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August 9, 2021

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

Re: **PETITION NO. 1443 - SR North Stonington, 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 9.9-megawatt AC solar photovoltaic electric generating facility on five parcels located north and south of Providence New London Turnpike (State Route 184), west of Boombridge Road and north of Interstate 95 in North Stonington, Connecticut, and associated electrical interconnection**

Dear Attorney Bachman:

SR North Stonington, LLC (Petitioner) hereby submits its Post-Hearing Brief to the Connecticut Siting Council in connection with the above-referenced Petition.

If you have any questions concerning this submittal, please contact me at your convenience.

Sincerely,

Jonathan H. Schaefer

Enclosures (original and 15 copies of Post-Hearing Brief)
Copy to: Parties of Record

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CONNECTICUT SITING COUNCIL

IN RE:	:	
	:	
A PETITION FOR A DECLARATORY RULING, PURSUANT TO CONNECTICUT GENERAL STATUTES §4-176 AND §16-50K, FOR THE PROPOSED CONSTRUCTION, MAINTENANCE AND OPERATION OF A 9.9-MEGAWATT AC SOLAR PHOTOVOLTAIC ELECTRIC GENERATING FACILITY ON FIVE PARCELS LOCATED NORTH AND SOUTH OF PROVIDENCE NEW LONDON TURNPIKE (STATE ROUTE 184), WEST OF BOOMBRIDGE ROAD AND NORTH OF INTERSTATE 95 IN NORTH STONINGTON, CONNECTICUT, AND ASSOCIATED ELECTRICAL INTERCONNECTION	:	PETITION NO. 1443
	:	AUGUST 9, 2021

POST-HEARING BRIEF OF SR NORTH STONINGTON, LLC

I. INTRODUCTION

On February 25, 2021, SR North Stonington, LLC ("SRNS" or "Petitioner") filed with the Connecticut Siting Council ("Council") a Petition (the "Petition"), pursuant to Section 16-50k(a) and Section 4-176(a) of the Connecticut General Statutes ("Conn. Gen. Stat.") and Section 16-50j-38 et seq. of the Regulations of Connecticut State Agencies ("RCSA") seeking a declaratory ruling that a Certificate of Environmental Compatibility and Public Need ("Certificate") is not required for the construction, operation, and maintenance of a 9.9 megawatt ("MW") alternating current ("AC") ground-mounted solar photovoltaic ("PV") electric generating facility on five parcels located north and south of Providence-New London Turnpike (State Route 184), west of Boombridge Road and north of Interstate 95 in North Stonington, Connecticut (the "Project"). (SRNS Exhibit 1 ("SRNS 1")).

This Post-Hearing Brief (the "Brief") is filed on behalf of the Petitioner pursuant to RCSA Section 16-50j-31 and the Council's directive. The Brief evaluates the Petition in light of the Council's review criteria and addresses other issues raised through the course of this proceeding. (July 8, 2021 2:00 pm Hearing Transcript ("Tr. 3"), pp. 111-112). Based on the information in the record and the characteristics of the Project, Petitioner requests that the Council find that the Project meets the standard of review and a Certificate is not required for the Project.

II. EXECUTIVE SUMMARY

Pursuant to Conn. Gen. Stat. § 16-50k(a), the Council shall approve by declaratory ruling the construction of a facility such as the Project, as long as:

i) the facility meets air and water quality standards for the Department of Energy and Environmental Protection ("DEEP");

ii) the Council does not find a substantial adverse environmental effect; and

iii) the facility is not located on prime farmland or forestland, subject to certain exclusions.

As to the first criteria, there is ample evidence in the record to support a finding by the Council that the Project will have meet the DEEP air and water quality standards. There is no evidence in the record to the contrary. (*Infra* Sections VII.C and VII.F).

As to the second criteria, there is ample evidence in the record to support a finding by the Council that the Project will have no substantial adverse environmental effects, including but not limited to, impacts related to the wetlands, noise, habitat, and wildlife. There is no evidence in the record to the contrary. (*Infra* Sections VII.B, VII.D. VII.E and VII.I).

The Project is exempted from the third criteria because it was selected by the DEEP in a solicitation issued prior to July 1, 2017, pursuant to Conn. Gen. Stat. § 16a-3j. (*Infra* Section III and Section V).

III. COMPETITIVE ENERGY PROCUREMENT

Sections 1(b) and 1(c) of Public Act 15-107, An Act Concerning Affordable and Reliable Energy, gave the DEEP the authority to solicit proposals for Class I renewable energy sources, Class III sources, passive demand response, and energy storage systems to secure cost-effective resources to provide more affordable and reliable electric service, consistent with the state's energy and environmental goals and policies established in the 2014 Integrated Resources Plan and 2013 Comprehensive Energy Strategy. (SRNS 1, p. 3). Pursuant to the DEEP's authority, in March 2016, the DEEP conducted a Request for Proposal ("RFP"). The Project participated and was an awardee in the DEEP Small-Scale Clean Energy RFP under Public Act 15-107 §§1(b) and 1(c) and Conn. Gen. Stat. §16-50j. The Project was one of twenty-five selected by the DEEP pursuant to the RFP. (SRNS 1, pp. 1, 3). As an awardee of a DEEP solicitation issued prior to July 1, 2017 pursuant to Conn. Gen. Stat. § 16-3j, the Project is excluded from the requirement to receive written representation from: (a) the Department of Agriculture that the Project will not materially affect the status of land as prime farmland; or (b) the DEEP that the Project will not materially affect the status of land as core forest. (CGS § 16-50k(a)).

All of the power produced by the Project will be sold to Eversource and The United Illuminating Company ("UI") through the proposed project's Power Purchase Agreements ("PPAs").[1] The PPAs have a term of 20 years and no provisions for extension or renewal options.

[1] The PPAs were approved by the Public Utilities Regulatory Authority ("PURA") in Docket No. 17-01-11 – PURA Review of Public Act 15-107(b) Small-Scale Energy Resource Agreements. (SRNS 1, p. 9).

The PPAs do not allow SRNS to reduce the size of the Project without a negative financial impact. (SRNS 1, p. 9).

IV. PROCEDURAL BACKGROUND

Municipal Consultation

Beginning months before the filing of the Petition, SRNS reached out to local municipal land use officials in the Town of North Stonington ("Town") regarding the development of the Project. SRNS offered to meet with Town officials to discuss the proposed project before filing the Petition, but was unable to do so. In Fall 2020, the Petitioner sent postcard mailers to property owners abutting the parcels to be used for the Project ("Site"). These postcard mailers included details on the Project and welcomed neighbors to contact SRNS directly with any questions or comments. (SRNS 1, p. 14; Exhibit E).

After SRNS filed the Petition, SRNS attended a virtual public information meeting ("VPIM") hosted by the Town Planning and Zoning Commission and attended by members of the Board of Selectmen and members of the general public. On March 23, 2021 SRNS conducted a tour of the Site with neighbors and Town officials, to listen to concerns. On April 23, 2021, SRNS conducted an additional site tour with Juliet Hodge, the Town's Planning, Development and Zoning Official and Robert C. Russo, the Town's wetlands consultant. (SRNS 2, response 32(g); Town 6). Based on comments from neighbors and the Town, SRNS undertook a time and resource intensive redesign of the Project, which resulted in substantial modifications and improvements, including:

a. a reduction in the limit of disturbance;

b. a reduction in tree clearing;

c. a reduction in site grading;

d. an increase in setbacks from important environmental sources (e.g., wetlands, vernal pools);

e. a reduction in the number of solar panels located on the northern parcel, north of State Route 184; and

f. the use of higher wattage panels that permitted the reduced disturbance to the northern parcel. (SRNS 2, response 2).

