

STATE OF CONNECTICUT  
SITING COUNCIL

\* \* \* \* \*

SOMERS SOLAR CENTER, LLC \* JANUARY 15, 2013  
\* (7:00 p.m.)  
\*

PETITION FOR A DECLARATORY RULING \*  
THAT NO CERTIFICATE OF \*  
ENVIRONMENTAL COMPATIBILITY AND \* PETITION NO. 1042  
PUBLIC NEED IS REQUIRED FOR THE \*  
CONSTRUCTION AND OPERATION OF A \*  
5.0 MW AC SOLAR PHOTOVOLTAIC \*  
PROJECT LOCATED AT 458 and 488 \*  
SOUTH ROAD, SOMERS, CONNECTICUT \*  
\*

\* \* \* \* \*

BEFORE: COLIN C. TAIT, ACTING CHAIRMAN

BOARD MEMBERS: Robert Hannon, DEEP Designee  
Michael Caron, PURA Designee  
Edward S. Wilensky  
Philip T. Ashton  
James J. Murphy, Jr.  
Dr. Barbara Bell

STAFF MEMBERS: Linda Roberts, Executive Director  
David Martin, Siting Analyst  
Melanie Bachman, Staff Attorney

APPEARANCES:

FOR THE PETITIONER, SOMERS SOLAR CENTER, LLC:

ROBINSON & COLE, LLP  
280 Trumbull Street  
Hartford, Connecticut 06103-3597  
BY: JOEY LEE MIRANDA, ATTORNEY

HEARING RE: SOMERS SOLAR CENTER, LLC  
JANUARY 15, 2013 (7:00 PM)

1 . . .Verbatim proceedings of a hearing  
2 before the State of Connecticut Siting Council in the  
3 matter of a petition by Somers Solar Center, LLC, held at  
4 the Somers Town Hall, 600 Main Street, Somers,  
5 Connecticut, on January 15, 2013 at 7:00 p.m. at which  
6 time the parties were represented as hereinbefore set  
7 forth . . .

8  
9  
10 ACTING CHAIRMAN COLIN C. TAIT: Ladies and  
11 gentlemen, I call this hearing to order this Tuesday,  
12 January 15, 2013 at 7:00 p.m.

13 My name is Colin Tait, Vice Chairman of  
14 the Connecticut Siting Council. Other members of the  
15 Council are Robert Hannon, the designee for Commissioner  
16 Dan Estey of the Department of Energy and Environmental  
17 Protection; Philip T. Ashton; Barbara C. Bell; and Edward  
18 Wilensky. Have I forgotten anybody? No? Okay.

19 Members of the staff here are Linda  
20 Roberts, Executive Director; Melanie Bachman, the staff  
21 attorney; and David Martin, the Siting Analyst. The  
22 court reporter is Gail Gregoriades and audio technician  
23 Aaron DeMarest.

24 This hearing is held pursuant to the

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1 provisions of Title 16 of the Connecticut General  
2 Statutes and of the Uniform Administrative Procedure Act  
3 upon a Petition from Somers Solar Center, LLC for a  
4 Declaratory Ruling that no certificate of environmental  
5 compatibility and public need is required for the  
6 construction and operation of a 5 megawatt AC solar  
7 photovoltaic project located at 458 and 488 South Road,  
8 Somers, Connecticut. This petition was received by the  
9 Council on October 13 -- October 31, 2012.

10 This hearing session tonight has been  
11 reserved first for the public to make short statements  
12 into the record. These public statements are not subject  
13 to cross-examination -- are not subject to questions from  
14 the parties or the Council, and members of the public  
15 making statements may not ask questions of the parties or  
16 the Council. These statements will become part of the  
17 record for Council consideration. A sign-up sheet is  
18 available for those who wish to participate.

19 As a reminder to all, off-the-record  
20 communications with a member of the Council or a member  
21 of the staff of the Council upon the merits of this  
22 application is strictly prohibited.

23 I also wish to note for those who are here  
24 and for the benefit of your friends and neighbors who are

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1 unable to join us for the public comment session, that  
2 you or they may send written comments to the Council  
3 within 30 days of the date hereof. And such written  
4 statements will be given the same weight as if spoken at  
5 this hearing.

6 If necessary, party and intervenor cross-  
7 examination that began this afternoon -- held at 3:00  
8 o'clock this afternoon, may continue after the public  
9 session if time permits.

10 We ask each person making a public  
11 statement in this proceeding to confine his or her  
12 comments to the subject matter before the Council and to  
13 avoid unreasonable repetition so that we may hear all of  
14 the concerns you and your neighbors may have. Please be  
15 advised that the Council cannot answer questions from the  
16 public about the proposal.

17 A verbatim transcript will be made of the  
18 hearing and deposited -- and will be deposited at the  
19 Somers Town Clerk for the convenience of the public.

