

Mr. S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

November 30, 2006

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CONNECTICUT  
SITING COUNCIL

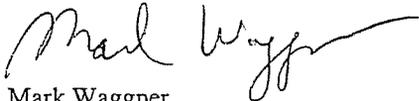
Dear Mr. Phelps,

In reference to Connecticut Siting Council Docket No. 317, please find enclosed is 20 copies of the following:

1. Amended Pre-filed testimony.
2. Motion to have sites 5, 6 and 7 removed from siting consideration.
3. Motion to have site 4 removed from siting consideration.

Copies are also being sent to all parties and intervenors on the service list.

Sincerely,



Mark Wagner  
Intervenor

Cc: Service list



**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**Re:**

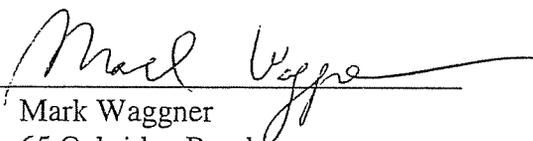
**The United Illuminating Company Application for a Certificate of Environmental Compatability and Public Need for the Construction, Maintenance and Operation Of a Proposed 115kV/13kV Electric Substation and Associated Facilities located at 3-7 Wildflower Lane, Trumbull, Connecticut**

**Docket No. 317**

**November 30, 2006**

**Motion to Remove Sites 5, 6 and 7 from Siting Consideration**

Intevenor Mark Waggnner requests that the Council remove from any current or future consideration the usage of the site referred to in UI's application under Docket 317 as sites 5, 6 and 7 for the purpose of construction of a proposed 115kV/13kV Electric Substation. In it's application, UI determined these sites to be inferior to site 1. The Town of Trumbull, has removed it's recommendation of site 6, and has instead endorsed site 11 on Quarry Road as the Town's preferred site for the construction of the substation. For these reasons, these three sites should be removed from any consideration as potential sites for the construction of a substation.

By:   
Mark Waggnner  
65 Oakridge Road  
Trumbull, CT 06611



**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

Re:

**The United Illuminating Company Application for a  
Certificate of Environmental Compatability and Public  
Need for the Construction, Maintenance and Operation  
Of a Proposed 115kV/13kV Electric Substation and  
Associated Facilities located at 3-7 Wildflower Lane,  
Trumbull, Connecticut**

Docket No. 317

November 30, 2006

**Motion to Remove Site 4 from Siting Consideration**

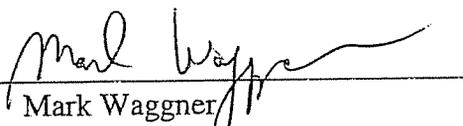
Intevenor Mark Waggner requests that the Council remove from any current or future consideration the usage of the site referred to in UI's application under Docket 317 as site 4, for the purpose of construction of a proposed 115kV/13kV Electric Substation. In it's application, UI determined this site to be inferior to site 1. Additionally, the presence of wetlands, the potential inhabitation by endangered species and existence of vernal pools, along with the recreational usage of this parcel of land make this site unsuitable for the construction of an Electric Substation.

State of Connecticut Public Act No. 06-89 (An Act Concerning Encroachment on Open Space Lands) reads in part: Section 1 (effective October 1, 2006) (a) As used in this section, "open space land" includes, but is not limited to, any park, forest, wildlife management area, refuge, preserve, sanctuary, green or wildlife area owned by the state, a political subdivision of the state or a nonprofit land conservation organization and "encroach" means to conduct an activity that causes damage or alteration to the land or vegetation or other features thereon, including, but not limited to, erecting buildings or other structures, constructing roads, driveways or trails, destroying or moving stone

walls, cutting trees or other vegetation, removing boundry markers, installing lawns or utilities, or using, storing, or depositing vehicles, materials or debris.

