 14th, and we were out there again this  
16 morning. And each of those times we did observe  
17 Coastal Buck Moth in the scrub oak area of the  
18 proposed expansion site. There are definite low  
19 Coastal Barren Buck Moth using the site. They  
20 are fairly common to see in the area. The LIPA  
21 right-of-ways there are managed in such a way as  
22 to encourage scrub oak habitat, which is the  
23 preferred habitat for the Buck Moth. So, one of  
24 the proposed ideas, I guess, as a kind of  
25 mitigation for any of those scrub oaks, is to

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2 transplant what would be lost in the expansion,  
3 to enhance or restore degraded areas of the  
4 right-of-way.

5 CHAIRMAN: Clarify what level of  
6 protection the species is afforded.

7 MR. JACOBS: It's a species of special  
8 concern.

9 CHAIRMAN: What does that mean? Is it  
10 akin to an endangered species?

11 MS. SCHWANOF: Not yet. It's a watch  
12 status. So, it's a species of special concern  
13 in New York State. They are being watched for  
14 possible jumping up the ranks in terms of its  
15 protection. At this point, it is not afforded  
16 protection, as far as I understand, under  
17 New York State law.

18 CHAIRMAN: It's not threatened as the  
19 Northern Harrier or endangered as the Tiger  
20 Salamander or Short eared owl?

21 MR. JACOBS: That's correct.

22 MS. MEEKS-GALLAGHER: Dan's favorite.

23 CHAIRMAN: Thank you.

24 MR. JACOBS: I understand you all have a  
25 copy of it. There was a map that we did on an

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2 aerial that showed the two strands of scrub oak  
3 where we surveyed for the Buck Moth.

4 MS. PINCUS: The whole package should be  
5 an exhibit.

6 MR. MILAZZO: We'll make this LIPA 1,  
7 today's date.

8 Off the record.

9 (Whereupon, a discussion was held off  
10 the record.)

11 MR. MILAZZO: We'll call it LIPA E, a  
12 memo to Adam Yablonsky and Bill Jacobs, dated  
13 October 14th. We'll give you a copy.

14 (The above-mentioned document was marked  
15 as LIPA's Exhibit E for identification.)

16 MR. JACOBS: On this aerial map, the two  
17 tan areas are where it is predominately scrub  
18 oak. The blue areas are areas that we found  
19 that don't have native species. The green areas  
20 are proposed restoration areas. These are areas  
21 where there might be a predominance of  
22 non-native species of Black Locust Norway.

23 MS. SCHWANOF: Number of invasives.

24 MR. JACOBS: Different orchid grasses  
25 not native. We were thinking these areas will

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2 be restored with scrub oak. Some of the areas  
3 on the east side, along the right-of-way on the  
4 east, there is some damage from off-road  
5 vehicles and then some other areas that could be  
6 potentially restored with scrub oak and  
7 associated natives.

8 MR. TURNER: I haven't had a chance to  
9 read this. You saw animals flying. Did you  
10 find any evidence of open egg laying?

11 MS. SCHWANOF: No.

12 MR. TURNER: Any defoliation that might  
13 suggest --

14 MR. JACOBS: Very little defoliation.  
15 We ran sections to look for eggs. We had not  
16 seen adults yet. This is basically a presence  
17 absence survey.

18 CHAIRMAN: Given the time of year it is,  
19 what would you expect to find? Where are they  
20 in their cycle?

21 MR. JACOBS: Early to mid-October is the  
22 adult flight period.

23 CHAIRMAN: The right time to survey.

24 MR. TURNER: They would be doing egg  
25 laying.

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2 MR. JACOBS: We sampled 12 plots for  
3 eggs in the scrub oaks. We did not find eggs.

4 MS. PINCUS: And then you went back  
5 yesterday?

6 MS. SCHWANOF: Today we were there, just  
7 before this meeting, to confirm sightings.

8 CHAIRMAN: You indicated the presence of  
9 invasive plant species?

10 MR. JACOBS: A little bit. Most of the  
11 right-of-way, any native species, scrub oaks, a  
12 few areas dumping in the past, an area where  
13 wood chips are dumped, black locust tree in  
14 there.

15 CHAIRMAN: Is it your -- were you  
16 suggesting that mitigation will restore some of  
17 the areas impacted by the invasive?

18 MS. SCHWANOF: Remove the invasive  
19 materials and basically we could bring in a tree  
20 that is original. Our thought is, bring in a  
21 tree spade wide enough, deep enough, to cut out  
22 the scrub oaks and transplant them with a sod of  
23 the native community around it. So, we're not  
24 just bringing in nursery material, but moving  
25 the existing community to some of the areas

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1  
2 impacted and degraded. We have done something  
3 similar in the past in Southampton, Marty may  
4 recall, at the Southampton College with heat  
5 communities. And so, to my understanding, it  
6 worked out fairly well.

7 MR. SHEA: Kind of. It's difficult.

8 MS. SCHWANOF: It's a tough community to  
9 deal with. The one thing we have found out in  
10 research is, the scrub oak does transplant  
11 fairly well. Also supplement with acorns and a  
12 whole community of materials that is typical for  
13 that kind of habitat that can be re-seeded in  
14 between spots where material is planted. It can  
15 be established. We have already discussed the  
16 possible methodologies with some of the folks at  
17 National Grid, and they felt that it could be a  
18 very positive approach to doing this kind of  
19 mitigation.

20 MR. SHEA: Let me ask about restoration.  
21 The ratio of restoration compared to lost areas  
22 of scrub oak habitat.

