

DRAFT

Petition No. 1398 LSE Pictor, LLC Winchester, Connecticut

**Staff Report
September 18, 2020**

Introduction

On March 27, 2020, LSE Pictor, LLC (LSE) submitted a petition (Petition) to the Connecticut Siting Council (Council) for a declaratory ruling pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k for the construction, maintenance and operation of a 1.99-megawatt (MW) alternating current (AC) solar photovoltaic generating facility, and related electrical interconnection, located off of Platt Hill Road in Winchester.

Pursuant to Regulations of Connecticut State Agencies (RCSA) §16-50j-40 on or about March 25, 2020, LSE notified Town of Winchester (Town) officials, state officials and agencies, the property owner, and abutting property owners of the proposed project.

Pursuant to CGS §4-176(e) of the Uniform Administrative Procedure Act (UAPA), an administrative agency is required to take action on a petition within 60 days of receipt. May 26, 2020 was the deadline for this petition under CGS §4-176(e). In response to the Coronavirus pandemic, on March 25, 2020, Governor Lamont issued Executive Order No. 7M that provides for a 90-day extension of statutory and regulatory deadlines for administrative agencies, thereby extending the deadline to August 24, 2020.

On August 13, 2020, pursuant to CGS §4-176(e) of the UAPA, the Council voted to set the date by which to render a decision on the petition as no later than December 22, 2020, which is the statutorily-mandated 180-day decision deadline under CGS §4-176(i) with the 90-day extension per Executive Order No. 7M.

The Council issued interrogatories to LSE on April 21, June 22, and August 14, 2020. LSE responded to the Council's interrogatories on May 12, July 9, and August 19, 2020. The interrogatories included photographic documentation of site-specific features intended to serve as a "virtual" field review of the project. Council staff member Robert Mercier visited the site on June 18, 2020.

Municipal Consultation

LSE began outreach efforts to Town officials on November 15, 2019. Subsequent meetings with Town officials occurred January 6 and February 12, 2020.

On March 30, 2020, the Council sent correspondence to the Town stating that the Council has received the petition and invited the Town to contact the Council with any questions or comments by April 26, 2020. The Council granted the Town's two requests for an extension of the public comment period, with a revised public comment period deadline of June 2, 2020.

On June 2, 2020, the Town submitted comments to the Council. The comment letter is attached.

State Agency Comments

On March 30, 2020, the Council sent correspondence requesting comments on the proposed project from the following state agencies by April 26, 2020: 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 Consumer Protection (DCP); 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).

The CEQ responded on May 27, 2020 and the comments are attached. No other state agencies provided comments to the Council.

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.¹

Public Act 17-218

Effective July 1, 2017, 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 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 land as core forest.” The proposed facility has a collective 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 2018 Comprehensive Energy Strategy (2018 CES) highlights eight key strategies to guide administrative and legislative action over the next several years. Specifically, Strategy No. 3 is “Grow and sustain renewable and zero-carbon generation in the state and region.” Furthermore, on September 3, 2019, Governor Lamont issued Executive Order No. 3, which calls for the complete decarbonization of the electric sector by 2040. 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.

LSE executed a 15-year Low Emission Renewable Energy Credit (LREC) Agreement with Eversource Energy (Eversource) on July 26, 2019. LSE would sell renewable energy credits (RECs) to Eversource Energy (Eversource) under the state’s Low and Zero Emissions Renewable Energy Credit Programs (LREC/ZREC Program). If the Project size is reduced prior to achieving operation, the quantity of RECs sold to Eversource would be adjusted per the terms of the LREC Agreement. If the LREC Agreement is not renewed at the end of the 15 year period, LSE would examine other opportunities to sell the RECs produced by the facility. The LREC/ZREC Program was developed as part of Public Act 11-80, “An Act Concerning the Establishment of the [DEEP] and Planning for Connecticut’s Energy Future.” The LREC/ZREC Program is not among the competitive energy procurement programs that are exempt from Public Act 17-218.

In addition, LSE executed a 20-year Virtual Net Metering (VNM) Agreement with the Town of Winchester. The VNM credits produced by the facility will be allocated among the Towns of Winchester (2/3) and South Windsor (1/3).² At the end of the term of the VNM Agreement, the Towns of Winchester and South Windsor may renew or LSE may seek to enter an agreement with other municipalities for the remaining useful life of the facility.

¹ *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007).

² Pursuant to CGS §16-244u, the state’s VNM program incentivizes the use of renewable energy by allowing municipalities and other end use customers to assign surplus energy production to other metered accounts.

Proposed Site

The proposed facility would be located on an approximately 20.64-acre portion of a 104-acre parcel owned by Trade Wind Farms, LLC. The parcel is located on the east side of Platt Hill Road in the southern portion of Winchester and is zoned Rural Residential. The parcel was approved by the Town for development as a 24 lot subdivision in 2005 that was never constructed.

Considerations in LSE's site selection process include, but are not limited to, the following:

- a) Parcel size, topography, wildlife and site hydrology;
- b) Availability of land for lease or purchase;
- c) Proximity to electrical infrastructure; and
- d) Access to site.

