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September 19, 2024

SENT BY E-MAIL

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

Re: Petition No. 1609 – TRITEC Americas, LLC notice of election to waive exclusion from Connecticut Siting Council jurisdiction, pursuant to Connecticut General Statutes § 16-50k(e), and petition for a declaratory ruling, pursuant to Connecticut General Statutes § 4-176 and § 16-50k, for the proposed construction, maintenance and operation of a 0.999-megawatt AC solar photovoltaic electric generating facility located at 250 Carter Street, Manchester, Connecticut, and associated electrical interconnection. **Post-Hearing Brief**

Dear Attorney Bachman:

After the evidentiary record in this matter was closed by the Siting Council on August 27, 2024, the Siting Council issued a Memorandum directing the parties and intervenors that they may file briefs and proposed findings of fact with the Council. The Council expressly stated that ***“no new information, no new evidence, no argument, and no reply briefs will be considered without permission from the Council.”*** The Petitioner is hereby filing its Post-Hearing Brief in accordance with the Council’s above-stated directions.

However, some parties and intervenors, most notably the Town of Manchester who is represented by an attorney, has submitted briefs with argument, and raises new arguments that were never previously raised or on the record—all without permission from the Council, and in flagrant disregard of the Council’s authority and at the expense of Petitioner’s right to a fair process. Therefore, Petitioner requests that the Council strike or disregard those portions of briefs that do not conform to the Council’s explicit instructions. Alternatively, Petitioner’s counsel requests that it be given additional time to file a rebuttal brief.

Very Sincerely,

Paul R. Michaud

cc: Service List:

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

TRITEC AMERICAS, LLC, NOTICE OF	:	PETITION NO. 1609
ELECTION TO WAIVE EXCLUSION FROM	:	
CONNECTICUT SITING COUNCIL	:	
JURISDICTION PURSUANT TO	:	
CONNECTICUT GENERAL STATUTES §16-50k(e),	:	
AND PETITION FOR A DECLARATORY RULING	:	
PURSUANT TO CONNECTICUT GENERAL	:	
STATUTES §4-176 AND §16-50k, FOR THE	:	
PROPOSED CONSTRUCTION, MAINTENANCE,	:	
AND OPERATION OF A 0.999-MEGAWATT AC	:	
SOLAR PHOTOVOLTAIC ELECTRIC	:	
GENERATING FACILITY LOCATED AT 250	:	
CARTER STREET, MANCHESTER, CONNECTICUT:	:	
AND ASSOCIATED ELECTRICAL	:	
INTERCONNECTION	:	September 19, 2024

POST-HEARING BRIEF OF TRITEC AMERICAS, LLC

I. INTRODUCTION

After the evidentiary record was closed by the Siting Council on August 27, 2024, the Siting Council issued a Memorandum directing the parties and intervenors that they may file briefs and proposed findings of fact with the Council. The Council expressly stated that ***“no new information, no new evidence, no argument, and no reply briefs will be considered without permission from the Council.”*** The Petitioner hereby files its Post-Hearing Brief in accordance with the Council’s above-stated directions.

On January 26, 2024, TRITEC Americas, LLC (“TRITEC” or “Petitioner”) filed a Petition for Declaratory Ruling (the “Petition”) for the proposed construction, maintenance, and operation of a .999-megawatt AC solar photovoltaic electric generating facility and associated electrical interconnection (together, the “Project”) to be located at 250 Carter Street in Manchester, Connecticut.

The Project is a Class I renewable energy source as defined under Connecticut General Statutes (“C.G.S.”) § 16-1(a)(20) and, therefore, would further Connecticut’s legislative mandate for 100% carbon-free electric generation by January 1, 2040. See Petition, p. 5. In keeping with this legislative scheme, the General Assembly has passed laws expanding renewable energy incentive programs to promote renewable energy projects in the State. See Pre-Filed Testimony (“PFT”) of Howie Reed, Chief Operating Officer of TRITEC, p. 3. Currently, the number of solar installations in Connecticut is declining, and if the trend continues, Connecticut will not be on track to reach the mandate by 2040. Id. at 3 citing a report by the Solar Energy Industries Association (“SEIA”).

The Project participated in the State’s Non-Residential Renewable Energy Solutions (“NRES”) Program. See Petition, p. 11; PFT of Howie Reed, p. 4, receiving a long-term contract from Eversource demonstrating a strong need for the Project. Over its 20-year operational life, the Project will generate approximately 409,970 kWh of clean electricity. The Project would emit roughly 1/10th of the CO₂e produced by an equivalent natural gas plant. In other words, a natural gas plant would emit over 11 times the CO₂e levels as the proposed Project to generate the same amount of electricity. This reduction of CO₂e equals over 20 million pounds of coal, 4,000 gas-powered vehicles, and preserving almost 22,000 acres of US forests. The Project would replace natural gas production in Connecticut and reduce approximately 18,200 metric tons of CO₂e. See Petition, Exhibit F.

