



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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

August 4, 2023

Bruce L. McDermott, Esq.
Murtha Cullina LLP
265 Church Street
New Haven, CT 06510
bmcdermott@murthalaw.com

RE: **PETITION NO. 1558** – Community Power Group 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-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road, Ellington, Connecticut, and associated electrical interconnection.

Dear Attorney McDermott:

By its Decision and Order dated August 3, 2023, the Connecticut Siting Council (Council) ruled that the solar photovoltaic electric generating facility would not have a substantial adverse environmental effect, meets all applicable United States Environmental Protection Agency and Connecticut Department of Energy and Environmental Protection air and water quality standards, and therefore, pursuant to Connecticut General Statutes §4-176 and §16-50k, issued a declaratory ruling for the proposed solar photovoltaic electric generating facility.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

Sincerely,

Melanie A. Bachman, Esq.
Executive Director

MAB/RDM/laf

Enclosures

c: Service List, dated January 31, 2023
State Documents Librarian (via email - csl.cda@ct.gov)

STATE OF CONNECTICUT)

ss. Southington, Connecticut :

August 4, 2023

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

ATTEST:



Melanie A. Bachman
Executive Director
Connecticut Siting Council

STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

August 4, 2023

COUNTY OF HARTFORD)

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Petition No. 1558 has been forwarded by Certified First Class Return Receipt Requested mail, on August 4, 2023, to all parties and intervenors of record as listed on the attached service list, dated January 31, 2023.

ATTEST:



Lisa Fontaine
Fiscal Administrative Officer
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Petitioner	<input checked="" type="checkbox"/> E-mail	Community Power Group LLC	<p>Bruce L. McDermott, Esq. Murtha Cullina LLP 265 Church Street New Haven, CT 06510 Phone (203) 772-7787 bmcdermott@murthalaw.com</p> <p>Amberli Young Senior Project Manager Community Power Group LLC 5636 Connecticut Avenue NW #42729 Washington, DC 20015 amberli@communitypowergroup.com</p>

<p>PETITION NO. 1558 – Community Power Group 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-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road, Ellington, Connecticut, and associated electrical interconnection.</p>	<p>} } }</p>	<p>Connecticut Siting Council</p>
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August 3, 2023

Findings of Fact

Introduction

1. On January 30, 2023, Community Power Group LLC (CPG) submitted a petition to the Connecticut Siting Council (Council), pursuant to Connecticut General Statutes (CGS) §16-50k and §4-176, for a declaratory ruling for the construction, maintenance, and operation of a 4.0-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road in Ellington, Connecticut, and associated electrical interconnection (Petition or Project). (CPG 1, p. 1)
2. CPG is a Delaware limited liability company with an office in Washington D.C. CPG is a development company that specializes in community solar projects. (CPG 1, p. 2)
3. The party in this proceeding is CPG. (Record)
4. CPG would lease the proposed site. It would construct and own the proposed facility. Post-construction, CPG would retain a third-party contractor to monitor and maintain the facility. (CPG 1, p. 3; CPG 3, response 7)
5. The proposed Project would be a “grid-side distributed resources” facility under CGS § 16-1(a)(37). (CGS § 16-1(a)(37)(2023); CPG 1, p. 2)
6. The proposed Project would generate renewable electrical energy from solar power. Solar power is considered a Class I renewable energy source. (CGS §16-1(a)(20)(2023))
7. The State legislature established a renewable energy policy under CGS §16a-35k that encourages the development of renewable energy facilities to the maximum extent possible. (CGS §16a-35k)
8. Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over the construction, maintenance and operation of the proposed solar photovoltaic electric generating facility. (CGS §16-50x (2023))

Procedural Matters

9. Upon receipt of the Petition, the Council sent a letter to the Town of Ellington (Town) on January 31, 2023, as notification that the Petition was received and is being processed, in accordance with CGS §16-50k(a), and invited the Town to contact the Council with any questions or comments by March 1, 2023. (Record)
10. Local zoning regulations do not apply to facilities under the exclusive jurisdiction of the Council. Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over solar facilities with a generating capacity greater than 1 MW throughout the state. It shall consider any location preferences provided by the host municipality as the Council shall deem appropriate. (CGS §16-50x (2023))

11. Mary Cardin, an abutting property owner; James and Gail Dixon, abutting property owners; and the Town Planning and Zoning Commission (PZC) each submitted a request for a public hearing on February 27, February 28 and March 1, 2023, respectively. (Record)
12. On March 16, 2023, during a public meeting of the Council, the Council granted the requests for a public hearing. (Record)
13. On March 21, 2023, the Town First Selectperson requested a public hearing. (Record)
14. On March 30, 2023, during a public meeting, the Council approved a public hearing schedule. This extended the public comment period to 30 days following the close of the evidentiary record. The evidentiary record closed on May 18, 2023. The public comment record closed on June 17, 2023. (Record)
15. Public Act (PA) 22-3 took effect on April 30, 2022. It permits public agencies to hold remote meetings under the Freedom of Information Act (FOIA) and the Uniform Administrative Procedure Act. FOIA defines “meeting” in relevant part as “any hearing or other proceeding of a public agency.” (Council Administrative Notice Item No. 70; C.G.S. §1-200, *et seq.* (2021))
16. PA 22-3 allows public agencies to hold remote meetings provided that:
 - a) The public has the ability to view or listen to each meeting or proceeding in real-time, by telephone, video, or other technology;
 - b) Any such meeting or proceeding is recorded or transcribed and such recording or transcript shall be posted on the agency’s website within seven (7) days of the meeting or proceeding;
 - c) The required notice and agenda for each meeting or proceeding is posted on the agency’s website and shall include information on how the meeting will be conducted and how the public can access it any materials relevant to matters on the agenda shall be submitted to the agency and posted on the agency’s website for public inspection prior to, during and after the meeting; and
 - d) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak.(Council Administrative Notice Item No. 70)
17. Pursuant to CGS §16-50m, on March 30, 2023, the Council sent a letter to the Town to provide notification of the scheduled public hearing via Zoom remote conferencing. (Record)
18. Pursuant to CGS §16-50m, the Council published legal notice of the date and time of the public hearing via Zoom conferencing in the Journal Inquirer on April 2, 2023. (Record; Transcript 1 – May 18, 2023 – 2:00 p.m. [Tr. 1], p. 5)
19. The Council’s Hearing Notice did not refer to a public field review of the proposed site. Field reviews are neither required by statute nor an integral part of the public hearing process. The purpose of a field review is an investigative tool to acquaint members of a reviewing commission with the subject property. (Council's Hearing Notice dated January 14, 2022; Council Administrative Notice Item No. 71 - *Manor Development Corp. v. Conservation Comm. of Simsbury*, 180 Conn. 692, 701 (1980); Council Administrative Notice Item No. 72 - *Grimes v. Conservation Comm. of Litchfield*, 243 Conn. 266, 278 (1997))

20. On March 3, 2023, in lieu of an in-person field review of the proposed site, the Council requested that CPG submit photographic documentation of site-specific features into the record intended to serve as a “virtual” field review of the site. On April 7, 2023, CPG submitted such information in response to the Council’s interrogatories. (Record; CPG 4)
21. Pursuant to CGS §16-50p(g), the Council shall in no way be limited by CPG already having acquired land or an interest therein for the purpose of constructing the proposed facility. (CGS §16-50p(g) (2023); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))
22. The Council’s evaluation criteria under CGS §16-50p does not include the consideration of property ownership or property values nor is the Council otherwise obligated to take into account the status of property ownership or property values. (Tr. 1, p. 8; Tr. 2, p. 6; CGS §16-50p (2023); *Westport v. Conn. Siting Council*, 47 Conn. Supp. 382 (2001); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006))
23. On April 19, 2023, the Council held a pre-hearing conference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, and filing of pre-hearing interrogatories. Procedures for the public hearing via Zoom remote conferencing were also discussed. (Council Pre-Hearing Conference Memorandum, dated April 12, 2023)
24. In compliance with Regulations of Connecticut State Agencies (RCSA) § 16-50j-21, on May 1, 2023, CPG installed a four-foot by six-foot sign along Middle Road in the vicinity of the proposed access drive to the site. The sign presented information about the proposed solar facility, the public hearing date and contact information for the Council. (CPG 6; Council Pre-Hearing Conference Memorandum, dated April 12, 2023)
25. Pursuant to CGS §16-50m, the Council gave due notice of a public hearing on May 18, 2023, beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m. via Zoom remote conferencing. The Council provided information for video/computer access or audio only telephone access. (Council’s Hearing Notice dated March 30, 2023; Transcript 1 – May 18, 2023, 2:00 p.m. [Tr. 1], p. 1; Transcript 2 – May 18, 2023, 6:30 p.m. [Tr. 2], p. 1)
26. The 6:30 p.m. public comment session afforded interested persons the opportunity to provide oral limited appearance statements. Interested persons were also afforded an opportunity to provide written limited appearance statements at any time up to 30 days after the close of the evidentiary record. Limited appearance statements in this proceeding, whether oral or written, were not provided under oath nor subject to cross examination. (Tr. 1, pp. 6-7; C.G.S. §16-50n(f) (2023))
27. In compliance with PA 22-3:
 - a) The public had the ability to view and listen to the remote public hearings in real-time, by computer, smartphone, tablet or telephone;
 - b) The remote public hearings were recorded and transcribed, and such recordings and transcripts were posted on the Council’s website on May 18, 2023 and June 5, 2023; respectively;
 - c) The Hearing Notice, Hearing Program, Citizens Guide for Siting Council Procedures and Instructions for Public Access to the Remote Hearings were posted on the Council’s website;
 - d) Prior to, during and after the remote public hearings, the record of the proceeding has been, and remains, available on the Council’s website for public inspection; and

- e) The Council, parties and intervenors provided their information for identification purposes during the remote public hearings.
(Hearing Notice dated March 30, 2023; Tr. 1; Tr. 2; Record)
28. The purpose of discovery is to provide the Council, parties and intervenors access to all relevant information in an efficient and timely manner to ensure that a complete and accurate record is compiled. (R.C.S.A. §16-50j-22a (2023))
29. In an administrative proceeding, irrelevant, immaterial or unduly repetitious evidence shall be excluded, and an agency has the right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part. (C.G.S. §4-178 (2023); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25).
30. Pursuant to C.G.S. §16-50n(f), at the conclusion of the hearing session held on May 18, 2023, the Council closed the evidentiary record for Petition 1558 and established June 17, 2023 as the deadline for public comments and the submission of briefs and proposed findings of fact. (Record)
31. On June 16, 2023, the Council requested an extension of time to render a final decision on the Project to September 15, 2023. On June 22, 2023, CPG granted the Council's request. (Record)
32. On June 16, 2023, CPG submitted a post-hearing brief. (Record)

State Agency Comments

33. Pursuant to RCSA §16-50j-40, on March 30, 2023, the following state agencies were requested to submit written comments regarding the proposed facility: DEEP; Department of Agriculture (DOAg); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Emergency Services and Public Protection (DESPP); Department of Labor (DOL); Department of Administrative Services (DAS); Department of Transportation (DOT); the Connecticut Airport Authority (CAA); and the State Historic Preservation Office (SHPO). (Record)
34. The Council received comments from DEEP¹ on March 3, 2023 regarding existing site conditions, stormwater permit requirements, proposed agricultural activities and opinions on visibility. Visibility, agriculture and stormwater, among other environmental concerns, are addressed in the Environmental Effects and Mitigation Measures section of this document, pursuant to C.G.S. §16-50p. (Record; C.G.S. §16-50p (2021))
35. The Council received comments from CAA² on April 4, 2023 requesting an airport glare analysis. Aviation concerns, among other public safety concerns, are addressed in the Public Safety section of this document, pursuant to CGS §16-50p. (Record; C.G.S. §16-50p (2021))