(b) No person may encroach or cause another person to encroach on open space land or on any land which the state, a political subdivision of the state or a nonprofit land conservation organization holds a conservation easement interest, without permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

The Town of Trumbull (a political subdivision of the state) Town Council's Legal and Administrative Committee, did on November 27, 2006 vote 5-0 in favor of passing on for full Town Council consideration and vote on Resolution TC21-123 which would declare parcel number 162 on Town Assesor Map I10 and parcel number 28 on Map J10 to be a nature preserve. Parcel 28 is 13.08 acre area of land which is also know in the UI application as site 4. Based upon the State of Connecticut Public Act 06-89, and Town of Trumbull Resolution TC-123, site 4 should be removed from any current or future consideration for use in the construction of a Power Substation.

By:   
Mark Waggener  
65 Oakridge Road  
Trumbull, CT 06611

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**Re:**

**The United Illuminating Company Application for a  
Certificate of Environmental Compatibility and Public  
Need for the Construction, Maintenance and Operation  
Of a Proposed 115kV/13kV Electric Substation and  
Associated Facilities located at 3-7 Wildflower Lane,  
Trumbull, Connecticut**

**Docket No. 317**

**November 30, 2006**

**Amended Pre-filed Testimony for Intervenor Mark Waggoner**

My name is Mark Waggoner. I reside on Oakridge Road in Trumbull, Connecticut. I thank the Connecticut Siting Council for granting me intervenor status in the matter of The United Illuminating Company's application for the construction and operation of an Electric Substation in Trumbull, under Siting Council Docket 317.

I am pleased to report that I am still a layman, and as such I again ask that the Council excuse any procedural errors that I might make, with the understanding that the Council will be aptly assisted in its vigilance in that regard. As a daily commuter to Stamford, I echo the message of the MTA that indeed, "Your train time is your own time", where one can relax, read a book or prepare amended pre-filed testimony to Connecticut Siting Council Docket 317.

In order to put my testimony into some proper context, it is necessary to note certain points at the outset. First, while I do not represent a formally recognized organization, the group of neighbors I speak on behalf of, consists of 148 homes, with an estimated 428 residents, including approximately 107 children. Exhibits C and D which were part of the pre-filed testimony of October 26, 2006, form the basis of these estimates. Also part of the October 26, 2006 filing was a petition signed by 132 adult residents of this area, as

well as 11 sworn affidavits attesting to opposition of a substation in any residential neighborhood, and in support of the use of site 11 Quarry Road for this project.

Secondly, those of us who live in the neighborhoods surrounding the areas referred to as sites 4, 5, 6 and 7 in the UI application first became aware of these sites as being under consideration as alternative sites on October 12, 2006. Therefore our group has had limitations on the findings of fact due to both the short amount of time for investigation, coupled with the time of the year, as will be further explained shortly.

The sites referred to as 5, 6 and 7 were all deemed by UI to be inferior to site 1. Site 5 was deemed not feasible for a substation primarily due to significant areas of water bodies on the property. Site 7 was considered not suitable due to topography of an “extreme slope” and high probability of subsurface ledge.

As the Council is aware, the Town of Trumbull had suggested site 6D as an alternative. However, on October 21, 2006 the Town withdrew this recommendation, in favor of site 11 on Quarry Road. Additionally, UI has considered site 6 locations to be inferior to other options, as expressed by Mr. McDermott in a letter dated May 26, 2006 which is part of the Docket 317 filings: quote “Site 6D would be located in a pristine, heavily wooded area in the vicinity of a stream. The area has foot trails that are apparently used by local residents. Situating a substation on Site 6D would require the clear-cutting of trees situated on approximately 2.38 acres of land.” Unquote. Mr. McDermott goes on to write: quote “Site 6D has the additional disadvantage of rocky and uneven terrain.” Unquote. For these reasons, I respectfully request that the Siting Council consider a motion to have sites 5, 6 and 7 removed from any current or future consideration of these sites for the construction of a substation.

The following descriptions apply equally to sites 4 and 6, which were purchased by the Town of Trumbull on August 11, 1999 for the express purpose of maintaining this land as open space. The warranty deed on Town Land Records Volume 1018, page 35 references the purchase of this property, which was then split into two parcels as designated on Town Assessor's Map I10 as parcel 162 and Map J10 as parcel 28.