23 MS. SCHWANOF: Approximately,  
24 one-to-one. It may be slightly higher. We  
25 didn't go to the exact area trying to find

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2 potential areas under this exercise.

3 MR. SHEA: Typically, when exploring  
4 restoration habitat creation and its mitigation,  
5 you look to create a greater ratio of  
6 restoration as compared to a loss area;  
7 recognizing the difficulties in restoring and  
8 creating a habitat. Even if you are  
9 transplanting the scrub oaks, you may want to  
10 consider, as mitigation, a larger area compared  
11 to the actual loss area.

12 MR. JACOBS: We did consider that.  
13 Adjacent to the site, the right-of-way is in  
14 really good shape. We couldn't find any other  
15 restoration areas. If we went off site, and  
16 perhaps if the Commission has suggestions off  
17 site. Maybe areas adjacent to the site. There  
18 weren't very many areas.

19 MR. TURNER: I was out there on  
20 Saturday. This area here is somewhat  
21 compromised. There might be some limited  
22 restoration activity taking place there, not as  
23 denoted as the other places you targeted.

24 MR. JACOBS: There are other pockets  
25 like that one that we could add to it to bump it

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up.

MS. YABLONSKY: The right-of-way that extends south of Nugent Drive, that's another site that has not been explored in any real detail.

CHAIRMAN: Try to maximize the benefit overall.

MR. SHEA: The first goal, of course, with mitigation should minimize the habitat loss. So, I mean, part of the presentation that we expect is whether or not you explored other design options with the goal of minimizing damage to that habitat. One of the things that would be beneficial to us and this project is a plan that clearly shows the scrub oak cover that would be impacted by the project, as you are showing the areas of restoration or creation, so we have a better sense of whether or not you're trying to absolutely minimize loss of habitat and whether or not restoration is being offered as a last resort.

I should also mention, in scanning the report, while the species is listed by New York State as a species of concern, your report does

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1  
2 recognize that New York National Heritage  
3 Program lists the species as a species --  
4 whether or not it's typically a six to 20  
5 occurrence remaining in New York State.

6 Now the Heritage program, as you also  
7 indicated in your report, said it didn't have  
8 any data for this site. But certainly, as far  
9 as the Heritage program is concerned, that  
10 classification of the species would make it a  
11 rare species, even though, at this point in  
12 time, the species is listed as special concern  
13 by New York State. Protection of the species,  
14 of course, is very important.

15 MS. PINCUS: Just to respond to some of  
16 your points. You recognize that the other part  
17 of the presentation that we want to address  
18 today are the issues showing whether there are  
19 any other alternatives or not. We are prepared  
20 to address that. We do take this seriously. We  
21 did go right ahead and have the study done, as  
22 per your suggestion. If there are additional  
23 areas the Commission would like to see offered  
24 more than a one-to-one, we're perfectly amenable  
25 to meeting with the staff and working out where

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2 that should be.

3 CHAIRMAN: As indicated, there are other  
4 more important issues. The Commission wants to  
5 hear about alternative stuff like that.

6 MR. TURNER: Two points to note for the  
7 record. I went out to the site on Saturday  
8 myself and happened to see four adult male moths  
9 at 1:15 to 1:45, and they were in this specific  
10 area.

11 MR. MILAZZO: Just for clarity of the  
12 record. When you say this specific area --

13 MR. TURNER: The large area that is  
14 circumscribed in tan. I should be clear about  
15 this. Two adult moths. All of the moths came  
16 from east to west, almost like they were  
17 monarchs migrating. Two of the moths then -- I  
18 was standing right here, the two times. They  
19 both flew down, one here, and one over here, and  
20 they never did come up. I could not find them.  
21 I suspect they may have been seeking a female;  
22 which they may have found. They weren't  
23 together. So, my suspicion is they have  
24 encountered a female, one over here and here.  
25 The other two Buck Moths continued moving west.

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2 CHAIRMAN: The team is right, the Buck  
3 Moth are present on the site.

4 MR. TURNER: Yesterday. The other point  
5 of consideration is restoration. I think it's  
6 certainly a step in the right direction, and an  
7 important positive development that recognizing  
8 some type of restoration means dealing with the  
9 pitch pine forest. There are tall pitch pines  
10 and under score tree oaks as well. I would like  
11 to discuss some of the type of restoration that  
12 relates to that area as well, if we do go in  
13 that direction.

14 MR. SHEA: One other question with  
15 regard to potential restoration areas. How  
16 would these areas be protected in the future? I  
17 know that when you gave the presentation at the  
18 first hearing you talked about planned expansion  
19 first stage, first phase of future improvements.  
20 You talked about the needs in 20 years and the  
21 needs beyond that. I'm just wondering how the  
22 restoration area is set aside, at this point in  
23 time? How assured that those areas would remain  
24 in the preservation state, as opposed to being  
25 impacted by future needs of LIPA at this site.

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2 MS. PINCUS: I believe the application  
3 we put in, and indicated at the last hearing,  
4 was looking forward 20 years. And it's our plan  
5 not to have to do anything further, depending on  
6 what kind of growth is presented to us from the  
7 areas that this substation services. You know,  
8 while I don't plan to not, your question, I  
9 think, a lot of that is premature. In 20 years  
10 from now, certainly we'll have to take another  
11 look at this and do a future expansion that  
12 required building anything addition. We  
13 probably will be back before the Commission.

