



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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**VIA ELECTRONIC MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

March 1, 2024

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
lhoffman@pullcom.com

RE: **PETITION NO. 1422A** - CF Mulnite LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the construction, maintenance and operation of a 4.99-megawatt AC solar photovoltaic electric generating facility to be located at Mulnite Farms, Inc. off Barber Hill Road west of the intersection with Rockville Road, East Windsor, Connecticut and associated electrical interconnection. **Modified Declaratory Ruling.**

PETITION NO. 1463A – CF Mulnite, LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the construction, maintenance and operation of a 1.0- megawatt (MW) AC solar photovoltaic electric generating facility located at a Mulnite Farms, Inc. parcel off Wapping Road, and a 4.0 MW AC solar photovoltaic electric generating facility located at a Mulnite Farms, Inc. parcel off Miller Road, East Windsor, Connecticut, and associated electrical interconnection. **Modified Declaratory Ruling.**

Dear Attorney Hoffman:

During a public meeting of the Connecticut Siting Council (Council) held on February 29, 2024, the Council voted to grant CF Mulnite, LLC's February 5, 2024 Motion to Reopen and Modify the Council's April 26, 2021 Declaratory Ruling in Petition 1422 and January 14, 2022 Declaratory Ruling in Petition 1463 based on changed conditions specifically limited to redefinition of the boundaries of the three approved solar facility site parcels that are now under common CF Mulnite, LLC ownership to improve the efficiency of construction for both approved facilities, pursuant to Connecticut General Statutes §4-181a(b), and modified the Declaratory Rulings in Petitions 1422 and 1463 with the following conditions:

1. Submit a copy of the applicable DEEP General Permits prior to commencement of construction on any of the revised facility site parcels (Parcels A, B and/or C);
2. Submit a joint D&M Plan for the revised Petition 1422 and Petition 1463 facility sites in compliance with Regulations of Connecticut State Agencies (RCSA) §16-50j-60 through §16-50j-62. Under RCSA §16-50j-60, the D&M Plan shall be submitted to the Council in one or more sections. The D&M Plan shall be submitted to and approved by the Council prior to the commencement of any facility construction and shall include:
 - a. Final site plans including, but not limited to, final facilities layout, access roads, electrical interconnection including riser pole locations, fence design, equipment pads, stormwater management control structures, and final seed mix;

- b. Existing farm road access to Parcel B shall remain unimpeded as a result of development of the solar facilities and stormwater basins;
 - c. Final Farm Co-use Plan for hosting sheep grazing at Parcels A, B and/or C, including, but not limited to, provisions for possible on-site sheep relocation, if necessary, with a document that shall indemnify and hold harmless the Council, its agents, representatives and employees from any and all losses, claims, actions, costs and expenses, judgments, subrogation, or other damages resulting from any injury to a person or to property arising out of the presence of third-party farmers within any of the fenced solar facility sites;
 - d. Consultation with DEEP Stormwater Division regarding the potential impacts of sheep grazing on the facility sites and any recommendations from DEEP, as applicable;
 - e. Final plans for the location and maintenance of beehives on Parcel B;
 - f. Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control* including, but not limited to, temporary sediment basin details, site stabilization/seeding/growing season details prior to the installation of post driving/racking system, site stabilization measures during construction, inspection and reporting protocols, methods for periodic clearing of temporary sediment traps and swales during construction, and final cleaning of stormwater basins upon site stabilization;
 - g. Site construction detail/phasing plan including, but not limited to, construction laydown area, site clearing/grubbing, site grading, excess earth material disposal locations, site stabilization/seeding/growing season details, soil stockpile locations, and a fuel storage/spill plan that is protective of groundwater resources and includes transformer protections including containment measures and/or low level oil alarms;
 - h. Final visual screening plan;
 - i. Toxicity Characteristic Leaching Procedure (TCLP) test results for the selected solar panels that indicate the modules will not be characterized as hazardous waste under current regulatory criteria;
 - j. Final structural design for solar module racking systems stamped by a Professional Engineer duly licensed in the State of Connecticut;
 - k. Consult with Eversource Energy (Eversource) to reduce the visual impact of the electrical interconnections by considering the installation of underground lines from the solar arrays to the poles near the street (for each interconnection) and minimizing the number of poles required (both near the arrays and near the street) and the use of pad-mounted equipment (e.g. meters and reclosers) near the street and submit the Final Interconnection Plan/Electrical Drawings as approved by Eversource and a detailed report explaining the rationale for the final interconnection configurations including cost considerations prior to construction; and
 - l. Construction traffic control plan developed in consultation with the Town of East Windsor.
3. Submit a cumulative post-construction noise study and any necessary mitigation measures;
4. Unless otherwise approved by the Council, if the facilities authorized herein are not fully constructed within three years from the date of the mailing of the Council's decision on the Motion to Reopen, this decision shall be void, and the facility owner/operator shall dismantle the facilities and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's decision on the Motion to Reopen shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable;

