

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

CANDLEWOOD SOLAR, LLC DECLARATORY: PETITION NO. 1312
RULING THAT NO CERTIFICATION OF :
ENVIRONMENTAL COMPATIBILITY AND :
PUBLIC NEED IS REQUIRED FOR THE :
PROPOSED CONSTRUCTION, MAINTENANCE: :
AND OPERATION OF A 20 MEGAWATT AC :
(26.5 MEGAWATT DC) SOLAR :
PHOTOVOLTAIC ELECTRIC GENERATING :
FACILITY LOCATED ON A 163 ACRE PARCEL: :
AT 197 CANDLEWOOD MOUNTAIN ROAD :
AND ASSOCIATED ELECTRICAL :
INTERCONNECTION TO EVERSOURCE :
ENERGY'S ROCKY RIVER SUBSTATION ON :
KENT ROAD IN NEW MILFORD :
CONNECTICUT. :
: April 13, 2020

MOTION FOR PROTECTIVE ORDER

1. Candlewood Solar, LLC (“Candlewood Solar” or the “Petitioner”) respectfully moves the Connecticut Siting Council (the “Council”) for a protective order to ensure that confidential information provided by Candlewood Solar in connection with its petition for a declaratory ruling is not subject to public disclosure, in accordance with Conn. Gen. Stat. § 1-210(b) and Regulations of Connecticut State Agencies § 16-50j-22a(d)(1).

2. The confidential information addressed in this motion includes the Phase II National Register of Historic Places testing and evaluation of Site 96-166 (Locus 7) prepared by Heritage Consultants. Specifically, this information specifies the location and character of identified cultural resources contained within the Project Site (the “Confidential Information”).

3. Pursuant to Conn. Gen. Stat. § 1-210(b), the Council is authorized to protect from public disclosure “trade secrets,” which for purposes of the Freedom of Information Act are defined as information, including compilations and cost data “that (1) derives independent

economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Conn. Gen. Stat. § 1-210(b)(5)(A); Conn. Gen. Stat. § 35-51(d). The Council is also authorized to protect from public disclosure “[c]ommercial and financial information given in confidence, not required by statute.” Conn. Gen. Stat. § 1-210(b)(5)(B); *See, Department of Public Utilities v. Freedom of Information Comm’n*, 29 Conn. L. Rptr. 215, 2001 WL 79833, at *3 (Conn. Super. Ct. January 12, 2001); *see also Chief of Staff v. Freedom of Information Comm’n*, 25 Conn. L. Rptr. 270, 1999 WL 643373, at *2-3 (Conn. Super. Ct. August 12, 1999).

4. In accordance with the above, the Confidential Information qualifies as both a trade secret and as commercial financial information given in confidence, not required by statute, and therefore should be exempt from disclosure. Moreover, the Confidential Information is considered commercially and competitively sensitive and highly proprietary. Attached to this Motion is the Affidavit of David R. George, Manager at Heritage Consultants, LLC attesting to the fact that Candlewood Solar protects this type of information because of the irreparable harm that disclosure would cause to the cultural resources identified on the Project site.

5. Neither federal law nor Connecticut statutes require that the Petitioner publicly submit the Confidential Information. In this case, the necessity of withholding public disclosure of the data outweighs the public interest in such disclosure.

6. In prior proceedings, the Council has protected similar information from public disclosure. See Petition 1310A, Quinebaug Solar, Council Decision on Motion for Protective Order (December 6, 2019).

WHEREFORE, for all the foregoing reasons, Candlewood Solar requests that the Council grant its Motion for Protective Order.

Respectfully Submitted,

CANDLEWOOD SOLAR, LLC

A handwritten signature in blue ink that reads "Paul R. Michaud". The signature is written in a cursive style with a large, looped initial "P".

Paul R. Michaud, Esq.
Michaud Law Group, LLC
515 Centerpoint Drive
Suite 502
Middletown, CT 06457
Phone: 860-338-3728
E-Mail: pmichaud@mlgcleanenergy.com
Website: www.mlgcleanenergy.com

Its Attorney

CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants on the service list for Petition on this 13th day of April 2020.