14 MR. SHEA: I guess, in response to the  
15 second part of the question, it may be. Part of  
16 the planned expansion, at this time, is  
17 premature, if there are needs to be addressed  
18 then 20 years down the road. An expansion is  
19 planned for that expectation 20 years from now.  
20 Is there a way to phase in this work? And, of  
21 course, one of the beneficial goals of that  
22 would be to reduce environmental impact.

23 MS. PINCUS: I think that this leads  
24 into the next discussion. We'll call up those  
25 people.

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2 CHAIRMAN: Does anybody have anything  
3 further on the Buck Moth survey or any of the  
4 issues?

5 MR. SHEA: The only other issue, and I  
6 don't know if EEA is going to speak to this now  
7 or later, is the impact on site of fresh water  
8 wetlands; referring to wetlands.

9 MS. YABLONSKY: I did plan on addressing  
10 that. We realize that the expanded substation  
11 would be very close to that wetland. However,  
12 we truly believe that proper control is in place  
13 to avoid impact to the wetlands in our  
14 resubmission. We did mention we will definitely  
15 install erosion control hay bales and fencing  
16 immediately adjacent to the disturbed area.  
17 Also we propose to install a construction access  
18 fence around the wetlands itself, to prevent any  
19 equipment entering into that wetland. We  
20 realize it's close, but we truly believe to  
21 avoid any impact to the wetland by installing  
22 proper measures during construction. And also  
23 immediately upon the completion of the work, we  
24 can immediately restore that slope that would  
25 exist adjacent to the wetlands.

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2 As you know, there is going to be a bit  
3 of a slope from finished grade down toward the  
4 wetland. And we feel we can re-vegetate that  
5 slope adequately. Then, in the long term, it's  
6 not going to have any real impact to the  
7 wetland.

8 MR. SHEA: Even if, at this time, your  
9 current plan shows a ten foot separation from  
10 the on-site wetland, you think, with the  
11 mitigation measures, that this project can be  
12 planned in a way that it's not going to have  
13 adverse impacts to those wetlands?

14 MS. YABLONSKY: That's correct.

15 MS. PINCUS: That's correct. Here  
16 again, we are amenable to working with staff, if  
17 there is something else that you would like to  
18 see or that you think would be helpful. Under  
19 the circumstances, we are certainly willing to  
20 consider it.

21 MR. SHEA: As those on-site fresh water  
22 wetlands, Town regulated wetlands, will LIPA  
23 also be seeking permits, as part of the  
24 application?

25 MS. PINCUS: LIPA will consider getting

1  
2 whatever permits are required to get, at this  
3 point. We can't go forward to the next step,  
4 unless we get the approval for the waiver.

5 MR. SHEA: At this point in time, can  
6 you comment as to whether or not you applied for  
7 a town permit?

8 MS. PINCUS: We will get whatever  
9 permits we're required to get. But I don't have  
10 a list.

11 MR. TURNER: In response to one comment.  
12 I'm a little concerned that you would fence that  
13 wetland. I thought I heard you say that. It  
14 provides a water source for wildlife.

15 MS. SCHWANOF: One alternative is a  
16 guardrail, so we don't have vehicular problems,  
17 and wildlife can move underneath.

18 MS. YABLONSKY: We don't want to disturb  
19 any more vegetation than necessary, by  
20 installing a permanent fence. I was thinking  
21 more along the lines of temporary construction,  
22 typical orange plastic. You make a good point,  
23 doing something along the split rail type of  
24 thing that does allow for the smaller animals.

25 MS. SCHWANOF: Or we can fence on the

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2 side closest to the substation. The idea is to  
3 prevent any inadvertent access into that wetland  
4 by vehicles. And the control measures will  
5 protect the wetlands from the construction as  
6 well.

7 MS. PINCUS: We had addressed fencing.  
8 Additional fencing might cause more of a  
9 disturbance. But as long as that's something  
10 you would want to see, we would make sure to  
11 mitigate whatever disturbance would be caused by  
12 that.

13 MS. SCHWANOF: The other alternative is  
14 plantings can be put in their with a fairly good  
15 density; elder berry, bay berry. You know, put  
16 in plant materials to enhance that buffer.  
17 That's another thought. We've used rose hedges,  
18 let's say, or that kind of a barrier along the  
19 edges where we didn't want pedestrian traffic to  
20 enter. It's been fairly effective. That's  
21 another way.

22 MR. SHEA: With respect to bay changes  
23 between the wetland and expansion, are you  
24 proposing any kind of retaining wall?

25 MS. YABLONSKY: No.

17 2008

25

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2 MR. SHEA: You think there is sufficient  
3 separation that you can create gradual grading  
4 and, as you indicated, vegetate that way with  
5 native plants?

6 MS. YABLONSKY: That's correct.

7 MS. PINCUS: If I could call up Steve  
8 Marron to address some of the additional issues  
9 regarding the location and why the site is  
10 configured the way it is, and address any  
11 questions that the Commission might have on  
12 that.

13 S T E P H E N M A R R O N ,

14 having been first duly sworn by a Notary  
15 Public of the State of New York, was examined and  
16 testified as follows:

17 MR. MARRON: Good afternoon,  
18 Commissioner, members of the team. I'm here to  
19 talk a little bit about some of the information  
20 we did provide in response to the questions that  
21 were asked last time. I'd quickly like to go  
22 over the history and how we ended up with this  
23 design. It seems to be, maybe what we did is  
24 went ahead. We knew what your concerns were  
25 about the space requirements. Rather than

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1  
2 coming back and saying here is our plan, what  
3 can you do to make it smaller? We worked  
4 internally, over the last two years, to develop  
5 this plan, to come up with this space as  
6 developed. We made modifications to it which,  
7 in the end, is the final product that you're  
8 seeing. And quickly, if I can go through this.  
9 I'll walk through very quickly. You know the  
10 nature of the substation, why it's here.

