

In the Matter

-of-

The Addition of Subpart 900-6 (Uniform Standards and
Conditions) to Chapter XVIII, Title 19 of the
Official Compilation of the Codes, Rules, and
Regulations of the State of New York (NYCRR)

I.D. No. DOS-37-20-00016-P

Buffalo, New York

OFFICE OF RENEWABLE ENERGY SITING
PUBLIC HEARING STATEMENTS

Held via WebEx

November 17, 2020

5:00 p.m.

Held Before
ALJ DAKIN LECAKES

1 ALJ LECAKES: Okay. Let's go on the
2 record, please. Good evening. My name is
3 Dakin Lecakes, and I am the Chief
4 Administrative Law Judge with the New York
5 State Department of Public Service.

6 Assisting me tonight is Erin
7 O'Dell-Keller, of the Department of Public
8 Service Office of Consumer Services. I
9 will be presiding over today's public
10 comment hearing regarding the New York
11 State Office of Renewable Energy Siting,
12 Draft Uniform Standards and Conditions,
13 Chapter XVIII, Title 19, Subpart 900-6.

14 On September 16th, 2020, the Office of
15 Renewable Energy Siting issued draft
16 regulations for public comment, pursuant
17 to the State Administrative Procedure Act.
18 All stakeholders and the public have an
19 opportunity to formally submit comments on
20 the draft regulations, Chapter XVIII,
21 Title 19, Subparts 900-1 through 900-5 and
22 900-7 through 900-15, and the draft
23 uniform standards and conditions, Chapter
24 XVIII, Title 19, Subpart 900-6, until
25 December 7th, 2020.

1 The original date to submit comments
2 on the draft regulations, Chapter XVIII,
3 Title 19, Subparts 900-1 through 900-5 and
4 900-7 through 900-15 was November 16,
5 2020. The Office of Renewable Energy
6 Siting has extended this public comment
7 period until December 7th, 2020.

8 As part of the State's ongoing
9 commitment to community engagement, the
10 Office of Renewable Energy Siting will
11 seek public comment on the draft uniform
12 standards and conditions, Chapter XVIII,
13 Title 19, Subpart 900-6 through seven
14 public hearings while complying with
15 public health and safety guidelines due to
16 the circumstances presented by the
17 COVID-19 pandemic.

18 In light of the increasing rates of
19 COVID-19 infection in Erie County and the
20 governor's November 9, 2020, designation
21 of the local areas as "yellow zones," the
22 Office of Renewable Energy Siting changed
23 the format of today's hearing to a virtual
24 platform. The Office of Renewable Energy
25 Siting has the legal authority to make

1 these hearings virtual under Executive
2 Orders 202.1 and 202.15, which were
3 recently extended by Executive Order
4 202.72. This decision was made after
5 careful consideration of the potential
6 health risks of any large gathering of
7 individuals in these areas at this time.

8 This virtual platform allows for
9 presentation of comments in a secure
10 environment and may result in greater
11 attendance than any in-person hearing,
12 under the present circumstances.

13 Participants who do not have Internet
14 access are able to call into the meeting
15 to provide their comments. Translators
16 are available upon request. Furthermore,
17 individuals who wish to comment always
18 have the opportunity to submit their
19 comments in writing, and such written
20 comments are given equal weight to any
21 oral comments received tonight.

22 As noted in the public notice
23 published in the New York State Register
24 on September 16th, 2020, I will use a
25 registration list to call each person who

1 has requested to provide a statement
2 tonight. The hearings will continue until
3 everyone wishing to speak has been heard,
4 or other reasonable arrangements have been
5 made to include their comments in the
6 record. It is recommended that lengthy
7 comments be submitted in writing and
8 summarized for oral presentation. Equal
9 weight is given to oral and written
10 comments.

11 A verbatim transcript of the hearings
12 will be made for inclusion in the record.
13 All details about these public comment
14 hearings and links to the virtual hearings
15 that will be coming later in November, as
16 well as instructions on how to register,
17 are available at the Office of Renewable
18 Energy Siting website, ores.ny.gov.

19 Before we begin taking comments, I am
20 going to turn to Houtan Moaveni, Executive
21 Deputy Director for ORES.

22 Mr. Moaveni?

23 MR. MOAVENI: Thanks, Judge Lecakes.
24 Good evening, everyone. I hope you are
25 all well and staying safe. On behalf of

1 the New York State Office of Renewable
2 Energy Siting, I would like to welcome you
3 to this virtual public statement hearing.

4 By way of introduction, my name is
5 Houtan Moaveni, and I am the Executive
6 Deputy Director of the new Office of
7 Renewable Energy Siting. As the Judge
8 stated, the purpose of this hearing is to
9 receive comments from all interested
10 parties on the draft uniform standards and
11 conditions. I'll say no more, but I will
12 look forward to hearing your comments.

13 Back to you, Judge.

14 ALJ LECAKES: Thank you. We will now
15 start taking comments. All attendees are
16 muted, by default, on entry. We will call
17 your name, if you have registered, when it
18 is your turn to comment and either provide
19 directions so that you may be identified
20 and unmuted or inform you, if we can see
21 your name in our participant list, that
22 you have been unmuted.

23 Please acknowledge that you are the
24 person called by starting your comment
25 with stating your full name. If you are

1 speaking on half -- on behalf of a group,
2 please identify that group.

3 When making your comment, please speak
4 loudly, slowly, and clearly, so that
5 the -- our court reporter can make an
6 accurate record of your comments.

7 Out of consideration for all
8 participants' time, comments are limited
9 to three minutes. If you have not
10 completed your comment in three minutes,
11 we will alert you that your time is up and
12 ask you to please conclude your comments.

13 Beginning tonight, with our first
14 speaker, is James Simon, Supervisor of the
15 town of Yates.

16 Ms. O'Dell-Keller, do you find
17 Mr. Simon in your list?

18 MS. O'DELL-KELLER: Yes, Judge.

19 ALJ LECAKES: And is he --

20 MS. O'DELL-KELLER: He's unmuted.

21 ALJ LECAKES: Mr. Simon?

22 MR. SIMON: Yes, speaking. Can you
23 hear me?

24 ALJ LECAKES: Yes, we can hear you.

25 MR. SIMON: Thank you. I can't --

1 ALJ LECAKES: Please --

2 MR. SIMON: -- see anything but the
3 slides. Are you seeing me, as well? I
4 don't know.

5 MS. O'DELL-KELLER: We see your name,
6 sir.

7 MR. SIMON: Oh. Okay. So this will
8 not be audio -- or visual. It will just
9 be audio?

10 MS. O'DELL-KELLER: Correct.

11 MR. SIMON: Okay. Okay. Let me know
12 when I should begin.

13 ALJ LECAKES: You may begin any time.

14 MR. SIMON: Thank you, Judge. Your
15 Honor, I'm the town supervisor for the
16 town of Yates, Orleans County. I was
17 elected on a write-in campaign in 2016 by
18 taking a position against an ill-conceived
19 industrial wind turbine project.

20 I have participated in the Renewables
21 on the Ground Roundtable in Albany a
22 couple of years ago, co-chaired by the
23 Nature Conservancy ACE NY and involving
24 the likes of Joe Martens, Anne Reynolds,
25 Cara Lee, Darren Suarez, Patrick Doyle,

1 Tom Tuffey. Many -- 37 total
2 participants.

3 I also, up until just a few months
4 ago, was a member of the Genesee Community
5 College Sustainability Committee. My town
6 is in the initial stages of pursuing a
7 biomass project, and I have solar panels
8 on my roof. I say it all -- all of that
9 in an introduction to my comments, which
10 are on behalf of myself, but, in meeting
11 with the town board last night, I have
12 support of the board, in terms of our
13 position on these regulations and
14 standards.

15 I'm sorry. I did not time my talk. I
16 think it's probably going to be about five
17 minutes, so, hopefully that is okay. I
18 can do the best I can.

19 I have two portions of my comments,
20 and they answer two questions: Why and
21 who? Why is the CLCPA targeting Upstate
22 New York and who wrote these regulations
23 and standards and who should decide how a
24 town will contribute to a more sustainable
25 future?

1 Why? G.K. Chesterton, an early
2 20th-century thinker and writer, once
3 said, "There are two ways to get enough.
4 One is to continue to accumulate more and
5 more. The other is to desire less." I
6 see this as the answer to the "why?"
7 Question and the concerns I have. What
8 will be gained by building more
9 large-scale energy projects upstate, where
10 they are not needed? They cannot help
11 downstate and will only result in
12 environmental destruction.

13 Upstate has already achieved the
14 law -- the CLCPA's law's goals. Article
15 94-C in the targets from the law took 85
16 percent emissions-free electricity as
17 their goal and 15 percent carbon capture,
18 including reforestation. Upstate --
19 today, Upstate New York has 88 percent
20 emissions-free electricity.

21 New renewables upstate will not reduce
22 emissions further because none of it will
23 go downstate for at least a decade, due to
24 transmission bottlenecks. This has been
25 identified by NYSO and was also part of

1 the discussions that I was involved in in
2 the Renewable on the Ground Roundtable in
3 Albany.

4 But I'm also going to focus on who.
5 Again, Chesterton put it this way: "It is
6 hard to make government representative
7 when it is only remote." And, ironically,
8 it's remote for this meeting, which I
9 contested with Mr. Moaveni. However, I
10 accept that we are in a situation where
11 this is the best we can do.

12 But the commented quote was not meant
13 for that, actually. It was meant to say
14 that who should make the decision about
15 what happens in this town that I am the
16 supervisor for. Is it the local
17 government, or is it some remote
18 government?

19 Procedural justice safeguards have
20 been ignored in the passing of this
21 legislation and the drafting of the
22 regulations and standards. Who drafted
23 the budget amendment that was submitted
24 the eleventh hour, as the pandemic began
25 to take its toll? Who participate in the

1 months-long drafting of the regulations
2 and standards this summer? Who will
3 arbitrate the comments made during these
4 hearings and make the decisions about
5 final wording of the regulations and
6 standards?

7 Again, Chesterton put it this way:
8 "To have a right to do a thing is not at
9 all the same as to be right in doing it."
10 And that's how my town feels. Who ensures
11 that rural environmental justice is served
12 and that local expert knowledge is
13 considered if, in fact, duly enacted local
14 town laws are ignored or brushed aside as
15 "considered," which is the language that's
16 been used under -- under Lee Bergenson
17 (phonetic).

18 As one example, we have a local law
19 regarding industrial wind turbines that
20 was derived from in-depth research to
21 be -- involvement, legal review, and, of
22 course, multiple peer-reviewed
23 journals -- articles. The one I'm
24 referring to now is called "Wind Energy:
25 Great Lakes Regional Guidelines." It was

1 produced by the University of Michigan and
2 the Nature Conservancy. It was published
3 in 2011. "Avoid wind energy development
4 within five miles of Great Lakes
5 shorelines, including islands and
6 including agricultural fields
7 traditionally used by large numbers of
8 waterfowl. Coastal areas support high
9 concentrations of migratory birds. The
10 buffer will help abate direct mortality of
11 birds and protect coastal stopover
12 habits -- habitats." Excuse me.

13 ALJ LECAKES: Mr. Simon, if you
14 could --

15 MR. SIMON: Yes.

16 ALJ LECAKES: If you could conclude
17 your comments.

18 MR. SIMON: Okay. Judge, with all due
19 respect, were -- were the -- the
20 three-minute limit, was that published as
21 part of the proceedings or is that
22 something that's been decided this
23 evening.

24 ALJ LECAKES: I -- I don't know. But
25 I -- what I can say is that the subject of

1 the -- the hearing tonight is for the
2 draft standards and conditions. It's not
3 on the law itself. It's not on any of the
4 regulations, and it's also not on any
5 particular project.

6 MR. SIMON: Understood. Yes, sir.
7 And -- and my comments, though, do have
8 bearing on the regulations cited, and I
9 would hope to continue to make
10 those -- those points, if I may.

11 ALJ LECAKES: Yes, and you -- you're
12 able to submit written comments, as well.
13 If you could just summarize, we would
14 appreciate it. Apparently, I am informed
15 that the three-minute maximum time limit
16 was published by the Office of Renewable
17 Energy Siting.

18 MR. SIMON: Yes, sir. I -- I
19 appreciate that someone advised you of
20 that. I asked that question of
21 Mr. Moaveni, and I was not given an
22 answer. And, in your opening comments, I
23 thought that the indication, short of
24 mentioning the three minutes, is that we
25 were having an opportunity to make this

1 comment.

2 So I guess I will conclude by saying
3 the unduly burdensome language is of great
4 concern to rural Upstate New York. The
5 actual regulations and standards that are
6 being considered are not -- have not been
7 vetted by towns that will have to host
8 these projects, both in the case of wind
9 and solar, and that, ultimately, a
10 regulation that allows for a decision to
11 be made, if the Office of Renewable Energy
12 Siting does not make a decision within one
13 year, is unconstitutional, and it violates
14 the home rule aspect of Article 9 of the
15 New York State Constitution.

16 I have many other comments to make,
17 and I'm sad to say that this is the only
18 opportunity that I'm being given to do so,
19 and that it does not afford me to make
20 further comment.

21 ALJ LECAKES: Thank you.

22 MR. SIMON: Thank you, sir.

23 ALJ LECAKES: The next user that we
24 have is Stephanie Milkes.

25 Ms. Milkes, you registered as a

1 call-in user. I don't see your name on
2 the attendee list. So, if you are one of
3 our call-in users, could you please
4 identify yourself by pressing "star three"
5 on your telephone now?

6 I believe it's Call-in User 6, Ms.
7 O'Dell-Keller.

8 MS. O'DELL-KELLER: That is correct.

9 ALJ LECAKES: All right. Could you --

10 MS. O'DELL-KELLER: She is unmuted.

11 ALJ LECAKES: Ms. Milkes?

12 MS. MILKES: Yes. Yes. Hello. This
13 is Stephanie Milkes.

14 ALJ LECAKES: Hi. We can --

15 MS. MILKES: I --

16 ALJ LECAKES: -- hear you.

17 MS. MILKES: -- am --

18 ALJ LECAKES: You may proceed.

19 MS. MILKES: Okay. Okay. Yes. I
20 have quite a few concerns on the draft
21 regulations that have been written up. I
22 have submitted quite a few comments to the
23 ORES already, but I do really want to
24 touch on some of these main ones.

25 The first, of course, is eminent

1 domain. I do not believe eminent domain
2 has any place in New York State, let alone
3 America. That really is the type of thing
4 that you would expect from -- in, say,
5 China, North Korea, Iraq, those types of
6 countries. I do not believe that is
7 necessary here.

8 The second one that I am concerned of,
9 that the supervisor of the town of Yates
10 brought up, is the local laws being
11 ignored, if you will. Some of that
12 language is very concerning to me. Our
13 town board are much more familiar with the
14 rural aspect and lifestyles of people out
15 here. And -- down in Albany, down in New
16 York State, do have very, very different
17 lifestyles and measures of safety that you
18 need to take. We really need to keep
19 these local laws in the hands of our
20 towns. I -- please, do not ignore our
21 local laws. I don't believe that is -- it
22 is up to a wind or solar developer to
23 decide if they want to use them or not.

24 I have also seen that the ORES office
25 is looking to use 1.1 times the height of

1 wind turbine setbacks. Those are far, far
2 too short and too dangerous, especially in
3 our region.

4 I have concerns of ice throw. As you
5 are aware, there is climate change. I do
6 believe in that. However, we need to take
7 some different measures in how we deal
8 with it. But icing is becoming much more
9 prevalent. Turbines are becoming bigger
10 and bigger, and to have those set so close
11 to our residences is a safety hazard
12 waiting to happen.

13 They also catch on fire. In Western
14 New York, these are being built in the
15 middle of a forest. If we've got forest
16 fire conditions, we do not have fire
17 departments that are even close to
18 prepared for dealing with anything like
19 that. That's putting it far too close to
20 our homes, so now we've got fire hazards
21 that we're dealing with on our properties,
22 as well.

23 I do believe, if turbines are going to
24 be sited here, and fire hazards, perhaps
25 the draft regulations should include some

1 sort of requirement for fire departments
2 being installed into every town, so that
3 they're easily accessible, especially on
4 our rural roads. You should take a drive
5 around here. It's -- you know, it's
6 difficult for a fire truck to get through
7 on a regular sunny day on some of our
8 roads in these back hills.

9 I'm also concerned of lack of
10 protection for surface water. Many of us
11 out here, we are relying on our drinking
12 water from wells, and some of us don't
13 have to dig very far into the ground to
14 get to the water. To have some of these
15 turbines and solar panels just 100 feet
16 that you're looking at for studies of how
17 our surface water could be impacted,
18 that's extremely -- that -- that needs to
19 be increased, for sure.

20 I understand that the ORES regulations
21 are designed to expedite permitting, but
22 the goal can and should be achieved
23 without weakening the Article 10
24 protective standards to preserve our
25 health, welfare, and safety of all New

1 York State residents. These are some of
2 my biggest concerns against the negligent
3 setbacks. We've got all kinds of safety
4 reasons that we need to have those pushed
5 further off of our non-participant
6 property lines. Eminent domain just does
7 not belong anywhere in the United States,
8 and you need to put the local laws in the
9 hands of your town boards and town
10 supervisors. They do know our lifestyles.
11 They need to be the ones to make those
12 decisions. And please take a look at the
13 full statements that I have already
14 submitted.

15 Also, the World Health Organization,
16 the Department of Public Service, and the
17 Department of Public Health have also
18 wanted to use the 2018 guidelines of the
19 42 decibels. I saw, at the end of the
20 draft regulations, that they are using the
21 ones from 1999. This makes absolutely no
22 sense to me. You need to bring that up to
23 the -- that's 20 years ago. Really --

24 ALJ LECAKES: Ms. Milkes, if you --

25 MS. MILKES: -- I --

1 ALJ LECAKES: -- could --

2 MS. MILKES: -- could go --

3 ALJ LECAKES: -- just --

4 MS. MILKES: -- on and on.

5 ALJ LECAKES: -- finish?

6 MS. MILKES: Yes.

7 ALJ LECAKES: Yeah.

8 MS. MILKES: I --

9 ALJ LECAKES: Thank you.

10 MS. MILKES: Yes. I -- I

11 really -- please, just please read what I

12 have written. I understand what I've

13 submitted was lengthy, but it is extremely

14 important to the New York State residents'

15 health, welfare, and safety. Thank you.

16 ALJ LECAKES: Thank you very much.

17 And, Ms. Milkes, if you could, press "star

18 three" on your phone again so that the

19 designation that we have disappears.

20 Thank you.

21 Next -- our next speaker is Diana

22 Strablow, S-T-R-A-B-L-O-W.

23 Ms. O'Dell-Keller, have you found that

24 user?

25 MS. O'DELL-KELLER: Yes, Judge.

1 She's --

2 ALJ LECAKES: Okay.

3 MS. O'DELL-KELLER: -- unmuted.

4 ALJ LECAKES: Great.

5 MS. STRABLOW: Thank you. Thank you.

6 My name is Diana Strablow. I am a member
7 of the Sierra Club Niagara Group, and
8 thank you for the opportunity to speak
9 today.

10 Due to concern about the escalating
11 and largely unabated climate crisis we now
12 face, I have been involved in doing what I
13 can to oppose any expanded use of fossil
14 fuels and to promote, instead, the
15 transition to renewable energy. In
16 particular, our current viable options,
17 here in New York, are wind, solar, and
18 heat pumps, so it is exciting that New
19 York has passed the Climate Leadership and
20 Community Protection Act, mandating 70
21 percent renewable energy by 2030. We now
22 need to make this reality a reality
23 through the careful siting and
24 construction of projects.

25 I support the Office of Renewable

1 Energy Siting and the draft regulation
2 standards and conditions that will help
3 New York finally achieve our renewable
4 energy goals. Wind, solar -- and solar
5 projects here in Western New York and
6 across our state will be an economic boost
7 and job creator at a time this is
8 desperately needed. Public input in the
9 siting of large-scale projects is
10 important, and I am glad to see that it is
11 incorporated into the proposed process.

12 Careful siting to protect the
13 environment and communities is necessary.
14 However, here in Western in New York, we
15 have witnessed well-organized opposition
16 raise misinformed fears on project after
17 project. They make claims that any
18 large-scale wind or solar project is
19 dangerous. Siting needs to be based on
20 careful analysis and facts.

21 I look forward to New York finally
22 meeting our renewable energy goals that
23 have been stalled for far too long. Let's
24 make New York a leader in renewable
25 energy, good paying green jobs, and doing

1 our part to mitigate the climate crisis.

2 Thank you.

3 ALJ LECAKES: Thank you. Our next
4 speaker is Eric Mucha, M-U-C-H-A.

5 Ms. O'Dell-Keller, do you see Mr.
6 Mucha?

7 MS. O'DELL-KELLER: Yes, Judge, and he
8 is unmuted.

9 MR. MUCHA: Hi, Judge. Thank you --

10 ALJ LECAKES: Hello.

11 MR. MUCHA: -- Ms. O'Dell-Keller. I
12 really appreciate the time that I'm
13 permitted to speak today. And I, myself,
14 also believe that we all need to work
15 together to improve our environment.
16 However, I do have concerns. I believe
17 that, under Article 10, the local
18 jurisdiction (technical difficulties)
19 equipped to handle the issues of wind
20 turbine siting, and not ORES.

21 And I also really think that some of
22 the fears are not unfounded. I think
23 there are some real concerns about wind
24 energy. I, myself, am a big fan of
25 wildlife and bats, in particular. I -- I

1 feel really bad that so many bats are
2 going to get killed with these turbines
3 and I think an adverse effect of that is
4 going to be the insect population is going
5 to skyrocket and I think we're going to
6 see a lot of livestock that's affected.
7 And that's going to lead to negative
8 economic impacts, as well.

9 And I think that there's a lot of
10 noise issues that we should definitely be
11 concerned about with these turbines. I
12 don't really understand why we need to
13 site them in rural areas, when we have
14 plenty of brownfield sites in New York
15 State. We have Niagara Falls, which has a
16 ton, and there's already the electric
17 infrastructure there. I think we need to
18 stay away from these rural areas because
19 they're going to have a lot of adverse
20 impacts from these wind turbines being
21 sited in their communities.

22 I think it's going to pit neighbor
23 against neighbor. I think the eminent
24 domain issue is huge. I think that
25 there's going to be a lot of these wind

1 turbine companies that are not going to
2 honor their agreements that they made with
3 the towns and the individuals. It's going
4 to lead to a lot of problems. It's going
5 to lead to a lot of lawsuits. I think
6 there's going to be a lot of people that
7 are going to have side effects from
8 the -- the shadow flicker.

9 I think there's going to be a lot of
10 anxiety, a lot of depression. I think
11 that the noise levels, the decibels, are
12 going to go up, and it's not going to be
13 what the -- these wind companies are
14 promising their rural communities. I
15 think it's going to be a big problem. I
16 think the noise is going to be a bigger
17 problem than a lot of people anticipate.
18 And I think there's also going to be a lot
19 of conflict of interest problems. I think
20 there needs to be a lot of tight controls
21 in place to monitor these town boards
22 around the state, to make sure that their
23 brother, sister, mother, father, uncle,
24 cousin, best friend are not going to
25 benefit from some kind of kickback from

1 these wind companies. So I have a lot of
2 concerns.

3 And, see, I really don't see the
4 reason to have ORES in the first place.
5 I -- I lived in a lot of different states,
6 and I chose to come back to my home state
7 on my own, and I'm really disappointed.
8 I'm -- I'm disappointed to see what it's
9 becoming and -- and how all these -- these
10 downstate people are really taking
11 advantage of poor, economically depressed
12 upstate areas.

13 And it -- it really troubles me. And
14 that's all I have. Thank you for your
15 time.

16 ALJ LECAKES: Thank you very much.
17 Before I turn to the next speaker, I just
18 want to note: Mr. Simon, we do see your
19 hand raised, and, given the way that the
20 hearing is going right now, when we finish
21 the list of registered speakers and open
22 the floor, we will go back to you to allow
23 you to finish your comment. So...

24 Next, we have Judy Fitzgerald.

25 Ms. Fitzgerald, you may be a call-in

1 user or...

2 If you are a call-in user, please
3 press "star three" on your phone. Okay.
4 Not saying anything.

5 We're going to move on to Mark
6 Twichell.

7 Mr. Twichell, are you a call-in user?
8 If so, please hit "star three" on your
9 phone.

10 Okay. Not seeing any.
11 We'll move on to -- next is Robert
12 Ciesielski.

13 MR. CIESIELSKI: Can you hear me?

14 ALJ LECAKES: Yes.

15 MS. O'DELL-KELLER: You're unmuted.

16 ALJ LECAKES: Yeah, we can hear you.

17 MR. CIESIELSKI: Thank you. I'm
18 Robert Ciesielski. I'm with the Atlantic
19 Chapter of the Sierra Club. I'm chair of
20 their energy committee.

21 Our Sierra Club supports the
22 accelerated procedure for renewable energy
23 siting as necessary. The Office of
24 Renewable Energy Siting will be able to
25 meet our obligations to eliminate carbon

1 dioxide and methane gas from our energy
2 system and to help control global climate
3 change. Especially because of current
4 health and economic crisis in our country,
5 we need the construction and operation of
6 large-scale renewable energy projects to
7 provide jobs, manufacturing, and
8 investments in New York.

9 The projects will assist local
10 governments in school districts to secure
11 tax revenues paid for by these
12 installations. Large-scale renewable
13 energy developers offer millions of
14 dollars in lease payments to farmers, who
15 are then able to maintain their property
16 in agriculture.

17 To protect citizens, communities, and
18 the environment, the new siting rules
19 require the review of the same 25 criteria
20 as did the previous Article 10 proceeding.
21 These provisions include following
22 scientific safeguards on noise and sound
23 restrictions, physical setback of arrays
24 in turbines, visual impacts, protecting
25 soils and farmland, the protection of

1 birds, bats, fish, endangered species,
2 wetlands, etc.

3 New York requirements to protect
4 public health, safety, and environment are
5 based upon years of careful consideration
6 and experience. The reviews mirror the
7 best practices for locating renewable
8 energy projects established by the World
9 Health Organization and other
10 jurisdictions, such as European Nations
11 where numerous solar and wind
12 installations exist on farm and near urban
13 communities.

14 Concerning local community involvement
15 in the siting process, the new accelerated
16 regulations require that developers meet
17 with municipal leaders and the host
18 community prior to submission of a project
19 application and to present their general
20 project plan to demonstrate how it will
21 satisfy legal requirements. Communities
22 are also provided funding to meaningfully
23 participate in the siting process and
24 present statements at public hearings.

25 Both Article 10 and the new

1 accelerated siting regulations contain
2 language that local laws cannot be unduly
3 burdensome. The safeguards of judicial
4 review of whether a local law is
5 burdensome is available to all
6 municipalities. With the strong
7 protections for localities provided in the
8 new siting law, New York's important
9 initiative on climate and the economy
10 should proceed quickly. Thank you.

11 ALJ LECAKES: Thank you very much.

12 The next speaker I have on the list is
13 Anne Reynolds.

14 Ms. O'Dell-Keller, could you please
15 unmute Ms. Reynolds?

16 MS. O'DELL-KELLER: Ms. Reynolds is
17 unmuted.

18 ALJ LECAKES: Thank you. You may
19 proceed.

20 MS. REYNOLDS: Hi there. Can you hear
21 me?

22 ALJ LECAKES: Yes, we can. Thank you.

23 MS. REYNOLDS: Yep. Thank you so
24 much, Judge, for the opportunity to speak.

25 My name is Anne Reynolds. I work with

1 the Alliance for Clean Energy New York,
2 also called "ACE NY." We're an
3 organization made up of clean energy
4 companies, including those that will be
5 seeking permits from the new office, as
6 well as consultants and engineers, other
7 clean energy companies, environmental
8 groups, and labor groups. We have a
9 mission to promote renewable energy.

10 So the first point I want to make is
11 that reform of the system to review and
12 permit wind and solar projects is sorely
13 needed in New York State. Now, it takes
14 five to ten years to get a project
15 reviewed and permitting -- permitted. The
16 process is extremely legalistic and not
17 user-friendly for towns, companies, or
18 regular New Yorkers. It is expensive,
19 process heavy, long, and contentious, and,
20 for each proposed wind and solar project,
21 many of which are extremely similar to
22 each other, the approach is -- is as if
23 one had never been built before, and the
24 negotiations start from scratch. The
25 towns don't know what the standards will

1 be, nor do the engineers that are
2 designing the project, and, in the end,
3 after many years, you end up with a suite
4 of requirements for various aspects of the
5 project, like standards for sound and
6 setbacks, species protection, construction
7 hours, decommissioning, protection of the
8 ag land.

9 You could have established those
10 standards five years before, and the whole
11 process would have been less painful. So,
12 therefore, we are extremely gratified that
13 New York recognized this issue and has
14 proposed the new Office of Renewable
15 Energy Siting and a new way for the review
16 and permitting process to work for wind
17 and solar projects.

18 We believe that, overall, the proposal
19 establishes a good balance between the
20 goals of achieving renewable energy
21 deployment, protecting the environment,
22 and giving local communities the
23 opportunity to influence the siting and
24 permitting of renewable energy facilities.

25 The second point I want to make today,

1 though, is there are opportunities to
2 further improve the process that also
3 don't sacrifice the goals of protecting
4 the environment. Because of the limited
5 time, I'm just going to talk about one of
6 them, which is the time it takes from when
7 you get a permit to when you can start
8 construction.

9 One of the flaws of the current system
10 Article 10 is that, even after the
11 certificate is issued, it still takes many
12 months and even years before construction
13 can begin. And so, in this new 94-C
14 process, this should be improved, which I
15 think it has been, but it does still
16 identify 16 plans that need to be filed
17 after a permit is granted. And we wanted
18 to suggest that there's no reason to
19 mandate that the 16 plans only be filed
20 after the permit is issued, and we think
21 that applicants should be authorized to
22 submit these plans as part of the
23 application themselves, and then the draft
24 permit issued could include versions of
25 those plans, thereby eliminating the need

1 for those plans to be resubmitted as
2 compliance filings.

3 In fact, most of the plans will be
4 based on generic, formulaic plans with
5 minimal need for project-specific details,
6 so the applicants will be able to include
7 those plans in their application. And
8 that change should reduce the time needed
9 to get -- to get from permit to
10 construction.

11 Another solution would be to change
12 the rules to allow the applicants to
13 submit those compliance filings once the
14 draft permit has been issued, which would
15 also speed things up.

16 And, third, the rules should provide
17 for a shorter period of review time of the
18 compliance filings. Instead of 60 days,
19 we suggest 30. And this is because ORES
20 will have 60 days to review the
21 application, then another 60 days to issue
22 the draft permit, and the applications
23 will describe project plans much closer to
24 final than Article 10. The -- and,
25 furthermore, there will be standard

1 conditions applying to every project, so
2 we think a -- 30 days should be adequate.

3 So, in short, the issue of moving from
4 permit to construction is really critical
5 for wind and solar developers, especially
6 given that, elsewhere in the proposed
7 regulations, there's narrow construction
8 windows related to species protection.

9 And so orchestrating construction around
10 those windows that meet all of the
11 requirements can be complex.

12 The recommendations I made here today
13 can help facilitate safe construction and
14 none of these conditions -- or none of
15 these recommendations I made reduce the
16 environmental review or any way weakens
17 any of the conditions to protect
18 communities or the environment.

19 So I do appreciate, again, that the
20 State of New York has recognized the need
21 to have a new system to get these projects
22 efficiently reviewed and permitted, and I
23 did want to make that one recommendation
24 about how to speed the process from permit
25 issuance to construction. Thank you so

1 much.

2 ALJ LECAKES: Thank you very much.

3 I -- I just want to remind people that
4 this hearing is directed more at the draft
5 uniform standards and conditions, rather
6 than the other draft regulations or -- or
7 the law or any particular project.

8 I do want to go back now -- that's the
9 end of the list of registered speakers. I
10 do want to go back and just find out if
11 the other two speakers that we missed were
12 able to log on since we called their name.
13 First we'll start with Judy Fitzgerald.

14 Ms. Fitzgerald, if you are a call-in
15 user, could you please identify yourself
16 for us by pressing "star three" on your
17 phone?

18 Ms. O'Dell-Keller, can you unmute the
19 person who has their hand raised, just so
20 we can see if Ms. Fitzgerald is coming
21 through that connection?

22 MS. O'DELL-KELLER: Yes, Judge.
23 Mr. Palmer, you are unmuted.

24 ALJ LECAKES: Hello. Mr. Palmer?

25 MR. PALMER: Good evening. How are

1 you?

2 ALJ LECAKES: Hi. Is there someone
3 named Judy Fitzgerald with you?

4 MR. PALMER: No, and my wife would not
5 like that if she was here.

6 ALJ LECAKES: Okay. No, we're just
7 trying to find people that have registered
8 first. So are you raising your hand to
9 speak in the open session?

10 MR. PALMER: I wanted to speak. I'm
11 new at this -- this kind of --

12 ALJ LECAKES: Right.

13 MR. PALMER: -- stuff here.

14 MS. PALMER: We got an e-mail back
15 saying --

16 ALJ LECAKES: A lot of us are new at
17 this. We'll come back to you. We're just
18 trying to get our -- our registered
19 callers first. We'll be back to you
20 in -- in a few moments.

21 MS. O'DELL-KELLER: We --

22 MR. PALMER: Fine.

23 MS. PALMER: We thought we were
24 registered because we got an e-mail back.

25 ALJ LECAKES: Okay. You'll have an

1 opportunity to speak. We'll come back to
2 you.

3 Next, I want to try Mark Twichell.

4 Mr. Twichell, you may be a caller.
5 Could you please hit "star three" on your
6 phone?

7 Okay. With that not being identified,
8 we're going to go back to Supervisor James
9 Simon.

10 MR. SIMON: Am I unmuted? I'm sorry.

11 ALJ LECAKES: Yes, we can hear you.

12 MR. SIMON: Thank you. Well, thank
13 you for the opportunity to speak again,
14 Judge. I --

15 ALJ LECAKES: Please --

16 MR. SIMON: I had a couple of specific
17 things that, obviously, I didn't get to,
18 so I would like to make note of them on
19 the record.

20 900-6.3, Paragraph A, is vague enough
21 that it could make problems for not only
22 the developers and the State's intent of
23 the law, but certainly for the
24 municipalities. "Unreasonably burdensome"
25 has been battled around for years.

1 As I mentioned before on the Renewable
2 Roundtable that I was involved in, the
3 development of the Article 10 laws and,
4 now, this law, as well, uses that term,
5 and it would greatly behoove everyone if
6 that was more definitive, more clearly
7 defined, so everyone knew what they were
8 looking at.

9 I also -- in terms of the specifics of
10 six -- 900-6, there are a number of
11 aspects of this we would be making very
12 specific comments on as part of a -- a
13 coalition that's building. And those
14 comments will target the lack of
15 protections to the environment, both
16 wetlands and avian sources, as well as, in
17 particular, the human protections for the
18 decibels, which do not fall under the
19 latest World Health Organization
20 sound -- noise limits, and, as well, the
21 setbacks.

22 So I appreciate the opportunity. I
23 just sent a -- a e-mail to Mr. Moaveni
24 because I am concerned that there was some
25 restrictions on the time. Since you,

1 Judge, gave me the opportunity to speak
2 again, I -- I wish -- I withdraw that
3 frustrated e-mail because I understand
4 that you're -- you're at least trying to
5 abide by the folks who took some time to
6 be a part of this conversation, so I thank
7 you for that.

8 ALJ LECAKES: Thank you very much.

9 All right. Next, we're going to open
10 up the floor. The way we do that is, if
11 you are a call-in user, you can press
12 "star three" on your phone. And what that
13 does is it gives us a little icon here to
14 show us that you're raising your hand,
15 that you want to speak.

16 If you are a computer user on -- on
17 the Webex platform, you can see, down
18 toward the bottom of your screen,
19 something that looks like a hand. If
20 you -- it should be, like, not grayed in
21 yet. If you click on that, it will be
22 grayed in and show that you want to speak.

23 With that, I'm going to turn back to
24 Roger Palmer.

25 Mr. Palmer, are you unmuted now?

1 MR. PALMER: I believe --

2 MS. O'DELL-KELLER: Yes, Judge.

3 MR. PALMER: -- I am.

4 ALJ LECAKES: Yes. We can hear you.

5 MR. PALMER: Okay. I'm just going to

6 preface my comment with a little

7 something. It shouldn't take long.

8 The constitution states statutory

9 foundation for local government in New

10 York State provides counties, cities,

11 towns, and villages the general purpose

12 units of local government.

13 THE REPORTER: I need him to speak up,

14 please. I'm having a hard time hearing

15 him.

16 ALJ LECAKES: Mr. --

17 MR. PALMER: I have --

18 ALJ LECAKES: -- Palmer --

19 MR. PALMER: -- the phone --

20 ALJ LECAKES: -- that's our court

21 reporter.

22 Could you just speak a little louder,

23 please? Thank you.

24 MR. PALMER: Yeah. Had the phone

25 upside down because the speaker's on the

1 back of the phone, so I was trying to hear
2 you.

3 ALJ LECAKES: I understand.

4 THE REPORTER: Great. That's a lot
5 better. Thank you.

6 MR. PALMER: Okay. I'll start over
7 again. I have a written statement because
8 that's what I have to do.

9 The constitutional statutory
10 foundation for local government in New
11 York State provides the counties, cities,
12 towns, and villages are general purpose
13 units of local government. They are
14 granted broad home rule powers to regulate
15 quality of life in communities and provide
16 direct services to the people.

17 Article 9, entitled "Local
18 Governments," is commonly referred to as
19 the "home rule article" of the state
20 constitution. This provides for an
21 affirmative grant of power for local
22 governments over their own affairs and
23 government. It also restricts the power
24 of the state legislature from acting in
25 relation to a local government's affairs

1 and government.