The topography of the parcel consists of a wooded hill with steep eastern and western slopes, old field habitat along Platt Hill Road, two intermittent stream and wetland corridors located between the hill and the old field area, and wetland and vernal pool areas located generally along the eastern and northern portions of the parcel. Wetlands comprise approximately 21.6 acres of the parcel.

The parcel ranges in elevation from approximately 1,372 feet above mean sea level (amsl) at the top of the hill to approximately 1,165 feet amsl along a wetland area at the southeast property boundary. Land use in the surrounding area consists of undeveloped forest land, residential areas and State-owned Platt Hill State Park and Paugnut State Forest.

The proposed facility site would occupy approximately 20.64 acres of forest and old field areas of the parcel, mostly on the south side of the hill in the central portion of the parcel. If the proposed facility is approved by the Council, Mayland Energy, LLC would exercise an option to purchase the entire parcel from Trade Wind Farms, LLC. Mayland Energy, LLC would thereafter enter into a lease with LSE for the 20.64-acre portion of the 104-acre parcel to be occupied by the proposed facility and convey the remaining approximately 79.16-acre portion of the parcel that is not to be occupied by the proposed facility to the Winchester Land Trust. The portion of the parcel to be conveyed to the Winchester Land Trust includes the northern and eastern slopes of the hill, a former farm pond, several wetlands and intermittent watercourses, two vernal pools, and woodlands. A proposed site plan is attached.

Proposed Project

The proposed solar facility consists of one array totaling 1.99 MW AC.³ It consists of 7,908 solar photovoltaic modules installed on the southern portion of the hill at a 25 degree tilt facing south. The panels will be installed in a portrait orientation on a fixed-post racking system arranged in 23 rows oriented in an east-west direction across the site. Inter-row spacing from panel edge to panel edge would be approximately 15 feet with the height of the panels approximately 11 feet above ground level. The panels are rated at 340 to 380 watts DC with a maximum efficiency of 19.5 percent, and an expected degradation rate of 0.3 to 0.4 percent per year.

The racking posts would be embedded to a depth of 5 to 7 feet below grade. Soil testing completed at this site indicates the posts can be installed without hitting bedrock. If bedrock was encountered, post installation could be accomplished using concrete foundations or by moving the post to a more favorable area.

Wiring from the panels would be routed along the racking system then underground to sixteen inverters mounted on a concrete pad to the west of the array. The inverters have a design life of approximately ten years and would be replaced when necessary. The 30-foot by 15-foot concrete pad would also support a single transformer and switchgear cabinet.

³ Taking into account the transformer and line losses, LSE estimates a maximum output at the point of interconnection of approximately 1.931 MW AC.

An underground three-phase 23 kV line would extend approximately 900 feet from the pad mounted switchgear to a riser pole installed at the west end of the property. Two additional wood utility poles would be installed to provide interconnection to an existing Eversource 23-kV overhead distribution circuit along Platt Hill Road.

The projected annual capacity factor for the proposed Project is 19.1 percent. The project is not designed to operate as a microgrid nor is it designed to accommodate a future battery storage system.

Access to the site would be from a new 12-foot wide gravel road extending east from Platt Hill Road that generally follows the route of a logging path. The access road would extend due east to the solar array, with a southward extension along the western side of the solar array terminating at a 30-foot by 30-foot gravel parking area. The total length of the access road is approximately 1,400 feet.

The Project would be enclosed by a 7.5-foot high chain-link fence with a single solar array access gate near the equipment pad area.

To develop the access road, solar array, and stormwater features, approximately 14.2 acres of the site would require clearing, and of that, approximately 9.0 acres would require grubbing. Although site disturbance would be kept to a minimum to the extent feasible, grading will be required for installation of the access road, equipment pad, stormwater control features, as well as to smooth out areas of grubbing. The solar array is proposed on a range of slopes, from almost flat at the summit of the hill to grades that exceed 15 percent along the eastern side of the hill. In total, approximately 1.25 acres of the solar array exceed slopes of 15 percent.

A 0.25 acre project laydown area containing equipment areas, an office trailer, soil and wood chip stockpiles and a concrete washout station would be established in the old field area along Platt Hill Road.

A site plan showing the proposed solar facility layout is attached.

Construction is expected to begin in the Fall of 2020 with tree removal and grubbing along with installation of soil erosion and sedimentation controls. If work does not commence by December 2020, LSE would commence work in the following Spring. Project construction would occur over 3 to 4 months. Construction hours would be from Monday through Saturday between the hours of 7:00 AM and 5:00 PM.

After solar array construction is completed, the following inspections would occur: Eversource energization approval and testing; electrical inspection and electrical permit closing; stormwater control inspection and permit closing; and site inspection and building permit closing.

Public Safety

The proposed project would meet or exceed applicable local, state, national and industry health and safety standards and requirements including, but not limited to, the National Electric Code, National Electric Safety Code and applicable National Fire Protection Association codes and standards. The Petitioner has not yet consulted with the local fire marshal regarding the requirements of National Fire Protection Association Fire Code Section 11.12.3 (Ground-Mounted Photovoltaic System Installations).