In a rigorous process that has extended over several months and four (4) sessions of an evidentiary hearing, TRITEC has demonstrated through the comprehensive Environmental Assessment (“EA”) attached to its Petition as Exhibit G, pre-filed written testimony of its expert witnesses, responses to Interrogatories by the Connecticut Siting Council (“Council”), the Town

of Manchester (“Town”), and Intervenor, and the documentary and testimonial evidence in the record that was brought out by extensive questioning and scrutiny by Council members and staff—that the Project has been designed and will be constructed in a manner that not only will avoid substantial adverse environmental impacts but would actually improve an existing environmental condition in the area with stormwater runoff. May 2, 2024, Transcript (“Tr.”) pp. 54, 91. The Project will also bring ecological benefits by creating a meadow. July 23, 2024, Tr. p.335. In addition, Eversource will require TRITEC to provide upgrades to the utility lines that will interconnect the system, increasing the performance of the electrical grid that serves the surrounding area. May 2, 2024, Tr. p. 112; see also PFT of Howie Reed, p. 4.

II. LEGAL STANDARD

The legal standard governing the siting of this project is found in C.G.S. § 16-50k(a), which provides in pertinent part that,

Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling...(A) the construction of a facility solely for the purpose of generating electricity...and (B) the construction or location of...a grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as: (i) Such project meets air and water quality standards of the Department of Energy and Environmental Protection, (ii) the council does not find a *substantial* adverse environmental effect...(Emphasis added).

III. ENVIRONMENTAL CONDITIONS

A. Air

No air emissions are generated during operation of the solar system. Therefore, The Project will not adversely affect air quality and will not require an air-related permit. See PFT of Solli Team, p. 3. Any temporary emissions that may occur during construction due to vehicles

and equipment will be mitigated by regular vehicle maintenance, watering, and spraying of vehicles to minimize dust and particulates. Id.

B. Water

The evidence in the record shows that although four wetland and watercourse systems are present on the Project site and some disturbance is unavoidable, these wetlands and watercourses will continue to exist and function substantially as they do today after the completion of the Project. See PFT of William Kenny Associates (“WKA”) Team, p. 3.

The Project’s stormwater management plan was designed following all requirements of the Connecticut Department of Energy and Environmental Protection (“DEEP”). See Exhibit G, p. 4, attached to Petition. After consultation with the Town engineers, the Petitioner’s engineers extended the stormwater management system, the basin, and swale at the Town’s request to meet the Town’s standards for stormwater management. May 2, 2024, Tr., p. 50; see Petitioner’s proposed, revised site plan 2.11 as Exhibit B8, May 2, 2024, Tr., p. 25. The new design will now actually reduce both the peak rate of runoff and the peak rate of volume compared to the current existing conditions. May 2, 2024, Tr., p. 54. The controls put in place as a result of the Project being constructed will improve the current environmental condition of flooding downstream from the site. Id., at 55.

C. Habitat; Core Forest

There was much discussion on the topic of core forest at each session of the evidentiary hearing, as questioning by Council staff and members helped uncover that there are alternative core forest mapping tools in Connecticut, and this led to confusion about whether there is core forest at the Project site. Indeed, Petitioner’s Environmental Assessment initially indicated, based on DEEP’s 2020 Connecticut Forest Action Plan, that there was a 23-acre small core forest at the

site, of which seven (7) acres would be cleared for the development of the Project. See Exhibit G to Petition, p. 10; Petition, Appendix A, Figure 11. Later in the proceedings, on July 19, 2024, TRITEC submitted into the record a letter from DEEP Forester Christopher Martin, who documented that the “Forestland Habitat Impact Map” at (arcgis.com) is the “one and only approved tool for core forest determination” along with an overlay of the proposed Project on that map. The overlay on the DEEP map shows that the proposed Project is *not* in core forest. July 23, 2024, Tr., pp. 274-275.

While DEEP will only utilize the map in their core forest determinations, the DEEP State Forester acknowledged that “on-the-ground verification is often helpful.” In response to Council staff’s questioning on whether any actual analysis was done, Petitioner’s expert testified extensively on the issue over several days and concluded that he would not characterize the area as a core forest. Any calculation of core forest was based solely on a physical map, but “our fieldwork found that the Project site area is not a core forest habitat.” May 2, 2024, Tr., p. 47.

