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

VIA ELECTRONIC MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 18, 2024

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

RE: **PETITION NO. 1596** – USS Torrington Solar, 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 1.99-megawatt AC solar photovoltaic electric generating facility located on the former Torrington Landfill at 105 Vista Drive, Torrington, Connecticut, and associated electrical interconnection. **Final Decision.**

Dear Attorney Hoffman:

At a public meeting held on January 18, 2024, the Connecticut Siting Council (Council) considered and ruled that the above-referenced proposal meets air and water quality standards of the Department of Energy and Environmental Protection and would not have a substantial adverse environmental effect, and pursuant to Connecticut General Statutes § 16-50k, would not require a Certificate of Environmental Compatibility and Public Need, with the following conditions:

1. Approval of any project changes be delegated to Council staff;

2. Submit a copy of the DEEP Stormwater Permit prior to the commencement of construction;

3. Submit the final structural design for the post and ballast racking systems stamped by a Professional Engineer duly licensed in the State of Connecticut prior to commencement of construction;

4. Submit a construction Fuel Storage and Spill Prevention Control Plan prior to the commencement of construction;

5. Provide a copy of the Emergency Response Plan to local emergency responders prior to facility operation, and provide emergency response training;

6. The Council shall be notified in writing at least two weeks prior to the commencement of site construction activities;

7. 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 decision, this decision 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 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;

8. 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 all parties and intervenors, if applicable, and the City of Torrington;

9. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed **along with a representative photograph of the facility**;

10. 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 Conn. Gen. Stat. §16-50v;

11. The facility owner/operator shall file an annual report on a forecast of loads and resources pursuant to Conn. Gen. Stat. §16-50r;

12. This Declaratory Ruling may be transferred or partially transferred, provided both the facility owner/operator/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. 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. Both the facility owner/operator/transferor and the transferee shall provide the Council with a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility, including contact information for the individual acting on behalf of the transferee; and

13. This Declaratory Ruling may be surrendered by the facility owner/operator upon written notification to the Council.

This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the petition dated October 23, 2023 and additional information dated December 27, 2023.

Enclosed for your information is a copy of the staff report on this project.

Sincerely,

Melanie A. Bachman
Executive Director

MAB/RDM/dll

Enclosure: Staff Report dated January 18, 2024

c: Service List dated January 18, 2024
The Honorable Elinor C. Carbone, Mayor, City of Torrington (elinor_carbone@torringtonct.org)
Edward Bascetta, Fire Marshal, City of Torrington (edward_bascetta@torringtonct.org)

STATE OF CONNECTICUT)

: ss. Southington, Connecticut January 18, 2024

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Decision and Staff Report in Petition No. 1596 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 January 18, 2024

COUNTY OF HARTFORD)

I certify that a copy of the Connecticut Siting Council Decision and Staff Report in Petition No. 1596 has been forwarded by Certified First Class Return Receipt Requested mail, on January 18, 2024, to each party and intervenor, or its authorized representative, as listed on the attached service list, dated January 18, 2024.

ATTEST:

_____

Dakota LaFountain
Clerk Typist
Connecticut Siting Council

LIST OF PARTIES AND INTERVENORS
REVISED SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Petitioner	☒ E-mail	USS Torrington Solar, LLC	Lee D. Hoffman, Esq. Pullman & Comley, LLC 90 State House Square Hartford, CT 06103-3702 (860) 424-4315 lhoffman@pullcom.com Dan Csapler US Solar 100 N. 6th Street, Suite 410B Minneapolis, MN 55403 (612) 225-4682 Dan.csaplar@us-solar.com

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Petition No. 1596
USS Torrington Solar, LLC
1.99 MW AC Solar Photovoltaic Electric Generating Facility
Torrington Landfill
105 Vista Drive, Torrington

Staff Report
January 18, 2024

Introduction

On October 25, 2023, the Connecticut Siting Council (Council) received a petition from USS Torrington Solar, LLC (USS) for a declaratory ruling pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k for the construction, operation and maintenance of a 1.99 megawatt (MW) alternating current (AC) solar photovoltaic electric generating facility located on the former Torrington Landfill at 105 Vista Drive in Torrington, Connecticut and associated electrical interconnection (Petition or Project).

