

STATE OF CONNECTICUT CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051 Phone: (860) 827-2935 Fax: (860) 827-2950 E-Mail: siting.council@ct.gov Web Site: portal.ct.gov/csc

VIA ELECTRONIC MAIL

January 24, 2022

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

RE: **PETITION NO. 1426** - East Windsor Solar One, LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, and associated electrical interconnection.

PETITION NO. 1426 – DG Connecticut Solar, III, LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, and associated electrical interconnection.

Dear Attorney Hoffman:

The Connecticut Siting Council (Council) is in receipt of East Windsor Solar One, LLC's (EWSO) January 21, 2022 correspondence submitted in response to the Council's January 18, 2022 request regarding verification of the above-referenced facility's compliance with applicable noise standards, compliance with the requirements of Regulations of Connecticut State Agencies (RCSA) §16-50j-62(b) and confirmation of the ownership of the facility.

The Council's January 18, 2022 correspondence referred to concerns from residents at 67 and 69 Middle Road in East Windsor about noise emissions from operation of the facility. The Council requested EWSO and/or DG Connecticut Solar III, LLC (DGIII) to verify compliance with Department of Energy and Environmental Protection (DEEP) Noise Control Standards through a site-specific noise measurement study. The Council acknowledges EWSO visited the site on January 19, 2022 and took noise measurements of 44.7 dBA at the property line perpendicular to the active inverters that are closest to 67 and 69 Middle Road. Additionally, the Council acknowledges that, although the noise measurements are compliant with the DEEP Noise Control Standards, EWSO offered to install a sound barrier to further dampen noise emission from the facility. This sound barrier would require a future Development and Management Plan modification.

The Council's January 18, 2022 correspondence also referred to lack of compliance with RCSA §16-50j-62(b). EWSO provided a summary of construction activities for each month since the commencement of construction in August 2021, and indicated that a summary of construction activities for January 2022 would be submitted by February 10, 2022. The Council acknowledges receipt of the monthly reports to December 2021.

Finally, the Council acknowledges EWSO's confirmation that the owner of the project is DG Connecticut Solar III, LLC in accordance with correspondence submitted by EWSO on June 16, 2021 and acknowledged by the Council on June 21, 2021.

DG Connecticut Solar III, LLC did not respond to the Council's January 18, 2022 request.

This acknowledgment applies only to the correspondence from EWSO dated January 21, 2022.

Thank you for your attention and cooperation.

Sincerely,

Melanie A. Bachman Executive Director

MB/CW

c: Hon. Jason Bowsza, First Selectman, Town of East Windsor (<u>jbowsza@eastwindsorct.com</u>) State Senator Saud Anwar (Saud.Anwar@cga.ct.gov)

State Representative Jaime Foster (Jaime.Foster@cga.ct.gov)

Tim Garcia, DG Connecticut Solar, III, LLC (DL-DG-NEER-BUS-GT@nexteraenergy.com)

Enclosures: Council January 18, 2022 correspondence EWSO January 21, 2022 correspondence



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VIA ELECTRONIC MAIL

January 18, 2022

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

Mr. Tim Garcia
DG Connecticut Solar, III, LLC
700 Universe Boulevard
Juno Beach, FL 33408
DL-DG-NEER-BUS-MGT@nexteraenergy.com

RE: **PETITION NO. 1426** - East Windsor Solar One, LLC Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, and associated electrical interconnection.

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Dear Attorney Hoffman and Mr. Garcia:

The Connecticut Siting Council (Council) is in receipt of email correspondence, dated January 16, 2022, from East Windsor First Selectman Jason Bowsza, on behalf of the residents at 67 and 69 Middle Road in East Windsor, who are located across the street from the above-referenced solar facility. The correspondence (attached) expresses concerns regarding noise emissions from operation of the facility that are described as buzzing, a loud fan and high-pitch ringing.

As First Selectman Bowsza correctly notes in the January 16, 2022 correspondence, East Windsor Solar One, LLC (EWSO) represented during the proceedings held on the facility that the calculated noise emissions from operation of the inverters and transformers would be below 55 dBA at the surrounding property lines and in compliance with the Department of Energy and Environmental Protection (DEEP) Noise Control Standards. Compliance with the DEEP Noise Control Standards can be verified by a site-specific noise measurement study.

Pursuant to the Council's May 10, 2021 Declaratory Ruling and the Council's July 30, 2021 approval of the D&M Plan for the solar facility, the Council requests EWSO and/or DG Connecticut Solar III, LLC (DGIII) to conduct a noise measurement study at the property lines of 67 and 69 Middle Road in East Windsor. If the study results in noise levels in excess of the DEEP Noise Control Standards, the Council requests submission of specific noise mitigation measures that could be employed to bring the facility into compliance with the DEEP Noise Control Standards.