Paul R. Michaud

Paul R. Michaud

AFFIDAVIT

STATE OF CONNECTICUT

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ss:

HARTFORD

CITY OF HARTFORD

David R. George, being duly sworn, deposes and states that:

1. I am over the age of eighteen and understand the obligation of making a statement under oath.
2. My name is David R. George, and I am a Manager for Heritage Consultants, LLC. The Petitioner, Candlewood Solar, LLC ("Candlewood Solar"), hired Heritage Consultants, LLC to conduct cultural resource surveys and assessments related to the development of the Candlewood Solar Project.
3. I submit this affidavit in support of the Petitioner's Motion for Protective Order as it relates to certain information provided to the Connecticut Siting Council (the "Council") in connection with Petition No. 1312 (the "Petition") that identifies the location and character of specific cultural resources (the "Confidential Information").
4. The Confidential Information is commercial information that Candlewood Solar considers highly confidential and commercially sensitive.
5. To the best of my knowledge, Candlewood Solar has heretofore used best efforts to maintain the Confidential Information as secret in order to avoid the economic harm that would result if the information were to become publicly available. To the best of my knowledge this information has not previously been disclosed or released to the public.
6. I have been advised by Candlewood Solar's legal counsel that neither federal nor Connecticut statutes require the confidential portion of this information to be filed in the public record.

David R. George
Name:

Manager
Title:

Heritage Consultants, LLC
Company:

Subscribed and sworn to before me
This 11th day of April 2020.

Natchalies Suquilanda
Notary Public
My Commission Expires

NATCHALIES SUQUILANDA
NOTARY PUBLIC
MY COMMISSION EXPIRES FEB. 28, 2022



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

CANDLEWOOD SOLAR, LLC DECLARATORY: PETITION NO. 1312
RULING THAT NO CERTIFICATION OF :
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KENT ROAD IN NEW MILFORD :
CONNECTICUT. :
_____ : April 13, 2020

**PROTECTIVE ORDER CONCERNING CANDLEWOOD SOLAR, LLC’S PROVISION
OF CONFIDENTIAL COMMERCIAL AND FINANCIAL INFORMATION**

WHEREAS, Candlewood Solar, LLC (the “Company”) has been requested to provide the Connecticut Siting Council (the “Council”) with certain information related to location and character of identified cultural resources (the “Confidential Information”) that would, in the opinion of the Company, result in the disclosure of a commercially valuable or financial information that is given in confidence and not required by statute, and/or which information the Company contends constitutes a trade secret within the meaning of Connecticut General Statutes § 1-210(b)(5) (collectively, the “Confidential Information”); and

WHEREAS the Company has expressed a willingness to provide the Confidential Information subject to a protective order (the “Order”);

NOW, THEREFORE, it is hereby ordered, that the following procedures are adopted for the protection of the Confidential Information provided by the Company:

1. All Confidential Information provided by the Company, whether in documentary form or otherwise, shall be identified as follows: “Phase II National Register of Historic Places testing and evaluation of Site 96-166 (Locus 7) - CONTAINS PROPRIETARY INFORMATION – DO NOT RELEASE”, and will be governed by the terms of this Order. This Order is applicable to all such Confidential Information, whether in the form of documents, data, testimony, studies, or otherwise.

2. All Confidential Information made available pursuant to this Order shall be given to Members and staff of the Council, upon execution of the Acknowledgment referenced below (each a “Signatory” and collectively, the “Signatories”). Any parties to the Council proceeding will separately be provided the Confidential Information upon 1) consent of the Company and 2) execution of the Nondisclosure Agreement in the form attached hereto as Exhibit 1 (each also a “Signatory” and collectively, the “Signatories”).