2 Article 9 required the state
3 legislature to enact a statute of local
4 governments in order to grant certain
5 powers to local governments. These powers
6 include the power to adopt ordinances,
7 resolutions, rules, and regulations; fix
8 levy and collect charges and fees; and, in
9 the case of city, town, or a village, to
10 adopt zoning regulations. The powers
11 granted in the statute of local
12 governments are "quasi-constitutional."

13 Protection by Article 9, a power so -- a
14 power so granted cannot be repealed except
15 by action of two successive legislatures
16 in the concurrence of the governor.

17 Article 9 also restricts the state
18 legislature from adapting special laws
19 which affect the local governments affairs
20 or government. Therefore, Article 9
21 serves both as a source of authority for
22 local government and as a shield against
23 intrusion by the State upon their home
24 rule prerogatives.

25 Home rule, in a broad sense, describes

1 those governmental functions and
2 activities traditionally reserved to or
3 performed by local governments without
4 undue infringement by the State. In its
5 technical sense, home rule refers to the
6 constitutional and statutory powers given
7 local governments to enact local
8 legislation, to carry out and discharge
9 their duties and responsibilities. This
10 affirmative grant of power is accompanied
11 by a restriction upon the authority of the
12 State. Home rule also means local
13 representation.

14 This being said, I believe that 94-C,
15 which is used by Office of Renewable
16 Energy Siting, is -- is completely taking
17 away any home rule at all by giving local
18 government little or no say or the public
19 little or no say.

20 I point to Article 10, which -- which,
21 in itself, is -- this -- it's a rigged
22 system. I -- I -- I am -- I embarrassed
23 to say I live in a state where the
24 legislators actually write this kind
25 of -- this kind of legislation.

1 I'm going to just point to
2 the -- the -- the members of the -- of the
3 siting board. Five of those appointed
4 members are appointed by the governor.
5 Now, we all know who we -- we -- we won't
6 admit it on the record, but we'll say it
7 off the record that the -- the fact that
8 the governor makes these appointments puts
9 a certain pressure on those appointed.

10 This because --

11 ALJ LECAKES: Mr. --

12 MR. PALMER: -- those --

13 ALJ LECAKES: -- Palmer.

14 MR. PALMER: Yes.

15 ALJ LECAKES: The time's running out,
16 and I just -- I just want to remind you
17 that Article --

18 MR. PALMER: Okay. I --

19 ALJ LECAKES: -- 10 is actually being
20 repealed for the --

21 MR. PALMER: I --

22 ALJ LECAKES: -- Office --

23 MR. PALMER: -- know.

24 ALJ LECAKES: -- of Renewable Energy
25 Siting, so in the -- in the time limit

1 that you have, I -- you know, to -- to
2 focus your comments on -- on the Office of
3 Renewable Energy Siting would probably be
4 more relevant tonight, so if you could
5 begin concluding, but -- but focus on
6 ORES, rather than Article 10.

7 MR. PALMER: Well, I was going to make
8 a point that the fact that --

9 ALJ LECAKES: Go ahead.

10 MR. PALMER: -- Article 10 would
11 not -- would not allow ad hoc members to
12 be sited -- on the siting board.
13 They -- they were ignored. In case in
14 our -- the case in our town, totally
15 ignored, which took away any -- any
16 representation regarding -- in the home
17 rule.

18 94-C is even worse than that. You
19 have no -- no representation at the table.
20 I -- I just -- it -- in my opinion,
21 it -- the -- both -- both of
22 these -- these laws are terrible.
23 And -- and I could go on, but I'm not
24 going to right now. I don't want to take
25 up anybody else's time. I just wanted to

1 say my piece. I appreciate the time.

2 ALJ LECAKES: Thank you very much.

3 Next, we're going to turn to

4 Wendy -- Wendy Kingsland,

5 K-I-N-G-S-L-A-N-D.

6 Ms. Kingsland, you should be unmuted
7 now.

8 MS. KINGSLAND: I am unmuted. Thank
9 you very much.

10 ALJ LECAKES: Thank you.

11 MS. KINGSLAND: Good evening to
12 everyone who's on the panel. I really
13 appreciate your time. My name is Wendy
14 Kingsland.

15 I am a senior project developer with
16 EDP Renewables. I am from rural Upstate
17 New York, and I want to thank you for the
18 opportunity to speak tonight on the New
19 York State Office of Renewable Energy
20 Siting's proposed draft rules for
21 permitting new wind and solar energy
22 projects.

23 EDPR is the fourth-largest developer
24 owner and operator of wind farms in the
25 United States. We commissioned the first

1 commercial wind project in New York State
2 in 2000, and we are currently the largest
3 owner-operator of wind farms in the state,
4 over 700 megawatts of operating sites.

5 Our projects have been major economic
6 drivers in the state by paying more than
7 24 million to local landowners and over 67
8 million to local governments through 2019.

9 I have been working in the renewable
10 energy business for over 13 years. I have
11 lived in New York all of my life. My
12 children are proud that I am helping to
13 ensure that renewable energy plays a role
14 in their future.

15 New wind and solar projects will be
16 critical components to New York's economic
17 recovery after this devastating pandemic.

18 EDPR is proud of our contribution to
19 helping New York achieve ambitious clean
20 energy and climate change goals. We
21 believe that these new rules for siting
22 will be key to delivering more clean,
23 renewable, and reliable energy to New York
24 to meet the climate change crisis, while
25 creating new jobs for New Yorkers and

1 powering New York's economy.

2 We appreciate the work of Governor
3 Cuomo, the new Office of Renewable Energy
4 Siting, and all involved in the state
5 government for drafting these proposed
6 rules to permitting new renewable energy
7 projects, as well as the commitment of the
8 State to pushing forward comprehensive and
9 critical programs to address climate
10 change.

11 These new rules will streamline the
12 siting and permitting process in the
13 state, provide certainly -- a certainty to
14 developers of new projects and more
15 efficiently bring online new projects
16 while maintaining public safety.

17 Streamlined and consistent rules on
18 siting new renewable projects will cut
19 down on the uncertain, time-consuming, and
20 expensive previous permitting options in
21 the state and help the state meet its
22 critical climate change and zero carbon
23 targets.

24 While, overall, this shift to a new
25 siting regime in New York has been

1 official, we would like to make a few
2 improvements for ORES to consider. These
3 improvements would reduce duplicative
4 permitting efforts and unnecessary
5 regulatory red tape for developers.

6 While, overall, this shift to a new
7 siting regime in New York has been
8 official, we would like to recommend a few
9 improvements to be considered. These
10 improvements would reduce duplicative
11 permitting efforts. We are -- my company,
12 EDP, and other clean energy industry
13 groups will be submitting detailed
14 comments in the coming weeks with the
15 suggestions for further improvements to
16 the draft regulations.

17 For example, we think that the
18 modifications to the sound regulations
19 removal of duplicate efforts holding firm
20 to a -- to the proposed setbacks and
21 enables some flexibility to adjust the
22 project design during construction to
23 respond to required changes in the field
24 will further refine the regulations while
25 still maintaining public and environmental

1 safety. We are grateful for the
2 opportunity to lend our expertise in the
3 needs of project development and provide
4 recommendations to further improve these
5 new siting regulations through today's
6 hearing and in our written comments.

7 Thank you for your time and
8 consideration. We appreciate all of your
9 efforts on improving the permitting regime
10 in New York and look forward to continue
11 to do our part to bring -- to bringing New
12 York's zero carbon future to fruition.

13 And thank you --

14 ALJ LECAKES: Thank --

15 MS. KINGSLAND: -- for your -- all of
16 your time and consideration.

17 ALJ LECAKES: Thank you very much.
18 Next, we have a -- a call-in user that's
19 raised their hand. There is only one
20 call-in user. You should have either just
21 heard a couple of beeps or something
22 telling you you are unmuted. You
23 are -- you are unmuted now.

24 MR. BOISMENU: Hello? Can --

25 ALJ LECAKES: Hello.

1 MR. BOISMENU: -- you hear me.

2 ALJ LECAKES: Yes, we can. And could
3 you identify yourself by name?

4 MR. BOISMENU: Yes. This is Mike
5 Boismenu --

6 ALJ LECAKES: Can you --

7 MR. BOISMENU: -- and I'm a citizen
8 in --

9 ALJ LECAKES: Can you --

10 MR. BOISMENU: -- Western --

11 ALJ LECAKES: -- spell your --

12 MR. BOISMENU: -- New York.

13 ALJ LECAKES: -- last name?

14 MR. BOISMENU: B-O-I-S-M-E-N-U.

15 ALJ LECAKES: Thank you very much.
16 You may proceed.

17 MR. BOISMENU: Yeah. I'm a -- I'm a
18 citizen of Western New York, and I have
19 worked in the power industry for the last
20 50 years in various engineering and
21 operating, you know, positions, so I'm
22 familiar with the marketplace and so on
23 for -- for the industry.

24 My concerns are that I think we -- we
25 are going down a path of misdirected

1 energy, and that, specifically here in
2 Western New York, we have an abundance of
3 renewable power already with our hydro
4 facilities. There are -- I believe there
5 is untapped potential -- excuse
6 me -- along those lines, and we should
7 consider those.

8 With this -- with the Office pushing
9 towards the development -- rapid
10 development of offshore wind,
11 specifically, we run the risk of damaging
12 our fragile lake environment with little
13 or no input from the local citizens along
14 the lake and -- and others.

15 I -- I -- I don't want to belabor the
16 point, but offshore wind energy is, by
17 far, the most expensive renewable option
18 out there. It -- it is -- according to
19 the Department of Energy's website, it
20 cannot be cost justified. There are
21 no -- there are not enough benefits out
22 there associated with that, so, as
23 the -- as the Office is -- is looking at
24 these options, they should consider other
25 options, alternatives, that Western New

1 York currently has to offer, primarily in
2 the area of hydroexpansion of Niagara and
3 the St. Lawrence Project and the
4 electrification of 7,000 dams that
5 currently exist in New York State. We
6 have an abundance of water, potential
7 energy, that can be tapped and, thereby,
8 you know, focusing our concerns towards
9 that area.

10 Thank you.

11 ALJ LECAKES: Thank you very much. If
12 you could press "star three" on your
13 phone, please, to remove the designation
14 of a hand raised. And I don't see that we
15 have any other new hands raised. I'm
16 going to turn back to our list.

17 Is Judy Fitzgerald -- was she able to
18 join? And, if you are a call-in user,
19 please press "star three" on your phone.
20 Mark Twichell.

21 Mr. Twichell, if you are a call-in
22 user, please press "star three" on your
23 phone.

24 Okay. Seeing neither of them, I'm
25 just going to give one last opportunity

1 for anyone on the computer to raise your
2 hand. There should be a little icon on
3 the phone you can see -- or on your
4 computer. You can see the slide that's
5 available that shows you what to push. If
6 you are a call-in user, please press "star
7 three" if you wish to make a comment at
8 this time.

9 Okay. Seeing none, if I could have
10 the other ways to comment slide put back
11 up. So we are concluding tonight's
12 hearing. As we do so, I just want people
13 to be able to take notice of the other
14 ways to comment. You can e-mail your
15 comments to the general@ores.ny.gov e-mail
16 address. You can mail your comments
17 through the United States Postal Service
18 to the Office of Renewable Energy Siting,
19 99 Washington Avenue, Albany, New York
20 12231. Or you can go right to the ORES
21 website at www.ores.ny.gov/regulations,
22 and you can enter a comment directly there
23 in writing. There is a comment form to
24 fill out right on your computer.

25 This concludes our hearing for

1 tonight. I'd like to thank everyone for
2 participating and note that, tomorrow
3 night, we will also be doing a hearing
4 in -- in this virtual style for the
5 Rochester/Finger Lakes area.

6 This concludes our hearing, and we are
7 off the record.

8 (Whereupon, the hearing was concluded
9 at approximately 6:00 p.m.)

10 * * * *

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

I, SARAH COLEMAN, a Court Reporter and
Notary Public in and for the State of New York, do
hereby certify that I stenographically recorded the
proceedings at the time and place noted on the title
and that this transcript is accurate and complete, to
the best of my knowledge and belief.

I further certify that I am in no way
related to any of the parties to this action nor am I
an employee for any of the lawyers involved, and I am
in no way interested in the outcome of this matter.

Sarah Coleman

Notary Public

In the Matter

-of-

The Addition of Subpart 900-6 (Uniform Standards and
Conditions) to Chapter XVIII, Title 19 of the
Official Compilation of the Codes, Rules, and
Regulations of the State of New York (NYCRR)

I.D. No. DOS-37-20-00016-P

Rochester, New York

OFFICE OF RENEWABLE ENERGY SITING
PUBLIC HEARING STATEMENTS

Held via WebEx

November 18, 2020

5:00 p.m.

Held Before
ALJ DAKIN LECAKES

1 ALJ LECAKES: Good evening. My name
2 is Dakin Lecakes, and I am the Chief
3 Administrative Law Judge with the New York
4 State Department of Public Service.

5 Assisting me tonight are Erin
6 O'Dell-Keller and Joseph White of the
7 Department of Public Service Office of
8 Consumer Services.

9 I will be presiding over today's
10 public comment hearing, which is seeking
11 comment on Chapter XVIII, Title 19,
12 Subpart 900-6, the New York State Office
13 of Renewable Energy Siting Draft Uniform
14 Standards and Conditions. Comments should
15 not relate to any particular proposed
16 project or the law that was passed in
17 April, but to those Office of Renewable
18 Energy Siting proposed standards and
19 conditions.

20 On September 16, 2020, the Office of
21 Renewable Energy Siting issued draft
22 regulations for public comment, pursuant
23 to the State Administrative Procedure Act.
24 All stakeholders and the public have an
25 opportunity to formally submit comments on

1 the draft regulations of Chapter XVIII,
2 Title 19, Subparts 900-1 through 900-5 and
3 900-7 through 900-15, and also the draft
4 uniform standards and conditions, Chapter
5 XVIII, Title 19, Subpart 900-6, until
6 December 7th, 2020. The original deadline
7 to submit comments on these draft
8 regulations was November 16th, 2020. The
9 Office of Renewable Energy Siting has
10 extended this public comment period until
11 December 7th, 2020.

12 As part of the State's ongoing
13 commitment to community engagement, the
14 Office of Renewable Energy Siting will
15 seek public comment on the draft uniform
16 standards and conditions, Chapter XVIII,
17 Title 19, Subpart 900-6, through seven
18 public comment hearings, while complying
19 with public health and safety guidelines,
20 due to the circumstances presented by the
21 COVID-19 pandemic.

22 In light of the increasing rates of
23 COVID-19 infection in Monroe County and
24 the Governor's November 9th, 2020,
25 designation of the local areas as "yellow

1 zones," the Office of Renewable Energy
2 Siting changed the format of today's
3 hearing to a virtual platform. The Office
4 of Renewable Energy Siting has the legal
5 authority to make these hearings virtual
6 under Governor's Executive Orders 202.1
7 and 202.15, recently extended by Executive
8 Order 202.72.

9 This decision was made after careful
10 consideration of the potential health
11 risks of any large gathering of
12 individuals in these areas at this time.
13 This virtual platform allows for
14 presentation of comments in a secure
15 environment and may result in greater
16 attendance than any in-person hearing,
17 under the present circumstances.

18 Participants who do not have Internet
19 access are able to call, both to register
20 to comment and call into the meeting to
21 provide their comments, and translators
22 and other disability assistants are
23 available on request. I want to stress
24 that. You do not need Internet access to
25 attend these hearings, and participants

1 who do not have such access are able to
2 call in, both to register and to provide
3 their comments.

4 Furthermore, individuals who wish to
5 comment always have an opportunity to
6 submit their comments in writing, and such
7 written comments are given equal weight to
8 oral comments.

9 Additionally, the hearing that was
10 scheduled for in-person attendance
11 tomorrow night in Clayton, New York, has
12 now been converted into a virtual online
13 hearing, and more information about that
14 may be found on the Office of Renewable
15 Energy Siting website, which is at
16 www.ores.ny.gov.

17 Additionally, there are online
18 hearings -- public comment hearings
19 scheduled for November 24th and November
20 30th, and information for those hearings
21 is also available on that website,
22 ores.ny.gov.

23 As noted in the public notice
24 published in the New York State Register
25 on September 16th, 2020, I will use a

1 registration list to call each person who
2 has requested to provide a statement. The
3 hearings will continue until everyone
4 wishing to speak has been heard, or until
5 other reasonable arrangements have been
6 made to include their comments in the
7 record. It is recommended that lengthy
8 comments be submitted in writing and
9 summarized for oral presentation.

10 In addition, there is a time limit
11 being imposed of three minutes per comment
12 speaker tonight. Equal weight is given to
13 oral and written comments. There is no
14 harm or foul for being -- for submitting
15 your comments in writing. A verbatim
16 transcript of the hearings will be made
17 for inclusion in the record. All details
18 about these public comment hearings and
19 links to the virtual hearings, as well as
20 instructions on how to register, are
21 available, again, at the Office of
22 Renewable Energy Setting -- Siting
23 website, ores.ny.gov.

24 Before I begin taking comments
25 tonight, I'm going to turn to Houtan

1 Moaveni, Executive Deputy Director of the
2 Office of Renewable Energy Siting.

3 MR. MOAVENI: Thanks, Judge Lecakes.
4 Good evening, everyone. I hope you are
5 all well and staying safe. On behalf of
6 the New York State Office of Renewable
7 Energy Siting, I would like to welcome you
8 to this virtual public statement hearing.
9 By way of introduction, my name is Houtan
10 Moaveni. I am the Executive Director of
11 the new Office of Renewable Energy Siting.
12 The purpose of this hearing is to receive
13 comments from all interested party on the
14 draft uniform standards and conditions.
15 I'll say no more, but I will look forward
16 to hearing your comments. Back to you,
17 Judge.

18 ALJ LECAKES: Thank you. We will now
19 start taking comments. All attendees are
20 muted, by default, on entry. We will call
21 your name when it is your turn to comment,
22 and either provide direction so that you
23 may be identified or inform you, if we do
24 see your name right now in our participant
25 list, that you have been unmuted. Please

1 acknowledge that you are the person called
2 by starting your comment with stating your
3 full name. If you are speaking on behalf
4 of a group, please identify that group.
5 When making your comment, please speak
6 loudly, slowly, and clearly, so that the
7 court reporter can make an accurate record
8 of your comments.

9 Out of consideration for all
10 participants' time, as noted earlier,
11 comments are limited to three minutes. If
12 you have not completed your comment in
13 three minutes, I will alert you that your
14 time is up and ask you to please conclude
15 your comments.

16 Our first speaker tonight is Arthur
17 Giacalone. If you are a call-in user,
18 please press "star three" on your phone so
19 that we can identify which call-in user
20 you are. Looking for Arthur Giacalone.
21 It's G-I-A-C-A-L-O-N-E. Press "star
22 three" on your phone if you're our call-in
23 user.

24 Okay. We will pass that one.
25 Our next call-in -- or user is Patricia

1 Macus, M-A-C-U-S. Please press "star
2 three" on your phone if you are a call-in
3 user. I believe we have a call-in user
4 that's identified themselves,
5 Ms. O'Dell-Keller?

6 MS. MACUS: Hello?

7 ALJ LECAKES: Hello. Is this
8 Patricia?

9 MS. MACUS: Hi. This is Patricia
10 Macus.

11 ALJ LECAKES: Okay. You may give us
12 your comments.

13 MS. MACUS: Yes. My name is Patricia
14 Macus, and I'm a resident of Orchard Park,
15 New York. I frequent the beautiful Lake
16 Erie often. I grew up on Lake Erie.

17 Now, Lake Erie used to be a dead,
18 polluted lake 40, 50 years ago, and we've
19 gotten it turned around where there's no
20 more dumping. The fish have come back,
21 the birds. Everything is beautiful again.
22 You can swim in it. Our drinking water
23 comes from Lake Erie, and to put up wind
24 turbines would be so unsightly. It would
25 be just such a disruption to the wildlife,

1 as well as our drinking water.

2 These turbines are just so ugly. They
3 also produce sound, which interferes with
4 your ears. It just would be a horrible,
5 horrible thing for these wind turbines to
6 be put into the lake.

7 A lot of money would be costly to put
8 up these turbines. I feel it's a
9 political grab, and it's not going to
10 produce the energy that is so designed to
11 do. Most of the residents in the area are
12 not even aware of what's going on in the
13 lake. The media has squashed the stories.
14 And then, furthermore, there was a
15 horrible storm just two nights ago. The
16 winds were so high, producing 50 to 70
17 mile-an-hour winds, which damaged homes
18 and to put up a wind turbine, it would
19 never have sustained those winds.

20 The costs will just not be
21 cost-effective to provide the energy that
22 was designed to do. So I am definitely
23 opposed to having these turbines put in.
24 It is so important that our voices be
25 heard.

1 There is a group called "Citizens
2 Against Wind Turbines." It's quite a
3 strong group, but it is a -- it's online,
4 on Facebook, and the -- the comment -- we
5 do have signs out there, along the lake,
6 but most people are just not aware of the
7 detriment that this would cause our
8 beautiful lake.

9 That's all I have.

10 ALJ LECAKES: Thank you very much.

11 Before --

12 MS. MACUS: You're --

13 ALJ LECAKES: -- we turn --

14 MS. MACUS: -- welcome.

15 ALJ LECAKES: -- to our -- before we
16 turn to our -- oh. And could you please
17 press "star three" on your phone again so
18 that that designation comes off?

19 Thank you.

20 Before I turn to our next speaker, I
21 just want to stress that the purpose of
22 tonight's hearing is to focus on the
23 proposed standards and conditions by the
24 Office of Renewable Energy Siting, and
25 it's not focused on any particular

1 project, be it a proposed project or a
2 conceptual project. So please try to keep
3 your comments focused on that. That is
4 the -- the relevant material we're dealing
5 with tonight.

6 The next speaker I have on my list is
7 Abigail McHugh-Grifa. I do see that name
8 on our attendee list. Ms. O'Dell-Keller,
9 could you please unmute her?

10 MS. MCHUGH-GRIFA: I am --

11 MS. O'DELL-KELLER: She's --

12 MS. MCHUGH-GRIFA: -- unmuted.

13 MS. O'DELL-KELLER: -- unmuted.

14 ALJ LECAKES: Excellent. Thank you
15 very much. You may proceed.

16 MS. MCHUGH-GRIFA: So I am Abigail
17 McHugh-Grifa, and, as the Executive
18 Director of the Climate Solutions
19 Accelerator of the Genesee/Finger Lakes
20 Region and parent of two young children
21 whose futures are threatened by climate
22 change, I'm grateful for the work that our
23 state government is doing to expedite the
24 siting of renewable energy projects. We
25 must quickly and dramatically reduce

1 greenhouse gas emissions to protect future
2 generations from the worst consequences of
3 climate change, and expanding local
4 renewables is key to making that happen.

5 Up to this point, renewable energy
6 generation in New York has been developed
7 in an unacceptably slow pace. Under the
8 Article 10 process, only one utility-scale
9 project has started construction over the
10 past eight years, though over 100 wind and
11 solar projects have been proposed.

12 Without an expedited process for
13 siting renewables, we will fail to obtain
14 70 percent of the state's electricity from
15 renewable sources by 2030, as mandated by
16 the Climate Leadership and Community
17 Protection Act. For me, as a parent, this
18 is a truly frightening prospect.

19 I appreciate that the Office of
20 Renewable Energy Siting will prioritize
21 the development of existing or abandoned
22 commercial sites, brownfield, landfills,
23 formal industrial sites, and abandoned or
24 under-utilized sites, while also giving --

25 THE REPORTER: Ma'am, I -- I hate to

1 stop you, but could I just get you just to
2 slow down just a little bit?

3 MS. MCHUGH-GRIFA: Oh, shoot. Well, I
4 was hoping to squeeze it all into three
5 minutes.

6 THE REPORTER: I know. I know.

7 ALJ LECAKES: But -- but our court
8 reporter has --

9 MS. MCHUGH-GRIFA: Yes.

10 ALJ LECAKES: -- doesn't need --

11 MS. MCHUGH-GRIFA: Absolutely.

12 ALJ LECAKES: -- the additional
13 workout.

14 MS. MCHUGH-GRIFA: Of course.

15 ALJ LECAKES: Thank you.

16 MS. MCHUGH-GRIFA: Of course.

17 THE REPORTER: Okay. Sorry about
18 that.

19 MS. MCHUGH-GRIFA: No, no problem. I
20 understand.

21 So I appreciate that the Office of
22 Renewable Energy Siting will prioritize
23 the development of existing or abandoned
24 commercial sites, brownfields, landfills,
25 formal industrial sites, and abandoned or

1 under-utilized sites, while also giving
2 local farmers the opportunity to support
3 their businesses by leasing land to wind
4 and solar developers.

5 I'm also excited about the economic
6 benefits that renewable energy can bring
7 to our region, which are so desperately
8 needed during this difficult time.

9 Investment in renewable energy will create
10 local jobs and accelerate our region's
11 post-COVID economic recovery, so it just
12 makes sense to help communities move
13 forward quickly with these projects.

14 It is clear to me that the Office of
15 Renewable Energy Siting is committed to
16 ensuring that communities and property
17 owners receive tangible benefits and
18 incentives for hosting renewable energy
19 facilities and have opportunities to
20 meaningfully engage in the siting process.

21 Renewable energy companies should be
22 responsive and accountable to the
23 communities where their projects are
24 located, and the State has a crucial role
25 to play in streamlining their negotiations

1 and elevating the voices of local
2 residents. Communities must have ample
3 opportunities to provide input and
4 feedback on these projects through a
5 transparent, fair, and efficient process.

6 In summary, I fully support the Office
7 of Renewable Energy Siting and proposed
8 uniform standards for large-scale
9 renewable projects because we need to
10 streamline the permitting of wind and
11 solar development in order to achieve our
12 state's climate goals while also boosting
13 economic growth in our region. Thank you
14 for the work you are doing and for the
15 opportunity to weigh in on this issue.

16 ALJ LECAKES: Thank you very much.
17 Our next speaker is Anna Castonguay.

18 You have been unmuted.
19 Ms. Castonguay?

20 MS. O'DELL-KELLER: I can hear her.

21 ALJ LECAKES: Yeah.

22 Ms. O'Dell-Keller, can you mute her? I
23 think she's --

24 MS. O'DELL-KELLER: Yes, Judge.

25 ALJ LECAKES: Yep. And we'll go back

1 to her.

2 Next, we have David Alicea.

3 MS. O'DELL-KELLER: You are unmuted.

4 MR. ALICEA: Hi. Good evening. Can
5 you hear me?

6 ALJ LECAKES: Yes, we can hear you.

7 MR. ALICEA: Great.

8 ALJ LECAKES: Proceed.

9 MR. ALICEA: My name is David Alicea,
10 and I am Sierra Club's New York Lead
11 Organizing Representative. I, first, want
12 to thank the Office of Renewable Energy
13 Siting for hosting these hearings, for
14 making the effort to do them in person,
15 and then being willing to move them online
16 to protect everyone's health. I live in
17 Wayne County, a rural county outside of
18 Rochester, and I work with Sierra Club's
19 members and supporters across Western New
20 York.

21 Sierra Club will be making formal
22 written comments in the coming weeks, and
23 so I'm here to speak in more general terms
24 based on our work and experience in
25 communities across Western New York and

1 the Genesee/Finger Lakes regions. Sierra
2 Club's 35,000 members and supporters in
3 this region have spent years advocating,
4 marching, and lobbying for clean energy,
5 and we are incredibly excited to see the
6 Office of Renewable Energy Siting and
7 these regulations move forward.

8 Over the past few years, I've had a
9 chance to work with dozens of renewable
10 energy supporters who live in communities
11 where projects are proposed. We have
12 tabled at events, gone door to door, and
13 support for these projects is
14 overwhelming. Some people see the
15 environmental benefits, others are excited
16 to help out local farmers, and others are
17 just hoping that they can get a tax cut
18 from it all.

19 Regardless of the reason, they are
20 excited by the opportunity to be part of
21 the 21st-century clean energy economy.
22 I've also had the opportunity to meet with
23 school and town officials who are eager to
24 have new revenue to tackle key projects
25 that they have postponed for years. I've

1 talked to union leaders who are eager to
2 ensure there's a steady stream of projects
3 to put their members to work.

4 Looking at just the projects currently
5 proposed in the western part of the state,
6 we are looking at millions of dollars per
7 year to support family farms, millions of
8 dollars per year to support our towns and
9 schools, and thousands of
10 family-supporting jobs.

11 Unfortunately, the benefits of clean
12 energy have been stymied by a -- an
13 onerous and bureaucratic process called
14 Article 10. Article 10 blocked
15 communities and farmers and workers from
16 accessing the benefits of clean energy.
17 Without further action, we'd be forced to
18 send more energy dollars out of state, or
19 even out of the country, to import power.

20 The new regulations by ORES will
21 address many of these problems and ensure
22 we are on pace to meet our climate goals.
23 Sierra Club, our members, and the
24 community we work with are eager to see
25 ORES finalize these draft regulations and

1 begin accepting applications for clean,
2 renewable energy projects. We look
3 forward to working with everyone involved
4 to make clean energy a reality here in New
5 York. Thank you.

6 ALJ LECAKES: Thank you very much.
7 Our next speaker tonight is David
8 Ruekberg.

9 MS. O'DELL-KELLER: You are unmuted.

10 ALJ LECAKES: Mr. Ruekberg, are you
11 there? We -- we do see your name, and we
12 do have you unmuted. Have you muted your
13 own computer?

14 All right. We'll come back to that
15 one.

16 Our next speaker is Elizabeth
17 Marshall.

18 MS. O'DELL-KELLER: You are unmuted.

19 MS. MARSHALL: Hi. My name's
20 Elizabeth Marshall, or also known as Lisa
21 Marshall. I'm a member of the Mothers Out
22 Front state leadership team, and I'm a
23 scientist, a mother, and a former military
24 wife. I'm still married to the military
25 man, but he's retired. I live in

1 Horseheads, New York, and I am thankful
2 for the opportunity speak at this hearing
3 today.

4 Mothers Out Front is one of few
5 climate and energy groups that actually is
6 organizing in some of the more rural areas
7 of New York State, and I only wish that
8 more groups, including the government of
9 New York State, were doing any
10 on-the-ground relationship building and
11 messaging about the benefits of
12 large-scale renewables, particularly wind
13 power.

14 And this is because the opposition to
15 renewable energy has been doing that.
16 They've been spending money, they've been
17 raising volunteers, they've been
18 publishing very incorrect and misleading
19 information in local newspapers, and this
20 has been going on for years.

21 So, now, we're in a position where
22 we're playing catch-up. We have terrific
23 climate goals. We have interesting policy
24 ideas coming out of Albany. But nobody is
25 doing that on-the-ground work that needs

1 to be done to engage people in these
2 communities to -- to help them, to
3 advocate for themselves, to get the
4 renewable energy sited that is -- that
5 is -- that we all need and to counter the
6 misinformation campaign that's been going
7 on for years and years with big money
8 coming from the Koch brothers and through
9 the Heartland Institute and other areas.
10 So this is a real problem because, now, we
11 are way behind.

12 Sierra Club has done some of this good
13 work, Mothers Out Front did some of this
14 good work, but mostly it's just a big
15 empty void, and, when I talk to people in
16 the energy field about this, they just
17 say, "Oh, well, we'll just, you know,
18 have -- we'll use market forces, we'll use
19 carrots and sticks to manipulate this so
20 that these -- can pass."

21 Well, that isn't good enough. You
22 need to get on the ground and talk to
23 people who live in these communities and
24 listen to them and engage them and share
25 with them good information so that they

1 are well-equipped to engage in the process
2 and advocate on their own behalf.

3 To the speakers who talked about wind
4 turbines being an eye sore, I just really
5 have to laugh. Try coming to my town, and
6 we can talk about eyesores. Take a look
7 at the new gas compressor station that was
8 built in my town. Take a look at the
9 hundreds and hundreds of fracking trucks
10 that go in and out of my town to
11 Pennsylvania, the big slashes through the
12 woods where the gas pipelines and -- you
13 know, we can compare your eyesore to mine.

14 I would happily have a wind turbine
15 built in my town instead of the things
16 that we have to deal with. Even if it
17 weren't much better for the climate and
18 the environment than the gas, it's still
19 more attractive.

20 So, in closing, I just thank
21 the -- the Office of Renewable Energy
22 Siting for holding this hearing. I'm
23 really supportive of -- of policy
24 initiatives to make renewable energy
25 easier to build, but also really encourage

1 New York State to find a way to do that
2 on-the-ground relationship building and
3 organizing. You know, you might think.

4 "Okay. We don't want to choose one
5 energy sector over another." But
6 we've -- we've run campaigns for
7 seatbelts, we've run campaigns for smoking
8 cessation. We do all kinds of
9 on-the-ground campaigns because we know
10 it's in the best interest of our citizens
11 and their health and safety, and we can do
12 that for renewable energy, too. Thank you
13 very much.

14 ALJ LECAKES: Thank you very much.
15 Our next speaker is Gwen -- or -- I'm
16 sorry. Grace Marshall. You may be a
17 call-in speaker. If you are a call-in
18 user, please press "star three" on your
19 phone. We're looking for Grace Marshall.

20 And, also, if you are on a computer
21 under somebody else's name, there is a
22 little hand icon that you can press, at
23 the bottom of the Webex page, that will
24 let us identify you, as well.

25 And, one more time, I'm looking for

1 Grace Marshall.

2 Okay. After that, we have Isabelle
3 (sic) Padron, P-A-D-R-O-N. Again, if you
4 are a call-in user, press "star three" so
5 that we can identify you.

6 Our next user, or commenter, is Joanne
7 Scanlon.

8 MS. O'DELL-KELLER: You are --

9 ALJ LECAKES: Ms. --

10 MS. O'DELL-KELLER: -- unmuted.

11 ALJ LECAKES: Ms. Scanlon?

12 MS. SCANLON: Yeah. Hi. Good
13 evening. Thank you for holding this
14 hearing. I really appreciate the -- the
15 opportunity to talk. I actually live in
16 a -- the town of Rush, which is a very
17 small, rural community just south of
18 Rochester.

19 So I have been following a local solar
20 project under Article 10 and have found,
21 really, that, without established time
22 frames, it just continues to get bogged
23 down in administrative loops. I think
24 that, with the new process that, you know,
25 we're looking at, the 94-C process, I

1 think that we really make a big step
2 forward supporting the projects that will
3 lead to a sustainable renewable energy
4 source and -- and help meet the state's
5 guides and expectations for renewables.
6 What I've seen locally is that, even in
7 parts of -- of Article 10, where they have
8 established time frames, they're not
9 necessarily being adhered to, and so
10 there's really no -- the -- the -- there's
11 no sense of urgency to move the process
12 along.

13 I've also seen things where, you know,
14 towns have changed their codes so that
15 they can ensure that any solar project
16 would never be able to operate in their
17 town. You know, our town is a
18 right-to-farm town, but the town does not
19 support the needs and desires of the
20 farmers in this community for those that
21 are looking to lease their land so that
22 they can continue to, you know, run their
23 farms.

24 There's a lot of people out there that
25 say, "I support renewables, but just not

1 in my backyard." And that -- you know, I
2 think that really has to be clarified with
3 people and shown that it really isn't
4 as -- as offensive as they make it out to
5 be. You know, if -- it -- as the previous
6 commenter made, you know, there -- there
7 are so many worse things with fossil
8 fuels, with -- with fracking and things.
9 You know, I -- I, personally, think wind
10 turbines are beautiful. When I drive down
11 to the southern tier and see them up on
12 the hills, I just think they're beautiful.
13 And they're not noisy.

14 And some of the -- some of the rumors
15 and some of the disinformation that has
16 spread, I also agree, is -- is extremely
17 strong -- strong opponents to these
18 projects, so, you know, anything that we
19 can do to streamline these
20 processes -- you know, it is really my
21 hope that you will follow the new
22 processes, make sure those timelines are
23 in place, and that they are enforced
24 because, without enforcement or
25 repercussions, we're just going to be in

1 the same loop.

2 The other, you know, issue is with,
3 you know, changes that -- you know,
4 opposition to these projects, made either
5 by people or by towns, that really are not
6 substantial. So we really need to make
7 sure, or you need to make sure, that they
8 really -- when they do propose a project,
9 that they are justifiable concerns and not
10 just because they don't want it going on
11 in their town.

12 So, you know, when I envision the
13 future for New York State, I really see a
14 lot of benefits to these programs:
15 Well-paying union jobs, especially in the
16 rural communities where there aren't a lot
17 of opportunities to work; a faster
18 economic recovery from COVID-19; also,
19 increased revenues. You know,
20 with -- with COVID-19, I know our taxes
21 are going to go up or our services are
22 going to go down. This is a way to more
23 quickly help to rebound.

24 We'll have less pollution. We will
25 continue to have an -- a really vibrant

1 farming community and including hundreds
2 of acres that have a chance to rest while
3 solar panels are up, and when they're
4 decommissioned, the land will actually be
5 more productive to farming.

6 So, you know, that is really where I
7 stand. I think that the time
8 frame -- biggest thing for me, as well as,
9 you know, making sure that any concerns
10 are addressed and, you know, that they are
11 addressed correctly and that they are
12 addressed in a way that is reasonable.

13 Thank you.

14 ALJ LECAKES: Thank you very much. I
15 just want to, again, note that, while
16 comments are accepted by the Office of
17 Renewable Energy Siting on all parts of
18 the regulations, the hearing tonight is
19 supposed to be focused on the uniform
20 standards and commissions that have been
21 proposed by the Office.