Also, the Council's May 10, 2021 Declaratory Ruling ordered the submission of a Development and Management Plan (D&M Plan) for the facility. The D&M Plan was submitted by EWSO on May 21, 2021. While the D&M Plan was pending, on June 16, 2021, the Council received correspondence, pursuant to Condition No. 9 of the Declaratory Ruling, that the facility was transferred to DGIII on or about May 19, 2021.

The D&M Plan was approved by the Council on July 30, 2021 with conditions. In partial compliance with the Council's D&M Plan approval and the reporting requirements under Regulations of Connecticut State Agencies (RCSA) §16-50j-62(b), on August 3, 2021, EWSO, LLC notified the Council that construction of the solar facility would commence on or about August 5, 2021, and requested a modification to the submission of the required construction progress reports from monthly to quarterly. No further reports as to construction progress or notification of completion of construction and site rehabilitation were submitted thereafter. Therefore, this facility is not in compliance with the Council's Declaratory Ruling.

Please submit written correspondence to the Council by close of business on January 21, 2022 that acknowledges and addresses all of the above-referenced concerns, as well as provides an estimated date for submission of the requested noise study to the Council and First Selectman Bowsza.

Thank you for your attention to this very important matter.

Sincerely,

Melanie A. Bachman Executive Director

Enclosures

cc: Hon. Jason Bowsza, First Selectman, Town of East Windsor jbowsza@eastwindsorct.com)
State Senator Saud Anwar (Saud.Anwar@cga.ct.gov))
State Representative Jaime Foster (Jaime.Foster@cga.ct.gov)

¹ On January 10, 2022, the Council received unsigned correspondence from DG Connecticut Solar, III, LLC indicating on or about December 3, 2021, after merger of certain entities, it is the owner and operator of the solar facility. The Council has not acknowledged this correspondence to date.



TOWN OF EAST WINDSOR

FIRST SELECTMAN JASON E. BOWSZA

January 16, 2022

Attorney Melanie Bachman Executive Director Connecticut Siting Council Ten Franklin Square New Britain, CT 06051 (sent via email)

RE: Petition 1426 – East Windsor Solar One

Dear Attorney Bachman,

I am writing to you today on behalf of several homeowners whose newly constructed homes are located across the street from East Windsor Solar One (specifically at 67 and 69 Middle Road).

As you can see from the enclosed correspondence submitted to me by the homeowners, they understand the public benefit associated with the solar development located at East and Middle Roads. However, they each voice reasonable concerns and complaints concerning the noise resulting from the solar development to the point that it is having an adverse impact on their abilities to enjoy their homes.

In the *Findings of Fact*² adopted by the Connecticut Siting Council (CSC), the council notes the following:

- 120. Once operational, **noise from the project would be minimal** (emphasis added). Noise emissions from the generating equipment would be from the inverters and transformers. The loudest project equipment would be the 2,000 kVA transformer, which would have a maximum sound level of 68 dBA at 1-foot from the equipment. Sound would reduce with distance and the transformers are inactive at night. (EWSO 1, p. 44)
- 121. The nearest property line to the transformer is 125 feet to the north and is a residential parcel at 309 East Road. Calculated noise emissions, using the Inverse Square Law, were determined to be below 55 dBA at the surrounding property lines. With residential receptors, the **DEEP Noise Control Standards would be** 61 dBA during the daytime and 51 dBA at nighttime (emphasis added). (EWSO 1, p. 44; RCSA §22a-69-3.5)

² https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1421-1430/PE1426/DECISION-finaldocs/PE1426_FOF_final.pdf

11 Rye Street, Broad Brook, CT 06016

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The homeowners who shared their complaints with me raise reasonable concerns that the expectations communicated to the CSC and included in their *Findings of Fact* may not reflect the reality of the project now installed. As actual circumstances may not reflect those anticipated by the CSC, I would ask that you kindly provide remedies available to the homeowners who are left to bare the effect of the solar development on their homes.

Respectfully,

Jason E. Bowsza First Selectman

Cc: State Senator Saud Anwar, 3rd Senate District

State Representative Jaime Foster, 57th House District

Dana Van Steenburgh Josh Bergendahl From: Contact form at East Windsor CT <cmsmailer@civicplus.com>

Sent: Friday, December 31, 2021 10:24 AM **To:** Jason Bowsza <jbowsza@eastwindsorct.com>

Subject: [East Windsor CT] RE: Solar Farm East Road (Sent by Dana Van Steenburgh,

danav@lbissell.com)

Hello jbowsza,

Dana Van Steenburgh (<u>danav@lbissell.com</u>) has sent you a message via your contact form (<u>https://www.eastwindsor-ct.gov/user/50/contact</u>) at East Windsor CT.