The Town of North Stonington Planning and Zoning Commission and Town of North Stonington Inland Wetland Commission submitted comments on March 25, 2021, April 26, 2021 and the Town of North Stonington Board of Selectman submitted comments on March 26, 2021. (Record).

Consultation with the Department of Energy and Environmental Protection

SRNS met with the Connecticut Department of Energy and Environmental Protection ("DEEP") Stormwater Division staff to discuss the Project on several occasions, including in-person meetings on May 4, 2020 and September 21, 2020 and a virtual meeting on June 9, 2021. (SRNS 1, p. 14; SRNS 2, response 44).

SRNS also met with the DEEP Dam Safety Division to discuss the Project. Based on the discussion, SRNS does not believe it will need a dam permit or registration, because the Project is well under the applicable limits for storage and embankment heights. (Tr. 3, p. 17).

Public Notice

Pursuant to the requirements of RCSA §16-50j-40(a), prior to filing the Petition, SRNS provided, by certified mail, notice of its intent to file the Petition to all adjacent property owners and to all state and local officials and agencies listed in RCSA §16-50j-40. (SRNS 1, Exhibit G and Exhibit H).

On May 24, 2021, SRNS posted a sign along the south side of Providence-New London Turnpike ("State Route 184") near the proposed access driveway to the southern portion of the Site. (SRNS 3). The Council held an evidentiary and public hearing on the Petition on June 8, 2020. An additional evidentiary hearing session was held on July 9, 2021. (June 8, 2021 2:00 pm Hearing Transcript ("Tr. 1"); June 8, 2021 6:30 pm Hearing Transcript ("Tr. 2"); Tr. 3).

Parties and Intervenors

The Parties in this proceeding are SRNS and the Town. There are no Intervenors in this proceeding. (Record)

V. FACTUAL BACKGROUND

The Property

The Site consists of five parcels, totaling approximately 157 acres, which includes four contiguous parcels located south of State Route 184, west of Boombridge Road and north of Interstate 95 ("I-95") and one parcel located north of State Route 184. (SRNS 1, p. 4). The Project will be developed on an approximately 44-acre portion (the "Project Area") of the Site. This is a reduction of approximately three acres from the original design. (SRNS 1, p. 6; Tr. 1, p. 111). All of the parcels making up the Site are owned by Silicon Ranch, SRNS's parent company and the development lead on behalf of SRNS. (SRNS 1, pp. 2, 5). The Site does not yet have a street address assigned by the Town. (Tr. 3, p. 28).

A majority of the Site south of State Route 184 was formerly utilized as a sand and gravel mining operation. The remainder of the Site currently maintains forested uplands and wetland areas. The Site is traversed by two headwater stream corridors and one less well defined drainageway. A small family cemetery is located in the westerly portion of the Site, but will not be impacted by the Project. (SRNS 1, p. 5). The Site is zoned Medium-Density Residential R-60

and surrounded by low density residential uses, two commercial dog kennels, a dog breeding business, State Route 184, and I-95. (SRNS 1, pp. 5-6; Tr. 3, pp. 15-16).

Project Description

The Project is a single, independently-metered solar electric generating facility with a total design capacity of approximately 9.9 MW consisting of approximately 29,625 fixed Hanwha Q Cells Q.Peak Duo XL-610.3/BFG 457W bi-facial solar modules, rated at approximately 475 Watts direct current ("DC"). (SRNS 1, p. 9; SRNS 2, response 14; SRNS 6, Attachment 4, p. 1; Tr. 1, pp. 20, 75; Tr. 3, pp. 12, 91).

The solar modules will be ground mounted using a fixed tilt system. (SRNS 1, p. 7). Approximately 1,187 strings, with 25 solar modules per string, and 45 string inverters will be utilized. (SRNS 6, Attachment 4, p. 1). Module foundations will be secured using ground screws due to the potential for rock under the Site. (SRNS 2, response 40; Tr. 1, p. 19).

The Project will be made up of a "Northern Array", which is located north of State Route 184, and a "Southern Array", which is located south of State Route 184. As shown in Figure 1 below for references purposes, the Northern Array consists of "Area 1" on the west side and "Area 2" on the east side. The Southern Array consists of "Area 3" on the west side and "Area 4" on the east side. (SRNS 2, response 2; SRNS 2, Attachment 2). The MWac for Area 1, Area 2, Area 3, and Area 4 are 0.93, 0.62, 5.35, and 3.00, respectively. (SRNS 6, response (c)).