22 I'm going to go back to a user that we
23 tried to call before that --

24 THE REPORTER: For some reason,
25 my -- my audio keeps --

1 ALJ LECAKES: Yes.

2 THE REPORTER: -- kind of coming in
3 and out. Can you hear me?

4 ALJ LECAKES: I -- I can hear you
5 fine.

6 MS. O'DELL-KELLER: Yes.

7 THE REPORTER: Okay. For some reason,
8 you guys keep kind of cutting out. Okay.
9 Just keep going.

10 ALJ LECAKES: Okay. I'm going to go
11 back to David Ruekberg, R-U-E-K-B-E-R-G.

12 MR. RUEKBERG: Yeah.

13 ALJ LECAKES: Ruekberg?

14 MR. RUEKBERG: Hello.

15 ALJ LECAKES: You are unmuted.

16 MR. RUEKBERG: Thank you. I apologize
17 for my technical problems earlier. My
18 name is David Ruekberg, and thank you for
19 offering this public hearing.

20 Among the many important issues facing
21 us, climate change remains the most
22 serious. I'm a member of Citizens Climate
23 Lobby, which I joined because of its
24 support of practical, bipartisan
25 legislative solutions to climate change.

1 In view of the threat, Governor Cuomo
2 signed the Climate Leadership and
3 Community Protection Act in July,
4 requiring a hundred percent carbon-free
5 electricity by 2040 and net zero carbon
6 emissions by 2050. Many municipalities
7 were already in the process of exploring
8 renewable solar and wind electricity
9 supply for residents, including my town of
10 Pittsford. The governor's action helps
11 support residents' awareness of the urgent
12 need for clean energy.

13 Despite that, the current process to
14 approve renewable energy projects is slow.
15 Only eight of 68 projects have been
16 approved since 2012, and only one is
17 underway, as was mentioned earlier. It
18 makes little difference that my town of
19 Pittsford, and towns around it, approve
20 resolutions to adopt community solar
21 energy supply for residents if
22 applications to create infrastructure get
23 stuck in the procedural pipeline.

24 I urge the State of New York and the
25 Office of Renewable Energy Siting to

1 reduce bureaucratic impediments and
2 increase staff and other support to speed
3 the approval time for such projects. This
4 will enable communities across New York to
5 raise revenue and scale renewable energy
6 to address a climate crisis that is not in
7 the future but is already upon us.

8 Thank you for your time.

9 ALJ LECAKES: Thank you very much.
10 And if you could just hit the icon on your
11 computer again. Thank you very much.

12 Next -- our next speaker is Judy
13 Fitzgerald. Ms. Fitzgerald.

14 MS. FITZGERALD: Hello.

15 MS. O'DELL-KELLER: You are unmuted.

16 ALJ LECAKES: Yes, we can hear you.

17 MS. FITZGERALD: Good. Okay. Thank
18 you for the opportunity to speak about
19 this extremely important topic. I have
20 been very concerned about the lack of
21 growth of green energy jobs, such as wind
22 and solar, for more reasons than I can
23 count. Climate change is rapidly becoming
24 the major problem for the world and
25 requires that we make it the priority that

1 it is for ourselves and our children. The
2 perfect opportunity has arrived. We are
3 in the middle of a worldwide pandemic that
4 is, sadly, demanding our attention to save
5 lives and salvage our economies.

6 New York State has made the commitment
7 to rapidly switch to clean energy.

8 However, it is now being stalled by the
9 pandemic, loss of jobs, and resistance
10 from a public that doesn't realize the
11 great benefits. Now is the perfect
12 opportunity to get our economy moving
13 again while getting the pandemic under
14 control. We need to invest in wind and
15 solar companies' training programs for
16 workers and educating citizens to the
17 benefits of clean energy so that they will
18 understand why clean energy is necessary.

19 Gone are the days that we can waste
20 valuable time wrangling over unfair
21 standards to -- to site each project. We
22 need a fair and transparent process that
23 applies to all projects, with shorter
24 approval times. We need to educate people
25 to understand that, rather than a

1 detriment to their communities, it's a
2 great benefit. Among the very important
3 benefits that must be emphasized is no
4 longer contaminating the air, water, and
5 soil as dirty energy has done. Saving the
6 environment for now and the future
7 generations is key to our health and
8 sustainability.

9 Economically speaking, just one
10 medium-sized solar project will bring in
11 millions of dollars in local taxes, while
12 providing good, sustainable jobs. It is a
13 win-win situation. One of the keys is
14 educating our citizens to understand the
15 huge benefits a green economy provides.

16 The pandemic has brought into focus
17 many problems that are confronting this
18 country. None is more important than
19 facing climate change head on and doing
20 all in our power to mitigate its
21 disastrous effects. Developing green
22 energy is one of those tools. New York
23 has always been a leader. We must act
24 now, not only for our state, four our
25 country, and, yes, even for the world.

1 Thank you.

2 ALJ LECAKES: Thank you very much.

3 Our next speaker is Kathleen
4 Gasperini, G-A-S-P-E-R-I-N-I. Yes. You
5 are unmuted. You -- you may provide your
6 comment.

7 MS. GASPERINI: Can you hear me?

8 ALJ LECAKES: Yes, we can hear you
9 fine.

10 MS. GASPERINI: Thank you, Judge, for
11 the opportunity -- hearing. My name's
12 Kathleen Gasperini. I work for the
13 Alliance for Clean Energy in New York,
14 also known as "ACE NY," as well as Friends
15 of Upstate New York and New York Offshore
16 Wind Alliance, which are a part of ACE NY.
17 ACE is a membership-based organization,
18 and our members are clean energy
19 companies, including those that will be
20 seeking permits from the new Office of
21 Renewable Energy Siting, also known as
22 "ORES," as well as different environmental
23 organizations.

24 First, I want to point out that the
25 process to review and issue permits for

1 wind and solar projects solely -- sorely
2 needs to be reformed. And, therefore, we
3 welcome New York's recognition of the
4 issue and the new Office of Renewable
5 Energy Siting. And it's proposed a new
6 way for the review and permitting process
7 to work for wind and solar projects. We
8 believe that, overall, the proposal
9 establishes a good balance between
10 achieving renewable energy goals,
11 protecting the environment, and giving
12 local communities the opportunity to
13 influence the siting and permitting of
14 renewable energy facilities.

15 The proposed uniform standards and
16 conditions, which are the subject of this
17 hearing, include numerous provisions that
18 are relevant to the role of the potential
19 host community in the permitting process.
20 (Technical difficulties) involvement.

21 First on (technical difficulties) I
22 highlight that issuance of a permit does
23 not convey any property rights and
24 doesn't, in any way, (technical
25 difficulties) in all cases the (technical

1 difficulties) leased from willing
2 landowners. This is as it should be, but
3 it's still worth noting because of
4 (technical difficulties) mentioned eminent
5 domain, which is, in fact, not relevant to
6 this proposal. Uniform conditions require
7 that all projects should be in accordance
8 with all local laws.

9 Based on the Article 10 projects that
10 have gotten permitted so far, this most
11 commonly will be the case. In some
12 limited circumstances, the ORES can
13 determine that a particular law is
14 unreasonably burdensome -- burdensome.

15 I'm sorry. This is all the -- also
16 the case with the current Article 10
17 process and was also the case (technical
18 difficulties) and even the (technical
19 difficulties) that, this is because
20 (technical difficulties) is a public need
21 and needs to be a path -- to ensure that
22 there's enough power plants to meet our
23 collective need for power. With this
24 (technical difficulties) uniform standards
25 and conditions defined what is reasonable.

1 (Technical difficulties) clarify what is
2 unreasonable. Having towns, the project
3 neighbors, and the project developers all
4 know these standards up front is a very
5 good thing.

6 Uniform standards and conditions
7 require an applicant to meet with state
8 and local agencies before construction,
9 while the application process requires
10 they do the same before applying even for
11 a permit. This is also a long list of
12 very specific and detailed requirements,
13 everything from construction hours, sound
14 standards, visual mitigation, to
15 protections for water supply, streams,
16 wetlands, archeological resources,
17 agricultural land, and bird and bat
18 species. These conditions reflect New
19 York's strong tradition of environmental
20 processes. (Technical difficulties)
21 municipalities will have the opportunity
22 to meet with the applicant before the
23 application is filed, hire experts to
24 assist them, using funds paid by and for
25 the applicant, comment on the draft

1 permit, raise issues regarding compliance
2 with all local laws, and be a party to any
3 adjudicatory hearing, if there is one.

4 In short, the role of the
5 municipalities is quite similar to its
6 role in Article 10, but the 94-C process
7 is more straightforward, simplified, and
8 features -- of the standard operating
9 conditions upfront, which we support.

10 Thank you.

11 ALJ LECAKES: Thank you very much.

12 Our next speaker is Sara Schultz.

13 Ms. Schultz, you may be a call-in user.

14 If you are, please press "star three" on
15 your phone. If you are on a computer
16 under somebody else's name, please use the
17 hand icon, down at the bottom of the
18 screen.

19 MS. SCHULTZ: Okay.

20 MS. O'DELL-KELLER: Ms. Schultz is
21 unmuted.

22 MS. SCHULTZ: Oh. Okay. Thank you.
23 You can hear me.

24 ALJ LECAKES: Yes, we can hear you --

25 MS. O'DELL-KELLER: Yes.

1 ALJ LECAKES: -- fine.

2 MS. SCHULTZ: Great. Thank you.

3 Thank you so much for holding these
4 hearings and for making them virtual. I'm
5 a volunteer. I chair Sierra Club Niagara
6 Group. We have almost 4,000 members and
7 encompass seven counties in the Western
8 New York area. You probably already know
9 that Sierra Club has been fighting for 128
10 years to protect our land, air, and water
11 and we're champions of reliable solutions
12 to the climate emergency.

13 My remarks, while they're not really
14 very technical, they relate to the main
15 difference between the draft regs and
16 Article 10, the -- it's my personal
17 experience, as a volunteer and an
18 advocate, then an activist.

19 In 2017, a coalition of Sierra Club
20 volunteers, Mothers Out Front, and local
21 landowners began to advocate for a wind
22 project in Niagara County, near the
23 southern shore of Lake Ontario, near the
24 towns of Somerset and Barker. We were
25 taken on a tour with wildlife biologists,

1 who educated us on the protective and
2 mitigation measures they had studied for
3 this project, so we -- we are very
4 pleased, as a group, and satisfied that
5 the mitigation of any kind of damage to
6 wildlife and losses through habitat
7 acquisition, restoration of species,
8 protection of wetlands, all of these
9 things will be preserved, the 25
10 regulations will be preserved, in the new
11 ORES draft regs.

12 This has been -- yeah, so -- that's
13 what I just said, and I'll go on to say
14 that there's no surprise that there was
15 huge opposition to the project. Summer
16 cottage owners near the project changed
17 their permanent addresses so they could
18 elect local leaders whom they could
19 control. Eventually, the project was
20 forced to go to another state, while
21 we -- because it took so long to get
22 through, you know, red tape and fighting
23 with the locals. So we continued to
24 export our -- our dollars to Pennsylvania
25 for dirty frack gas, as well as infringe

1 on First Nations for hydroelectric up in
2 Canada. So, goodbye, jobs; goodbye,
3 community benefits; and goodbye, clean
4 energy for our state. And it's
5 interesting that much of this propaganda
6 they spread almost never comes up in
7 non-English speaking countries.

8 The "me" attitude, and not the "we"
9 attitude, in our country is inhibiting our
10 ability to slow down climate change, add
11 good family-supporting jobs to our
12 economy, and bring investments to our
13 communities. It's why we are so pleased
14 about the new draft regulations.

15 As an active member of United Solar
16 Energy Supporters New York, USES New York,
17 we've heard from landowners and farmers
18 who need to harvest solar energy to hold
19 on to their land. With the growing
20 success of agriculture tax, solar farmers
21 can reap extra benefits with non-prime
22 land by raising sheep, goats, or
23 honeybees. This enriches our environment
24 and keeps our farmers in business. It's a
25 win-win situation that will be more easily

1 achieved without the delay and complicated
2 application process that came with Article
3 10.

4 The resistance to new utility-scale
5 projects is fierce. Again, false
6 information, fear mongering, and bullying.
7 We need strong policies to overcome this
8 backward movement.

9 I -- I don't want to be repetitive for
10 what other people have said, but, you
11 know, as we know, there's very little time
12 left to reduce greenhouse gases before our
13 country and planet will suffer even more
14 than we already have. The ORES can set
15 New York as a visionary leader for the
16 greater good, and I'm just really grateful
17 for what you're doing for our future, for
18 my grandchildren's future. All beings
19 deserve a green and a healthy future, and
20 really appreciate you and appreciate being
21 a New Yorker.

22 Thank you.

23 ALJ LECAKES: Thank you very much.

24 R-E-C-C-H-I-O? You may be a call-in
25 user. If so, please press "star three" on

1 your phone.

2 Okay. Next, we have Martha Kelley,
3 K-E-L-L-E-Y. Again, if you are a call-in
4 user, please press "star three" on your
5 phone so that we can identify you.

6 MS. O'DELL-KELLER: She is unmuted.

7 ALJ LECAKES: Okay. Martha Kelley?
8 Please check your computer and make sure
9 that you haven't muted yourself on your
10 own line.

11 Joe, can you put up the slide that
12 shows the phone number to call if you're
13 having technical -- oh, it is up. Okay.
14 Great. If you are having technical
15 difficulties, please call 1-800-342 -- I'm
16 missing the slide now. There it is.
17 342-3330.

18 And we will go to our next registered
19 user, Pat Harris. Is Pat Harris
20 available?

21 MS. HARRIS: I'm here. I'm --

22 ALJ LECAKES: You are unmuted, and we
23 can hear you. You may proceed with your
24 comment.

25 MS. HARRIS: I'm Pat Harris, Tricia

1 Harris. I live in Caledonia, New York.
2 My community is included in a proposed
3 solar project. I've known about this
4 project for well over a year, and it seems
5 that the project is moving slowly. I
6 stand to benefit from this work if you can
7 move ahead. Other residents in Caledonia
8 will also benefit. I believe we need the
9 new Office of Renewable Energy Siting
10 standards to put in place a process that
11 allows renewable energy projects to be
12 approved in one year instead of in several
13 years. Our community needs the benefits
14 that can come from such projects. We need
15 those benefits in a timely fashion.

16 A good point is that the proposed
17 process maintains community involvement in
18 the projects. It makes clear as what
19 standards will be met. Communities will
20 know those standards up front. Those
21 standards, to me, seem to be clear and
22 comprehensive. Maybe with the last one
23 out and more transparent process, less
24 misinformation will be generated about
25 projects. Maybe some ill will toward

1 projects can be eliminated.

2 I support finalizing the new standards
3 through the Office of Renewable Siting
4 (sic). New York needs wind and solar
5 projects to be developed quickly.

6 Thank you for letting me speak.

7 ALJ LECAKES: Thank you very much.

8 Going to turn to our next speaker,
9 Susan Campbell.

10 Ms. Campbell, you are unmuted?

11 MS. CAMPBELL: Can you hear me?

12 ALJ LECAKES: Yes, we can hear you.
13 You may proceed.

14 MS. CAMPBELL: My name is Susan
15 Campbell, and I live in Lyndonville, New
16 York. I'm actually one of the communities
17 that they were talking about -- the wind
18 project that got delayed for so long.
19 I want to speak in favor of having a set
20 standard and more streamlined path to
21 renewable energy for New York State. I
22 believe that the Office of Renewable
23 Energy Siting will do that.

24 Renewables help all the communities in
25 our state, even if the projects are not

1 directly in their towns. It provides
2 clean energy and, hopefully, a lowering in
3 the amount of money we have to spend on
4 our energy.

5 Renewables will benefit our schools
6 and our communities, and there are both
7 short-term and long-term benefits for
8 everyone in the state. And the benefit
9 for our planet, we don't have any more
10 time to waste before we change over to a
11 majority of renewable energy production.

12 One day, our children and
13 grandchildren are going to ask us if we
14 did everything possible that we could do
15 to help curb the climate crisis. I hope
16 we will be able to say that we did
17 everything we could. Thank you.

18 ALJ LECAKES: Thank you very much.

19 And, next, we're going to go back to
20 Martha Kelley.

21 Ms. Kelley, are you there?

22 MS. O'DELL-KELLER: Judge, she is no
23 longer listed as an attendee.

24 ALJ LECAKES: Okay.

25 MS. O'DELL-KELLER: She may have

1 called in.

2 ALJ LECAKES: If you have called in,
3 could you please press "star three" on
4 your phone? Okay. I'm going to -- before
5 I go back to some of the others that we
6 missed, we did have someone that raised
7 their hand.

8 Could you please unmute that user?

9 Hi. This is Judge Lecakes, and I
10 noticed that you had your hand raised.
11 This is Joe or Sean Leone?

12 MR. LEONE: This is Joe and Sean. I'm
13 Sean. I have my twin brother with me.
14 We're actually here in Manhattan, New
15 York. We're members of the NRDC Action
16 Fund. And so we're just here because
17 we -- I mean, we're huge climate change
18 activists, and we just want to show our
19 support because we know we're looking for
20 a global change, but that initiative
21 starts from not just a national level but
22 county by county.

23 So we're here, again, just to show
24 support for the State of New York in hopes
25 that we make great strides towards a

1 sustainable future.

2 ALJ LECAKES: Great. Thank you. And
3 can you just hit the icon on your computer
4 again so that that disappears from our
5 list? Great. Thank --

6 MR. LEONE: Yep.

7 ALJ LECAKES: -- you.

8 MR. LEONE: Thank you.

9 ALJ LECAKES: All right. I'm going to
10 go back to the top of the list. We
11 started with -- to people who didn't
12 respond. Arthur Giacalone or
13 "JAH-co-lone"? G-I-A-C-A-L-O-N-E. If you
14 are a call-in user, please hit "star
15 three" on your telephone.

16 Okay. I'm going to go back to Anna
17 Castonguay.

18 Are you able to unmute,
19 Ms. O'Dell-Keller.

20 MS. O'DELL-KELLER: I am trying. She
21 might be muted on her end.

22 ALJ LECAKES: Yes.

23 MS. O'DELL-KELLER: I'm sorry, Judge.
24 It will not let me --

25 ALJ LECAKES: Yep.

1 MS. O'DELL-KELLER: -- unmute --

2 ALJ LECAKES: All right.

3 MS. O'DELL-KELLER: -- her.

4 ALJ LECAKES: I see that.

5 Ms. Castonguay, if you can call
6 1-800-342-3330, we can probably get you
7 a -- a phone number to call in and use if
8 you are not able to unmute yourself at
9 this point.

10 Okay. Next, we're looking for Grace
11 Marshall. Ms. Marshall, if you are a
12 call-in user, please press "star three" on
13 your phone.

14 Next, Isabella Padron, P-A-D-R-O-N.
15 Again, please hit "star three" on your
16 phone if you are a call-in user.

17 And, last, Gabriel Recchio,
18 R-E-C-C-H-I-O. If you are a call-in user,
19 please hit "star three" on your phone.

20 Okay. That is the list of preregistered
21 speakers that I have. Oh. We do have --

22 MS. O'DELL-KELLER: Judge. Yeah, we
23 do --

24 ALJ LECAKES: Yeah.

25 MS. O'DELL-KELLER: -- have one more.

1 Chris Loss.

2 ALJ LECAKES: Okay. All right. If
3 you could unmute that line.

4 MS. O'DELL-KELLER: I believe it's
5 a --

6 ALJ LECAKES: Or --

7 MS. O'DELL-KELLER: -- call-in user.

8 ALJ LECAKES: Okay. Is that -- can
9 you unmute Call-in User Number 29?

10 MS. O'DELL-KELLER: Yep.

11 MS. KELLEY: Hello?

12 ALJ LECAKES: Hello.

13 MS. KELLEY: Hello.

14 ALJ LECAKES: Can you identify
15 yourself, please? Yes, we can hear you.

16 MS. KELLEY: This is for Martha
17 Kelley.

18 ALJ LECAKES: Okay. Go ahead.
19 K-E-L-L-E-Y, correct?

20 MS. KELLEY: Yes.

21 ALJ LECAKES: All right. Go ahead,
22 Ms. Kelley.

23 MS. KELLEY: Hi. My name is Martha
24 Kelley, and I'm an eighth grader at School
25 of the Arts in the City of Rochester. I

1 am speaking tonight to express support for
2 the new Office of Renewable Energy Siting
3 and encourage the State to adopt the
4 uniform standards so that New York can
5 move off of fossil fuels to renewable
6 energy as quickly as possible.

7 The climate crisis started before I
8 was born. I had nothing to do with it.
9 And, even though I am only 13 years old, I
10 know that I will spend the rest of my life
11 experiencing increasingly chaotic weather,
12 impacted food production and water
13 availability, rising seas, stronger
14 storms, and more. I've already
15 experienced extreme weather, and I am
16 aware that it will get worse the longer we
17 wait to build utility-scale renewable
18 energy.

19 Additionally, because of this global
20 pandemic, we as a state and a nation are
21 facing the most significant economic
22 crisis since the Great Depression. Local
23 governments across the state have lost
24 thousands of dollars in tax revenue and
25 school systems are suffering. My own

1 school system is facing a budget shortfall
2 of more than \$70 million. Many other
3 school districts are also struggling and
4 could greatly benefit from the local
5 utility-scale renewable project revenue.

6 The current process to approve
7 renewable energy project has failed. In
8 the past years, only eight projects have
9 been approved, and only one is under
10 construction. Unless New York has a
11 transparent and fair way to site renewable
12 energy projects, our energy dollars will
13 go to import power through other states
14 and Canada instead of creating jobs and
15 economic benefits right here.

16 It is also very important to me that
17 host communities have a role and a voice
18 in the siting process. ORES will do
19 exactly that: Keep local communities at
20 the center of developing local zoning
21 policies, preserve local participation,
22 and provide towns with the funding needed
23 to meaningfully engage in the siting
24 process. And, by eliminating unclear and
25 unfair standards that vary from project to

1 project, ORES siting gives communities and
2 developers clear and transparent ways to
3 evaluate projects.

4 By shortening the approval time of
5 projects to one year, we can ramp up on
6 wind and solar quickly and allow
7 communities across New York to bring in
8 new revenue when they need it most and
9 scale renewable energy at the speed needed
10 to address the climate crisis. Just one
11 medium-sized solar project, for example,
12 will bring in millions of dollars in tax
13 payments and leases, while creating
14 hundreds of family-supporting jobs.

15 On behalf of my generation and all
16 future generations that are facing the
17 catastrophic impact of climate change and
18 the economic impact of the COVID-19
19 pandemic, I am asking you with great
20 urgency to adopt these uniform standards
21 so that large-scale wind and solar
22 projects can be built in New York State as
23 soon as possible. Thank you.

24 ALJ LECAKES: Thank you very much,
25 Ms. Kelley. I did see, on my updated

1 list, a name that I had missed by
2 accident. Chris Loss, L-O-S-S. If you
3 are a call-in user, please press "star
4 three" on your phone.

5 And, Ms. Kelley, if you could press
6 "star three" on your phone, just to remove
7 the icon that identifies you, now.
8 And I do see that a call-in user has
9 identified. Is this Chris Loss?

10 MS. LOSS: Yes. Can you hear me?

11 ALJ LECAKES: Yes, we can hear you.
12 You may proceed. And I apologize
13 for -- I -- the call-in users were
14 separated from the -- the computer
15 registrations, and so that's why I missed
16 your name by accident. You may proceed.

17 MS. LOSS: No, that's okay. I
18 appreciate the opportunity to talk. I'm a
19 Barre resident. It's a small farming
20 community. And I very much support wind
21 and solar energy. I'd be very glad to get
22 away from the Article 10 process and to
23 the new draft regulations. I believe the
24 uniform standard conditions will
25 streamline permitting and make it more

1 straightforward. The standards for
2 setbacks, sound, and so on are based in
3 science and will allow more projects to be
4 built, while still protecting the
5 residents of the town.

6 And I also want to say that we have a
7 project going on here in Barre that's been
8 going on -- we've been on -- under Article
9 10, I don't know if it's three or four
10 years of meetings after meetings after
11 meetings, where we battle the -- the
12 anti-wind forces that -- they seem to be
13 trafficking in scare tactics. They've
14 scared so many people in this area with
15 false information.

16 But we have -- we have joined forces,
17 and we've been really strong here, and
18 we're hoping to see this through and have
19 turbines built. We want these turbines
20 built so that my grandchildren can have a
21 future, so that maybe we'll have lower
22 taxes here and some other benefits that we
23 need from the project. So -- and
24 that's -- that's all I had. I thank you
25 so much for letting me speak.

1 ALJ LECAKES: Thank you, Ms. Loss.
2 And if you could just press "star three"
3 on your phone again.

4 And so that is the end of the list of
5 the registered speakers. I am now going
6 to open up the floor. If you are a
7 call-in user, and you wish to provide a
8 comment at this time, you can hit "star
9 three" on your phone. If you are a
10 computer user, there's a little hand icon,
11 at the bottom. You can press that to
12 raise your hand.

13 And I'm going to turn to our first
14 floor speaker tonight. Thomas LoTurco is
15 the name on the computer. If you could
16 please unmute Mr. LoTurco.

17 MR. LOTURCO: Yes. Can you hear me?

18 ALJ LECAKES: Yes, I can hear you.
19 You -- you may proceed.

20 MR. LOTURCO: Great. Good evening.
21 My name is Tom LoTurco.

22 I'm the Director of Development with
23 EDP Renewables North America. Both my
24 wife and I were born and raised in Seneca
25 Falls, the place where my parents and

1 in-laws currently reside. I want to thank
2 you for the opportunity to speak tonight
3 on the New York State Office of Renewable
4 Energy Siting's proposed draft rules for
5 permitting new wind and solar projects.

6 EDPB has been active in New York since
7 2000, when we commissioned our first
8 commercial wind project in the state, and
9 are currently the largest owner-operator
10 of wind farms in New York, with over 700
11 megawatts of operating sites. Through
12 2009, our projects have paid more than \$24
13 million to local landowners and over \$67
14 million to local governments.

15 In fact, I got my start in the
16 renewable industry back in 2005, when I
17 worked for Albany-based Clough, Harbour &
18 Associates, which is now called CHA
19 Companies. We were retained by a wind
20 energy developer to prospect new sites in
21 the state. Since that time, I have worked
22 full time in the renewable energy industry
23 and have never looked back.

24 New wind and solar projects generate
25 good-paying jobs and substantial economic

1 benefits, which will be an important part
2 to helping New York build back better
3 after the pandemic. My career and
4 livelihood is a testament to that.
5 We want to thank Governor Cuomo, the
6 Office of Renewable Energy Siting, and all
7 involved in state government for drafting
8 these proposed rules to permitting new
9 renewable energy projects. Streamlined
10 and consistent rules on siting new
11 renewable energy projects will cut down on
12 the uncertain, time-consuming, and
13 expensive previous permitting options in
14 the state, and will help the state meet
15 its critical climate change and zero
16 carbon targets.

17 The current proposed standard
18 conditions put public and environmental
19 health and safety at the forefront. These
20 standard conditions have extensive
21 protection in place that protect wildlife,
22 wetlands, and the public. There are
23 strong restrictions on where project
24 infrastructure can be sited, significant
25 bat curtailment standards, and

1 requirements for well water testing that
2 exceed benchmarks in most other
3 jurisdictions in which we operate. For
4 example, we think that the modifications
5 to the sound regulations reducing bat
6 curtailment to 5.0 meters per second and
7 changes to the well water testing
8 requirements will have appreciable
9 benefits to developers, without
10 compromising important environmental
11 protections for public safety.

12 My company, EDP Renewables, and other
13 clean energy industry groups, will be
14 submitting detailed comments in the coming
15 weeks with these suggestions, and others,
16 for your review. We are grateful for the
17 opportunity to lend our experience into
18 the needs of project development and to
19 provide recommendations to further improve
20 these new siting regulations through
21 today's hearing and in our written
22 comments.

23 We think that this shift in the
24 permitting regime will be beneficial, and
25 that further improvements can be made that

1 will enable more renewable energy to come
2 online at the lowest cost possible without
3 adverse impacts on wildlife, the
4 environment, and public safety.

5 We appreciate all of your efforts with
6 respect to improving the permitting regime
7 in New York and look forward to continue
8 to do our part in bringing New York's zero
9 carbon future into reality. Thank you for
10 your time and consideration.

11 ALJ LECAKES: Thank you very much.

12 Our next -- oh. If you could please
13 hit the hand icon, Mr. LoTurco.

14 And our -- our next speaker is Scott
15 Meyers (phonetic). Mr. Meyers?

16 MR. MEYERS: Yes. How y'all doing?

17 ALJ LECAKES: We're doing fine. We
18 can hear you.

19 MR. MEYERS: Okay. Great. Thanks so
20 much for having me this evening. As I had
21 said, my name is Scott Meyers. I'm a
22 co-hub coordinator at the -- at the
23 Sunrise Movement -- the Rochester hub of
24 the Sunrise Movement. I live in
25 Rochester, New York, and was born and

1 raised in Le Roy, New York, just a little
2 west of the city. And I also work in the
3 renewable industry. I currently work for
4 a geothermal energy company and worked in
5 solar for a year before that, and I
6 devoted my young career -- I'm 25 years
7 old -- to combating climate change through
8 renewable -- and through community
9 activism.

10 Now, being 25 years old, the threat of
11 climate change impacts my future, and
12 I -- I knew that growing up, but it took
13 joining an AmeriCorps program and going
14 out west and responding to the devastating
15 wildfires in California to realize the
16 privilege we have in Western New York at
17 the -- the start of the negative impacts
18 of climate change. And experiencing that
19 and experiencing individuals has really
20 thrust me towards -- towards a career
21 and a -- a real drive to -- to work to
22 combat this.

23 Now, working in renewables at local
24 residential and utility scale, I've seen
25 the barriers that are in place, and I'm

1 here tonight to -- to voice my support for
2 this organization and this office and the
3 strive to adopt uniform standards to the
4 permitting process.

5 And, in conclusion, change is hard,
6 but it's totally necessary. I like to,
7 again, highlight my young age and my drive
8 to -- to work to protect our future,
9 myself, but also the next generations to
10 come. The law and policy are here, and
11 the technology is here and, truly, the
12 economic opportunity is here. The
13 barriers need to be knocked down, and I
14 hope your office works to -- to break down
15 these barriers and work with local leaders
16 to truly make these -- these uniform
17 standards happen.

18 That concludes my comment, and I thank
19 you again for having me.

20 ALJ LECAKES: Thank you very much.
21 And if you could just hit the hand icon
22 again to remove your name from our list.
23 Thank you.

24 Next, we have Susan Hughes-Smith.

25 MS. HUGHES-SMITH: Yes. Can you hear

1 me?

2 ALJ LECAKES: Ms. Hughes-Smith? Yes,
3 we can hear you.

4 MS. HUGHES-SMITH: Okay. Great.
5 Thank you so much for giving me the
6 opportunity to speak and for your
7 presence, as it is, virtually, here in
8 Rochester, New York. We really appreciate
9 the State making an effort to outreach to
10 multiple parts of the State of New York.
11 So I -- I'm a mom, I'm a professor of
12 environmental health, I'm a small business
13 owner, and I'm a climate solutions
14 advocate.

15 The fossil fuel economy unfairly
16 burdens poor communities with pollution,
17 sickness, and early death, while the
18 climate crisis is already destroying
19 communities around the world. The climate
20 crisis continues to accelerate and, if
21 left unchecked, will leave young people
22 with a diminished future. We need to say
23 "yes" to renewable energy.

24 The new Office of Renewable Energy
25 Siting will keep local communities at the

1 center of developing local zoning policy,
2 preserves local participation, and
3 provides towns and communities with the
4 funding needed to meaningfully engage in
5 the siting process. By eliminating
6 unclear and unfair standards that vary
7 from project to project, the new standards
8 gives communities and developers clear and
9 transparent ways to evaluate projects.

10 By shortening the approval time of
11 projects to one year, we can ramp up wind
12 and solar quickly and allow communities
13 across New York to bring in new revenue
14 when they need it most and scale renewable
15 energy at the speed needed to address the
16 climate crisis.

17 I urge you to please adopt the uniform
18 standards and conditions as they are
19 drafted, Subpart 900-6, Chapter XVIII,
20 Title 19. Thank you very much for your
21 time. I look forward to a -- a healthier
22 future.

23 ALJ LECAKES: Thank you very much.

24 I want to put out a note to everyone,
25 again, that we have the floor open right

1 now. If you are a call-in user, you can
2 press "star three" on your phone. And I
3 want to stress that you do not need to be
4 a computer user in order to access these
5 hearings. Calling in is perfectly fine.

6 In fact, last night and tonight, more
7 than one-third on both of those nights of
8 our users -- commenters -- or, at least,
9 our registered attendees have been call-in
10 users. And, again, for the -- the people
11 on the computer, you can use the little
12 hand icon at the bottom.

13 I see that our -- our registered
14 speaker, Anna Castonguay -- can you try to
15 unmute? We have you unmuted now.

16 MS. CASTONGUAY: Hi.

17 ALJ LECAKES: Hi. We can hear you
18 now. Great.

19 MS. CASTONGUAY: Okay. Thank you.
20 I'm sorry. Did you call my name earlier?

21 ALJ LECAKES: Yes, we did, but that's
22 okay. You're -- you're on now.

23 MS. CASTONGUAY: So I just wanted
24 to -- to voice my supports for the uniform
25 standards and conditions. I think that so

1 many people have spoken so -- so
2 wonderfully about your organization, and I
3 just want to add a -- you know, kind of
4 continue on with what they're saying.
5 I think that the streamlining of
6 permit -- of -- of the permit process will
7 only increase the number of projects that
8 we have running in New York State.

9 It'll only increase the amount of
10 energy that will be renewable and green
11 that we will be using. It'll -- it
12 creates so many green jobs for the state,
13 who is -- our -- our state
14 is -- is -- sometimes struggles with
15 keeping young people in the state and
16 keeping them employed. So many, you know,
17 people my age are -- are leaving the state
18 for working out west or working in other
19 states that -- where there are more
20 opportunities, and I think that, you know,
21 this -- these new standards are going to
22 create a new industry that will really
23 just help our economy.

24 And, beyond that, you know, as
25 everybody has been saying, the climate

1 crisis is our biggest hurdle that we are
2 going to have to overcome in our
3 generation. It -- it really -- it really
4 affects us socially, economically, and
5 it'll affect future generations to come.
6 So I -- I fully support this -- these
7 standards and conditions.

8 ALJ LECAKES: Thank you very much.

9 And, now, at this point, we have no
10 other people that have their hands raised.
11 I'm going to put out one last call. You
12 can hit "star three" on your phone or use
13 the hand icon at the bottom.

14 All right. Seeing none, I'm just
15 going to remind people -- and, Joe, if you
16 could go back to the other ways to comment
17 screen -- that you do have an opportunity
18 to continue to comment through December
19 7th, and you can use the e-mail address
20 there, which is general@ores.ny.gov.

21 Alternatively, you can use the
22 U.S. Postal Service to send a mailed
23 comment to the Office of Renewable Energy
24 Siting at 99 Washington Avenue in Albany,
25 New York 12231.

1 And, finally, you can go to the
2 website, www.ores.ny.gov/regulations, and,
3 there, on that page, is a form that you
4 can fill out right on the computer that
5 allows you to submit a comment directly to
6 the Office of Renewable Energy Siting.

7 I'd like to thank everyone for their
8 participation tonight, all the attendees,
9 and definitely all of the speakers and
10 commenters that we had, and remind people
11 that, tomorrow night, there is another
12 hearing scheduled that has been converted
13 to an online hearing, as well as online
14 hearings scheduled for November 24th and
15 November 30th.

16 With that, I conclude tonight's
17 hearing, and we are off the record. Thank
18 you.

19 (Whereupon, the hearing was concluded
20 at approximately 6:25 p.m.)

21 * * * *

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

I, SARAH COLEMAN, a Court Reporter and
Notary Public in and for the State of New York, do
hereby certify that I stenographically recorded the
proceedings at the time and place noted on the title
and that this transcript is accurate and complete, to
the best of my knowledge and belief.

I further certify that I am in no way
related to any of the parties to this action nor am I
an employee for any of the lawyers involved, and I am
in no way interested in the outcome of this matter.



Notary Public

1 11-19-2020 - Office of Renewable Energy Siting

2 NEW YORK STATE

3 OFFICE OF RENEWABLE ENERGY SITING

4 DOS-37-20-00016-P

5
6 Chapter 18, Title 19, Sub-Part 900-6, The New York
7 State Office Of Renewable Energy Siting Draft Uniform
8 Standards And Conditions.

9
10 PUBLIC COMMENT HEARING

11 November 19, 2020 at 5:04 p.m.

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17 ALJ Dakin Lecakes DPS
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24
25

11-19-2020 - Office of Renewable Energy Siting

APPEARANCES:

HOUTAN MOAVEN, ORES

SPEAKERS:

DARREN SUAREZ

MOLLY DUNTON

PEDRO CAMACHO

PHOEBE WELLS

ROSS HOLBROOK

MIKE SIGLER

1 11-19-2020 - Office of Renewable Energy Siting
2 (The deposition commenced at 5:04
3 p.m.)

4 A.L.J. LECAKES: Okay. Mr. Hubbard,
5 let's go on the record?

6 THE REPORTER: Okay, one moment.
7 Okay. We are on the record.

8 A.L.J. LECAKES: Great, thank you.
9 Good evening, everyone. My name is Dakin Lecakes and
10 I am the Chief Administrative Law Judge with the New
11 York State Department of Public Service.

12 Assisting me tonight are David
13 Solemino of the Department of Public Service Office
14 of General Counsel and Aaron O'Dell Keller and Anna
15 Senatore of the Department of Public Service, Office
16 of Consumer Services.

17 I will be presiding over today's
18 public comment hearing, which is seeking comment on
19 Chapter 18, Title 19, Subpart 900-6, the New York
20 State Office of Renewable Energy Siting Draft Uniform
21 Standards and Conditions.

22 Please note that any comments today
23 should not relate to a particular proposed project or
24 the law that was passed in April but to those Draft
25 Standards and Conditions proposed by the Office of

1 11-19-2020 - Office of Renewable Energy Siting
2 Renewable Energy Siting.