If you don't want to receive such e-mails, you can change your settings at https://www.eastwindsor-ct.gov/user/50/edit.

Message:

Hi Jason - We need your help. My name is Dana Van Steenburgh. I live across the street (67 Middle Road) from the new solar farm located on East and Middle roads. At the online hearing held we were informed that there would be minimum noise generated from the power generation. In fact that is not the case. The inverters and power system are located across the street. While the system is operating a constant high pitch ringing sound can be heard. It is unbearable enough to keep us from using our front yards. (My next door neighbor is also complaining.) Both my neighbor and myself are newcomers to Broad Brook. We moved in to this new development just before it was announced that a solar farm was to be built on the property across the street. We love it here. What can we do? Perhaps there is a method to deaden the sound? Stop on by during the day when it's operating and take a listen. Let me know what you think. Your advice is appreciated. Thanks, Dana

My phone number is (860)604-3989

From: Contact form at East Windsor CT <cmsmailer@civicplus.com>

Sent: Friday, December 31, 2021 4:27 PM

To: Jason Bowsza <jbowsza@eastwindsorct.com>

Subject: [East Windsor CT] Middle Road Solar field (Sent by Josh Bergendahl, Bergyd@me.com)

Hello jbowsza,

Josh Bergendahl (<u>Bergyd@me.com</u>) has sent you a message via your contact form (<u>https://www.eastwindsor-ct.gov/user/50/contact</u>) at East Windsor CT.

If you don't want to receive such e-mails, you can change your settings at https://www.eastwindsor-ct.gov/user/50/edit.

Message:

Jason,

I live at 69 Middle Rd. in Broad Brook. I reached out to you last year with questions on the proposed solar project at the corner of East and Middle road and you were helpful in answering my questions at the time. It seems like they have mostly completed the project now and I am quite upset about the outcome of it.

At first I was not happy to hear that a solar field was going to be installed across the street, as I liked the open land view that I got, and it's the main reason I decided to build a house here. After talking with yourself and listening in on the various zoom calls about the project, I realized it's benefit overall and figured it was better to have that installed than to have noisy neighbors whether it be residential or commercial. Unfortunately now I realize that a solar field can be an annoying noisy neighbor.

There is a constant loud fan noise from the installation, it is buzzing all day long and into the night. I cannot enjoy my front yard at all and I can hear the noise in my backyard even with my 6 foot solid privacy fence. To me, this is completely unacceptable to listen to all day long. In my opinion I pay an excessive amount in property taxes (over \$8,000 a year) to have to listen to a constant buzzing noise. This not only ruins my previously peaceful property for myself, but I am sure ruins the resale value of my property.

I don't understand how this can be considered acceptable across from a residential neighborhood. I feel like the installation of these loud units could have been thought out better. Whether it's installed more towards the center of the solar field, or on East road where there is no residential households. Please let me know what can be done about this as I built what I thought was a forever home here, and now I am seriously reconsidering that move.

Thanks, Josh Bergendahl



Lee D. Hoffman

90 State House Square Hartford, CT 06103-3702 p 860 424 4315 f 860 424 4370 lhoffman@pullcom.com www.pullcom.com

June 16, 2021

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

Re: PETITION NO. 1426 - East Windsor Solar One, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, Connecticut and associated electrical interconnection.

Dear Attorney Bachman:

I am writing on behalf of my client, East Windsor Solar One, LLC, in connection with the above-referenced Petition. Pursuant to the Condition No. 9 of the Council's approval of Petition No. 1426, this letter will serve as notice that the East Windsor Solar One, LLC facility has been transferred to DG Connecticut Solar III, LLC, an affiliate of NextEra Energy Resources, LLC, on or about May 19, 2021. The individual responsible for management and operations of the East Windsor Solar One facility going forward will be Tim Garcia, NextEra Energy DG Business Management (Email: DL-DG-NEER-BUS-MGT@nexteraenergy.com).

If you have any questions or need any additional information about the transfer of the East Windsor Solar One facility, please contact me. Thank you in advance for your cooperation.

Sincerely,

Lee D. Hoffman

Lee D. Hoffin

January 10, 2022

Via Electronic Mail

Attn: Melanie Bachman, Esq. Executive Director and Staff Attorney Connecticut Siting Council 10 Franklin Square New Britain, CT 06051

Re: PETITION NO. 1426 - East Windsor Solar One, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, Connecticut and associated electrical interconnection - Notification of Change in Ownership.

