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March 12, 2019

Melanie Bachman
Executive Director/Staff Attorney
Connecticut Siting Council
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New Britain, CT 06051

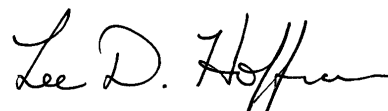
Re: Petition 1313 – Petition of DWW Solar II, LLC for a Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is Required for a 26.4 Megawatt AC Solar Photovoltaic Electric Generating Facility in Simsbury, Connecticut

Dear Ms. Bachman:

On behalf of my client, DWW Solar II, LLC (“DWW”), enclosed please find an original and 15 copies of DWW’s Responses to the Council’s Interrogatories that were issued on February 25, 2019. Please date stamp and return one of the copies to me in the enclosed envelope. In addition, I am providing the Council with one CD of this submittal, three full-sized sets of revised site plans, as well as 15 sets of smaller site plans.

If you have any questions concerning this submittal, please contact the undersigned at your convenience. I certify that copies of this submittal have been submitted to the Service List for this Petition, including the Towns of Granby and Simsbury.

Sincerely,



Lee D. Hoffman

Enclosures

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Petition of DWW Solar II, LLC for a
Declaratory Ruling that no Certificate of
Environmental Compatibility and Public
Need is Required for a 26.4 Megawatt AC
Solar Photovoltaic Electric Generating Facility
In Simsbury, Connecticut**

Petition No. 1313

March 12, 2019

**DWW SOLAR II, LLC'S RESPONSE TO THE CONNECTICUT SITING COUNCIL'S FIRST
SET OF INTERROGATORIES RELATED TO THE PROJECT'S D&M PLAN**

The petitioner, DWW Solar II, LLC ("DWW") respectfully submits this response to the Connecticut Siting Council's First Set of Interrogatories, dated February 25, 2019, related to DWW's proposed D&M Plan in the above-referenced Petition. In response to the Siting Council's Interrogatories, DWW states as follows:

Q1. Has DWW entered into a written agreement with the Town of Simsbury, or other third party, in connection with the proposed walking path? If so, please submit a copy of the agreement pursuant to Connecticut General Statutes §16-50o.

A1. DWW has not entered into a written agreement with the Town of Simsbury, or any other party, in connection with the proposed walking path. As the proposed walking path is not essential to the construction or operation of the Project,¹ DWW is willing to remove the proposed walking path from the D&M Plan at this time. Should the Town of Simsbury desire a walking path in the vicinity of the Project, similar to the one depicted in the D&M Plan, DWW will be willing to provide the Town with a license to construct, maintain and operate such a path at the Site, but the walking path will not be incorporated into the Project.

At this time, DWW respectfully requests that the Council consider the proposed walking path removed from the D&M Plan. Revised site plans are included with these Interrogatory Responses for the Council's review.

Q2. In connection with the proposed walking paths through the site:

- a. Who is liable for any personal injury? Does DWW have an insurance policy to cover any such liability?
- b. The walking paths are adjacent to detention basins. Will there be protective barriers to ensure walking path users do not accidentally fall into the basins?
- c. What recreational activities are permitted on the walking trails? Are any recreational activities prohibited, such as all-terrain vehicle use? If so, how would restrictions be enforced or the trail secured against such use?
- d. The path is adjacent to two abandoned barns. Will the barns be secured to prevent trespass?

¹ All capitalized terms not otherwise defined herein shall have the same meaning as in DWW's D&M Plan.