¹ https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1501-1600/PE1558/ProceduralCorrespondence/PE1558_DEEP-CommentsRecd_s.pdf

² https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1501-1600/PE1558/ProceduralCorrespondence/PE1558-SACRCDPI_CAA.pdf

36. While the Council is obligated to consult with and solicit comments from state agencies by statute, the Council is not required to abide by the comments from state agencies. (Council Administrative Notice Item No. 72, *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007))
37. By letter dated May 16, 2023, State Representative Jaime Foster requested that the Project be sited elsewhere, and outside of the Towns of Ellington and East Windsor, stating that these towns have a disproportionate burden of the state's green energy goals, at a large cost to prime and important farmland and to adjacent residential neighborhoods. (State Representative Foster comments, dated May 16, 2023)

Municipal Consultation

38. CPG initially contacted the Town via email on January 18, 2023 to inform the Town of the intent to file the Petition. CPG subsequently met with Town officials on February 3, 2023 to discuss the Project. (CPG 1, p. 9; CPG 3, response 2)
39. CPG hosted a virtual public meeting on February 16, 2023 for town residents that included a slide presentation and discussion. Abutting property owners were sent notice of the meeting by letter dated January 27, 2023. Approximately 14 persons, composed of residents and Town officials, attended the virtual public meeting. (CPG 2)
40. After the meeting, several residents and Town officials contacted CPG via email with specific Project questions. Topics included, but were not limited to, visual impacts, site access, site screening, agricultural co-use, property values, and use of herbicides. CPG provided responses to the questions. (CPG 2; CPG 3, response 1)
41. In correspondence to the Council dated March 1, 2023, the Town PZC expressed concerns including, but not limited to, location, noise, setbacks and landscaping. (Record)
42. As a result of comments from abutters and the Town, CPG developed a landscape plan, conducted a noise study, and relocated the Project interconnection utility poles so that they were farther away from Middle Road (from 25 feet to 120 feet from the road). (CPG 3, CPG 5; Tr. 1, pp. 100, 106, 110; Tr. 2, p. 9)

State of Connecticut Planning and Energy Policy

43. Section 51 of PA 11-80 requires that DEEP prepare a Comprehensive Energy Strategy (CES) every three years that reflects the legislative findings and policy stated in CGS §16a-35k. As such, this statute consolidated Connecticut's energy planning for the first time. The final version of the state's inaugural CES was published on February 19, 2013 (2013 CES). It advocated smaller, more diversified generation projects using renewable fuels, as well as smaller, more innovative transmission projects emphasizing reliability. (Council Administrative Notice Item No. 40 – Docket No. 505, Finding of Fact #42; CGS §16a-3d (2023))
44. The state CES examines future energy needs and identifies opportunities to reduce ratepayer costs, ensure reliable energy availability, and mitigate public health and environmental impacts. CES Strategy No. 3 is "Grow and sustain renewable and zero-carbon generation in the state and region." The state Integrated Resource Plan assesses the state's future electric needs and a plan to meet those future needs, including, but not limited to, pathways to achieve a 100 percent zero carbon electric supply by 2040. (Council Administrative Notice Item Nos. 47 and 48)

45. The proposed facility will contribute to fulfilling the State’s Renewable Portfolio Standard and Global Warming Solutions Act as a zero emission Class I renewable energy source. (Council Administrative Notice Item No. 47)
46. CGS §16-245a establishes Connecticut’s *Renewable Portfolio Standards (RPS)*. Currently, RPS requires that 26 percent of Connecticut’s electricity usage be obtained from Class I renewable resources by 2024. The percentage increases annually and reaches 40 percent by 2030. (CGS §16-245a (2023)).
47. The Global Warming Solutions Act (GWSA) sets a goal of reducing greenhouse gas (GHG) emissions by 80 percent by 2050. (CGS §22a-200 (2023))
48. The proposed facility will contribute to fulfilling the State’s RPS and GWSA as a zero emission Class I renewable energy source. (Council Administrative Notice Item No. 47)

Competitive Energy Procurement

49. The Project bid into the statewide Shared Clean Energy Facility (SCEF) Program, which is a competitive procurement process administered by the state’s electric distribution companies to develop utility scale renewable energy. New or incremental Class I renewable generation projects ranging in size from 100 to 5,000 kW AC are eligible to bid into the SCEF Program for a Tariff Terms Agreement (TTA) with a 20-year term. The first SCEF procurement occurred in 2020. (Council Administrative Notice Item No. 68; CPG 1, p. 3)
50. The Project was selected in April 2022 in Year 3 of the SCEF program. The electricity and renewable energy credits (RECs) produced by the facility would be sold to Eversource in accordance with the TTA. A REC certifies that one megawatt-hour of renewable electrical energy has been generated. (Council Administrative Notice Item No. 68; CPG 1, p. 3)
51. The TTA includes the transfer of capacity to Eversource. Thus, CPG would not participate in an ISO-New England, Inc. (ISO-NE) Forward Capacity Auction during the term of the TTA. (CPG 3, response 14)

Public Benefit

52. A public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity. (CGS. §16-50p (2023))
53. The Project would be a distributed energy resource facility as defined in CGS §16-1(a)(49). CGS §16a-35k establishes the State’s energy policy, including the goal to “develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent.” (CGS §16-1(a)(49) (2023); CGS §16a-35k (2023))
54. PA 05-1, An Act Concerning Energy Independence, established a rebuttable presumption that there is a public benefit for electric generating facilities selected by the Department of Public Utility Control (DPUC, now known as PURA) in a Request for Proposals. (PA 05-1; CGS§16-50k (2023))

Public Act 17-218

55. PA 17-218 requires, “for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by DEEP in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the DOAg represents, in writing, to the Council that such project will not materially affect the status of such land as prime farmland or DEEP represents, in writing, to the Council that such project will not materially affect the status of such land as core forest. (Record)
56. By letter dated January 29, 2021, DEEP’s Bureau of Natural Resources determined that the proposed solar facility would not have a material impact on the status of core forest. (January 29, 2021 DEEP CGS §16-50k No Material Impact to Core Forest Determination Letter)
57. By letter dated May 18, 2022, DOAg determined that the proposed solar facility would not have a material impact on the status of prime farmland with the condition that proposed on-site and off-site agricultural co-uses are implemented and existing farming activities are continued for the life of the project. (May 18, 2022 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)
58. PA 17-218 does not confer the Council’s exclusive jurisdiction upon DOAg or DEEP nor does it permit DOAg or DEEP to impose any enforceable conditions on the construction, maintenance and operation of solar photovoltaic electric generating facilities under the exclusive jurisdiction of the Council. (CGS §16-50k and 16-50x (2023))
59. PA 17-218 also requires that the Council not find a substantial adverse environmental effect in its exercise of jurisdiction over facilities eligible to be approved by declaratory ruling under CGS §16-50k. There are no exemptions from this provision of PA 17-218. (CGS §16-50k (2023))

Site Selection

60. The host parcel was selected for the solar facility site due to the presence of open fields, limited ground disturbance and tree clearing, the presence of forested buffers along the property lines, and close proximity to an existing three phase electrical distribution line. (CPG 1, pp. 5, 7)
61. Pursuant to CGS §16-50p(g), the Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility. (Council Administrative Notice Item No. 72 - *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007))

Proposed Site

62. Pursuant to RCSA §16-50j-2a(29), “Site” means a contiguous parcel of property with specified boundaries, including, but not limited to, the leased area, right-of-way, access and easements on which a facility and associated equipment is located, shall be located or is proposed to be located. (RCSA §16-50j-2a(29)(2023))
63. The Council does not have jurisdiction or authority over any portion of the host parcel beyond the boundaries of the facility “site.” This includes portions of the host parcel retained by the property owner and portions of the host parcel the property owner may lease to third parties. Once a facility is decommissioned, the Council no longer has jurisdiction or authority over the facility “site.” (CGS §16-50p(g) (2023))

64. Under CGS §16-50p, the Council's evaluation criteria does not include the evaluation and/or determination of rights under any lease with the property owner of the proposed site nor does it include the evaluation of property values. (Tr. 1, p. 8; Tr. 2, p. 21; CGS §16-50p (2023))
65. Pursuant to a lease agreement with the property owner, CPG proposes to construct the solar facility on an approximate 28.4-acre site on an approximate 60.5-acre parcel at 24 Middle Road in Ellington. The site lease has a 20-year term with 4 successive extension periods of 5 years each. (CPG 1, p. 4; CPG 3, response 7)
66. The host parcel is zoned Rural Agricultural Residential (RAR) and is currently used for agriculture. (CPG 1, p. 14)
67. The host parcel contains an approximate four-acre cornfield in the southeastern portion and an approximate 32-acre cornfield in the central portion. Mature forest is located along the western and northwestern portions of the property. Pinney Brook flows from north to south through the forested western portion of the property and includes an associated pond. (CPG 1, Attachment H, p. 1)
68. The host parcel has frontage on Middle Road to the north and Pinney Street to the east. Land use in the surrounding area consists of residential to the north and east, and agricultural and undeveloped land to the south and west. (CPG 1, Attachment A)
69. The site slopes gently from north to southeast/southwest, with ground elevations ranging from approximately 290 feet above mean sea level (amsl) in the northern portion to approximately 250 feet amsl in the southeast/southwest portion. (CPG 1, Attachment E, p. 1)

Proposed Facility

Solar Array

70. The proposed Project consists of 9,963 bifacial photovoltaic panels rated at approximately 600 Watts. (CPG 1, p. 7)
71. The panels would be installed on a single-axis tracker system supported by posts. The tracker system would move along the north-south axis to a maximum angle of 55 degrees. At maximum tilt, the panels would be approximately 8 feet above grade at the highest point and 2.5 feet at the lowest point. (CPG 1, Attachment A, Site Plan DN-1)
72. The panels would be arranged in linear rows facing south, separated by 14-foot wide vegetated aisles. (CPG 1, Attachment A, Site Plan SP-4)
73. Two 15-foot by 25-foot concrete pads would be installed on the north side of the site, adjacent to and outside of, the fenced array area. Each pad would support one switchgear and one transformer. (CPG 1, Attachment A, Site Plan SP-1; CPG 3, response 18)
74. The Project would use a total of 32 string inverters (25-inch square), mounted on the end of select panel rows. Wiring would extend underground in conduits from the inverters to the switchgear/transformer pads. (CPG 1, Attachment A, Site Plan DN-1; CPG 3, response 17; Tr. 1, p. 109)
75. The manufacturer and specifications of the facility equipment may change based on availability at the time of procurement. (Tr. 1, p. 81; CPG 1 Attachment A, Attachment D)