3 On September 16th, 2020, the Office of
4 Renewable Energy Siting issued its draft regulations
5 for public comment pursuant to the New York State
6 Administrative Procedure Act.

7 All stakeholders and the public have
8 an opportunity to formally submit comments on the
9 draft regulations Chapter 18, Title 19, Subparts 900-
10 1 through 900-5 and 900-7 through 900-15.

11 As well as the Draft Uniform Standards
12 and Conditions Chapter 18, Title 19, Subpart 900-6
13 and till December 7th, 2020. The original deadline
14 to submit comments on the draft regulations of
15 Chapter 18, Title 19, Subparts 900-1 through 900-5
16 and 900-7 through 900-15 was November 16th, 2020.

17 The Office of Renewable Energy Siting
18 has extended this public comment period until
19 December 7th, 2020. As part of the State's ongoing
20 commitment to community engagement, the Office of
21 Renewable Energy Siting will seek public comment on
22 the Draft Uniform Standards and Conditions Chapter
23 18, Title 19, Subpart 900-6 through seven public
24 hearings.

25 While complying with public health and

1 11-19-2020 - Office of Renewable Energy Siting
2 safety guidelines, due to the circumstances presented
3 by the COVID-19 pandemic. Due to concerns about
4 public health and safety associated with the ongoing
5 pandemic, the Office of Renewable Energy Siting has
6 decided in consultation with the Town of Clayton as
7 owner of the public hearing venue to transition this
8 on November 19th public hearing to a virtual format.

9 The Office of Renewable Energy Siting
10 has legal authority to make these hearings virtual
11 under Executive Orders 202.1 and 202.15 recently
12 extended by Executive Order 202.72.

13 This decision was made after careful
14 consideration of the potential health risks of any
15 large gathering of individuals in these areas at this
16 time.

17 The virtual platform allows for
18 presentation of comments in a secure environment and
19 may result in greater attendance than any in-person
20 hearing under the present circumstances.

21 Participants who do not have internet
22 access are able to call in to register to comment and
23 also be able to call into the meeting to provide
24 their comments, and translators and other disability
25 assistance is available upon request.

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2 Furthermore, individuals who wish to
3 comment always have the opportunity to submit their
4 comments in writing and such written comments are
5 given equal weight to oral comments.

6 Additionally, there are statewide
7 hearings that like tonight's hearing are being
8 conducted online and by phone that are scheduled for
9 November 24th and November 30th.

10 As noted in the public notice
11 published in the New York State registrar on
12 September 16th, 2020, I will use the registration
13 list to call each person who has requested to provide
14 a statement.

15 The hearings will continue until
16 everyone wishing to speak has been heard or other
17 reasonable arrangements have been made to include
18 their comments in the record.

19 It is recommended that lengthy
20 comments be submitted in writing and summarized for
21 oral presentation. Equal weight is given to oral and
22 written comments.

23 A verb -- a verbatim transcript of the
24 hearings will be made for inclusion in the record.
25 All details about these public comment hearings and

1 11-19-2020 - Office of Renewable Energy Siting
2 links to the virtual hearings as well as instructions
3 on how to register are available at the Office of
4 Renewable Energy Siting website, ores.ny.gov.

5 Before we begin taking comments
6 tonight, I am going to turn to Houtan Moaveni,
7 Executive Deputy Director of ORES.

8 MR. MOAVENI: Thank you, Judge
9 Lecakes. Good evening, everyone. I hope you're all
10 well and staying safe. On behalf of the New York
11 State Office of Renewable Energy Siting I would like
12 to welcome you to this virtual public statement
13 hearing.

14 By way of introduction, my name is
15 Houtan Moaveni. I am the Executive Deputy Director
16 of the Office of Renewable Energy Siting.

17 The purpose of this hearing is to
18 receive comments from all interested parties on the
19 draft uniform standards and conditions. I'll say no
20 more, but I look forward to hearing your comments
21 tonight. Back to you, Judge.

22 A.L.J. LECAKES: Great, thank you very
23 much. We will now start taking comments. Please
24 note that all attendees are muted by default on
25 entry, we will call your name when it is your turn to

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2 comment. And either provide you direction so that
3 you may be identified and unmuted or inform you that
4 we can see your name in our participant list and that
5 you have been unmuted.

6 Please acknowledge that you are the
7 person called by starting your comment with stating
8 your full name. If you are speaking on behalf of a
9 group, please identify that group. When making your
10 comment, please speak loudly, slowly and clearly so
11 that the court reporter can make an accurate record
12 of your comments.

13 Out of consideration for all
14 participants' time, comments will be limited to three
15 minutes. If you have not completed your comments in
16 three minutes, we will alert you that your time is up
17 and ask you to please conclude your comments. With
18 that being said our first speaker tonight is Darren
19 Suarez. Ms. O'Dell Keller, do you see that name?

20 MS. KELLER: Yes, Judge, he is
21 unmuted.

22 A.L.J. LECAKES: Mr. Suarez.

23 MR. SUAREZ: Good evening.

24 A.L.J. LECAKES: Good evening, we can
25 hear you.

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2 MR. SUAREZ: Excellent, thank you very
3 much. My name is Darren Suarez, I'm with Boralex and
4 Boralex is a Renewable Energy Developer, owner and
5 operator. We've been owning and operating our
6 renewable businesses for the last -- for the last 30
7 years. And we've developed projects within Canada,
8 France, Great Britain, the United States.

9 And we've been -- in the last 15 years
10 we've been operating in New York State. We have
11 seven hydro facilities and generating 87 megawatts of
12 hydro. We're developing at -- nearby the Greens
13 Corner Solar Project, it is a hundred-and-twenty-
14 megawatt project in Watertown in the town of
15 Huntsville.

16 For us, we will be providing formal
17 written comments later on. But tonight, we wanted to
18 thank the work of ORES for putting together the
19 regulations to meeting the statutory obligations that
20 are -- that are established.

21 We provide -- we find that the co --
22 that the regulations will establish a clear and
23 concise process that will allow for the public to be
24 fully engaged and for -- for developers to have
25 reasonable expectations of timeliness. We -- we

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2 refined it -- we would know -- we find that those
3 projects that will go through this process will meet
4 the obligations that -- and responsibilities that
5 were contained in Article 10.

6 And we look forward to the development
7 of the new process and the new regulatory scheme. We
8 strongly support what has been put forward as an
9 opportunity to meet the State's C.L.C.P.A. goals.
10 And as I said, we will provide more for -- formal
11 comments later in the process. Thank you.

12 A.L.J. LECAKES: Great, thank you very
13 much. Our next speaker is Isabella Padron, P-A-D-R-
14 O-N. Ms. O'Dell Keller, do you see that name?

15 MS. KELLER: No, I do not, Judge.

16 A.L.J. LECAKES: Ms. Padron, if you
17 are a call-in user, if you could plate -- press star
18 three on your keypad, and that will signify to us
19 which call-in user you are.

20 Okay. We'll move on to Molly Dunton.
21 Ms. Dunton, you've been unmuted.

22 MS. DUNTON: Hi, can you guys hear me?

23 A.L.J. LECAKES: Yes, we can. You may
24 proceed.

25 MS. DUNTON: Great. Good evening,

1 11-19-2020 - Office of Renewable Energy Siting
2 everyone. Thank you so much for allowing me the
3 chance to speak today. My name is Molly, and I work
4 for a company named Liberty Renewables.

5 We're a small wind energy company
6 based in Albany. But first a little bit about
7 myself. My family is from Upstate, New York, born
8 and raised. Growing up, I spent every summer on Lake
9 George and I'm grateful to now live and work right
10 here in Warren County.

11 I'm an environmentalist and
12 conservationist and I've spent the better part of my
13 career working to reform the fossil fuel industry.

14 I tell you all of this in hopes that
15 when I say I care deeply about the State, its people
16 and its resources, you'll believe me. I'm here
17 tonight to express my support for the Office of
18 Renewable Energy Siting as well as the newly proposed
19 standards and conditions.

20 I also want to express my gratitude to
21 NYSERDA and to our State leaders for their incredible
22 vision and courage. New York State now has the most
23 aggressive climate and energy goals in the country.

24 This was something I knew was
25 possible, but to be honest, something I thought I

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2 would never see happen. Climate change is here, it's
3 not New York's fault, and it's not our responsibility
4 to solve it alone.

5 But we can make a significant
6 contribution to solving it, and as a New Yorker, that
7 makes me extremely proud. I know that some folks
8 listening tonight might be deeply concerned about
9 what the new regulations mean for their towns and for
10 local control.

11 ORES and the new regulations will
12 speed up the planning of clean energy projects at a
13 time when we are truly racing against the climate
14 clock. But they also work to protect Upstate
15 communities.

16 The proposed standards and conditions
17 reduce uncertainty for all parties. Encourage
18 developers to act responsibly, as well as require us
19 to engage all stakeholders early and often, and work
20 well within local laws.

21 I believe our industry has only the
22 best intentions, but the new regulations provide
23 really important checks and balances for everyone
24 along the way.

25 I decided to speak up tonight because

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2 it's been really difficult for me to witness the
3 divisions forming in our State between communities
4 and developers. Between Upstate, Downstate and
5 between towns and the State House.

6 The transition to clean energy and
7 Rural Economic Development are not mutually
8 exclusive, wind and solar projects can support
9 agricultural preservation. And Upstate communities
10 can and should benefit from the State climate goals.
11 Thank you so much.

12 A.L.J. LECAKES: Great, thank you very
13 much. Next, we have Pedro Camacho. Mr. Camacho, you
14 have been unmuted.

15 MR. CAMACHO: Yes, good evening,
16 everyone. My name is Pedro Camacho. I am an army
17 captain stationed here at Fort Drum. I want to start
18 by thanking the Office of Renewable Energy Siting for
19 providing the opportunity to have my voice heard in
20 this process. Like some of you here today, I'm proud
21 to have served in the U.S. Armed Forces.

22 As a former company commander, I
23 learned that planning, leadership and teamwork is
24 crucial to mission success. And here is why I
25 believe that it is imperative, we pull together in

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2 support of the ORES process to promote a faster
3 approval of renewable energy projects.

4 Excuse me. Climate change is a
5 significant threat to our national security.
6 According to the Department of Defense, climate
7 change is already costing billions of taxpayer
8 dollars in damages and impact in force readiness.

9 In a January 2019 report, D.O.D. warns
10 of extreme weather events such as recurrent flooding,
11 drought, recertification, wildfires, rising seas, and
12 thawing permafrost.

13 Those are only a few of the threats
14 the military has to respond to here in the United
15 States and abroad. In a warming climate and increase
16 -- and increasing violent weather contributes to
17 conflicts around the world, human migration, and
18 political instability. These are threats to our
19 national security.

20 I call on our local representatives to
21 support the permitting and construction of renewable
22 energy projects in the North Country that will
23 facilitate -- that will be facilitated by the Office
24 of Renewable Energy Siting.

25 By doing so we can help create jobs,

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2 generates payments in lieu of taxes for pilot
3 payments, address a national security threat, and
4 rely on our locally produced clean energy.

5 I'm going to conclude by saying that
6 combating climate change is our patriotic duty, much
7 like it was during World War II.

8 Americans came together as a nation to
9 fight against a global threat, we have proven that we
10 can do great things in the face of adversity. And it
11 is -- and this time is no different.

12 As a proud Americans, it is our duty
13 to do what we can in order to fight this threat to
14 national security. Thank you.

15 A.L.J. LECAKES: Thank you. Our next
16 speaker is Phoebe Wells, and if you could just find
17 the icon on your device that has a little hand on it
18 and press that or if you are a call-in user please
19 press star three. Looking for Phoebe Wells.

20 MS. KELLER: I do not see a hand,
21 Judge.

22 A.L.J. LECAKES: Yes. Okay. Thank
23 you. Go ahead. You have been unmuted, Ms. Wells.

24 MS. WELLS: My name is Phoebe, and I
25 will be --

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2 A.L.J. LECAKES: Hi, I'm sorry to
3 interrupt. Could you just please speak a little bit
4 louder so that we can hear you better.

5 MS. WELLS: Hello, my name is Phoebe
6 and I live in Ithaca, New York. I'm the president of
7 my fifth-grade class and live on a farm. My family's
8 land has 13 acres of solar panels. My sister and I
9 each own a number of sheep who graze not only that,
10 but other sites as well.

11 I think that solar energy is great and
12 living here does not affect my life with. The new
13 rules that are the topic of tonight's hearing help
14 get more renewable energy projects out to New York
15 faster. This is important because climate change is
16 happening really fast, it's happening now.

17 If we don't all do our parts in
18 keeping climate change in check, the world that will
19 someday be handed off to me will be a whole lot worse
20 than it is, it's better to be ready. We should get
21 these rules finalized and start building the future.
22 Thank you for taking a step in a single change for
23 the future.

24 A.L.J. LECAKES: Thank you very much.
25 Our next speaker is Ross Holbrook. Mr. Holbrook, you

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2 have been unmuted.

3 MR. HOLBROOK: Thank you, good
4 evening.

5 A.L.J. LECAKES: Good evening, we can
6 hear you.

7 MR. HOLBROOK: Wonderful. My name is
8 Ross Holbrook. I am commenting on behalf of River
9 Residents Against Turbines, also known as River RATS.

10 Thank you again for the opportunity to
11 comment. Before discussing the Draft Uniform
12 Standards and Conditions for Subparts 900-1 through
13 15, a quick introduction.

14 River RATS is an inclusive, diverse,
15 grassroots voice that has united the Thousand Islands
16 community against poorly sited Horse Creek Wind
17 Project. Horse Creek has been a dark cloud hanging
18 over our community for more than a decade.

19 Power renewables that border Horse
20 Creek as it jeopardizes unique natural resources, our
21 tourism-based economy and important weather and
22 military radars at Montague and Fort Drum as outlined
23 in the 2018 Fort Drum Joint Land Use Study.

24 Horse Creek also compromises numerous
25 cultural resources, including ceremony on sacred

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2 landscapes, important to the area's original
3 inhabitants, including the ... their ancestors, other
4 indigenous peoples.

5 For these reasons, Horse Creek is the
6 only wind project in New York listed on the respected
7 environmental justice conflict mapper, D.J. Atlas.

8 Regarding the Draft Regulations and
9 Uniform Standards, four brief comments. The draft
10 unfairly dismisses local comprehensive planning and
11 zoning control in favor of the state.

12 This isn't appropriate and gives ORES
13 and Administrative Law Judges the authority to
14 determine which issues graced by residents merit
15 hearings.

16 Second, the draft reduces
17 opportunities for local voices and unfairly shortens
18 the application review process to 12 months or less.

19 These draft regulations have been
20 intentionally structured to reduce community input by
21 eliminating the public involvement program and the
22 preliminary scoping statement, instead requiring a
23 60-days public notice prior to filing of formal
24 application.

25 These changes violate the spirit of

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2 established international sustainability frameworks,
3 including the U.N. Sustainable Development Goals and
4 deny the mostly poor, rural communities who host
5 large energy projects, their right to free, prior,
6 and informed consent.

7 Third, draft regulations failed to
8 address the need for a crucial and globally accepted
9 condition for sustainable development. Social
10 license to operate, which transmits community
11 acceptance of a project and the developer.

12 Developers across New York have a poor
13 record of transparency, eliminating these
14 opportunities and shortening timelines reduces their
15 incentive to earn the social license.

16 This Albany centric process, including
17 proposed rules such as ORES in action, equating to a
18 completeness determination and final approval will
19 lead to increased resentment across the State.

20 Finally, there is no indication that
21 all filed documents as part of the review process
22 will be publicly available as they were in the D.M.M.
23 matter master system used and in Article 10.
24 Blocking local residents and communities from
25 tracking progress would violate U.N. Sustainable

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2 Development Goals 16 and 17.

3 This lack of transparency is
4 concerning, and perhaps is a precursor of what is to
5 come. Today's hearing was supposed to be held in
6 person in the town of Clayton. Remarkably, ORES did
7 not contact town officials about the event, instead
8 ORES coordinated directly with an -- an unelected
9 building manager who also happens to be a wind lease
10 holder for Horse Creek.

11 Furthermore, it was the town of
12 Clayton that canceled the in person hearing on the
13 advice of the County health department to prevent the
14 possibility of COVID-19 transmission. We thank our
15 town officials for keeping us safe.

16 If this is the level of community
17 outreach and transparency that we can expect from
18 ORES then unfortunately, as 94C proceeds further
19 opposition to projects will grow.

20 And not just for unworkable projects
21 like Horse Creek, but even for properly sited
22 projects that are needed to build a greener and more
23 sustainable New York. Thank you for your time.

24 A.L.J. LECAKES: Thank you very much.
25 I want to go back to the speaker that I called

1 11-19-2020 - Office of Renewable Energy Siting
2 earlier and see if she was able to call in. Isabella
3 Padron, P-A-D-R-O-N. If you are a call-in user, if
4 you could please press star three on your phone.

5 Okay, not seeing anyone. I'm going to
6 now turn to -- there were two people who registered
7 before this hearing was converted to online who did
8 not reregister, I just want to see if they have
9 called in.

10 The first is Richard Grover, G-R-O-V-
11 E-R, if you could press star three on your phone if
12 you are call-in user. Okay. And the next would be
13 Jack Honor, H-O-N-O-R. Mr. Honor, if you are a call-
14 in user, please press star three on your phone if
15 you'd like to speak.

16 Okay. Not seeing any response. What
17 we're going to do now is -- I'm sorry, I do have one
18 more registered speaker. Mike Sigler, S-I-G-L-E-R.

19 MR. SIGLER: Hi, yes, that's correct.

20 A.L.J. LECAKES: Yes. Okay. You are
21 unmuted and we can hear you, you may proceed.

22 MR. SIGLER: All right. Thank you so
23 much and thank you for having me. I -- I was going
24 to drive up tonight, so I'm glad this was at least
25 being held online.

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2 So, my name is Mike Sigler. I live in
3 the Town of Lansing, New York. So that's right down
4 on Keuka Lake, it's just a little bit north of
5 Ithaca. So, we're right in the heart of the Finger
6 Lakes.

7 I have a lot of concerns about these -
8 - these projects. I am not anti-solar by any means,
9 I have solar panels out on my barn and I, you know, I
10 support the efforts here. My concern is that Lansing
11 -- right now we're looking at three separate utility
12 scale solar projects being sited in the town.

13 I have three separate companies here
14 that they're already marking land of where these
15 things are going to go. I mean, just -- just to give
16 you an idea, I mean, that's each one is about 1,300
17 acres.

18 In total, that's about 3,500 acres,
19 apparently, from these three separate companies and I
20 -- I was listening before to one of the speakers,
21 Phoebe Wells from Ithaca, she's talking about 13
22 acres of solar panels. And that's reasonable, right?

23 I mean, we'd look at that and go,
24 okay, I can understand that. Well, this is a 100
25 times that you have one of these projects, it's a 100

1 11-19-2020 - Office of Renewable Energy Siting
2 times that, we're talking 300 times the size of that
3 -- that in scale, that's like seven Tompkins County
4 Regional -- not regional, more Tompkins County,
5 Ithaca International Airports being put into -- into
6 Lansing, New York.

7 And, you know, I've started a petition
8 for this because -- listen my concerns, I think are
9 pretty reasonable. I'm not saying let's not do some
10 of these, but that seems to be an awful large weight
11 to put on one town. But also, the petition asked for
12 certain things.

13 And I'll get to those in just a
14 moment, I -- I just look at this as we had a power
15 plant in town, it was coal, I understood that it was
16 going to shut down. We had hoped maybe they'll
17 repower that with natural gas, that didn't go either.
18 But now we're looking at supplying power to the rest
19 of the State.

20 And I -- I just don't really see how
21 this isn't urban sprawl, I mean, I've spent my entire
22 career in public service, the last 20 years trying to
23 do no development and trying to prevent the City from
24 moving into the country, and now I'm looking out my
25 back door.

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2 And they're telling me that there's
3 going to be -- if it was a 1,000-acre solar arrays,
4 that's a 48 million square foot building, that's
5 going to be about 12 feet high. That's going to
6 stretch to the horizon and that's enormous.

7 So, I -- I just don't think really
8 people even grasp the scale of this. And what --
9 what this is going to make the town look like.

10 I -- my big concern here too is we are
11 a farming community, we -- we are right to farm, we
12 have it on the signs as you come into town. And so
13 far, it looks like most of these projects, at least
14 in my town, are going to be going on -- on active
15 farmland.

16 I don't even like the word prime
17 farmland, this -- this is farmland that was literally
18 farmed this year. And we started out there cutting
19 the corn, shipping it, shipping it off to the local
20 dairy, which the dairy is only about two -- two miles
21 away.

22 Now, those farmers are going to have
23 to go much further away to get that same corn to feed
24 the cows. So, while we think we're shrinking our
25 environmental footprint for those farmers, we're

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2 actually increasing it.

3 And -- and that's a large concern for
4 me, because once this farmland is gone, it's gone for
5 the next 50 years. Yeah, sure, we can remove the
6 solar arrays, but they're not going to be removed, I
7 mean, let's face it, once they're in, they're there
8 for 50 years.

9 And some farmers are going to say, but
10 I don't have the next generation to farm that land.
11 While that may be true, there are other people out
12 there that are willing to farm it. I mean, the land
13 behind me, that's not -- that's not owned by a
14 farmer, that's own by a large land holder, who leases
15 out the lands to the farmer who then does that and
16 uses it for his cows.

17 So, I'm really concerned about that
18 this farmland is -- is going to go away. My other
19 big concern, just as how this looks, I live in the
20 Finger Lakes, New York, this is considered -- we've
21 tried to market this as one of the most beautiful
22 places in the country, in large part because it is.
23 Ithaca is gorgeous, right?

24 We have marketed this as the golden
25 Emerald or the Emerald necklace that goes around

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2 Ithaca, New York. And we're going to cover a lot of
3 that with --with, you know, thousands of acres of
4 solar panels.

5 I'm just looking in my petition, for
6 example, and I have 200 people have sign this. I've
7 gone door to door, appeared online, and that's 200
8 people just from the town, I haven't even gone
9 statewide with this.

10 All we're looking for is maybe better
11 setbacks. We were looking for anywhere from 1,000 to
12 1,500 feet. Some people say well, 1,000 feet is too
13 far, and I go, well, that's what we do for cell phone
14 towers.

15 And it's not in case a cell phone
16 tower falls over because a cell phone tower is only
17 250 feet. It's really between 50 and 200 feet. We
18 do that because we don't particularly like the look
19 of solar towers.

20 That's why we make it look like trees,
21 right? Cell phone towers. So, with the solars,
22 we're just looking for bigger setbacks. Maybe 1,000
23 feet is too much. But 600 feet, I would think that
24 would be reasonable.

25 Right now, in -- in the regulations,

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2 it looks like we're looking at 100 feet, I can throw
3 a football on it and that's concerning to me. That
4 would be 100 feet from my kids play structure, which
5 sits at the back of the property line.

6 And, you know, I don't really -- I
7 want -- I moved to the country to live in the
8 country, I understand I can't buy all the land. But
9 even the farmers can't buy the land now because the
10 solar companies are bidding up the land so much that
11 it's out of reach for even -- even the farmers who
12 would keep that going.

13 Also, in -- in the petition, we're
14 looking for more pollinators within the solar arrays.
15 Otherwise, you're just going to have solar panels
16 that stretch out to the horizon with no breaks
17 whatsoever except where they have to make breaks.

18 Vegetative barriers, I've gone by
19 solar arrays, they're only 125, you know, acres max -
20 - frankly, it's really large, where they've just put
21 in green arbor vitae from those, all of three feet
22 high.

23 Those are going to take a decade to
24 grow if they do at all because eventually the deer
25 are just going to come and treat that as a salad bar

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2 because they're not -- they're not natural for this
3 area, right? They're -- they're not on native.

4 So, I just want to close by saying, I
5 understand the remote meetings have to be had. But I
6 really feel that this has detracted from public
7 input.

8 People like to go to a meeting and be
9 able to face you and say, listen, these are the
10 things we're looking for. And that's part of my
11 concern, too, is how we've abandoned this idea of
12 home rule.

13 I understand the companies are saying
14 we're going to listen to the towns, but in the end,
15 if we, you know, if this goes through, and these
16 people want this here, it's going to go there and I
17 understand that.

18 But even with fracking -- part of the
19 reason the State doesn't have fracking is because of
20 home rule. It was because certain towns said,
21 listen, we don't really want this here. And yet,
22 we're -- we're banning that because we -- we want
23 solar panels and solar large-scale utility solar.

24 So, I would just -- I really hope that
25 we take a look at this, you know, and we look at the

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2 things like setbacks, and we look at the pollinators
3 and the vegetative barriers. And I really hope that
4 O.R.E.S. really does go into the towns and say, what
5 are you looking for from these projects, so that we
6 give the towns a little bit more home rule.

7 So, thank you very much for listening
8 to me, and again, I -- I hope we protect this
9 farmland. But one project in my town, it's not
10 actually on farmland is where the old power plant
11 used to be.

12 And I can understand that it's
13 industrially zoned, it's an old brown field. That
14 one seems to make some sense, but the other ones, we
15 are just covering up farmland that just -- as of this
16 year was being farmed, and just a huge concern for
17 me. So, thank you very much.

18 A.L.J. LECAKES: Thank you. That was
19 our last registered speaker, I'm now going to open
20 the floor just in case anybody found out at the last
21 minute and signed on and wants to speak.

22 Again, you do not need an internet
23 connection in order to speak tonight. If you are a
24 call-in user, you can press star three on your phone
25 and that will give us an icon that shows that you

1 11-19-2020 - Office of Renewable Energy Siting
2 would like to make a statement.

3 If you are a registered user on the
4 computer, you can find a little hand icon down at the
5 bottom of your screen. If you press that it will
6 raise a hand and we can call on you that way.

7 Okay. Seeing no further speakers that
8 are wishing to speak, Mr. Solimeno, if you could put
9 it on the slide that shows the other ways to comment.

10 So, as I wrap up tonight, I just want
11 people to note that there are other ways to comment
12 other than giving verbal statement. You can email
13 your comments and it can be sent to the email
14 address: general@ores.ny.gov.

15 You can also use the United States
16 Postal Service to mail your comments to the Office of
17 Renewable Energy Siting located at 99 Washington
18 Avenue in Albany, New York at ZIP code 12231.

19 And finally, if you go to the website
20 address www.ores.ny.gov/regulations you will find an
21 online form that you can fill out right on your
22 computer and submit your comments directly there.

23 With that and recognizing that we have
24 no further speakers, I call this hearing to a close
25 and Mr. Hubbard, we can go off the record.

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2 THE REPORTER: Okay, one moment.

3 (Off the record 5:38 p.m.)

4 (The hearing concluded.)

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1 11-19-2020 - Office of Renewable Energy Siting
2 I, HOWARD HUBBARD, do hereby certify that the foregoing
3 was reported by me, in the cause, at the time and place,
4 as stated in the caption hereto, at Page 1 hereof; that
5 the foregoing typewritten transcription consisting of
6 pages 1 through 31, is a true record of all proceedings
7 had at the hearing.

8 IN WITNESS WHEREOF, I have hereunto
9 subscribed my name, this the 4TH day of December, 2020.

10 ~~NOTARIZED BY~~ *Howard Hubbard*
11

12 HOWARD HUBBARD, Reporter
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1 11-20-2020 - Office of Renewable Energy Siting

2 NEW YORK STATE

3 OFFICE OF RENEWABLE ENERGY SITING

4 DOS-37-20-00016-P

5
6 Chapter 18, Title 19, Sub-Part 900-6, The New York
7 State Office Of Renewable Energy Siting Draft Uniform
8 Standards And Conditions.

9
10 PUBLIC COMMENT HEARING

11 November 20, 2020 at 5:00 p.m.

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17 ALJ Molly McBride DEC
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11-20-2020 - Office of Renewable Energy Siting

APPEARANCES:

BRUCE GEIGER
PETER REED
ANNE LAWRENCE
ANDREW MASON
EMILY FEGO
MIKE SIGLER
HOUTAN MOARENI
MARK RICHARDSON

1 11-20-2020 - Office of Renewable Energy Siting

2 (On the record 5:00 p.m.)

3 A.L.J. MCBRIDE: Good evening. My
4 name is Molly McBride and I'm an administrative law
5 judge with the New York State Department of
6 Environmental Conservation and I'll be presiding over
7 today's public comment hearing which is seeking
8 comment on Chapter 18, Title 19, sub-part 900-6, the
9 New York State Office of Renewable Energy Siting
10 Draft Uniform Standards and Conditions. Please note
11 that any comments today should not relate to any
12 particular proposed project or the law that was
13 passed in April, but to the draft standards and
14 conditions proposed by the Office of Renewable Energy
15 Siting.

16 On September 16th, 2020, the Office of
17 Renewable Energy Siting issued its draft regulations
18 for public comment, pursuant to the New York State
19 Administrative Procedure Act. All stakeholders and
20 the public have an opportunity to formerly submit
21 comments on the draft regulations and the draft
22 uniform standards and conditions until December 7th,
23 2020. The original deadline to submit comments on
24 the draft regulations was November 16th, 2020 and the
25 Office of Renewable Energy Siting has extended this

1 11-20-2020 - Office of Renewable Energy Siting
2 public comment period until December 7th, 2020.

3 As part of the State's ongoing
4 commitment to community engagement, the Office of
5 Renewable Energy Siting will seek public comment on
6 the draft uniform standards and conditions through
7 seven public hearings while complying with public
8 health and safety guidelines due to the circumstances
9 presented by the COVID-19 pandemic.

10 The purpose of today's hearing is to
11 receive comments from the public regarding the draft
12 uniform standards and conditions, it is not a
13 question and answer session. Anyone who does not
14 want to make a comment here today will still have an
15 opportunity to submit their comments in writing and
16 such written comments are given equal weight as to
17 oral comments.

18 Additionally, there are statewide
19 hearings being conducted online and by phone. There
20 are two hearings scheduled November 24th and November
21 30th that will be held online and by phone as well as
22 an in-person hearing scheduled for November 23rd at
23 SUNY Stony Brook. As noted in the public notice
24 published in the State Register on September 16th,
25 2020, I will use a registration list to call each

1 11-20-2020 - Office of Renewable Energy Siting
2 person who has requested to provide a statement.

3 The hearing will continue until
4 everyone wishing to speak has been heard or other
5 reasonable arrangements have been made to include
6 their comments on the record. It is recommended that
7 lengthy comments be submitted in writing and
8 summarized for oral presentation. Again, equal
9 weight is given to oral and written comments. A
10 verbatim transcript of the hearing will be made for
11 -- made available for inclusion in the record. All
12 details about these public comment hearings and the
13 link to the virtual hearings as well as instructions
14 on how to register are available at the Office of
15 Renewable Energy Siting website which is ores.ny.gov,
16 that is O-R-E-S dot N.Y. dot gov.

17 Before I begin taking comments, I am
18 going to turn to Houtan Moaveni, executive deputy
19 director of ORES.

20 MR. MOAVENI: Thank you. Thanks,
21 Judge McBride. Good evening everyone, I hope you are
22 well and staying safe. On behalf of the New York
23 State Office of Renewable Energy Siting, I would like
24 to welcome you to this hearing. By way of
25 introduction, my name is Houtan Moaveni and I am the

1 11-20-2020 - Office of Renewable Energy Siting
2 executive deputy director of the new office of
3 Renewable Energy Siting.

4 The purpose of this public hearing
5 tonight is to receive comments on -- from all parties
6 on draft uniform standards and conditions. I will
7 say no more, but I look forward to hearing your
8 comments. Thank you, Judge.

9 A.L.J. MCBRIDE: Thank you. We had
10 some speakers registered to speak here today, I'd
11 like to see if any of them are present. If you're
12 here when I call your name, please raise your hand.
13 Molly Duntan? Bruce Geiger (phonetic spelling) Peter
14 Reed (phonetic spelling)? Anne Lawrence (phonetic
15 spelling)? Andrew Mason (phonetic spelling)? Emily
16 Vego (phonetic spelling)?

17 I'll note for the record that it's
18 five o five, the hearing was scheduled to begin at
19 five p.m. We'll take a short recess in case anyone's
20 running late and we'll go back on the record in
21 approximately ten minutes. Thank you.

22 (Off the record)

23 COURT REPORTER: Back on.

24 A.L.J. MCBRIDE: We're back on the
25 record, it's now five eleven. We have one public

1 11-20-2020 - Office of Renewable Energy Siting
2 speaker card, Mr. Richardson, I have your speaker
3 card here. Just so that you know, we did open the
4 hearing at five p.m., we didn't have anyone that
5 wanted to make a comment at that time. Would you
6 like to make a comment now?

7 MR. RICHARDSON: I would.

8 A.L.J. MCBRIDE: Okay. Go right up to
9 that microphone please and start by stating your full
10 name for us and if you're representing a group, would
11 you identify that group please?

12 MR. RICHARDSON: Sure. My name is
13 Mark Richardson and I am actually the C.E.O. of U.S.
14 Light Energy. U.S. Light Energy is a solar developer
15 based here in Latham, New York. I'm sorry that I
16 missed the opening, I -- I very much would have liked
17 to hear that, but I happen to be on a call in the
18 parking lot, so.

19 Thank you for taking the time, I want
20 to commend the -- the work that you guys are doing to
21 help promote the siting and renewables and,
22 specifically, solar in New York State. I think these
23 in -- in general, these steps are -- are very
24 positive ones and we support those efforts in -- in
25 any way that we can.

1 11-20-2020 - Office of Renewable Energy Siting

2 The only further comment or -- or
3 statement that I'd like to say is, I think that the
4 same kinds of siting efforts would be very useful for
5 somewhat smaller projects that may not have been
6 subject to the Article Ten-type conditions
7 previously.

8 So my company focuses on ...
9 distributed energy generation projects and although
10 -- and siting is always problematic
11 and I think there's many things that go along with
12 those, but I just wanted to come by and say thank you
13 and appreciate your efforts and we wholeheartedly
14 support trying to -- trying to expedite these
15 efforts.

16 A.L.J. MCBRIDE: Thank you, Mr.
17 Richardson. Is there anyone else here who would like
18 to make a comment on the record? I'll note for the
19 record that it's about five fifteen, no one has
20 appeared to make a comment after Mr. Richardson. I'm
21 going to close the record with the understanding that
22 the written comment period is open until December
23 7th, that there will be two more virtual hearings and
24 one more in-person hearing which will give ample time
25 for people to make comments. Thank you all for

1 11-20-2020 - Office of Renewable Energy Siting
2 coming out. We're off the record.

3 (Off the record 5:14 p.m.)

4 (The hearing concluded.)
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11-20-2020 - Office of Renewable Energy Siting

I, KAYLA ALLEN, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 9, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto
subscribed my name, this the 2nd day of December, 2020.

Kayla Allen

KAYLA ALLEN, Reporter

STATE OF NEW YORK
OFFICE OF RENEWABLE ENERGY SITING (ORES)
99 WASHINGTON AVENUE
ALBANY, NEW YORK 12231-0001

In the Matter

-of-

The Addition of Subpart 900-6 (Uniform Standards and
Conditions)
to Chapter XVIII, Title 19
of the Official Compilation of the Codes, Rules, and
Regulations
of the State of New York (NYCRR)

I.D. No. DOS-37-20-00016-P

Stony Brook, New York

November 23, 2020

PRESIDING OFFICER GUY MAZZA: Good evening. It being 5:00 we will go on the record. This evening's hearing is being electronically recorded. My name is Guy Mazza. I'm the director of the Long Island Office of the Department of Public Service, and I will be presiding over the evening's public statement hearing. At this hearing the Office of Renewable Energy Siting is seeking comment on proposed draft uniform standards and conditions, Chapter XVIII, Title 19 Subpart 900-6. Please note that any comments today should not relate to a proposed project or the law that was passed in April, but specifically to the draft standards and conditions proposed by the Office of Renewable Energy Siting. On September 16, 2020, the Office of Renewable Energy Siting issued its draft regulations for public comment, pursuant to the State Administrative Procedure Act, sometime called SAPA. Under the SAPA notice, all stakeholders and the public have an opportunity to formally submit comments on the draft regulations of Chapter XVIII, Title 19 Subparts 900-1 through 900-5 and 900-7 through 900-15, and the draft uniform standards and conditions Chapter XVIII, Title 19 Subpart 900-6 until December 7, 2020. The original deadline to submit comments on the draft regulations of Chapter XVIII, Title 19 Subparts 900-1 through 900-5 and 900-7 through 900-15 was November 16, 2020, but the

Office of Renewable Energy Siting has extended this public comment period until December 7, 2020. As part of the State's ongoing commitment to community engagement, the Office of Renewable Energy Siting will seek public comment, specifically on the draft uniform standards and conditions on Chapter XVIII, Title 19 Subpart 900-6 through seven public hearings, while complying with public health and safety guidelines due to the circumstances presented by the COVID-19 pandemic. The preparations for this evening's in-person hearing were made in consultation with the New York State Department of Health. In addition, people who wish to comment, but do not wish to attend this in-person hearing, are able to provide comments in several other ways including two additional public comment hearings being held in virtual platform to be held on November 24 and November 30. More information, including registration instructions for these additional hearings, can be obtained at the Office of Renewable Energy Siting website which is www.ores.ny.gov. Please note that the participants do not need an internet connection to speak at the virtual hearings, which can both be registered for, and participated in, by telephone. All hearings, translators, and other disability assistance are available upon request. As noted in the New York State

Register on September 16, 2020, I will use the registration list to call each person who has requested to provide a statement. The hearing will continue until everyone wishing to speak has been heard, or other reasonable arrangements have been made to include their comments in the record. It is recommended that lengthy comments be submitted in writing and summarized through oral presentation. Equal weight is given to oral and written comments. A verbatim transcript of the hearing will be made for inclusion in the record. Before we begin taking comments, I'm going to turn to Houtan Moaveni, Executive Deputy Director of the Office of Renewable Energy Siting.