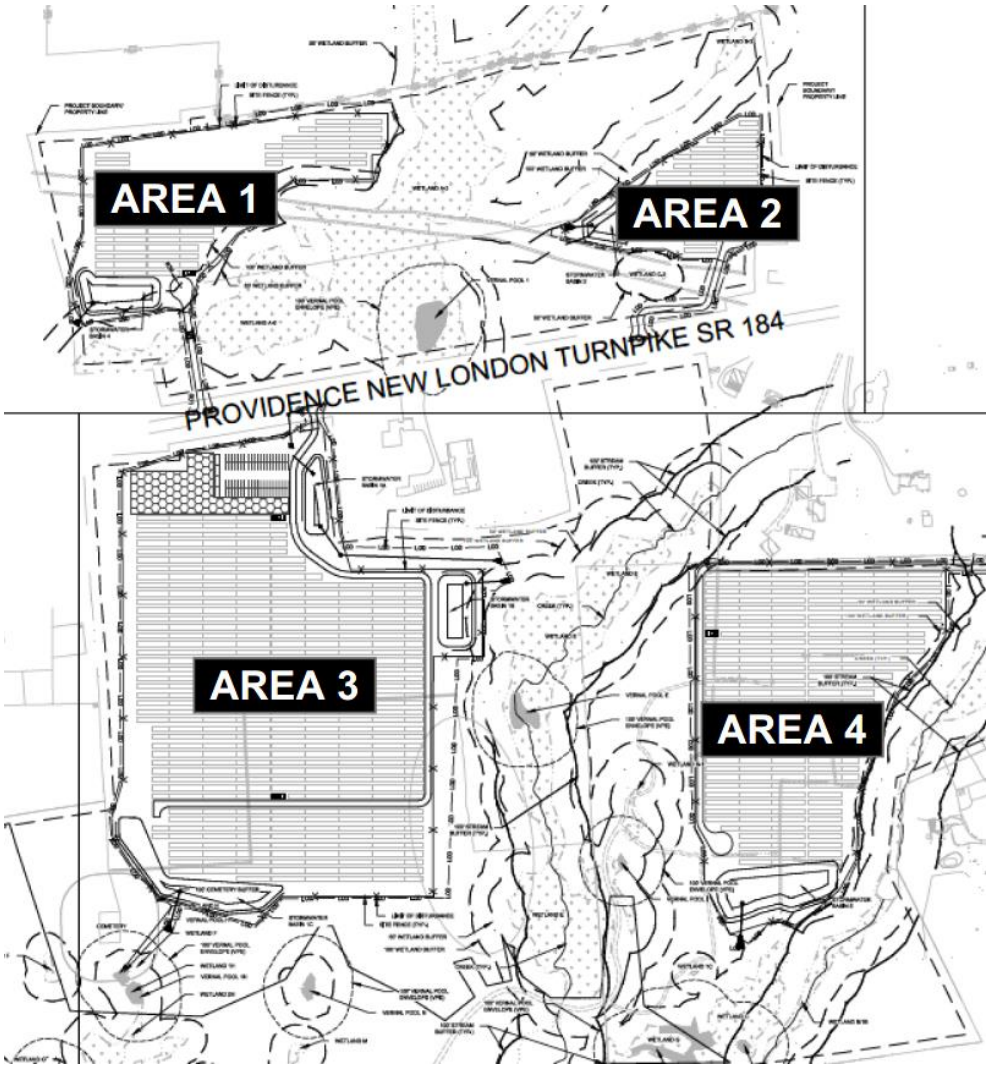


Figure 1

Permanent access to the Site will be via four access roadways – three off of State Route 184 and one off Boombridge Road – totaling approximately 5,091 linear feet. The access roadways will be approximately 16 feet wide with two feet of shoulders on each side. (SRNS 6, Attachment 4, p. 1 and Attachment 6, p. 146). As further discussed in Section IV.K below, SRNS will handle vegetative maintenance through the use of sheep at the Site between the months of June and October. This regenerative approach to maintenance reduces the need for motorized landscaping equipment, use of herbicides and pesticides, and keeps the land in agricultural production. (SRNS 2, response 32).

Electrical Interconnection

The Project has one point of interconnection, which will be inside the Project's fence line near the access driveway south of State Route 184 (Area 3), utilizing three new 50 foot tall utility poles, then connecting to existing Connecticut Light and Power Company d/b/a Eversource Energy ("Eversource") electric distribution service running above ground along State Route 184. (SRNS 1, p. 11; Tr. 1, pp. 20, 42-43, 81-82). The Project will interconnect to Eversource's existing 13.8 kV distribution system along 25 Pendleton Hill Road. Eversource will need to construct one new dedicated 13.8 kV distribution feeder to the Site. Eversource is responsible for permits and approvals for such work. (SRNS 1, p. 10; SRNS 6, Attachment 4, p. 1; Tr. 1, p. 42).

The final location of the three new 50 foot tall utility poles that will be used to interconnect the Project to the existing electric distribution system will be determined by Eversource. The exact locations of these poles have not yet been identified. (SRNS 2, response 3(a))[2].

Project Benefits

Public Act 05-1 (An Act Concerning Energy Independence) established a rebuttable presumption that there is a public benefit for electric generating facilities selected in an RFP. (Public Act 05-1; CGS §16-50k(a)). As noted in Section II above, the Project was selected in an RFP. (*Supra* Section II).

The Project supports the State's energy policies as set forth in Conn. Gen. Stat. § 16a-35k, including the goal to "develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent." The Project will provide clean, renewable,

[2] At the Council's request SRNS discussed with Eversource the possibility of installing all of the electrical interconnection facilities for the Project underground before connecting to the aboveground Eversource distribution system. Eversource has requested more time to develop the costs for such additional work and indicated they have never done an interconnection in this manner before. (SRNS 6, response (b); Tr. 3, p. 42).

solar-powered energy to Eversource and UI and assist the State in meeting its legislatively-mandated obligations under the Renewable Portfolio Standard. (SRNS 1, p. 13). The Project will also assist the State in reducing greenhouse gas emissions and reducing criteria air emissions pollutants associated with the displacement of older, less efficient, fossil fuel generation. (SRNS 1, p. 13).

VI. LEGAL STANDARD

Pursuant to Conn. Gen. Stat. §§ 16-50k(a) and 4-176(a), and RCSA § 16-50j-38 et seq., the Petitioner requests that the Council issue a declaratory ruling that no Certificate is required and approve the construction, maintenance and operation of the Project. Conn. Gen. Stat. § 16-50k(a) provides:

> 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 . . . 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: (i) Such project meets air and water quality standards of the Department of Environmental Protection [and] (ii) the council does not find a substantial adverse environmental effect. . . ,

Conn. Gen. Stat. §§ 16-50k and 4-176 and RCSA § 16-50j-38 et seq. provides the Council with authority to approve a petition for declaratory ruling so long as the proposed facility will not have a substantial adverse environmental impact and therefore would not require a Certificate. The Council has previously indicated that, in determining whether a facility has a substantial environmental impact, the Council must consider the criteria laid out in Conn. Gen. Stat. § 16-50p, which includes the consideration of:

> [t]he nature of the probable environmental impact of the facility . . . including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether along or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife. (Conn. Gen. Stat. § 16-50p(3)(B)).

VII. ARGUMENT

The Project is a "grid-side distributed resources" facility, as defined in Conn. Gen. Stat. § 16-1(a)(43) as it involves the "generation of electricity from a unit with a rating of not more than sixty-five megawatts that is connected to the transmission or distribution system." As addressed in further detail below, the Council should find that no Certificate is required because the Project will not have a substantial adverse environmental effect. The Petitioner has engaged with state and local officials and the public in what has been a robust public process, and Petitioner has gone to great lengths to ensure that the significant concerns raised by the Council, the Town, and abutters about the Project have been addressed through the extensive and thorough redesign of the Project. The Petition therefore, should be approved.

A. Petitioner Substantially Redesigned the Project to Address Municipal and Neighborhood Concerns

Listening to Municipal and Neighborhood Concerns

After listening and considering municipal and neighborhood concerns, SRNS understood that many in the neighborhood around the Site and certain municipal officials desired to have the Project located entirely on the parcels located south of State Route 184. SRNS extensively evaluated potential alternatives to accommodate these concerns. However, due to the presence of sensitive environmental resources located on those southern parcels, especially in and around the former gravel pits, SRNS found it was not possible to maintain the Project's power output under the RFP, maintain appropriate buffers between developed areas and sensitive environmental resources, and leave the parcels to the north of State Route 184 completely undeveloped. (SRNS 2, response 2).

Nevertheless, in response to the concerns of the neighborhood and the Town, SRNS undertook an extensive redesign of the Project. In order to best address these concerns, SRNS

sought to marry the use of new equipment and civil design techniques to reduce the overall footprint of the Project and reduce the overall number of panels on the northern parcel (*i.e.,* Area 1 and Area 2) to the greatest extend possible. Where panels remain on the northern parcel, SRNS was able to reduce the limits of disturbance and tree clearing, significantly reduce impacts on wetlands and watercourses, and reduce impacts to abutting properties. In redesigning the Project, SRNS was constrained in its options due to its contractual obligation to produce 9.9 MW of electricity under its PPA, the output of the commercially available solar modules, and topography and environmental conditions at the Site. (SRNS 2, response 2).

SRNS extensively evaluated alternative layouts for the solar arrays. (SRNS 2, response 27). In April, SRNS was able to secure a sufficient supply of Hanwha QCell's newest solar module – Q.Peak Duo XL-G10.3/BFG 475. These bifacial modules will provide a significantly higher wattage (output) than the module considered as part of the original project design. As a result of the increased output per module, SRNS will be able to meet its contractual obligation under the PPA using fewer modules. By reducing the number of modules, SRNS's design team had more flexibility in the layout of the Project. SRNS used this flexibility to address what it perceived to be the most significant concerns and questions raised in response to the original project design, whether by the Council, the Town, neighbors, or other state agencies. (SRNS 2, response 2 and response 11).