Dear Ms. Bachman:

Pursuant to Condition No. 9 in the Connecticut Siting Counsel's ("CSC") Findings of Fact, Opinion, and Decision and Order ("Declaratory Ruling") (Petition No. 1426), this correspondence serves as notice that, on or about December 3, 2021, after merger of certain entities, DG Connecticut Solar III, LLC, an affiliate of NextEra Energy Resources, LLC, is the owner and operator of the facility. DG Connecticut Solar III, LLC will continue to ensure compliance with the terms, limitations, and conditions contained in the Declaratory Ruling. The individual responsible for management and operations of this facility will continue to be Tim Garcia, NextEra Energy DG Business Management (Email: DL-DG-NEER-BUS-MGT@nexteraenergy.com).

If you have any questions or need any additional information about the merging of the entities, please contact Tim Garcia.

Thank you for your consideration,

Stephie Maragh

Cc: Tracy L. Backer Tim Garcia



Lee D. Hoffman

90 State House Square Hartford, CT 06103-3702 p 860 424 4315 f 860 424 4370 lhoffman@pullcom.com www.pullcom.com

January 21, 2022

VIA ELECTRONIC MAIL

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

Re: PETITION NO. 1426 - East Windsor Solar One, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, Connecticut and associated electrical interconnection.

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Dear Ms. Bachman:

As more specifically provided below, DG Connecticut Solar III, LLC is the current owner of the project, however, as counsel for the developer and EPC responsible for the project, I am writing in response to your letter of January 18, 2022 regarding the above-referenced Petition. That letter requests a response on three main issues: verification of compliance with applicable noise standards by the project, the need for reporting on construction activities, and confirmation of the ownership of the project that is the subject of this Petition. Each of these items is discussed in turn.

Potential Noise Issues

As an initial matter, it should be noted that neither First Selectman Bowsza nor the residents located at 67 and 69 Middle Road have contacted the undersigned or representatives of the project

pullcom.com Bridgeport Hartford Stamford Waterbury Westport White Plains

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concerning any noise issues. Your correspondence to the undersigned was the first that the project was made aware that there were any noise complaints. You may recall that as part of its initial public outreach, East Windsor Solar One, LLC developed a website relaying information about the project and provided interested parties with methods to contact the project's development team through a fillable form, electronic mail or by telephone. Despite the change in ownership of the project, that website is still running and can be found at: https://www.verogy.com/east-windsorsolar-one/. No comments regarding noise issues have been received through any of the contact methods found on that website.

Once the project received your January 18, 2022 letter, Verogy, as the developer and EPC for the project, developed a response to address the concerns listed in that correspondence. On January 19, 2022, two Verogy representatives visited the site to ascertain the cause of any potential exceedances of noise standards. At the time of the site visit, the system was undergoing maintenance after initial commissioning. Nonetheless, seven of the eight inverters for the smaller of the three systems, which are the inverters located closest to the barn and closest to 67 and 69 Middle Road, were on and running at the time of the site visit. The site visit was performed at noon under sunny conditions with wind blowing approximately 10-12mph to the east. Noise levels were measured at the property line, directly perpendicular to the active inverters, using a 3M SoundPro meter, which indicated a noise reading of 44.7 dBA. Attached for your review are photos of the meter reading as well as a map that depicts the site, the location of the properties at 67 and 69 Middle Road, and where the noise measurement was taken.

Based on this reading, the sound levels at the project's property line are below the stated noise level of 55 dBA, as articulated in the Petition, as well as below the applicable CT DEEP Noise Control Standards of 61 dBA during the daytime and 51 dBA at night. Although these measurements demonstrate that the project is within all applicable noise limits, both Verogy representatives acknowledge that sounds from the inverters were heard at the property line of the project. As such, the project is currently reviewing options to potentially install a sound barrier to further dampen the sound emanated by the Project.

It is expected that this sound barrier would be installed inside of the project's fence line close to the electrical equipment. For the project to construct such a sound barrier, however, the project would need to amend its D&M Plan and seek the Council's permission to construct such a barrier. Therefore, once the project has developed a proposal for the sound barrier, the project will present that proposal to the Council, the Town of East Windsor, and the abutters for their review, and will seek approval of that proposal from the Council. It would be anticipated that such a barrier would be constructed in the spring, assuming it is approved by the Council.