Pursuant to Regulations of Connecticut State Agencies (RCSA) §16-50j-40 on or about October 3, 2023, USS notified abutting property owners, City of Torrington (City) officials, Town of Harwinton and Town of Litchfield officials[1] (collectively the municipalities), state officials and agencies of the proposed Project. No comments were received.

On December 6, 2023, the Council issued interrogatories to USS. USS submitted responses to the interrogatories on December 27, 2023, one of which included photographic documentation of site-specific features intended to serve as a "virtual" field review of the Project.

Pursuant to CGS §4-176(e) of the Uniform Administrative Procedure Act, an administrative agency is required to take action on a petition for a declaratory ruling within 60 days of receipt. During a regular public meeting held on December 7, 2023, pursuant to CGS §4- 176(e), the Council voted to set the date by which to render a decision on the Petition as no later than April 22, 2024, which is the 180-day statutory deadline for a final decision under CGS §4-176(i).

On December 12, 2023, USS filed a Motion for Protective Order (MPO) related to the disclosure of project costs, cost recovery mechanisms and energy pricing contained within the response to Council interrogatory No. 4 for the proposed facility, pursuant to CGS §1-210(b) and RCSA §16-50j-62(d), on the basis that it contains confidential, proprietary information. On January 4, 2023, the Council granted the MPO.

Municipal Consultation

The City owns the host parcel and manages the former landfill. USS entered into a lease agreement with the City for use of the landfill to host the proposed facility on July 25, 2023. The City will continue waste management activities to the west of the proposed facility site.

[1] The Towns of Harwinton and Litchfield are located within 2,500 feet of the proposed facility.

On October 31, 2023, the Council sent correspondence to the municipalities stating that the Council has received the Petition and invited the municipalities to contact the Council with any questions or comments by November 24, 2023. No comments were received.

State Agency Comments

On October 31, 2023, pursuant to RCSA §16-50j-40, the Council sent correspondence requesting comments on the proposed Project from the following state agencies by November 24, 2023: Department of Energy and Environmental Protection (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).

In response to the Council's solicitation, on December 1, 2023, DEEP submitted comments in support of the Project.[2]

No other state agencies provided written comments on the Project.

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.[3]

Public Act 17-218

Public Act (PA) 17-218[4] 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."

The proposed solar facility has a generating capacity of 1.99 MW; therefore, it is exempt from the provisions of Public Act 17-218.

Public Benefit

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." The state Comprehensive Energy Strategy (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. Furthermore, the Governor's Executive Orders and Council on Climate Change examine existing policies

[2] https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1501-1600/PE1596/StateAgencyComments/PE1596_STATEMEMO-DEEPCommentsRecd_a.pdf
[3] *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007)
[4] Codified at Conn. Gen. Stat. §16-50k(a) and §16a-3k (2021)

and identify new strategies to combat climate change. 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.

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 electricity, capacity and renewable energy credits produced by the facility would be sold to Eversource in accordance with a TTA. After the 20-year SCEF contract expires, USS would continue to operate the facility and seek other revenue mechanisms.

USS is not currently contemplating participating in an ISO New England, Inc. (ISO-NE) Forward Capacity Auction but may do so in the future.

Proposed Site

Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over the proposed solar electric generating facility "site." Under 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. 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 landowner and portions of the parcel the landowner may lease to third parties. Once a facility is decommissioned, the Council no longer has jurisdiction or authority over the Project "site."