76. The Project would be enclosed by an eight-foot tall agricultural style fence (game fence). (CPG 1, Attachment A, Site Plan DN-1, CPG 3, response 26; Tr. 1, pp. 22-23; 112)
77. The nearest property line to the solar facility perimeter fence is 95 feet to the east at 204 Pinney Street. (CPG 3, response 11)
78. The nearest off-site residence to the solar facility perimeter fence is 250 feet to the northwest at 38 Middle Road. (CPG 1, pp. 16-17; CPG 3, response 11)

Site Access

79. The Project would be accessed by a new 20-foot wide, 515-foot long gravel access drive extending south from Middle Road to the transformer/switchgear pads. Access would be installed along an existing entrance apron between 28 and 22 Middle Road. (CPG 1, Attachment A, Site Plans T-1, SP-1; CPG 2, Attachment A, p. 1)
80. An access drive extending from Pinney Street would encumber the use of an agricultural field that is outside of the proposed solar facility site. It would also require tree clearing to construct. (CPG 2 Attachment A; Tr. 1, pp. 25-26)
81. In response to neighborhood concerns, CPG is not proposing an access drive through a narrow, forested portion of the host parcel that extends between the residentially developed parcels at 32 and 36 Middle Road. (CPG 2, Attachment A, p. 1)

Electrical Interconnection

82. The Project is comprised of one metered system with a design capacity of approximately 4.0 MW AC. It would interconnect to a 13.8-kV distribution line on Middle Road. From there, Eversource's distribution line connects to Eversource's Rockville Substation. (CPG 1, pp. 3-4, Attachment A, Site Plan SP-1)
83. CPG filed an application for interconnection to Eversource's distribution grid on February 5, 2021 that contained two potential interconnection routes, one on Middle Road and one on Pinney Street. Eversource reviewed both options and on September 27, 2022, approved the proposed Middle Road interconnection route. (CPG 1, pp. 3-4; Attachment B; Tr. 1, pp. 23-25)
84. The interconnection includes the installation of four new utility poles along the access road to support an overhead line that connects to an existing Eversource pole on Middle Road. The poles would be approximately 34 feet above ground level. (CPG 3, response 19)
85. From the existing Eversource pole heading south to the facility, an overhead line would span approximately 100 feet to a new pole to accommodate the recloser. From there, two additional poles would be installed approximately 25 feet apart to support the utility meter and generator disconnect, respectively. A fourth pole, the riser pole, would be installed adjacent to the transformer pads. (CPG 3, response 19; Tr. 1, pp. 109-110, 113-114)
86. Eversource has certain standards for the placement of fault protective equipment, whether the interconnection is installed using a pad-mounted or pole-mounted design. The overhead interconnection proposed for the Project requires four utility poles in accordance with Eversource's protective equipment design standard. (CPG 3, response 20; Tr. 1, p. 55)

87. The location of change of control on the interconnection line from CPG to Eversource would be the load side of the utility meter. (CPG 5, response 47)
88. In September 2022, ISO-NE reviewed the Project and determined it would have no effect on Eversource's transmission system. (CPG 3, response 21; Tr. 1, pp. 102-103)
89. The total AC power output (or nameplate rating) of the proposed solar facility would be approximately 4.0 MW at the point of interconnection. (CPG 1, p. 4)
90. The projected capacity factor of the proposed solar facility is 16.2 percent. The power output would decline by roughly 0.05 percent per year. (CPG 3, response 15)
91. The proposed facility is not designed to incorporate a battery storage system. (CPG 3, response 13)
92. The facility would contribute to grid stabilization by producing energy at a predictable production curve throughout the day, peaking around noon depending on the season. In addition, the proposed facility is a distributed energy resource facility which provides energy locally, independent of the transmission system. (CPG 3, response 16)

Cost

93. The estimated construction cost of the Project is \$4.1 million to \$4.5 million, not including interconnection fees. (CPG 1, p. 3)
94. CPG estimates a pad-mount interconnection design to reduce the number of utility poles would cost 50 percent more than the proposed four-pole interconnection. (CPG 5, response 49; Tr. 1, pp. 103-105)

Public Safety

95. The proposed facility would be designed to comply with the current Connecticut State Building Code, National Electrical Code, the National Electrical Safety Code, the National Electrical Safety Code (NESC) and the National Fire Protection Association code. (CPG 3, response 22)
96. Prior to commencement of operation, CPG would meet with the Town emergency responders to provide information regarding facility operations and emergency response, locations of manual shut offs and how to disable temporary electric fencing used by the sheep farmer. (CPG 3, response 29)
97. Site access for emergency responders would be provided via a "knox box" (or equivalent) on the access gate. (CPG 1, p. 19)
98. CPG would conduct outreach/training to local emergency responders regarding safety, fire control and other emergencies that could occur at the site. (CPG 4, response 29)
99. Specialized equipment would not be required to extinguish a solar panel/electrical component fire. It is common practice that water be used in a fog pattern to extinguish these types of fires. (CPG 5, response 52)

100. The facility would be remotely monitored on a 24/7 basis by CPG personnel using a computer system. Monitoring includes real time performance that can detect production abnormalities. The facility can be remotely shut down in its entirety or partially at the level of the string inverters. (CPG 1, p. 19; Tr. 1, pp. 58-59)
101. The site is not within a Federal Emergency Management Agency (FEMA)-designated 100-year or 500-year flood zone. (CPG 1, p. 15)
102. The FAA requires a glare analysis for on-airport solar development at federally-obligated airports. Federally obligated airports are airports that receive federal funding. The FAA recommends that the design of any solar installation at an airport consider the approach of pilots and ensure pilots will not have to face glare that is straight ahead of them or within 25 degrees of straight ahead during the final approach. (Council Administrative Notice Item Nos. 15-18)
103. The nearest federally-obligated airport to the facility is Bradley International Airport (BDL) in Windsor Locks, located approximately 10.5 miles from the site. No glare analysis is required for potential effects on aircraft using BDL. (Council Administrative Notice Item No. 15-18)
104. The CAA requested an aviation glare analysis due the proximity of the site to the Skylark Airport in East Windsor and Ellington Airport in Ellington. CPG performed the requested glare analysis and determined the proposed facility would not produce glare that would affect aviation. (CAA comments dated April 4, 2023; CPG 5, response 56; Tr. 1, pp. 75-76)
105. CPG filed FAA Form 7460 for use of a small crane at the site. The FAA subsequently determined the crane would not pose a hazard to air navigation. (CPG 5, response 53; Tr. 1, pp. 29-30)
106. CPG would not use pesticides or herbicides at the site. (CPG 3, response 44)
107. The transformers would be equipped with a remotely monitored alarm system that can detect abnormal oil levels. (Tr. 1, pp 33-34, 79-80)

Noise

108. Noise emissions from the solar facility would be primarily from the operation of two transformers and 32 inverters. (CPG 3, response 25; CPG 5, response 51; Tr. 1, p. 109)
109. Each inverter would produce a sound level of approximately 66 dBA at a distance of 3.3 feet. The nearest inverter to a property line is approximately 115 feet. Based on the law of sound attenuation, the estimated inverter sound at this property boundary would be 34.1 dBA, thus, in compliance with the DEEP Noise Control Standards for an industrial emitter to a residential receptor (66 dBA day/51 dBA night). (Council Administrative Notice Item No. 46; CPG 3, response 25)
110. The proposed inverters would be attached to the end of certain panel rows rather than concentrated in one location. CPG intends to place as many inverters as possible at the end of the panel rows that face the center of the Project. Due to electric design constraints, some of the inverters would be placed along panel rows facing the outer perimeter of the facility. (CPG 1, response 17; Tr. 1, pp. 14-19)

111. The two proposed transformers, located on a concrete pad near the solar array fence gate, would produce a sound level of approximately 65 dBA at a distance of 3.3 feet. Collectively, the operation of the two transformers would produce a sound level of 30.4 dBA at the nearest property line, thus, in compliance with the DEEP Noise Control Standards for an industrial emitter to a residential receptor (66 dBA day/51 dBA night). (Council Administrative Notice Item No. 46; CPG 5, response 51)
112. If the proposed solar facility is approved, CPG is willing to install a solid barrier or additional landscaping around the transformers to mitigate noise. (Tr. 1, pp. 97-98)
113. The transformers and inverters would only operate during the day when electricity is produced by the solar panels. (Tr. 1, pp. 77-78)
114. Construction noise is exempt from DEEP Noise Control Standards. (RCSA §22a-69-108(g))

Environmental Effects and Mitigation Measures

Air and Water Quality

115. The proposed Project would meet DEEP air quality standards and would not produce air emissions of regulated air pollutants or GHG. (CPG 1, p. 10)
116. During construction of the proposed Project, air emissions from the operation of machinery would be temporary in nature. (CPG 1, p. 11)
117. As applicable to any proposed jurisdictional facility site, the Council's Filing Guide for a Petition for a Declaratory Ruling for a Renewable Energy Facility requires the submission of plans for erosion and sedimentation control consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control* (2002 E&S Guidelines); Water consumption and discharge rates; FEMA Flood Zone information and associated flood mitigation plans; Proximity to DEEP Aquifer Protection Areas; DEEP groundwater classification underlying the site; Wetland and Watercourse Analysis Report and map, and associated Wetland and Watercourse Impact Mitigation Plan; and Vernal Pool Analysis Report and map, and associated Vernal Pool Impact Mitigation Plan. (Record)
118. Operation of the facility would not require water use. (CPG 1, Attachment A, Site Plans SP-1 and SP-2)
119. Groundwater at the site is classified by DEEP as "GA" which indicates groundwater that is presumed to be suitable for human consumption without treatment. No impacts on groundwater quality are anticipated to result from the Project. (CPG 1, pp. 11-12)
120. Private water wells serve the residences in the area. The installation of the racking system is not expected to result in groundwater quality issues. (CPG 3, response 23, response 31)
121. The site is not located within a DEEP-designated Aquifer Protection Area. (CPG 1, p. 15)
122. No on-site fuel storage is proposed during construction. (Tr. 1, p. 35)

123. The construction contractor would be responsible for spill prevention and mitigation. A Spill Prevention, Control, and Countermeasure Plan for construction could be developed which would include spill response procedures and contact information. (Tr. 1, pp. 35-36)
124. Sheep grazing would produce approximately 4 pounds of manure daily. Based on CPG's grazing plan, approximately 300-325 lbs of manure would be deposited on the site per year or about 12-14 lbs per acre. (CPG 3, response 32; Tr. 1, pp. 87-88)
125. Based on the amount of manure produced during sheep grazing, there would be no degradation of water quality from stormwater runoff. The amount of manure would be less than that typically applied to the existing farm field to grow crops. (CPG 3, response 32; Tr. 1, pp. 41-42)