11 Again, this substation in Riverhead  
12 supplies the Riverhead area and the north and  
13 south forks, as well as some of the adjacent  
14 areas. The transmission lines come from the  
15 west, come from Brookhaven and up from  
16 Wading River. They come in on this end,  
17 terminate at this structure, which we show in  
18 the area also already cleared. This is our  
19 138-KV transmission system. The higher the  
20 number, the higher the voltage, the higher the  
21 power in New York City, West Chester, even from  
22 New Jersey. They are talking about 500-KV,  
23 345-KV. Their power lines come across and  
24 distribute the power and bring it back and forth  
25 at this area. 138-KV, that terminal and



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2                   with the front. This is why we look to this  
3                   area. It minimizes the footprint. One of the  
4                   basic designs we talk about in the  
5                   September 30th application of a breaker and a  
6                   half scheme. A breaker and a half scheme is a  
7                   little bit more space. Basically, it requires  
8                   twice this area, but it's very reliable. And as  
9                   we talked about, it also is a stage that allows  
10                  you to expand over time.

11                  Basically what you have is multiple  
12                  rings; one ring adds to another ring on top it,  
13                  another ring, and keeps expanding it. It's very  
14                  nice for expansion. It makes it very nice. The  
15                  problem with that is, when you lay it out,  
16                  talking about clearing a space of twice the size  
17                  of this.

18                  And one of the other things we mentioned  
19                  also is, there is a mesh underground for safety  
20                  electrical requirements that you clear the land  
21                  and put the mesh under it. We would have  
22                  cleared an area twice the size of this and used  
23                  some of it now and built the rest of it later.  
24                  Realizing this takes so much space by clearing  
25                  this area, we went back to a ring bus, okay,

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2                   which, basically, creates the ring using the  
3                   existing infrastructure that allows us to go  
4                   ahead and make a range with some of the  
5                   reliability without using as much space.

6                   One of the questions was, why can't we  
7                   make the ring later? We can make the circle  
8                   once. You can't go back out make the circle  
9                   bigger, later on. We made that ring. In making  
10                  that ring, we have gained the provisions that,  
11                  basically, allowed the lines to terminate and in  
12                  between. Basically we have some space,  
13                  basically, to bring in future lines, should we  
14                  need them. We have laid this out, so if we went  
15                  back we'd add additional lines across the center  
16                  of it. We talked about in the September 30th  
17                  application, under growth. It will cost us  
18                  \$500,000 to go under ground, if we had space.  
19                  That would have been, basically, over head, but  
20                  it would have required additional space on the  
21                  footprint.

22                  We also did spend extra money in the  
23                  configuration of the breakers. The ring has  
24                  circuit breakers on it that I said were like the  
25                  holiday lights circuit breaker to isolate

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1  
2 different components. We have added extra ones.  
3 We had space for them. But installing them was  
4 really in order to maintain reliability. We  
5 wanted to bring in these lines. If we brought  
6 them in, the way we laid out the design of that  
7 substation, it would have required us to extend  
8 the footprint outside of the fence. We went  
9 back, moved this back, put the breaker here and  
10 stayed within the footprint. The breaker is  
11 about \$3,000,000 additional. If we didn't bring  
12 it in, it was twice as much, plus the additional  
13 \$3,000,000. It gives you a little more  
14 reliability in the expansion room. We did not  
15 build that and stayed with this. Relative cost  
16 is \$8,000,000. Talking substantial dollars.  
17 Just the cables is another half a million  
18 dollars. This is why we decided to go here.

19 Anything we do, in terms of building it,  
20 expanding it away from the wetlands, means  
21 further to the north, further to the south or,  
22 God for bid, going over to the other side of it.  
23 Basically, get the wires to come in from the  
24 west, bring them out around or up to here, where  
25 there is wetlands, or clear this whole area to

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2                   the south; we did not pursue that. Obviously,  
3                   it was a lot more land clearing and damage to  
4                   the environment. Staying here provides proper  
5                   protection for wetlands, mitigating any damage  
6                   and will incur the least amount of damages to  
7                   the Pine Barrens. For safety reliability, we  
8                   cleared the minimum of what we can. When we  
9                   first gave the application, it kind of looked  
10                  empty; the diagrams. You see now a lot of  
11                  infrastructure inside of here.

12                  MS. PINCUS: If I could add one thing.  
13                  I do want to indicate, when we came in with this  
14                  application, we came in with the minimum needed.  
15                  A developer comes in with a 25 acre project and  
16                  goes down until it's a 15 or ten acre project.  
17                  We came in taking the minimum amount of space we  
18                  could, and tried to work within that space in  
19                  the minimum amount necessary. And there really  
20                  isn't anymore room to move it in any direction  
21                  or shrink it more than what we have proposed.

22                  MR. MARRON: In the package, one of the  
23                  diagrams, I believe C1-2 and three, you can see  
24                  the actual implant of the different plants. Any  
25                  other questions or can I explain it better?

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2 MR. TURNER: One question for you. I'm  
3 referring to this particular map.