The redesign of the Project has resulted in significant improvements to the design of the Project and the Project's environmental impacts, including:

- a decrease in the overall footprint of the project;
- a reduction in tree clearing;
- a reduction in site grading;

- an increase in setbacks from important environmental resources (*e.g.*, wetlands, vernal pools);
- a reduction in the number of solar modules located on the northern parcel; and
- the use of higher wattage panels that permitted the reduced disturbance to the norther parcel. (SRNS 2, response 2).

The Project now will provide larger buffers to wetland resource areas that include 100-foot buffers from the fence line and 50- foot buffers from limits of disturbance in many locations. (SRNS 2, response 26).

SRNS's ability to further redesign the Project to reduce or eliminate solar arrays on the northern parcel is limited by environmental, topographic, geotechnical, and archeological considerations, as well as the proximity of modules from one another. (Tr. 1, p. 79).

Increased Wetland Buffers and Reduced Grading and Tree Clearing

In Area 1, SRNS removed a significant number of solar modules from the steeper slopes and removed all modules from the 100-foot wetland buffer area. These modifications substantially reduced the amount of grading necessary in this area. As a result of the reduced size of the array, the stormwater basin (Basin No. 4) was also reduced in size. SRNS was also able to reduce the length of the access driveway by more 51% – from 675 feet to 327 feet. After these modifications, the limits of disturbance are a minimum of 50 feet from downgradient wetlands and watercourses, which will minimize impact to these resources. These modifications resulted in a reduction of the limit of disturbance in Area 1 by approximately 0.75 acres and grading was reduced by approximately 50% from the original project design. (SRNS, response 2; SRNS 6, Attachment 4 and Attachment 9).

In Area 2, SRNS removed all of the solar modules and the associated drainage basins that were located west of Wetland C-2 and north of the stream connecting Wetland B-2 and Wetland A-2. These modifications substantially reduced the amount of grading necessary in this portion of the northern parcel and removed all development activity from the 100-foot buffer for Vernal Pool 1 and Wetland A-2. SRNS also removed the wetland crossing southwest of Wetland B-2; thereby reducing wetland impacts. As a result of these modifications and the reduced size of the remaining array, the stormwater basin (Basin No. 2) was reconfigured and moved to the northeast away from Vernal Pool 1, its 100-foot Vernal Pool Envelope ("VPE"), and Wetland A-2. SRNS also was able to substantially reduce the length of the access driveway by more than 71% – from 1,550 feet to 442 feet – which also reduced impacts to steeper slopes. These adjustments resulted in a significant reduction of the limit of disturbance and tree clearing in this area. The limit of disturbance and tree clearing in Area 2 were each reduced by approximately five acres. (SRNS 2, response 2; SRNS 6, Attachment 4 and Attachment 9).

For Area 1 and Area 2 combined, tree clearing was reduced by more than 40% and the limits of disturbance were reduced by more than 35%. In addition, cut requirements were reduced by more than 63% and the fill requirements were reduced by approximately 90%. (SRNS 2, response 2).

In Area 3, the stormwater basin (Basin No. 1B) on the east side of this solar array and the limits of disturbance were moved out of the 100-foot VPE for Vernal Pool E, which reduces the potential impact on Vernal Pool E. The Project does not involve any permanent or temporary disturbances within the 100-foot VPE for Vernal Pool E. SRNS was also able to relocate a significant number of solar modules from the northern parcel to the southern portion of this southwest array. As a result, the stormwater basin on the south side of the Area 3 solar array was

reconfigured and moved to the southwest, but still remains outside the 100-foot buffer around the small family cemetery referenced in the Petition, which is consistent with State Historic Preservation Office's requirement. With these modifications, the new limits of disturbance will be a minimum 50-foot buffer to downgradient wetlands and watercourses, which will minimize impact. (SRNS 1, p. 24; SRNS 1, Exhibit R; SRNS 2, response 2; SRNS 6, Attachment 4 and Attachment 9).

The total limit of disturbance in Area 3 was increased approximately three acres. This area was selected for the solar modules relocated from Area 1 and Area 2, because it has some of the flattest terrain on the Site and had sufficient buffers from sensitive environmental resources. The relocation of the solar modules from the northern parcel reduced environmental impacts on the northern parcel and resulted in only minimal additional environmental impacts on southern parcels, which mostly consists of modest additional grading. (SRNS 2, response 2; SRNS 6, Attachment 4 and Attachment 9).

In Area 4, the solar modules on the southerly side of this array were moved further north and allowed for the shifting of the stormwater basin (Basin No. 5) to the north onto less steep terrain. This modification also resulted in an overall reduction in required grading in the northeast and northwest portion of this solar array and an overall reduction in the limit of disturbance. This modification confirms there will be no permanent or temporary disturbances within the 100-foot VPE for both Vernal Pool I or Vernal Pool G. The new limits of disturbance will be a minimum of a 50-foot non-disturbance buffer upland of Wetland B/1B. (SRNS 2, response 2; SRNS 6, Attachment 4 and Attachment 9).

For Area 3 and Area 4 combined, which are the developed portions of the southern parcels, tree clearing increased by approximately 25% and the limits of disturbance increased by

approximately 9%. In addition, grading cut increased by approximately 14%, but grading fill was reduced by more than 20%. (SRNS 2, response 2). However, these increases were a necessary result of the removal of solar modules, and thus disturbance, on the northern parcel.

For the Project as a whole, as a result of the redesign, the cut and fill requirements for the Project were reduced by more than 25% and more than 68%, respectively. Wetland and water course impacts were reduced by more than 27% – from approximately 4,006 square feet to approximately 2,720 square feet. (SRNS 2, response 2; SRNS 6, response (i)).

No Impacts to Vernal Pools

As a result of the redesign, the Project no longer creates any disturbance within the 100-foot VPE for any of the eleven vernal pools identified on the Site. (Tr. 1, p. 25). For Vernal Pool E, the buffer from the nearest project activity in Area 3 was expanded as part of the redesign from approximately 60 feet to approximately 150 feet (to limit of disturbance) and approximately 205 feet (to fence line) from the southwest solar array. There will now be an approximately 400-foot buffer on the east side of Vernal Pool E to Area 3. (SRNS 2, response 37).

For the Critical Terrestrial Habitat ("CTH") for Vernal Pool 1, the area of disturbance associated with the limit of disturbance was reduced from approximately 12.15 acres, or approximately 43.3% in the proposed developed condition, to approximately 6.90 acres, or approximately 26% for the proposed developed condition. If just the fenced limit of the Project is considered, approximately 6.06 acres, or approximately 23% of the CTH for Vernal Pool 1 would be developed. (SRNS 6, response (d)).

For the CTH for Vernal Pool E, the area of disturbance associated with the limit of disturbance was reduced from approximately 16.21 acres, or approximately 35.6% to

approximately 21.1 acres, or approximately 48% in the proposed developed condition. If just the fenced limit of the current Project design is considered, approximately 19.3 acres, or approximately 44% of the CTH for Vernal Pool E would be developed. (SRNS 6, response (d)).

The majority of the increase in the limit of disturbance within Vernal Pool E's CTH is located more than 300 feet from the edge of Vernal Pool E for both the southeast and northeast corners of Area 3. The southeast corner of Area 3 is associated with solar modules that were added to offset those removed from the parcels north of Route 184 and in the northeast corner of the Site. The increase is associated with shifting of the stormwater basin outside of Vernal Pool E's VPE. (SRNS 6, response (d)).