20 We will now call from the list -- is there  
21 anybody on the list?

22 A VOICE: (Indiscernible) --

23 ACTING CHAIRMAN TAIT: Nobody on the list,  
24 okay. Going, going, gone. The Council will now close

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1 the public hearing session and resume the evidentiary  
2 session of this hearing that began this afternoon.

3 Miss Miranda, I believe you have another  
4 exhibit? You've done your homework. Good girl.

5 MS. JOEY LEE MIRANDA: Thank you, Mr. Vice  
6 Chairman. As you recall, in the afternoon session we  
7 were asked for additional information regarding the flood  
8 maps. We have now provided the Council with an original  
9 and 20 copies of what has been marked as Exhibit 8. And  
10 I'd like to have it marked for identification.

11 ACTING CHAIRMAN TAIT: So marked.

12 MS. MIRANDA: Thank you.

13 (Whereupon, Petitioner Exhibit No. 8 was  
14 marked for identification purposes.)

15 MS. MIRANDA: Mr. Lussier, did you prepare  
16 -- assist in the preparation or direct the preparation of  
17 what's now been marked as Exhibit 8?

18 MR. DONALD LUSSIER: I did.

19 MS. MIRANDA: Do you have any corrections,  
20 modifications, or amendments to Exhibit 8?

21 MR. LUSSIER: No.

22 MS. MIRANDA: Is it true and accurate to  
23 the best of your knowledge?

24 MR. LUSSIER: Yes.

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1 MS. MIRANDA: We hereby move it as a full  
2 exhibit.

3 ACTING CHAIRMAN TAIT: Any objections?  
4 It's now a full exhibit. I understand you have a few  
5 questions?

6 MS. MIRANDA: Yes. We -- I guess first,  
7 Dr. Bell, you had requested this, and did you have  
8 questions for us perhaps?

9 DR. BARBARA C. BELL: I -- I just want to  
10 say thank you, and it's completely responsive to my  
11 question, and I appreciate the effort you took.

12 ACTING CHAIRMAN TAIT: Mr. Ashton has a  
13 question -- one.

14 MR. PHILIP T. ASHTON: Just for the  
15 record, the map shows an area designated as Zone A. That  
16 would be the flooding limits for a hundred-year storm, is  
17 that correct?

18 MR. LUSSIER: That's correct. Zone A  
19 indicates the FEMA delineated 100-year floodplain.

20 MR. ASHTON: And there are four areas  
21 marked Area A, B, C, and D on this, and surrounded by a  
22 broken line, and that is the project area, is that  
23 correct?

24 MR. LUSSIER: That's right, the -- the

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1 area labels are just indicated to show the four different  
2 arrays that the project entails. The dash line indicates  
3 the approximate project boundary.

4 MR. ASHTON: Nothing further.

5 ACTING CHAIRMAN TAIT: Anything further  
6 from the Council? Are we ready for the closing  
7 statement?

8 MR. ASHTON: You've got questions.

9 MS. MIRANDA: I have -- may I --

10 ACTING CHAIRMAN TAIT: Yes --

11 MS. MIRANDA: -- Mr. Vice Chairman?

12 ACTING CHAIRMAN TAIT: Yes.

13 MS. MIRANDA: Okay. Just a few questions  
14 on redirect. Mr. Knox, you were asked I believe by Mr.  
15 Ashton whether the switchgear would be exposed to the  
16 public or if it would be encased. Can you elaborate on  
17 your prior response with respect to that?

18 MR. RICHARD KNOX: Yeah, sure. So the  
19 response to that will come from CL&P -- the treatment of  
20 the switchgear facility out on South Road will be  
21 dictated by CL&P. And to the extent possible, it will be  
22 included in the D&M process as well.

23 MS. MIRANDA: Mr. Knox, it is feasible  
24 however that CL&P will not have finished its

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1 interconnection process by the time the D&M plan is  
2 submitted, is that correct?

3 MR. KNOX: That's correct.

4 MS. MIRANDA: And if -- if that has not  
5 occurred, we will not have the information available for  
6 the Council at that time, correct?

7 MR. KNOX: That's correct.

8 MS. MIRANDA: Thank you. Mr. Lussier,  
9 there were questions from Mr. Hannon regarding the  
10 potential for invasive species to expand on the site.  
11 And there were some questions that may have led to the  
12 mis-belief that there was going to be grading occurring  
13 at the site. Will there be grading done at the site?

14 MR. LUSSIER: No. I believe it was  
15 Council Member -- Mr. Hannon mentioned the removal of six  
16 to eight inches of topsoil. Just to be clear, the only  
17 place that grading or earthwork of that nature will occur  
18 is where the access road for maintenance is proposed.  
19 There's no grading proposed across the site, you know,  
20 beyond the limits of the proposed access road.

21 MS. MIRANDA: And the potential for  
22 invasive species at the site are within the delineated  
23 wetland on the site, is that correct, known as the  
24 tributary of Abbey Brook?