HOUTAN MOAVENI: Thank you Judge. Good evening everyone. I hope you're well and staying safe. On behalf of the New York State Office of Renewable Energy Siting, I would like to welcome you to this hearing. By way of introduction my name is Houtan Moaveni. I am currently serving as the Executive Deputy Director of the Office of Renewable Energy Siting. The purpose of this public hearing tonight is to receive comments from all interested parties on the draft uniform standards and conditions. I will say no more, but I look forward to hearing your public comments. Back to you Judge.

PRESIDING OFFICER GUY MAZZA: Thank you. I will now start taking comments. I will call your name. When it is your time to comment, please step to the microphone and start your comment with stating your full name for the transcript; or in this case the electronic recording being made for this hearing. If you are speaking on behalf of a group, please identify the group. When making your comments, please speak loudly, slowly, and clearly so that the recording can be accurate with respect to your comments. Out of consideration for all participants' time, we will alert you when your time is up and ask you to limit your comments to 3 minutes, and please remember that, in accordance with State guidelines, masks are to be worn. We have up here microphone covers. So, what I would ask each person to do is when you come up, take a microphone cover from the cellophane wrapper, put it on the microphone and then when you finish, remove it and the next person will do the same. I would like to call initially Kyle Rabin. And there is also hand sanitizer here, should you desire to use it; just stand back when you press the button. [inaudible discussion] Here, I have one right here. [man speaking inaudibly]

KYLE RABIN: Good evening. My name is Kyle Rabin. I work for the Alliance for Clean Energy New York. I'm

happy to be here this evening and I appreciate the opportunity. I respectfully present these comments on behalf of ACE New York. We appreciate the opportunity to provide feedback on the proposed regulations governing the requirements for permits for siting, construction, and operation of renewable energy facilities. ACE New York is a member-based organization of clean energy companies and environmental organizations whose mission is to promote the use of clean renewable electricity, technologies, and energy efficiency in New York State. The new Section 94-c sets forth an innovative strategy for implementing the State's ambitious mandates under the Climate Leadership and Community Protection Act. Many of the reforms implemented as part of Section 94-c address issues which plagued the Article 10 process and were previously identified by ACE New York, among others. We support the office's efforts in making the 94-c process more predictable for all stakeholders and believe these improvements will make the renewable energy process deliver more projects into construction and operation sooner than under the previous regulatory process in Article 10. The focus of my comments tonight will be on some of the required studies. To be clear, the renewable energy industry supports the requirements to do studies that will affect project design, studies

that allow developers to avoid and minimize impacts, more studies that directly inform the development of the permit. We do feel that there are several required studies that do not meet these criteria, which would be costly and time consuming, and it would not actually help in its work to review and permit the facility. For example, there should not be a requirement to do an ambient sound study if the sound study is the same in any case. Also, the study areas are too large in a few cases. For instance, considering visual impacts in a study area that extends 5 miles away. The 5-mile study area would require developers an extensive outlay of time and money to complete the assesement. The renewable energy industry suggests that the radius selected for paragraphs L and M in Exhibit 3 should be consistent and set at 300 feet for transmission lines and related facilities. In a third example Exhibit 21 is entirely redundant, in our opinion, rather than an electric system affects study, it should an affirmation that the system reliability impacts studies are all being done and approved according to FERC and NYISO requirements. And I had provided more detail in my comments but to keep it to 3 minutes, I'll just end with the following. ACE New York looks forward to working with your office to ensure that regulations are implemented in the manner needed for the state to reach

is ambitious renewable energy electricity production mandates. ACE New York will be submitting detailed comments that include suggestions for how the permitting process can be further improved upon. And again, thank you very much for this opportunity to provide feedback. It's not easy doing this with a mask on - I'm noticing - but I appreciate you taking the time. Thank you.

PRESIDING OFFICER GUY MAZZA: Thank you very much Kyle. Our next speaker will be Mariah Dignan. [woman speaking inaudibly] I think they are 2 per package so you might be lucky. [woman speaking inaudibly] There's one open right there.

MARIAH DIGNAN: Good evening. My name is Mariah Dignan and I am the Long Island organizer for Climate Jobs New York. We are a statewide labor coalition representing 2.6 million working New Yorkers advancing a pro-climate and pro-worker agenda. Climate Jobs New York thanks Governor Cuomo for his leadership and recognition for the dire need of major renewable energy facilities siting reform. This Office of Renewable Energy and Siting will help launch a green economic recovery just when New Yorkers need it the most. The Article 10 process was lengthy, onerous, and some may

say inefficient. These new regulations will help streamline the process by increasing collaboration between agencies and provide concrete efficient permitting timelines for projects. The proposed regulations will provide the same, for equal protection, for natural resources including agricultural resources when compared to environmental reviews conducted under Article 10. They will also provide concrete opportunities for local governments and communities to have a voice in this process. Climate Jobs New York looks forward to continuing to work with the Governor's Office, state agencies, and our new great deputy director in the pursuit of responsible renewable energy development and siting that will provide tens-of-thousands of good family sustaining jobs in the years to come. New York is demonstrating how we are acting on climate, while looking to invest in our communities to create good union jobs and build a 21st century infrastructure. I encourage you to continue moving ahead and, expeditiously finalizing these regulations and unleashing New York's clean energy potential. Thanks again.

PRESIDING OFFICER GUY MAZZA: Thank you, Mariah. That concludes our list of pre-registered speakers. Is

there anybody remaining who wishes to be heard? Hearing none, I will thank the participants, and this concludes this evening's hearing. Thank you for your participation. We are now off the record.

Hearing ended.

1 11-24-2020 - Public Statement Hearing

2 STATE OF NEW YORK

3 OFFICE OF RENEWABLE ENERGY SITING

4 DEPARTMENT OF PUBLIC SERVICE

5

6 DRAFT UNIFORM STANDARDS AND CONDITIONS;

7 CHAPTER XVIII, TITLE 19

8 (Subpart 900-1 through 900-15)

9 _____x

10

11 PUBLIC STATEMENT HEARING

12 DATE: November 24, 2020

13 TIME: 1:00 P.M.

14 BEFORE: HONORABLE GREGG SAYRE DPS

15 VIA WEBEX

16

17

18 ALSO PRESENT:

19 ALJ MICHAEL CLARKE, DPS

20 ALJ ASHLEY MORENO, DPS

21 ERIN ODELL KELLEHER, DPS Office of Consumer Services

22 MONROE MATTHEW, DPS Office of Consumer Services

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24

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2 THE REPORTER: Okay. We are on the
3 record.

4 A.L.J. SAYRE: Good evening everyone.
5 My name is Greg Sayre and I am an administrative law
6 judge with the New York State Department of Public
7 Service. Assisting me tonight, are Department of
8 Public Service Administrative Law Judges, Michael
9 Clarke and Ashley Moreno and Erin Odell Kelleher and
10 Monroe Matthew of the D.P.S. Office of Consumer
11 Services. I will be presiding over today's public
12 comment hearing, which is seeking comment on Chapter
13 18, Title 19, Sub-Part 900-6, The New York State
14 Office of Renewable Energy Siting Draft Uniform
15 Standards and Conditions. Please note that any
16 comments today, should not relate to any particular
17 proposed project or the law that was passed in April
18 but to the Draft Standards and Conditions proposed by
19 the Office of Renewable Energy Siting.

20 On September 16th, 2020, the Office of
21 Renewable Energy Siting, issued its Draft Regulations
22 for public comment, pursuant to the New York State
23 Administrative Procedure Act, also called SAPA. All
24 stakeholders and the public have an opportunity to
25 formally submit comments on the Draft Regulations,

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2 Chapter 18, Title 19, Sub-Parts 900-1 through 900-5
3 and 900-7 through 900-15 and the Draft Uniform
4 Standards and Conditions, which is Chapter 18, Title
5 19, Sub-Part 900-6 until December 7th, 2020.

6 The original deadline to submit
7 comments on the Draft Regulations, again Chapter 18,
8 Title 19, Sub-Parts 901 through 900-5 and 907 through
9 900-15, was November 16th, 2020. The Office of
10 Renewable Energy Siting has extended this public
11 comment period until December 7th, 2020.

12 As part of the State's ongoing
13 commitment to community engagement, the Office of
14 Renewable Energy Siting is seeking public comment on
15 the Draft Uniform Standards and Conditions, Chapter
16 18, Title 19, Sub-Part 900-6 through seven public
17 hearings, while complying with public health and
18 safety guidelines, due to the circumstances presented
19 by the COVID-19 Pandemic. Due to concerns about
20 public health and safety associated with the ongoing
21 Pandemic, the Office of Renewable Energy Siting,
22 decided to conduct this public hearing in a virtual
23 format. O.R.E.S. has -- or otherwise called ORES,
24 has the legal authority to make these hearing virtual
25 under Executive Order 202.1 and 202.15, recently ...

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2 by Executive Order 202.72. This decision was made
3 after careful consideration of the potential health
4 risks of any large gathering of individuals, at this
5 time.

6 The virtual platform allows for a
7 presentation of comments in a secure environment and
8 may result in greater attendance, than any in-person
9 hearing, in the present circumstances. Participants
10 who do not have internet access, are able to call to
11 register to comment and call into the meeting, to
12 provide their comments and translators and other
13 disability assistance are available upon request.

14 Furthermore, individuals who wish to
15 comment, always have the opportunity to submit their
16 comments in writing and such written comments are
17 given equal weight to all comments. I'll give
18 details about the other ways to comment at the end of
19 the hearing. Additionally, there is another
20 statewide hearing that like today -- tonight's
21 hearing, is being conducted online and by phone,
22 scheduled for November 30th.

23 As noted in the Public Notice
24 published in the New York State Register on September
25 16th, 2020, I will use a registration list to call

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2 each person who has requested to provide a statement.
3 The hearings will continue until everyone wishing to
4 speak, has been heard or other reasonable
5 arrangements have been made to include their comments
6 in the record.

7 It is recommended that lengthy
8 comments be submitted in writing and summarized for
9 oral presentation. Equal weight is given to oral and
10 written comments. A verbatim transcript of the
11 hearings, will be made for inclusion in the record.
12 All details about these public comment hearings and
13 links to the virtual hearings, as well as
14 instructions on how to register, are available at the
15 Office of Renewable Energy Siting website. That's
16 www.ores.ny.gov. Before we begin taking comments,
17 I'm going to turn this all over to Houtan Moaveni,
18 the Executive Deputy Director of ORES.

19 MR. MOAVENI: Thanks, Judge. Good
20 evening everyone. I hope you are all well and
21 staying safe. On behalf of the New York State Office
22 of Renewable Energy Siting, I would like to welcome
23 you to this virtual public statement hearing. By way
24 of introduction, my name is Houtan Moaveni. I am the
25 Executive Deputy Director of the Office of Renewable

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2 Energy Siting.

3 The purpose of this hearing, is to
4 receive comments from all interested parties on the
5 Draft Uniform Standards and Conditions. I'll say no
6 more but I look forward to hearing your comments.

7 Back to you, Judge.

8 A.L.J. SAYRE: Thank you. We will now
9 start taking comments. All attendees have been muted
10 by default on entry. We will call your name when it
11 is your turn to comment and either provide
12 directions, so that we can identify you or inform you
13 if we can see your name in our participant's list,
14 that you have been unmuted. Please acknowledge that
15 you are the person called by starting your comments
16 with stating your full name. If you are speaking on
17 behalf of a group, please identify that group. When
18 making your comment, please speak loudly, slowly and
19 clearly, so that the court reporter can make an
20 accurate record of your comments.

21 Out of consideration toward all
22 participants' time, and there are quite a few
23 registered participants for this hearing tonight,
24 comments are limited to three minutes. If you have
25 not completed your comment in three minutes, we will

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2 alert you that your time is up and we'll ask you to
3 please conclude your comments.

4 There are people who signed up and
5 there are -- and -- and are participating
6 electronically and there are people who signed up
7 that are participating by telephone. If you're going
8 to speak, please use only one audio input and one
9 audio output at your end when you are speaking,
10 otherwise we may experience feedback problems.

11 I will first call the people who have
12 timely preregistered electronically, one-by-one to
13 speak. After I call your name, we'll let you know
14 that you are unmuted and you can go ahead and make
15 your statement. Please be sure to unmute your
16 computer or telephone, at your end, before you start.
17 As I mentioned before, please state your name and if
18 applicable, the organization that you represent.

19 If you're registered electronically
20 that you are participating by telephone, please press
21 star three on your telephone when I call your name,
22 so that we can identify you. Our first speaker is
23 A.E. Kahn, K-A-H-N.

24 MS. KAHN: Yes, this is Amy Kahn. The
25 act -- I'm not sure how you guys refer to it but I'm

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2 going to refer to it as the act, has the potential to
3 be an outstanding piece of legislation, which will be
4 copied and adopted across the U.S. But, in its
5 current form, it also has an extremely high
6 likelihood of creating dangerous, unintended but
7 permanent environmental consequences. There are five
8 key areas in the Draft Standards and Conditions that
9 need to be revised. I'll speak on as many as I can
10 get to.

11 First, there is a lack of provision to
12 ensure appropriate facility siting. The Draft
13 Regulations show no clear mechanism to influence ...
14 It is also not clear if there are any locations or
15 scenarios, under which a project proposal might be
16 denied. This concern can be ameliorated by
17 identifying and requiring science based setbacks from
18 areas of importance to wildlife, including areas for
19 wildlife concentrate. For example, if there were a
20 flow chart with three categories, the result would be
21 the majority of projects proceeding at a fast pace,
22 while there would be a disincentive of taking more
23 time and doing more studies in areas that had a
24 higher environmental concern, the projects could
25 still happen but would require a greater level of

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2 study prior to submittal, at a time line, which is
3 appropriate to provide good quality science.

4 So, something similar to the State
5 regulations for the New York State Department of
6 Transportation ..., is what I'm talking about. For
7 reclaimed Brownfield sites, which are not impacting
8 environmental justice communities or located in
9 sensitive set aside areas, they would get
10 greenlighted with minimal review. But, then there
11 would be a series of questions. Is a project located
12 within three miles of a large body of water, the
13 Great Lakes, Finger Lakes, Long Island Sound, the
14 Atlantic coastline? These have migratory flyaway
15 concerns. Are they X distance, to be determined,
16 from a major river, the Hudson, the Genesee, Niagara,
17 Delaware, Susquehanna, etcetera? Are they X distance
18 from a wildlife refuge or sensitive habitat areas,
19 such as Bergen Swamp or mountain peaks? Is the
20 project in an area with probable habitat for species
21 of greater conservation need, sensitive species or
22 sensitive habitat types, which fit State designated
23 One to -- to S Two or Global One to Global Three?
24 Other issues, such as sensitive archaeological,
25 sensitive geological or environmental justice

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2 concerns.

3 If any of these are a yes, than onsite
4 service need to happen prior to the project
5 submission. The projects which do not have siting
6 issues, could proceed similarly to the legislation as
7 written. The majority of projects would still move
8 but ones that have the greater concern, would be
9 slowed down to an appropriate level.

10 Second, a lack of consideration for
11 non-listed wildlife species; there is some reasonable
12 consideration right now for species, which are listed
13 as State threatened or endangered but there is no
14 such consideration for non-listed species. This can
15 be ameliorated partially, by expanding the scope of
16 species, to include State designated species of
17 special concern and species of greater conservation
18 need.

19 Also, another point, the rarer the
20 species, the less likely a spot survey is going to be
21 to capture it. Therefore, good science uses the
22 criteria of probable habitat, defined as all aspects
23 of habitat needed for a species to live, are present,
24 whether you see the species or not.

25 Third, unrealistic and inappropriate

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2 time lines and automatic project approvals; the
3 aggressive time lines and automatic approvals at key
4 deadlines, pose too great of risk for unseen and
5 unavoidable issues, that compromise the legitimacy of
6 the review process.

7 A.L.J. SAYRE: Ms. Kahn, if you could
8 wrap this up and submit your comments in writing,
9 they'll be very carefully considered.

10 MS. KAHN: Okay. So, this potentially
11 stellar piece of legislation has serious concerns
12 about the lack of consideration of impacts to birds,
13 other wildlife and habitat. Not fixing these issues,
14 can result in greater conflicts. Let's fix the
15 issues and avoid the slowdowns and expense of court
16 cases, which will happen otherwise. Thank you.

17 A.L.J. SAYRE: Thank you very much.
18 Our next speaker is Andrew Mason. Please go ahead.

19 MR. MASON: My name is Andre Mason.
20 I'm Co-President of the Delaware-Oswego Audubon
21 Society in Oneonta, New York and I would like to
22 comment on Section O of the Part under discussion
23 tonight. Our organization has been involved in
24 review of several wind projects, most recently the
25 Blue Stone Wind Project in Broome County.

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2 This project was reviewed under
3 Article 10. We monitored the project area for
4 Raptures, and specifically Bald and Golden Eagle, for
5 three seasons. We participated in the evidentiary
6 hearings and submitted reports by Eagle experts on
7 various aspects of the Avian impacts, as well as our
8 observations.

9 We presented direct evidence of the
10 regular presence of these birds, in the swept area of
11 the proposed turbines. Our evidence was disregarded
12 by Law Judge Sean Mullaney and the Siting Board and
13 the project was approved with mitigation
14 requirements, totally inadequate and unproven for the
15 impacts on these endangered species.

16 In addition, Judge Mullaney refused to
17 even respond to motions, asking the Developer's very
18 high estimates of Eagle deaths, be open to the public
19 and they remain confidential, to this day. The
20 Siting Board's deliberations were so brief and
21 perfunctory, as to be ... and should be an
22 embarrassment to Chairman Rhodes.

23 As bad as Article 10 was, the
24 regulations here are even worse. In particular, the
25 proposed mitigation fund is clearly intended as an

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2 avenue for developers to buy the right to kill
3 endangered species and destroy their habitat. This
4 is a cynical attempt to cover up the damage to our at
5 risk wildlife from ill-sided projects, by using the
6 term net conservation benefit.

7 While we have learned from the State
8 D.E.C. and P.S.C.'s approach, is that the project has
9 priority and wildlife, no matter how impacted, is
10 secondary to the alternative energy agenda.

11 Time constraints limit discussing the
12 specifics of these regulations but we believe that at
13 a minimum, the net conservation benefit and
14 litigation portions, should be scraped and replaced
15 with an approach that emphasizes and prioritizes at
16 risk wildlife in proposed alternative energy
17 projects.

18 In addition, there should be provision
19 for full transparency by energy developers and an end
20 to hiding behind confidentiality, to keep important
21 information from the public. Thank you.

22 A.L.J. SAYRE: Thank you very much.
23 Our next speaker is Danylo Lesko. I do not see you
24 in our list of participants. So, if you're calling
25 by phone, please press star three on your phone, at

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2 this point. If you are logged in under someone
3 else's names, please take a look at the -- at what
4 we're going to put up on the screen and -- and raise
5 your hand on the screen. Judge Clarke, do we see
6 anyone raising their hand or -- or pressing star
7 three?

8 A.L.J. CLARKE: It doesn't appear that
9 Mr. Lesko is on the call.

10 A.L.J. SAYRE: Okay. We'll circle
11 back at the end. Our next caller -- next speaker is
12 Deb Peck-Kelleher. Go ahead -- oh, Kelleher, sorry;
13 go ahead. I'm not hearing you. Can you make sure
14 you're unmuted at you end?

15 MS. PECK-KELLEHER: Thank you.
16 Hopefully this will work this time.

17 A.L.J. SAYRE: Yes, that works.

18 MS. PECK-KELLEHER: Thank you. My
19 name is Deb Peck-Kelleher and I work for the Alliance
20 for Clean Energy New York or ACE New York and we are
21 a membership based organization and our members are
22 clean energy companies, including those that will be
23 seeking permits from the new ORES office, as well as
24 a number of environmental organizations are also
25 members.

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2 I would like to point out that the
3 process to review and issues permits for wind and
4 solar projects, sorely needed to be reformed and
5 therefore, we welcome New York's recognition of this
6 issue and the new Office of Renewable Energy Siting
7 and its proposed new way for review and permitting
8 process to work for wind and solar projects.

9 We believe that over all, the proposal
10 establishes a good balance between achieving renewal
11 energy goals, protecting the environment and giving
12 local communities the opportunity to influence the
13 siting and permitting of renewable energy facilities.

14 The proposed Uniform Standards and
15 Conditions, which are the subject of this hearing,
16 include numerous provisions that are relevant to the
17 role of potential post communities and the permitting
18 progress -- process. But, I will be focusing my
19 remarks on the issuance -- issues dealing with the
20 fees. The fee which is to recover the cost incurred
21 by ORES in the review of the application, is a new
22 cost for renewable energy projects. If the intent of
23 this fee is to allow ORES to hire consultant services
24 to assist in the conduct of the project review, ORES
25 should account for the expenditure and return any

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2 unspent funds to the Applicant.

3 The renewable energy industry notes
4 that this new fee, combined with the intervenor fee
5 and the mitigation fees for wetlands and for
6 threatened and endangered species and for historic
7 and cultural resource mitigation, the fees for
8 agricultural mitigation, now included in NYSERDA's
9 solicitations, the host community benefit fees
10 proposed by New York State D.P.S. and the increased
11 contract deposits required by NYSERDA, are all
12 contributors to the ultimate cost of renewable
13 resource development in New York State. These added
14 expenses make it more costly to develop resources in
15 our State, as opposed to other jurisdictions and
16 higher than they otherwise would be. While we do not
17 oppose this particular fee, per say, we implore ORES
18 and the State of New York, to consider the
19 accumulative impact of these fees on the cost of
20 achieving the goals of the C.L.C.P.A.

21 Second, the formula to determine the
22 mitigation fees for the impact on New York State's
23 threatened and endangered species and for wetland
24 impacts that cannot be avoided or mitigated, is not
25 included in the proposed regulation. While this may

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2 be appropriate, wind and solar project developers are
3 going to need to know this additional information
4 under mitigation bank credit, in order to make
5 informed decisions, regarding the directions that
6 they will go. These amounts are important, not just
7 from a cost standpoint, but will also influence
8 avoidance and design. At a minimum, the ORES
9 regulation should specify that ORES will be the
10 responsible entity for determining the formulas for
11 the mitigation fees.

12 We also recommend that a stakeholder
13 work group be formed to develop and periodically
14 review these formulas, assuming they are established
15 in the ORES guidance document. Thank you very much
16 for the opportunity to comment.

17 A.L.J. SAYRE: Thank you very much for
18 your comment. Our next speaker is Dennis Phayre, P-
19 H-A-Y-R-E. I don't see your name on the list of
20 participants, so if you're on the phone, please press
21 star three and if you've logged in under someone
22 else's name, please raise your hand, per the
23 instructions that we had on the screen there a few
24 minutes ago. In fact, here they come right now.

25 A.L.J. CLARKE: I do not see Mr.

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2 Phayre, judge.

3 A.L.J. SAYRE: Okay. We will pass on
4 Mr. Phayre, at this point and try and circle back at
5 the end again. Our next speaker is Edward Browka.
6 Please go ahead.

7 MR. BROWKA: Hello, can you hear me?

8 A.L.J. SAYRE: Yes.

9 MR. BROWKA: All right. I'd like to
10 take my time to yield some context for my support of
11 the legislation as is. My name is Ed Browka. I live
12 on an 800 acre farm, started by my grandparents 100
13 years ago. I also have a Master's Degree in
14 Engineering from Stanford University. Tonight, I
15 have an appeal to ORES, as well as my fellow New
16 Yorkers, let farmers stay at farms, by producing the
17 most valuable and beneficial commodity that we can.

18 Over the years, our farm has been
19 constantly evolving. My grandparents started with a
20 few cows, selling their milk by horse drawn wagon to
21 a cheese factory. We've always used the most
22 advanced technology we could, to produce the most
23 valuable commodity that we could. We traded a horse
24 for a tractor. Paved roads and new trucks opened new
25 markets. Electricity and refrigeration allowed us to

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2 sell grade A milk. As dairy waivered, we shifted to
3 grain production, erecting massive grain bins and a
4 booming dryer.

5 Electricity is a commodity, just as
6 corn is. An acre of solar panel in New York,
7 produces about 200,000 watts. The same land at peak
8 production produces about 200 bushels of corn. The
9 net value to the farmer, is about 10x in favor of
10 solar. It's a no brainer that electricity is the
11 most profitable and valuable commodity you can
12 produce on New York ... land.

13 This seems unreal but the major driver
14 of this is technology. The cost to produce a
15 kilowatt of electricity with solar, while 10 years
16 ago was stupid expensive, is now less than nuclear,
17 coal or natural gas, even with subsidies removed,
18 according to ... 2020 report.

19 So, if our -- if ... is such a winner,
20 why does my field not build the solar panels? No
21 disrespect to those overseeing the hearing tonight,
22 but the answer is inefficient New York Government and
23 lawyers with giant war chests. Current Article 10
24 procedures can take five to ten years, making the
25 same decision and can easily be dragged out by a

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2 lawyer who doesn't want the view from their second
3 home to change. Folks, isn't it refreshing to see,
4 New York sees the faults in this bureaucracy and is
5 trying to be efficient and effective?

6 I'd like to close by expressing my
7 gratitude to my neighbors and community. Over the
8 years you've helped us catch lost cause, had patience
9 with slow tractors and worked to support new
10 productive farming methods. These renewable energy
11 projects take a community ... and are far from
12 eminent domain. The scale of the acres needed for
13 substations, connections and surge, require dozens of
14 families agreeing that this is the right thing to do.
15 Our project -- as our project has moved forward, some
16 neighbors have come to me with questions and
17 concerns. Many I already hear echoed in the hearing
18 tonight and I'm happy to report that as I've dug into
19 these regulations, every concern has been addressed
20 in the regulation. This project will not only bring
21 tax -- new tax dollars into our town but there'll be
22 far more ... wildflowers and jobs and beautiful ...
23 of energy harvesting for the next 50 years.

24 So, I ask ORES, please get to work
25 siting these projects, so we can get to work

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2 producing the most beneficial and valuable commodity
3 that we can. Thank you.

4 A.L.J. SAYRE: Thank you very much for
5 your comment. Our next speaker listed is Elaine
6 O'Brien. I do not see you in our participant list.
7 If you're on the phone, please press star three now
8 and if you're on the computer, perhaps under a
9 different name, please follow the process to raise
10 your hand. Judge Clarke, any response?

11 A.L.J. CLARKE: No response, Judge.

12 A.L.J. SAYRE: Okay. We will move
13 onto Elisa Evett, E-V-E-T-T. Again, I do not see you
14 in the list. If you're on the phone, please press
15 star three. If you're on the computer, please hit
16 the raise hand icon.

17 A.L.J. CLARKE: No has raised their
18 hand, Judge.

19 A.L.J. SAYRE: Okay. We'll move on.
20 Our next speaker is Elizabeth Poreba. Please go
21 ahead. Are you muted at your end? I don't hear you.

22 MS. POREBA: Yes, I'm -- I'm muted,
23 just a second. I'm trying to figure out how to ...

24 A.L.J. SAYRE: You're good. Go ahead.

25 MS. POREBA: Okay. I just want to

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2 say, it's really important that the regulations get
3 clarified, so that we can begin to have large scale
4 renewables. I live in Upstate New York and, I mean,
5 really communities are kind of in -- in conflict
6 about who should have solar farms and wind farms and
7 there's a lot of concern about property values. I
8 think that if there were consistency, it would be
9 much better. That's what I have to say.

10 A.L.J. SAYRE: Thank you very much.
11 Our next speaker is Ellen Banks. Once again, I don't
12 see you on our list. If you're on the phone, please
13 press star three. If you're on the computer, please
14 press the raise hand icon.

15 A.L.J. CLARKE: No raised hand, Judge.

16 A.L.J. SAYRE: Okay. The next speaker
17 is Gabriel Recchio, R-E-C-C-H-I-O. Once again, I do
18 not see you on the list. Please either press star
19 three or the raised hand icon.

20 A.L.J. CLARKE: It does not appear
21 that Mr. Recchio is on the line.

22 A.L.J. SAYRE: We'll move onto Gilbert
23 Sabater, S-A-B-A-T-E-R. Again, I do not see you on
24 the list. Please either press star three or press
25 the raised hand icon.

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2 A.L.J. CLARKE: No raised hand, Judge.

3 A.L.J. SAYRE: We'll move onto Joel
4 Harrington. Mr. Harrington, I do not see you on the
5 list. Please either press star three or the raised
6 hand icon.

7 A.L.J. CLARKE: Nothing or any raised
8 hand.

9 A.L.J. SAYRE: Our next speaker is
10 Joel Merriman. I do have you on the list. Please go
11 ahead. Mr. Merriman, I don't hear you. Are you on
12 mute?

13 A.L.J. CLARKE: Mr. Merriman, I think
14 you are muting yourself after I've unmuted you. So,
15 you're good to go right now.

16 MR. MERRIMAN: Can you hear me?

17 A.L.J. CLARKE: Yes.

18 MR. MERRIMAN: Great. Thank you. My
19 name is Joel Merriman. I'm the Bird-Smart Wind
20 Energy Campaign Director at American Bird
21 Conservancy. I want to start my comments by saying,
22 that New York has done some great things to protect
23 birds. The State is working with partners to set a
24 positive standard, in its approach to offshore wind
25 energy development planning, through its

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2 environmental technical working.

3 Just last week, NYSERDA hosted a
4 conference on the cumulative impacts of offshore wind
5 energy development. In 2018, New York led the
6 coalition of states in a lawsuit to -- to block the
7 Trump Administration's efforts to gut the Migratory
8 Bird treaty Act, which is one of our country's oldest
9 and strongest conservation laws. Among other things,
10 this is the principal law protecting birds from
11 mortalities at wind energy facilities.

12 The Draft Regulations to implement the
13 Accelerated Renewable Energy Growth Act, depart from
14 this positive precedent in big ways and need to be
15 improved to protect birds and other wildlife. The
16 Draft includes some positive provisions but on
17 balance, they do not do nearly enough to minimize
18 environmental impacts to bird ...

19 The unfortunate reality, is that more
20 than 500,000 birds are killed in coalitions with wind
21 turbines and ... this year. The Accelerated
22 Renewable Energy Growth Act and the Draft
23 Regulations, are designed to expedite project
24 approvals, so we are concerned that these impacts
25 will be ignored.

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2 Most concerning, the regulations do
3 not appear to have any provisions for influencing
4 renewable energy project siting. Appropriate siting
5 is by many accounts, the most important of well --
6 well-established best practices. By avoiding high
7 risk locations, you avoid unacceptable levels of
8 impact. This could easily be fixed, by establishing
9 some common sense setbacks, for areas or particular
10 importance to birds. There have been many such
11 efforts to this affect, so these setbacks would be
12 relatively simple to establish.

13 Because high risk areas are not being
14 identified or avoided, the process that is proposed
15 in the Draft Regulations, is likely to result in
16 greater conflict, as renewable energy projects are
17 planned and developed. There's too little
18 opportunity for expert input, too few of New York's
19 species of conservation concern are considered and
20 there is no provision for monitoring bird mortality
21 at facility's post construction. All of this creates
22 an information poor process, that creates
23 considerable uncertainty, which is likely to result
24 in conflict.

25 American Bird Conservancy is one of

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2 more than 20 conservation organizations that has
3 signed a letter expressing specific concerns about
4 the Draft Regulations. We also offer solutions for
5 improvement. There are still opportunities to avoid
6 some of the most harmful likely outcomes and develop
7 an environmentally sound framework.

8 The State has the opportunity to set a
9 positive precedent for achieving renewable energy
10 goals, while minimizing impacts to wildlife. This
11 would require adopting the recommended improvements
12 to the Draft Regulations that we will provide. It is
13 our sincere hope that the State will heed the advice
14 of organizations with expertise in bird conservation
15 and set a positive precedent, by creating a process
16 that protects our birds. Thank you for the
17 opportunity to provide these comments.

18 A.L.J. SAYRE: And, thank you for your
19 comment. Our next speaker is John Rath, R-A-T-H.
20 Again, I -- if you're there, I don't see you on the
21 list. Please either press star three or hit the
22 raised hand icon if you're on a computer.

23 A.L.J. CLARKE: We're not getting any
24 response from Mr. Rath, Judge.

25 A.L.J. SAYRE: Well, I'll move onto

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2 the next participant, that's Leontine Greenberg.
3 Once again, I do not see you on the list. Please
4 either press star three or hit the raised hand icon.

5 A.L.J. CLARKE: No raised hands,
6 Judge.

7 A.L.J. SAYRE: Our next speaker is
8 Linda Reik, R-E-I-K. You're on the list. Please go
9 ahead.

10 MS. REIK: This is Linda Reik. Can
11 you hear me?

12 A.L.J. SAYRE: Yes.

13 MS. REIK: Good evening. I've been
14 dismayed about the slow progress of getting to
15 renewable energies in New York State. While I've
16 worked hard to improve my information, become energy
17 efficient, get all my power from electricity from a
18 community shared solar array and I even have an
19 electric vehicle. When I -- I was even more dismayed
20 when I saw my NYSEG bill this month, that says we
21 only have one percent solar in the State and three
22 percent wind -- not in the State, for NYSEG's
23 territories, one percent solar and three percent wind
24 and 41 percent on natural gas and 35 percent nuclear.
25 It's just -- it's just so slow and so I'm looking

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2 forward to having this law bring that to a much
3 faster pace. But, I am hearing and I agree with the
4 concerns about wildlife, protecting bird mortalities
5 and doing a better job on identifying locations and
6 setbacks that should be put in place.

7 The other thing -- one of the other
8 things, is that there's great potential here. I have
9 2017 data from the Federal E.I.A., that says 24
10 states could generate over 1,000 percent of their
11 electricity they use, in -- from the renewable
12 energies. There's plenty of potential out there. We
13 just have to figure out how to make it work for
14 everybody.

15 I've been studying Mark Jacobson for
16 years. In 2009, was the first time they published in
17 Scientific American, that we could have all sustain -
18 - all renewable energy for our power by 2030 and then
19 in 2013, they made a -- a lot of other authors
20 published how we could do it specifically in New York
21 State and it could be done in 17 years, just from
22 having renewable energies in wind, water and solar.
23 And, those -- those -- that process would create more
24 jobs than lost because nearly all the power would be
25 generated in New York State. That would -- that

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2 process would reduce power demand in New York State
3 by 37 percent and it would stabilize energy prices
4 because there would be no fuel costs. They would be
5 zero because everything would be coming from wind,
6 water and -- all the electricity would be coming from
7 wind, water and solar. And, besides that, the
8 population would have significantly reduced air
9 pollution mortality and the cost of the medical
10 processes all involved in treating six people -- sick
11 people.

12 So, my -- my ask tonight is, that you
13 consider reviewing Jacobsen's 2013 Energy Policy
14 paper because the first steps there it described, are
15 for large energy projects, offshore and onshore wind,
16 solar, geothermal and hydro. There are about 30
17 items listed as their first -- in their first steps
18 list and I think it might be worth reviewing that,
19 now that we're at this point because it's been a
20 while, probably, since people read the -- the
21 Jacobsen paper. There was some short term -- short
22 lived criticism of Jacobsen's paper but those people
23 have seemed to just get away from attacking that.

24 So, I would like to say it's
25 encouraging to see that some -- some of the things

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2 Jacobsen listed ... about those 30 items, have been
3 adopted by New York State already but there may be
4 many other ideas in there that can be used. Thank
5 you.

6 A.L.J. SAYRE: Thank you very much.
7 Our next speaker is Marguerite Wells. I do not see
8 you in the list. If you're there, please press star
9 three or hit the raised hand icon, as shown on the
10 screen.

11 A.L.J. CLARKE: We have unmuted a
12 caller, call-in user 23, Judge.

13 A.L.J. SAYRE: Please go ahead and
14 make your statement.

15 MS. WELLS: Thank you. Can you hear
16 me?

17 A.L.J. SAYRE: Yes.

18 MS. WELLS: Super. So, I'm Marguerite
19 Wells and I head up the Ithaca, New York Office of
20 Invenergy. Invenergy will be submitting a detailed
21 set of substantive comments on the proposed
22 regulations but at this time, we'd like to submit
23 some comments to support the Draft Regulations and
24 explain what they mean to us as developers of large
25 scale renewable projects.

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2 Invenergy has over 15 years of
3 experience developing projects in New York. We have
4 permitted projects under a number of different
5 permitting regimes over the years. We have two
6 projects in Wyoming County, another in Steuben County
7 and a fourth one, we built a solar project on Long
8 Island, which all currently contribute to New York's
9 climate goals and have provided positive benefits to
10 their local communities. Over those 15 years, we
11 worked in both ... and in the Article 10 process and
12 we're looking forward to the opportunity to working
13 with this newly established office of renewal energy
14 siting, to work under the new regulations.

15 At a high level, we'd like to express
16 our thanks to the legislature, for establishing this
17 new siting process ... the staff, who have been
18 putting all this work into implementing the new
19 process so far. We can certainly attest to the
20 challenges that we found in the Article 10 siting
21 process that was cumbersome, timing -- time consuming
22 and led to a high level of uncertainty when
23 developing projects in New York.

24 We are very hopeful that as the -- the
25 new regulations will provide certainty to developers;

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2 that all the years of work we've put into the
3 project, will result in a project permit to construct
4 a project that meets the high standards of
5 environmental review and harmonizes local laws and
6 State climate goals. These Draft Regulations will
7 lead to a siting and permitting regime in New York.
8 That means the projects will be permitted, built and
9 contribute to the climate goals.

10 I'd like to address community
11 involvement with the new rules. As a renewal
12 developer and as a fifth generation New Yorker
13 myself, I am committed and Invenenergy is committed to
14 partnering with our communities, to build good
15 projects that benefit Upstate New York.