Remote monitoring of project operation would occur on a 24/7 basis via a data acquisition system, which has the capability to send alarms identifying communication and power generation issues should they occur. In the event of a fault or power outage within the solar facility or on the Eversource distribution circuit, the Project would be isolated from the distribution circuit at the switchgear location. In the event there is an issue with an inverter serving a section of the array, the inverter would fault and restrict power flow within the array section experiencing the issue, allowing for the remainder of the Project to continue operating.

The Petitioner would ensure that first responders are trained in the procedures necessary to address the event of a fire or emergency. In addition, the Petitioner would ensure that Project access is provided to first responders.

A private floatplane landing is located on Highland Lake approximately 1.25 miles from the site. The Federal Aviation Administration (FAA) issued Determinations of No Hazard to Air Navigation for the project and a glare analysis is not required.

Noise modeling of the Project inverters, indicates that Project operational noise would not exceed 13.91 dBA at the nearest property line (320 feet northwest of inverter pad). Noise associated with Project construction would be temporary in nature and exempt per DEEP Noise Control Regulations.

Environmental Effects and Mitigation Measures

Historic and Recreational Resources

The project would have no effect on State or nationally listed historic resources. Three locally-listed historic structures were identified near the site but the project would not be visible from these structures due to intervening vegetation and area topography.

The SHPO recommend an archeological survey prior to construction activities on the site. LSE conducted subsequent field evaluations of the Project area and found no areas of archaeological significance or areas potentially eligible for the national or state registers of historic places. Subsequently, SHPO determined that no historic properties would be impacted by the proposed project.

Existing openings in two stonewalls would be widened to accommodate the access road. A stone wall parallel to the access road from Platt Hill Road would remain in place.

No blue blazed hiking trails maintained by the Connecticut Forest and Parks Association are in the immediate Project area.

Visibility

The project is set back from Platt Hill Road by approximately 900 feet. Vegetation surrounding the site is heavily forested and contains steep slopes that limit area development.

The nearest residential properties to the solar array area are the Kolek property, approximately 130 feet northwest of the clearing limit, and the Guillett property, approximately 178 feet to the northwest. Due to heavily forested terrain between the clearing limits and the property lines, no Project visibility is expected outside of the host property.

Potential observation points from abutting properties to the northeast, north and west would be screened by existing forest.

Agriculture

Approximately 6.25 acres of prime farmland soil is located on the site. Once approximate 4.0-acre area is near Platt Hill Road and the second area, approximately 2.25 acres, is on the north side of the central hill. Neither would be impacted by the Project.

Wetlands and Watercourses

Two intermittent watercourse/wetland corridors are located on the western portion of the site that drain from north to south, eventually reaching Taylor Brook, a cold water fishery south of the Project site. The proposed access drive

would cross the wetland/watercourse areas in locations previously approved by the Town as part of the town-approved, but never constructed subdivision. The access road crossing would feature boulder headwalls to minimize the extent of fill and 15-inch HDPE pipe installed within the watercourse to convey flows under the access road. Crossing watercourse #1 (closest to Platt Hill Road) would impact 775 square feet of wetlands and require 83 cubic yards of fill material. Crossing watercourse #2 would impact 842 square feet of wetlands and require 106 cubic yards of fill material.

The access driveway that extends along the west side of the solar array would be approximately 116 feet to the wetland #2 boundary at it nearest point. Tree clearing along the west access drive would range from 60 to 100 feet from the wetland #2 boundary.

A stormwater detention basin would be constructed adjacent to wetland #2 with two rip rap basin discharge aprons constructed on the edge of the wetland/watercourse corridor. A 5-foot to 10-foot wide wooded wetland buffer would be maintained along the northwest side of the stormwater basin.

Two larger wetland areas and a few wetland seep areas are located along the sides and base of the hill to the northeast and to the east. The solar array is approximately 280 feet southeast to the nearest hillside wetland seep and 415 feet southeast to the large wetland area in the southeast corner of the property.

Two small vernal pools were identified during a property survey in 2005 on the lower slopes of the hill in the northeast portion of the property, with the closest vernal pool approximately 468 feet from the solar array development area. A second site visit in 2019 by a wetland scientist did not identify any other vernal pools in the Project area.

A site map showing wetland/watercourse resources is attached.

Wildlife

The Project development area consists predominantly of second growth forest and former agricultural land, with the remaining areas consisting of wetland and watercourse habitats. Wildlife expected to be found at the site are species that would utilize larger tracts of woodland such as chipmunk, squirrel, deer, wood thrush, downy woodpecker and wood frog. The wetland areas were identified in a property study (2005) as having well developed tree, shrub and herbaceous layers that are valuable to wildlife.

Once construction is completed, native meadow seed mixtures would be applied within the solar array area for site stabilization and habitat improvement. Areas that were cleared but not grubbed would also be seeded and managed in a shrub state.

The perimeter site fence would include an eight-inch gap above grade to allow for small wildlife movement through the site.

LSE requested a DEEP Natural Diversity Database (NDDDB) review in October 2019 and DEEP responded on February 28, 2020, indicating that two aquatic species were identified in the watershed and downstream of the project area: bridle shiner (State Special Concern) and eastern pond mussel (State Special Concern).

