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December 10, 2020

VIA ELECTRONIC MAIL

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


Re: Petition 1410 - Greenskies Clean Energy, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a 3.0-megawatt-AC solar photovoltaic electric generating facility on two parcels at the Elmridge Golf Course located to the east and west of North Anguilla Road at the intersection with Elmridge Road, Stonington, Connecticut

Dear Ms. Bachman:

On behalf of my client, Greenskies Clean Energy, LLC ("Greenskies"), please find Greenskies' post-hearing brief in connection with the above-referenced Petition.

Should you have any questions concerning this submittal, please contact me at your convenience. I certify that copies of this submittal have been made to all parties on the Petition's Service List as of this date.

Sincerely,


Lee D. Hoffman

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

Greenskies Clean Energy, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a 3.0-megawatt-AC solar photovoltaic electric generating facility on two parcels at the Elmridge Golf Course located to the east and west of North Anguilla Road at the intersection with Elmridge Road, Stonington, Connecticut, and associated electrical interconnection.

Petition No. 1410

December 10, 2020

POST-HEARING BRIEF OF PETITIONER GREENSKIES CLEAN ENERGY, LLC

I. INTRODUCTION

The petitioner, Greenskies Clean Energy, LLC (“Greenskies”; “GCE”), submits this post-hearing brief in support of its June 4, 2020 Petition for a Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is Required for a 3.0 +/- Megawatt AC Ground-mounted Solar Photovoltaic Electric Generating Facility in Pawcatuck (Stonington), Connecticut (“Petition”).

In a rigorous process that has extended several months, Greenskies has demonstrated that the above-described solar facility (the “Project”), as designed, meets the exacting standards set forth by the Connecticut Siting Council (the “Council”). Through its Petition, several rounds of interrogatories, and three days of hearings, Greenskies has demonstrated that not only would its proposal have no adverse impacts on the water and air resources of the state, Greenskies also demonstrated that the Project would have no material adverse impact on the scenic character of the surrounding area.

Despite Greenskies’ demonstration that its Project would have no adverse effects on the area’s environmental resources, Proponents for Responsible Emplacement of Stonington Solar

(“PRESS”) and Mr. Douglas Hanson (collectively, the “Intervenors”) have opposed Greenskies every step of the way. Such opposition, however, lacks any sort of requisite proof or foundation. While the Intervenors stated that they have concerns over the Project, they failed to provide any proof that the Project would harm the surrounding water or air resources, or that the Project would even significantly impact the views from their homes. As such, their opposition should be disregarded by the Council, and the Project should be approved.

II. BACKGROUND

A. Background of the Project

The proposed Project includes the development of a 3.0 +/- megawatt (MW) alternating current (AC) ground-mounted solar photovoltaic (PV) facility. The Project will be located on two parcels¹ within a fifteen (15)-acre portion (“Project Area”) of the 250-acre, 27-hole Elmridge Golf Course located at 223 Elm Ridge Road and N. Anguilla Road, Stonington, Connecticut (the “Project Site”; “Property”). *See* Petition, p. 4. The landowner will continue to operate the golf course with 18 holes, the driving range and clubhouse facilities, continuing to provide a public recreational use to the greater Stonington community. *Id.*

If approved, the Project will participate in the SG2 tariff, selling power into the wholesale market. *Id.* GCE was awarded three (3) zero emission renewable energy credit (ZREC) contracts and entered into three (3) Standard Contracts for the Purchase and Sale of Connecticut Class 1 Renewable Energy Credits from Low or Zero Emission Projects with The Connecticut Light and

¹ The East project area is comprised of approximately ten acres of the total 87.5 +/- acre parcel; the West project area is comprised of five acres of the total 26 +/- acre parcel. The East Project parcel is bounded to the north by Elm Ridge Road, within a lot containing nine (9) holes of the golf course, a driving range, club house, small maintenance building, and a residence. To the east, the parcel is bounded by open space, to the South, residential uses and to the west N. Anguilla Rd. The West Project parcel is bounded by residential lots to the north, N. Anguilla Rd. to the east, open space and a residential lot to the south and Interstate I-95 to the west. *See* Petition, p. 4.

Power Company, d/b/a Eversource, dated August 16, 2019. *Id.* The delivery term start date for all three contracts is April 1, 2021, with additional extension options.

B. Greenskies Has Amended Its Project Design in Response to Meaningful Stakeholder Input

Throughout this Proceeding, Greenskies has responded to stakeholder input by amending its project design and agreeing to carry on additional activities in connection with its development of the Project. For example, in response to neighbor noise concerns, Greenskies conducted a comprehensive Noise Impact Analysis, performed at the request of Mr. Hanson (Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 23 – 24). Greenskies also showed a willingness to alter the design of its Project, such as when it offered the addition of level spreaders to enhance the Project’s stormwater management design (October 20, 2020 Tr. pp. 76 – 77). From the very outset, GCE has attempted to collaborate with the Council and stakeholders to minimize impacts, wherever feasible.

As Greenskies has repeatedly stressed, it is always willing to work with neighbors, stakeholders, and municipalities to identify specific, potential impacts and collaborate on mitigation measures in a cooperative manner:

As a company, as Greenskies, we do not have a written out policy of this is how we respond in all situations. I think our general process is to take in as much feedback as we possibly can. If we can foster a positive relationship with neighbors to our projects, we would prefer to. If we can find a mutual agreement, mutual screening that makes them happy, we are happy to involve that into our project as much as possible. In a lot of our projects we are successful with that, and we don't have conflict with neighbors, and they're happy to have the projects nearby.