Under a lease agreement with the City, USS proposes to construct the solar facility on an approximate 7.3-acre site within a 92-acre parcel located on Vista Drive in Torrington. The host parcel is within the industrial zoning district and contains the closed Torrington Landfill. An existing Eversource electric transmission corridor extends along the southern boundary of the parcel.

The landfill closed in 1994. It is located in the center of the parcel, surrounded by forest. An existing paved and gravel access road extends west from Vista Drive, ascending the north slope of the landfill, to a City waste management area on the west side of the landfill.

The Project site would be located on the upper portion of the landfill. The landfill cap is vegetated with managed grass and has steep, lower slopes that decrease towards the top. The solar array would be located on slopes that would not exceed 15 percent. The landfill rises from approximately 658 feet to 781 feet above mean sea level.

Initially, a 3.98 project was contemplated which included solar panels along the steep sides of the landfill but it was subsequently reduced to adhere to DEEP's General Permit Appendix I, Stormwater Management at Solar Array Construction Projects to avoid slopes greater than 15 percent.

Land use surrounding the host parcel consists of a cemetery located to the north and industrial businesses to the east. Forest is to the west and south. The nearest residence from the site is approximately 1,300 feet to the east at 1125 South Main Street. The nearest abutting property line from the site is approximately 200 feet to the west (MBL# 235/001/013).

USS selected the site to utilize existing, non-productive land that is proximate to electric distribution lines.

Proposed Facility and Associated Equipment

The proposed 1.99 MW AC solar facility consists of 4,580 solar panels rated at 580 Watts installed on a fixed tilt concrete ballast racking system facing south at variable angles, dependent on topography. The panels would be approximately 12 feet above grade at the highest point and 3 feet above grade at the lowest point. The aisles between the panel rows would be approximately 10 feet wide.

Use of the concrete ballast racking system would avoid disturbance to the landfill cap. The pre-manufactured ballasts would be approximately 3.5 feet wide by 8.7 feet long by 1.5-feet tall. The ballasts would be placed on a 4 to 6-inch gravel sub-base.

Panel row wiring would extend along the racking system to reduce potential damage from weather events, maintenance activities or animals. Conduit within cable trays would extend from the racking to a 52-foot by 11.5-foot electrical service area at the northeast end of the solar field. The service area contains two concrete pads to support transformers and inverters.

From the service area, the electrical interconnection would descend the landfill cap underground along the edge of the access drive for 2,000 feet to the east property line. At this point, the line would extend overhead for approximately 140 feet supported by 6 new 40-foot tall utility poles to facilitate interconnection to existing Eversource distribution service on Vista Drive. A ground-mount switchgear would be installed adjacent to the utility poles.

USS received interconnection approval from Eversource on July 27, 2022 with an anticipated in service date of January 31, 2025. The interconnection will be installed in accordance with Eversource's technical standards, ISO-NE and Federal Energy Regulatory Commission requirements.

The Project may be able to support a battery storage system in the future.

The access drive entrance is gated, limiting access to authorized personnel only. The 4.5-acre solar array would be enclosed by a new seven-foot tall chain link fence supported by concrete ballasts.

The existing landfill access road would be used to access the solar facility. The upper, gravel portion of the existing road would be reconstructed and partially rerouted to allow access to both the solar array and the City's existing waste management area.

Construction of the facility would disturb approximately 7.3 acres inclusive of the solar array, equipment pads, access road, and electrical interconnection.

USS would grade certain areas of the landfill cap to repair settled areas and reduce slopes to 15 percent within construction area. USS will need to obtain a DEEP Authorization for Disruption of a Solid Waste Disposal Area and a DEEP Approval for Change to Post-Closure Use prior to construction.

The capacity factor for the Project is approximately 19 percent. The power output of the panels would decline over time with an anticipated annual power loss of approximately 0.5 percent.

Construction would occur over an approximately seven-month period with an anticipated start time in Spring 2024. Typical construction hours and workdays of the week are Monday – Friday, 7:00 AM to 7:00 PM.