16 We think the new Draft Rules make the
17 siting process more accessible, reducing confusion,
18 making it easier to participate for our communities.
19 We will extensively consult with local officials and
20 community residents, as we always have done and the
21 new regulations require that applicants show proof of
22 substantive community consultation before a project
23 could be approved. We will continue to fulfill our
24 commitment as a partner with our ... communities when
25 we develop and operate our projects.

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2 I'd like to close my comments, by
3 talking about how the permanent certainty will lead
4 to increased job creation in the renewables industry
5 in New York. A significant outcome of added
6 certainty, will be more jobs and high paying -- high
7 paying jobs absolutely is -- is key to that.
8 Economic development and sustainable development
9 definitely go together. And, they're not just
10 construction jobs, they're also development jobs,
11 like mine, where I have the opportunity to look
12 strategically across New York and find renewable
13 resources and -- and develop projects there, doing
14 environmental surveys, all kinds of restaurants,
15 hotels, secondary benefits across the board in
16 project development to a whole State. Thank you for
17 the opportunity to provide these comments today. We
18 look forward to submitting written comments on the
19 Draft Regulations involved and thank you for the
20 opportunity to work and build renewables in New York.

21 A.L.J. SAYRE: Thank you for your
22 comments. Our next speaker is Martha Robertson.
23 Please go ahead Martha.

24 MS. ROBERTSON: Thank you very much.
25 My name is Marth Robertson. I'm a legislature on the

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2 Tompkins County Legislature, representing the Town of
3 Dryden, where we have had some significant solar
4 development within the Town and so I'm familiar with
5 many of the conflicts that can arise, even among
6 people who certainly appreciate and -- and support
7 the goals of C.L. -- C.L.C.P.A.

8 I would -- Tompkins County's
9 Department of Planning and Sustainability has
10 submitted some comments in writing. I support those
11 comments and also support much of what will be coming
12 your way from the New York State Association of
13 Counties, which has some mixed -- NYSAC has some
14 mixed comments, related to home rule, capacity, local
15 governments to actually respond in a timely manner,
16 etcetera, etcetera. I won't go into those but I did
17 want to raise an issue that -- that both those sets
18 of comments do include ... would be ORES regulations
19 actually can delve into it. It's about the cost of
20 connecting to the grid. The experience of too many
21 communities, has been that developers are forced to
22 site their projects as close to -- as possible to the
23 grid because the interconnection costs are belonged
24 by each individual project. So, proximity to the
25 grid -- unfortunately, proximity to the grid, does

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2 not mean a site is a better use of land or that a
3 site near the grid will have the best solar or wind
4 capacity but the cost of substation and circuit
5 upgrades, can become the major determinant of site
6 selection, overriding other ... considerations and
7 the welfare of the local community and this often
8 causes opposition and delay.

9 So, we agree -- I agree that New York
10 State needs to make much faster progress. I
11 appreciate Marguerite's comments. We had many
12 conversations on this subject. We need to make
13 faster project -- progress to meet our energy goals
14 and greater acceptance by local communities, will
15 help make this possible. Arguably, climate change is
16 killing many more birds and bats, etcetera, than wind
17 turbines ever will. But, in any case, we -- we do
18 need to make sure that we're generating renewable
19 energy on the optimal locations and where it's
20 needed.

21 So, I would like to suggest that to
22 truly accelerate renewable energy development, the
23 State should establish a broader base to pay for
24 interconnection costs and upgrades to the grid,
25 allowing developers greater flexibility in choosing

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2 sites because the State as a whole, will benefit from
3 faster progress and deployment. The cost of the
4 interconnections, should be shared across a wider
5 base, then burdening each individual project with
6 those costs. Developers could be asked to pay a fee
7 to support such upgrades, for example per megawatt,
8 but without tying the cost to a specific site, as it
9 is now. And, with this kind of a change, we -- we
10 expect that New York State would quickly become the
11 location of choice for renewable energy developers,
12 who would compete eagerly for the right to bring
13 their projects here, if they didn't have to -- if
14 they weren't completely constrained by how close can
15 they get to the grid.

16 So, I hope that perhaps this kind of
17 idea could be -- could be shared more broadly. I
18 understand that it is sort of not exactly relevant to
19 these regulations. I do appreciate Mr. Mullvaney's
20 work on these regulations and his consultation with
21 our county over this past summer. These are very
22 complete and thoughtful and I -- I will appreciate
23 listening to the rest of the speakers this evening.
24 Thank you very much.

25 A.L.J. SAYRE: Thank you for your

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2 comments. Our next speaker is Nivo Rovedo. Please
3 go ahead. Are you on mute? I don't hear you.

4 MR. ROVEDO: I can't seem to get on.

5 A.L.J. SAYRE: Yes, I hear you now.

6 MR. ROVEDO: Thank you. I just wanted
7 to make a comment that's sort of impromptu, that I
8 think this is a -- a really wonderful setup for New
9 York State. I think the ORES idea is going to
10 streamline and help a lot of the -- the renewable
11 energy projects that have been lagging, like they
12 haven't gotten off the ground because of previous
13 regulations of Article 10.

14 So, I want to encourage the -- the --
15 the -- the Board to -- to do their job, to -- and --
16 and to encourage renewables in New York State. Thank
17 you for the comments and I thank all the participants
18 for -- for being active in this.

19 A.L.J. SAYRE: Thank you very much for
20 your comment. Our next speaker is Rachel Makleff. I
21 do not see you on the list. If you could press star
22 three if you're on the phone or follow the online
23 instructions to raise your hand.

24 A.L.J. CLARKE: Judge, I'm not seeing
25 anything from Ms. Makleff but while I'm on, if I

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2 could ask Ms. Wells to press star three again, to put
3 her hand down, so that we don't get confused later in
4 the hearing. Thank you very much.

5 A.L.J. SAYRE: Good, thank you. Our
6 next listed speaker is Shay O'Reilly. Again, I do
7 not see you. If you're on the line -- please press
8 star three if you're on the phone or press the raised
9 hand icon.

10 MS. O'REILLY: Good afternoon --
11 evening. Can you hear me?

12 A.L.J. SAYRE: Yes.

13 MS. O'REILLY: Great. Thank you so
14 much. So, my name is Shay O'Reilly and I am a Senior
15 Organizing Representative for the Sierra Club. We
16 are the Nation's oldest and largest Grassroots
17 Environmental Organization with over 3.5 million
18 members and supporters nationwide, including over
19 300,000 in New York State. Based in Brooklyn, I
20 organize on behalf of the Beyond Coal Campaign with
21 people in New York City and the Hudson Valley.

22 I want to articulate, that from the
23 perspective of the Sierra Club, the climate crisis is
24 urgent. New York State's progress in building and
25 vetting renewables is shameful and the Office of

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2 Renewable Energy's siting process, is a step in the
3 right direction.

4 We know that the climate crisis is
5 urgent. During Superstorm Sandy, I was lucky to be
6 living in Washington Heights, an area that as the
7 name was suggest, was relatively insulated from the
8 storm, due to its elevation. After the storm, I have
9 always ... people help and on the front lines of
10 disruption in Brooklyn and Staten Island. I remember
11 working a shift during intake for people who needed
12 assistance at an impromptu community center in New
13 York Beach. An elderly couple walks up, they spoke
14 predominately Russian and none of us there spoke
15 Russian. Even though I did not speak Russian, we
16 managed to figure a way of communicating very briefly
17 with them, only to find out that they were looking
18 for help getting their food stamps. I'm not the
19 Government I tried to explain. This elderly couple
20 looked at each other very confused and said, well
21 where is the Government? That was one of our
22 experiences of climate change and of Governmental
23 neglect in this time.

24 I want to emphasize that although, of
25 course, in New York City we're dealing with

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2 superstorms, it's not just about us down here.
3 Climate change also impacts Upstate New York. It
4 changes the growing seasons. I remember a few years
5 ago, the entire cherry crop didn't come to fruition,
6 simply because there was not frost at the right time
7 and it's also threatening us with greater flooding
8 and other severe ecological impacts.

9 The primary cause of climate change,
10 is the burning of fossil fuels for electricity and
11 for transportation. In order to reduce that usage,
12 we need to build up renewable sources that can meet
13 our needs as a society. So, I appreciate the work
14 that the State is doing on this under the Climate
15 Leadership and Community Protection Act. I hope that
16 this leads to an area in which we can all thrive with
17 good local jobs, with community benefits, with good
18 land payments for the already struggling farmers and
19 with overall climate benefits to secure our future as
20 a State for generations to come. Thank you very much
21 for your time.

22 A.L.J. SAYRE: Calling Tara Noble, I
23 have you on the list. You can go ahead. Are you
24 muted?

25 MS. NOBLE: This is Tara Noble. Can

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2 you hear me?

3 A.L.J. SAYRE: Yes, go ahead.

4 MS. NOBLE: Hi, my name is Tara Noble.

5 I live in Brooklyn, New York, 15 minutes from the
6 house I grew up in. New York City is made up of a
7 lot of transplants from all over the world but there
8 are also those of us who have spent a life time here
9 and are very committed to both our City and State.

10 I am strongly in support of the Office
11 of Renewable Energy Siting and feel so proud of my
12 State to see it become a reality. I know that many
13 City residents fall into the stereotype of out of
14 touch liberals, who are more concerned with warm
15 fuzzy feelings about our wind and solar, than the
16 real lives of our neighbors Upstate. And, I just
17 want to be clear, that I'm very concerned about the
18 lives of all New Yorkers, especially those whose
19 communities are closest to fossil fuel power plants,
20 where asthma and respiratory diseases is prevalent.
21 I am concerned about New Yorkers who rely on income
22 from these power plants, as well, because as
23 renewable energy continues to become the most
24 affordable, reliable option, they may very well lose
25 that income, while the market shifts to cheaper power

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2 from neighboring states. I'm concerned about New
3 York wildlife, which is just as vulnerable to the
4 effects of climate changes and fossil fuel pollution,
5 if not more so.

6 Why wouldn't we give all New Yorkers
7 the opportunity to benefit, either by leasing their
8 land to new projects, seeing job opportunities in the
9 communities, tossing out expensive subsidies for
10 fossil fuel plants or reducing the public health
11 costs of gas pollution?

12 Don't get me wrong, I'm not completely
13 selfless. I'm also very concerned for my life and my
14 friend and children's lives. I also lived here
15 through Superstorm Sandy and I know that the effects
16 of climate change are already here, threatening our
17 homes, our food supply and everything we hold dear.

18 I want more than anything, to see New
19 York be a world leader in every respect, particularly
20 in a field as necessary and inevitable as renewable
21 energy but we have a very long way to go. Who knows
22 how many opportunities have been lost because of
23 endless red tape and the force of the status quo. No
24 matter your feelings about it, renewable energy is
25 the future. It's getting cheaper and more efficient

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2 every day and it's safer for both humans and
3 wildlife.

4 New York can choose to set a strong
5 example, seize the economic and quality of life
6 benefits, while helping mitigate worldwide climate
7 change catastrophe or we can continue to drag our
8 feet, while neighboring states upgrade their
9 infrastructure and tax base at the same time.

10 The Office of Renewable Energy Siting,
11 is a crucial step to cut through the bureaucracy that
12 is too often just a guise for corruption of fossil
13 fuel dollars and a lack of political courage. Thank
14 you for your time.

15 A.L.J. SAYRE: And, thank you for your
16 comment. Our next speaker is Wendy Kingsland.
17 You're on the list, go ahead.

18 MS. KINGSLAND: Good evening everyone.
19 My name is Wendy Kingsland and I am a lifelong
20 resident of New York State. I have worked in the
21 renewable energy industry for 13 years. I am a
22 Senior Project Developer for E.D.P. Renewables. I
23 have helped develop three commercial wind turbine
24 projects I Upstate New York, that are now operating
25 and continue to work to develop many other renewable

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2 energy projects.

3 My company has brought 700 megawatts
4 of renewable energy online in New York State,
5 including the first commercial wind project in New
6 York. We are celebrating the Madison Wind Farm's
7 20th anniversary this year. I am proud of this
8 project because many have doubted the longevity of
9 renewable energy but its 20th anniversary is a
10 testament that renewable energy is long term.

11 I enjoy working with the people in our
12 State. The relationships that we develop are long
13 term relationships. Our renewable energy projects
14 are long term. I think the State is putting forth
15 their best effort to make changes to the State siting
16 process, in order to make it work for everyone and
17 fix the siting process.

18 The changes to this process, need to
19 be reasonable, no matter how you feel about renewable
20 energy. I think these new siting rules are an
21 improvement to the current process. I have attended
22 countless local government meetings over the years,
23 throughout various parts of New York. I have
24 listened to concerns about renewable energy projects.
25 The ... can be scary to anyone and change is hard to

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2 accept for some people but if we are going to ensure
3 that we have power to plug in our electronics, run
4 our appliances, add light and power machines for
5 businesses every day, we need renewable energy
6 projects. These projects are safe and reliable and
7 these new standards ensure that new projects will
8 continue to be safe for the public.

9 When the first transmission lines and
10 poles were installed, no one was happy about changing
11 the landscape but it was necessary to bring power to
12 many homes and businesses and to grow our economy.
13 Renewable energy creates good paying jobs for New
14 Yorkers and supports our communities. Climate change
15 is real and we experience more change in the weather
16 each year. These projects brought online by these
17 new rules, will reduce greenhouse gas emissions and
18 combat climate change. These rules will support New
19 Yorkers and deliver clean, American made power to New
20 York. I support these changes to make a better New
21 York for all of us. Thank you very much for holding
22 these hearings and allowing everyone to comment.

23 A.L.J. SAYRE: Thank you for your
24 comments. Our next speaker is Richard Halas, H-A-L-
25 A-S and you are on the list. Please go right ahead.

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2 Mr. Halas, I'm not hearing you. Are you possibly on
3 mute?

4 A.L.J. CLARKE: Mr. Halas is unmuted
5 on our end.

6 A.L.J. SAYRE: Mr. Hals, can you try
7 again? I -- I -- I see you on the list as -- as
8 speaking but we're not hearing anything. Okay.
9 We'll come back to you. I will proceed to call the
10 people who registered by telephone. When I call your
11 name, you'll have to hit star three on your
12 telephone, so that we can identify you. It may take
13 a little time for us to find you among the
14 participants. We will let you know when you are
15 unmuted and you will probably hear a beep tone on
16 your phone, at that time. Please be sure that when
17 you speak, your phone is unmuted at your end. Please
18 spell your name when you start because we might have
19 got it wrong over the telephone. If anyone is having
20 a technical problem getting through to make your
21 statement, we are monitoring the 800 number that we
22 used for calling in registrations and we'll try and
23 help with any problem. The number is in the Notice
24 of these hearings and it's 800-342-3330; again, 800-
25 342-3330. At this time, I call Mary Henson and

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2 please press star three.

3 A.L.J. CLARKE: I do not see any
4 raised hands, Judge but I would ask Ms. O'Reilly to
5 please press star three, so that her hand can go
6 down.

7 A.L.J. SAYRE: Thank you. Our next
8 listed speaker is David Adrian. Please press star
9 three now.

10 A.L.J. CLARKE: No hands, Judge.

11 A.L.J. SAYRE: Okay. We'll move onto
12 Jeff Donald and we may have gotten your name wrong.
13 It was hard to hear over the telephone. Jeff Donald,
14 please press -- or -- or a name close to that, please
15 press star three on your phone now.

16 A.L.J. CLARKE: I don't see any hands,
17 Judge but you may have noticed that Mr. Phayre has
18 joined, so I'm going to unmute him.

19 A.L.J. SAYRE: Go ahead Mr. Phayre.

20 MR. PHAYRE: Hi folks, just thank you
21 for being here. I didn't have any comments for this
22 evening but thank you for putting in the time that
23 you did.

24 A.L.J. SAYRE: And, you're very
25 welcome. I'll now circle back through the other

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2 people that we weren't able to pick up the first time
3 around. Danylo Lesko, if you're on the phone, please
4 press star three. Elaine O'Brien? Elisa Evett?
5 Ellen Banks, again, please press star three if you're
6 on the phone. Gabriel Recchio? Gilbert Sabater, S-
7 A-B-A-T-E-R? Joel Harrington? John Rath? Leontine
8 Greenberg? Rachel Makleff?

9 MS. MAKLEFF: Hello, this is Rachel.

10 A.L.J. SAYRE: Good, go ahead and make
11 your statement. Thank you.

12 MS. MAKLEFF: Thank you. I would like
13 you to think about ... local communities.
14 Everybody's different and we're so diverse that, you
15 know, some -- something that is a value system of
16 somebody's organization, could do the trick. That's
17 all I have to say.

18 A.L.J. SAYRE: Thank you very much for
19 your comment. Richard Halas, if you're still on the
20 line? Mary Henson? David Adrian? And, Jeff Donald?
21 Any raised hands, Judge Clarke?

22 A.L.J. CLARKE: Yes, I just -- I just
23 unmuted call-in user 35. Would you identify yourself
24 please? The hand went down, Judge.

25 A.L.J. SAYRE: Okay. Well, we have

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2 some additional time and I'd like to give people who
3 did not register in advance, an opportunity to speak.
4 I'll start with people who are participating
5 electronically. You'll need to find that icon on
6 your screen that looks like a little hand and click
7 on it. The instructions are on the slide that we are
8 now displaying. Click on that now and we'll find you
9 in the participant list, via your name and unmute
10 you. When Judge Clarke calls your name, please go
11 ahead and make your statement and when you're
12 finished with your statement, please click on that
13 hand again to un-raise your hand. Judge Clarke, I
14 think we have a hand -- a hand or two up.

15 MS. HENSON: Hello?

16 A.L.J. CLARKE: Call-in user 35 is
17 unmuted on our end.

18 MS. HENSON: Hello?

19 A.L.J. CLARKE: Yes.

20 A.L.J. SAYRE: We -- we hear you.

21 MS. HENSON: This is Mary Henson.

22 A.L.J. SAYRE: Good, go ahead and make
23 your statement.

24 MS. HENSON: Can you hear me?

25 A.L.J. SAYRE: Yes, we can hear you.

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2 MS. HENSON: Okay. My name is Mary
3 Henson. I live in Buffalo, New York. I am opposed
4 to New York's Renewable Energy Accelerated Siting Law
5 and the removal of home rural community decision
6 making. This public hearing is an unfair and
7 curtailed sample of opinions, as most people have not
8 been informed. Wind turbines are the most expensive,
9 unreliable and needy, electric generators ever made.
10 For 12 years, I have had daily watch of the Steel
11 Winds' turbines in Lackawana. Their inconsistency
12 has worsened, as they are motionless for this entire
13 month.

14 A Buffalo news article from last year,
15 described their 70 million dollar cost and the 21.5
16 million repairs happening now, with 15 years of tax
17 breaks for the company. What's wrong? Can't get
18 parts? Supply change disruption from COVID? What
19 jobs? The article states they employ three people.
20 This colossal failure, is visible for miles and you
21 want more.

22 I object to opening Lake Erie to
23 offshore wind turbines. Water quality, current
24 wildlife and migration, weather patterns, Doppler
25 Radar Homeland Security, navigation, recreation and

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2 our stunning sunsets, are impacted, from the bottom
3 to 40 stories high, across our Great Lake.

4 Fifty years of recovery from former
5 industry will be destroyed, as construction,
6 vibration and infrasound, digs up our toxic past.
7 There is no way to keep oil contained and parts
8 maintained with violent storms, like what we just had
9 on November 15th.

10 What are the plans for high voltage
11 cables, transformers, lightning strikes, water spout,
12 ice jams, decommissioning the giant and unrecyclable
13 parts? Lake Erie is precious fresh water for 11
14 million people in the U.S. and Canada. Fishing and
15 tourism bring a cash flow in the billions annually.
16 Hundreds of ship wrecks make Lake Erie a historical
17 treasure; a scared gravesite. The Niagara River is a
18 ... designated world heritage area. To promote this
19 Lake Erie as a sacrifice to quote, save the planet
20 with wind turbines, is outrageous and a testimony to
21 the power of misinformation, corruption and lies, to
22 well-meaning people.

23 Their manufacture depends on fossil
24 fuel and mining, employs child labor and destroys
25 environment on the other side of the planet. It is

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2 hypocrisy and a collective nimby on a global scale,
3 to look green and virtuous in New York State. To
4 force these scams on We the People, is tyranny.
5 Leave Lake Erie alone. Thank you.

6 A.L.J. SAYRE: Thank you for your
7 comment. Could you press star three again to un-
8 raise your hand?

9 A.L.J. CLARKE: And, also Ms. Makleff,
10 if you could press star three, to lower your hand
11 please?

12 A.L.J. SAYRE: Now, let me go on to --
13 to anyone who is participating by telephone but
14 hasn't registered in advance but would like to speak.
15 If you wish to speak, please press star three on your
16 telephone now and we'll locate you and give you an
17 opportunity. We won't have your name, so please make
18 -- be sure to hear a beep, indicating that your line
19 is unmuted and please unmute the phone at your end,
20 identify yourself when you start and when you're
21 finished, press -- press star three again. Mr.
22 Clarke, it looks like we have several -- several
23 hands here.

24 A.L.J. CLARKE: Yup, call-in user 30
25 is unmuted.

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2 MS. TREMBATH: Hello, this is Sharon
3 Trembath.

4 A.L.J. SAYRE: Yes, we hear you.

5 MS. TREMBATH: Okay. I'm calling from
6 the Citizens Against Wind Turbines on Lake Erie. I'm
7 very upset that this is going to be pushed through
8 without any environmental impact study. I do feel
9 before you folks get into our lake, we need to find
10 out what's going on.

11 The -- these are going to be -- ...
12 has the program to put as many as 50/450 foot
13 turbines in our fresh drinking water. These are
14 leaking turbines. Some of them have up to 400
15 gallons of lubricant in them. They're going to go in
16 every half mile of the lake that -- and they'll have
17 the negative affect on our fresh water quality and as
18 well as border security. Eleven million people rely
19 on Lake Erie for their drinking water. Considerable
20 amounts or dangerous and hazardous material from
21 Western New York's industrial paths, have settled
22 into the lake beds and these structures will disturb
23 all settled materials.

24 I'm also concerned about the artifacts
25 that are in Lake Erie. If it's ... of the Seaway

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2 Trail, we have over 10,000 ship wrecks in the -- in
3 the Great Lakes. These are going to be buried
4 forever with these concrete platforms that are
5 planned for this area. There's been no environmental
6 impact study done. These turbines will create wind
7 patterns. They have a potential to force the spread
8 of pools of toxic algae to the larger portions of the
9 lake. The constant vibrations from the turbines will
10 be damaging to Lake Erie's commercial and
11 recreational fish supply. The location of the
12 turbines will restrict -- will restrict access to
13 prime fishing spots and the turbines advocates will
14 not address the potential impact on migratory birds.

15 We're also concerned about the
16 Department of Homeland Security, who's invested
17 millions of dollars in high tech radar systems along
18 our Western New York border of the lake, to detect
19 drug smuggling and human trafficking. These cannot -
20 - these will be blocked by the flickering of the --
21 the turbines -- the major -- the major ... of the
22 base turbines.

23 We have to be proactive and take
24 precaution. This is our drinking water. Everybody's
25 worried about social justice. I'm worried about the

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2 whole City of Buffalo losing their drinking supply.
3 Thank you very much.

4 A.L.J. SAYRE: Thank you for your
5 comment. Please press star three again to un-raise
6 your hand and we'll move onto the next requester.

7 MR. JOYCE: Hello, can you hear me?

8 A.L.J. SAYRE: Yes, we can. Go ahead.

9 MR. JOYCE: Good evening. My name is
10 Jack Joyce. I'm from Buffalo, New York. I wish to
11 say that, there is no scientific basis for this whole
12 effort. I looked carefully through all the documents
13 with NYSERDA. It seems is what this is all based
14 upon, is what everybody knows. Well, it really
15 refers to the I.P.C.C., the Intergovernmental Panel
16 for Climate Change at the U.N., which it -- there's
17 no science. You can look this up if you wish. There
18 are three working groups. The first group is hard
19 scientists. They look at the literature and they
20 choose literature and they use that as the basis for
21 their research, to find anthropomorphic problems with
22 climate. That's what they're charged to do. They
23 are not charged to look at the entire climate
24 environment, which is vast and the ... effect in
25 human beings.

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2 The second group at the U.N. at the
3 I.P.C.C., they look for problems that these papers
4 that are selected, indicate are happening. So, then
5 they are not made of a hard scientist. They're a mix
6 of commentators, lawyers, social scientists and so
7 on.

8 The third group is even more diverse
9 and more political and they're the ones that
10 determine that the actual policies that will go into
11 effect. This is political operation. It is not a
12 scientific operation. You will be all greatly
13 surprised to find, that CO2 is re-greening our
14 planet. It is the basis for photosynthesis. It is
15 what is being pumped into greenhouses around the
16 country in 2,000 parts per minute -- per million and
17 more because it's good for plant life. Without
18 photosynthesis, there'd be no life on Earth. And, if
19 it turns out over the long haul, since ... period up
20 until the present, the transfer of carbon dioxide was
21 heading towards a death line, which is 150 parts per
22 million. Below that, plants can't grow. Thankfully,
23 the burning of fossil fuels, returned carbon dioxide
24 that had been sequestered by sea life and -- and
25 buried into the ocean. These shells would grab

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2 carbon dioxide to be -- to make them -- the shape and
3 they would go under the ocean and fall and become
4 these deposits we call gas, oil and coal.

5 This is what is been used to make the
6 Earth a safe and happy place for the last 200 years.
7 We have 7.9 million -- billion people who are living
8 better than ever before. Back in 1798, Malthus
9 issued his pronouncement, that there wasn't enough to
10 go around and so people were going to be curtailed.
11 This was in England where there was one billion
12 people. Today, 200 years -- some years later, there
13 are 7.9 billion people. We're doing better than
14 ever.

15 The whole climate change, is a hoax.
16 Climate is change. That's what it does. The Earth
17 is four and some billion years old. There's great
18 ... movements of water and clouds and the sun and the
19 tilt of the Earth and cosmic rays. It's -- it's
20 vastly complex and for those of you who have blocked
21 the -- the story that this is a problem, you are
22 falling in line with the people who believe with
23 Malthus, that there's not enough to go around.
24 Here's the one world people. They want one
25 Government for the world, they want to remove control

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2 by individual nations, so they can impose control.
3 And, how do they do it? They seize upon carbon
4 dioxide, which is emitted from fossil fuel burning in
5 automobiles and our industry and if they control
6 that, they can control the world and they do believe
7 it.

8 If you don't believe me, read the book
9 Merchants of Despair by Robert Zubrin and you will be
10 horrified to find out that such things as the Irish
11 Famine, occurred when in Ireland, they were shipping
12 700,000 cattle a year and two million barrels of
13 grain out of Ireland to the rest of the British Isles
14 because the people in charge had no use ... these
15 resources --

16 A.L.J. SAYRE: I'm sorry, if you could
17 -- if you could wrap up your remarks.

18 MR. JOYCE: -- with no use wasting
19 resources for people that can't survive it.

20 A.L.J. SAYRE: If you could wrap up
21 your remarks.

22 MR. JOYCE: And -- and, that's -- and,
23 that's what this is all about. Thank you.

24 A.L.J. SAYRE: Thank you for your
25 comments. I would like to remind the public that

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2 this hearing is not about the climate legislation,
3 itself and it's not about any particular project.
4 It's about the Office of Renewal Energy Siting's
5 Draft Uniform Standards and Conditions but we welcome
6 your comments but if you could press star three
7 again, thank you. I think Judge Clarke, we have
8 another hand up.

9 A.L.J. CLARKE: Call-in ...

10 MR. YOZWIAK: Hi, every -- hello, can
11 you hear me?

12 A.L.J. SAYRE: Yes, we can hear you.
13 Go ahead.

14 MR. YOZWIAK: Thank you. My name is
15 Bernie Yozwiak. I'm in Croton on the Hudson, New
16 York. I'm with a group called Care for Creation of
17 the Holy Name of Mary Church in Croton. We want to
18 let you know that we do support the guidelines as
19 they're developed and hope that you go ahead and make
20 tweaks to them, as noted from many of your callers.
21 We think there's -- the guidelines are strong, as
22 they are right now. We realize that there's no
23 perfect solution for siting plans but given our
24 current situation, we must pull off of fossil fuels.
25 We realize also that, birds are dying and species are

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2 declining right now, with the current situation. We
3 thank you for your efforts and that's all.

4 A.L.J. SAYRE: Thank you for your
5 comment. Judge Clarke, do I see another hand raised?

6 A.L.J. CLARKE: Caller 22 is Ms.
7 Makleff, who has already given her statement.

8 A.L.J. SAYRE: Okay. If you could hit
9 star three again then and un-raise that hand. Judge
10 Clarke, do you see any more requests from the
11 telephone participants or the computer participants?

12 A.L.J. CLARKE: I do not see any more
13 raised hands, Judge.

14 A.L.J. SAYRE: I'd like to remind
15 members of the public, that there are several other
16 ways to comment.

17 A.L.J. CLARKE: Excuse me, Judge. We
18 do have one more caller.

19 A.L.J. SAYRE: Good, go ahead.

20 MR. BOISEMENU: Yeah, good evening.
21 Can you hear me?

22 A.L.J. SAYRE: Yes, we can. Go ahead.

23 MR. BOISEMENU: Yeah, this is Mike
24 Boisemenu and I'm from -- from Western New York and
25 I'm calling as the Office of Renewal Energy Siting

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2 relates to the program that's being investigated to
3 install 9,000 megawatts of offshore wind in New York
4 State. A considerable amount would be -- is
5 scheduled to be sited in -- in Lake Erie.

6 I feel that this is -- this plan
7 should be given further consideration by the -- by
8 the Office because I -- I feel it's fairly flawed and
9 it has many examples, three of which I've got listed
10 here, of misdirected energy, part of problem with the
11 energies. But, the first concern I have is, Western
12 New York currently has an overcapacity of energy. We
13 -- we are fortunate to have some really significant
14 hydro-generation in Niagara and -- and -- and -- and
15 some nuclear generation in -- in the region, most of
16 which is considered renewable.

17 This overcapacity has -- has helped to
18 moderate our electric bills and -- and so on. The
19 high level of offshore wind, is -- is proposed with
20 significantly harm and damage ... in the energy
21 market and add additional unnecessary cost to the
22 rate payers in -- in -- in -- in New York and
23 specifically in Western New York and also the tax
24 payers because eventually, this will probably be
25 funded by -- by taxes.

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2 My second misdirected energy
3 associated with the high cost of the installation of
4 offshore wind and these numbers come from the
5 Department of Energy's most recent E.A.A. website.
6 High cost of renewable option of -- of offshore wind,
7 is 275 percent higher than the average of the
8 remaining renewable sources, including solar, onshore
9 wind and hydro. This would result in an increased
10 cost of generation to \$95.00 a megawatt hour, from
11 what's in our region of the State, is currently
12 averaging about \$20.00 a megawatt hour. That's a --
13 that's going to be a fivefold increase in what we're
14 all going to have to pay for electric rates.

15 The last misdirected energy, is -- and
16 I feel that the -- the Office should consider this,
17 we have an overabundance of hydro potential for New
18 York State. They -- they can develop better than --
19 better than 50 percent of -- of -- of the hydro
20 generation that we currently have, could be easily
21 used to replace a significant amount of what the --
22 the planned offshore wind generation. And, the hydro
23 generation provides grid friendly, ... power to the
24 electric system and in addition, has the benefit of
25 storage. So, when there is no need for power in the

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2 evening and night, that potential energy can be
3 stored in the dams or in the -- in the -- in the
4 ponds behind the dams.

5 To summarize, I just would -- would
6 implore that the -- the Office of Renewable Energy
7 expand the renewable options, to include the
8 potential or other sources of lower cost, more
9 dependable, proven hydro technologies. Thank you for
10 the time.

11 A.L.J. SAYRE: And, thank you for your
12 comments. Could you press star three again and un-
13 raise your hand? Thank you. I'd like to remind
14 members of the public, that there are several other
15 ways to comment, which we're displaying now for those
16 who are on the computer. You can submit comments by
17 email to general@ores.ny.gov, you can mail comments
18 to the Office of Renewable Energy Siting, 99
19 Washington Avenue, Albany, New York 12231 and you can
20 enter comments directly into the Office of Renewable
21 Energy Siting's website at
22 www.ores.ny.gov/regulations. And, again, I'll remind
23 members of the public, that ... to comment, is not
24 any specific project or type of projects but the
25 overall Uniform Standards and Conditions for the

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2 Office of Renewable Energy Siting to review as a
3 regulator, projects that are proposed by developers.
4 Judge Clarke, do you see any remaining requests for
5 people to speak?

6 A.L.J. CLARKE: I do not, Judge.

7 A.L.J. SAYRE: In that case, I'll wrap
8 things up. Thank you to everyone for your interests
9 and for your comments. Thanks to my fellow
10 administrative law judges, our court reporter and the
11 Office of Consumer Services, for all your operational
12 and technical help. This hearing is now concluded.
13 We'll go off the record now.

14 THE REPORTER: Okay. One moment.

15 (The hearing concluded.)

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2 I, HOWARD HUBBARD, do hereby certify that the foregoing
3 was reported by me, in the cause, at the time and place,
4 as stated in the caption hereto, at Page 1 hereof; that
5 the foregoing typewritten transcription consisting of
6 pages 1 through 64, is a true record of all proceedings
7 had at the hearing.

8 IN WITNESS WHEREOF, I have hereunto
9 subscribed my name, this the 4th day of December, 2020.

10

11

12 HOWARD HUBBARD, Reporter

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1 11-30-2020 - Public Statement Hearing

2 STATE OF NEW YORK

3 OFFICE OF RENEWABLE ENERGY SITING

4 DEPARTMENT OF PUBLIC SERVICE

5 In the Matter of

6 The Addition of Subpart 900-6 (uniform

7 Standards and Conditions) to Chapter XVIII,

8 Title 19 of the Official Compilation of the

9 Codes, Rules, and Regulations of the State of

10 New York (NYCRR)

11 ID No.: DOS-37-20-00016-P

12 _____ x

13

14 PUBLIC STATEMENT HEARING

15 DATE: November 30, 2020

16 TIME: 5:00 P.M.

17 BEFORE: HONORABLE ASHLEY MORENO DPS

18 HONORABLE MAUREEN LEARY, DPS

19 VIA WEBEX

20

21 ALSO PRESENT:

22 ERIN ODELL-KELLER, DPS OFFICE OF CONSUMER SERVICES

23 ESMOND BROWN ANDERSON, DPS OFFICE OF CONSUMER

24 SERVICES

25 HOUTAN MOAVENI

1 11-30-2020 - Public Statement Hearing

2 (On the record 5:00 p.m.)

3 A.L.J. MORENO: Good evening and
4 welcome. This is a public comment hearing which is
5 seeking comment on Chapter XVIII, Title 19 subpart
6 900-6 the New York State Office of Renewable Energy
7 Siting Draft Uniform Standards and Conditions. My
8 name is Ashley Moreno and I am an administrative law
9 judge with the New York State Department of Public
10 Service, and I will be presiding over today's public
11 comment hearing.

12 Assisting me tonight are
13 Administrative Law Judge Maureen Leary of the
14 Department of Public Service as well as Erin Odell-
15 Keller and Esmond Brown Anderson (phonetic spelling)
16 also of the Department of Public Service in the
17 Office of Consumer Services. The draft regulations
18 were issued by the Office of Renewable Energy Siting
19 on September 16th, 2020 for public comment pursuant
20 to the New York State Administrative Procedure Act or
21 SAPA.

22 All stakeholders and the public have
23 an opportunity to formally submit comments on the
24 draft regulation, Chapter XVIII, Title 19 subpart
25 900-1 through 900-5, 900-7 through 900-15 and the

1 11-30-2020 - Public Statement Hearing
2 Draft Uniform Standards and Conditions Chapter XVIII,
3 Title 19 subpart 900-6 until December 7th, 2020
4 Please note that comments should not relate to any
5 particular proposed project or the law that was
6 passed in April, but rather to the draft standards
7 and conditions purposed by the Office of Renewable
8 Energy Siting. Throughout this hearing I may also
9 refer to the Office of Renewable Energy Siting as
10 ORES, O-R-E-S.

11 The original deadline to submit
12 comments on the draft regulation, Chapter XVIII,
13 Title 19 subparts 900-1 through 900-5, 900-7 through
14 900-15 was September 16th, 2020. The Office of
15 Renewable Energy Siting has extended this public
16 comment period on those regulations until December
17 7th, 2020. As part of the state's ongoing commitment
18 to community engagement, the Office of Renewable
19 Energy Siting has sought public comment on the Draft
20 Uniform Standards and Conditions, Chapter XVIII,
21 Title 19 subpart 900-6 through seven public hearings
22 while complying with the public health and safety
23 guidelines presented by the COVID-19 pandemic.

24 The virtual platform that we will be
25 using tonight allows for presentation of comments in

1 11-30-2020 - Public Statement Hearing
2 a secure environment and may result in greater
3 attendance than any in-person hearing given the
4 present circumstances. Participants who do not have
5 Internet access are able to register to comment and
6 to call into the meeting to provide their comments.
7 Translators and other disability assistance are
8 available upon request.

9 In addition to commenting at today's
10 hearing, individuals who wish to comment always have
11 the opportunity to submit their comments in writing,
12 and such written comments are given equal weight to
13 oral comments. As described in the public notice
14 published in the New York State Register on September
15 16th, 2020 I will use a registration list to call
16 each person who has requested to provide a statement.

17 The hearings will continue until all
18 registered speakers have been heard or other
19 reasonable arrangements have been made to include
20 their comments in the record. It is recommended that
21 any lengthy comments be submitted in writing and
22 summarized for oral presentation. And, again, equal
23 weight is given to oral and written comments.

