



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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VIA ELECTRONIC MAIL

August 19, 2022

Carrie Larson Ortolano, Esq.
General Counsel
LSE Indus LLC
c/o Lodestar Energy LLC
40 Tower Lane, Suite 201
Avon, CT 06001
cortolano@lodestarenergy.com

RE: **PETITION NO. 1469** – LSE Indus, LLC declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 1.99-megawatt AC solar photovoltaic electric generating facility located at 81 East Main Street, North Canaan, Connecticut and associated electrical interconnection. **Request for Waiver of Declaratory Ruling Condition No. 4 and Revised Site Layout.**

Dear Attorney Ortolano:

At a public meeting held on August 18, 2022, the Connecticut Siting Council (Council) considered and denied LSE Indus, LLC (LSE) Request for Waiver of the Council’s January 28, 2022 Declaratory Ruling Condition No. 4 that requires LSE to submit Toxicity Characteristic Leaching Procedure (TCLP) test results for the selected solar panels that indicate the panels would not be characterized as hazardous waste at the time of disposal under current testing criteria and denied the revised site plans on the basis of public health and safety.

In addition, the Council is in receipt of pollinator seed mix information and spill response procedures/contact information submitted in compliance with Condition Nos. 3 and 6 of the Council’s January 28, 2022 Declaratory Ruling. The Council acknowledges that Condition Nos. 3 and 6 have been satisfied. This acknowledgment applies only to the conditions satisfied by the August 2, 2022 correspondence.

Please be advised that deviations from the standards established by the Council in the Declaratory Ruling are enforceable under the provisions of Connecticut General Statutes § 16-50u.

Thank you for your attention and cooperation. Please do not hesitate to contact our office if you should have any questions.

Enclosed for your information is a copy of the staff report on the waiver request and revised site layout.

Sincerely,



Melanie A. Bachman
Executive Director

MAB/RDM/lm

Enclosure: Staff Report dated August 18, 2022

c: Service List, dated October 29, 2021
The Honorable Charles P. Perotti, First Selectman, Town of North Canaan
(selectman@northcanaan.org)



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Petition No. 1469 LSE Indus LLC Solar Facility 81 East Main Street, North Canaan, CT

Request for Waiver of Condition No. 4 and Request for Revised Site Layout Staff Report August 18, 2022

On January 28, 2021, the Connecticut Siting Council (Council) issued a Declaratory Ruling to LSE Indus, LLC (Lodestar), pursuant to Connecticut General Statutes §4-176 and §16-50k, for the construction, maintenance, and operation of a 1.99-megawatt alternating current (AC) solar photovoltaic electric generating facility located at 81 East Main Street, North Canaan, Connecticut (Project). In its Declaratory Ruling, the Council included conditions pertaining to construction and operation of the facility, among others. On June 14, 2022 Lodestar submitted correspondence regarding compliance with Condition Nos. 3, 5, and 6 of the Declaratory Ruling, a request for a waiver of Condition No. 4 and a request for approval of a revised site layout.

On June 21, 2022, the Council acknowledged that Condition No. 5¹ was satisfied and Conditions Nos. 3 and 6 were not satisfied. Additionally, the Council advised Lodestar the request for a waiver of Condition No. 4 and approval of a revised site layout would be placed on a future Council meeting agenda. On June 29, 2022, Lodestar withdrew its request for a waiver of Condition No. 4 and approval of a revised site layout.

On August 2, 2022, Lodestar submitted correspondence requesting a waiver of Condition No. 4, approval of a revised site layout, and more information pertaining to Condition Nos. 3 and 6. The submitted information is presented in detail below:

Declaratory Ruling Condition No. 3. *Utilize a pollinator seed mix;*

Lodestar would temporarily stabilize disturbed area at the site with a fast-growing seed mix to reduce the potential for erosion. The seed mix for final stabilization will include pollinator species, details of which are included on the revised site plans (Ernst Fuzz and Buzz ERNMX-147). The selected seed mix complies with Condition No. 3.

Declaratory Ruling Condition No. 4. *Submit TCLP test results for the selected solar panels that indicate the panels would not be characterized as hazardous waste at the time of disposal, under current testing criteria.*

Lodestar is requesting a waiver of this condition to allow for the installation of solar panels that have not yet been subject to Toxicity Characteristic Leaching Procedure (TCLP) testing to

¹ Declaratory Ruling Condition No. 5 - *Submit a copy of the DEEP Stormwater Permit prior to the commencement of construction.*

determine if the panels would be considered hazardous waste under current regulatory criteria if disposed of at the time of project decommissioning (20-30 years after installation).

Due to supply chain issues, Lodestar proposes to change the specified solar panels from Hanwa QCell 425 Watt panels to ZNShine 540 Watt panels. Lodestar asserts the manufacturer of the ZNShine panels has not yet performed TCLP testing of the panels. Lodestar is also unable to obtain a single panel from the manufacturer to conduct TCLP testing on their own. Lodestar states other available panels that are compatible with the Project design do not have TCLP test results available from the manufacturer/supplier. The initially proposed Hanwa QCell 425 Watt panels did not have TCLP test results available at the time of the Council's approval.

Lodestar is requesting a waiver of Condition No. 4, and as an alternative, it would conduct TCLP testing once the panels have been procured and shipped to Lodestar. In the event the panels cannot be recycled, Lodestar would abide by any regulatory criteria in place at the time of Project decommissioning to ensure the panels are disposed of properly.

Declaratory Ruling Condition No. 6. *Include contact information for the spill response contractor and provide complete contact information/procedures to notify state and local agencies within the Spill Prevention Control Plan.*

Lodestar has submitted contact information, including names and phone numbers for the spill response contractor, general contractor, local water company, town officials and DEEP. Spill response procedures were also provided. The Spill Prevention Control Plan complies with Condition No. 6.

In addition to the above, the August 2, 2022 correspondence includes a request for approval of a revised site layout, as follows:

- a) Modify the site layout and stormwater management system to conform to requirements of the DEEP Stormwater Program. The modifications include the addition of a gravel trench below the drip edge of the panel rows, alteration of the stormwater basin design, a reduction of the project footprint by 0.29 acre, and the reduction in the amount of cut by 3,574 cubic yards;
- b) Install ZNShine 540 Watt panels instead of the previously approved Hanwa QCell 425 Watt panels; and
- c) Reduce the number of panels from 5,902 to 4,966.

CONCLUSION

Declaratory Ruling Condition Nos. 3 and 6 are satisfied.

If the request for waiver of Condition No. 4 is granted, the request for approval of a revised site layout could also be granted.

If the request for waiver of Condition No. 4 is denied, the request for approval of a revised site layout could also be denied, or in the alternative, granted contingent upon Lodestar procuring solar panels that pass TCLP testing.