Public Safety

The Project would comply with the current National Electrical Code (NEC), National Electrical Safety Code, CT State Fire Prevention Code~~,~~ and National Fire Protection Association codes and standards, as applicable.

The nearest airport is Hartford-Brainard Airport located approximately 24 miles to the southeast. The Federal Aviation Administration (FAA) notice criteria tool determined notice to the FAA for construction and as-built conditions is not required. The FAA does not require a glare analysis for solar installations that are located on non-airport land.

The proposed facility would be remotely monitored through a 24/7 data acquisition system. If a problem with the facility is detected, system diagnostics would remotely shut down the inverters. The solar array is divided into separate electrical units by the inverters so if one section has a fault condition and shuts down, other sections can still operate.

A manual disconnect switch would be located on-site. USS would conduct facility operation and safety training for local emergency responders. An electrical fire at the site typically would be allowed to burn out. As a safety precaution, fire personnel responding to the landfill should have gas meters able to detect methane gas due to the presence of methane exhaust piping. USS would develop a site-specific Emergency Response Plan for emergency responders prior to facility operation.

The proposed facility would be in compliance with DEEP Noise Control Standards. Noise modeling indicates noise from the Project would be approximately 36.7 dBA at the nearest property line (200 feet to the west). Construction noise is exempt from DEEP Noise Control Standards.

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

Electric and Magnetic Fields produced from solar facility electrical components would dissipate quickly with distance and therefore similar to pre-existing EMF background levels at the property lines.

The proposed seven-foot high chain link solar array perimeter fence complies with NEC fencing requirements[5].

Environmental Effects and Mitigation Measures

Air and Water Quality

The Project would not produce air emissions as a result of operation. The Project would not produce emissions of regulated air pollutants or greenhouse gases during operation.

The site is not located within a DEEP-designated Aquifer Protection Area or a Public Water Supply Watershed.

[5] Section 691.4(2) of the National Electrical Code (NEC), 2020 Edition notes that, "Access to PV electric supply stations shall be restricted by fencing or other adequate means in accordance with 110.31…" Section 110.31 notes that for over 1,000 Volts, "…a wall, screen, or fence shall be used…A fence shall not be less than 7 feet in height or a combination of 6 feet or more of fence fabric and a 1 foot or more…utilizing barbed wire or equivalent."

The facility would not use or discharge water during operation.

Several wetlands and watercourses are present on the host parcel but not within the landfill area. One watercourse, Peck Brook, extends along the north property boundary, draining to Vista Drive. The proposed overhead interconnection corridor would cross this watercourse. There would be no utility poles located in the watercourse or on the adjacent banks. Although tree clearing would occur adjacent to the watercourse, no grubbing would occur to avoid soil disturbance.

Stormwater

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.

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.

There would be approximately 7.3-acres of ground disturbance. A DEEP-issued Stormwater Permit is required prior to commencement of construction activities. The Stormwater Permit and associated SWPCP incorporates Project designs consistent with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* and the *2004 Connecticut Stormwater Quality Manual.*

USS met with the DEEP Stormwater Program on October 4, 2022 to discuss the Project. The requirements of General Permit Appendix I, Stormwater Management at Solar Array Construction Projects, were discussed.

USS has not filed an application for a Stormwater Permit to date. USS would meet with DEEP for additional Project review prior to filing for a Stormwater Permit.

The capped landfill has an existing stormwater management system consisting of berms and riprap lined swales. The vegetative covering on the landfill cap is well established with no eroded areas.

USS prepared a SWPCP for the site that determined no additional stormwater management systems are required. Stormwater from the site will utilize the same drainage patterns and outflow control features. To ensure existing sheet flow conditions are maintained within the solar array, USS will add crushed stone pads and berms to reduce stormwater velocities and to promote sheet flow. Disturbed areas from construction activities would be stabilized with a meadow seed mix.