4 MR. MARRON: On the bottom right-hand  
5 corner there is a label.

6 MR. TURNER: A-3. I want to be clear.  
7 There is no possibility of pressing the area in  
8 gray and still having all the infrastructure and  
9 pressing it? You need that physical space  
10 between that?

11 MR. MARRON: Yes. This kind of shows  
12 it.

13 MR. TURNER: It does look like some dead  
14 space.

15 MR. MARRON: You need these terminals.  
16 That's where the lines terminate from the east  
17 and west. Those have to be here. There are  
18 space requirements they are mandated by  
19 electrical codes. You have to have so many feet  
20 distance between the lines. And the lines are  
21 eight inch aluminum structures; one line here.  
22 You need the distance for work crews to come  
23 around, when any piece of equipment needs to be  
24 removed, replaced or maintenance. You need  
25 space, electrical clearance, for the people to

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2 work safely. You need space on the outside of  
3 the fence, clearing a five foot area outside of  
4 the fence. Someone comes up to the fence,  
5 touches it, there's an electrical problem in  
6 there, you are protected. There is a mesh of  
7 three feet and gravel. Although it looks fairly  
8 empty, I think there is one diagram, I believe.  
9 I think it's --

10 MS. YABLONSKY: It's C-3.

11 MR. MARRON: It's a little clearer in  
12 C-3. It's essentially the same diagram. You  
13 are seeing here, again, electrical cables.  
14 Other equipment goes under ground. All of this  
15 space is extremely tight. You can see right  
16 here, in the center of the cable, there are  
17 couple of cables going across. This is the type  
18 of area shoehorned this in. In most cases, wide  
19 openings facilitate maintenance and lower cost.  
20 You cannot really move again. Again, you're  
21 physically located. If you look at the  
22 structure protruding towards the wetland, why  
23 don't I leave it north or south away from that?  
24 I can't. It's where the structures align  
25 themselves and the spacing in between those.

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2 MR. SHEA: There is no opportunity on  
3 the west side, east of the expansion, to tighten  
4 that up and to take the edge of the disturbed  
5 area to the north by realigning the  
6 configuration?

7 MR. MARRON: We looked at it. If I want  
8 to go ahead to the north and move this in, I  
9 have to basically expand slightly. Maybe not  
10 quite as far to this. But now I have to clear,  
11 move this whole area that I have shown cleared  
12 and move it to the north and, basically, build  
13 this to the north. Now what I have to do -- why  
14 do I still need space here? All the connection  
15 cables come in on the southeast side. I  
16 terminate here. I now have to bring it back  
17 over to this side. I have to bring the cables,  
18 go to the transformer up to the site. I'm  
19 taking this whole area, move it up here and  
20 adding corridors to bring it back and north. If  
21 I do it to the south, the same problem. To the  
22 east, larger problems, because I have to clear  
23 the large area. And not only the equipment, I  
24 have to bring everything over to the site.

25 MR. SHEA: No opportunity to come up

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2                   with an east/west configuration that takes this  
3                   space in here.

4                   MR. MARRON: No. We have talked about  
5                   it. Talked about a lot of meetings back and  
6                   forth on the issue with engineering staff, as I  
7                   said before. We have had some of the terminals  
8                   coming in. These lines from the east and west  
9                   coming in on the side required more clearing, if  
10                  I bring them in. One of the things we don't  
11                  want is, very simply, we don't want two devices  
12                  right next to each other, because if one of them  
13                  happens to fail, we could lose two. If you have  
14                  two lines coming in which supply, you don't want  
15                  them right next to each other. You have to  
16                  space at least two devices a part. That  
17                  requires spending additional money, additional  
18                  switches to isolate that now, so we don't have  
19                  to go outside of that fence line.

20                  CHAIRMAN: You have kind of spoken to  
21                  the issue of how this project design was arrived  
22                  at and why. In your view, alternative  
23                  configurations is not viable?

24                  MS. PINCUS: That is correct.

25                  CHAIRMAN: Are there additional items

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2 outstanding?

3 MS. PINCUS: We have updated site plans  
4 to submit.

5 MR. McCORMICK: The transformer.

6 MR. MARRON: The transformer. In the  
7 September 30th, we had a section. There are 11  
8 transformers there and the oil and amount of  
9 storage there. We are not proposing to add any  
10 transformers. What we did is left a space for  
11 one, should we have to come back and add one at  
12 a later time. This may not ever get installed.  
13 It may be another line. It all depends on how  
14 the area develops over the next 20, 25 years.  
15 Right now, going out 25 years, I don't need  
16 that. But in making the ring, I want to allow  
17 for that, should something change in the next 20  
18 years.

19 MR. McCORMICK: Base on the space in the  
20 plan you proposed now, that space only allows  
21 for an additional single transformer, or more  
22 than one?

23 MR. MARRON: Additional transformer over  
24 here and -- basically, we would be able to  
25 install additional area support over here.

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2 MR. McCORMICK: What do you mean area  
3 support?

4 MR. MARRON: Distribution banks for the  
5 area. The local Riverhead load.

6 MR. McCORMICK: Would that involve,  
7 additionally, the need for the lubricating fluid  
8 that you mentioned?

9 MR. MARRON: Any transformer that you  
10 installed have dielectric fluid in it, as an  
11 insulating fluid, when you went ahead and  
12 installed something of that nature.

13 MR. McCORMICK: Given that issue and the  
14 nature of that, would you be amenable to  
15 including a covenant and restriction? Perhaps  
16 this question is more for Ms. Pincus. Pursuant  
17 to the federal guidelines that you, in your  
18 report -- would you have an objection to  
19 including, should the need arise, for additional  
20 transformers or that required use of that  
21 particular fluid?