Stormwater

126. Pursuant to CGS Section 22a-430b, DEEP retains final jurisdiction over stormwater management and administers permit programs to regulate stormwater discharges. DEEP regulations and guidelines set forth standards for erosion and sedimentation control, stormwater pollution control and best engineering practices. (CGS §22a-430b; DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities. (DEEP-WPED-GP-015)
127. The DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit) requires implementation of a Stormwater Pollution Control Plan (SWPCP) to prevent the movement of sediments off construction sites into nearby water bodies and to address the impacts of stormwater discharges from a proposed project after construction is complete. In its discretion, DEEP could require an Individual Permit for discharges and hold a public hearing prior to approving or denying any General or Individual Permit (Stormwater Permit) application. (CGS Section 22a430b; CGS Section 22a-430(b))
128. The SWPCP incorporates project designs consistent with the 2002 E&S Guidelines and the *2004 Connecticut Stormwater Quality Manual* (2004 Stormwater Manual). (DEEP-WPED-GP-015)
129. DEEP has the authority to enforce proposed project compliance with its Individual or General Permit and the SWPCP, including, but not limited to, the installation of site-specific water quality protection measures in accordance with the 2002 E&S Guidelines and 2004 Stormwater Manual. (CGS Section 22a-430b)
130. The Council may impose a condition that requires subsequent compliance with DEEP standards and regulations. (Council Administrative Notice No. 73 - *FairwindCT, Inc. v. Connecticut Siting Council*)
131. The Project would require a DEEP-issued Stormwater Permit prior to commencement of construction activities as defined in the General Permit. (CGS Section 22a-430b)
132. The General Permit requires the designing qualified professional to conduct the SWPCP Implementation Inspection that confirms compliance with the General Permit and the initial implementation of all SWPCP control measures for the initial phase of construction. The SWPCP also requires a qualified inspector to inspect the work areas at least once per week and within 24-hours after a rain event that meets certain permit criteria. The qualified soil erosion and sediment control professional or a qualified professional engineer would inspect the area and confirm stabilization and compliance with the post-construction stormwater management requirements. (DEEP-WPED-GP-015)

133. CPG met with the DEEP Stormwater Program and discussed the proposed stormwater management system. DEEP did not comment on the proposed design. (CPG 1, p. 13)
134. The Project would be constructed in two main phases:
a) Phase 1 includes the installation of perimeter erosion and sediment controls and construction of the temporary sediment traps and associated swales, followed by stabilization of disturbed areas.
b) Phase 2 includes the installation of the solar array infrastructure followed by site stabilization and conversion of the sediment traps into permanent stormwater basins.
(CPG 1, Attachment A, p. 22, Site Plans EC-1 to EC-10)
135. The outfalls of the sediment traps are directed towards perimeter silt fencing; however, the outflow rates from the basins would be controlled by the capacity outflow structure. If necessary, straw bales could be added to reinforce the silt fence to ensure it does not fail during heavy outfall events. (CPG 3, response 39)
136. Post-construction stormwater would be controlled by perimeter swales and two stormwater management basins; one located in the southwest portion of the site, and one located in the southeastern portion of the site. The management system is designed to maintain existing drainage patterns. (CPG 1, Attachment E; Tr. 1, pp. 66-67)
137. The Inland Wetlands and Watercourses Act (IWWA), CGS §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (CGS §22a-36, *et seq.*)
138. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (CGS §22a-42a)
139. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (CGS §22a-41)
140. Under the IWWA:
a) “Wetlands” means land, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture;
b) “Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border the state; and
c) Intermittent watercourses are delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation. (CGS §22a-36, *et seq.*)

141. Wetland inspections on the host parcel were performed on three occasions during the summer and fall of 2022. (CPG 1, Attachment H)
142. CPG identified two wetlands on the host parcel. An intermittent wetland system extends from north to south in the eastern portion of the site, eventually dissipates in a vegetated area. A forested wetland, including a farm pond, was identified in the western extent of the host parcel. (CPG 1, Attachment H)
143. The farm pond, 2 to 4 feet deep, likely provides some function as amphibian breeding habitat. The proposed western stormwater detention basin would be approximately 100 feet east of the farm pond. (CPG 1, Attachment A, Site Plan EC-6, Attachment H)
144. The construction limit of disturbance (LOD) would be approximately 50 feet from the eastern wetland at its closet point. The LOD would be approximately 90 feet from the western wetland at its closet point. (CPG 1, Attachment A, Site Plans EC-1 to EC-10; Tr. 1, p. 91)
145. In compliance with Stormwater Permit Appendix I, the Project would maintain a wetland buffer of 50 feet to stormwater control features and a wetland buffer of 100 feet to the solar panels. (DEEP-WPED-GP-015; CPG 1, Attachment A, Site Plans GD-1 to GD-4)

Forests and Parks

146. There would be no tree clearing associated with the Project. (CPG 1, p. 5; Tr. 1, p. 73)
147. There are no state parks or forests within one mile of the site. (Council Administrative Notice Item No. 99)

Scenic, Historic and Recreational Values

148. SHPO submitted correspondence to CPG on October 25, 2022, indicating that the proposed Project would not affect two properties located within one mile of the site that are listed on the National Register of Historic Places (NRHP). (CPG 1, p. 21, Attachment M)
149. Several areas of the site exhibited the potential for moderate archaeological sensitivity. SHPO recommended an archaeological reconnaissance survey of these areas. CPG would perform the archaeological reconnaissance survey in the Fall of 2023 after the agricultural harvest concludes. (CPG 1, p. 21, Attachment M)
150. A majority of the facility would be shielded from view due to existing vegetation and its location set back from Middle Road. (CPG 1, p. 16)
151. Leaf-off views of the site may be possible from abutting residential properties to the east. Although an existing vegetative buffer exists, the quality and density of the vegetation varies. For example, the abutting backyard at 204 Pinney Street contains a thin vegetative buffer, while a dense vegetative buffer exists along the abutting properties to the north. (CPG 3, response 30, response 33)
152. To supplement the existing screening along the east and north sides of the site, CPG intends to install evergreen plantings along the exterior fence line. The plantings would be 4 to 6 feet tall at planting and would reach a height of 20-25 feet. (CPG 3, response 33; Tr. 1 pp. 19-22)

153. There would be a direct year-round view of the site perimeter fence from the access drive opening on Middle Road. CPG could install additional plantings to mitigate this view. (CPG 1, Attachment L; Tr. 1, pp. 107-108, 115)
154. CPG intends to install screening along the rear property line of the abutting 28 Middle Road parcel. Screening initially was not specified for this area due to the presence of a community garden located near the 28 Middle Road parcel. However, the neighbors objected to the location of the community garden and, in its absence, screening would continue along the property line. (Tr. 1, pp. 101-102)
155. After installation, CPG would inspect the plantings every few months to ensure survivability. (Tr. 1, p. 22)
156. Landscape plantings would be replaced if there is die off. Replacement plantings would occur in spring or fall. (Tr. 1, pp. 20-22)
157. There are no town or state designated scenic roads within one mile of the site. (CPG 1, p. 17)
158. There are no “blue-blazed” hiking trails maintained by the Connecticut Forest and Park Association within one mile of the site. (Council Administrative Notice No. 94)
159. No comments were received from OPM or DEEP regarding impacts to scenic quality or resources. (Record)

Fish, Aquaculture and Wildlife

160. CPG reviewed the most recent DEEP Natural Diversity Database (NDDB) mapping for the site area which determined that no NDDB buffered areas overlapped the site, thus, no consultation with the DEEP NDDB program is required. (CPG 1, p. 13, Attachment F; Tr. 1, p. 69; DEEP-WPED-GP-015 - Appendix A)
161. CPG obtained correspondence from the U.S. Fish and Wildlife Service’s Information, Planning, and Conservation System, indicating that there are no critical habits of threatened or endangered species at the site. (CPG 1, p. 13, Attachment G)
162. The design of the agricultural-style fence around the perimeter of the site would allow for the passage of small wildlife species. (Tr. 1, pp. 94-95, 112)
163. Pinney Brook flows from north to south through the western portion of the host parcel. The brook is not identified as a DEEP-designated cold-water fishery. (Council Administrative Notice Item No. 55)

Agriculture

164. According to mapping by the United States Department of Agriculture (USDA) Natural Resources Conservation Service, soils at the site consist of sandy loams of varying density. (CPG 1, Attachment E)

165. The statutory mission of the Governor's Council for Agricultural Development (GCAD) is to develop a statewide plan for Connecticut agriculture. In 2012, GCAD recommended DOAg create an agriculture-friendly energy policy that includes, but is not limited to, on-farm energy production to reduce costs and supplement farm income, agricultural net metering for power production and transmission, and qualification of agricultural anaerobic digestion projects for zero-emissions renewable energy credits. (Public Act 11-189; GCAD First Annual Report December 2012)
166. Agriculture in Connecticut is likely to be adversely impacted by climate change. It is most affected by changes in temperature and both the abundance and lack of precipitation. The top five most imperiled agricultural products are maple syrup, dairy, warm weather produce, shellfish and apple and pear production, but there are opportunities for production expansion with the future climate, including, but not limited to, biofuel crops, witch hazel and grapes. (Council Administrative Notice Item No. 64 – Climate Change Preparedness Plan)
167. Adaptation strategies for climate change impacts to agriculture include promotion of policies to reduce energy use, conserve water and encourage sustainability. (Council Administrative Notice Item No. 64 – Climate Change Preparedness Plan)
168. Pursuant to CGS §22-26aa, *et seq.*, DOAg administers the Statewide Program for the Preservation of Agricultural Land, a voluntary program to establish a land resource base consisting mainly of prime and important farmland soils. A permanent restriction on non-agricultural uses is placed on the deed of participating properties, but the farms remain in private ownership and continue to pay local property taxes. The host parcel is not enrolled in this program. (CGS §22-26aa, *et seq.*; CPG 3, response 10)
169. PA 490 is Connecticut's Land Use Value Assessment Law for Farm Land, Forest Land and Open Space Land that allows land to be assessed at its use value rather than its fair market or highest and best use value for purposes of local property taxation. The host parcel is enrolled in the PA 490 Program. The portion of the property occupied by the site would be removed from the PA 490 Program. (CPG 3, response 9)
170. Prime Farmland Soils are defined by the United States Department of Agriculture National Resources Conservation Service as the most suitable land for producing food, feed, fiber, forage, and oilseed crops. (Council Administrative Notice Item No. 14)
171. The host parcel contains 68 acres of mapped prime farmland soil, of which 20.3 acres are within the site. (CPG 1, Attachment K)
172. DOAg's May 18, 2022 No Material Impact to Prime Farmland letter for the proposed facility references the following agricultural co-uses:
 - a. sheep grazing within the fenced solar array;
 - b. establishment of an apiculture area; and
 - c. establishment of a community garden.(May 18, 2022 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)
173. CPG's agricultural co-use plan for the proposed facility site includes sheep grazing within the solar array perimeter fence. Grazing would not be permitted in areas outside of the perimeter fence. (CPG 3, response 27)

174. CPG would establish a community garden and apiculture area on the host parcel but outside of the site boundaries. (CPG 1, pp. 15-16; CPG 3, responses 4 - 6)
175. Sheep grazing would be conducted by establishing temporary paddocks within the solar array, isolated by temporary electric fence. Signs would be installed at the front gate of the solar facility alerting emergency personnel of the use of the facility for grazing and the use of temporary electric fencing. The sign would also include contact information for the solar grazing entity to assist emergency personnel regarding removal of the electric fence equipment and sheep, if necessary. (CPG 3, response 28)
176. It is anticipated 11 sheep would be on-site for two separate two-week periods, rotating among five temporary paddocks established by the sheep grazer. Sheep would graze in one temporary paddock for 3 days, then would be moved to another temporary paddock depending on forage conditions. (CPG 1, Attachment K; Tr. 1, pp. 37-38, 86-88)
177. The temporary electric fence would be removed when sheep are not on-site. (Tr. 1, pp. 37-38, 86-88)
178. A temporary water source for the sheep would be brought in and maintained by the sheep grazer. (CPG 3, response 12)
179. The solar array would be seeded with a seed mix developed that provides sufficient forage for livestock and promotes pollinator species. (CPG 1, Attachment K; CPG 3, response 34; Tr. 1, p. 30)
180. The agricultural-style perimeter fence was chosen over standard chain-link fencing to better blend in with the agricultural use of the general area. It would be protective of sheep by preventing coyotes from entering the solar array but would allow for smaller animals to pass through the six-inch mesh. (CPG 3, response 26; Tr. 1, pp. 111-112)