3. Upon execution of the Nondisclosure Agreement, Confidential Information will be marked as such and delivered in sealed envelopes to the Council. A statement in the following form shall be placed prominently on each envelope:

CONFIDENTIAL-PROPRIETARY

This envelope is not to be opened nor the contents to be displayed or revealed except pursuant to the Protective Order entered by the Connecticut Siting Council in connection with a Candlewood Solar, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt AC solar photovoltaic electric generating facility in New Milford, Connecticut

4. Any Confidential Information made available pursuant to this Order shall be part of the record in the docket cited above, subject to the same relevancy and other evidentiary considerations as non-confidential information and subject to the conditions stated in Paragraphs Five and Six of this Order.

5. If the Confidential Information is used in any manner in any interrogatory, letter, petition, brief or other writing (each a “Document”), all reference to the Confidential Information in the Document shall be either:

- a) in a separate document, prominently labeled “Proprietary Information”, which document shall be safeguarded in accordance with the Order and distributed only to Members and staff of the Council, and to Signatories; or
- b) solely by title or exhibit reference in a manner reasonably calculated not to disclose the Confidential Information.

6. If the Confidential Information is used in any manner in any Council proceeding or during the course of a public hearing before the Council (a “Hearing”), the Hearing shall not be held before, nor any record of it made available to, any party or other person or entity not a Signatory, other than the appropriate representatives of the Council. No record shall be disclosed, nor any communication made, of use of the Confidential Information in the Hearing to any person or entity not a Signatory, Member of the Council or Council staff. Any transcript or other recording of the Hearing that relates to the Confidential Information shall be placed in sealed envelopes or containers and a statement in the following form shall be placed prominently on such envelope or container:

CONFIDENTIAL-PROPRIETARY

This envelope is not to be opened nor the contents to be displayed or revealed except pursuant to the Protective Order entered by the Connecticut Siting Council in connection with a Candlewood Solar, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt AC solar photovoltaic electric generating facility in New Milford, Connecticut

7. Nothing herein shall be construed as a final determination that any of the Confidential Information will be admissible as substantive evidence in this Council proceeding or at any hearing or trial. Further, nothing herein shall be considered a waiver of any party’s right to

assert later that the Confidential Information is or is not proprietary or privileged. A party seeking to change the terms of this Order shall by motion give every other party five (5) business days' prior written notice. No information protected by this Order shall be made public until the Council rules on any such motion to change the terms of this Order. Confidential Information otherwise properly discovered, even though also subject to the terms of this Order, shall not be considered protected by this Order.

8. All copies of such Confidential Information shall be returned to the Company no later than thirty (30) days after the expiration of all appeal periods applicable to the final decision rendered in this proceeding.

CONNECTICUT SITING COUNCIL

By: _____
Title:

Dated: _____

REVIEWED AND ACKNOWLEDGED:

The undersigned hereby acknowledges that he or she has reviewed this Protective Order, and hereby agrees to abide by the terms thereof in exchange for receipt of the Confidential Information from Candlewood Solar, LLC.

RECIPIENT: _____ REPRESENTING:

DATE: _____

RECIPIENT: _____ REPRESENTING:

DATE: _____

RECIPIENT: _____ REPRESENTING:

DATE: _____

RECIPIENT: _____ REPRESENTING:

DATE: _____

RECIPIENT: _____ REPRESENTING:

DATE: _____

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

EXHIBIT 1

CANDLEWOOD SOLAR, LLC

NONDISCLOSURE AGREEMENT

Candlewood Solar, LLC (the "Company") agrees to make available to _____ ("Recipient") confidential and proprietary information filed with the Connecticut Siting Council ("Confidential Information") subject to restrictions stated herein.