Forests and Parks

Construction of the interconnection route would require 3,500 square feet of tree clearing adjacent to Vista Drive to create a 25-foot wide 140-foot long right-of-way. Stumps would be left in place to avoid soil disturbance except where required to install the proposed utility poles. No core forest would be affected.

There are no parks that abut the site.

Fish, Aquaculture and Wildlife

The site is not located within a DEEP Natural Diversity Database (NDDB) buffered area or near a DEEP designated cold water habitat area.

The northern long-eared bat (NLEB), a federally-listed and state-listed Endangered Species, occurs in Connecticut. The Project is located within 0.25-mile of a known NLEB habitat resource but no impact to NLEB is expected due the limited tree clearing required for the Project.

A New England cottontail focus area is located south of the proposed site in Litchfield. The focus area is a region where cottontail conservation measures are concentrated to prevent overall population decline[6]. The Project would not affect cottontail habitat.

Disturbed areas of the landfill cap would be seeded with a wildflower meadow mix beneficial to pollinators.

Agriculture

The Project would not be located on prime farmland soils.

Scenic, Historic and Recreational Values

SHPO submitted correspondence to USS on June 14, 2023, indicating that the proposed Project would not affect historic properties or known archeological resources.

There are no "blue-blazed" trails maintained by the Connecticut Forest and Parks Association located proximate to the site.

The facility is on a landfill remote from public areas and residences, and is screened by surrounding forested areas. No landscaped screenings are proposed.

Operations and Maintenance

An evaluation of the facility and performance of preventative maintenance measures would be conducted in accordance with manufacturer's specifications and would occur at least once per year. Replacement modules would not be stored on-site.

The proposed transformers would be filled with 100% biodegradable FR3 oil and are not required to have secondary containment. The transformers would include a low oil level detection system.

Snow around the electrical pads and access drive will be removed. Snow on the panels will be allowed to slide off. Module cleaning, when necessary, would utilize water.

Vegetation within the solar array area would be managed by USS. Mowing is anticipated at least twice per year to prevent woody vegetation from taking root on the landfill cap. If erosion issues with the landfill are identified during inspection of the solar array area, USS will report the issue to the City and DEEP.

[6] https://portal.ct.gov/DEEP/Wildlife/Habitat/New-England-Cottontail-Restoration

Decommissioning

The Project has an operational life of 30 years. At the end of the lease term, USS must decommission the Project and restore the site to its pre-existing condition.

It is anticipated that the steel racking system, electrical component and wiring and solar modules would be recycled as applicable. All recyclable materials would be transported to appropriate recycling facilities.

Any non-recyclable materials will be properly disposed of in accordance with applicable permits and regulations.

The selected solar panels for the Project meet current Toxicity Characteristic Leaching Procedure (TCLP) criteria for characterization as nonhazardous waste in the event the solar panels are not recycled at the end of the Project's life.