LSE submitted a report on these two species to DEEP on March 27, 2020, indicating that the shiner and mussel are found in watercourses downslope of the site and that these species are susceptible to adverse water quality impacts. These species are not expected to be present on the on-site intermittent watercourses. To minimize water quality impacts to the intermittent watercourses that drain to the NDDDB area, LSE would maintain a 100-foot wooded buffer between the intermittent watercourses and site clearing, except for the access road crossings, and would implement an erosion control plan that includes project phasing and an on-site erosion control monitor. DEEP responded to LSE by email on April 3, 2020 by accepting the erosion control plan without further recommendations.

The Petitioner's consultation with DEEP NDDB did not identify any bats or bat habitat that may occur at the site.

Forest and Parks

The forested areas of the site consist of northern hardwoods and small stands of white pine in the southeastern portion of the site, with trees typically 50 feet in height. A selective timber harvest was conducted on a portion of the property in 2006 with approximately 700 trees harvested. Due to residential development and local roads in the surrounding area, the site is not defined as core forest. Approximately 14.2 acres of forest on the site would be cleared for the project.

Platt Hill State Park Scenic Reserve is approximately 0.5 mile north of the proposed facility. Paugnut State Forest is approximately 0.25 mile east of the facility. Neither area is developed with recreational areas or formal hiking areas.

Air Quality

The project would comply with air regulations and would not require an air permit. The solar project would not produce air emissions of regulated air pollutants or greenhouse gases during operation.

Water Quality

The Project site is located within the Federal Emergency Management Agency-designated unshaded Zone X, an area outside of the 100-year and 500-year flood zones. The site is not located within a DEEP-designated Aquifer Protection Area.

Groundwater in the area is classified as GA, suitable for consumption without treatment. The nearest residential well is approximately 800 feet from the solar array. No blasting would be conducted at the site to install the facility and therefore no site blasting will be necessary for the Project, there would be no impact to residential wells.

Stormwater

Pursuant to CGS Section 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) requires implementation of a Stormwater Pollution Control Plan 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.

All aspects of Project construction phasing, erosion and sedimentation control methods, and temporary and permanent stormwater control features are reviewed and approved by DEEP as part of the Stormwater Permit registration. No site construction activities can occur until the Stormwater Permit is issued. The Stormwater Permit includes a Stormwater Pollution Control Plan (SWPCP) that requires appropriate construction phasing and the establishment of erosion control features in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* (E&S controls) and the *2004 Connecticut Stormwater Quality Manual*. DEEP has the authority to enforce Project compliance with the SWPCP.

LSE proposes to construct the Project in four main phases, as follows: Phase 1 - Tree and brush removal and installation of E&S controls; Phase 2 - Grubbing and construction of access road and stormwater swales and basin; Phase 3A - Grubbing and construction of northern half of solar array followed by 75 percent stabilization; Phase 3B - Grubbing and construction of southern half of solar array. Perimeter E&S controls would include a mix of wood chip berms and compost sox. No temporary sediment traps are proposed since the size of Phase 3A and Phase 3B are less than five acres each.

LSE would scarify the ground surface in disturbed areas after installation of solar modules is complete to loosen any compacted soils prior to final seeding. The loosened soil would promote vegetation growth leading to stabilized soils. The scarifier would be mounted on a small tractor and is sized to extend under the panels.

The Petitioner proposes to install a wetland stormwater detention basin to allow for treatment of non-point stormwater pollution sources. A basin of this type requires a location where the bottom of the basin would be below the seasonal high groundwater table to maintain a saturated condition. The only area for this type of basin would be adjacent to or within 50 feet of the delineated wetlands.

Grass lined parabolic swales, two feet in depth, would be constructed along the east, west and south sides of the project development area to collect and direct stormwater to the wetland stormwater basin located adjacent to wetland #2. A separate 180-foot long connector swale would convey flows downhill from the solar array perimeter swales to a wetland stormwater basin. The basin would have up to a 6 to 8-foot high embankment on the south side and would feature a 6-foot deep plunge pool. Five 8-inch high shallow berms in the basin bottom to provide directional stormwater flow before discharging through an outlet pipe/control structure to the adjacent wetland. The basin bottom would be seeded with wetland plants.

The *2004 Connecticut Stormwater Quality Manual* recommends consultation with the DEEP Dam Safety program for stormwater impoundments that are constructed through the use of embankments such as stormwater retention/detention ponds, stormwater wetlands, and infiltration basins. The Petitioner has not consulted with the Dam Safety program.

Decommissioning Plan

A Decommissioning Plan has provisions for the removal of the solar array after the end of its useful life, estimated to be at least 20 years. The lease between Mayland Energy, LLC and LSE contains provisions for site restoration, as well as requirements for removal of project-related equipment from the property upon termination of the lease or cessation of project operation. Following the removal of project related equipment, the solar array area would be restored to preexisting conditions to the extent feasible, including re-vegetation of disturbed areas. The access road and perimeter swales would be left in place. The wetland stormwater basin would also be left in place but the outlet control structure would be removed, leaving the outlet pipe to allow water to drain from the basin to adjacent wetland #2.

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 was selected under the state's LREC/ZREC Program and would further the state's VNM Program.