See October 20, 2020 Transcript, pp. 22-23. Greenskies made substantial efforts to reach out to the abutters to the Project, the broader Stonington community, stakeholders, and municipal officials well before it filed the Petition. See Petition, pp. 17 – 19. Greenskies met with several

Town of Stonington officials and residents to present/review project plans, walk the proposed project areas, and take note of any concerns. *Id.*

Greenskies also attempted to engage, on a more substantive level, select neighbors/abutters whom it believed would have the greatest concerns regarding potential visual impacts associated with the Project. *See* Petition, p. 19. In addition to providing these individuals with formal notice of its intent to file the Petition on May 29, 2020 as required by the Regulations of Connecticut State Agencies (RCSA) §16-50j-40(a), Greenskies, as a courtesy, sent an informational letter to these residences on April 20, 2020, wherein an overview of the Project and a map showing the boundary of the proposed Project Area was provided. *See* Petition, p. 19. Contact information was provided as well, and Greenskies' personnel offered to speak with and address any of the residents' concerns.

Responses were received via phone and email from several individuals. *Id.* Greenskies spoke with three neighbors and explained that its courtesy outreach was made expressly so that it could obtain feedback and enable it to best address any concerns during the planning and permitting process. As a follow-up to the calls, Greenskies scheduled meetings with two non-party abutters, Randall and Lydia Miner of 153 North Anguilla Road, and Mr. Douglas Hanson. *See* Petition, Appendix K for relevant correspondence.

Greenskies' willingness to compromise and work with stakeholders throughout the development of the Project stands in stark contrast to positions taken by others in this matter. As set forth in greater detail below, PRESS and Mr. Hanson have been inflexible opponents of the Project — having demonstrated, from the outset, an unwillingness to work with Greenskies in the Project's design.

In the case of PRESS, for example, Greenskies representative Ms. Gina Wolfman attempted to engage its members in the design of the Project. Unfortunately, this turned out to be a futile exercise, as it became increasingly evident that, absent entirely relocating the Project, there was nothing that Greenskies could do to appease these individuals.

As the correspondence between Ms. Wolfman and Ms. Mary Ann Canning McComiskey, included in Exhibit D of Greenskies' Responses to Hanson (Set One) Interrogatories, dated August 20, 2020 shows, Ms. Wolfman was not only willing to hear from Ms. McComiskey regarding feedback of the Project, but was very responsive and eager to address her concerns. The last email exchanged between Ms. Wolfman and Ms. McComiskey was from Ms. Wolfman, who in response to Ms. McComiskey's concerns regarding potential visual impacts and potential diminution in property values,² concluded as follows:

Despite current conditions due to Covid-19, the CSC is operating with accommodations. The timing of this pandemic is unfortunate and we would like to offer some options for meeting you and other neighbors – outside, in very small groups, and properly distanced. There is definitely opportunity for the public, yourself included, to weigh in; that is why we have reached out.

In your email you mentioned that you would oppose the project as currently designed. Can you please provide your specific concerns with the current project so we can best understand the issues that you are not OK with and brainstorm ways we can address them?

I would like to continue this conversation and involve you (and other neighbors) in the landscape planning and screening of the project. Again, thank you, and be well. We look forward to continuing to collaborate with you.

² GCE will not address diminution in property values pursuant to Council Member Morissette's November 10, 2020 ruling that property values were not to be considered in connection with Project deliberations. See Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 6 – 7, (wherein Mr. Morissette stated, in relevant part, "[p]lease be advised that the Council's project evaluation criteria under the statute does not include consideration for property value."); *Id.* at p. 67 ("MR. MORISSETTE: Thank you. Before we move on, Attorney Gianquinto, I want to remind you that concerning your statement and comment on limiting, that property values are not part of the consideration under the statute and neither is stormwater, as was stated in the Waterford matter. So this is not limiting. It's within the statute.").

Ms. Wolfman never received a response back from Ms. McComiskey. *See Greenskies Responses to Hanson August 6, 2020 Interrogatories*, dated August 20, 2020, p. 11. For whatever reason, Ms. McComiskey decided that dialogue with the Project's developers would not be fruitful and that intervening in these proceedings would be more effective to derail the Project.

Mr. Hanson has been similarly unwilling to work with Greenskies. As indicated in Greenskies' Responses to the Council's September 15, 2020 Interrogatories (p. 3), Greenskies representatives spoke with Mr. Hanson on April 23, 2020, providing him with an overview of the Project and explaining the Siting Council process. Mr. Hanson expressed that his primary concern at the time was visual impact. Greenskies explained it was working on proposed visual simulations from the Woodland Court abutter property line as well as a landscape and screening plan that would address any adverse visual impact.

Mr. Hanson expressed that he did not believe that the Project could be adequately screened. Greenskies again offered to meet with him and obtain specific feedback on its plans. Mr. Hanson accepted Greenskies' invitation, and on May 6, 2020, Greenskies' staff and project engineer met with Mr. Hanson on his property including in his rear yard, after placing brightly colored pin flags along the southern and southeastern fence lines of the proposed Project, so that the edge of the Project could be visualized and discussed during the meeting.

The purpose of this exercise was to enable Greenskies to gain an understanding of Mr. Hanson's visual perspective from his rear property line. Greenskies shared and reviewed the site plan/layout superimposed on an aerial base, went over the landscape plan, answered Mr. Hanson's questions, and offered to provide screening along his property line. Greenskies and the project engineer left their contact information with Mr. Hanson and asked that he reach out with further feedback before Greenskies submitted the Petition, which it did almost a month later. Greenskies,

however, did not hear from Mr. Hanson and, therefore, the landscape designer proposed a landscape plan without the solicited feedback from Mr. Hanson. *See* October 20, 2020 Hearing Transcript, pp. 13 – 14.

Despite not responding to Greenskies in its solicitation for feedback, Mr. Hanson now comes before this body suggesting that Greenskies should have intuited that Mr. Hanson wanted representatives of Greenskies to invite themselves into his home during a time of COVID-19 restrictions to ascertain the view from inside his house. *See* October 20, 2020 Hearing Transcript, pp. 27 – 29. Mr. Hanson could have solved this issue by making the invitation to Greenskies himself, but he never did so, as Mr. Hanson himself readily admits:

15. Understanding that Mr. Hanson's home is immediately adjacent to the project site, did Mr. Hanson ever offer Petitioner to come onto Mr. Hanson's property for the purposes of conducting a visual simulation?