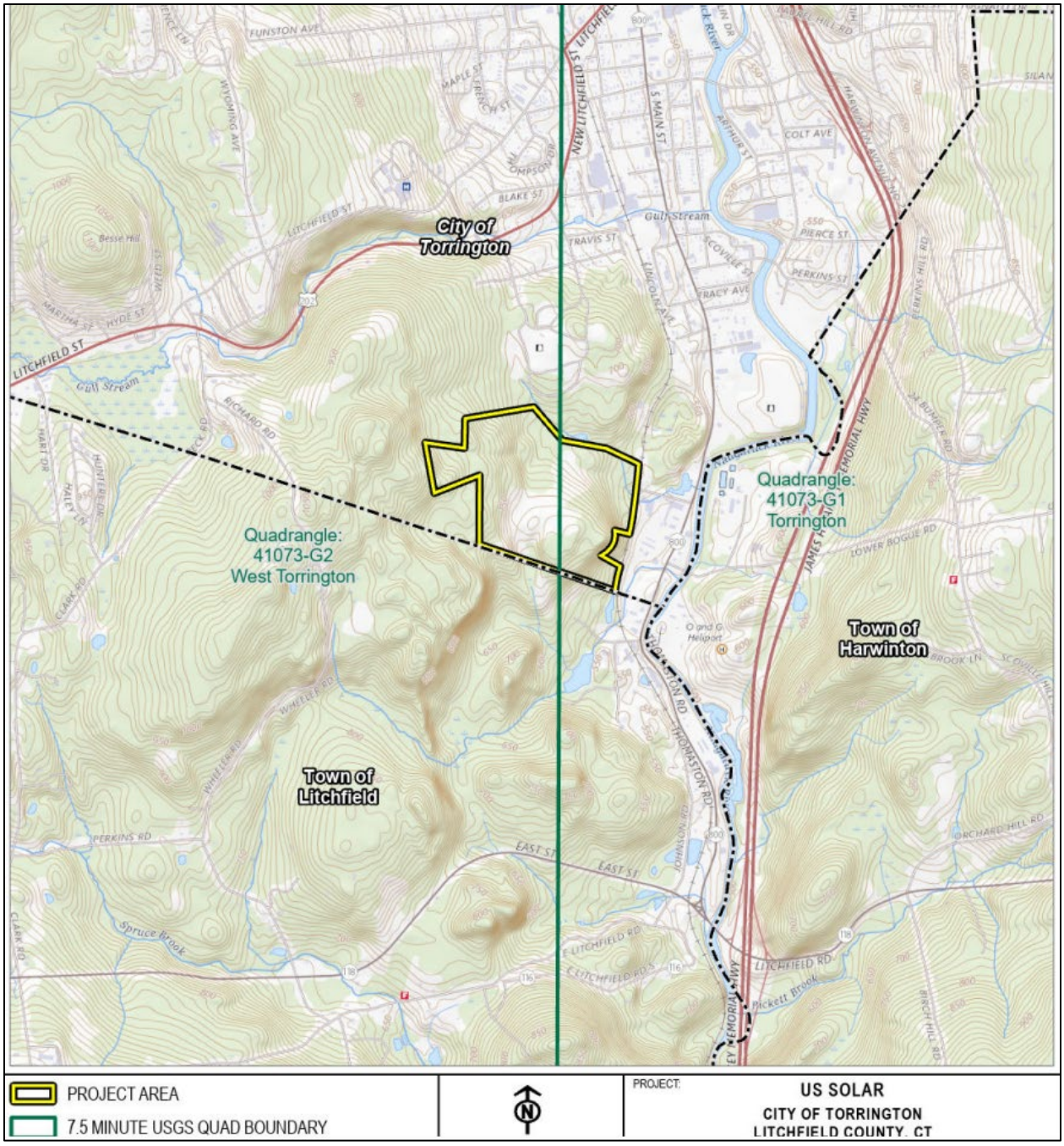
Conclusion

The Project is a grid-side distributed resource with a capacity of not more than sixty-five megawatts, meets air and water quality standards of the DEEP, and would not have a substantial adverse environmental effect. The proposed Project will not produce air emissions, will not utilize water to produce electricity, was designed to minimize environmental impacts, and furthers the State's energy policy by developing and utilizing renewable energy resources and distributed energy resources. Furthermore, the Project is participating in the state's SCEF Program.