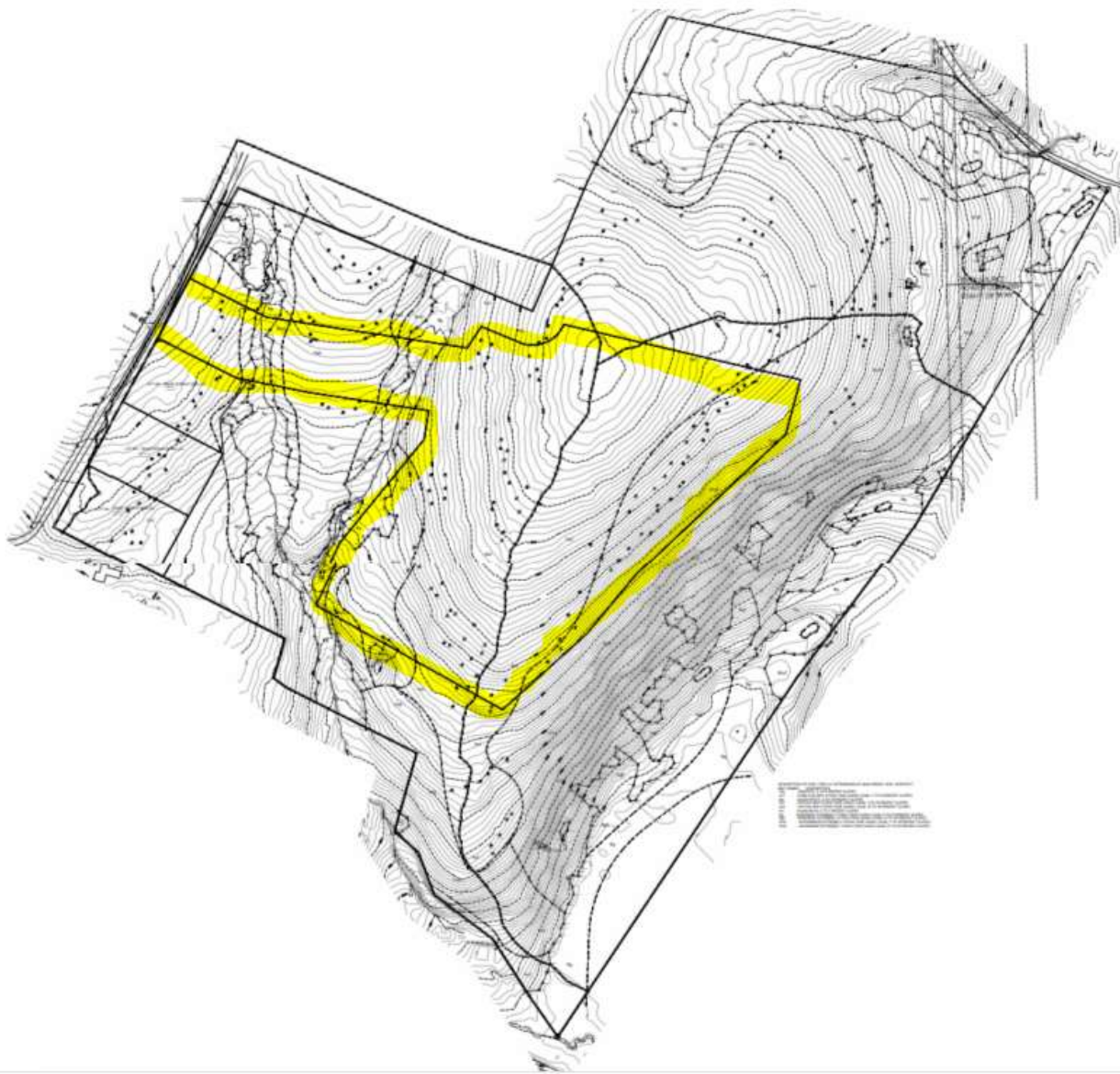
Recommendations

If approved, staff recommends inclusion of the following conditions:

1. Approval of any project changes be delegated to Council staff;
2. Install perimeter fencing with an eight-inch gap between the ground and the bottom of the fence, except for areas where enhanced security may be necessary;
3. Install silt fence or compost sox as primary E&S controls in all downgradient perimeter areas. Mulch berms shall only be used as a secondary barrier;
4. Remove erosion control compost sox mesh cover upon site stabilization and spread wood chip/filler material evenly in adjacent areas;