1. Any information provided to Recipient and labeled "Confidential Information" by the Company shall be Confidential Information subject to this Nondisclosure Agreement.
2. The Confidential Information is received by Recipient in confidence.
3. The Confidential Information shall not be used or disclosed by the Recipient except in accordance with the terms contained herein and in the Company's Motion for Protective Order as filed with the Connecticut Siting Council.
4. Only individuals, and not entities, may be Recipients of Confidential Information under this paragraph. The Recipient must be an attorney or independent expert witness for a party in this Council proceeding. The Recipient acknowledges that he/she now represents or in the future may represent competitors or potential competitors of the Company and that disclosure of confidential and proprietary information of the Company to competitors or use of such information for the benefit of competitors of the Company could adversely affect the Company and its customers. By executing this Nondisclosure Agreement, each Recipient certifies that he/she meets the requirements of this paragraph.
5. The following conditions shall apply to each Recipient:
 - a) Each Recipient shall receive one (1) numbered, controlled copy of the Confidential Information. The Recipient shall not make any copies thereof or provide the Confidential Information to any individual or entity.
 - b) The Recipient shall maintain a log of all persons granted access to the Confidential Information.
 - c) The Recipient, by signing this Nondisclosure Agreement acknowledges that he/she may not in any manner disclose the Confidential Information to any person, and that he/she may not use the Confidential Information for the benefit of any person except in this Council proceeding and in accordance with the terms of the Protective Order.

- d) The Recipient acknowledges that any violation of this Nondisclosure Agreement may subject the Recipient to civil actions for violation hereof. Additionally, any Recipient who is an attorney acknowledges his/her ethical obligations under the Rules of Professional Conduct to abide by this Nondisclosure Agreement and to handle properly confidential information that is subject to a protective order.
- e) Within thirty (30) days of the final decision in this Proceeding, Recipient shall return the Confidential Information to the Company.

RECIPIENT:

By: _____

Dated: _____



PAUL R. MICHAUD, ESQ.
DIRECT TELEPHONE: 860-338-3728
E-MAIL: PMICHAUD@MLGCLEANENERGY.COM
WEBSITE: WWW.MLGCLEANENERGY.COM

April 13, 2020

DELIVERED VIA U.S. MAIL AND E-MAIL

Melanie Bachman, Esq.
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: PETITION NO. 1312 - Candlewood Solar LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt AC (26.5 megawatt DC) solar photovoltaic electric generating facility located on a 163 acre parcel at 197 Candlewood Mountain Road and associated electrical Interconnection to Eversource Energy's Rocky River Substation on Kent Road in New Milford, Connecticut.

Dear Attorney Bachman:

I am writing on behalf of Candlewood Solar, LLC, in connection with the above-referenced Connecticut Siting Council ("Council") proceeding.

Enclosed please find an original and fifteen (15) hard copies of Development and Management Plan ("D&M Plan") as required by the Council in its December 22, 2017 Opinion, Decision and Order.

Please contact me if you have any questions or require additional information.

Sincerely,

A handwritten signature in blue ink that reads 'Paul R. Michaud'.

Paul R. Michaud

Enclosures



Wood Environment & Infrastructure Solutions, Inc.

271 Mill Road
3rd Floor
Chelmsford, MA 01824
USA
T: 978-692-9090

www.woodplc.com

April 13, 2020

Melanie Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Petition No. 1312
Development and Management Plan
Proposed 20 MW (AC) Solar PV Development
Candlewood Mountain Road, New Milford, CT

Dear Attorney Bachman:

On behalf of Candlewood Solar LLC (Candlewood Solar), this letter is being filed with the Connecticut Siting Council (Council) in accordance with Condition 1 included in the April 26, 2019 approval of the Development and Management (D&M) Plan submitted for the above referenced project on January 28, 2019. Specifically, Condition 1 states:

1. Pursuant to RCSA §16-50j-62, submit the applicable revisions including, but not limited to, the solar array layout, clearing limits, fence design and stormwater management plan for Council review and approval prior to the commencement of construction

Since the issuance of the April 26, 2019 D&M Plan approval, there have been changes to the project design including solar array layout, clearing limits, and fence design. These design changes are summarized as follows:

- The solar array layout and associated stormwater design have been revised to avoid development of the array on slopes 15% or steeper. In order to reduce development in areas containing slopes that are 15% or greater, solar photovoltaic (PV) panels from the northwest have been relocated to the east side of the site, where flatter topography exists (see Attachment 1).
- The total project area and total forested area to be cleared has decreased (see Attachment 4. Table 1).
- A 50-foot vegetated setback from the property lines to the proposed limit of work (LOW) have been incorporated. Additionally, to visually screen the solar PV array, Candlewood Solar will employ a 7-foot high cedar screening fence and landscape plantings (trees and shrubs) in various locations along the western and southern sides of the solar PV array to aid in the screening of the solar array from surrounding land uses (see Attachment 2).
- The electric interconnection route on First Light Hydro Generating Company (First Light) parcels (9/6 and 34/31.1) has been modified and three different engineering methods (ground mount, overhead, and horizontal directional drill [HDD]) will be employed (see Attachment 1).
- New and existing access roads have been identified for use during construction and operation/maintenance of the electric interconnection (see Attachment 1).



As a result of the project design changes, Candlewood Solar entered into additional consultation with the Connecticut Department of Energy and Environmental Protection (DEEP) Wildlife Division (Natural Diversity Data Base [NDDDB]) (see Attachments 3 – 6) and State Historic Preservation Office (SHPO) (see Attachments 7 – 8).

Additionally, since the issuance of SHPO's November 28, 2017 letter, it has been determined that in order to allow for the loading and unloading of equipment and materials, an approximate 35 foot wide temporary stabilized construction entrance/exit from Candlewood Mountain Road into Area 4 is required. The proposed temporary entrance/exit will require removal of an approximate 35 foot long segment of stone wall parallel to Candlewood Mountain Road. The stone wall will be reconstructed using the existing stones upon completion of work. This change to the avoidance and management plan is documented in a letter to SHPO dated April 8, 2020 (see Attachment 9). In a letter dated April 9, 2020, SHPO states, "Based on the information submitted, the revised scope will have no adverse effects to cultural resources. SHPO still suggests that construction matting be used in Area 4 to lessen the potential impact to undisturbed resources." (see Attachment 10)

In accordance with Condition 2 of the April 26, 2019 D&M Plan approval, Candlewood Solar will submit a copy of the DEEP General Permit and DEEP-approved stormwater management plan under separate cover, prior to commencement of construction.

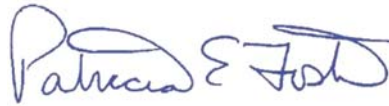
Should you have any questions, please do not hesitate to contact Mr. Rob Bukowski at (978) 392-5307; rob.bukowski@woodplc.com or Ms. Tricia Foster at (508) 840-9609; tfoster@epsilonassociates.com.

Sincerely,

Wood Environment & Infrastructure Solutions, Inc. and Epsilon Associates, Inc.



Robert J. Bukowski, P.E.
Project Manager



Tricia Foster
Senior Scientist

cc: R. Jackson, Candlewood Solar LLC
M. Daigneault, Candlewood Solar LLC

Enclosures

- Attachment 1. Issued For Construction Project Drawings dated and stamped February 28, 2020 including Landscape Planting Plans
- Attachment 2. Visual Simulations
- Attachment 3. September 23, 2019 Request for Natural Diversity Data Base (NDDDB) State Listed Species Review
- Attachment 4. February 7, 2020 Revised Review Request
- Attachment 5. February 28, 2020 Response to NDDDB Questions and Comments on February 28, 2020 Revised Review Request
- Attachment 6. NDDDB March 3, 2020 Determination
- Attachment 7. Phase II National Register of Historic Places testing and evaluation of Site 96-166 (Locus 7) - Redacted
- Attachment 8. November 14, 2019 SHPO Phase II National Register of Historic Places Testing and Evaluation Letter
- Attachment 9. April 8, 2020 Area 4 Letter to SHPO
- Attachment 10. April 9, 2020 SHPO Phase IB Cultural Resource Reconnaissance Survey, Amended

