

Interrogatory FQR-1

Plainfield Renewable Energy LLC
Petition 784MR

Witness: Daniel Donovan
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Q-FQR-1: Was PRE aware of pollution or contamination issues associated either with the Man-Burch pumphouse property or the immediate vicinity of this property?

A-FQR-1: PRE is unaware of any pollution or contamination issues associated with the Man-Burch property. PRE is aware of pollution or contamination issues associated with the Yaworski Landfill located approximately 2,900 feet (nearly 0.5 miles) upstream from the water intake (as measured along the course of the river), and the Yaworski Lagoon located approximately 7,000 feet (over 1.25 miles) upstream from the water intake (as measured along the course of the river). See Exhibit A, Memorandum from Mark Lewis, Connecticut Department of Environmental Protection (“DEP”) Remediation Division, to Sara Radacsi, DEP Inland Water Resources Division, dated December 3, 2007. PRE is also aware of pollution or contamination issues associated with other historic disposal operations and other industrial uses in the vicinity of the Man-Burch property. Early in the development of the project, PRE met with United States Environmental Protection Agency (“EPA”) staff at the Boston Regional Office to discuss the location of the project and contaminated sites in the area.

Interrogatory FQR-2

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Q-FQR-2: If so, what was PRE's knowledge of these issues?

A-FQR-2: PRE objects to the breadth of question.

PRE nonetheless responds that it is familiar with the closed Yaworski Lagoon, the closed Yaworski Municipal Solid Waste Landfill, the closed Yaworski Bulky Waste Landfill, and the inactive Yaworski Municipal Solid Waste Landfills. Discussions with owners and/or operators of the former disposal areas, as well as federal and state environmental regulators, were held prior to the decision to proceed with use of the Man-Burch property. Furthermore, PRE's environmental consultant, Anchor Engineering, was intimately involved with the investigation and remediation of the Yaworski properties (as part of prior consulting work unrelated to the PRE project).

Also, PRE notes that Remediation Division of the DEP has reviewed PRE's application for a water diversion permit at the Man-Burch Property, and concluded that the effect of the proposed withdrawal on the Remediation Division's interests is "negligible," and that the "proposed withdrawal of surface water from the Quinebaug River will not affect the plume [of historic groundwater contamination] emanating from the Yaworski Lagoon or the Yaworski Landfill." See Exhibit A, Memorandum from Mark Lewis, DEP Remediation Division, to Sara Radacsi, DEP Inland Water Resources Division, dated December 3, 2007.

Interrogatory FQR-3

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Q-FQR-3: Was any of this information shared with the CSC?

A-FQR-3: Because information regarding historical industrial uses of other properties unrelated to the project was and is irrelevant to whether the proposed PRE project would have an adverse environmental impact, the Council was not provided this information.

Interrogatory FQR-4

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Q-FQR-4: Why was the presence of significant area industrial pollution not included as part of the pumphouse Site Survey and Habitat Assessment as filed with the CSC?

A-FQR-4: PRE objects to the interrogatory as misleading and inaccurate.

PRE nonetheless responds that the environmental professionals performing the December 2006 Survey of Rare, Threatened, and Endangered Species for the Man-Burch property (the "December 2006 Survey") were made aware of the Yaworski properties. The December 2006 Survey found no evidence of pollution concerns or impacts to environmental habitats on the Man-Burch Property or along the route of the pipeline connecting the intake/outfall structure and pump house on the Man-Burch Property and the power plant in Plainfield. See December 2006 Survey at p. iv & 21-22.¹

¹ PRE notes that the December 2006 Survey did not state that the Man-Burch property was ever used for waste disposal purposes. Furthermore, the June 2007 Archeological Survey of the Proposed PRE Intake and Discharge Lines concluded that no structures (or anything else, for that matter) have ever existed at the Man-Burch property. See id. at p. 1 & 15.

Interrogatory FQR-5

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Q-FQR-5: How and when were the Town of Canterbury and the public noticed when the pumphouse location changed to the Man-Burch property?

A-FQR-5: Insofar as this interrogatory repeats the Council's Pre-Hearing Interrogatory CSC-4, PRE refers to its response to that interrogatory.