5. Any request for extension of time period to fully construct the facilities shall be filed with the Council not later than 60 days prior to the expiration date of this modified decision and shall be served on the Town of East Windsor;
6. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed;
7. The owner/operator of the facilities shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v;
8. The owner/operator of the facilities shall file an annual report on a forecast of loads and resources pursuant to Conn. Gen. Stat. §16-50r;
9. This modified Declaratory Ruling may be transferred, provided the owner/operator/transferor of the facilities is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the modified Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
10. If the owner/operator of the facilities is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

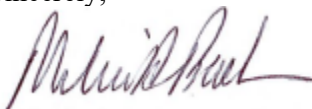
The Council's decision to grant the Motion to Reopen and Modify the Declaratory Rulings renders the Town of East Windsor's February 26, 2024 Requests for Party Status and the East Windsor resident's February 29, 2024 Request for a Public Hearing in the Motion to Reopen and Modify the Declaratory Rulings in Petitions 1422 and 1463 moot.

This approval applies only to the Motion to Reopen and Modify the Petition 1422 and 1463 Declaratory Rulings, dated April 26, 2021 and January 14, 2022, respectively. This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the Council's April 26, 2021 and January 14, 2022 Declaratory Rulings and the Council's modified Declaratory Rulings, dated February 29, 2024.

Enclosed for your information is a copy of the staff report on this Motion to Reopen and Modify the Declaratory Rulings.

Thank you for your attention and cooperation.

Sincerely,



Melanie A. Bachman
Executive Director

MAB/dll

- c: Petition No. 1422 Service List, dated January 21, 2021
- Petition No. 1463 Service List, dated August 26, 2021



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Petition Nos. 1422 and 1463
CF Mulnite, LLC Request to Reopen and Modify Final Decisions
Mulnite Farms, Inc., Barber Hill Road, Wapping Road and Miller Road Solar Facilities
East Windsor, Connecticut

Staff Report
February 29, 2024

Introduction

Petition 1422

On April 26, 2021, the Connecticut Siting Council (Council) issued a Declaratory Ruling to Greenskies Clean Energy, Inc. (GCE) pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k, approving a 4.99-megawatt (MW) AC solar photovoltaic electric generating facility located at a Mulnite Farms, Inc.-owned parcel off Barber Hill Road west of the intersection with Rockville Road, East Windsor, Connecticut, and associated electrical interconnection (Petition 1422 facility). See Attachment 1.

A Development and Management (D&M) Plan is a condition of the Council's April 26, 2021 Declaratory Ruling. Condition No. 3 of the Council's April 26, 2021 Declaratory Ruling requires completion of construction by April 26, 2024. A D&M Plan has not been filed to date and construction has not yet commenced.

Condition No. 4 of the Council's April 26, 2021 Declaratory Ruling requires any request for extension of the time period to fully construct the facility to be filed with the Council not later than 60 days prior to the expiration date of the decision.¹

In compliance with Condition No. 8 of the Council's April 26, 2021 Declaratory Ruling, GCE submitted a request to transfer the Declaratory Ruling to CF Mulnite, LLC (CFM). The Council approved the transfer of the Declaratory Ruling on November 6, 2023.

Petition 1463

On January 14, 2022, the Council issued a Declaratory Ruling to GCE, pursuant to CGS §4-176 and §16-50k, approving a 1.0 MW AC solar photovoltaic electric generating facility located at a Mulnite Farms, Inc.-owned parcel off Wapping Road (Wapping Road Array), and a 4.0 MW AC solar photovoltaic electric generating facility located at a Mulnite Farms, Inc.-owned parcel off Miller Road (Miller Road Array) in East Windsor, Connecticut, and associated electrical interconnection (Petition 1463 facility). See Attachment 2.

A D&M Plan is not a condition of the Council's January 14, 2022 Declaratory Ruling. However, the Declaratory Ruling was issued with conditions. Condition No. 9 of the Council's January 14, 2022 Declaratory Ruling requires completion of construction by January 14, 2025. Construction has not yet commenced.

¹ If CF Mulnite, LLC's February 5, 2024 Motion to Reopen is granted, the construction deadline will be extended to three years from the date of the Council's decision to reopen and modify the Declaratory Ruling.

In compliance with Condition No. 13 of the Council's January 14, 2022 Declaratory Ruling, GCE submitted a request to transfer the Declaratory Ruling to CF Mulnite Miller, LLC and submitted a subsequent request to transfer the Declaratory Ruling to CFM. The Council approved the transfers of the Declaratory Ruling on June 2, 2022 and November 6, 2023, respectively.

Motion to Reopen and Modify Final Decisions

On February 5, 2024, pursuant to CGS §4-181a(b), CFM filed a Motion to Reopen and Modify the Council's April 26, 2021 and January 14, 2022 Declaratory Rulings issued in Petitions 1422 and 1463 based on changed conditions (Motion to Reopen). There were no parties or intervenors to the original proceedings held on the subject petitions for declaratory rulings to notify of the Motion to Reopen for comment.

On February 7, 2024, the Council issued a Memorandum stating it received the Motion to Reopen and would consider the Motion to Reopen during the Council's February 29, 2024 regular meeting.