24 I also note that we do have a court
25 reporter joining us this evening and a verbatim

1 11-30-2020 - Public Statement Hearing
2 transcript of the hearing will be made for inclusion
3 in the record. All details about these public
4 comment hearings and links to the virtual hearings as
5 well as instructions on how to register are available
6 at the Office of Renewable Energy Siting website,
7 ORES.ny.gov. That's ORES dot N.Y. dot G-O-V. There
8 you may also access the draft regulations and review
9 information about how to submit written comments.

10 And before we commence to take
11 comments this evening, I'm going to turn to Houtan
12 Moaveni who is the executive deputy director of the
13 ORES office. Mr. Moaveni?

14 MR. MOAVENI: Thanks, Judge. Good
15 evening everyone. I hope you are all well and
16 staying safe. On behalf of the New York State Office
17 of Renewable Energy Siting, I would like to welcome
18 you to this virtual public statement hearing. By way
19 of introduction my name is Houtan Moaveni. I am the
20 executed deputy director of the Office of Renewable
21 Energy Siting. The purpose of this hearing is to
22 receive comments from all interested parties on the
23 Draft Uniform Standards and Conditions. I'll say no
24 more but I look forward to hearing your comments.
25 Back to you, Judge.

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2 A.L.J. MORENO: Thank you, Mr.

3 Moaveni. We will start to take comments now. I just
4 am going to go over a little bit about the process
5 before we begin. As you may have heard and see on
6 your screen, all attendees were muted upon entry into
7 this hearing. And as I mentioned earlier, there are
8 participants who have registered and are
9 participating by phone this evening, and there are
10 also people who have registered and are participating
11 electronically. In either case, you should only have
12 one audio input from one device otherwise you may
13 experience some problems with feedback.

14 And I will begin by calling persons
15 that have preregistered one by one to speak. If
16 someone is not available when we call them, we will
17 continue with the next person and we will come back
18 to those people who were not available at the end.
19 For telephone participants, when I call out your name
20 I will ask that you hit Star 3 on your telephone so
21 that we can recognize you and unmute your line. It
22 might just take a moment for us to locate you and
23 unmute your line, so please make sure to wait until
24 you hear a beep or you are notified that your line
25 has been unmuted before you begin to speak.

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2 If you have muted your own telephone,
3 you will also have to unmute that device. For people
4 that have registered electronically, after we call
5 your name I -- we will unmute your line. You should
6 hear a tone and see that the microphone icon is no
7 longer red. Please be reminded if that if you did
8 put your own line on mute, you also have to unmute
9 that line before you begin to speak.

10 I will ask that all persons making a
11 statement this evening begin by acknowledging that
12 you are the person called by starting your comment by
13 stating your full name. If you are speaking on
14 behalf of a group, please identify that group. And
15 when you are making your comment, for the clarity of
16 the record, please speak loudly, slowly and clearly
17 so that we can accurately capture your statement.
18 Also out of consideration for all of the
19 participants' time and consistent with the ORES
20 notice, comments should not exceed three minutes. If
21 you have no completed your comment in three minutes,
22 I will alert you that your time is up and I will ask
23 you to please conclude your comments.

24 And, again, I -- we do have quite a
25 number of speakers this evening, and I'll just remind

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2 everyone that if you have -- are not able to conclude
3 your statement in three minutes, you can, of course,
4 submit additional comments in writing. So with that,
5 I'll just give the reminder we are here tonight to
6 receive comments on the uniform standards and
7 conditions rather than any particular project. And
8 with that I will call our first speaker who is George
9 Borrello. And, Mr. Borrello, if you have called in
10 could you please press Star 3 on your telephone so
11 that we can locate you and unmute your line?

12 A.L.J. LEARY: Judge Moreno, he is not
13 a call in user. He is listed as an attendee via
14 Webex.

15 A.L.J. MORENO: Thank you. And, Ms.
16 Odell-Keller, are you able to unmute this line?

17 MS. ODELL-KELLER: I have not seen his
18 hand raised, your Honor.

19 A.L.J. MORENO: He is an electronic
20 user.

21 MS. ODELL-KELLER: Oh, there he is.
22 Okay. My -- he is unmuted.

23 A.L.J. MORENO: Okay. Mr. Borrello?

24 MR. BORRELLO: Yes, thank you very
25 much. Can you hear me?

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2 A.L.J. MORENO: Yes, we can. Thank
3 you.

4 MR. BORRELLO: Thank you. I'm State
5 Senator George Borrello representing the 57th Senate
6 District. Thank you for the opportunity to speak
7 today in opposition to these proposed regulations.
8 In advancing these rules, New York State is trampling
9 on our state constitution's home rule provisions and
10 right of local self-governance, precedents that have
11 made New York a model for other states for decades.
12 Why is this bedrock principle being cast aside? To
13 remove obstacles to the development of renewable
14 energy projects and the political agenda that is
15 driving them.

16 The district that I represent covers
17 Allegheny, Cattaraugus, Chautauqua and a portion of
18 Livingston County. It's a beautiful part of the
19 state that has rolling farmland, forests, lakes and
20 gorges. Those of us who live here treasure our
21 natural resources and quality of life. For the --
22 for the past decade, we've been fighting to ensure
23 our region doesn't become an industrial wasteland
24 tainted by wind turbines and solar panel
25 installations.

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2 We have commissioned studies, held
3 public hearings and passed zoning laws and ordinances
4 to limit the scope and spread of these projects. In
5 other words, we performed our due diligence. We've
6 exercised our rights as outlined in Article 10 to
7 have a voice in decisions that will affect our homes,
8 lives and communities. I am here today because the
9 new regulations are -- we are discussing will strip
10 us of those rights. These rules are designed to fast
11 track renewable energy projects that are ...
12 localities and their vetting processes from decision
13 making.

14 These regulations will eliminate the
15 role of local zoning, will allow imminent domain,
16 will substitute true environmental reviews with a
17 rubber stamp and remove localities' ability to
18 negotiate, host community agreements among many other
19 things. And here is an example of what happens when
20 you fast track these projects. In 2013 and 2014 the
21 state had four wind turbines installed along the
22 thruway in Chautauqua and Erie Counties. These
23 turbines went up relatively quickly.

24 After a few years all four failed.
25 The French company that manufactured the turbines has

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2 since gone out of business. The installer and others
3 involved claimed no responsibility for the failure.
4 The turbines still sit there towering over the
5 thruway and useless except as a reminder of the
6 millions of wasted taxpayer dollars. The truth is
7 this. The impact of these projects will be felt most
8 significantly by those of us living in upstate and
9 western New York which are the regions that
10 developers are targeting.

11 Yet these proposed regulations will
12 rob us of our ability to either approve or stop them.
13 And the New York State Department of State's local
14 government website states the home rule powers
15 available to New York local governments are among the
16 most far reaching in the nation. The extent that
17 these powers make the local government a full partner
18 with state in the shared responsibility providing
19 services to the people.

20 That home rule commitment was
21 something that made our state stronger and better.
22 However, it is slowly being eroded in favor of
23 political expediency. The regulations being
24 considered today are one more example of that which
25 is why I stand opposed. Thank you very much.

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2 A.L.J. MORENO: Thank you very much.

3 Our next speaker is Ginger Schroder.

4 MS. SCHRODER: Hi, this is Ginger
5 Schroder. Can you hear me?

6 A.L.J. MORENO: Yes, we can. Thank
7 you.

8 MS. SCHRODER: Thank you. All I have
9 to say I echo 100 percent the comments of George
10 Borrello. He is my senator and I cannot think or ask
11 for a better advocate or a more eloquent speaker to
12 speak for the voices of rural Upstate New Yorkers who
13 feel that New York State is really trampling our
14 rights. I'm a Cattaraugus County legislator. I'm
15 also a resident of Farmersville, New York, a small
16 rural farming community in the southern tier of New
17 York.

18 I'm also Article 10 counsel to three
19 towns, the Towns of Machias, Yorkshire and
20 Franklinville located in Cattaraugus County. And one
21 of the cases that is before the siting board, the
22 Alle-Catt Wind Farm case. I have submitted or signed
23 on to written comments from the Save Ontario Shores
24 on behalf of multiple parties. I've also joined in
25 the joint comment for numerous municipalities

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2 prepared by Ben Wisniewski, Attorneys for the
3 Concerned Citizens of Rural Preservation.

4 I have to tell you, reading these
5 regulations and my background ... an attorney was a
6 very powerful and very profound experience realizing
7 the -- the kind of detrimental impacts that the
8 regulations will not address. For one, I think
9 there's an inadequate review of environmental
10 impacts. I think the draft regulations don't allow
11 for meaningful identification, assessment or
12 mitigation of the negative environmental impacts of
13 individual renewable energy projects.

14 My second comment is that I believe
15 there's improper reliance on secrecy to avoid public
16 scrutiny, which has been the calling card of New York
17 State to all renewable projects. The draft
18 regulations do not allow for meaningful public
19 participation in the renewable energy siting process
20 and they fail to provide open and transparent acts as
21 to project details, applications, case documents or
22 even docket lists.

23 Comment three, absolute violation of
24 home rule principles as spoken to by -- by Senator
25 Borrello, the draft regulations violate Article 9 of

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2 the New York State Constitution and effectively strip
3 local governments of legislative, zoning and police
4 powers and takeaway from rural communities the right
5 to fashion what their own community will look like.

6 Comment four, elevation of private
7 corporate interest over public interest. The draft
8 regulations improperly elevate project economics and
9 profitability over like local siting concerns. I
10 have to say while I applaud that you are hosting all
11 of these public comments and sessions, I -- I really
12 do not believe having had my experiences in the
13 Article 10 process that New York State really cares
14 what anyone has to say about this especially anyone
15 who's critical of the regulations or anything that
16 will stand in the way of the state's very aggressive
17 and unrealistic goals for large scale renewable
18 development.

19 A.L.J. MORENO: Okay. Thank you very
20 much, Ms. Schroder. And our next speaker is Joseph
21 Toninni. And, Mr. Toninni, if you I believe have
22 called in if you could please press Star 3 on your
23 phone so that we can identify you and unmute your
24 line, it would be appreciated. Again, Joseph
25 Toninni. If you could press Star 3.

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2 Okay. We will circle back and try to
3 find Mr. Toninni at a later time. Our next speaker
4 is David Andrian, A-N-D-R-I-A-N. Mr. Andrian, if you
5 could please press Star 3 on your phone so that we
6 can identify you and unmute your line.

7 A.L.J. LEARY: Judge Moreno, we just
8 had a call in user join. Could you repeat the last
9 name again?

10 A.L.J. MORENO: Sure. We are -- our
11 next speaker is David Andrian, A-N-D-R-I-A-N. And,
12 Mr. Andrian, if you have called in and can press Star
13 3 so that we might identify you, it would be
14 appreciated. Okay. We will circle back.

15 Our next speaker is Alison White. And
16 Ms. White, if you have called in this evening, if you
17 could please press Star 3 on your phone. Okay.

18 Our next speaker is Anna Castonguay,
19 C-A-S-T-O-N-G-U-A-Y. And Ms. Castonguay if you have
20 called in if you could please press Star 3 on your
21 phone so we can identify you and unmute your line.
22 Okay. Our next speaker then is Audrey Friedrichsen.
23 Ms. Friedrichsen, your line has been unmuted.

24 MS. FRIEDRICHSEN: Thank you, Judge.
25 Good evening. Can everyone hear me?

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2 A.L.J. MORENO: Yes. Thank you.

3 MS. FRIEDRICHSEN: Great. My name is
4 Audrey Friedrichsen. I am the land use and
5 environmental advocacy attorney and I am speaking on
6 behalf of Scenic Hudson this evening. We will be
7 submitting lengthier comments by the deadline both on
8 the uniform standards and conditions and the
9 procedural rules, but I will summarize our comments
10 this evening to stick to the time frame.

11 So thank you for the opportunity to
12 summarize our comments on the proposed rules on the
13 uniform standards and conditions under the
14 Accelerated Renewable Energy Growth and Community
15 Benefit Act. From Scenic Hudson's perspective, the
16 renewable energy targets contained in the Climate
17 Leadership and Community Protection Act, they do
18 require a buildout of new clean energy infrastructure
19 on an unprecedented scale.

20 We support the goals of the C.L.C.P.A.
21 and the renewable energy act, and we look forward to
22 successful achievement of the energy transition in
23 the interest of greenhouse gas emissions production.
24 As the energy system is transformed, however, we must
25 ensure that other important assets such as

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2 agricultural systems, visual and cultural resources,
3 watersheds, core forests and forest corridors and
4 vital habitats support our state's outstanding
5 biodiversity and protective species are not
6 compromised.

7 And from our perspective, this rule
8 making prevents the opportunity to do that and we
9 must get these regulations right. So I have a few
10 comments here. Number one, as is required under the
11 law, the regulations must be designed to ensure
12 effective impact avoidance and mitigation. And it's
13 very critical that the uniform standards and
14 conditions established by this rule making our
15 designed to avoid or minimize to the maximum extent
16 practical any potential comments, significant adverse
17 environmental impact.

18 So the results of their application
19 and they must be designed in a manner to be able to
20 provide meaningful impact reduction and the
21 development of well sited and well-designed projects
22 from their inception before the application even gets
23 submitted. And two points with regard to that. We
24 believe the regulations must provide a standard for
25 the Office of Renewable Energy Siting to determine

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2 when a site specific standard in lieu of any
3 designated uniform standard or condition in the
4 regulations or in exhibit requirements is justified.

5 So we think the regulations should
6 provide a standard for that kind of a determination
7 because, again, if -- if the uniform standards and
8 conditions are supposed to provide well sited
9 projects but developers are consistently asking for
10 site specific standards, we're starting to move into
11 the realm of Article 10 and potential delay.

12 And also we think that subpart 900-6
13 should include a specific requirement that the
14 permittee shall construct and operate the facility in
15 accordance with the uniform standards and conditions
16 except for those that ORES, the Office of Renewable
17 Energy Siting determines to be unreasonably
18 burdensome as stated in the siting permit. So that's
19 -- that's the standard we would suggest should be
20 included in the regulations.

21 With regard to threatened and
22 endangered species, of course, the law requires that
23 the regulations must result in a net conservation
24 benefit. Right now the proposed regulations include
25 language that says and that conservation benefit plan

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2 must result in a, quote, positive benefit on each
3 affected species. Our comment there is that the
4 language of subpart 900-6 should be aligned with 6
5 N.Y.C.R.R. Part 182 with --.

6 A.L.J. MORENO: Ms. Friedrichsen, I'm
7 sorry to interrupt but --

8 MS. FRIEDRICHSEN: Yes.

9 A.L.J. MORENO: -- I'll have to ask
10 you to begin to -- to wrap up your comments.

11 MS. FRIEDRICHSEN: Yes. And in
12 addition with regard to water resources, visual and
13 cultural resources, impacts to agricultural lands and
14 to forests, of course, those particular things should
15 be addressed by the uniform standards and conditions.
16 And one particular comment that we have that is more
17 perhaps related to procedural aspects, but there are
18 some preapplication consultation requirements. And
19 those are only with regard to species and -- and
20 water resources, but we believe that visual and
21 cultural resources and also preapplication
22 consultation perhaps with the Department of Ag and
23 Markets should occur prior to application submission.
24 And also forest resources should be
25 identified and impact mitigation should begin early

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2 on. And like I said, we will be submitting more
3 detailed comments by the deadline. Thank you.

4 A.L.J. MORENO: Thank you very much.
5 And our next speaker is Blake Radtke. And you are
6 unmuted.

7 MR. RADTKE: Good evening. Can you
8 hear me okay?

9 A.L.J. MORENO: Yes, I can. Thank
10 you.

11 MR. RADTKE: Thank you, Judge. Good
12 evening and thank you for the opportunity to speak
13 tonight. My name is Blake Radtke and I am an
14 operations manager at the Arkwright Summit Wind Farm
15 located in Fredonia, New York. For a little
16 background on my ... Arkwright Summit came online in
17 2018 and can power about 33,000 New York homes.
18 Through 2019 we've already paid more than \$1 million
19 to local landowners and over \$780,000 to local
20 governments.

21 With that in mind, I would like to
22 highlight a common theme I have been hearing from my
23 site landowners over the last several months. With
24 so much uncertainty surrounding COVID and the
25 resulting economic impact many of them face, the

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2 benefits and financial certainty provided by the wind
3 farm for them has been a much needed counterbalance.

4 On a personal note, as a transplant to
5 New York from the Midwest going on three years now,
6 it has been a tremendous opportunity for me and my
7 family to join the western New York community. I
8 look forward to continuing to build relationships ...
9 both personally and professionally for many years to
10 come all while continuing to do my part in ensuring
11 Arkwright Summit Wind Farm continues to produce
12 clean, reliable energy for New York.

13 I will conclude by saying renewable
14 energy creates good paying jobs for New Yorkers and
15 helps support our communities on a very local level.
16 I support the proposed rules under consideration
17 because they will help bring more projects to the
18 state while also reducing the time it takes to bring
19 those new projects online. Thank you very much for
20 your time.

21 A.L.J. MORENO: Thank you very much.
22 And our next speaker is Brynn Schmitt. And your line
23 has been unmuted.

24 MS. SCHMITT: Okay. Very good. Can
25 you hear me?

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2 A.L.J. MORENO: I can. Thank you.

3 MS. SCHMITT: Thank you. Okay. I'm a
4 resident of Tompkins County. I'm a mother of three
5 and a grandmother of four, and I'm a volunteer with a
6 local chapter of Mothers Out Front which is an
7 organization that works locally to promote a more
8 sustainable ways of living and of producing energy.
9 And, you know, and our organization as a whole
10 promotes a swift transition, a swift and just for
11 workers transition away from fossil fuels.

12 On a very personal level, our family
13 lived for over 30 years in northern Pennsylvania, and
14 we were in an area that was very heavily affected by
15 the fracking by the natural gas industry. And we
16 heard of, you know, neighbors nearby whose water was
17 poisoned, whose animals got sick, whose even family
18 members got sick. We would hear of workers who would
19 be exposed to fracking fluids and, you know, not
20 because it was a proprietary blend of chemicals,
21 doctors couldn't find out how to treat them properly.
22 There were just a lot of awful things happening as a
23 result of the fossil fuel industry moving so heavily
24 into our beautiful, local area.

25

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2 And I'm actually speaking in support
3 of the streamlining of the, you know, the -- the --
4 in support of the proposal to make it quicker for
5 projects that are sustainable for the environment
6 such as solar farms and wind farms. I'm very much in
7 favor of those being streamlined. As a mom and a
8 grandma, my priority is the health of my kids. And I
9 think there's been this false dichotomy where it --
10 where people think they have to choose between, you
11 know, a thriving economy and the health and wellbeing
12 of the people and of the local environment. And I
13 think that's a false dichotomy.

14 We simply can't have healthy,
15 thriving, prosperous human communities without the
16 healthy, thriving, natural communities that support
17 us. We need the clean, healthy water, the healthy
18 soil that -- that feeds us and the air that we depend
19 on. I feel like there's, you know, if we've learned
20 anything from this pandemic, which this challenging
21 situation we've all been in, it has shown us that we
22 are very connected.

23 That what each of us does affects
24 everyone else. And it has also shown us that we can
25 change the way we do things very quickly when we

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2 decide that it's important to do so. And I feel that
3 you on this commission have the opportunity to be
4 part of moving energy production more swiftly in a
5 life sustaining direction by the proposed clarifying,
6 simplifying and speeding up the shortening of the
7 approval period to one year.

8 For the sake of all of our children,
9 both in the -- in the creation of thriving local
10 economies and jobs, which sustainable energy
11 certainly helps provide, and in terms of providing a
12 livable climate for our children, I would urge you to
13 cease the opportunity to help us move more swiftly to
14 adjust sustainable way of producing energy. The eyes
15 of our families are looking to you with hope for --
16 for economies that thrive but do not thrive at the
17 expense of the health and wellbeing of children. So
18 I -- I support the swift -- the streamlining of the -
19 - of the transition on behalf of Mothers Out Front of
20 Tompkins County. Thank you.

21 A.L.J. MORENO: Thank you very much.
22 And our next speaker is David Alicea of Sierra Club.
23 And Mr. Alicea, if you have called in this evening if
24 you could please press Star 3 on your phone. Okay.

25

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2 We will continue and -- and circle back with Mr.
3 Alicea.

4 Our next speaker is Deb Peck Kelleher.
5 And, Ms. Kelleher, if you have called in if you could
6 please press Star 3 on your phone so that we can
7 identify you and unmute your line.

8 Okay. We will circle back. Our next
9 speaker is Janet Lenichek.

10 MS. LENICHEK: Can you hear me? This
11 is Janet.

12 A.L.J. MORENO: Yes, you have been
13 unmuted. Thank you.

14 MS. LENICHEK: Thank you. My name is
15 Janet Lenichek. I'm a resident of Erie County, New
16 York. I've been volunteering with the Sierra Club
17 for the past four years in the western New York area.
18 And during this time I have come to realize how
19 important New York State regulations are in either
20 slowing down or accelerating the development of
21 renewable energy product -- projects.

22 By passing the Climate Leadership and
23 Community Protection Act in 2019, New York State took
24 a giant step forward in advancing legislation that
25 would commit New York to achieving aggressive targets

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2 for greenhouse gas reductions. The accelerated
3 renewable energy growth act and the establishment of
4 the office of renewable energy sitings or ORES were
5 also huge steps forward. The proposed regulations
6 that ORES has submitted for public comment are going
7 to be key elements to assist New York communities in
8 addressing climate change.

9 These regulations will also help to
10 ease the pain of our current economic crisis which
11 has caused many people to lose their jobs or have
12 greatly reduced work hours. Good paying jobs in the
13 new -- renewable energy field will provide big
14 benefits especially to western New York. Not only
15 will more people be employed in better paying jobs,
16 but towns will have more revenue from pilot
17 agreements so they can avoid raising property and
18 school taxes to extremely high levels.

19 Family farmers who are struggling to
20 maintain their businesses can rent out sections of
21 their farmland and have a dependable revenue source
22 for 15 to 20 years. All of these benefits will
23 accrue while New York State reduces air pollution and
24 greenhouse gas emissions quickly to help stem the
25 worst effects of climate change. Please continue to

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2 work as quickly as possible to finalize these well
3 considered regulations and put New York State on the
4 path toward a clean and renewable energy future.
5 Thank you.

6 A.L.J. MORENO: Thank you very much.
7 And if I could ask you to please lower your hand, Ms.
8 Lenichek, that would be appreciated. Thank you. Our
9 next speaker is Joe Martens. And Mr. Martens, your
10 line has been unmuted.

11 MR. MARTENS: Thank you. Can you hear
12 me okay?

13 A.L.J. MORENO: Yes, we can. Thank
14 you.

15 MR. MARTENS: Thank you. Thank you
16 for the opportunity to speak at the hearing. My name
17 is Joe Martens. I'm the director of the New York
18 Offshore Wind Alliance which is a project of the
19 Alliance of Clean Energy New York. And tonight I'm
20 testifying on behalf of ACE New York. I was D.E.C. -
21 - the New York's commissioner of environmental
22 conservation from 2011 until August 2015.

23 ACE New York is a membership based
24 organization and our members are clean energy
25 companies including those that will be seeking

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2 permits from the new office of renewable energy
3 siting as well as consultants and engineers engaged
4 in clean energy, other clean energy companies,
5 environmental organizations and labor organizations.
6 ACE's -- ACE New York's mission is to promote
7 renewable energy and energy efficiency in New York
8 State.

9 ACE has testified at several of the
10 ORES hearings so I will be -- I'll be brief and I'll
11 just make a few points. First, the reforms that
12 Governor Cuomo and the legislature agreed to last
13 April and the Accelerated Renewable Energy Growth of
14 Community Benefit Act couldn't have been more timely
15 or more necessary. In the wake of the passage of the
16 Climate Leadership and Community Protection Act or
17 C.L.C.P.A., the governor and the legislature
18 recognized immediately that the climate and renewal -
19 - renewable energy targets in the C.L.C.P.A. simply
20 could not be met. The permitting process for siting
21 large scale renewable projects took 5 to 10 years and
22 that's how long it was taking under the former
23 Article 10 process.

24 That Article 10 process has now been
25 replaced by that 94C process. It -- it was

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2 cumbersome for developers, local governments and
3 residents of the affected communities. The new
4 siting law in the proposed regulations make the
5 expectations and conditions for permit approval clear
6 and well known early in the process and provide for
7 local input to ensure that local requirements and
8 conditions are factored in. Like the Article 10
9 process before it, the Article 94C process only
10 allows local requirements to be overridden if they
11 are, quote, unreasonably burdensome.

12 And despite claims to the contrary,
13 eminent domain cannot be used to site a renewable
14 energy facility. Overall the new law, excuse me, and
15 proposed regulations establish a reasonable balance
16 between achieving the state's renewable energy
17 standards, protecting the environment and giving
18 local communities the opportunity to influence and
19 shape the siting of permitting -- siting and
20 permitting of renewable energy facilities.

21 Like Article 10, the new siting law
22 provides ample opportunity for local governments and
23 community residents to participate in the process.
24 Developers must engage affected communities in
25 advance of submitting a project application to the

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2 new ORES and once again prior to commencing
3 construction. Communities will be provided funds to
4 hire expert to review the applications and they will
5 be provided a draft permit early in the process so
6 they can provide ORES input and determine if the
7 application is consistent with local requirements.

8 In short, the role for -- for
9 municipalities is quite similar to the role in
10 Article 10 but the 94C process is more
11 straightforward and simpler. And the proposed
12 regulations spell out detailed standard operating
13 conditions developed in consultation with D.P.S. and
14 my former agency, D.E.C. that help ensure
15 environmental protection.

16 I do want to raise awareness of the
17 long list of work windows included in these
18 regulations and ask ORES to carefully think about the
19 context of New York wanting and needing wind and
20 solar project construction to move forward in a -- in
21 order for us to meet its clean air and clean energy
22 goals as well as to create construction jobs and
23 permanent jobs.

24 For example, there are restrictive
25 work windows laid out in the uniform standards and

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2 conditions for tree removal near bald eagle habitat
3 which wouldn't be allowed from January 1st through
4 September 30th. For grassland bird breeding habitat
5 allowed only August through April. For grassland
6 bird wintering habitat only allowed April through
7 November. Tree clearing within five miles of the
8 northern long eared bat hibernaculum only between
9 November 1st and March -- and March 31st.

10 Tree clearing near Indiana bat
11 hibernaculum or roost only November 1st through March
12 31st. In cold streams no work September through May
13 and in warm water fisheries no work March through
14 July. And in amphibian breeding areas, no
15 construction April 1st to June 15th. While
16 individually these --.

17 A.L.J. MORENO: My -- my apologies for
18 interrupting, but I'm going to have to ask you to
19 begin to wrap up.

20 MR. MARTENS: Okay. So while
21 individually these work windows may make sense, taken
22 altogether you can see that they could be
23 unreasonable and unworkable restrictions that could
24 make construction difficult if not impossible. And I
25 just want to make sure you -- we're not a -- you

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2 understand that we're not specifically objecting to
3 any one of these, but we do request that ORES
4 incorporates some flexibility in the individual
5 decision making and the process.

6 We do plan on submitting written
7 testimony with detailed suggestions for improvements
8 which -- but I -- on the whole, we strongly support
9 the standard operating conditions. And we also
10 appreciate the enormous effort that went into the
11 preparation of these regulations, the substantial
12 effort you made to engage the public and respond to
13 questions and your determination to accelerate New
14 York's march to a clean energy future. Thank you
15 very much.

16 A.L.J. MORENO: Thank you very much,
17 Mr. Martens. And if I could ask you to please lower
18 your hand I would appreciate it. And to do that --
19 thank you very much. Our next speaker is John Rath,
20 R-A-T-H. And, Mr. Rath, if you have called in please
21 press Star 3 on your phone so that might identify you
22 and unmute your line.

23 All right. We'll circle back. Our
24 next speaker then is June Summers. And, Ms. Summers,
25 your line has been unmuted.

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2 MS. SUMMERS: Yes, can you hear me?

3 A.L.J. MORENO: We can thank you.

4 MS. SUMMERS: Excellent. I'm June
5 Summers, president of Genesee Valley Audubon Society
6 and thank you for allowing me to speak. Genesee
7 Valley Audubon supports the development of
8 responsibly sited renewable energy facilities and
9 other infrastructure. We do not want to see
10 expedited renewable energy projects at the expense of
11 other -- of our environment and birds. Proper --
12 proper studies before siting can avoid environmental
13 and -- environmental and wildlife damage.

14 The preapplication and uniform
15 standards and conditions both lay out procedures and
16 specific requirements for avoiding and minimizing
17 impacts to endangered and threatened grassland birds.
18 There should be a baseline consideration and actions
19 that applicants are required to take regardless of
20 whether the actions affect threatened and endangered
21 species.

22 Each applicant should be required to
23 use appropriate best management practices to decrease
24 the adverse impacts caused by the project including
25 New York State D.E.C.'s best management practices for

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2 grassland birds, the 2016 guidelines for conducting
3 bird and bat studies at commercial wind projects.
4 And the U.S. Fish and Wildlife Service Land Based
5 Wind Energy Guidelines among others.

6 Thank you for the -- the attention
7 paid to threatened and grass -- and endangered
8 grassland bird species in both the draft regulations
9 and uniform standards and conditions. Grassland bird
10 populations, which are paid little attention to in
11 both documents, are rapidly declining and making it a
12 more critical to protect the places where they are
13 currently found. Because of their declining
14 populations, the office should require applicants to
15 avoid grassland bird nesting areas, particularly in
16 the D.E.C.'s grassland bird focus areas.

17 We believe that additional effort
18 needs to be made to avoid or dis-incentivize these
19 areas for the development of renewable energy
20 development. Let's see there is no -- there are no
21 provisions in these documents for monitoring bird
22 mortality at the -- at renewable energy facilities
23 post construction. This needs to be done so that the
24 -- the developers can adjust -- make adjustments
25 afterwards. The mitigation ratio should -- should be

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2 changed and we suggest that you use the D.E.C.'s
3 guideline mentioned in the 2016 guidelines of for
4 conducting bird and bat studies at commercial wind
5 projects of three to one.

6 Three acres of replacement habitat for
7 every one taken. Thank you for this opportunity to
8 speak and we do support, as we said, responsibly
9 sited environment or responsibly sited renewable
10 energy. Thank you.

11 A.L.J. MORENO: Thank you very much.

12 And our next speaker is Richard Halas.

13 MR. HALAS: Hello. Can you hear me?

14 A.L.J. MORENO: Yes. Yes, we can.

15 Thank you.

16 MR. HALAS: This is Richard Halas. I
17 formerly live near the former N.R.G. plant that's a
18 coal burning plant. And I'm aware of the problems
19 that the entire area was facing due to the plant
20 closing down. So I'd like to focus just on a few
21 specifics regarding the decommissioning and site
22 restoration plan that's including in this.

23 Section 902.24 Exhibit 23 that
24 outlines what needs to be done. And it says in the
25 notes in there or after the useful life of the

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2 facility to be identified. For example, if it was 10
3 years, 20 years whatever. This plan should also --
4 this is my comment. This plan should also include
5 obsolescence if they become inoperable, if there's a
6 catastrophic event, et cetera, et cetera. Needs to
7 be expanded. Okay.

8 Under that section under C it is
9 referring to the gross and net decommissioning cost
10 which deals with obtaining an estimate to ensure
11 adequate funding will be available. Getting back to
12 my opening where N.R.G., there's no funding
13 available. That plants sitting right -- it's --
14 it's, you know, it's a hazard -- environmental hazard
15 et cetera. Everyone knows about it. They can't do
16 anything because it will cost tens of millions of
17 dollars to clean it up.

18 So my question for this particular
19 portion is who's going to come up with the estimate?
20 Is the state going to come up with the estimate? Is
21 the state going to cover any shortfalls of funding at
22 the end because this is an estimate? Why is the net
23 amount allocated between cities, towns and villages?
24 Shouldn't the owners of the projects be responsible
25 for any cleanup or mitigation?

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2 Why push the responsibility on the
3 municipalities? Most of them are not equipped to
4 implement the actions outlined in what needs to be
5 done to clean it up. I'm going to move on to the
6 decommissioning section. Nine hundred dash six point
7 six and it has -- it refers to the guaranteeing of
8 funds. And it -- it says shall be in the form of a
9 letter credit or other financial assurance approved
10 by the office.

11 Here's my question. Any form of
12 funding should end -- would require annual review and
13 analysis of the financial stability and the value of
14 the underlying assets. Who's going to be responsible
15 for these timely assessment of these assets?
16 Shouldn't the state be responsible? You're not going
17 to push this on municipalities and say okay these
18 windmills 10 years from now are worth this much.
19 These are the underlying assets for this letter. How
20 -- you know, that -- that seemed very impractical.
21 What are the legal remedies if the permittee, the
22 company that owns these it falls on payments or
23 issuing funding guarantee instruments is denied?
24 Once again, these payments are going
25 to be made every year and we seen a couple

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2 bankruptcies so far. We seen a default of payment,
3 et cetera. So, you know, I think that really needs
4 to be addressed especially considering there's
5 numerous small L.O.C.s being spun off, taking
6 advantage of this opportunity and they're, you know,
7 they're more or less startup companies and I don't
8 understand how -- how they're going to have future
9 funding available. Okay. Under Section 906.5
10 facilitate --.

11 A.L.J. MORENO: Mr. Halas, I apologize
12 for interrupting but we've gone over the three
13 minutes. Could you please begin to wrap up?

14 MR. HALAS: Sure.

15 A.L.J. MORENO: Thank you.

16 MR. HALAS: One more item. It has
17 about catastrophic incidents. They should notify the
18 office -- your office, okay. Should they also notify
19 all federal authorities and -- and local authorities,
20 for example, the D.E.C., the municipalities and
21 everyone else? I think that that needs to be more
22 specific in there. And finally the eminent domain is
23 very opaque. It needs clarification. Thank you very
24 much for your opportunity or my opportunity to speak.
25

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2 A.L.J. MORENO: Thank you very much,
3 Mr. Halas. And if I could ask you to please lower
4 your hand I'd appreciate it. And our next speaker is
5 Kate Kremer. And you have been unmuted.

6 MS. KREMER: Can you hear me?

7 A.L.J. MORENO: Yes, I can.

8 MS. KREMER: Okay. So my name is Kate
9 Kremer and I am vice president of Save Ontario
10 Shores. Our group is currently a party to two
11 Article 10 industrial wind projects located in Olean
12 and Niagara Counties. Our group has actively
13 participated in these Article 10 projects, and so we
14 were able to review the draft regulations with an
15 understanding of the prior process that is being
16 replaced.

17 I wanted to speak for a moment today
18 about one of the high impact aspects of industrial
19 projects which is the 24/7 noise that they will
20 produce in quiet rural areas. Particularly the noise
21 produced at night. People who live in rural areas
22 have an expectation, because they have an experience
23 of natural sounds and not industrial noises all
24 through the day and into the night. The following is
25 an excerpt from a summary portion of the technical

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2 report on the draft regulations that was prepared by
3 Rob Rand at Rand Acoustics. And S.O.S. will be
4 submitting this full report later in the week.

5 But from -- from his summary I would
6 just like to state, the proposed numerical standard
7 in 900 subpart 6.5A1I at 35 L.E.Q. 1 hour, as the
8 project design goal will not protect people from
9 adverse health effects of unwanted sound. A 45
10 D.B.A. limit is appropriate for louder residential
11 urban areas. However, it is unreasonably high for
12 quiet rural areas and breaches ANSI and ISO standards
13 for rural land use compatibility.

14 He goes on to say that criteria to
15 protect people from unwanted, harmful and intrusive
16 industrial sound in quiet rural areas should fall
17 between 33 and 38 D.B.A. L.E.Q. 1 hour. Now there
18 are some that claim without evidence that noise
19 standards that protect residents will not enable
20 industrial projects to be built. However, Mr. Rand
21 indicates otherwise and he states, Germany now
22 produces over 100,000 gigawatt hours per year with
23 wind turbines that have a 35 D.B.A. night noise limit
24 in quiet areas. This criterion has proven feasible
25

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2 in rural Germany. If Germany can be successful using
3 this criterion then so can New York.

4 ORES has been functioning -- the ORES
5 office has been functioning for less than six months,
6 and our organization, Save Ontario Shores, we have
7 experienced disappointment with the failures of this
8 office in -- in a number of respects. We've had e-
9 mails that are being responded to with formatted
10 responses that do not address the issues that were in
11 the e-mail. And we have been told that unlike the
12 document website at the Department of Public Service,
13 people who want information on these projects are
14 going to need to use the extremely slow Freedom of
15 Information Act process.

16 Given the rapid pace that -- of the
17 ORES siting process that is anticipated and the
18 advances of website information generally, the
19 failure to have a single publicly accessible location
20 for all project documents is surprising and shows
21 that faster siting, according to ORES, is also
22 including less access and very little transparency.
23 And -- and for local residents who are trying to
24 engage in these projects, it's unacceptable.

25

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2 The speed with which these regulations
3 were drafted, it -- it took only about three months
4 from the time that the deputy director was hired to
5 when these regulations were posted in September. It
6 did not include consultation with citizens groups or
7 local environmental groups and the rural
8 municipalities that have been impacted by recently
9 built projects and those who are currently being
10 impacted by these -- and will be impacted by these
11 rapid siting regulations. So Save Ontario Shores
12 will submit substantial comments later in the week to
13 follow up these -- these comments. Thank you.

14 A.L.J. MORENO: Thank you very much.
15 And our next speaker is Kathleen McCarthy. And, Ms.
16 McCarthy, your line has been unmuted.

17 MS. MCCARTHY: Okay. Thank you. I
18 assume you can hear me.

19 A.L.J. MORENO: Yes, I can. Thank
20 you.

21 MS. MCCARTHY: Wonderful. Thank you
22 for allowing me to testify. My name is Kathleen
23 McCarthy. I work as a restoration ecologist and
24 practitioner. I restore degraded natural areas such
25 as wetlands and forests in New York City's five

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2 boroughs. I fully support the Office of Renewable
3 Energy Siting and the Draft Uniform Standards and
4 Conditions. I've read all the documents and I'm
5 proud of the effort New York State has made to ensure
6 the conservation of natural areas, wildlife and
7 valuable agricultural soils are addressed in the
8 draft uniform standards and conditions.