22 MS. PINCUS: On the whole fluid issue,  
23 we need to address points regarding fluid on  
24 what's there now, proposed in the event we had  
25 to have an additional transformer. I do have

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2 somebody here to address that. As far as a  
3 covenant preference, that's here now. It's  
4 contemplated to have the need for it and it asks  
5 that the entire waiver include our ability to  
6 put that in, if the need arises. Again, it's  
7 not something that LIPA wants to do, but it's  
8 something LIPA needs to do, in order to respond  
9 to the growth. Our preference is not to do  
10 that. If it is something the Commission wants,  
11 and it's the only way that we can be granted the  
12 waiver, it's something we would consider doing.

13 MR. MARRON: The transformer is a  
14 self-contained facility. And there is a  
15 barrier. It is sitting in a concrete area  
16 basically, it would be a secondary container.

17 MR. McCORMICK: When you say that second  
18 container, should the first fail; it will leak  
19 into the second container?

20 MR. MARRON: Right.

21 MR. McCORMICK: That's clear now. My  
22 request, as consideration, that covenant and  
23 restriction should there be a need for an  
24 additional transformer, these type of facilities  
25 require a second containment, a facility would

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2 be incorporated.

3 MR. MARRON: It has to be by code.

4 MS. PINCUS: Why don't you come up.

5 F R A N K D I E O M I Z I O,

6 having been first duly sworn by a Notary  
7 Public of the State of New York, was examined and  
8 testified as follows:

9 MS. PINCUS: I want to indicate, correct  
10 me if I'm wrong, the secondary containment  
11 system is now part of the way in which we do  
12 things; even though it's not mandated.

13 MR. DIEOMIZIO: Yes. The containment is  
14 not just a pad underneath; it goes out wider.  
15 It's building a moat around the transformer, six  
16 to eight feet wide around the transformer and  
17 six to eight feet deep, depending on the part  
18 and the sale. Most cases, we do install it,  
19 putting in transformers. It's not required by  
20 law.

21 MS. PINCUS: Will we be able to do it at  
22 this location?

23 MR. DIEOMIZIO: Yes. The existing  
24 transformers have it covered by a spill  
25 emergency response program that's been approved

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2 by your environmental people. Any new  
3 installation, when we can, we do look to do now.

4 MR. McCORMICK: You would agreed to do  
5 that?

6 MS. PINCUS: Yes. Since it's the  
7 standard by which do erect now, yes.

8 MR. McCORMICK: You wouldn't have any  
9 objection?

10 MS. PINCUS: No.

11 MR. McCORMICK: There's a representation  
12 on the page that the transformer fluid intake is  
13 fully contained within the transformer tank.  
14 This is the second full paragraph. What are the  
15 physical properties of the fluid so it's not  
16 toxic.

17 MR. DIEOMIZIO: Mineral oil is not  
18 harmful to the soil or plants around it. But it  
19 is a mineral grade oil.

20 MR. McCORMICK: Is it biodegradable?

21 MR. DIEOMIZIO: We do clean up.

22 MS. YABLONSKY: It is non-toxic.  
23 However, any spill of the material would be  
24 something we would want to clean up. We don't  
25 want to lose gallons of mineral oil in the

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2 Peconic River. We are required to respond,  
3 under the law. But it is considered non-toxic.  
4 But again, not something that you want to just  
5 forget about, if there is a spill.

6 MR. McCORMICK: What are the properties,  
7 other than mineral oil?

8 MS. YABLONSKY: Oil.

9 MR. McCORMICK: What are the actual  
10 physical components of that mineral oil?

11 MR. MILAZZO: Is it a petroleum based  
12 project.

13 MS. YABLONSKY: We don't have the sheets  
14 with us today to provide it to you. There are a  
15 variety of different dielectric fluids used in  
16 the system. Maybe we can provide that to you.

17 MR. McCORMICK: This would be harmful,  
18 if it were to get into the water supply system?

19 MS. YABLONSKY: Yes, to be honest. As  
20 Mr. Dieomizio said, there is a spill prevention  
21 plan in place for the existing substation. We  
22 are required, by law, to inspect for any  
23 potential leaks, any issues or problems. The  
24 transformers do have alarms on them. Something  
25 we do take seriously, as far as responding to

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1  
2 any spills. You would not want this just  
3 sitting there not cleaned up.

4 CHAIRMAN: Is the tank system regulated  
5 by Suffolk County and Suffolk County Police,  
6 Suffolk County Health code.

7 MR. YABLONSKY: Operations are not  
8 regulated Suffolk County Code.

9 CHAIRMAN: The tank is a closed system  
10 approved by Suffolk County, the report  
11 indicates.

12 MS. YABLONSKY: That I can't -- I don't  
13 know what was approved by Suffolk County. I'm  
14 not intimately involved in that program. Again,  
15 that's information I can get to you. It's not  
16 regulated under County Article 12 Regulations,  
17 because it is operating equipment.

18 MR. McCORMICK: It was represented in  
19 the report.

20 MS. PINCUS: We can seek clarification  
21 on that.

22 MR. McCORMICK: In the next paragraph  
23 there is a representation.

24 MR. MILAZZO: Page seven of your  
25 September 30th letter.

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2 MR. McCORMICK: It is page seven, third  
3 full paragraph in that particular report. What  
4 is the basis for that particular insertion?