Facility Construction

181. If the Project is approved by the Council, the following permits would be required for construction and operation:
 - a) DEEP Stormwater Permit; and
 - b) Town Building Permit.(CPG 3, response 3)
182. Existing grades would be maintained through the solar array area except where earth work is required to construct the stormwater management system. (CPG 1, Attachment A, Site Plans EC-1 to EC-10)
183. Construction of the facility would require 4,365 cubic yards of cut and 1,250 cubic yards of fill. Excess fill would be spread throughout the site during construction. (CPG 1, Attachment A, Site Plan T-1; Tr. 1, pp. 42-43)
184. Site construction would disturb an approximate 28.4-acre area. (CPG 1, Attachment A, Site Plan T-1)

185. The steel racking posts would be driven to a depth of 6 to 12 feet depending on specific soil conditions at each post location. If there is subsurface resistance, piles would be drilled. (Tr. 1, pp. 89-90)
186. Construction of the facility is expected to take 5 months. After the facility is installed, it could take several additional months for the interconnection to be completed. (CPG 1, p. 22; Tr. 1, p 72)
187. Construction hours would be Monday through Friday from 7:00 AM to 5:00 PM and Saturday from 8:00 AM to 4:00 PM. (CPG 3, response 37)

Traffic

188. During construction, approximately 12 passenger vehicles (small trucks/cars) would visit the site daily. Small trucks would deliver construction equipment on an as needed basis. Solar array infrastructure/equipment would require approximately eight deliveries by larger trucks over a four-month period. (Tr. 1, pp. 26-28)
189. Construction workers would park along the proposed access drive extending from Middle Road. (Tr. 1, pp. 27-28)
190. Once operational, the site would require minimal traffic. For the first two years, the site may be inspected on a monthly basis to ensure the stormwater system is functioning and the seeded vegetation is growing sufficiently. Eventually a normal maintenance schedule of two visits a year would be established. Livestock grazing at the site would require regular visits by an agricultural worker when sheep are on site. (CPG 1, p. 22; Tr. 1, pp. 44-47, 72-73)

Facility Operations and Maintenance

191. CPG provided a post-construction Operations and Maintenance Plan (O&M Plan) that includes, but is not limited to, provisions for remote monitoring, equipment maintenance, and site safety and security. (CPG 1, Attachment N)
192. The main topics of the post-construction O&M Plan include, but are not limited to, the following:
a) Site safety;
b) System operation and monitoring;
c) System maintenance;
d) Facility maintenance; and
e) Emergency response and site access.
(CPG 1, Attachment N)
193. To maintain vegetation within the solar facility perimeter fence, CPG proposes to implement a rotational sheep grazing plan within the fenced solar array area. When sheep are not maintaining vegetation, mowing would occur if vegetation exceeds a height of 18-inches. (CPG 1, p. 16, Attachment K, Attachment N)
194. No manual snow removal is expected. The tracker system has a sensor that can detect snow, causing the tracker to orient the panels at the steepest angle possible allowing snow to slide off. (CPG 3, response 45)

195. When necessary, the solar panels would be washed on-site using water from a water truck. No detergents would be used. Washing would occur in early June or late October. Washing would occur when the solar panels are cool, typically occur from 4 AM to 7 AM in June and 5 AM to 8 AM in October. (CPG 1, Attachment N)

Decommissioning

196. The facility has a design life of approximately 30 - 40 years, assuming the panels are not replaced. The inverters would be replaced after approximately 15 years of operation. (CPG 1, p. 22; Tr. 1, p. 89)
197. At the end of the Project's lifespan, it will be fully decommissioned and removed from the property. The site would be restored to its original condition, including the removal of access roads, fencing and the stormwater management system. (CPG 1, Attachment O; CPG 3, response 42; Tr. 1, p. 78)
198. After removal of the solar facility and site features, the site would be restored to its pre-existing condition as a farm field. (CPG 1, Attachment O; Tr. 1, p. 78)
199. Pursuant to CGS §16-50p(g), the Council has no authority to evaluate, amend and/or determine rights under any lease with the property owner of the proposed site, including, but limited to, the restoration of the soils to prime farmland status. (CGS §16-50p(g) (2023).
200. The property owner would determine site restoration conditions at the time of Project decommissioning, including, but not limited to, soils and retention of the stormwater management system. (Tr. 1, p. 78)
201. The lease agreement with the property owner includes provisions related to decommissioning and site restoration at the end of the Project's useful life. (CPG 3, response 8)
202. CPG intends to recycle Project materials, including solar panels, to the maximum extent practicable. Project materials that cannot be recycled would be removed from the site and disposed of at a licensed disposal facility. (CPG 1, Attachment O)
203. CPG selected solar panels for the Project that meet current Toxicity Characteristic Leaching Procedure (TCLP) criteria³ for characterization as nonhazardous waste in the event the solar panels are not recycled at the end of the Project's life. (CPG 3, response 43; Tr. 1, p. 80)

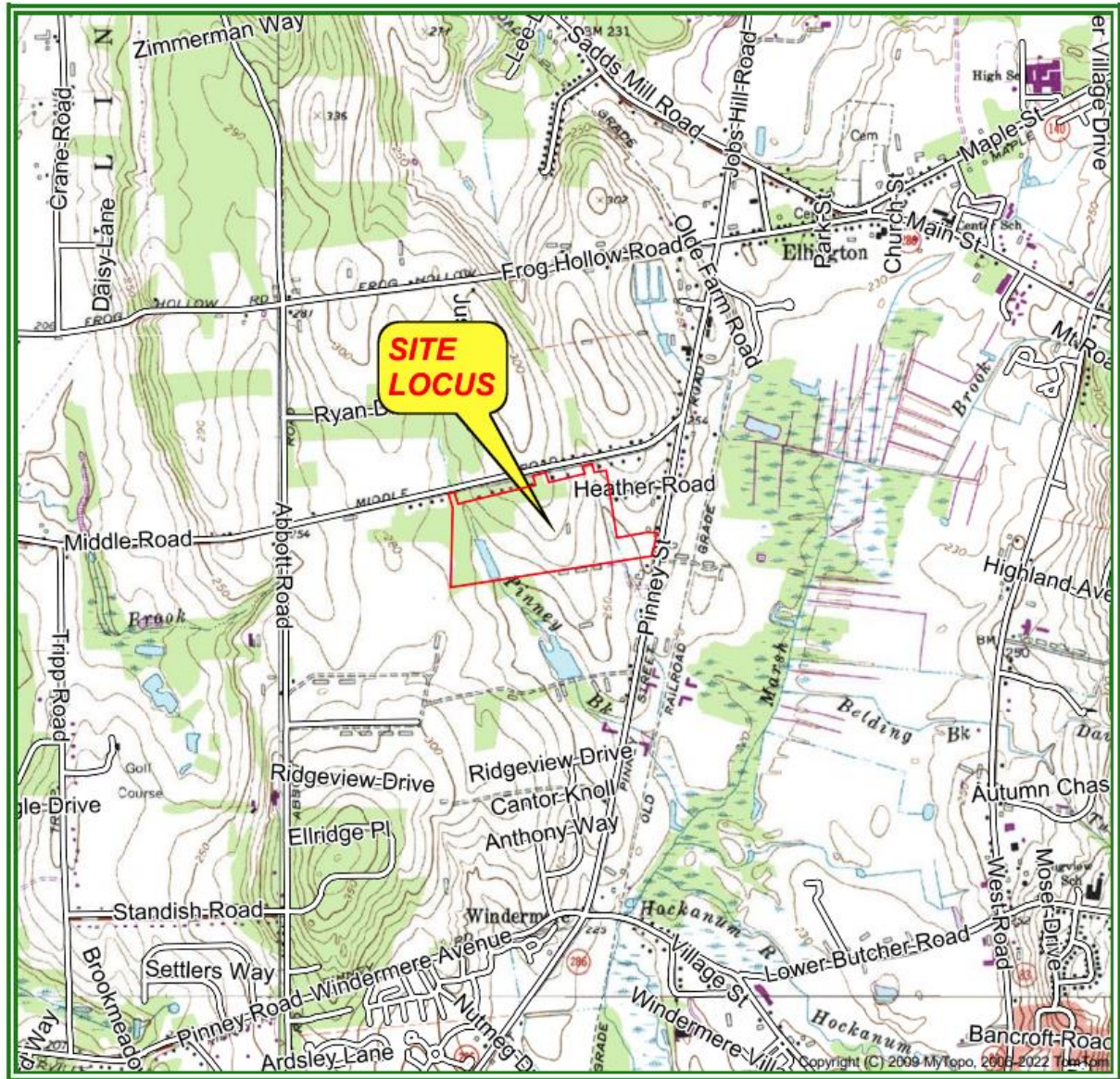
Neighborhood Concerns

204. Based on neighborhood concerns regarding visibility and noise, CPG modified the proposed facility by developing a landscape plan, conducting a noise study, and relocating the Project interconnection utility poles so that they are farther away from Middle Road (from 25 feet to 120 feet from the road). (CPG 3, CPG 5; Tr. 1, pp. 100, 106, 110; Tr. 2, p. 9)
205. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public comment session on May 18, 2023 at 6:30 p.m. via Zoom remote conferencing. (Record; Tr. 2, p. 1)

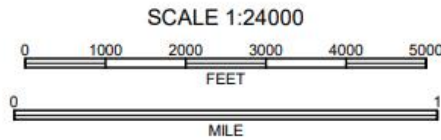
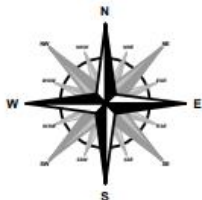
³ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261/subpart-C/section-261.24>

206. During the public comment session, seven members of the public made oral limited appearance statements about the proposed facility. Concerns include, but are not limited to, the following;
- site is near residences;
 - visibility;
 - wildlife disruption;
 - noise;
 - loss of farmland; and
 - potential for interconnection problems.
- (Record; Tr. 2, pp. 11-25)
207. The Council received 12 written limited appearance statements regarding the proposed facility.
(Record)