From a letter written by Frederick L Reise, Senior Environmental Analyst for the State of Connecticut Department of Environmental Protection, dated October 20, 2006 addressed to the Siting Council, I quote in part: "The assumed site 6D is a beech dominated forest parcel sloping down to a watercourse and associated wetland with a home directly across said watercourse. The siting of a substation at this location would be a tight fit. Factors that argue against the use of this site are the wetland and watercourse, proximal homes at the end of Leffert Road, Quail Trail and across the watercourse, the boulders and ledge on the site, and the slope of the site..." unquote. Characterizations such as "beech-dominated", "sloping" and "boulders and ledge" can be applied to site 4 as well.

Also from the State Department of Environmental Protection, on their website are listed endangered and threatened species of animals. We have identified three species that the DEP Fact Sheets indicate can be found in the southeastern area of Fairfield County, which includes the southern portion of Trumbull where sites 6 and 4 are located. These species are the Barn Owl, Peregrine Falcon and Northern Harrier species of hawk. Due to the recent initial notification on October 12<sup>th</sup>, coupled with the migratory nature of these birds, we were not able to verify with absolute certainty the presence of these species. However, many in our group, myself included, often hear the unmistakable sound of owls, and have witnessed frequently the characteristic high elevation circling in

flight associated with birds of prey such as falcons and hawks. I submitted on October 26<sup>th</sup> Exhibit A, the DEP Fact Sheets for these 3 species, which we can anecdotally report are potential current or future inhabitants of sites 4 and 6.

Next I will address vernal pools by quoting from the website [www.borntoexplore.org](http://www.borntoexplore.org). I quote: “A vernal pool is a body of water that tends to dry up in the summer, doesn’t have any fish, and supports certain species of wildlife that can’t live or breed any place else. Spotted Salamanders, wood frogs and fairy shrimp are typical inhabitants of a vernal pool.” Unquote. A further quote reads in part, quote: “Oak Valley Trail also has some vernal pools. These are located on Bridgeport Hydraulic Company access road which starts on Route 108, goes into the woods and comes back out along the powerlines.

These are deep spots in the road caused by tire ruts. I’ve seen salamander eggs in at least 3 different puddles. One fallacy that many wetland commission members throughout the country believe is that if you save the wetland, you have saved the species that use the wetland. This is far from the truth, since many species only use vernal pool for only a part of their life cycle...” unquote. While this was a description of an area of land in the neighboring town of Shelton, it could easily be applied to the areas of site 4 and 6.

The ecological and environmental nature of these areas of land has prompted the Trumbull Town Council to consider its resolution TC21-123 that would declare these areas as a nature preserve. This resolution, on a 5-0 vote passed in the Town Council’s Legal and Administrative Committee on November 27, 2006, and at the time of this pre-filed testimony was pending the consideration and vote of the full Town Council.

On May 30, 2006 the Connecticut State Legislature approved Public Act No. 06-89, An Act Concerning Encroachment on Open Space Lands, to go into effect October 1, 2006.

The act reads in part:

Section 1. (a) As used in this section, “open space land” includes, but is not limited to, any park, forest, wildlife management area, refuge, preserve, sanctuary, green or wildlife area owned by the state, a political subdivision of the state or a nonprofit land conservation organization and “encroach” means to conduct an activity that causes damage or alteration to the land or vegetation or other features thereon, including, but not limited to, erecting buildings or structures, constructing roads, driveways or trails, destroying or moving stone walls, cutting trees or other vegetation, removing boundary markers, installing lawns or utilities, or using, storing, or depositing vehicles, materials or debris.

(b) No person may encroach or cause another to encroach on open space land or on any land for which the state, a political subdivision of the state or a nonprofit land conservation organization holds a conservation easement interest, without the permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

It is clear that the intent of the State Legislature is have open space lands owned by the state, or a political subdivision, such as the Town of Trumbull to be left undeveloped. This is especially true when a viable alternative such as the industrially zoned area such as site 11 Quarry Road exists as a feasible alternative for development. Therefore, I respectfully request that the Siting Council consider a motion to have site 4 removed from any current or future consideration for the purposes of constructing a substation.

By: Mark Wagner  
Mark Wagner