No.

16. If the answer to Interrogatory 15 is in the affirmative, please provide the dates and methods that such invitation was extended. If the answer to Interrogatory 15 is no, why was such an invitation never extended?

There was no invitation because none was required.

Mr. Hanson's Responses to Greenskies' Supplemental Interrogatory Responses, dated September 24, 2020, p. 1.

Mr. Hanson also seemed displeased that Greenskies did not perform a noise study for the solar Project, because Mr. Hanson had stood near a solar project located on I-95 in Rhode Island and heard noise from that project. *See* Hanson Responses to Greenskies Interrogatories, dated September 24, 2020, p. 5; Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 15 – 17. In response, Greenskies performed an industry-standard noise study and provided it as part of this Petition. *See Id.* at 23 – 24. Now, however, Mr. Hanson is looking for a simulation of what it will sound like if golf balls hit the facility's solar panels. *See* Hanson PFT, p. 9.

Greenskies does not believe such a request was reasonable or necessary in light of the fact that: (i) the solar panels will be over 200 feet away from Mr. Hanson's residence; (ii) intervening vegetation will be installed, which will minimize any such noise impacts; and (iii) the golf course will be reconfigured, such that the facility can be avoided by golfers. *See* Greenskies Responses to Hanson August 6, 2020 Interrogatories, dated August 20, 2020, pp. 4 – 5; October 20, 2020 Hearing Transcript, pp. 32 - 33. In any event, Mr. La Marche adequately explained why such a request was rather unusual and unreasonable to accommodate:

THE WITNESS (La Marche): But however, I don't quite understand the relevance. We don't expect noise to be an issue, and there is already golf being played. I don't think that it is reasonable to do a study to try and predict the oddity of noises such as a golf ball landing on the modules. I mean, I think that's out of the standard industry practice. People wouldn't do a simulation for the sound of rain on a building in terms of a noise constraint, and it's just not something typical that we would do, and we did not do.

October 20, 2020 Hearing Transcript, pp. 31- 32.

In spite of the significant amount of evidence in the record showing Greenskies' extensive and good faith efforts to engage both Mr. Hanson and PRESS members in the Project's design and landscaping efforts, the Intervenors proffer a distorted narrative that casts Greenskies as an unresponsive and inattentive developer. This is simply untrue. The Intervenors were given ample opportunity to coordinate and consult with Greenskies during the design phase of the Project. Instead, they chose to not cooperate and to become intervening parties instead. Intervenors certainly have the right to not engage with a developer proposing a project, however, they do not have the right to claim the developer is unwilling to work with its neighbors when they are the ones who refuse to meet or to respond to requests for comments.

Greenskies remains amenable to having continued discussions regarding the Project's landscape design and screening to accommodate the Intervenors' concerns. If the Petition is

approved, GCE expects that such discussions will continue through the D&M Plan process. Should that happen, it is Greenskies' hope that other parties to this matter will also emulate a similar spirit of cooperation.

III. LEGAL STANDARD

It is likely that the Intervenors expended significant energy on the visual and noise issues because they were aware that under the relevant statutory standards, Greenskies has met its burden of proof for the approval of this Project. They have attempted to distract the Council from adhering to the appropriate standards of review, however, the Council is well aware of the standard of review for such facilities. This Petition was brought before the Council pursuant to Conn. Gen. Stat. §§ 4-176 and 16-50k(a) and Regs. Conn. State Agencies §§ 16-50j-38 *et seq.*, and Greenskies has requested that the Council issue a declaratory ruling approving Greenskies' proposed location, construction, operation, and maintenance of its 3.0 +/- megawatt (MW) Project at the Property.

Conn. Gen. Stat § 16-50k(a) provides, in pertinent part, that,

Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling . . . (B) the construction or location of any... grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as such project meets air and water quality standards of the Department of Energy and Environmental Protection...

Greenskies respectfully submits that approval of the Project is warranted under Conn. Gen. Stat § 16-50k(a), because the Project is a “grid-side distributed resources” facility, with a capacity of not more than sixty-five (65) megawatts, that complies with the applicable air and water quality standards of the Connecticut Department of Energy and Environmental Projection (“CTDEEP”). In addition, and as discussed further below, the Project has been designed to have minimal natural

resource impact(s), will not have a substantial environmental impact, and will provide a multitude of benefits to Stonington and the State of Connecticut.

IV. ARGUMENT

A. The Project Meets Applicable CTDEEP Air and Water Quality Standards

As demonstrated below, the Project satisfies the requirements of Conn. Gen. Stat. § 16-50k(a) because it is a grid-side distributed resources facility under 65 MW and complies with CTDEEP air and water quality standards.

The record is clear that the Project satisfies the applicable air quality standards of the CTDEEP. Due to the nature of the proposed Project as a solar energy generating facility, no air emissions will be generated during operations. *See* Petition, p. 25. While there may be temporary construction-related mobile source emissions associated with vehicles and equipment during construction of the Project, any potential air quality impacts related to these activities are *de minimis*. *Id.* Notwithstanding, Greenskies is committed to ensuring that such vehicle and construction equipment emissions will be mitigated, to the greatest extent(s) feasible, by limiting idling times of equipment, ensuring that all vehicles and equipment are properly maintained, and by watering/spraying to minimize dust and particulate releases. *Id.* In addition, all on-site and off-road equipment will meet the latest standards for diesel emissions, as prescribed by the US EPA, and will consider reducing exhaust emissions by utilizing effective controls. *Id.* Therefore, an air permit will not be required. *Id.*

Importantly, the Project will not only comply with CTDEEP air quality standards, but also will result in a net benefit to air quality in the State. As reflected in the results of the Carbon Debt Analysis (Petition, Appendix E), the Project is expected to produce approximately 4,953,277 kWh of energy in its first year of operation. Using the U.S. Environmental Protection Agency (“US

EPA”) Greenhouse Gas Equivalencies Calculator, the estimated annual carbon offset of the Project is 3,502 MT CO₂. This amounts to an equivalent reduction of taking off the road 757 carbon-based fuel operated, moving vehicles; 593 homes’ electricity use or 404 homes’ energy use for one year; or 3,858,905 pounds of coal burned. As such, the Project will clearly meet the applicable air standards of the CTDEEP.