Insofar as the interrogatory draws a distinction between the public representatives of the Town of Canterbury and the "public," PRE notes that the public has had access to all filings, documents, maps, and exhibits concerning the PRE project through the Council's website, since the inception of the Petition.

The revised location of the intake/outfall structure and pump house was publicly disclosed in PRE's response to the Council's October 16, 2006 Pre-Hearing Interrogatory CSC-5 (regarding the original petition), which PRE submitted to the Council on November 3, 2006. See Exhibit B.

The November 16, 2006 public hearing on the PRE petition, and associated site visit, concerned the revised intake/outfall structure and pump house on the Man-Burch property, not the previous location.

Interrogatory FQR-6

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Q-FQR-6: When the Man-Burch pumphouse property was sold by Aspinook LLC (Mr. Denis Yaworski signatory) to Man-Burch, LLC in 2006 for \$10,000, a disclosure was signed by the buyer and filed with the property deed. This disclosure identified a series of issues associated with this entire portion of the Packerville section of Canterbury. Did PRE have to sign a similar document to obtain a purchase option?

A-FQR-6: PRE objects to the question as irrelevant.

Regardless, PRE responds by stating that it was not required to sign a similar disclosure. A copy of the Memorandum of Understanding ("MOU") between Aspinook LLC and Man-Burch LLC is attached as Exhibit C.² The MOU on the Man-Burch deed was inserted by the seller's attorney and is consistent with MOUs filed on at least five other property deeds in the area. Upon information and belief, this MOU apparently was the result of a stipulated sale of property by the DEP as part of the Yaworski closure settlement, and the other properties that were sold as part of the settlement had similar MOUs recorded.

² PRE notes that this MOU does not state that the Man-Burch property is contaminated. To the contrary, the MOU merely discloses the heavy truck traffic on Packer Road and the existence of the nearby contaminated Yaworski sites.

Interrogatory FQR-7

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Q-FQR-7: Through the course of researching this parcel, was PRE aware of this document?

A-FQR-7: PRE objects to the question as irrelevant, and the answer to this interrogatory will not assist the Council in determining whether to re-open the proceedings.

Interrogatory FQR-8

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Q-FQR-8: Did PRE do, as the Man-Burch signed document advises, research the issues raised (the document specifically mentioned researching at the Canterbury library as this is an official repository facility for Yaworski lagoon and landfill information)?

A-FQR-8: PRE objects to the question as irrelevant, and the answer to this interrogatory will not assist the Council in determining whether to re-open the proceedings.

Interrogatory FQR-9

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Q-FQR-9: If so, who did it and when?

A-FQR-9: PRE objects to the question as irrelevant, and the answer to this interrogatory will not assist the Council in determining whether to re-open the proceedings.

Interrogatory FQR-10

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Q-FQR-10: If not, why not?

A-FQR-10: PRE objects to the question as irrelevant, and the answer to this interrogatory will not assist the Council in determining whether to re-open the proceedings.

Interrogatory FQR-11

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Q-FQR-11: Did PRE evaluate the impact of the construction, operation, and ongoing presence of physical intake piping and associated structures with recreational uses of the river?

A-FQR-11: PRE did consider the impact of the water intake structure and pipelines on recreational uses of the river.

The intake structure is expected to be less than three feet off of the bottom of the river and have a diameter of less than two feet. The river is twelve or more feet deep and approximately 200 feet wide in the area of the proposed intake structure. PRE's decision to install the pipelines from the pump house to the river using horizontal directional drilling techniques will reduce construction related impacts to the river, including the time that work will be performed in the river. Navigational markers will be installed to mark the location of the intake structure.

Interrogatory FQR-12

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Q-FQR-12: When seeking the Army Corp of Engineers input, did PRE bring any of the pollution related issues forward?

A-FQR-12: PRE objects to the question as irrelevant.