The Project preserves the principal directional corridors linking vernal pools to optimal CTH habitat that supports forested wetland habitats that would be used during the summer and intervening/adjacent forested uplands, providing suitable habitat for both migration linking those habitats and optimal terrestrial hibernation habitat. (SRNS 2, response 37).

Reduced Access Roads

The access driveway lengths were reduced by a total of 1,665 linear feet. This includes a reduction from: 2,445 to 2,252 linear feet in Area 4; 2,086 to 2,070 linear feet in Area 3; 675 to 327 linear feet in Area 1; and 1,550 to 442 linear feet in Area 2. (SRNS 2, response 18).

Reduced Impacts to Core Forest

The overall impact on core forest was reduced from approximately 3.51 acres to approximately 0.20 acres. (SRNS 6, response (f)). However, the total contiguous area of this forest is only 13.5 acres and as such would be classified as a small core forest patch at the very small end of that scale. Considering the small size of the existing small core forest patch and

existing perforations and edge effect, the Project would not have significant negative impact on core forest habitat. (SRNS 2, response 3(b); SRNS 2, Attachment 7).

B. The Project Will Not Have a Substantial Adverse Effect on Public Health and Safety

Project Safety

The Project will comply with all listed codes and standards, such as the National Electrical Code, the National Electrical Safety Code and any applicable National Fire Protection Association codes and standards, as well as others required by Eversource, which include the IEEE and UL standards. (SRNS 1, p. 20). All employees working at the Site will:

- receive required general and Site-specific health and safety training;
- comply with all health and safety controls as directed by local and state requirements;
- understand and employ the Site health and safety plan while on the Site;
- know the location of local emergency care facilities, travel times, ingress and egress routes; and
- report all unsafe conditions to the construction manager. (SRNS 1, p. 18).

Prior to beginning operation, SRNS will meet with Town first responders to provide information regarding response to emergencies at PV facilities, discuss industry best practices, and provide a tour of the Site and project. SRNS has already reached out to the Town Fire Marshal and anticipates coordinating trainings closer to commencement of construction. (SRNS 1, p. 19; Tr. 1, p. 100; Tr. 3, p. 97).

The Project will be remotely monitored 24 hours a day, 7 days a week, 365 days of the year. In the event of a fire or emergency requiring site access, first responders will be ensured entry through the use of a "knox box" or equivalent that allows 24/7 rapid access through all gates. (SRNS 1, p. 19). The Project can be remotely disconnected from the Eversource grid,

cease inverter operation, and deenergized, if necessary in an emergency. (SRNS 1, p. 19; Tr. 3, pp. 13-14). If a fire were to occur while sheep were at the Site, the sheep vendor would be contacted directly to respond to the Site to evacuate the any sheep. (SRNS 6, Attachment 14; Tr. 1, pp. 66-67; Tr. 3, pp. 22-23). There is no evidence in the record to refute this finding.

Noise

The Project will not produce significant noise during operation. While, during the construction of the Project,[3] higher levels of noise are anticipated, most work will be conducted during normal working hours and it is not anticipated that the levels of noise will exceed State or local noise standards or limits. (SRNS 1, p. 18; SRNS 1, Exhibit N; Tr. 1, p. 51).

On behalf of SRNS, Urban Solution Group ("USG") conducted a Noise Impact Assessment ("NIA"). When assessing potential noise impacts from the Project, USG considered effects of ground absorption, topography, atmospheric absorption, and environmental conditions (such as humidity, temperature, wind, etc.), but excluded any excess attenuation from trees. This approach added conservatism to the Project's predicted facility contribution to noise levels at each receiver. (SRNS 5, response 3(a) and response 5). Based on the topography of the Site and surrounding area, the layout of the Project, and proximity of I-95 and State Route 184, the trees that are being removed as part of the Project's development is unlikely to cause an audible increase (*i.e.,* greater than 3 decibels) in noise to abutting properties. (Tr. 1, pp. 28-30). The NIA concluded that predicted noise levels for the Project are expected to comply with the daytime permissible noise levels set by the DEEP of 55 dBA for residential areas. The receiver expected to be most impacted would have a facility noise level of 44.9 dBA from operation of the Project. (SRNS 1, Exhibit N). There is no evidence in the record to refute this finding.

[3] Construction noise is exempt from DEEP Noise Control Standards. (RCSA §22a-69-108(g)).

Glare

Solar modules are designed so that they reflect as little light as possible so that the maximum amount of solar radiation is absorbed and converted to energy. Thus, the solar modules will reflect very little light and will not create glare that could disrupt traffic along area roadways or impact neighboring properties. (SRNS 1, p. 19). There is no evidence in the record to refute this finding.

C. The Project Will Not Have a Substantial Adverse Effect on Air Quality Standards

During construction of the Project, any air emission effects will be temporary and will be controlled by enacting appropriate mitigation measures (*e.g.*, water for dust control, avoid mass early morning vehicle startups). (SRNS 1, p. 20). During operation, the Project will not produce air emissions of regulated air pollutants or greenhouse gases (*e.g.*, PM10, PM2.5, VOCs, GHG, or Ozone). The Project would meet the DEEP air quality standards, with no material emissions associated with the Project's operation. The Project does not require an air permit. (SRNS 1, p. 20).

Over the 40 year lifespan of the Project it is anticipated to produce 702,011 MWh of power. Over this same time period, the Project will result in net avoided emissions of approximately 242,632 metric tons CO2e. A natural-gas plant producing an equivalent amount of power over the same time period would, based on the median value, result in 315,905,000 kg CO2e for a combined cycle natural gas plant and 470,347,000 kg CO2e for a combustion turbine plant. (SRNS 2, Attachment 10).

D. The Project's Stormwater Management Plan Will Prevent the Project from Having a Substantial Adverse Environmental Effect

SRNS will implement a stormwater management plan to minimize any potential adverse environmental effects. (SRNS 1, p. 32). These procedures are outlined in the Stormwater

Pollution Control Plan ("SWPCP") for the Project.[4] Upon receipt, the Notice of Permit Authorization under the DEEP Individual and General Permits for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities ("Stormwater Permit") will become part of the SWPCP. The Preliminary Drainage Assessment will serve as an Erosion and Sediment Control Plan in accordance with Conn. Gen. Stat. §§ 22a-325 through 22a-329. (SRNS 1, pp. 32-33; SRNS 6, Attachment 6 and Attachment 7).

The Project has been designed to comply with the 2002 Connecticut Guidelines for Erosion and Sedimentation Control ("2002 E&S Guidelines") and the 2004 Connecticut Stormwater Quality Manual ("2004 Stormwater Manual"). (SRNS 6, Attachment 6; Council Administrative Notice Nos. 49 and 50).

Utilizing sizing criterion, and design concepts identified in the Preliminary Drainage Report, the Project's watersheds were analyzed hydrologically in order to provide preliminary site stormwater management design, including permanent stormwater management facilities to meet the DEEP requirements. Due to the existing topography, the Project requires some areas of grading to lessen the slope and allow for the installation of solar modules. There will need to be earthwork to build stormwater and construction stormwater infrastructure consistent with best management practices. (SRNS 1, pp. 32-33; SRNS 6, Attachment 6).