The record is equally clear that the Project will also comply with CTDEEP Water Quality Standards. The Project will not require consumption of water resources, nor will it generate wastewater or water discharges as part of its operations and maintenance, and therefore will not adversely impact public water supplies or groundwater. Petition, p. 32. In fact, the Project will likely *improve* water quality on the Property and in the surrounding area.

Unlike a golf course, operation and maintenance of the Project will not require the utilization of fertilizers, noxious chemicals or hazardous materials that can leach into groundwater. *See* Petition, p. 31. As was discussed in both Responses to Interrogatories and during the public hearings, the Project will result in a 33 percent decrease in water usage and control products/chemicals that are presently used on-site. *See e.g.*, Petition, p. 32. This reduction is expected to result in improved groundwater and surface water quality, as well as less of an impact to water quantity/volume at the source, Anguilla Brook. *Id.*

There is also no potential for indirect impact to water supplies or groundwater based on the site location (e.g., setting and existing conditions) and the proposed stormwater controls for the Project. *See Id.* at 31 – 32. The closest activity point to the Anguilla Brook is site grading and that activity occurs over 375 feet from that waterway. *See* Greenskies CSC Interrogatory Responses, dated September 24, 2020, p. 1.

While some concerns were raised regarding wells, Greenskies reviewed all available information respecting identified wells within the Project Site and concluded that these wells will not be impacted by the construction and installation of the Project, based on various factors: the wells' distance(s) from, and lack of proximity to, the proposed Project; no blasting will occur during site preparation(s); and only limited excavation work will occur for stormwater basin construction. Council's (First Set) of Interrogatories, dated July 23, 2020, pp. 5 – 6.

To further ensure that the identified water sources are protected from any potential construction-related impact(s), Greenskies prepared a Stormwater Report as part of its CTDEEP General Permit application, which includes appropriate water quality management measures for the Project, an erosion and sediment control plan ("E&S Plan"), as well as a stormwater construction waste management plan (the "Waste Management Plan").

All of the proposed stormwater management controls for the Project are designed to comply with the CTDEEP's guidance document for the construction of solar projects, commonly referred to as *Appendix I*. See Greenskies Responses to CSC (First Set) Interrogatories, dated July 23, 2020, pp. 9 - 10 ("[s]pecific examples [of compliance] include outlet protection from the stormwater management basins that are designed to dissipate runoff to non-erosive velocities, as well as the hydrologic analysis that was used for the Site (which complies with the criteria outlined under Appendix I, subsection (3) of "Design Requirements for Post-Construction Stormwater Management Measures"); see also Greenskies Responses to Hanson August 6, 2020 Interrogatories, dated August 20, 2020, pp. 17 – 18 (detailing how the Project's stormwater design is compliant with the applicable conditions of Appendix I). Greenskies believes that the measures articulated in its Stormwater Report, coupled with CTDEEP's analysis of the Project (in connection with the General Permit process), will be more than sufficient to address any issues

regarding water quality that may result from the Project’s construction and subsequent operations and maintenance.

Notwithstanding the foregoing, parties opposing the Project claim that the planned safeguards will not adequately protect water quality—alleging, in essence, that Greenskies’ entire design of the Project, from a stormwater perspective, is deficient, as Greenskies did not consider the panels to be impervious. As set forth in greater detail below, these issues are unfounded and unsupported by the record. However, given the length of time and resources expended on these issues, a closer examination is warranted.

As a preliminary matter, the only “expert” testimony offered in support of this claim is from Mr. Trinkaus, who, aside from being unqualified to render an expert opinion regarding stormwater design(s) for solar projects, failed to proffer any meaningful support for his opinions. *See* Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 110 – 114 (wherein Mr. Trinkaus conceded that a court of competent jurisdiction found that “he doesn't have any experience” in stormwater management for solar farms, and that he is neither a soil scientist nor a dam safety expert); *see also* PRESS Responses to GCE Interrogatories, dated September 24, 2020, p. 7 (refusing to provide calculations to support claims regarding alleged deficiencies in Project’s stormwater design on the basis that Mr. Trinkaus “...did not need to do calculations to see that problem in his review of the project.”).

Assuming *arguendo* that Mr. Trinkaus has some qualifications to render his opinions, it does not detract from the paucity of analysis in his critique of the Project. In essence, his “findings” are impossible to test because they are, as far as Greenskies is concerned, not based on any science or methodology, but instead based upon his *personal* opinion that solar panels should be

considered “impervious” for purposes of stormwater calculations. Indeed, even the Council seemed to acknowledge Mr. Trinkaus’ “bias” in this realm:

MR. HANNON: I know that one of the things you've referred to in your prefile [sic] testimony or responses to some of the interrogatories is the issue about the company not considering the solar panels to be impervious in designing the site. And I know where you stand on that. But I guess my question to you is based on some of the information that is in, was attachment I, I think it is, for the stormwater general permit, there may be some conditions in which the agency considers the panels, or they may fall into a category where they're not considered impervious, but that's really a decision for the agency, isn't it? I mean, I understand you have your position on this, and, I mean, were you clear with both here and information you've submitted to the agency in response to comments on the general permit. But again, ultimately that's going to boil down to the agency making a decision, correct?

Continued Evidentiary Hearing November 10, 2020 Transcript, p. 78. Clearly, a solar panel is impervious to rain. However, a drainage and run-off analysis is based upon the character of the land and what is constructed on the land, such as parking lots, roadways and other paved or covered areas that block drainage and create run-off. Solar panels do not create such issues because drainage below the panels is not impeded. Ironically, the one project that Mr. Trinkaus designed in accordance with this “impervious” parameter was denied by the Council (*see* Petition No. 1398), in large part, because it “appear[ed] to have substantial adverse environmental effects, particularly with regard to water quality.” Petition No. 1398 Decision and Staff Report, dated September 28, 2020. The Council should decline Mr. Trinkaus’ invitation to accept his unsupported and redundant opinions at face value.