Figure 1 – Site Location



ELLINGTON Topographic 1967 41072-H4-TF-024 National Geodetic Vertical Datum 1929

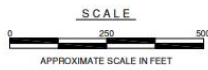
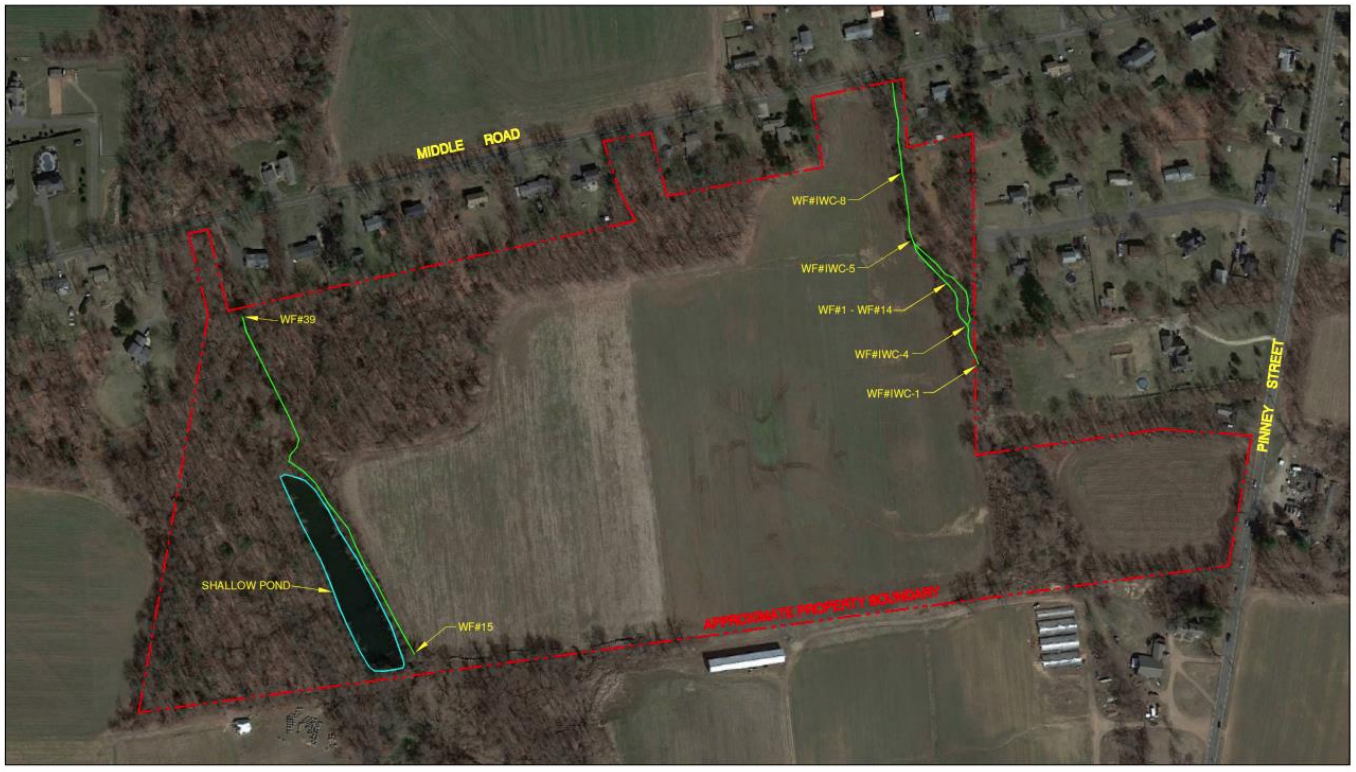


Site Coordinates:
041° 53' 30.17" N, 072° 29' 09.38" W

Project:
24 Middle Road

(CPG 1, Attachment H)

Figure 2- Existing Conditions



Martin Brogie, Inc.
ENVIRONMENTAL SERVICES
28 Arbor Lane
Madison, Connecticut 06443
ph: (860) 208-0360
email: martinbrogieinc@gmail.com

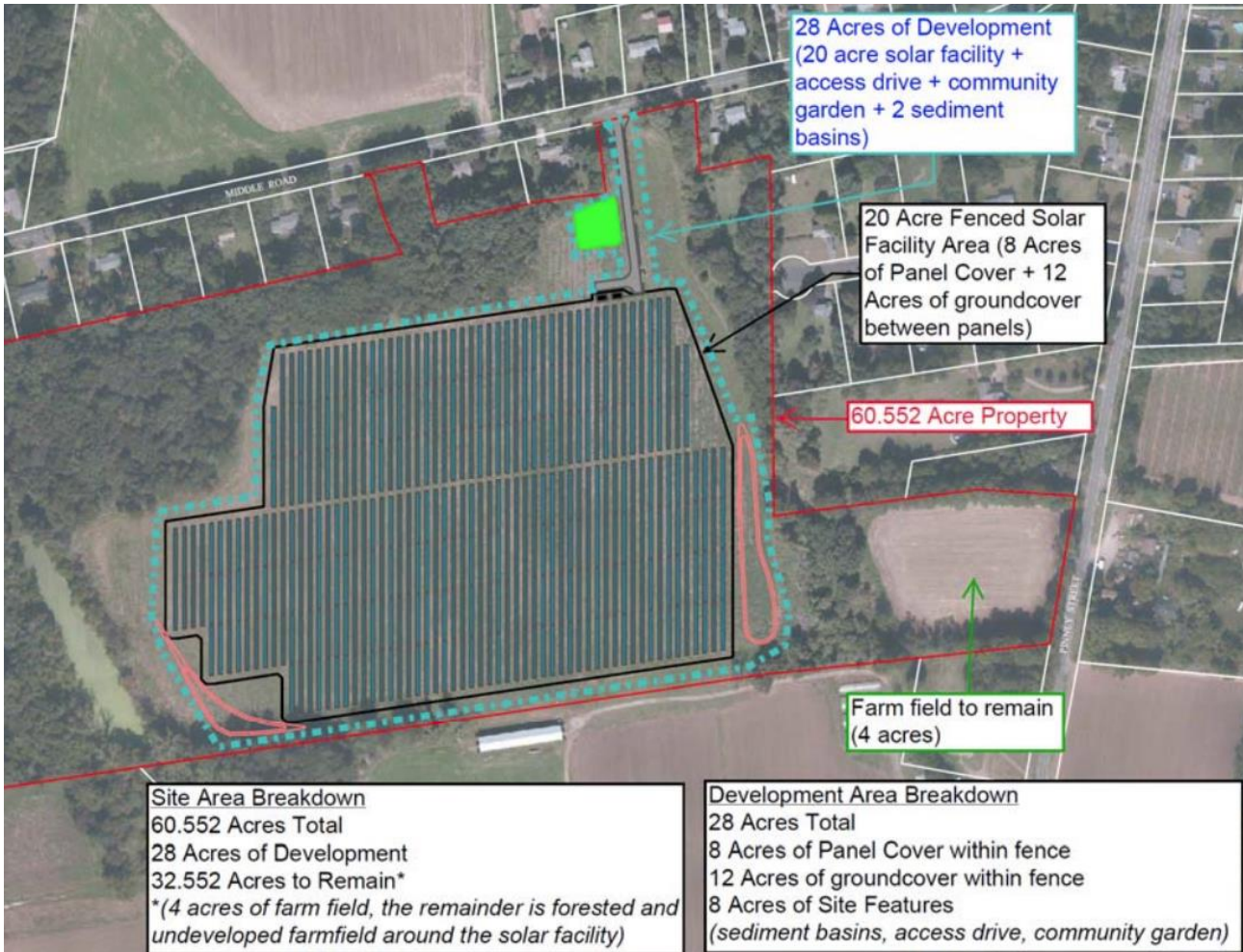
Figure 2 - Aerial Site Plan

24 Middle Road
Ellington, Tolland County, Connecticut

Project:	24 Middle Road
Drawn by:	K. Hazel
Date:	11/13/22
Scale:	AS SHOWN

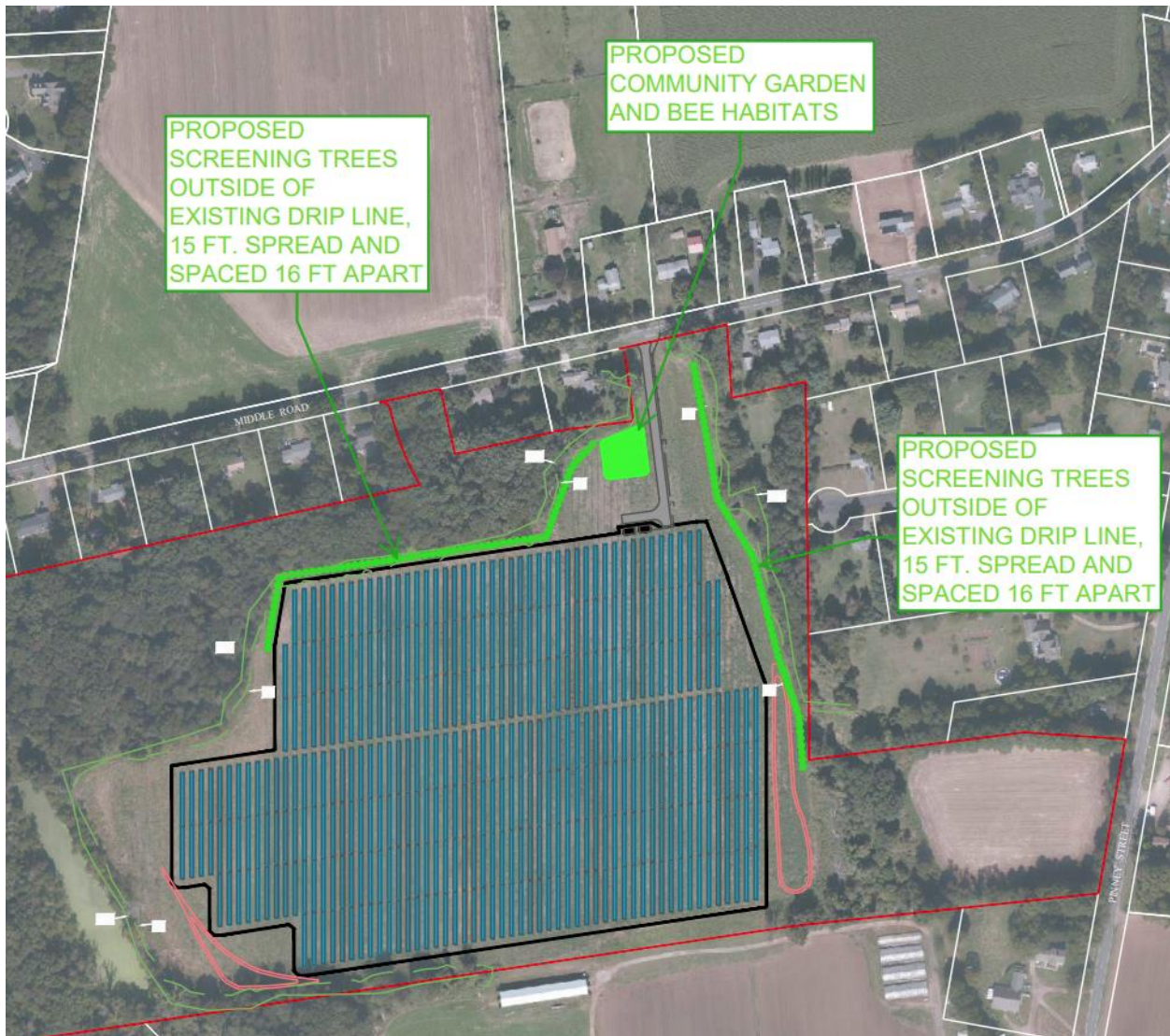
Wetland delineation shown as WF. (CPG 1, Attachment H)

Figure 3 – Proposed Facility Conditions



Community garden area is outside the boundaries of the solar facility site. Landscaping is not shown. (CPG 1, p. 4; CPG 3, response 4)

Figure 4 – Proposed Landscape Plan



Community garden/beekeeping area is outside the boundaries of the solar facility site. (CPG 1, p. 4; CPG 3, response 5)

PETITION NO. 1558 – Community Power Group LLC petition } Connecticut
for a declaratory ruling, pursuant to Connecticut General Statutes }
§4-176 and §16-50k, for the proposed construction, maintenance } Siting
and operation of a 4-megawatt AC solar photovoltaic electric } Council
generating facility located at 24 Middle Road, Ellington, }
Connecticut, and associated electrical interconnection.