Pursuant to the SWPCP, the Project's stormwater engineering design will mimic existing conditions of the historic drainage patterns to the maximum extent practicable, and limit environmental impacts to wetlands, streams, and habitat. (SRNS 1, p. 33; SRNS 6, Attachment 6). The Project will comply with Appendix I of the Stormwater Permit. The Project will be in compliance with Section 2(a) of Appendix I of the Stormwater Permit, because no solar modules

[4] SRNS 6, Attachment 6 is the SWPCP that reflects the current Project.

will be located within 100 feet of any wetland or waters and a 50-foot undisturbed buffer will exist between any construction activity and any wetlands or waters that, prior to or after construction, are located downgradient of such construction activity. (SRNS 2, response 47).

Post-construction, a native seed mix will be implemented. Once the Site is stabilized, temporary erosion and sediment control structures will be removed. Sediment basins located on the Site will be converted into permanent structures to provide peak flow attenuation post-development per the Stormwater Concept Report analysis. No other permanent stormwater controls are necessary due to natural attenuation of runoff that is caused by changing the existing cover type from upland forest to the meadow condition as part of the Project. (SRNS 1, pp. 33-34).

Therefore, there is ample evidence in the record to support a finding by the Council that the Project will have no substantial adverse environmental impacts related to the stormwater management from the Project.

E. The Project Will Not Have a Substantial Environmental Effect on Wetlands on the Site

SRNS had wetland inspections and delineations completed in April 2017, November 2018, and May and June 2019. (SRNS 1, p. 29; SRNS 1, Exhibit U). SRNS identified a total of 25 different wetlands on the Site with the majority located on the southern parcels. (SRNS 1, p. 29; Tr. 1, pp. 87, 104; SRNS 6, Attachment 4). The gravel pit area, in the southwest of the southern parcels, contains important environmental resources worthy of protection, including complexes of varying wetland habitat types, numerous vernal pool habitats, and habitat for several state-listed species. (SRNS 2, response 3(a) and (c); SRNS 6, Attachment 4).

The Project will be consistent with the 2015 U.S. Army Corps of Engineers Vernal Pool Best Management Practices. (SRNS 2, response 37). Potential short-term, temporary wetland

impacts associated with construction activities will be minimized through the proper design, installation, and maintenance of sedimentation and erosion controls in accordance with the 2002 E&S Guidelines. SRNS will also develop, following Council approval, a wetland and vernal pool protection plan to be implemented during construction with assistance from a third-party compliance monitor to provide additional measures to avoid temporary wetland impacts. (SRNS 1, p. 31). During construction, SRNS will utilize double filter fencing and compost filter socks, where appropriate. (Tr. 1, pp. 116-117).

Due to SRNS's extensive redesign efforts, the Project will only have two wetland impact areas and three wetland crossings compared to four wetland impact areas and four wetland crossings in the original design. The original design had a total wetland impact of approximately 4,006 sq. ft. SRNS reduced these wetland impacts by eliminating one wetland crossing (Culvert 2 (Wetland B-2)) and redesigning each of the remaining crossings. The crossing at Culvert 1 (Wetland A-2) was reduced by using longer wingwalls, which allowed for less fill to be placed on side slopes that extended into the wetlands. The crossing at Culvert 3 (Wetland B/1B) was also reduced. Culvert 4 (Wetland A/1A) was enlarged and now can span the wetlands to avoid all permanent impacts.

As a result of these modifications, SRNS has reduced overall wetland impacts to approximately 2,720 sq. ft. This reduction was achieved through approximately 628 sq. ft. of impacts eliminated with Culvert 1 and approximately 2,092 sq. ft. of impacts eliminated with Culvert 1. (SRNS 6, response (i); Tr. 1, pp. 88-89). Impacts associated with the solar arrays on the northern parcel have also been significantly reduced, including the elimination of any encroachment into the VPE for Vernal Pool 1, one of the Site's more productive vernal pools. (SRNS 2, response 3(a)).

Any selective tree removal in wetlands required to eliminate shading effect on nearby solar modules will be accomplished with the use of various equipment to minimize disturbance to wetland vegetation that will remain and compaction of wetland soils. This will likely be performed with a combination of hand cutting and the use of logging equipment such as forwarders, feller-bunchers with cutting heads, harvester-processor, etc. If necessary, equipment entering into wetlands would generally use truck mats and/or swamp mats to minimize disturbance in wetlands, resulting in only temporary wetland impacts. Where safe to do so, mats would be placed directly over shrubs to minimize impact to the wetland understory vegetative cover. Tree tops and logs would be removed from the wetland although some logs and brush would be allowed to remain to provide temporary cover for wildlife. Typically, trees will be cut two feet to three feet off the ground surface with no tree stumps removed. In addition, a suitable amount of snags will be created to enhance wildlife habitat by selecting trees that are a minimum six inches in diameter at breast height and cutting the tree at a height of six feet to eight feet from the ground surface. (SRNS 1, p. 31).

While the wetlands in the area of the former gravel pit are small in size and may not be providing significant wetland function and values, in the context of the landscape they are an important habitat because they currently support some listed species. There is also a DEEP designated critical habitat in that area. That area provides unique and important ecological habitat to the Site and to the region and supports a wide diversity and assemblage of amphibians and reptiles – some of which are state listed species of special concern. (Tr. 3, pp. 46-47, 57). The Project will not impact this area of the Site, thus preserving its wetlands and vernal pools for continued habitat development.

There is no evidence in the record to refute SRNS's conclusions. Therefore, the Project will not have any effect, let alone a substantial adverse effect on wetlands on the Site.

F. The Project Will Not Have a Substantial Adverse Effect on Water Quality

The Project will use no water during operations in the production of electricity. Any water utilized during the construction of the Project for dust suppression will be minimal and have no impact on the water quality in the vicinity of the Site. (SRNS 1, p. 28). Groundwater underlying the Site is classified by the DEEP as "GA". (SRNS 1, p. 29). The Site is located within the Town's Aquifer Protection Zone. (SRNS 2, response 39; Council Administrative Notice Item No. 95).

No Federal Emergency Management Agency ("FEMA") Floodplains are located on the Site. The majority of the Site is within Flood Zone X, designated by FEMA as an area outside of the 500-year floodplain area with a minimal risk for flooding. The extreme southwestern portion of the Site is classified as Zone A, which is identified as a high flood risk area. No development activities will be conducted in that portion of the Site. (SRNS 1, p. 28; SRNS 1, Exhibit Z, Appendix B; SRNS 6, Attachment 4).

There are no drinking water wells on the Site. Private well information for several, but not all, of the abutting properties was provided by the Ledge Light Health District. It is not clear from the information provided whether each of the wells identified are used for the supply of residential drinking water. Regardless, SRNS does not anticipate construction activities will affect surrounding wells or water quality. Inserting the racking posts into these soil conditions is not expected to cause excessive vibrations beyond the Site and would therefore not represent a concern for causing sediment releases to nearby wells. Although the specific construction of these wells is unknown, it is likely that any potable drinking water wells are installed within the

bedrock aquifer, not in the overburden material, at depths far exceeding the construction zone. As a result, no disruption to well water flow or water quality is anticipated and therefore no special precautions are warranted. (SRNS 2, response 33). There is no evidence in the record to refute this finding.

To prevent any impacts to groundwater resources, SRNS will employ Best Management Practices during construction. These will include implementation of a spill prevention plan, temporary stormwater controls, and extensive erosion and sedimentation control measures to mitigate any potential impacts to the aquifer during construction. (SRNS 6, Attachment 6, Attachment 12, Attachment 13, and Attachment 14; Tr. 1, p. 50). SRNS has provided a draft Spill Prevention, Control, and Countermeasure Plan ("SPCC"). The draft SPCC may be updated or refined in advance of construction based on the final layout and construction plans. (SRNS 2, response 35).