- e. How will emergency access to the trail be maintained in the event of an injury or emergency?
 - f. Who is responsible for maintenance? What type of maintenance is necessary and how frequently would maintenance activities occur? (maintenance was not provided in the Vegetation Maintenance Plan)
 - g. What are the hours of accessibility? Are the hours of accessibility limited or unlimited?
 - h. Will there be signs posted related to the hours of accessibility, permitted and prohibited uses, etc.?
 - i. What measures are proposed to enforce security and deter vandalism?
 - j. Who will be responsible for responding to concerns and/or complaints related to the proposed walking path?
 - k. How will pet waste and litter along the walking path and solar field be managed?
- A2. In light of DWW's withdrawal of the proposed walking path, as articulated in DWW's response to Interrogatory Number 1, this question has now been rendered moot.**
- Q3. Page 10 of the Council's December 21, 2017 Opinion under "Project Modifications" states, "DWW also proposed to incorporate wood chip walking paths on portions of the Project Site based on comments from area residents who currently walk on the portions of the private property. **The installation of walking paths is not necessary for operation of the facility and thus the Council will not order the inclusion of walking paths within the D&M Plan. The walking paths may have to be eliminated to account for Project Site re-configuration based on final stormwater features, access road alignment, or for expansion of certain solar arrays if solar panels are relocated from other areas of the Project Site.** (Emphasis added.)
- a. What is the total area in acreage or square feet of the proposed walking path?
 - b. Did DWW explore use of the proposed walking path area, or any portion thereof, for expansion of the project site in lieu of leasing the additional parcel?
 - c. Did DWW explore use of the proposed walking path area, or any portion thereof, for additional vegetative screening?
- A3. In light of DWW's withdrawal of the proposed walking path, as articulated in DWW's response to Interrogatory Number 1, this question has now been rendered moot.**
- Q4. Given the re-design of the Project and the re-location of all project-related equipment from Parcel 5 to other Project parcels, does DWW still intend to purchase Parcel 5?
- A4. Yes. The purchase and sale agreement with the current landowner contemplates the purchase of Parcel 5. The Project requires the use of Parcel 5 for construction laydown, and this is the means by which the current landowner is willing to provide Parcel 5 to the Project.**
- Q5. Is the Project still rated at 26.5 MW AC?
- A5. The Project has always been rated at 26.4 MW AC, and that has not changed. The Project anticipates that it will take 124,202 solar panels to achieve this rating, based on the current design.**
- Q6. Has the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities been filed with DEEP? What is its current status?
- A6. The General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities was filed with DEEP on January 15, 2019, and received by the DEEP on January 17, 2019. The Project has had discussions with staff from the Connecticut Department of Energy and Environmental Protection regarding DWW's filing. DWW has**

been informed that the filing is complete, and that the Project should expect the General Permit to be issued before March 31, 2019. As soon as the Project receives the General Permit, it will furnish a copy to the Council. The Project understands that it cannot begin construction activity until it receives a General Permit.

Q7. Does the proposed Landscape Plan conform to Town of Simsbury zoning regulations?

A7. Yes. The proposed Landscape Plan not only meets the basic Zoning Code requirements for the Town of Simsbury, the proposed Landscape Plan was also designed to meet the intent of Simsbury's Guidelines for Community Design. The guidelines address qualitative aspects of design such as context-sensitivity and compatible relationships among new and existing buildings. While projects must meet all applicable code standards, the guidelines also provide flexibility to meet a more general design intent.

Moreover, as the Council is aware, the Town has filed an appeal of the Council's determination concerning this Petition in the Superior Court. The Project has negotiated with the Town and other individuals who filed an appeal of the Council's decision, and the parties have reached an agreement to resolve the appeal. The Project provided several drafts of a screening plan to the various appellants, and the final screening plan is what was used to formulate the Landscape Plan that was submitted as part of the D&M Plan.

Q8. The Project clearing limit includes the clearing of an existing wooded buffer along the property line that abuts three residential properties on Howard Street. Can the solar arrays in this general area be shifted to the west, into the existing, unused open field area between wetland 4 and the proposed perimeter access drive in order to retain the existing vegetative buffer? Additionally, is it possible to eliminate the portion of the perimeter access road in this area to further accommodate a shift of the solar arrays to the west?

A8. DWW cannot shift the solar arrays to the west, however, the Project has taken several steps to address the vegetative buffering issue identified by the Council. As depicted on the Tree Clearing Map (attached as Exhibit A hereto), the walking path has been removed, and panels and roads have been relocated to be removed from the eastern side of the smaller array and additional arrays have been relocated to the southeast of the area identified by the Council. This allows for less tree clearing in the area (of approximately 0.7 acres), as depicted in the Tree Clearing Map. This will allow an additional wooded buffer near Howard Street.

Q9. Please elaborate on D&M Plan Exhibit C, Section 2.30.1. Are high concentrations of soil contaminants expected? What contaminants are referred to?