Construction Reporting

Your January 18, 2022 letter also correctly references the fact that the project requested that construction reporting be made quarterly for this project in August of 2021, however, no

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construction reporting has been provided to the Council. The project regrets this error. To rectify that error, the project is now providing the Council with the activities it undertook for each month since it sent in its notification of construction. Because the Council never approved the request for quarterly reporting, this report will provide the Council with a summary of construction activities for each month, beginning with August 2021.

August 2021

- Site mobilization and construction preparation
- Perimeter controls were established
- Construction entrance and access road installation
- Temporary basin construction completed
- Monthly and weekly monitoring of stormwater discharges were completed

September 2021

- Racking installation started
- Electrical installation started
- Perimeter fencing installation started
- Landscape planting started
- Monthly and weekly monitoring of stormwater discharges were completed

October 2021

- Racking installation continued
- Electrical conduit and wiring ongoing
- Electrical gear and inverters ongoing
- Permitter fencing installation completed
- Landscape planting completed
- Solar Module installation started
- Monthly and weekly monitoring of stormwater discharges were completed

November 2021

- Racking installation completed
- Electrical conduit completed
- Electrical wiring ongoing
- Electrical gear and inverters ongoing
- Monthly and weekly monitoring of stormwater discharges were completed

December 2021

- Solar Module installation ongoing
- Electrical wiring complete
- Electrical gear and inverters complete

PULLMAN & COMLEY

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- Commissioning started
- Monthly and weekly monitoring of stormwater discharges were completed

The project will provide the Council with a monthly update of activities for the month of January on or before February 10, 2022. At the time of that submittal, or shortly thereafter, the project will also provide the Council with confirmation that construction activities at the project site are complete.

Ownership of the Project

This letter will confirm the correspondence of June 16, 2021 and January 10, 2022, referenced in your January 18th letter, that the owner of the project is DG Connecticut Solar III, LLC. This change in ownership is the result of DG Connecticut Solar III, LLC's acquisition of the assets of East Windsor Solar One, LLC. The undersigned remains counsel to Verogy, which, as the project's EPC contractor, has agreed to undertake the efforts necessary to comply with the Council's May 10, 2021 Declaratory Ruling and July 30, 2021 approval of the D&M Plan.

It is my hope that this letter resolves all of the issues identified in your January 18, 2022 letter. If that is not the case, or if you have any questions concerning the foregoing, 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, as well as to the individuals listed below.

Sincerely,

Lee D. Hoffman

Lee D. Hoffin

Enclosures

cc: Hon. Jason Bowsza, First Selectman, Town of East Windsor (jbowsza@eastwindsorct.com)

Senator Saud Anwar, 3rd District (<u>saud.anwar@cga.ct.gov</u>)

Representative Jaime Foster, 57th District (<u>Jaime.foster@cga.ct.gov</u>)

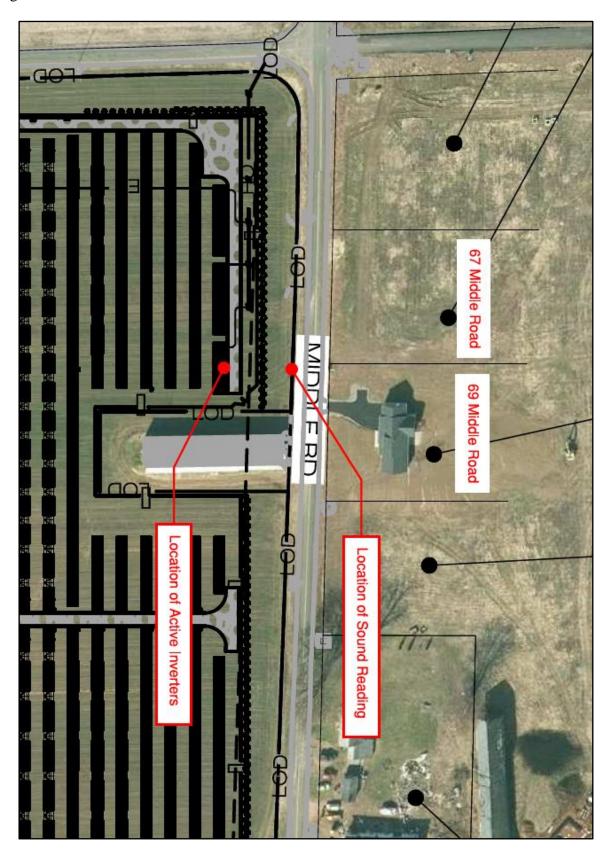
Dana Van Steenburgh (danay@lbissell.com)

Josh Bergendahl (bergyd@me.com)

Timothy Garcia, DG Connecticut Solar III, LLC (timothy.garcia@nexteraenergy.com)

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