PRE nonetheless responds that Army Corps of Engineers (“ACOE”) staff were aware of pollution-related issues associated with the Yaworski Lagoon and Yaworski Landfill, but did not have any comment on these issues with respect to their evaluation of the Man-Burch property. In PRE’s discussions with ACOE staff, they initially suggested that PRE evaluate the feasibility of using groundwater wells on the Man-Burch property as the source of non-contact cooling water, instead of a water intake structure in the river. PRE’s opinion was that one or more groundwater pumping wells may induce a cone of depression in the groundwater table that could change the current flow regime and/or management of the contaminant plume from the Yaworski Lagoon and/or Yaworski Landfill. PRE did not want to risk affecting ongoing remediation at these sites. Thereafter, discussions with ACOE staff focused on the proposed surface water intake.³

³ PRE notes that the ACOE determined that no ACOE permit was needed for the proposed project. See Exhibit D.

Interrogatory FQR-13

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Q-FQR-13: Is PRE aware that DEP is in the process of declaring this section of the river impaired? This impairment will be listed in their 2008 305b water impairment report.

A-FQR-13: PRE objects to the extent that this question is testimony. Additionally, issues like this are being considered by the DEP as part of the adjudication of PRE's various DEP permits.

PRE nonetheless responds that yes, PRE is aware of the DEP's ongoing evaluations of the river and the 2008 Draft Integrated Water Quality Report which would declare this section of the Quinebaug River as impaired for recreation due to *e-coli* bacteria. PRE's design of the non-contact cooling water system accounted for this potential declaration. As a result of this potential declaration, PRE has agreed to not add any phosphorous to its non-contact cooling water treatment system.

Interrogatory FQR-14

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Q-FQR-14: Can PRE comment on how this diversion would impact the impairment?

A-FQR-14: PRE responds that its diversion will not adversely impact the impairment of the Quinebaug River.

PRE further responds that DEP will consider the impact on the impairment of the Quinebaug River as part of its consideration and review of PRE's water diversion permit.

Interrogatory FQR-15

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Q-FQR-15: In the CSC finding of fact, as number 122 this chart is cited:

| Pollutant | PM/PM ₁₀ | NO _x | SO _x | CO | VOC | Lead | HCL | MERCURY |
|--|---------------------|-----------------|-----------------|-------|------|------|------|---------|
| Emissions from Project (tpy) | 46.5 | 174.2 | 81.3 | 240.0 | 26.6 | 0.3 | 30.4 | 0.006 |
| Major Source thresholds (tpy) | 100 | 50 | 100 | 100 | 50 | 10 | - | 100 |
| PSD Significant Emission Rate Thresholds (tpy) | 25/15 | 40 | 40 | 100 | N/A | 0.6 | - | 0.1 |

(PRE 1, pp. 29, 36, 43)

Yet PRE filed with the DEP this chart:

| Metals | Estimated Worst-Case, Based On 100% C&D, ppm | Uncontrolled lb/MMBtu ¹ | Uncontrolled lb/hr | Uncontrolled TPY | % Removal in Scrubber / Baghouse | Controlled lb/MMBtu ¹ | Controlled lb/hr | Controlled TPY |
|------------------|--|------------------------------------|--------------------|------------------|----------------------------------|----------------------------------|------------------|----------------|
| As | 50 | 6.32E-03 | 3.30E+00 | 1.45E+01 | 95% | 3.16E-04 | 1.65E-01 | 7.24E-01 |
| Cd | 5 | 6.32E-04 | 3.30E-01 | 1.45E+00 | 95% | 3.16E-05 | 1.65E-02 | 7.24E-02 |
| Cr | 200 | 2.53E-02 | 1.32E+01 | 5.79E+01 | 95% | 1.26E-03 | 6.61E-01 | 2.89E+00 |
| Pb | 250 | 3.16E-02 | 1.65E+01 | 7.24E+01 | 95% | 1.58E-03 | 8.26E-01 | 3.62E+00 |
| Ni | 25 | 3.16E-03 | 1.65E+00 | 7.24E+00 | 95% | 1.58E-04 | 8.26E-02 | 3.62E-01 |
| Hg | 0.2 | 2.53E-05 | 1.32E-02 | 5.79E-02 | 90% | 2.53E-06 | 1.32E-03 | 5.79E-03 |
| Se | 1 | 1.26E-04 | 6.61E-02 | 2.89E-01 | 95% | 6.32E-06 | 3.30E-03 | 1.45E-02 |
| Ag | 5 | 6.32E-04 | 3.30E-01 | 1.45E+00 | 95% | 3.16E-05 | 1.65E-02 | 7.24E-02 |
| Ti | 300 | 3.79E-02 | 1.98E+01 | 8.68E+01 | 95% | 1.89E-03 | 9.91E-01 | 4.34E+00 |
| Zn | 200 | 2.53E-02 | 1.32E+01 | 5.79E+01 | 95% | 1.26E-03 | 6.61E-01 | 2.89E+00 |
| S ² | 2000 | 5.05E-01 | 2.64E+02 | 1.16E+03 | 93% | 3.54E-02 | 1.85E+01 | 8.10E+01 |
| Cl ³ | 1500 | 1.95E-01 | 1.02E+02 | 4.46E+02 | 93% | 1.36E-02 | 7.13E+00 | 3.12E+01 |
| PCB ¹ | 2 | 2.53E-07 | 1.32E-04 | 5.79E-04 | | 2.53E-07 | 1.32E-04 | 5.79E-04 |