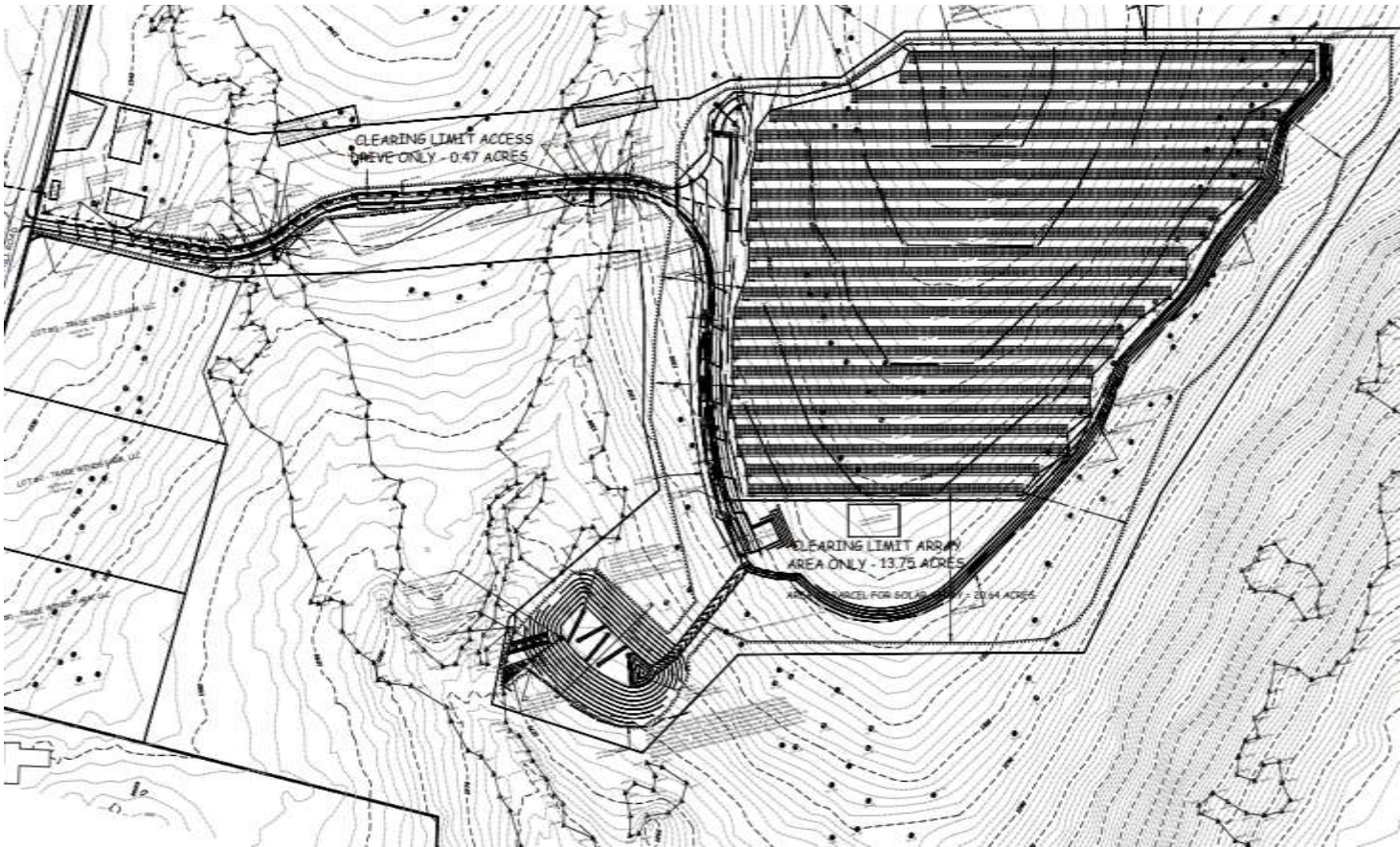
5. Consult with the local fire marshal regarding the requirements of National Fire Protection Association Fire Code Section 11.12.3 prior to construction and submit correspondence of such consultation to the Council;
6. Submit a copy of a DEEP-approved Stormwater Permit prior to the commencement of construction; and
7. Consult with the DEEP Dam Safety program regarding permitting requirements, if any, for the proposed stormwater basin prior to site construction.