After the Council issued the Declaratory Rulings in 2021 and 2022, CFM acquired both Declaratory Rulings for the Petition 1422 and Petition 1463 facilities in 2023. The approved solar facility sites are located on three parcels. The Petition 1422 Barber Hill Road facility site (Parcel B) is directly south of and contiguous to the Petition 1463 Wapping Road facility site (Parcel A). The Petition 1463 Miller Road facility site (Parcel C) is south of Parcel B, with the sites separated by an agricultural field. See Attachment 3.

CFM requests the Council to reopen and modify its Declaratory Rulings to redefine the site boundaries of the Petition 1422 facility to occupy Parcels A and B and to redefine the site boundaries of the Petition 1463 facility to only occupy Parcel C. This would allow CFM to construct the Petition 1422 facility on contiguous Parcels A and B and the Petition 1463 facility on Parcel C, which is separated from the others by an agricultural field. Given CFM's acquisition of both Declaratory Rulings and the three approved facility site parcels are under common control, construction of the Petition 1422 facility on Parcels A and B would improve the efficiency of construction for both approved solar facilities and avoid delays associated with construction of the Petition 1463 facility that would require crossing Parcel B to construct on Parcel A.

Conclusion

Staff recommends the Motion to Reopen be granted and the Council's Declaratory Rulings in Petitions 1422 and 1463 be modified with the following conditions:

1. Submit a copy of the applicable DEEP General Permits prior to commencement of construction on any of the revised facility site parcels (Parcels A, B and/or C);
2. Submit a joint D&M Plan for the revised Petition 1422 and Petition 1463 facility sites in compliance with Regulations of Connecticut State Agencies §16-50j-60 through §16-50j-62. Under RCSA §16-50j-60, the D&M Plan shall be submitted to the Council in one or more sections. The D&M Plan shall be submitted to and approved by the Council prior to the commencement of any facility construction and shall include:
 - a. Final site plans including, but not limited to, final facilities layout, access roads, electrical interconnection including riser pole locations, fence design, equipment pads, stormwater management control structures, and final seed mix;
 - b. Existing farm road access to Parcel B shall remain unimpeded as a result of development of the solar facilities and stormwater basins;

- c. Final Farm Co-use Plan for hosting sheep grazing at Parcels A, B and/or C, including, but not limited to, provisions for possible on-site sheep relocation, if necessary, with a document that shall indemnify and hold harmless the Council, its agents, representatives and employees from any and all losses, claims, actions, costs and expenses, judgments, subrogation, or other damages resulting from any injury to a person or to property arising out of the presence of third-party farmers within any of the fenced solar facility sites;
 - d. Consultation with DEEP Stormwater Division regarding the potential impacts of sheep grazing on the facility sites and any recommendations from DEEP, as applicable;
 - e. Final plans for the location and maintenance of beehives on Parcel B;
 - f. Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control* including, but not limited to, temporary sediment basin details, site stabilization/seeding/growing season details prior to the installation of post driving/racking system, site stabilization measures during construction, inspection and reporting protocols, methods for periodic clearing of temporary sediment traps and swales during construction, and final cleaning of stormwater basins upon site stabilization;
 - g. Site construction detail/phasing plan including, but not limited to, construction laydown area, site clearing/grubbing, site grading, excess earth material disposal locations, site stabilization/seeding/growing season details, soil stockpile locations, and a fuel storage/spill plan that is protective of groundwater resources;
 - h. Final visual screening plan;
 - i. Toxicity Characteristic Leaching Procedure (TCLP) test results for the selected solar panels that indicate the modules will not be characterized as hazardous waste under current regulatory criteria;
 - j. Final structural design for solar module racking systems stamped by a Professional Engineer duly licensed in the State of Connecticut;
 - k. Consult with Eversource Energy (Eversource) to reduce the visual impact of the electrical interconnections by considering the installation of underground lines from the solar arrays to the poles near the street (for each interconnection) and minimizing the number of poles required (both near the arrays and near the street) and the use of pad-mounted equipment (e.g. meters and reclosers) near the street and submit the Final Interconnection Plan/Electrical Drawings as approved by Eversource and a detailed report explaining the rationale for the final interconnection configurations including cost considerations prior to construction; and
 - l. Construction traffic control plan developed in consultation with the Town of East Windsor.
3. Unless otherwise approved by the Council, if the facilities authorized herein are not fully constructed within three years from the date of the mailing of the Council's decision on the Motion to Reopen, this decision shall be void, and the facility owner/operator shall dismantle the facilities and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's decision on the Motion to Reopen shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable;
 4. Any request for extension of time period to fully construct the facilities shall be filed with the Council not later than 60 days prior to the expiration date of this modified decision and shall be served on the Town of East Windsor;
 5. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed;

6. The owner/operator of the facilities shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v;
7. The owner/operator of the facilities shall file an annual report on a forecast of loads and resources pursuant to Conn. Gen. Stat. §16-50r;
8. This modified Declaratory Ruling may be transferred, provided the owner/operator/transferor of the facilities is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the modified Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
9. If the owner/operator of the facilities is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

Attachment 1 – Petition 1422 Approved Facility Site



Attachment 2 – Petition 1463 Approved Facility Site



Attachment 3 – Parcels A, B and C

