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CENTRAL PINE BARRENS JOINT PLANNING

4

& POLICY COMMISSION

5

PUBLIC HEARING

6

TOWN OF BROOKHAVEN TOWN HALL

7

ONE INDEPENDENCE HALL

8

FARMINGVILLE, NEW YORK

9

October 15, 2008

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3:00 p.m.

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PETER SCULLY

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Chairman

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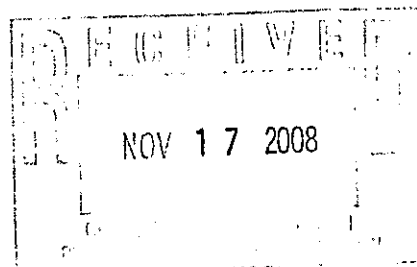
Reported By:

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BethAnne Mennonna, Court Reporter

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

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4 MARTY SHEA - Town of Brookhaven

5 ANN CARTER - Staff

6 JOHN TURNER - Town of Brookhaven

7 CARRIE MEEKS-GALLAGHER - Suffolk County

8 DANIEL McCORMICK - Town of Riverhead

9 JOHN MILAZZO, ESQ. - Commission Counsel

10 RAY CORWIN - Executive Director

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

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

MS. HARGRAVE: Good afternoon, Chairman Scully and Commission Members. This is LIPA's second public hearing, as you just read in the hearing notice. This hearing is to allow LIPA to submit additional information. They submitted some additional information, as a follow-up to the hearing in September; and that was submitted on September 30, 2008. Right now the deadline for the application is the end of the month, October 30th. But the Applicant has indicated they are going to ask for an expansion of the deadline for your decision and the SEQRA determination. We haven't received that in 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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hearing. Some cost analysis of their alternatives, that really hasn't been submitted. I don't know if they are going to submit more information about that. And some updating of the site plans to add all of the data. Just for the record, the site area, the clearing, is missing information; and I believe they are working on that, or maybe they'll submit that today. And so, they are here to discuss any additional information.

CHAIRMAN: Are there any questions for Julie?

(Whereupon, no response was heard.)

CHAIRMAN: For the applicant.

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

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

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

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report. We recognize the need for the balance of LIPA's need to serve the public and the preservation of a very sensitive environmental area.

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

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

B I L L J A C O B S,

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

L A U R A S C H W A N O F,

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

A D A M Y A B L O N S K Y,

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

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

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

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

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

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

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

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

MR. JACOBS: That's correct.

MS. MEEKS-GALLAGHER: Dan's favorite.

CHAIRMAN: Thank you.

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

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

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

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

Off the record.

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

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

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

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

MS. SCHWANOF: Number of invasives.

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

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

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

MS. SCHWANOF: No.

MR. TURNER: Any defoliation that might suggest --

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

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

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

CHAIRMAN: The right time to survey.

MR. TURNER: They would be doing egg 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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potential areas under this exercise.

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

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

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

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

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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that should be.

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

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

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

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

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

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

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

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

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

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

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

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

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

MS. YABLONSKY: That's correct.

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

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

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

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

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

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

MS. YABLONSKY: No.

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

MS. YABLONSKY: That's correct.

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

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

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

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

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

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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substation, which is located vertically north and south on the east side of the substation, the lines come in, right now, into that structure at that point. Some of the lines continue out at 138-KV, which is the line that goes out, right now, towards the Canal substation, which is along Sunrise Highway further east. And the rest of it is a step down from two transformers down, the 69-KV goes to the north fork and to the south fork as well. Further, there are distributions which then is distributed locally to the streets of Riverhead in the local area.

So again, we have the 138-KV and the 69-KV. When we looked at this, I did not want to expand on this side. All the lines come in this way. This is the 138-KV bus. Where would you expand? I make the simple analogy of your house with a small kitchen. I've got to expand the kitchen. The kitchen is here, all the plumbing is over here, the kitchen table, refrigerator, everything is here already. Why don't you build the rest of the kitchen on the back side of the house? It has to be integrated

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

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

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

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

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

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

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

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

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

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

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

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1
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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work safely. You need space on the outside of the fence, clearing a five foot area outside of the fence. Someone comes up to the fence, touches it, there's an electrical problem in there, you are protected. There is a mesh of three feet and gravel. Although it looks fairly empty, I think there is one diagram, I believe. I think it's --

MS. YABLONSKY: It's C-3.

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

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

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

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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outstanding?

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

MR. McCORMICK: The transformer.

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

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

MR. MARRON: Additional transformer over here and -- basically, we would be able to 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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1
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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by your environmental people. Any new installation, when we can, we do look to do now.

MR. McCORMICK: You would agreed to do that?

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

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

MS. PINCUS: No.

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

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

MR. McCORMICK: Is it biodegradable?

MR. DIEOMIZIO: We do clean up.

MS. YABLONSKY: It is non-toxic.

However, any spill of the material would be something we would want to clean up. We don't want to lose gallons of mineral oil in the

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

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

MS. YABLONSKY: Oil.

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

MR. MILAZZO: Is it a petroleum based project.

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

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

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

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

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

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

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

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

MR. McCORMICK: It was represented in the report.

MS. PINCUS: We can seek clarification on that.

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

MR. MILAZZO: Page seven of your 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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there to perform insulating value, every six seconds, looking at these things, to make sure it is fine. The oil goes down, the alarm goes off to warn the operator there is a problem.

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

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

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

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

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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water.

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

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

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

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

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

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

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

MR. McCORMICK: And the water path issue.

MS. PINCUS: And do that.

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

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

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

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

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

(Whereupon, no response was heard.)

CHAIRMAN: Anybody have any questions from the staff?

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

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

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1
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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need to see on the record?

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

MS. PINCUS: One week.

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

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

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

MR. MILAZZO: I'm comfortable.

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

MR. SHEA: So moved.

CHAIRMAN: Second?

MS. MEEKS-GALLAGHER: Second.

CHAIRMAN: In favor, opposed. Motion carried.

I guess we need a motion to close the

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

MR. SHEA: I'll make the motion.

MS. MEEKS-GALLAGHER: Second.

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

(Whereupon, no response was heard.)

CHAIRMAN: Is there a motion to close?

MR. TURNER: Motion to close.

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

(Time noted: 4:06 p.m.)

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