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1 MR. LUSSIER: Yeah, the -- the wetlands  
2 report identified some species of invasive species or  
3 organisms. The -- typically, you know, when you disturb  
4 surfaces, you -- you present an opportunity for those  
5 aggressive competing species, the invasives, to establish  
6 a foothold. Since there's no grading proposed, you know,  
7 on mass for this project, we don't think that there's a  
8 big opportunity for invasives to become established  
9 beyond the limits of where they are currently.

10 MS. MIRANDA: Thank you. And just one  
11 last area of inquiry. Vice Chairman Tait raised the  
12 questions about grassland bird habitats out at the site.  
13 Mr. Teague, can we start with -- can you explain to the  
14 Council why this site was selected with respect to  
15 species, and in particular grassland birds?

16 MR. NELSON TEAGUE: Right. Among many  
17 other factors that HelioSage, the developer of solar  
18 projects, looks at is we try to identify sites that have  
19 been previously disturbed, therefore minimizing any  
20 impact to existing habitat or wildlife or any other  
21 species. And one of the -- one of the primary reasons of  
22 the 20 sites we looked at in the State of Connecticut  
23 that this site was particularly attractive is the fact  
24 that it had been used for an agricultural purpose for so

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1 many years and it also had been mined at a point in time  
2 that there was a significant amount of disturbance that  
3 had already taken place, so the likelihood of disturbing  
4 any habitat was remote because of the activity that had  
5 historically taken place on the land.

6 MS. MIRANDA: Mr. Knox, if through an  
7 inquiry with the DEEP it were determined that there may  
8 be an opportunity to provide for additional opportunities  
9 to enhance grassland bird habitats, would that impact the  
10 project? And if so, how so?

11 MR. KNOX: So there's -- there's a  
12 schedule consideration and then there's consideration of  
13 the operation -- the long-term operation of the  
14 maintenance of the project. In terms of the -- in terms  
15 of the project schedule, we'd like to move into final  
16 design as quickly as possible. And to enter into an  
17 informal consultation process with DEEP related to the  
18 establishment of grassland bird areas on the site  
19 somewhat complicates a final design process and could  
20 potentially add time to the schedule. And because we are  
21 trying to have the project constructed by the end of the  
22 year before the wintertime and operating, time is of the  
23 essence to occur.

24 Additionally, in the operation and

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1 maintenance considerations, we feel that allowing grass  
2 to grow would potentially cause a fire hazard on the  
3 site. And additional factors include the defecation of  
4 birds on to the solar panels and increasing cleaning of  
5 the panels themselves.

6 COURT REPORTER: One moment please.

7 (pause - tape change)

8 MS. MIRANDA: Thank you. And finally, Mr.  
9 Lapinski, if -- if these additional habitats were  
10 encouraged on the site and created, what would happen at  
11 the end potentially when the facility is decommissioned?

12 MR. CRAIG LAPINSKI: The plan all along  
13 was to do the least amount of intrusive activity, so when  
14 the decommissioning does occur at some future date to be  
15 determined, that the panels could be easily removed and  
16 the possibility still exists that the land could be  
17 returned to agricultural use. If bird habitats are  
18 established over the site that are definitely defined  
19 bird habitats, that may reduce the ability for that  
20 particular area to return to agricultural use in the  
21 future.

22 MS. MIRANDA: With that, if I could go to  
23 the closing statement unless you have questions or the  
24 members have questions?

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1 ACTING CHAIRMAN TAIT: (Indiscernible) --

2 MS. MIRANDA: Thank you. As the petition  
3 and the exhibits and the testimony here establish, this  
4 facility is appropriate for approval from the Council by  
5 a Petition for Declaratory Ruling. It satisfies the DEP  
6 -- the DEEP air and water quality standards and will not  
7 have a substantial environmental effect. And therefore,  
8 we request that the Council give all the material due  
9 consideration and issue an approval by -- excuse me --  
10 issue a declaratory ruling that no certificate is  
11 required for the project. Thank you.

12 ACTING CHAIRMAN TAIT: Thank you,  
13 counselor.

14 Before closing this hearing, the  
15 Connecticut Siting Council announces that briefs and  
16 proposed findings of fact may be filed with the Council  
17 by any party or intervenor not later than February 14,  
18 2013. The submission of proofs or proposed findings of  
19 fact are not required by the Council, rather we leave it  
20 to the choice of the parties and intervenors.

21 Anyone who has not become a party or  
22 intervenor, but desires to make his known views to the  
23 Council, may file written statements with the Council  
24 within 30 days of the date hereof.

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1                   The Council will issue draft findings of  
2 fact. And thereafter, parties and intervenors may  
3 identify errors or inconsistencies between the Council's  
4 draft findings of fact and the record. However, no new  
5 information, no new choice -- no new evidence, no  
6 argument, and no reply briefs without our permission will  
7 be considered by the Council.

8                   Copies of the transcript of this hearing  
9 will be filed with the Somers Town Clerk's Office.

10                   I declare this hearing adjourned. Thank  
11 you for your participation. Drive safely.

12

13                   (Whereupon, the hearing adjourned at 7:12  
14 p.m.)

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