Proposed Site

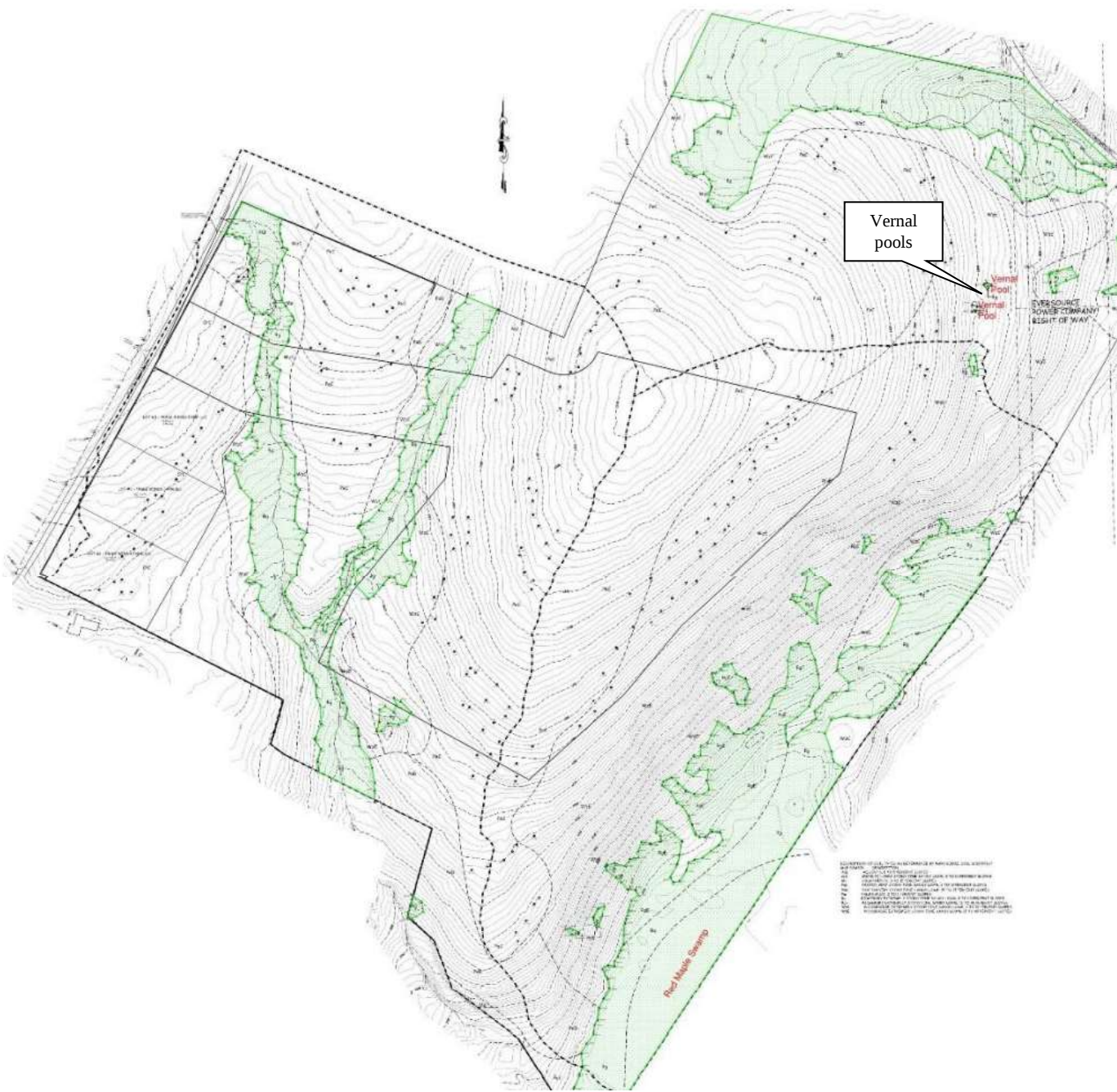


Proposed solar facility site highlighted in yellow.

Proposed Project Site Plan



Wetland/Watercourse Areas



ATTACHMENT A

Town of Winchester comments dated June 2, 2020
(not including attachments)



Marianne Barbino Dubuque
Partner
Direct: 203-578-4218
Fax: 203-575-2600
MDubuque@carmodylaw.com

50 Leavenworth Street
P.O. Box 1110
Waterbury, CT 06702

June 2, 2020

VIA ELECTRONIC MAIL

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

Re: Petition #1398 LSE Pictor, LLC

Dear Attorney Bachman:

The Town of Winchester (the "Town") appreciates the opportunity to offer comments in the Petition #1398 proceeding and the courtesies it received with the granting of extensions of time to properly complete its analysis. The Town fully understands the jurisdiction of the Connecticut Siting Council (the "Council") under Connecticut General Statutes Section 16-50k(a); thus, the Town is endeavoring to participate within that framework in a constructive manner.

In order to assist the Council in its review of Petition #1398, the Town respectfully offers the following comments and insights, along with its requests. The Town's requests are summarized in Exhibit A, for the Council's convenience.

Environmental Review

This office retained Soil Science and Environmental Services, Inc. ("SSES") to review the documents relating to the wetland delineation and wetland resources. I have attached the SSES Report dated May 19, 2020, along with the resumes of Scott D. Stevens and Jennifer L. Beno, who conducted such review. See Attachment 1.

The Town requests that the Council consider requiring the Petitioner to adhere to the following recommendations of SSES:

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carmodylaw.com



Page 2

- Prepare a vegetation management plan to prevent invasive species from potentially becoming established and colonizing cleared areas of uplands, wetlands, and wetland creation area during the solar array use and after the site has been decommissioned;
- Follow-up with CT DEEP Fisheries as recommended in the CT DEEP NDDB response letter dated February 28, 2020;
- Update soil symbols from letters to numbers on the site plans; and
- Re-establish the wetland boundary flags closest to the project area so contractors will see clearly defined wetland boundaries.

Emergency Services

The Winsted Fire Department is responsible for fire protection for the entire Town. The Winchester Center Volunteer Department services the district in which the proposed solar installation would be located. Both Fire Departments, which are staffed primarily by volunteers, would likely respond to an emergency event at the proposed site.

The Chiefs of the Fire Departments request that the Council require that:

- access to the interior solar farm be sufficient for fire apparatus (a width of 16 feet is recommended along with a turn-around area) and be well-maintained, including snow plowing, grading to maintain a smooth surface if gravel, and brush or tree removal, to allow fire truck access without causing damage to Department vehicles;
- site-specific training be provided to the Fire Departments with an annual update with Department officers to ensure that there are no significant changes to training protocol; and
- a Knox Box be provided with all necessary keys for access by the Fire Departments during any emergency.