MR. KENNY: This is Bill Kenny. Our work, we did do additional work with regard to that. We spent a number of days on the property and evaluated the habitat. And in the Project site, it’s a good point to raise about the 300-foot buffer because there’s an eastern portion of the project site falls within a 300-foot buffer. So by definition alone, that area would not be considered core forest. When you look at the habitat beyond that, what we found was this portion of the property for good reason does not include wetlands and things like that. So it was one of the areas of the property that was last abandoned for agricultural use so the forest is relatively young compared to the other areas of the forest on the site. It had early successional species like ash trees which had died over recent years due to Emerald ash borer and there’s been storm damage there. So there’s quite a bit of fragmentation in the canopy of the forest and it’s more of an edge habitat even though it’s deeper than 300 feet. There’s been an abundance of sunlight that get in and fosters the growth of invasive shrub layer with Japanese barberry. So we find that this area does not have the attributes of a core forest, why you protect the core forest. We would not characterize this area of the woodland on the property to be a core forest.

May 2, 2024, Tr. pp. 46-47.

In response to questioning from the Town's attorney on the "conversion" of core forest to grassland, Petitioner's expert witness testified that "grassland habitat is an endangered habitat in Connecticut," and that "the creation of this meadow is really a great ecological benefit for this site." July 23, 2024, Tr. p. 336, 335. The exchange between the Town's Attorney, Mr.

Sullivan, and Petitioner's expert, Bill Kenny, continued:

Q. What experience have you with Connecticut to make this type of a determination?

A. I'm born and raised and worked my entire life in the State of Connecticut. Went to school at the University of Connecticut, went to school at the Yale School of the Environment. You can look under the Connecticut DEEP website. DEEP is spending a tremendous amount of money to create grasslands and shrub lands. And the small core forests are –a forest area is important. It's better than a residential subdivision, but I would say it's very equal or meadow might be even of greater value than a small core forest.

July 23, 2024, Tr. p. 337.

Cross-examination of Petitioner's expert witness continued by intervenor Ms. Rachel

Schnabel as follows:

Q. I guess I'll start off with some questions that I have based on some recent items that have been discussed. Mr. Kenny, so there were discussions about how this would create meadow habitats. Are you saying that by putting a solar farm in, you are creating actual meadow habitat?

A. [W. Kenny.] Yes.

July 23, 2024, Tr. p. 348.

Taken all together, there is nothing in Connecticut Law that necessarily prevents the development of land that is determined to be core forest, as long as there is no substantial

adverse environmental effect, or for larger projects, where DEEP makes a determination in writing that a proposed project would not materially affect the status of such land as core forest. See C.G.S. § 16-50k(a). The evidence now shows that the land this Project will be located on is not a core forest. But, if it was determined to be core forest, based on an alternative map not used by DEEP, even so, expert testimony, has established that the character of the forest does not have the attributes for why you would want to protect core forest, and for that reason would be even more valuable if converted to a meadow or grassland. Accordingly, there can be no substantial adverse environmental effect.

D. Visibility

The Project has been designed and will be constructed in such a manner as to limit any visibility. Neighbors in the vicinity are expected to have no visibility due to maintaining the existing tree line and adding a vegetative buffer. See PFT of Solli Team, p. 7; see also Petitioner's May 7, 2024, Late-Filed Exhibit 1. In response to the questioning by Council staff, TRITEC agreed to add additional or staggered trees and native shrubs to block any view from the east of the array. May 2, 2024, Tr. pp. 73-74.

E. Noise

The Project has been designed and will be constructed in such a manner as to keep noise at the lowest possible levels, even below industry standards. According to Petitioner's expert witness, "combiner boxes" do not make any noise and the inverters chosen are below industry standards for noise. May 2, 2024, Tr., p.49; PFT of Warren Horton, p. 5.

IV. CONCLUSION

The documentary and testimonial evidence in the record demonstrates that the Project meets the air and water quality standards of DEEP and that not only are there no substantial

adverse environmental effects, but the Project provides many public and environmental benefits: (1) improvement of an existing environmental condition in the area with stormwater runoff; (2) a significant ecological benefit by the creation of a meadow; and (3) the utility-required upgrades to the utility lines that will interconnect the system will in turn increase the performance of the electrical grid that serves the surrounding area.

The Project satisfies the statute's requirements. The Siting Council, therefore, should approve the Petition.

RESPECTFULLY SUBMITTED,

TRITEC Americas, LLC



By: _____

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CERTIFICATION

I hereby certify that a complete copy of the foregoing document was emailed to the Connecticut Siting Council and to those on the service list on the date thereof and an original and fifteen (15) copies were hand-delivered to the Office of the Connecticut Siting Council on the same date.



Paul R. Michaud