In his attempt to bolster his critique(s) of the Project’s stormwater design, Mr. Trinkaus proffered “calculations” into evidence. In reality, all that is presented is his “results” in table form:

Watershed	Petitioner peak rate	SDT peak rate	Petitioner volume	SDT volume	% change peak rate	% change volume
PR-1A	6.22	9.25	0.797 ACRE-FEET	1.038 ACRE FEET	48%	30%
PR-1C	5.92	7.56	0.886 ACRE-FEET	0.945 ACRE FEET	28%	6.6%
PR-02	1.59	2.18	0.246 ACRE-FEET	0.268 ACRE FEET	37%	8.9%
PR-03	3.15	4.13	0.493 ACRE FEET	0.528 ACRE FEET	31%	7.1%
PR-08	3.49	5.57	0.372 ACRE FEET	0.534 ACRE FEET	59%	43%

See Supplemental PFT, p. 2. Absent any evidence of the formulas and assumptions used in connection with this analysis, neither the Council nor the parties to this Proceeding can meaningfully ascertain the veracity of these “calculations”. Indeed, to that end, Greenskies cannot see any meaningful difference, evidentiary speaking, between presenting one’s findings on a table, as is the case here, versus a blanket assertion that “I did the same sort of calculations in connection with the failure of the Antares site in East Lyme. There, I found an average increase of 40%. The numbers here are similar, ranging from 28% up to 59%.” *See Supplemental PFT, p.3.* The only difference is the medium by which these results are presented, and it is incumbent upon Mr. Trinkaus to supply more than his curriculum vitae to establish the reliability of his supposed “findings”.

As demonstrated by the above, the Project clearly satisfies CTDEEP air and water standards. In addition, and as further described below, the Project will result in no adverse environmental impact and will provide a multitude of benefits to the State and greater Stonington community, without interfering with nearby residences’ right to quiet enjoyment and without compromising the scenic character of the neighborhood.

B. The Project Will Have No Adverse Impacts to Prime Farmland Soils, Core Forest, or Wildlife Occurring on or Within the Vicinity of the Site.

Based on existing site conditions, the active use of the property as a golf course with managed turf, and the distance between proposed project activities and sensitive ecological

resources, the Project is not expected to have any adverse effect(s) to Prime Farmland Soils, core forest, or wildlife occurring on or within the vicinity of the site.

Although Prime Farmland soils are mapped on-site, the 50-plus years of golf course operations and intense turf management has considerably diminished the value of these resources, and therefore, the Project will not impact prime farmland. *See* Petition, p. 26; Department of Agriculture (“DOAg”) June 2, 2020 Correspondence (providing that the DOAg “found that there does not appear to be any material impact to the status of prime farmland” as a result of the construction of the Project.”). Greenskies also intends to use a native pollinator habitat seed mix within both project areas and proposes to install nesting boxes for native pollinator species in the West project area, in consultation with Dr. David Wagner of UCONN’s Dept. of Ecology and Evolutionary Biology and/or staff at the CT Agricultural Experiment Station in New Haven, to restore the value of the land comprising the Project Site. *See* Petition, pp. 26 – 27.

With respect to core forest, on March 27, 2020, Greenskies contacted Christopher Martin at CTDEEP’s Division of Natural Resources to request a “core forest” review and determination on the Project. Petition, p. 17. In connection with this review, Greenskies provided a map showing forestland habitat on the Property, the development areas, and proposed limits of disturbance. *Id.* On April 27, 2020, Rick Jacobson, Chief, CTDEEP Bureau of Natural Resources, submitted a letter to the Council indicating the review was complete and the proposed Project will not materially affect the status of such site as core forest. *See* Petition, Appendix K for relevant correspondence. Greenskies also notes that, the Project will only require 1.48 acres of trees for shade minimization—an arguably *de minimis* amount compared to what is often required for other solar developments. *See* Petition, Appendix E (Carbon Debt Analysis).

The Project will similarly have no adverse effect to wildlife occurring on or within the vicinity of the Property. Based on the CTDEEP's Natural Diversity Data Base (NDDB), there is mapped Natural Diversity Area in the northwest portion of the East project area that encompasses a wooded area and part of the existing driving range at the golf course. Petition, p. 30. All proposed activities, however, are well outside the mapped NDDB polygon. *Id.* Accordingly, the mapped habitat is east of the golf course entrance drive and clubhouse and is 0.19 miles from the East project area and 0.65 miles from the West Project area. *Id.*

Because the NDDB indicated a known extant location of the Nine-spotted lady beetle (*Coccinella novemnotata*), a designated "State Special Concern" species, Greenskies intends to incorporate the following protective measures to protect the lady beetle from long-term impacts of the facility, in accordance with the NDDB's (April 24, 2020) recommendations:

1. Pesticide use will be avoided when possible. If pesticide use cannot be avoided, GCE will use chemicals that target only the pest, treat only infested areas, and select chemicals that do not persist.
2. Greenskies will only use native grass and herbaceous plants to re-establish any ground disturbance.

The Project will not harm the environment. The Project, will however, provide a number of benefits to the Town of Stonington and the State of Connecticut, without detracting from the scenic character of the neighborhood.

C. The Project Will Provide A Number of Benefits to The Region and Is Consistent with The Town of Stonington's Plan of Development

Our General Assembly explicitly declared that, "it is the policy of the state of Connecticut to ... develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent..." Conn. Gen. Stat. § 16a-35k. "The General Assembly further

declares that it is the continuing responsibility of the state policy to ... enhance the utilization of renewable resources so that the availability of nonrenewable resources can be extended to future generations.” Conn. Gen. Stat. § 16a- 35k.