9 We are experiencing the impacts of
10 climate change now. It is no longer a vague risk and
11 an unknown future. New York is already experiencing
12 more rain and snow in the winter and less in the
13 summer which puts our agricultural industry at risk
14 in addition to impacting our wildlife and our
15 forests. Increased precipitation is expected to
16 continue in the winter with more frequent storm
17 events and heavier downpours which will increase
18 flooding causing loss of soils, property and lives.

19 As science is telling us, we are on
20 our way to the worst case scenarios with multiple
21 devastating impacts and the time is of the essence.
22 It's crucial that New York State implement these
23 standards and remove unreasonable impediments to
24 building large scale renewable energy. It is also
25 imperative to reduce the time it takes to permit a

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2 project so that we can reduce the risks of climate
3 change as quickly as possible.

4 The standards and conditions do both
5 of these things and still preserves input from all
6 stakeholders which is an additional reason for my
7 support. Clearly this is just one piece of a
8 comprehensive renewable energy plan, but it's a very
9 important one which is why I do put my support behind
10 these regulations. I have read them all and I do
11 appreciate the issues that have been brought up by
12 other people that are making statements, the issues
13 around decommissioning, the issues around sound
14 levels and the easy access to the -- to documents.

15 But it is important that we push these
16 -- this industry forward. It's way too late to say
17 we can't build anything anywhere because of one small
18 issue. Scaling up renewable -- scaling up the
19 renewable energy industry in our state will produce
20 income for New Yorkers not only private land owners
21 but environmental consultants, designers, engineers,
22 construction workers and hopefully manufacturing. It
23 will also provide much needed local tax revenue. And
24 for me seeing the site of a wind farm is very
25 beautiful and it represents our commitment to work to

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2 creatively to solve this crisis. Thank you for your
3 attention.

4 A.L.J. MORENO: Thank you very much.
5 And we did have another Kathleen McCarthy registered.
6 Can I ask while you're still unmuted --?

7 MS. MCCARTHY: Yeah, I made a mistake
8 and -- and registered twice.

9 A.L.J. MORENO: Okay. Okay. Thank
10 you very much. I just wanted to make sure.

11 MS. MCCARTHY: Okay.

12 A.L.J. MORENO: Thank you. And our
13 next speaker is Laurie Aron.

14 MS. ARON: Hello.

15 A.L.J. MORENO: Hi. You have been
16 unmuted.

17 MS. ARON: Okay. I'm glad to have the
18 opportunity to speak to everybody and to the state to
19 express my views about the urgent need to switch to
20 all renewable power and stop burning fossil fuels.
21 And also to activate the office of renewable siting
22 with regulations that will speak the development of
23 clean energy projects.

24 This is a very personal statement.
25 I'm terrified of climate change and the fact that

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2 burning fossil fuels contributes so heavily to it and
3 the social, economic and human costs that are already
4 arising. Renewable power can, as we know now,
5 familiar with this expression flatten the curve
6 toward climate disaster. I live in New York City so
7 I take climate change quite personally. Global
8 warning makes hurricanes more frequent, a record 29
9 this year, slower, wetter and more destructive.

10 However, we got off lightly this year.
11 Lucky for us we'll still suffering the effects of
12 Super Storm Sandy eight years ago this month. Sandy
13 flooded all the low lying parts of New York isolating
14 people without power in high rise public housing in
15 the Rockaways, knocking out electricity and telephone
16 service and the subway from the tip of Manhattan to
17 23rd Street. And it kicks -- has kicked off a
18 planned retreat from areas in Staten Island and
19 Queens where houses are still being torn down because
20 of flooding and people are being -- having to be
21 moved from their neighborhoods.

22 As long as we keep burning fossil
23 fuels, flooding is only going to get worse.
24 Scientists project that the city is facing a six foot
25 sea level rise by 2100. That's within the lifetime

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2 of babies being born today. Not to be alarmist, but
3 the entire east coast could become uninhabitable.
4 Ironically, I read recently that the northeast is
5 also increasingly subject to forest fires because of
6 global warming induced drought conditions. The New
7 Jersey Pine Barrens have already burned.

8 I don't want to be apocalyptic but
9 there's reason for it. Fire and flood isn't our
10 future alone. That already happened. Renewable
11 power is the answer. We will be able to run the
12 power grid on 100 percent renewable power. I support
13 the rapid transition to renewable power and an
14 efficient, speedy office of renewable energy siting
15 is the best way to make that happen. Thank you.

16 A.L.J. MORENO: Thank you very much.
17 And our next speaker is Linda Isaacson Fedele. And
18 you have been unmuted.

19 MS. ISAACSON FEDELE: Yes, this is
20 Linda Isaacson Fedele. Can you hear me?

21 A.L.J. MORENO: I can. Thank you.

22 MS. ISAACSON FEDELE: Great. So first
23 a huge thank you to the many New York State
24 employees, contractors and consultants who have
25 encouraged and enabled our state to be the nation's

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2 leader in the transition from fossil fuels to
3 renewable energy through legislation and regulations.
4 Our goal of 100 percent electric supply from
5 renewable energy by 2040 is something I'm very proud
6 of especially compared to other states any inaction
7 or even backwards action at the federal level.

8 So I'm proud but I'm also scared. I'm
9 the board chair of Climate Solutions Accelerator of
10 the Genesee Finger Lakes Region. I came to this work
11 because of fear. Never before have I been so afraid
12 for our future in so many ways. Our health, safety
13 and ability to have our most basic needs met have
14 never been so poor in my lifetime. I stay up at
15 night worrying about an endless list of concerns.
16 The pandemic, nuclear war, systemic racism, the
17 escalating tensions between red and blue and the
18 growing disparity between the haves and have nots in
19 our country.

20 And I worry most about climate change.
21 Even though climate change may seem to some like a
22 much more distant threat than these other things, it
23 is different in one way. It's actually simpler.
24 There are fewer unknowns. There isn't the ambiguity
25 that's present when we're dealing only with how minds

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2 work. People are unpredictable but the laws of
3 nature are not. We know that if we do nothing we'll
4 suffer effects that will threaten life on earth. We
5 already are.

6 We absolutely know that the time
7 window for action is slipping by so we need to act in
8 biggest bang for the buck ways in addition to small,
9 one at a time ways. So let's ramp up clean emission
10 free energy in a big way while also providing
11 benefits for host communities and everyone in our
12 state.

13 I strongly support the Office of
14 Renewable Energy Siting in establishing standards for
15 large scale solar and wind installations. Speeding
16 up the approval process from 5 to 10 years to 1 year
17 is a move from ridiculous to slow but reasonable. I
18 understand that in the past communities have been
19 taken advantage of by large scale renewable energy
20 developers. We can't let that happen anymore. ORES
21 must make siting decisions in an open and transparent
22 way. It must give every potential host community a
23 voice to a well-publicized process, and encourage and
24 enable community benefit agreements as well as local
25 and preferably unionized hiring.

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2 Each of these projects represents
3 hundreds of family wage jobs. Our state's renewable
4 energy goals make me proud and give me hope. I hope
5 we don't let those goals remain just good ideas. We
6 need to install biggest bang for the buck renewables
7 as soon as possible while making sure that those
8 bucks stay in New York State rather than going to
9 Canada or other states for imported energy.

10 I came to this work because of fear,
11 but I now know, as we all do, that we certainly can
12 reduce emissions with additional, immediate benefits
13 for all. Let's do it. Thanks for listening to
14 public input. I really do appreciate this
15 opportunity.

16 A.L.J. MORENO: Thank you very much.

17 MS. ISAACSON FEDELE: Thank you.

18 A.L.J. MORENO: And our next speaker
19 will be Lisa Harrison. Ms. Harrison, your line has
20 been unmuted.

21 MS. HARRISON: Great. Thank you. My
22 name is Lisa Harrison. I live in Manhattan but I was
23 born and raised in Pennsylvania where for over a
24 decade fracking has been devastating communities and
25 polluting the air and water. I was ecstatic when

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2 Governor Cuomo banned fracking in New York and really
3 saw it as a turning point. And instead of
4 progressively transitioning to renewable energy, new
5 and expand frack gas pipelines began snaking their
6 way from Pennsylvania into every corner of New York
7 State emitting greenhouse gases and contaminating our
8 air and water along the way.

9 We know that nothing is more potent
10 greenhouse gas than CO2 for its first 20 years in the
11 atmosphere. If only three percent leaks during its
12 life cycle from drilling to burning, it becomes worse
13 for the climate than coal. And in addition to
14 unintended leaks, gas pipelines have compressor
15 stations along the route which intentionally vent the
16 gas on a regular basis.

17 We are only beginning to see the
18 storms, wild fires, mass extinctions, epidemics and
19 climate refugees that scientists predicted over 30
20 years ago. People worldwide know that fossil fuel
21 extraction, transmission and combustion are killing
22 our planet. New York has passed promising climate
23 legislation. An implementation of the stated goals
24 has been painfully slow. This is not due to lack of
25 knowledge or technological ability. It's largely due

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2 to the excessive influence of the fossil fuel
3 industry that wants to continue business as usual.

4 Armies of lobbyists perpetuate the
5 myth that gas is a bridge fuel and renewables are too
6 expensive. If gas is not a bridge and fossil fuel is
7 not economical, considering the subsidies, bailouts
8 and tax breaks that we all pay for, health impacts of
9 pollution and the far reaching devastation caused by
10 climate breakdown, we can no longer afford business
11 as usual. We need a new business.

12 Instead of subsidizing polluters, we
13 should be investing in energy efficiency and large
14 scale development of wind and solar power. Since the
15 fracking ban, we've managed to build miles of dirty
16 gas pipelines and not one large scale renewable
17 energy project. My building which is a -- a coop in
18 New York City is in the process of retrofitting our
19 oil fired boiler with air source heat pumps.

20 The problem, however, is that the
21 electricity to run them is still heavily based in
22 fossil fuel. Expanding energy efficiency and
23 developing our local renewable energy industry would
24 create thousands of local jobs, many more than fossil
25 fuel, boost the economy and provide clean energy for

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2 a living planet. We need to move quickly on large
3 scale renewable energy development because we don't
4 have time to waste. Thank you so much.

5 A.L.J. MORENO: Thank you very much.
6 And our next speaker is Melanie La Rosa. And, Ms. La
7 Rosa, if you have called in if you could please press
8 Star 3 on your telephone so that we could identify
9 you. Okay. I do not see Ms. La Rosa. We will
10 circle back with her.

11 Our next speaker is Pamela Atwater.
12 And Ms. Atwater your line has been unmuted.

13 MS. ATWATER: Okay. Can you hear me?

14 A.L.J. MORENO: I can. Thank you.

15 MS. ATWATER: Okay. So I'm Pam
16 Atwater from Barker, New York. President of Save
17 Ontario Shores, a citizens group that was formed in
18 January 2015 in opposition to Apex's Lighthouse wind
19 project. I just want to say on a personal note, at
20 our home we have geothermal system and solar panels
21 and are producing our -- our entire energy needs
22 onsite. But I have been very involved with fighting
23 this particular project that's proposed to be sited
24 in the Towns of Yates and Somerset along the southern
25 shore of Lake Ontario.

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2 We have been active participants, as
3 Kate Kremer mentioned that she's involved with the
4 same group, in the Article 10 process. And we've
5 spent countless hours since February examining
6 various components of the move to replace Article 10
7 with Section 94C and the establishment of the Office
8 of Renewable Energy Siting. We've engaged experts as
9 well as members of our group to review and comment on
10 various portions of the draft regulations and will be
11 submitting nearly 100 pages of comments in multiple
12 submissions this week.

13 One of the experts, Karen Schneller
14 McDonald [phonetic spelling] of Hickory Creek
15 Consulting made the following statements and I quote.
16 The proposed regulations do not reflect an
17 understanding of environmental science and now
18 conventional methods to review and mitigate
19 environmental impacts. Many sections read like they
20 were written by someone with little or no
21 understanding or experience with wetland science,
22 watershed management, ecology and best practices for
23 stream protection. This does not serve the best
24 interest of the people of New York State and
25 protection of our water resources.

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2 She also said and I quote,
3 contribution to the endangered and threatened species
4 mitigation bank fund is being offered as a shortcut
5 allowing the applicant to buy the right to destroy
6 critical habitat with no guarantees that it can or
7 will be replaced anywhere near the habitat lost.
8 This is not how species protection works. And it's
9 obviously designed for applicant convenience rather
10 than for actual wildlife protection.

11 Third quote is, throughout these
12 standards, biologic reviews are referred to New York
13 State Department of Public Service and ORES rather
14 than to biologists and a D.E.C. professional staff.
15 This raises the likelihood of decisions that will
16 affect species and their habitat being made to
17 facilitate project review and construction rather
18 than to actually protect the species. This is not in
19 the public interest and flouts all of our existing
20 state and federal regulations that protect these
21 species. It is reasonable to expect that this is
22 corrected, end quote.

23 Gary Abraham, our counsel and
24 environmental attorney includes in our comments an
25 introductory statement called the need for balance.

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2 In it he states that Invenergy's Alle-Catt wind
3 project is, quote, anticipated to kill 41 bald eagles
4 and 26,000 to 39,500 bats including now the northern
5 long eared bat now on the verge of extinction and
6 remove 15 ... acres of interior forest. So one has
7 to wonder what New York State will look like if
8 projects go through with little or no science based
9 analysis of the impacts. There's been a lot of
10 criticism regarding the rejection of science at the
11 federal level, and it appears that New York State is
12 following suit. Thank you for allowing me to speak.

13 A.L.J. MORENO: Thank you very much,
14 and if I could ask you to please lower your hand.
15 Thank you very much. And our next speaker is Paul
16 Michaelec. My apologies with your pronunciation. M-
17 I-C-H-A-L-E-C. And I believe your line has now been
18 unmuted. And you may have to unmute your personal
19 device if you're using your computer. We can't --
20 there we go.

21 MR. MICHAEELEC: Hi. This is Paul
22 Michaelec. I am the chairman of the Town of Evans
23 Conservation Advisory Commission. And I have two
24 quick points to make regarding the siting law that
25 has been passed. The -- the first point is it's

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2 apparent that this siting law was born out of the
3 Climate Leadership and Community Protection Act that
4 was passed in 2019. And important to that law is a
5 just transition which many groups have been pushing
6 for in New York State. And part of a just transition
7 speaks to communities having control of the resources
8 that are in their communities.

9 What I find impossible to achieve is
10 in the siting law it speaks of environmental justice
11 areas which are economically disadvantaged minority
12 or low-income communities will have a greater say in
13 protection on these types of developments in their
14 areas. Now when we look to the countryside and the
15 rural parts of western New York but Upstate New York
16 where many of these projects are being sited, I'm not
17 exactly sure how one can square this law with the
18 Climate Action Committee and the Climate Justice
19 Working Group move to -- to developing the outline
20 for what is an environmental justice area.

21 If we are to be protected in the rural
22 countryside, the poor communities to have a stronger
23 say, it's going to be -- it's going to -- it's going
24 to run up against the state's plans for siting these
25 large scale renewable energy systems. And that's a

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2 problem. And -- and the way that the state is
3 moving, I believe to site the systems to fight
4 climate change is -- is going to cause an economic
5 impact for the small rural communities of upstate and
6 western New York.

7 And, secondly, inside the law there is
8 -- there is little to no mention of conservation.
9 And nobody is speaking about conservation. I'm not
10 talking about conservation of land or species. I'm
11 talking about conservation of -- of energy in and of
12 itself. You know, we -- we look at renewable energy
13 as being free because it comes from the sun or it
14 comes from the wind. But that only gives -- gives
15 way to people being able to use as much as they want
16 and we're not talking at all about finding ways to
17 conserve energy in New York State.

18 And we need to do that by looking at
19 our grid system and how that is wasteful because it's
20 old. And nothing in this law is speaking to that.
21 Speaking of transmission lines and how energy is
22 moved across the state. We're not talking about
23 that. So people want to see large scale energy
24 systems be built, solar panels and wind farms but not
25 speaking about how it's going to get to where it has

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2 to go and who that's going to impact. I guess our
3 goal is, by the state's view, is build these things
4 as fast as you can and we'll worry about that at the
5 back end.

6 But for the small communities in
7 western New York and upstate New York, central New
8 York, Catskills, the Adirondacks, northern New York
9 State, we're the ones who are going to feel the
10 impact of this not knowing exactly where this energy
11 is being determined to go but we all have an idea
12 that it's going to end up trying to get its way down
13 to New York City. So thank you for your time and
14 I'll be submitting further comments and more detail
15 by December 7th.

16 A.L.J. MORENO: Thank you very much.
17 And our next speaker is Richard Grover. And, Mr.
18 Grover, your line has been unmuted.

19 MR. GROVER: Okay. Thank you. You
20 hearing me?

21 A.L.J. MORENO: Yes, I can. Thank
22 you.

23 MR. GROVER: Okay. Good evening. I
24 am Richard Grover, a 50 year resident of St. Lawrence
25 County now residing in the Village of Canton. That's

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2 in the North Country. In the 1970s I served as
3 director of county planning and authorized the
4 counties' comprehensive land use plan. I am
5 favorable towards renewable energy. I live in a
6 solarized home with a car charging station that fuels
7 our 100 percent electric primary vehicle. It's the
8 wave of the future and the future is now.

9 But industrial scale renewable energy
10 is a horse of another color, as my father would say.
11 Industrial scale projects have the potential of being
12 ecological monstrosities which is why we enact laws
13 to regulate them. For many rural people the idea of
14 accelerating their development is very scary. So I
15 am dismayed that the state has chosen to fast track
16 permitting at the expense of citizen participation
17 and local involvement.

18 Local input is essential to ensure
19 that the projects we build achieve our goals without
20 devastating impacts on our rural culture and our
21 wondrous natural environment. Scale, location and
22 design matter. On April 20 Governor Cuomo in his
23 daily Corona virus report said, and I quote, we need
24 to learn from this crisis and take this opportunity
25

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2 to work on a future that reimagines New York and
3 sited better use of technology as a means.

4 Well, this is certainly the time and
5 place to develop the best energy facilities and
6 systems we can imagine. To my mind, that would mean
7 acknowledging the ecological crisis with aggressive
8 energy conservation and building a diverse mix of
9 solar projects serving homes and small businesses.
10 Community solar on already disturbed lands and
11 serving -- and painstakingly designed larger projects
12 on carefully selected agricultural lands.

13 I am particularly concerned with
14 ecological issues, and my concern goes beyond
15 mitigating impacts on threatened and in dire ...
16 endangered species. We're in the midst of a global
17 ecological crisis and many other species deserve
18 protection too. A restructured project review
19 process for local communities may be needed, one that
20 facilitates participation of ecologically informed
21 citizen -- citizens. Again, quoting the governor's
22 April 20 message, and I quote, let's gather the best
23 experts and make sure we don't waste the opportunity
24 to build back better.

25

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2 Well, in fact, some of our best
3 experts are local citizens familiar with the area and
4 its environment. In summary, conserve. Be
5 comprehensive. Location and design matter. Protect
6 all living things and keep rural New York forever
7 rural. Thank you.

8 A.L.J. MORENO: Thank you very much.
9 And our next speaker is Roderic Rolett.

10 MR. ROLETT: Can you hear me?

11 A.L.J. MORENO: I can now. Thank you.

12 MR. ROLETT: Yes, thank you for the
13 opportunity. My name is Roderic Rolett. I 'm a
14 resident of New Rochelle, New York and a father and a
15 grandfather and an active volunteer in several
16 nonprofits. And also a member of the natural
17 resources defense council.

18 I support the proposed regulations as
19 they're written. They promise to help improve the
20 health of our communities and our economy and our
21 individual physical health. I'm a -- I am a
22 enthusiastic supporter of New York State's clean
23 energy and climate goals, and to accomplish those
24 goals, we do need to achieve the timely approval of
25 major renewable energy projects. So I support the

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2 streamlined and expedited approach of siting major
3 renewable energy projects in order to achieve these
4 clean energy and climate goals.

5 So once again, I do support the
6 regulation -- proposed regulations as written. And
7 thank you very much for the opportunity to speak.

8 A.L.J. MORENO: Thank you very much,
9 sir. And our next speaker is Roger Cook. And, Mr.
10 Cook if you have called in if you could please press
11 Star 3 on your phone so that we can identify you that
12 would be appreciated. I do not see Mr. Cook. We
13 will circle back. Our next speaker is Sara Schultz.
14 And, Ms. Schultz, if you have called in if you could
15 kindly press Star 3 on your phone so that we might
16 identify you and unmute your line.

17 Okay. We will circle back with Ms.
18 Schultz. Our next speaker is Sophie House. And Ms.
19 House I believe has called in and your line has been
20 unmuted. If your telephone is also muted you will
21 need to unmute that.

22 MS. HOUSE: Hi, Judge. Are you able
23 to hear me now?

24 A.L.J. MORENO: I am, yes. Could you
25 please start by saying your name please?

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2 MS. HOUSE: Thank you so much. I
3 will. I'm getting things. My name is Sophie House
4 and I'm an attorney and a member of the Sierra Club.
5 I'm here to testify in support of the proposed
6 regulations which are crucial to meeting the climate
7 leadership and community protection act for the ...
8 for greenhouse gas reductions and new -- renewable
9 energy production in New York State.

10 In particular, the C.L.C.P.A.
11 convinced New York to reaching net zero greenhouse
12 gas emissions requiring 40 percent emissions
13 reduction by -- from 1990 levels by 2030 and 85
14 percent emissions reductions by 2050. The C.L.C.P.A.
15 also requires that 9,000 megawatts of offshore winds
16 be installed to serve New Yorkers by 2035 and 6,000
17 megawatts of solar energy likewise be installed by
18 2025. These ... are vital to combating climate
19 change and making New York a climate leader, but we
20 will not reach them without significantly increasing
21 the rate of which renewable energy projects are
22 sited.

23 The new office of renewable energy
24 siting gives community clear and transparent ways to
25 evaluate projects and participate in the siting

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2 process while allowing New York State to ramp up wind
3 and solar energy quickly and at the scale needed to
4 address the climate crisis. Quick finalization of
5 the proposed regulations is an important step in this
6 direction. Thank you for your time and for the
7 opportunity to testify.

8 A.L.J. MORENO: Thank you very much.
9 And our next speaker is Stephanie Doba. And, Ms.
10 Doba, your line has been unmuted.

11 MS. DOBA: Yes, thank you. Can you
12 hear me?

13 A.L.J. MORENO: Yes, I can. Thank
14 you.

15 MS. DOBA: Okay. Thank you for the
16 opportunity to testify. My name is Stephanie Doba.
17 I take climate -- the climate crisis very seriously
18 and personally. I put solar panels on my roof and I
19 bought an electric car and I volunteer as a climate
20 activist with the Sierra Club. It's satisfying and
21 reassuring to do my part, and I take heart when I see
22 wind turbines and solar installations when I travel.

23 I really wish I could see more of them
24 from my own backyard or see any of them from my own
25 backyard. To me, these are beacons of hope. So I

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2 support the processes of the Office of Renewable
3 Energy Siting as the best hope we have for reaching
4 New York's key climate goals by quickly building
5 renewable energy generation.

6 I understand that people fear that
7 solar farms will take over farmland or that wind
8 turbines are eyesores that kill birds. Or that their
9 blades are not recyclable and are noisy. But we got
10 used to telephone poles. We got used to cars. We
11 get used to the engines of our modern life that give
12 us the things that make our civilization so vibrant.
13 I understand the feeling that there must be some
14 better solution out there than wind and solar farms
15 or that renewable energy should be generated
16 somewhere else. But we can't let too many local
17 concerns kill these projects by 1,000 cuts.

18 It's too late for that kind of
19 thinking. Some land will be used for solar farms.
20 Some views will include turbines and even after
21 mitigation strategies, some birds will be killed.
22 There is no free lunch with human impact on the
23 environment. But the long term cost of fossil fuel
24 business as usual will be far, far worse. ...
25 farmland will be impacted by droughts and floods and

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2 far more birds and other creatures on land and sea
3 will die off due to habitat loss caused by climate
4 disruptions. It's already happening.

5 Meanwhile, our national security will
6 be threatened by climate crisis abroad causing
7 agricultural failures, floods and fires, political
8 instability and mass migrations. So we all need to
9 look at the big picture, the long term, the coming
10 decades and centuries and contribute to solving the
11 climate crisis now together. New York is a climate
12 leader. We're smart, we're tough, we're responsible.
13 As we are fighting the COVID crisis together, we need
14 to do the same on climate. We all need to do our
15 parts.

16 The Office of Renewable Energy Siting
17 is our best way forward. We need to let it do its
18 work and give us hope. Thank you.

19 A.L.J. MORENO: Thank you very much.
20 Our next speaker is Victoria Adler. And, Ms. Adler,
21 if you have called in if you could please press Star
22 3 on your phone so that we might identify you. Okay.
23 Well, that includes -- concludes all of the folks who
24 have preregistered. We will circle back now just to
25

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2 see whether any of the folks who were unavailable
3 when we called them are available now.

4 So I will start with Joseph Toninni,
5 T-O-N-I-N-N-I. If you have called in if you could
6 please press Star 3 on your phone. Mr. Toninni?
7 Okay. Our next speaker then would be David Andrian.
8 Mr. Andrian, if you have called in please press Star
9 3 on your phone so that we might identify you. Okay.
10 I believe Mr. Andrian is caller user nine and your
11 line has been unmuted.

12 MR. ANDRIAN: Thank you. Can you hear
13 me?

14 A.L.J. MORENO: Yes, I can. Thank you
15 very much.

16 MR. ANDRIAN: As an aquatic biologist,
17 environmental consultant, lake manager and fishing
18 charter, I am speaking today in opposition to the
19 accelerated renewable energy growth and community
20 benefit act due to its inherent flawed premise and
21 the fact that it is state's devised means of fast
22 tracking these types of projects while bypassing
23 community and stakeholder rights.

24 This act presumes that opportunity is
25 afforded to local communities and stakeholders to

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2 scrutinize and, in fact, reject certain large scale
3 renewable energy projects should be curtailed in
4 favor of fast tracking and, in fact, bypassing those
5 important community rights. If this same standard
6 were applied to other power production projects such
7 as hydroelectric or cleaner nuclear power, the
8 scrutiny would be ironically raised to a level which
9 would make it impossible to complete in a timely
10 fashion if at all.

11 By enticing local communities with tax
12 incentives and promises of reduced utility bills,
13 this act is trading the existence -- the existing
14 comprehensive review process for expedited fast track
15 signoff which will not result in the COVID-19 imposed
16 deficit reductions as promised.

17 Of particular concern is the proposed
18 Diamond Wind -- Industrial Wind Turbine project in
19 eastern Lake Erie. As a stakeholder and citizen of a
20 community opposed to this horrendous abuse of a body
21 of water that has only recently recovered from the
22 ravages of industrial pollution and environmental
23 abuse, I am furious that the notion that my community
24 and all others bordering Lake Erie would not have an
25 opportunity to stop this action because of this act.

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2 While it is justifiably standard
3 protocol to attempt to quantify the biological,
4 chemical and physical impacts of any aquatic project,
5 including the simplest shoreline or harbor
6 improvements, while still be required by this act,
7 would be viewed with a reduced level of scrutiny in
8 favor of this for the good of the state policy. Not
9 unlike eminent domain. Let's be clear, Lake Erie is
10 not eminent domain.

11 Secondary, albeit legitimate concerns
12 such as esthetics and visual impacts to stakeholders
13 including residents and businesses who stand to lose
14 significant property value as a result of these
15 industrial wind turbines are not necessarily
16 quantified in many environmental impact statements.
17 That -- if that's not bad enough, this fast tracking
18 act would all but eliminate the only means of
19 quantifying these important parameters, the community
20 consensus, which is at the very heart of our
21 democracy.

22 Finally, all other infrastructure
23 projects are subject to increasingly more
24 comprehensive review despite being developed for the
25 good of the public. The mere fact that renewable

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2 energy projects have been delayed or abandoned in the
3 past due to local community scrutiny is not an
4 acceptable reason to circumvent the long established
5 tried and true method of public review. As much as
6 this process is despised by developers and advocates,
7 the term not in my backyard has inherent
8 constitutional validity at its base. Thank you.

9 A.L.J. MORENO: Thank you very much.
10 And, Mr. Andrian, if you could please press Star 3
11 again on your phone that will help us find the next
12 caller. And in the same vein, Ms. House, if you're
13 able to press Star 3 on your phone that will also
14 assist us. Thank you.

15 Our next speaker is Alison White.
16 And, Ms. White, if you have called in please press
17 Star 3 on your phone so that we can identify you.
18 Okay. Our next speaker then is Anna Castonguay.
19 And, Ms. Castonguay, if you have called in please
20 press Star 3 on your telephone so that we can
21 identify you and unmute your line.

22 Okay. Our next speaker then is David
23 Alicea. And if you called in please press Star 3 on
24 your telephone so that we might identify you. Okay.
25 Deb Peck Keller -- Kelleher, I'm sorry. And Ms.

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2 Kelleher, Peck Kelleher if you have called in if you
3 could please press Star 3 on your telephone.

4 Okay. Our next speaker would be John
5 Rath. And, Mr. Rath if you have called in please
6 press Star 3 on your phone. Okay. And the next
7 speaker I have listed is Melanie La Rosa. Ms. La
8 Rosa, if you have called in please press Star 3 on
9 your telephone so that we might identify you. Okay.
10 And Roger Cook. Mr. Cook, if you have called in
11 please press Star 3 on your telephone. And lastly I
12 had Sara Schultz. And, Ms. Schultz, if you could
13 press Star 3 we might identify you.

14 Okay. Well, that concludes all of the
15 folks who have preregistered to speak this evening.
16 If there is anyone who is in attendance this evening
17 who has not registered but who would like to speak
18 tonight, you may either raise your hand
19 electronically by pressing the raised hand icon on
20 your screen. Or if you have called in this evening
21 and you would like to make a statement, you could
22 press Star 3 on your telephone and we can then
23 identify you and unmute your line so that you may
24 make a statement.

25

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2 Again, if you have logged in
3 electronically, you're welcome to press the raised
4 hand icon which is next to your name in order to
5 indicate that you would like to speak or if you have
6 called in you can press Star 3 on your telephone and
7 you may make a statement.

8 Okay. I do not see that we have any
9 additional attendees who are interested in making a
10 statement this evening. So with that I will just ask
11 that -- remind everyone who is on the line this
12 evening and members of the public that the Office of
13 Renewable Energy Siting is accepting public comment
14 on the regulations until December 7th, 2020. For
15 those of you who are participating electronically
16 this evening, there is a slide up that provides for
17 the other means in which comments can be submitted.

18 They may be e-mailed to
19 general@ORES.ny.gov. It's G-E-N-E-R-A-L at O-R-E-S
20 dot N.Y. dot Gov. You may send in comments by the
21 mail to the Office of Renewable Energy Siting at 99
22 Washington Avenue, Albany, New York 12231 or you may
23 also enter comments directly into the Office of
24 Renewable Energy Siting website which is at www.ores
25 -- O.R.E.S. dot N.Y. dot Gov backslash regulations.

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2 I do see that while I have been
3 listing these other ways to comment we do have an
4 additional call in user who would like to make a
5 statement so we will unmute that caller's line and
6 I'll just ask you to please state your name and if
7 you're representing an organization, just state the
8 name of the organization. Ms. Odell-Keller were you
9 able to unmute the caller?

10 UNIDENTIFIED SPEAKER: Yes, good
11 evening. Can you hear me clearly?

12 A.L.J. MORENO: Yes, I can. Thank
13 you.

14 UNIDENTIFIED SPEAKER: ... the Climate
15 Rangers and it is our aim to --.

16 A.L.J. MORENO: I'm sorry, sir to
17 interrupt you --

18 UNIDENTIFIED SPEAKER: ...

19 A.L.J. MORENO: I'm sorry, sir. Could
20 you please begin with your name?

21 UNIDENTIFIED SPEAKER: I do know that
22 the governor said that the --

23 A.L.J. MORENO: Excuse me. I'm sorry,
24 sir.

25 UNIDENTIFIED SPEAKER: ...

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2 A.L.J. MORENO: Could you please begin
3 by stating your name so that we have it for the
4 record?

5 UNIDENTIFIED SPEAKER: ... is a
6 reality ... climate science. While it's clear that
7 climate change is a reality and, in fact, is a ... to
8 say climate change because climate is nothing but
9 change and always has been.

10 A.L.J. MORENO: Sir?

11 UNIDENTIFIED SPEAKER: On the fact
12 sheet for the policy there is a reference to the
13 climate action council meeting of March 3rd where Dr.
14 Bradley Horton presented what I think to be the most
15 recent expression of climate science that underlies
16 this whole program. And it's my intention to speak
17 of Dr. Horton that at his convenience I'd certainly
18 like to discuss the slide that he chose to make his
19 points ... because the very first slide, which is the
20 observed change in average surface temperature from
21 1901 to 2012 comes from the I.P.C.C. in 2013, ...
22 intergovernmental panel on climate change which is a
23 completely political organization.

24 There's no science on there. What
25 happens is they do select from the science literature

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2 and then they act on the papers that are chosen. But
3 I don't know that many people are aware that in the
4 year 2013 alone there were 2,500,000 papers
5 published. I did note too that on the organization
6 chart for the council about the 20 members there is
7 not a single scientist in the climate area. But
8 there is room for the executive director of
9 environmental advocates. And it seems to me that
10 before we continue any further with the expenses of
11 infrastructure, the ... infrastructure for solar and
12 for wind we are pretty -- pretty sure that we're ...
13 ourselves on reality.

14 And it is the contention of the
15 Climate Rangers that there are two sides to the
16 story. The climate questions ... it is very clear
17 from satellite observation that the earth is
18 greening. It is our contention that presence of CO2
19 is the reason the earth is green. It's our
20 contention that CO2, the presence of it in the
21 atmosphere is so minor a facet that it isn't worth
22 counting.

23 It is our contention also that there's
24 a political and etiological force behind the movement
25 toward climate change and that is a kind of a thought

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2 that pertains to the world that we need one world
3 government because people who believe that are taking
4 the ... that climate change is such a threat that we
5 must control the whole world because the whole world
6 will be affected.

7 And to do that we must cease an
8 instrument of force and that is to control the carbon
9 dioxide emissions which come from the wonders of the
10 return of use of the natural gas, oil and coal which
11 are naturally sequestered remnants of prior life on
12 the planet. And that had permitted the world to
13 flourish in the last 200 years.

14 So this story is not over. Climate is
15 not ... and it's our contention that people listening
16 to this broadcast take a moment to reconsider how
17 they came to believe what they believe. I would say
18 it's simply because it's in the press and it's
19 everybody does it. And it's just shown that
20 everybody knows it's true and to say otherwise you're
21 a denier. Well, we in the Climate Rangers are not
22 deniers. We're challengers.

23 We welcome the opportunity for a
24 discussion of the facts that are present because if
25 you care to take a look there's a site called

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2 extinctionclock.org which has a scorecard of the
3 predictions that have a ... task of climate problems
4 and -- and great dangers. And none of the
5 predictions have come true. ... is the idea that
6 John Kerry might be appointed as a czar in that area
7 when only a few years ago he proclaimed that right
8 now and in the past two years --

9 A.L.J. MORENO: Sir.

10 UNIDENTIFIED SPEAKER: -- we got word
11 that in a complete disaster in the world ...

12 A.L.J. MORENO: You've gone beyond the
13 -- the three minutes. If I could ask you to wrap up.

14 UNIDENTIFIED SPEAKER: So going
15 forward the climaterangers.blogspot.com is a website
16 where individuals who are interested to come and sign
17 up to join the Climate Rangers. Thank you.

18 A.L.J. MORENO: And, sir, when you
19 were -- the gentleman who spoke at the beginning, if
20 you could please -- Ms. Odell-Keller, if you could
21 unmute that line for a moment, I did not catch your -
22 - your name. If you could please state your name for
23 the record?

24 UNIDENTIFIED SPEAKER: Hello. Are you
25 there?

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2 A.L.J. MORENO: Yes, I am. Did you --
3 could you please state your name for the record, sir?
4 We did not catch that.

5 MS. ODELL-KELLER: Judge Moreno, it
6 looks like he left.

7 A.L.J. LEARY: That call user has
8 disconnected.

9 A.L.J. MORENO: Okay. Thank you.
10 Well, with that, we have no additional individuals
11 who have indicated that they would like to make a
12 statement this evening. As I mentioned before the
13 last speaker, there are some other ways to comment on
14 the draft regulations. Again, I would just remind
15 you to do so by December 7th, 2020. There are, as I
16 mentioned earlier, you may e-mail those comments,
17 send them by mail or submit them directly on the ORES
18 website which again is ORES, O-R-E-S dot N.Y. dot
19 gov.

20 So with that I just want to thank you
21 all for your time and attention this evening and to
22 the commenters for their participation and input into
23 this process. And I'd also like to thank Judge Leary
24 and our consumer services office for administering
25 this session as well as our court reporter. So with

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2 that our hearing is concluded. Please have a nice
3 evening and we will go off the record.

4 (Off the record 6:49 p.m.)

5 (The hearing concluded.)

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2 I, HOWARD HUBBARD, do hereby certify that the foregoing
3 was reported by me, in the cause, at the time and place,
4 as stated in the caption hereto, at Page 1 hereof; that
5 the foregoing typewritten transcription consisting of
6 pages 1 through 80, is a true record of all proceedings
7 had at the hearing.

8 IN WITNESS WHEREOF, I have hereunto
9 subscribed my name, this the 7th day of December, 2020.

10

11

12 HOWARD HUBBARD, Reporter

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