During the evidentiary hearings several members of the Council expressed concerns regarding SRNS's plan to maintained on Site during construction several aboveground storage tanks for refueling of construction vehicles. (Tr. 1, pp. 98-99, 109-110). SRNS took these concerns seriously and reevaluated the need for aboveground storage tanks and the ability to utilize mobile refueling during construction. While SRNS is confident that the precautions it would have taken in connection with the aboveground storage tanks would have prevented any spills or releases, due in part to the Site being located within the Town's Aquifer Protection Zone, SRNS will eliminate all on-site storage of fuel and utilize only mobile refueling for construction vehicles. Refueling will take place in designated areas at the Site, which will have emergency spill kits and temporary containment present. (Tr. 3, pp. 18-20, 26-27).

SRNS provided the results of a Toxicity Characteristic Leaching Procedure (Test Method USEPA 1311:1992) ("TCLP Report") representing the metals used to construct the solar modules being used for the Project. (SRNS 2, response 52; SRNS 2, Attachment 18; SRNS 6, Attachment 13). 89. The results of the TCLP Report showed that the metals used to construct the solar modules are not present at levels that would be considered toxic by the U.S. Environmental Protection Agency. (SRNS 2, Attachment 18). The results of the TCLP Report show that the lead contained within the material makeup of the solar modules is, on average, present at a level of 1.24 mg/L, which is less than 25% of the applicable regulatory level of 5 mg/L. (SRNS 2, Attachment 18; Tr. 3, pp. 81-83). Any damaged solar modules would be identified through direct current health analytics at the Site or through regular thermal imaging of the Project. (SRNS 2, response 51).

SRNS has taken every precaution to ensure that construction and operation of the Project will not impact water quality. There is no evidence in the record to refute SRNS's conclusions. The overwhelming evidence in the record supports a finding by the Council that the Project will not have an adverse effect on water quality.

G. The Project Will Not Have a Substantial Adverse Effect on Scenic and Recreational Values

No scenic areas would be physically or visually impacted by the Project. No recognized scenic areas, outlooks, or designated scenic roads are located proximate to the Site. No public hiking trails or other potential public non-vehicular trails were found to be present in the area that would serve as potential observation points. (SRNS 1, p. 21). The nearest publicly accessible recreational area is he Samuel Cote Preserve on the south side of Route 216 (Clarks Falls Road) approximately 0.90 miles from the Project's limits of disturbance. The Project will not be visible from the Samuel Cote Preserve. (SRNS 2, response 42).

A majority of the Project will be shielded from view due to existing mature vegetation and topographical conditions. (SRNS 1, p. 19). Most of the Project will be set back from adjoining roadways and behind vegetative buffers. Some portions of the Project may be visible from a public roadways and adjoining parcels. The majority of the Project is located within the interior of the parcels that make up the Site. The interior location combined with existing topography and wooded buffers, which will remain after development of the Project, will result in relatively limited visibility of the Project from publicly accessible vantage points. (SRNS 1, p. 21).

Despite this lack of impact on scenic roads or areas, SRNS made several significant changes to the Project design to reduce the perceived visual impact on neighboring residential properties and roadways. Due to existing vegetation along the northerly side of State Route 184, which will be maintained, the northwest and northeast solar arrays – Area 1 and Area 2, respectively – will not be visible from a public right of way. The redesign increased the tree buffer between State Route 184 and the solar arrays in Area 1 and Area 2 from 110 feet to 180 feet. (SRNS 2, response 3(a)).

Also, as part of the redesign, SRNS relocated the fence line in several areas around access roadways to reduce the potential visual impact from public right of ways and/or abutting properties. In Area 1, 470 linear feet of fence was removed. In Area 2, 690 linear feet of fence was removed. In Area 4, 1,680 linear feet of fence was removed. SRNS will use a bar gate at several access road entrances to limit access to the solar array areas. These changes should substantially reduce the general public's view of the fence while traveling along public rights of way. (SRNS 5, response 20).

There is no evidence in the record to refute SRNS's conclusions. Therefore, the Project will not have any effect, let alone a substantial adverse effect on scenic or recreational values.

H. The Project Will Not Have a Substantial Adverse Effect on Historic and Archeological Resources

There is no evidence in the record to suggest that the Project will have an adverse impact on historic or archeological resources. SRNS had an Archaeological Sensitivity Assessment ("ASA") prepared for the Site in June 2019 and a Phase I-A Technical Report ("Phase I RAS") completed in November 2020. (SRNS 1, p. 23; SRNS 1, Exhibit P, Exhibit S, and Exhibit T). On December 28, 2020, the Connecticut State Historic Preservation Office issued a letter concurring with the ASA and Phase I RAS conclusions and stating that "no historic properties will be affected by the proposed activities." (SRNS 1, p. 23; SRNS 1, Exhibit X). The SHPO's letter of concurrence found that the low-density scatter of common types of historic artifacts is not eligible for listing on the National Register of Historic Places and no additional testing of the Site is warranted. (SRNS 2, response 3(b); SRNS 1, Exhibit X).

The small family cemetery in the westerly portion of the Site, southwest of Area 3, will have a 100-foot buffer from development activity associated with the Project. The cemetery is not active and SRNS is not aware of anyone visiting the cemetery in recent years. (SRNS 6, Attachment 4; Tr. 1, pp. 84-85).

After extensive review and fieldwork, SRNS has no reason to believe and is not aware of any incomplete or undocumented artifacts as suggested by the Town. (SRNS 2, response 3(b)). Therefore, the Council should find that the Project will not have a substantial adverse environmental impact on historic or archeological resources.

I. The Project Will Not Have a Substantial Adverse Effect on Habitat and Wildlife

Extensive field and habitat surveys were conducted on the Site to characterize potential special-status plants, wildlife, and their associated habitat that may occur on the Site. In particular, the following were performed over the course of 24 site visits. (SRNS 1, p. 24; SRNS 1, Exhibit U). Species surveys, including an eastern spadefoot survey, are currently underway. (SRNS 2, response 3(a); SRNS 5, response (n); Tr. 3, pp. 32-33).

According to the Natural Diversity Database ("NDDB") the following listed species have presences in the vicinity of the Site:

a. Sparkling Jewelwing (Threatened; *Calopteryx dimidata*);
b. Eastern Pearlshell (Special Concern; *Margaritifera margaritifera*);
c. Low Frostweed (Special Concern; *Crocanthermum propinquum*);
d. Hoary Plaintain (Special Concern; *Plantago virginica*);
e. Red Bat (Special Concern; *Lasiurus borealis*); and
f. Eastern Spadefoot (Endangered; *Scaphiopus holbrookii*).

SRNS's consultant conducted several targeted surveys for Connecticut-listed species. (SRNS 1, p. 25; SRNS 1, Exhibit V, Appendix E). Based on the Site's characteristics, it was determined that the sparkling jewelwing and eastern pearlshell would not be found at the Site. (SRNS 1, p. 25; SRNS 1, Exhibit U; Tr. 1, pp. 12-13). It was determined that eastern red bat and northern long eared bat could utilize portions of the Site during roosting season. However, surveys were not conducted for these species because tree clearing for the Project will be restricted in accordance with 4(d) rule requirements of the Endangered Species Act, associated with the conservation of NLEB and limited pursuant to the DEEP NDDB's restrictions for the Site. (SRNS 1, p. 26; SRNS 1, Exhibit U; Tr. 1, pp. 12-13).