5 MS. YABLONSKY: I believe -- again, I  
6 can't -- I'm not intimately involved in the  
7 program. However, from what I gathered,  
8 speaking to people in my department who were  
9 involved in the SPCC program, the idea modeling  
10 that is done, SPCC Regulations are designed to  
11 surface waters, not ground water. The idea is  
12 that if, in fact, there was a spill on the  
13 existing site, that the thing to be concerned  
14 about more so than the oil getting into the  
15 ground, seeping into the river, is the over flow  
16 of that oil. With the modeling that was done,  
17 if, in fact, oil penetrated into the ground,  
18 there would be sufficient time, long enough  
19 time, to get down to the river and a clean-up  
20 would take place, prior to it impacting the  
21 river. That's the intent of the SPCC  
22 Regulations.

23 MR. McCORMICK: Assuming it was detected  
24 in a timely manner.

25 MS. YABLONSKY: Right.

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2 MR. McCORMICK: I would like more  
3 information on that. I do appreciate all the  
4 additional documentation you brought too.  
5 Obviously, we need to feel comfortable, since  
6 this is a core area one. Of the primary  
7 concerns is the protection of ground water in  
8 that area. Obviously, it will have an impact.  
9 I would like additional information, if you can  
10 provide it. That will be very helpful.

11 MR. DIEOMIZIO: We did mention -- it  
12 notes, all the transformers have of alarms to  
13 monitor the health and status. Therefore, any  
14 condition that would lead to possible damage to  
15 the transformer, where it may rupture, is  
16 monitored. And also any leaks that may happen  
17 from valves or seals, there is a liquid level  
18 alarm on this that is monitored on a continuous  
19 basis. The alarms are picked up every few  
20 seconds and are transmitted back the operation  
21 center, where one of the system operators would  
22 see it and dispatch crews to make it safe.

23 MR. MARRON: Fluid acts as an insulator.  
24 If the oil is not there or there is a lowering  
25 of that oil, the equipment cannot operate. It's

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2 there to perform insulating value, every six  
3 seconds, looking at these things, to make sure  
4 it is fine. The oil goes down, the alarm goes  
5 off to warn the operator there is a problem.

6 MR. McCORMICK: The reason I found it of  
7 interest is, page nine of your report indicated  
8 that your follow-up test indicated that the  
9 ground water is closer to the surface than you  
10 originally thought. I believe you originally  
11 represented 25 feet. Page nine indicated ten to  
12 13 feet. I'm concerned. It appears the ground  
13 water is closer to the surface than previously  
14 thought. In fact, closer to be contaminated,  
15 so-to-speak.

16 MS. YABLONSKY: We're aware of that.  
17 The original information was derived from  
18 published water table maps and as I stated  
19 otherwise.

20 MR. SHEA: I believe the test provided  
21 showed virtual separation of four feet between  
22 the ground surface and ground water and that  
23 west central portion of the proposed expansion.  
24 Now recognize that October and September is the  
25 driest part of the year. So, as you know, in

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2 January, in the winter and the spring months,  
3 that ground water table is a lot drier. That  
4 being said, when the actual construction is  
5 under way, do you expect any de-watering  
6 necessary? How deep are you excavating? Will  
7 you be potentially hitting into the ground water  
8 table on that western side of the facility?

9 MS. YABLONSKY: The ground water data,  
10 we do have ten to 13 feet deep.

11 MR. SHEA: One spot on the western side  
12 showed separation of four feet. Now that would  
13 be at the lowest grade, where the ground slopes  
14 down toward the wetland area; mostly east to the  
15 west wetland area.

16 MS. YABLONSKY: The data I have is in  
17 Exhibit F-3.

18 MR. TURNER: It is pretty shallow.

19 MS. YABLONSKY: You're right. About  
20 five feet existing. The far west central  
21 portion -- right. I'm sorry. You're correct.  
22 It's about five and a half feet from existing  
23 grade. The new grade is approximately 20 and 24  
24 feet.

25 To answer your question. We will be in

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2 saturated soils, when we're installing the  
3 foundation. We don't anticipate the need to do  
4 water. Not something we're planning to excavate  
5 for. We're not running a gas main where we have  
6 to drop the water table down and install piers  
7 into the ground.

8 MR. SHEA: During construction --  
9 actually, in the upper level of that water  
10 table, what is going to be done, in terms of  
11 mitigation to ensure that the wetland area is  
12 not impacted, or again to ensure that ground  
13 water is not contaminated?

14 MS. YABLONSKY: Again, install hay bales  
15 around these operations, if need be. There is  
16 no intent to pump water from an excavation.

17 MR. SHEA: With regard to the actual  
18 construction work, no aspect of that would be  
19 possible contamination to that ground water, if  
20 you are in the water table during the  
21 construction phase?

22 MS. YABLONSKY: No. The idea of pumping  
23 concrete into the hole and displacing the water  
24 as we're pumping the concrete. We're not  
25 injecting any other chemicals in the ground

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2 water.

3 MS. PINCUS: If there are no other  
4 issues, I'd like to make a brief concluding  
5 remark.

6 MR. McCORMICK: A point to counsel. Do  
7 we have a decision deadline on this?

8 MR. MILAZZO: We have a deadline for the  
9 end of the month. I believe counsel and I have  
10 spoken. They were willing to give an extension,  
11 at least through the November meeting. That  
12 extension, if granted, would be for the SEQRA  
13 decision that we have, and also for the  
14 Commission hardship deadline.