A9. DWW presumes that the Council is referring to the sentence in that section which reads, "Certain contaminants *if present in Site soils at high concentrations* could present a particulate an inhalation hazard . . ." (Emphasis added.) This section was added to address the unlikely occurrence of contaminants at high concentrations at the Site. Currently, no elevated concentrations of soil contaminants are expected, however, out of an abundance of caution, the Project's Soil and Materials Management Plan has an approach in place in case this unlikely event occurs.

Because the Project does not anticipate high concentrations of contaminants, it does not know what contaminants might be present, however, given the Site's former use for agricultural purposes, it is possible that pesticides remain on the site. There is no evidence, however, that those pesticides are present in elevated concentrations.

Q10. D&M Plan Exhibit K, Section 3.4 and Site Plan Sheet C-1.2 states a state-listed plant species was previously identified in the Eversource right-of-way. Is the identified location within the Project disturbance limit? If so, what types of disturbance would occur? If not, does DWW intend to fence off this location? The D&M Site Plans do not show isolation/protection of this previously identified location.

A10. The state-listed plant species of Special Concern is a perennial, so it will be resurveyed in the late spring when it emerges and will be protected by construction fencing. This occurrence is outside of the Project limits of disturbance but is on property owned by the Project.

A stand of a potential host plant for a state-listed owlet moth (*Noctuidae*) will also be protected in the Eversource ROW near proposed construction limits using the GPS limits collected during the 2017 field investigation. This work will be completed prior to initiating clearing for the interconnection.

These avoidance measures were proposed by DWW Solar II, LLC in its conservation measures plan submitted to CT DEEP NDDDB program on November 1, 2017 and approved on March 5, 2018.

Q11. D&M Plan Exhibit K, Section 5 states existing culverts would be inspected to confirm they are capable of supporting construction equipment. When would the inspections occur? If a culvert is not found to be structurally adequate, would it be replaced as a change to the D&M Plan?

A11. The culverts were evaluated by the Project's construction team in February. The current condition of the culverts was deemed to be sufficient for construction and operations period access. As noted in the D&M Plan the Project will be improving the existing roadway above the culverts, but no replacement or alteration to the culverts is planned. If for some unforeseen reason in the future a culvert is found to be inadequate, the culvert would either be repaired or replaced, which would require a change to the D&M Plan, or an alternative means of getting construction equipment to the area would be found, which would not require a change to the D&M Plan.

Q12. D&M Plan Exhibit K, Section 7.3 states when necessary, topsoil will be windrowed and stabilized for use after decommissioning. What activity determines if topsoil storage is necessary? Where on the site are the proposed topsoil storage locations?

A12. Most topsoil will remain in place or will be briefly stripped and replaced to accomplish site grading. These topsoils will be decompacted after construction as necessary to establish vigorous grass cover. Topsoil stripped during the construction of stormwater BMPs will be segregated and reused on the BMP slopes and bottoms. Topsoil is anticipated to only be windrowed for replacement under concrete slabs for electrical equipment. The windrows would be low piles one or two feet in height established close to the area where they were stripped and planted with grasses and forbs for reuse after decommissioning.

Q.13 Referring to Exhibit N, please address the following

- a. The work hours listed in Section 3.3.1 do not match the hours listed on D&M Plan p. 8;
- b. Section 3.3.3, what is considered "normal daytime working hours"?
- c. Section 4.2, has DWW consulted with the Town regarding children walking to school past the work site and laydown access points on Hoskins Road, and any related truck traffic time restrictions?

A.13

- a. The work hours listed on page 8 of the D&M Plan (6:30 a.m. to 5:30 p.m.) should control. Section 3.3.1. should be amended to extend the time for employees to leave until 5:30 p.m.
- b. Normal daytime working hours are those hours where there is sufficient ambient light to work without the need for illumination. During much of the construction season, normal daytime hours will include all of the work hours listed on page 8 of the D&M Plan. However, during the shoulder seasons, it is possible that daytime working hours will be less than the full allotment of working hours (i.e., 6:30 a.m. to 5:30 p.m.).
- c. Yes. DWW provided a draft copy of the Traffic Management Plan prior to its submittal as part of the D&M Plan. DWW will continue to work with the Town if any issues arise as a result of the traffic associated with the Project.

Respectfully Submitted,
DWW Solar II, LLC

By:



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Exhibit A

vhb March 06, 2019