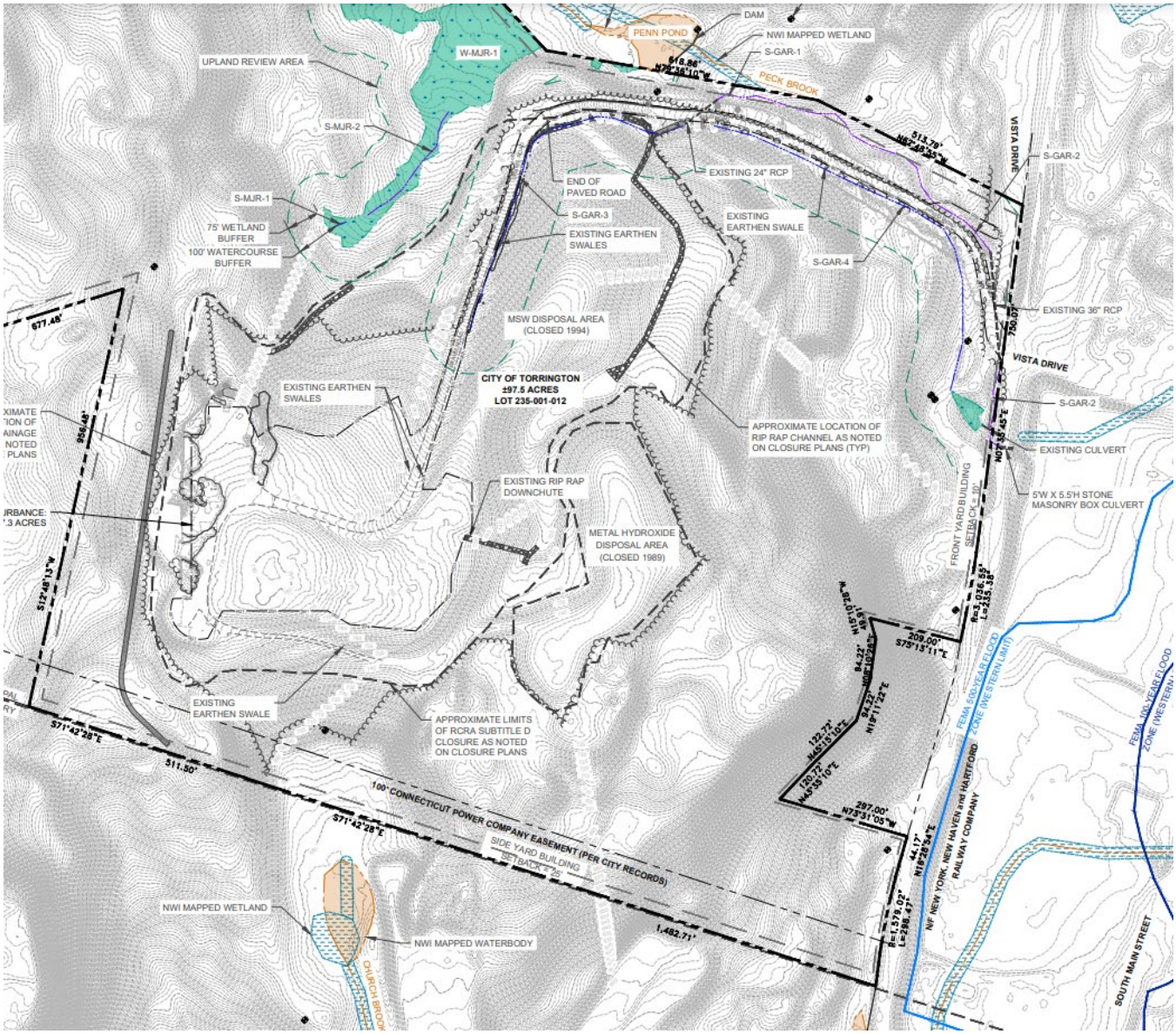
If approved, staff recommends inclusion of the following conditions:

1. Approval of any project changes be delegated to Council staff;
2. Submit a copy of the DEEP Stormwater Permit prior to the commencement of construction;
3. Submit the final structural design for the post and ballast racking systems stamped by a Professional Engineer duly licensed in the State of Connecticut prior to commencement of construction;
4. Submit a construction Fuel Storage and Spill Prevention Control Plan prior to the commencement of construction; and
5. Provide a copy of the Emergency Response Plan to local emergency responders prior to facility operation, and provide emergency response training.

Project Location



Exsting Conditions



Proposed Conditions