15 MS. PINCUS: Let me say, for the record,  
16 we are prepared to request or to grant the  
17 Commission's request for the additional 30 days  
18 to reach the determination.

19 MR. MILAZZO: We don't want to ask for  
20 30 days. The next scheduled meeting.

21 MS. PINCUS: For the record, I certainly  
22 understand that, but indicate that we request  
23 that the Commission close the hearing at this  
24 point. We have submitted quite a bit of  
25 additional information. I understand you do

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2 have the outstanding question regarding  
3 transformer fluid. I ask the record be closed,  
4 and we'll still submit that additional  
5 information regarding the transformer and the  
6 fluid within the next week.

7 MR. McCORMICK: And the water path  
8 issue.

9 MS. PINCUS: And do that.

10 MR. SHEA: You had also indicated you  
11 were going to submit a reviewed habitat  
12 restoration mitigation plan. I believe that's  
13 what; EEA?

14 MR. MILAZZO: Identify some other areas,  
15 perhaps off site, and give us the acreage on  
16 one-to-one.

17 MS. PINCUS: We can do that. I guess  
18 it's really all subject to further tweaked, when  
19 we sit down with staff and they actually advise  
20 us, specifically, how they would want it done,  
21 we can submit another plan. So really based on  
22 the testimony that you heard today, the  
23 testimony that you heard on the 17th and also  
24 all of the additional submissions that we can  
25 put on and submitted to the Commission in

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2 between, we would submit that this completely  
3 supports LIPA's request for the waiver. And  
4 with the granting of the additional 30 days, we  
5 certainly request that that waiver be granted.

6 CHAIRMAN: Thank you. Any members of  
7 the public want to be heard on the application?

8 (Whereupon, no response was heard.)

9 CHAIRMAN: Anybody have any questions  
10 from the staff?

11 MR. SHEA: Just procedural questions.  
12 So, the record, the hearing, would potentially  
13 be closed today, but the record kept open for  
14 submission of this additional information and  
15 how much time would be allotted for that.

16 MR. MILAZZO: We will close the hearing  
17 today, if that's the Commission's will. And  
18 LIPA has indicated they will pass the  
19 information to us within a week and, if  
20 necessary, the staff will follow-up with  
21 conversations with them, using today's  
22 conversation hear as a guide path to the staff  
23 questions identified, if you want more  
24 information. And the staff will be able to  
25 present something to you for your consideration

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2 in November. Some of the key information spoken  
3 to today is this transformer, future  
4 transformers; pathway to the river, and also the  
5 restoration plan, specifically one-to-one ratio  
6 and other opportunities for re-vegetation. I  
7 think those are the three outstanding sort of  
8 framed issues.

9 MS. PINCUS: And we can respond to those  
10 within a week.

11 MR. McCORMICK: Would that be enough  
12 time for your staff to prepare a report  
13 recommending this project or not recommending,  
14 based on the additional information? I want to  
15 make sure you have another --

16 MR. CORWIN: It depends on the  
17 information submitted. If they submit a hundred  
18 pages, it will be more than a day.

19 MS. PINCUS: I assure you, it won't be a  
20 hundred pages.

21 MR. CORWIN: I think we can do that.

22 MR. TURNER: If it's the consensus of  
23 the Commission, we'll move forward, as indicated  
24 to you and accept to extend the decision  
25 deadline. How many different motions do you

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2 need to see on the record?

3 MR. MILAZZO: Motion to extend and  
4 accept the deadline expansion and Article 57.  
5 And make a second motion to close the hearing  
6 and then keep the record open for two weeks for  
7 LIPA's submissions --

8 MS. PINCUS: One week.

9 MR. MILAZZO: The LIPA submission should  
10 be memorialized in writing; what they told us.

11 MR. CORWIN: Deadline is next meeting  
12 which; is November 19th.

13 MS. PINCUS: Usually requested originals  
14 submit the request 30 days in writing.

15 MR. MILAZZO: I'm comfortable.

16 CHAIRMAN: Who wants to enter a motion  
17 to accept to extend the position deadline until  
18 our next meeting of the proposed waiver  
19 application and SEQRA determination?

20 MR. SHEA: So moved.

21 CHAIRMAN: Second?

22 MS. MEEKS-GALLAGHER: Second.

23 CHAIRMAN: In favor, opposed. Motion  
24 carried.

25 I guess we need a motion to close the

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1  
2 hearing; understanding that the record will be  
3 kept open for one week for the applicant to  
4 submit additional information as indicated.

5 MR. SHEA: I'll make the motion.

6 MS. MEEKS-GALLAGHER: Second.

7 CHAIRMAN: I guess our work here is  
8 done. Thank you very much. Anything further to  
9 come before the Commission?

10 (Whereupon, no response was heard.)

11 CHAIRMAN: Is there a motion to close?

12 MR. TURNER: Motion to close.

13 CHAIRMAN: Second by the Chair. All in  
14 favor. Motion stands. Thanks.

15 (Time noted: 4:06 p.m.)  
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I N D E X

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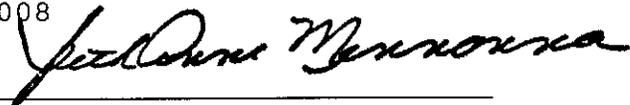
## C E R T I F I C A T I O N

I, BETHANNE MENNONNA, Court Reporter and Notary Public of the State of New York, do hereby certify:

That the within transcript was prepared by me and is a true and accurate record of this hearing, to the best of my ability.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 14th day of November, 2008



BETHANNE MENNONNA