The Project is consistent with the state’s energy plans and objectives, as it will be associated with the displacement of older, less efficient fossil fuel generation, and will provide Connecticut’s electrical system with additional generating capacity that will meet demand using renewable energy and contribute to grid stability. *See* Petition, p. 15. More specifically, the Project is consistent with Connecticut’s 2013 Comprehensive Energy Strategy (CES). This version of the CES, along with the most recent version of the CES, sets forth clear goals for increasing the use of renewable energy as a part of Connecticut’s power generation portfolio:

The Global Warming Solutions Act (Connecticut Public Act 08-98) sets a goal of reducing Greenhouse gas emissions by 80% by 2050. Connecticut’s Renewable Portfolio Standard (RPS) requires that 20% of generation serving state customers be from renewables by 2020. Meeting the 2020 RPS goal will require the development of 6,196 gigawatt-hours, or nearly 3 gigawatts of low-carbon supply – more than 25 times the amount of power generated by Class I resources (i.e., solar power, wind power, and fuel cells) within Connecticut in 2011.

Connecticut’s Renewable Portfolio Standards (RPS) has only increased since the 2013 CES. To that end, the construction of the Project becomes even more important in light of the 2018 CES’s aspirations for even greater greenhouse gas emission reductions through the promotion of grid-scale renewable energy, as is evidenced by Governor Lamont’s issuance of Executive Order No. 3, which calls for the complete decarbonization of the electric generation sector by 2040.

In addition to the direct contribution the Project will make to increase the use of renewable energy and additional reduction of greenhouse gases and criteria air emissions, the Project will represent a source of both direct and indirect revenue contribution to the local community, as GCE

anticipates using local and regional labor, as practical, for construction, and will be a valuable tax resource for the Town, without impacting Town services. *See* Petition, p. 15.

Notwithstanding the foregoing, PRESS claims, erringly, that the Project is incompatible with the Town's (2015) Plan of Conservation and Development (the "POCD") to the extent that it "stresses the importance of low-impact development, the importance of protecting water quality and quantity, protecting wetlands and open space." Mary Ann Canning McComiskey PFT, dated September 24, 2020, p. 2. As described below, the Project supports these as well as a number of other goals listed in the POCD.

As a preliminary matter, PRESS conveniently omits that one of the stated recommendations in the POCD is to "[p]romote energy conservation"³—and in furtherance thereof, "[e]xpanding opportunities and incentives for property owners to install wind generators and/or solar panels that generate electricity or hot water." POCD, p. 119. The Project irrefutably supports this goal, as well as a number of other goals included in the POCD, including but not limited to, the following:

4.2 Preserve Agricultural Land (and Shellfishing Areas): The Town should encourage the preservation of farmland and seek to discourage its potential loss in Stonington.⁴

The Project will not result in impact to agricultural use of this Property or to soils classified as Prime Farmland or Farmland of Statewide Importance. In addition, the Project will implement passive, secondary agricultural use through enhancement of native pollinator habitat and provision of nesting boxes for native species. *See* Petition, pp. 26 – 27.

³ Town of Stonington Plan of Conservation and Development ("POCD") (2015), p. 119 https://www.stonington-ct.gov/sites/g/files/vyhli3851/f/file/2015_pocd_final_version.pdf.

⁴ POCD, p. 32.

5.1 Protect Water Quality and Quantity: The protection of water quality has been a major goal of the Town's land use regulations for the past several decades.⁵

14.2 Promote Water Conservation: Stonington should encourage water conservation especially since many areas of the community rely on groundwater for domestic use. One way to accommodate this goal is to... encourage infiltration where appropriate.⁶

As explained above, the Project will protect water quality and quantity. Solar energy facilities, such as this Project, do not require usage of water derived on-site, do not generate wastewater, and do not contain chemicals or hazardous materials that can leach into groundwater, as part of operations and maintenance. *See* Petition, p. 31. The proposed Project will not impact public water supplies or groundwater because it does not require consumption of water resources, nor does it generate water discharges; there is also no potential for indirect impact to water supplies or groundwater based on the site location, setting and existing conditions. *See* Petition, pp. 31 – 32.

In addition, decommissioning nine (9) holes of the existing golf course will result in a 33 percent decrease in the use of chemicals and fertilizer onsite, as well as a 33 percent decrease in water withdrawn from Anguilla Brook. *See* Petition, p. 15; Petition, p. 32 (“the landowner holds a diversion permit from CT DEEP (Permit #DIVC-201809964) to divert/withdraw up to 40,000,000 gallons of water annually from Anguilla Brook, south of the West project parcel, for use in irrigation of the golf course. The five-year average withdrawal for 2015 through 2019 is 8,400,000 gallons/year.”). This reduction is expected to result in improved groundwater and surface water quality, as well as less of an impact to water quantity/volume at the source, Anguilla Brook.

6.1 Protect and Preserve More Open Space. POCD, p. 48.

⁵ POCD, p. 37.

⁶ POCD, p. 120.

The proposed solar facility is a use that will allow this land to remain “Managed Open Space.” Petition, p. 7. As Greenskies indicated in its Petition (p. 6), maintaining the 27-hole golf course and driving range has become an increasingly challenging task for the present landowner. The income generated by the Project lease will allow the Elmridge Golf Course to continue operating in the near future with an 18-hole configuration, driving range, and clubhouse facilities, continuing to provide a public recreational use. *Id.* at 4. It should also be emphasized that the facility is not a permanent structure; it is intended for the solar arrays to be decommissioned at the end of the Project’s life (20 – 30 years), and the land can revert to an undeveloped status or put to other uses as the property’s owner(s) see fit. *Id.* at 7.

Based on the foregoing, the Facility, at the proposed location, will not have a detrimental effect on the environment or the character of the neighborhood; it will, however, offer a multitude of benefits to the Stonington community and help Connecticut reach its ambitious renewable energy and greenhouse reduction goals. The Intervenors have simply ignored the foregoing evidence, revealing the less honorable motivation(s) undergirding their opposition.