SRNS's consultant searched the Site for hoary plantain during several visits. The searches were focused on open sunny sites with previously disturbed soil, as well as areas with sandy, dry soil. This included the dirt roads and residual sandy/gravelly quarry area on the Site. This species was not found, however, the open quarry areas will all be preserved. As such, it was determined that the Project will not adversely affect this species, if it is located at the Site. (SRNS 1, p. 25; SRNS 1, Exhibit U; Tr. 1, pp. 12-13).

SRNS retained an eastern spadefoot specialist, Mr. Dennis Quinn, to conduct a robust survey. As of July 9, 2021, Mr. Quinn had conducted twelve out of the fifteen nocturnal surveys necessary before a final report summarizing his investigation can be completed. As of July 9, 2021, no eastern spadefoots had yet to be found on the Site. (SRNS 1, pp. 26-27; SRNS 1, Exhibit U; Tr. 1, pp. 12-13; Tr. 3, p. 33). Mr. Quinn's report will be provided to the Council upon completion.

SRNS's consultant also document several additional Connecticut listed species of special concern. Those species were: the ribbon snake (*Thamnophis s. sauritus*), the Eastern Box Turtle (*Terrapene c. Carolina*), and the spotted turtle (*Clemmys guttata*). The Project will avoid the areas of the Site where ribbon snake were documented (*i.e.,* former gravel pits and surrounding wetlands). SRNS will undertake the standard search and exclusion protocol recommended by the DEEP for eastern box turtle prior to any land disturbance. All of the vernal pools and wetlands in the vicinity of the spotted turtle's preferred habitat will be preserved during and after the Project's development, thus this species will be secure. (SRNS 1, p. 27; SRNS 1, Exhibit U; Tr. 1, pp. 12-13).

A comprehensive rare species protection plan will be developed through the SRNS ongoing consultation with the DEEP NDDB for NLEB, red bat, ribbon snake, eastern box turtle,

spotted turtle, and potentially eastern spadefoot. The last three of these listed species are documented to occur in the southern portion of the Site that contains the former sand and gravel pit area. The Project will not disturb this area and SRNS intends to conserve this area, which in addition to supporting rare species also contains numerous vernal pool and wetland habitats. A protection plan will follow current best management practices recommended by the DEEP NDDB for protection of these species during construction and will be similar to previous rare species protection plans that have been proposed on other Dockets and Petitions considered and approved by the Council. (SRNS 2, response 26).

SRNS will utilize integrated pest management (IPM) techniques for the application of any herbicides or pesticides. However, the proposed vegetation management techniques for the project – livestock grazing within the fenced arrays and mechanical for maintained vegetation around the fenced perimeter – generally do not require the application of herbicides, pesticides, or fertilizers. In the rare cases that such applications are required (*i.e.,* control of invasive plants if mechanical means are not feasible or successful), focused low-volume spot applications would occur and there would be no broad applications of herbicides or pesticides. (SRNS 2, response 26)

The overwhelming evidence in the record supports a finding by the Council that the Project will not have an adverse effect on wildlife and habitat. Therefore, there will not be a substantial adverse effect on any threatened or endangered species.

J. The Petitioner is Working Diligently to Mitigate Potential Visual Impacts to Abutting Properties

SRNS reached out to all abutting property owners. Many of the abutting property owners attended a site walk with SRNS in March 2021. SRNS has engaged in discussions with several of the abutting property owners. (SRNS 6, response (p); Tr. 3, p. 88). SRNS has determined that

seven homes are expected to have limited year round views of some portion of the Project's solar arrays. (SRNS 2, response 3(a)). SRNS is currently engaged in active and productive discussions with several abutting property owners to finalize visual mitigation plans at the Site's property boundary with those owners. (SRNS 6, response (p); Tr. 1, p. 59; Tr. 3, p. 25).

K. The Petitioner Plans to Implement Its Regenerative Energy Program

SRNS has developed a site-specific management program reflecting the unique management needs of the Project based on various regulations, conservation goals, environmental attribute goals, and the local/regional community and cultural contexts. (SRNS 1, p. 17). SRNS has developed an Integrated Vegetation Management Plan ("IVMP") for the project. The IVMP will achieve SRNS's holistic land management goals through the integration of very specific regenerative agricultural practices into the long-term land management strategy. (SRNS 1, p. 17; SRNS 1, Exhibit M).

As part of the IVMP, SRNS plans to contract with local and/or regional ranchers to provide Adaptive Multi-Paddack sheep grazing ("AMP Grazing"). Both biological and mechanical control methods will be employed to meet solar industry vegetation management performance specifications. Herbicides will only to be used as required by local, state, and federal regulations for control of noxious and invasive weeds. It is SRNS's strong preference not to use herbicides. (SRNS 1, p. 17; SRNS 1, Exhibit M; SRNS 2, response 32; Tr. 1, p. 115).

AMP Grazing involves a flock being moved around the Site rapidly, mimicking the grassland-ruminant relationship. While livestock grazing is not an integral component of the Project, it will reduce the need for motorized landscaping vehicles and equipment and contributes to lowering operating expenses over the useful life of the project while keeping land in agricultural production. Sheep could be located on the Site during the months of June, July,

August, September, and/or October. (SRNS 2, response 32).AMP Grazing facilitates the sequestration of carbon and other greenhouse gasses in the soil, can reduce erosion through higher organic matter in soils, thereby increasing water infiltration and water holding capacity of the soils, and generally increases the health and value of the land and associated ecosystems. (SRNS 1, p. 17; SRNS 1, Exhibit M).

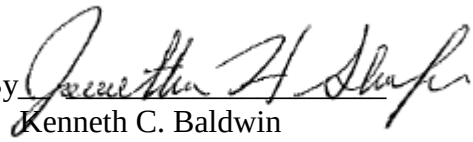
SRNS discussed its use of sheep at the Site in the postcard mailers sent to abutting property owners in 2020, during the March 11, 2021 virtual public presentation to the Town Planning and Zoning Commission, and during the March 23, 2021 on-site community meeting and tour of the Site. SRNS has received both positive feedback on the use of sheep at the Site. (SRNS 1, response 32(g)).

VIII. CONCLUSION

Pursuant to Conn. Gen. Stat. § 16-50k(a) the Council shall approve, by declaratory ruling, the construction or location of a grid-side distributed resources project or facility with a capacity of not more than 65 MW, as long as the project meets the DEEP air and water quality standards and will not have a substantial adverse impact on the environment.

The evidence in the record shows that the Project meets these criteria and that Petitioner has made every effort to ensure that any significant environmental concerns have been addressed. Therefore, the Petitioner respectfully requests that the Council issue a declaratory ruling that the Project will comply with the DEEP air and water quality standards, will not have a substantial adverse environmental effect, and does not require the issuance of a Certificate by the Council.

Respectfully submitted,
SR North Stonington, LLC

By 

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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing document was delivered by e-mail on August 9, 2021 to the following:

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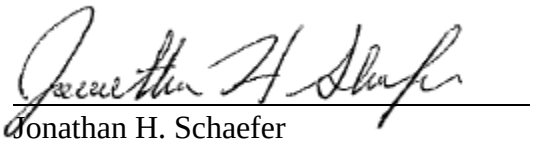

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