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Q-FQR-15: (continued)

Can you explain the substantial discrepancies regarding plant emissions?
As an example, why was the CSC told lead would not exceed .3 tpy, but then seeking an air permit for 3.6 tpy(a 1200% increase)?

A-FQR-15: The permit limits established in the final DEP draft air permit are consistent with the information that was presented to the Council. PRE has asked the Council to administratively notice PRE's draft permits.

The second table above has been pulled out of context by FQR, and does not represent the permit limits that PRE was seeking. This particular table is merely one of several tables that were included in PRE's air permit application. It shows data from one of several methodologies that are typically used to determine appropriate emissions rates for an air permit application. In this case, the table selectively picked by FQR represented a mass balance approach. Several other methodologies were analyzed, and DEP and PRE settled on a more relevant approach, which established significantly lower limits. To be perfectly clear, PRE never requested that the numbers in the second table above be the permitted emission limits.

Interrogatory FQR-16

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Q-FQR-16: Is PRE aware of what the Man-Burch property was used for since the original Aspinook Company purchased it?

A-FQR-16: PRE objects to the question as irrelevant.

PRE nonetheless responds that the Man-Burch property is vacant and wooded. Based upon PRE's discussions with previous property owners, the site has not been developed or used in the past fifty years.⁴ It seems that the property at some point in time was used to provide upstream water storage for the dam down at Aspinook Pond and/or as a buffer between Yaworski-owned properties and their previous operations.

⁴ As further support, PRE again refers to the June 2007 Archeological Survey of the Proposed PRE Intake and Discharge Lines, which concluded that no structures (or anything else, for that matter) have ever existed at the Man-Burch property. See id. at p. 1 & 15.

Interrogatory FQR-17

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Q-FQR-17: When recently filing objections to FQR's motion to reopen the CSC process, PRE indicated that one of the nearby contaminated areas is the site of the former Packer Plastic mill. Some research has indicated that this parcel is directly adjacent to the proposed pipeline excavation on Mill Rd (close to Mill Brook). Did PRE previously disclose this to the CSC and has PRE evaluated the impact of excavation to any buried contamination?

A-FQR-17: PRE objects to the extent that this question is testimony.

PRE nonetheless responds that the trenches for the water pipeline installation are anticipated to be four feet wide, primarily located within the shoulder of the road. In the event that contaminated soils are encountered during trenching and installation of the water pipelines, the soil would be tested and managed in accordance with all applicable environmental regulations. Management of contaminated soils is typically considered in the development and management plan that will be submitted to the Council for review and approval.

PRE further responds that the road in front of the former Packer Plastics property was significantly disturbed in 2005 due to the installation of a new bridge and improved drainage. Disturbance from the installation of the proposed PRE water pipeline would be minor in comparison.

Interrogatory FQR-18

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Q-FQR-18: The Man-Burch pumphouse property is located approximately across the street from an additional landfill site (operated perhaps 40 years ago). For clarity, this site was located on the E side of Packer Rd. This property does not appear on the above referenced list of contaminated sites. Is PRE aware of this site and has PRE evaluated its impacts on the proposed Man-Burch property activities?

A-FQR-18: PRE objects to the extent that this question is testimony and is irrelevant.

PRE nonetheless responds that, as previously mentioned in its response to Interrogatories FQR-1 and FQR-2, PRE is aware of landfills on the east side of Packer Road.