D. The Project Will Not Result in any Adverse Public Health Effects or Adverse Visual/Noise Impacts.

Opposition to the Project is clearly not based on any sincere conservation concern(s). Rather, the environmental claims proffered by the Intervenors are thinly-veiled attempts to conceal blatant NIMBY-ism. *See* Hanson PFT, p. 2 (“If approved as is, I am now going to have to look at a giant solar panel plant from my property, as opposed to a well-manicured and aesthetically pleasing golf course.”); Mary Ann Canning McComiskey PFT, dated September 24, 2020, p. 1 (“While I expect many folks will accuse me of being guilty of ‘Not in my back yard,’ the truth is I, and PRESS, believe a solar facility of this size does not belong in anyone’s backyard.”); Rhandi Lee PFT, dated September 24, 2020, p. 1 (“To be clear, PRESS is not against solar in general, or

even ground-mounted solar arrays. PRESS is concerned about such an installation at this specific site..."); Continued Evidentiary Hearing November 10, 2020 Transcript, p. 125 ("McComiskey: And looking at the every man's perspective, I would never have purchased this house with a utility scale solar facility in the backyard. And frankly, I can't imagine that anybody else would as well.").

While Greenskies appreciates that the parties to this Proceeding desire to maintain the status quo of their neighborhood, it is simply unrealistic to believe that the golf course and open space will remain indefinitely. *See* Petition, p. 4 (detailing how economic realities have threatened the viability of the golf course); Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 21 – 22 ("MR. LYNCH: I just want to follow up on a point that Mr. Hannon just made on the life of golf courses. You know, Mr. Hanson, I think you may want to check an edition of Real Sports when they interviewed Jack Nicklaus who mentioned 400 golf courses have failed last year. So they don't last forever. I'm just putting that point out"). Greenskies believes that the development of a solar facility is an attractive use of the Property compared to other permitted uses; and through verifiable data and studies, Greenskies has demonstrated that the Project would not interfere with the use and enjoyment of nearby residential properties.

That having been said, the Project Site straddles two zones in the Pawcatuck section of the Town of Stonington: the Greenbelt Residential (GBR-130) zone and the Rural Residential zone (RR80). *See* Petition, p. 6. Uses allowed in the GBR-130 zoning district by Special Permit include: communication and water towers, public utility structures and facilities, municipal facilities, and lumbering and mills. *Id.* at 6 – 7. In addition to public utility structures and facilities, municipal facilities, and lumbering and mills, uses allowed in the RR-80 zoning district by Special Permit include: excavation operations; cemeteries, crematoriums and funeral homes; congregate living facilities and convalescent homes. *Id.* at 7. Accordingly, irrespective of whether this Project moves

forward, the zoning designation(s) for the Project Site remain in place, and the economic reality(ies) that threaten the Elmridge Golf Course's viability still exist. As such, there is the potential that a larger, more obtrusive and intrusive development could still be constructed at the site.

In addition, Greenskies has demonstrated that the Project would be a good neighbor. The proposed Project is not expected to create any impact with regard to public health or safety issues, and will meet or exceed all local, state, national and industry health and safety standards and requirements. Petition, p. 21. In addition, operation of the proposed solar facility will not require chemical usage of any kind. *Id.* Electrical equipment is located on concrete pads and such equipment does not contain any petroleum-based or other hazardous chemical liquids or solids. *Id.* Although Greenskies has not experienced the unlikely event of a fire at any of its solar facilities, Greenskies will ensure that standard procedure and coordination with Town emergency response personnel are followed. *Id.* In addition, appropriate emergency personnel will have the opportunity to review all civil and electrical plans for the Project, and before bringing the Project online, Greenskies will offer to do a site walk with such staff to identify equipment, signage and system components. *Id.*

Notwithstanding, concerns were raised regarding the potential for impact/contamination that would result in the event that a panel broke. As Greenskies explained, the selected modules (and/or comparable products) for the Project will not contain any PFAS or its derivatives, nor will the panels contain selenium, cadmium, arsenic or heavy metals. *See* Greenskies Responses to Hanson Interrogatories, dated August 20, 2020, pp. 1 – 2; Exhibit B, Toxicity Report. The only substance that was identified is the lead soldering paste which is used to connect cells together within the panel. It is entirely encapsulated and contained within the panels and the amount of lead

present is well below the USEPA's "Maximum Concentration of Contaminants for the Toxicity Characteristic." *See* Gina Wolfman PFT, dated September 24, 2020, p. 7.

It is very unlikely that a panel would break, as the selected panels (and comparable models) for the Project are UL1703 certified. *Id.* The UL 1703 Standard for Flat-Plate Photovoltaic Modules and Panels is the industry standard for safety and performance. *Id.* To receive this certification, a comprehensive testing protocol is implemented for components and materials in everything from the frame and junction box to the connectors and wiring. *Id.* Such testing includes temperature, corrosivity, degradation and breakdown during normal operating conditions, as well as testing for exposure to rain and water. *Id.* Therefore, it is very unlikely that a panel would break and affect nearby resources through contamination. Assuming, however, that a panel does break, Greenskies' Waste Management Plan addresses all matters relating to waste handling, staff training, and spill prevention and control, and any contamination will be quickly rectified in accordance with the plan. *See* Greenskies Responses to Council's (First Set) of Interrogatories, dated July 23, 2020, pp. 5 – 6.

Greenskies has similarly proven that the Project would result in no adverse visual or noise impacts. Regarding visual impacts, while GCE had hoped that the Intervenor would have been more involved in the screening efforts, GCE has designed the Project such that there will be no adverse impact to views from or onto the Property, and proposes various screening measures, including:

1. The use of green slats on perimeter fencing;
2. Evergreen plantings outside the fence line in select areas;
3. Infill evergreen plantings within existing tree lines between the proposed Project and property boundary;

4. Full landscaping in areas identified as most sensitive to existing residential uses;
and
5. Expansion/extension of existing roadside evergreen screens along N. Anguilla Rd.