August 3, 2023

Opinion

Introduction

On January 30, 2023, Community Power Group LLC (CPG) submitted a petition to the Connecticut Siting Council (Council), pursuant to Connecticut General Statutes (CGS) §16-50k and §4-176, for a declaratory ruling for the construction, maintenance, and operation of a 4.0-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road in Ellington, Connecticut, and associated electrical interconnection (Petition or Project).

After the filing of the Petition, the Council received requests for a Public Hearing from Mary Cardin, James and Gail Dixon, and the Town of Ellington. On March 16, 2023, the Council granted the requests for a public hearing which was held on May 18, 2023.

Jurisdiction

As it applies to the Petition, CGS §16-50k states in relevant part, "...the Council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling...(B) the construction or location... of any grid-side distributed resources project... with a capacity of not more than sixty-five megawatts, as long as such project meets the air and water quality standards of the Department of Energy and Environmental Protection and the Council does not find a substantial adverse environmental effect..." The Project is a "grid-side distributed resources" facility, as defined in CGS §16-1(a)(37) and has a capacity of approximately 4.0 MW.

Public Act 17-218 requires, for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by the Department of Energy and Environmental Protection (DEEP) in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the Department of Agriculture (DOAg) represents, in writing, to the Council that such project will not materially affect the status of such land as prime farmland or DEEP represents, in writing, to the Council that such project will not materially affect the status of such land as core forest. PA 17-218 also requires that the Council not find a substantial adverse environmental effect in its exercise of jurisdiction over the facilities eligible to be approved by declaratory ruling under CGS §16-50k. There are no exemptions from this provision of PA 17-218.

By letter dated January 29, 2021, DEEP's Bureau of Natural Resources determined the proposed solar facility would not have a material impact on the status of core forest. By letter dated May 18, 2022, DOAg determined the proposed solar facility would not have a material impact on the status of prime farmland with the condition that proposed on-site and off-site agricultural co-uses are implemented and existing farming activities are continued for the life of the project.

Pursuant to CGS §16-50x, **the Council has exclusive jurisdiction over the construction, maintenance and operation** of the proposed solar photovoltaic electric generating facility.

PA 17-218 does not confer the Council's exclusive jurisdiction upon DOAg or DEEP nor does it permit DOAg or DEEP to impose any enforceable conditions on the construction, maintenance and operation of solar photovoltaic electric generating facilities under the exclusive jurisdiction of the Council. The proposed site is to be used principally for an electric generating facility as defined by CGS §16-50i(a)(3).

Furthermore, the Council does not have jurisdiction or authority over any portion of the host parcel beyond the boundaries of the facility "site." This includes portions of the host parcel retained by the property owner and portions of the host parcel the property owner may lease to third parties. Once a facility is decommissioned, the Council no longer has jurisdiction or authority over the facility "site."

Public Benefit

Pursuant to CGS §16-50p, a public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity. PA 05-1, An Act Concerning Energy Independence, portions of which were codified in CGS §16-50k, established a rebuttable presumption that there is a public benefit for electric generating facilities selected by the Public Utilities Regulatory Authority in Requests for Proposal.

The Project was selected in April 2022 as part of the Shared Clean Energy Facility (SCEF) program. The electricity and renewable energy credits (RECs) produced by the facility would be sold to Eversource in accordance with a 20-year Tariff Terms Agreement (TTA). A REC certifies that one megawatt-hour of renewable electrical energy has been generated.

CPG would not participate in an ISO-New England, Inc. (ISO-NE) Forward Capacity Auction during the term of the TTA.

Proposed Site

Pursuant to a lease agreement with the property owner, CPG proposes to construct the solar facility on an approximate 28.4-acre site on an approximate 60.5-acre parcel, south of Middle Road and west of Pinney Street in Ellington. The host parcel is zoned Rural Agricultural Residential and is currently used for agriculture.

The surrounding land uses include residential to the north and east, and agricultural and undeveloped land to the south and west.

Proposed Facility

The Project consists of 9,963 bifacial photovoltaic panels rated at approximately 600 Watts. The panels would be installed on a single-axis tracker system that would move in a north-south axis to a maximum angle of 55 degrees. At maximum tilt, the panels would be approximately 8 feet above grade at the highest point and 2.5 feet at the lowest point. The panels would be arranged in linear rows facing south, separated by 14-foot wide vegetated aisles.

Two 15-foot by 25-foot concrete pads, each supporting one switchgear and one transformer, would be installed on the north side of the site, adjacent to and outside of, the fenced array area. Thirty-two string inverters would be mounted on the end of select panel rows, with underground wiring extending from the inverters to the transformer pads.

The Project would be enclosed by an eight-foot tall agricultural style fence (game fence).

Access to the facility would be from a new 20-foot wide, 515-foot long gravel access drive extending south from Middle Road, using an existing property entrance apron between 28 and 22 Middle Road.

Electrical Interconnection

The electrical interconnection includes the installation of four new utility poles along the access road to support an overhead line that interconnects to a 13.8-kV Eversource distribution line on Middle Road. The new poles would be approximately 34 feet above ground level. The overhead interconnection requires four utility poles in accordance with Eversource's protective equipment design standard.

During the proceeding, CPG relocated the four poles to increase the setback from Middle Road, with the closest pole being approximately 100 feet from Middle Road. Although the Council recognizes CPG's efforts to reduce visibility of the four poles by moving them further from Middle Road, the Council recommends that CPG consult with Eversource regarding the possible installation of underground lines and pad-mounted equipment on the customer side of the electric distribution interconnection, or other interconnection design(s), to further reduce visibility to the extent feasible.

Project Alternatives

Given the selection of the Project in the DEEP SCEF program, and a 20-year TTA contract with Eversource, CPG did not consider alternative locations.

CPG selected the proposed site due to the presence of open fields, limited ground disturbance and tree clearing, the presence of forested buffers along property lines and close proximity to an existing three phase electric distribution line.

Pursuant to CGS §16-50p(g), the Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility¹.

Cost

The estimated construction cost of the Project is \$4.1 million to \$4.5 million not including interconnection fees.

Neighborhood Concerns

The Council held a publicly noticed public comment session via Zoom conferencing on May 18, 2023, commencing at 6:30 p.m. Seven members of the public made oral limited appearance statements at the public comment session. While the Council public comment record was open, twelve interested persons provided written limited appearance statements expressing concerns that included, but were not limited to, site is near residences; visibility; wildlife disruption; noise; loss of farmland; and potential for interconnection problems. Prior to submission of the Petition to the Council, based on neighborhood concerns, CPG modified the proposed facility by developing a landscape plan, conducting a noise study and relocating the Project utility poles so that they are farther away from Middle Road.

¹ Corcoran v. Connecticut Siting Council, 284 Conn. 455 (2007); CGS §16-50p(g) (2019)

Public Safety

The Project would comply with the current National Electrical Code (NEC), the National Electrical Safety Code and the National Fire Protection Association code.

The facility would be remotely monitored on a 24/7 basis by CPG personnel using a computer monitoring system which can detect production abnormalities. If abnormalities occur, the facility can be remotely shut down in its entirety or partially at the level of the string inverters.

CPG would coordinate and conduct outreach/training with the Town emergency responders to provide information regarding facility operations and emergency response, locations of manual shut offs and how to disable temporary electric fencing used by the sheep farmer. CPG would provide emergency responders access to the site via a Knox Box at the entrance to the facility.

The Project is not located within a Federal Emergency Management Agency designated 100-year or 500-year flood zone.

Noise

Noise generated during facility operations would comply with the DEEP Noise Control Standards. Although noise modeling indicates operational noise will be below DEEP criteria, the Council will order CPG to install solid fencing adjacent to the transformer pads to deflect noise away from nearby residences. Additionally, the Council will order CPG to perform a post-construction noise analysis to ensure noise from facility operation meets DEEP's Noise Control Standards. Noise resulting from construction is exempt from DEEP Noise Control Standards.

Decommissioning

The Project has an anticipated life of 30 - 40 years. At the end of the Project's lifespan, it will be fully decommissioned and removed from the property in accordance with provisions of the site lease. The site would be restored to its pre-existing condition as a farm field.

The lease is a private agreement between CPG and the property owner. At the end of the lease term, control of the solar facility site reverts back to the property owner. The Council does not have the authority to supersede restoration provisions of the site lease or require additional site restoration conditions beyond those established by the site lease. The property owner would determine site restoration conditions at the time of Project decommissioning, including, but not limited to, soils and retention of the stormwater management system.

Project components that cannot be recycled will be removed and disposed of in accordance with regulatory criteria. CPG provided Toxicity Characteristic Leaching Procedure (TCLP) results from the solar panel manufacturer for selected panels that indicate the panels would not be characterized as hazardous waste in the event the solar panels cannot be recycled at the end of the Project's life.

Construction hours would be Monday through Friday from 7:00 AM to 5:00 PM and Saturday from 8:00 AM to 4:00 PM.

Environmental Effects and Mitigation Measures

Air and Water Quality

The project would meet DEEP air quality standards. There would be no air emissions associated with site operation.

Operation of the facility would not require water use.

Groundwater is classified as “GA” which indicates it is presumed suitable for human consumption without treatment. The residences in the area are served by private wells. The Project is not expected to impact groundwater quality. Manure from livestock grazing would not impact subsurface water quality. In order to ensure subsurface water quality is maintained, the Council will order CPG to prepare a Spill Prevention and Control Plan for construction and operation of the facility.

The site is located outside of a DEEP-designated Aquifer Protection Area.

Stormwater

Pursuant to CGS §22a-430b, DEEP retains final jurisdiction over stormwater management and administers permit programs to regulate stormwater pollution. DEEP regulations and guidelines set forth standards for erosion and sedimentation control, stormwater pollution control and best engineering practices. The DEEP Individual and General Permits for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (Stormwater Permit) require implementation of a Stormwater Pollution Control Plan (SWPCP) to prevent the movement of sediments off construction sites into nearby water bodies and to address the impacts of stormwater discharges from a Project after construction is complete. A DEEP-issued Stormwater Permit is required prior to commencement of construction.

DEEP has the authority to enforce Project compliance with its Stormwater Permit and the SWPCP, including, but not limited to, the installation of site-specific water quality protection measures in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* (2002 E&S Guidelines).

The Project has been designed to comply with DEEP Stormwater Permit Appendix I and the 2002 E&S Guidelines. Post-construction stormwater would be controlled by perimeter swales and two stormwater management basins; one located in the southwest portion of the site, and one located in the southeastern portion of the site.

In accordance with the Stormwater Permit, the stormwater management system is designed to maintain existing drainage patterns during 2, 10, 25, and 100-year storm events. Once the site is stabilized, CPG would conduct annual inspections of the stormwater control features. In addition to these annual events, the Council will order CPG to conduct inspections of the stormwater controls after extreme rainfall events to ensure the controls were not compromised or damaged.

Wetlands and Watercourses

The Inland Wetland and Watercourses Act (IWWA) strikes a balance between economic activities and wetlands preservation. The impact of a proposed activity on the wetlands and watercourses that may come from outside the physical boundaries of the wetlands or watercourses is a major consideration. Defined upland review areas, such as 100 feet, provide a trigger for reviewing whether a regulated activity is likely to affect wetlands and watercourses. Under CGS §22a-41(d), regulatory agencies shall not deny or

condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life *unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.*

Two wetlands were identified on the host parcel, as follows; an intermittent wetland system that extends from north to south in the eastern portion of the site, and a forested wetland, including a farm pond, located in the western portion of the host parcel. The farm pond most likely supports amphibians.

The Council finds the proposed 100-foot buffer between the pond and the Site, as well as non-disruption of the forested wetland corridor to the north and south of the pond, sufficient to protect amphibian populations in this area.

The Project would include a wetland buffer of 50 feet to stormwater control features and 100 feet to solar panels, in accordance with the criteria established in DEEP Stormwater Permit Appendix I. The Council will order the installation of straw bales or other generally accepted similar control measures to reinforce silt fencing adjacent to wetland areas.

Scenic, Historic and Recreational Values

The Project would have no effect on properties listed on the State or National Register of Historic Places, located within or near the Project site.

Several areas of the site have the potential for moderate archaeological sensitivity and the State Historic Preservation Office recommended an archaeological reconnaissance survey of these areas. CPG would perform the recommended archaeological reconnaissance survey in the Fall of 2023.

No recreational resources are in the vicinity of the site.

There are no town or state designated scenic roads within one mile of the Site. No comments were received from the Office of Policy and Management or DEEP regarding impacts to scenic quality or resources.

A majority of the facility would be shielded from view due to existing vegetation and its location set back from Middle Road and Pinney Street. Most of the views from residential areas to the north would be screened by existing vegetation along the property line. Abutting residences to the east are also screened by existing vegetation but the quality of the vegetative buffer varies. During the proceeding, CPG developed a landscape plan that consists of evergreen plantings along the north and east sides of the site. The plantings would be 4 to 6 feet tall at installation and would reach a height of 20-25 feet. To supplement the proposed landscape plan, the Council will order CPG to install plantings perpendicular to the access drive to screen views from Middle Road and incorporate landscape planting inspections for replacement of dead or dying plantings.

Fish, Aquaculture and Wildlife

The proposed site is not within a DEEP Natural Diversity Database (NDDDB) buffered area, and thus, no consultation with the DEEP NDDDB program is required.

CPG obtained correspondence from the U.S. Fish and Wildlife Service's Information, Planning, and Conservation System, indicating that there are no critical habits of threatened or endangered species at the site.

Pinney Brook flows from north to south through the western portion of the host parcel. The brook is not a DEEP-designated cold-water fishery.

Agriculture

The host parcel contains a large field accessed from Middle Road and a smaller field adjacent to Pinney Street. It has been used for agricultural purposes over the past century. The site would occupy the large field. Consistent with the May 18, 2022 No Material Impact to Prime Farmland letter from DOAg, existing agricultural activities would continue in the small field adjacent to Pinney Street.

Approximately 20.3 acres of the Site are classified as prime farmland soils. CPG would use minimally intrusive construction methods to limit substantial grading on the site. Excavation and grading would be required to establish the equipment pads, stormwater basins and swales.

In accordance with DOAg's No Material Impact to Prime Farmland letter dated May 18, 2022, CPG would implement a sheep grazing program within the fenced solar array area of the site. CPG would also establish a community garden and an apiary research area on the host parcel but outside of the solar facility site boundaries. The Council does not have jurisdiction or authority over any portion of the host parcel beyond the boundaries of the Project "site." This includes portions of the parcel retained by the landlord and portions of the parcel the landlord may lease to third parties.

Sheep grazing would be conducted by establishing temporary paddocks within the solar array, isolated by temporary electric fence. It is anticipated 11 sheep would be on-site for two separate two-week periods, rotating among five temporary paddocks, as established by the sheep grazer. The Council will require CPG to submit a sheep grazing co-use plan at the site.

The design of the agricultural-style fence around the perimeter of the site would allow for the passage of small wildlife species while preventing access by livestock predators such as coyote.

The solar array would be seeded with a seed mix developed that provides sufficient forage for livestock and promotes pollinator species. The Council will require that the final seed mix be included in the D&M Plan.

Forest and Parks

There is no mapped core forest at the site. No state forests or parks are located in the vicinity of the site. No tree clearing is proposed.

Conclusion

Based on the record of this proceeding, the Council finds that there would not be a substantial adverse environmental effect associated with the construction, maintenance and operation of an approximate 4.0 MW solar photovoltaic electric generating facility and an associated electrical interconnection located at 28 Middle Road in Ellington, Connecticut.

The proposed Project is a grid-side distributed resources facility with a capacity of less than 65 MW under CGS §16-50k, it was selected under the state's SCEF Program, it is consistent with the state's energy policy under CGS §16a-35k, and the proposed Project would meet all applicable U.S. Environmental Protection Agency and DEEP Air and Water Quality Standards. Therefore, the Council will issue a declaratory ruling for the proposed Project.

PETITION NO. 1558 – Community Power Group LLC petition } Connecticut
for a declaratory ruling, pursuant to Connecticut General Statutes }
§4-176 and §16-50k, for the proposed construction, maintenance } Siting
and operation of a 4-megawatt AC solar photovoltaic electric } Council
generating facility located at 24 Middle Road, Ellington, }
Connecticut, and associated electrical interconnection.

August 3, 2023

Decision and Order

Pursuant to Connecticut General Statutes (CGS) § 16-50k(a), CGS §4-176 and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the construction, maintenance, and operation of a 4.0 MW Solar Photovoltaic Project on approximately 28.4 acres and associated electrical interconnection at 24 Middle Road, Ellington, Connecticut would not have a substantial adverse environmental effect, would meet all applicable U.S. Environmental Protection Agency and Connecticut Department of Energy and Environmental Protection (DEEP) Air and Water Quality Standards, and therefore, the Council will issue a declaratory ruling for the proposed solar photovoltaic electric generating facility.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and is subject to the following conditions:

1. Submit a copy of a DEEP-issued Stormwater Permit prior to the commencement of construction
2. The Petitioner shall prepare a Development and Management Plan (D&M) for this site in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a. A final site plan including, but not limited to facility layout, access roads, electrical interconnection, fence design, equipment pads, stormwater management control structures, and final seed mix;
 - b. Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control* and the DEEP-issued Stormwater Permit including, but not limited to, construction detail/phasing plan; installation of straw bales or other generally accepted similar control measures to reinforce silt fencing adjacent to wetland areas, temporary sediment basin detail, site stabilization measures during construction, inspection and reporting protocols, procedures for periodic cleaning of temporary sediment traps and swales during construction, and final cleaning of sediment traps/stormwater basins upon site stabilization;
 - c. Post-Construction Operations and Maintenance Plan that includes an inspection/maintenance schedule of facility components, vegetation/landscaping, including the replacement of dead or dying landscape plantings, and stormwater basin/controls, including site inspections and any necessary mitigation measures to be performed after extreme rainfall events;
 - d. Spill Prevention Control Plan for site construction and operation with contact information for the spill response contractor;
 - e. Installation of solid fencing adjacent to the transformers to reduce noise;
 - f. Post-construction noise analysis;
 - g. Landscape Plan that includes additional landscape plantings perpendicular to the access road to screen the interconnection area;

- h. Final structural design for the racking system stamped by a Professional Engineer duly licensed in the State of Connecticut;
 - i. A sheep grazing co-use plan for the site, including, but not limited to, provisions for rotational grazing, water access and emergency evacuation with a document that shall indemnify and hold harmless the Council, its agents, representatives and employees from any and all losses, claims, actions, costs and expenses, judgments, subrogations, or other damages resulting from any injury to a person or to property arising out of the presence of third-parties within the fenced solar facility site; and
 - j. Construction hours/days of the week.
3. Provide operations and emergency response training to local emergency responders;
4. In accordance with Section 16-50j-62 of the Regulations of Connecticut State Agencies, CPG shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, CPG shall provide the Council with written notice of the completion of site construction and the commencement of operation;
5. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed within three years from the date of the mailing of the Council's Findings of Fact, Opinion Decision & Order (collectively called "Final Decision"), this Decision & Order shall be void, and the facility owner/operator shall dismantle the facility and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable;
6. Any request for extension of the time period to fully construct the facility shall be filed with the Council not later than 60 days prior to the expiration date of this decision and shall be served on the Town of Ellington;
7. The facility owner/operator shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v;
8. The facility owner/operator shall file an annual report on a forecast of loads and resources pursuant to CGS §16-50r;
9. This Declaratory Ruling may be transferred provided both the facility owner/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under CGS §16-50v. In addition, both the facility owner/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under CGS §16-50v(b)(2) that may be associated with this facility, including contact information for the individual acting on behalf of the transferee;
10. CPG shall maintain the facility, components, landscaping, and drainage features, in a reasonable physical and operational condition that is consistent with this Decision and Order and the Development and Management Plan to be approved by the Council;

11. If the facility owner/operator is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer; and
12. This Declaratory Ruling may be surrendered by the facility owner/operator upon written notification to the Council.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each party and intervenor or its authorized representative, as listed in the Service List, dated January 31, 2023, and notice of issuance published in the Journal Inquirer in accordance with CGS §4-180(c) and CGS §16-50p(f).

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party and intervenor named or admitted to the proceeding in accordance with RCSA 16-50j-17.

DECLARATORY RULING

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **PETITION NO. 1558** - Community Power Group 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-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road, Ellington, Connecticut, and associated electrical interconnection, and voted as follows to issue a declaratory ruling:

<u>Council Members</u>	<u>Vote Cast</u>
<u>/s/ John Morissette</u> John Morissette, Presiding Officer	Yes
<u>/s/ Quat Nguyen</u> Chairman Marissa Paslick Gillett Designee: Quat Nguyen	Yes
<u>/s/ Brian Golembiewski</u> Commissioner Katie Dykes Designee: Brian Golembiewski	Yes
<u>/s/ Robert Hannon</u> Robert Hannon	Yes
<u>/s/ Robert Silvestri</u> Robert Silvestri	Yes
<u>/s/ Daniel P. Lynch, Jr.</u> Daniel P. Lynch, Jr.	Yes

Dated at New Britain, Connecticut, August 3, 2023



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

August 4, 2023

TO: Classified/Legal Supervisor
155820230518
The Journal Inquirer
306 Progress Drive
Manchester, CT 06045-0510
nhlegals@hearstmediact.com

FROM: Lisa Fontaine, Fiscal Administrative Officer

RE: **PETITION NO. 1558** – Community Power Group 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-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road, Ellington, Connecticut, and associated electrical interconnection.

Please publish the attached legal notice for one day on the first day possible from receipt of this notice.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LAF



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

NOTICE

Pursuant to Connecticut General Statutes § 4-176 and § 16-50k, the Connecticut Siting Council (Council) announces that, on August 3, 2023, the Council issued Findings of Fact, an Opinion, and a Decision and Order, approving a petition from Community Power Group LLC for a declaratory ruling for the proposed construction, maintenance and operation of a 4-megawatt AC solar photovoltaic electric generating facility located at 24 Middle Road, Ellington, Connecticut, and associated electrical interconnection. This petition record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.