Petition, p. (See Figure 6A – Site Layout and Grading Plan for West Project area). Utilization of these robust screening measures will ensure that visibility of the proposed Project will be minimal. In any event, the Intervenor do not claim to possess a view easement and have no right to unobstructed views. *See* Greenskies Responses to CSC Interrogatories, dated September 24, 2020, p. 2 (“Based on review of available title and land records, along with information provided by the current landowner, Petitioner is not aware of any viewshed rights included in any deed to the Project site property and granted to an abutting property or homeowner association...”).

Moreover, due to the nature of the use, facility design, required equipment and distance from potential noise receptors, the proposed Project is expected to have no adverse noise-related impact on the surrounding area. *See* Petition, p. 23. Based on information provided by specified equipment manufacturers, the selected inverters for the proposed Project will typically generate 55 dBA at a distance of 3.0 meters or 9.8 feet; all other selected system equipment will typically generate the same or lower levels of noise. *Id.*; see Appendix B for electrical equipment specifications. There will be one equipment pad for the West project area, located approximately 150 ft. from N. Anguilla Rd. off the site entrance/access road; and there will be two equipment pads for the East project area, one located near the site entrance and one approximately midway through the eastern side of the array off the access road. *Id.* at pp. 23 – 24; *see* Figures 6A – 6C – Site Plan & Layout.

Any sound generated by the equipment located at the pads is expected to be attenuated by distance, slatted fencing, and existing vegetation on-site, and therefore, will not be detectable

beyond the Project parcel. Importantly, any noise generated by the proposed Project is expected to be well below CTDEEP Noise Limits for Residential Areas and Other Sensitive Areas. *See* Petition, pp. 24 – 25; Greenskies Responses to Hanson August 6, 2020 Set of Interrogatories, dated August 20, 2020, pp. 3 – 5. Accordingly, no project-generated noise will impact any of the residential communities around the East or West project areas. Greenskies’ submitted Noise Study confirms this conclusion.

The Noise Study was initiated by taking baseline sound measurements on September 11, 2020 at three (3) locations identified to be close to the nearest noise sensitive areas. The purpose of the Noise Study was to assess the noise levels generated from the respective electrical equipment at each facility site with respect to ambient noise in the vicinity of the project area. Noise data from the inverters was calculated based on equipment specifications. Sound level measurements of the existing ambient environment were taken at the Elmridge Golf Course. The measured levels were used to assess the impact of a proposed PV solar facility to be built at that location. A computer-generated noise model determined the predicted acoustical contribution from the proposed facility at all directional property lines.

The estimated contribution of facility noise ranges from 30 dBA at the southern boundary to 34 dBA at the northern property boundary. The predicted sound levels from the facility are very low, similar to a quiet library or very quiet rural area distant from any highways or local traffic. Consequently, the solar facilities will generate an estimated 0.1 dBA, an imperceptible change. These levels are below the Connecticut Department of Energy and Environmental Protection noise regulation limits. *See* Environmental Noise Study Technical Memorandum, prepared by SLR, dated September 22, 2020.

By contrast, Protestants' testimony amounted to no more than mere speculation and personal opinions offered by lay witnesses with no particular expertise or qualifications to justify their assertions regarding potential visibility and noise impacts:

MR. HOFFMAN: "A field of monolithic arrays has the potential to amplify sounds and direct them. In this case the solar arrays would take existing noise from Route 95, amplify it and direct it towards my property. Further, any maintenance or general golf course noise would also be amplified." And all I'm asking for is the data that supports this or the measurements that support this.

THE WITNESS (Hanson): That's my presumption. That's not from data or measurements.

MR. HOFFMAN: Okay. Would that be the same answer for what you said about wind noise?

THE WITNESS (Hanson): Yes.

THE WITNESS (Hanson): Yes, I haven't done any wind analysis on solar farms.

Continued Evidentiary Hearing November 10, 2020 Transcript, pp. 45 – 46. The Council should not accept their unsupported opinions at face value. Greenskies has clearly proven, through data and studies, that the Project will result in no adverse impact with regard to public health or safety issues, nor any visual or noise issues for the neighboring residences.

V. CONCLUSION

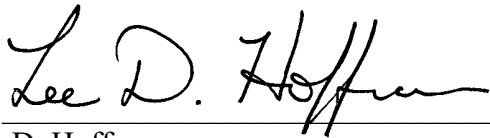
Greenskies has demonstrated, through the countless studies and analyses submitted into evidence, that the facility at the proposed location meets the exacting standards of the Siting Council. The Council should not be swayed by the selfish interest(s) of the Intervenor(s) and their “not in my backyard” approach.

If the Intervenor(s) had any real, non-pretextual concerns about the Project, they could have and should have accepted Greenskies’ invitation(s) to engage in fruitful dialogue about the Project, its development, and operation. Had they done so, Greenskies would have had a fair opportunity to address their concerns and the Project design would have benefited from their input as a result.

The Intervenor's failure to do so, however, unmasks the true motivation(s) behind their opposition of the Project—having, at best, marginal concerns about environmental issues, evidencing, instead, a blatant unwillingness to accept any meaningful use of the Property under any circumstances.

Because the Project will provide numerous benefits to the Town of Stonington, the State of Connecticut and its citizens, with minimal environmental impact(s), Greenskies Clean Energy LLC respectfully requests that the Siting Council approve this Petition for the Project as currently designed.

Respectfully submitted,
Greenskies Clean Energy, LLC

By: 

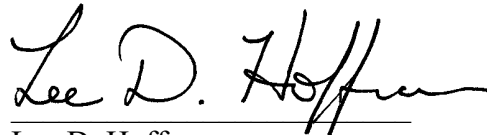
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CERTIFICATION

I hereby certify that on this 10th day of December 2020, the foregoing was delivered by electronic mail, in accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, to the following parties and intervenors of record:

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