Page 3

Engineering Review

James Rollins, Director of Public Works of the Town and Bart Clark, P.E., Project Administrator of Public Works, were asked to review the revised site plans and the Petitioner's Responses to the Council's Interrogatories. I have attached the Memorandum of the Public Works Department dated May 27, 2020. See Attachment 2. Please note that as the Director of Public Works, Mr. Rollins plans, organizes, supervises and inspects work in the construction, maintenance and repair of public streets, drainage systems and bridges, water source and distribution systems, sanitary sewage collection and disposal systems, cemeteries and trees and parks. Additionally, Mr. Rollins was formerly an excavating contractor for 30 years, handling site work on residential, commercial and industrial projects, and Mr. Clark is a Professional Engineer and has 30 years' experience with site design and the review of commercial, residential and municipal projects.

The Town requests that the Council consider requiring the Petitioner to address the issues identified in this Memorandum. In particular, the Town wishes to highlight the following issues:

- Fragile condition of the existing road system (See Memo - Site Plans, p. 1, #3);
- Construction impacts with measures to lessen such impacts, in particular, construction phasing, including limiting Phase 1 to the construction of the driveway, construction trailer and staging areas only, to prevent damage to the wetlands by construction equipment; improvements to driveway design and details; concerns with stump grinding and the eastern grass swale (See Memo - Site Plans, p. 1, #4, p. 2, #9, p. 3, #13, p. 4, #23, #27, p. 5, #29 and Memo - Interrogatory Responses, p. 6, #6 and p. 7, #12);
- Advisability of a small maintenance building on site with sanitary facilities (See Memo - Site Plans, p. 2, #7); and
- Use of the constructed wetland as a temporary sediment basin during construction (See Memo - Site Plans, p. 3, #16 and p. 4, #28).

(W3218817)



Page 4

Stormwater Management

The Town understands that the CT DEEP, not the Council, has the final authority over stormwater management issues and in fact, that in January of 2020, the CT DEEP issued a new guidance on stormwater management for solar array projects.

Representations by the Petitioner

In response to CSC-01-24, the Petitioner indicated that no blasting would be necessary for the project. Given the potential detrimental impacts that can occur from blasting, especially to drinking water wells in the vicinity of the site, the Town requests that the Council be explicit in its final decision by prohibiting blasting.

Similarly, in response to CSC-01-62, the Petitioner states that no pesticides or herbicides would be used on site. Finally, in its Operations and Management Plan, the Petitioner states that no chemicals or additives would be used to clean PV modules. The Town requests that the Council be explicit in its final decision by prohibiting the use of pesticides or herbicides on site and the use of chemicals or additives to clean PV modules.

Information Needed from the Petitioner (requested in the Council's Interrogatories)

The Town notes that the following information was not provided yet or was incomplete and requests that the Petitioner be required to provide such information before the Council renders its decision:

- archeological assessment requested by the State Historic Preservation Office [CSC-01-48];
- exact provisions in the Lease Agreement with the property owner related to site restoration at the end of the project's useful life [CSC-01-07];
- detailed winter work procedures for each phase that address construction erosion and sediment control as well as stabilization of stormwater control swales and the wetland detention basin if winter work occurs [CSC-01-36] Note that the Petitioner merely indicated that

[W3218817]



Page 5

additional erosion control measures would be implemented if winter work occurred, without providing any details; and

- an explanation as to how the depth of the conical plunge pool would be cleaned of sediment without damaging the sides [CSC-01-47].

Operations and Maintenance Plan

The Town requests that the Council require the Petitioner to submit, prior to its decision:

- qualifications for the O&M Manager;
- location of data acquisition center and proximity to Winchester; and
- maintenance steps to be taken if the inspections detect any of the potential conditions listed in the Plan, including cracks, rust, corrosion, insect or rodent infestation.

Decommissioning Plan

The Petitioner's Decommissioning Plan generally calls for removal of all associated components of the project. The Plan does not specifically address removal, transport and proper disposal of any hazardous waste. To the extent any hazardous waste would be generated, the Town requests that the Plan be required to address these hazardous waste issues.

Moreover, because the Petitioner is a single-site limited liability company, the Town requests that the Council require that a bond for estimated removal costs, based on the projected decommissioning date, be posted with the Council or the Town so that taxpayers are not left to bear the cost of any decommissioning, if the limited liability company is no longer solvent.

Donation of Approximately 75 Acres to Winchester Land Trust

The Town strongly supports the donation of approximately 75 acres of the existing property to the Winchester Land Trust and looks forward to its capable stewardship over such property for generations to come.

(W3218817)



Page 6

General

Given the complexities of the constructed wetland and swales, the planned clearing of trees, and the potential issues identified in the Public Works Department Memorandum, the Town requests that the Council require an independent third party environmental inspector to monitor proper implementation of the site plans, including effective erosion and sedimentation control measures to protect the on-site and nearby sensitive resources, and to report his/her observations directly to the Council.

In conclusion, the Town respectfully offers its comments and insights, along with its requests and thanks the Council and its staff in advance for its thoughtful consideration.

Very truly yours,
CARMODY TORRANCE SANDAK &
HENNESSEY LLP

By Marianne A. Dubuque
Marianne Barbino Dubuque

MBD/mkw
Attachments

cc: Mr. Robert Geiger, Town Manager
Connecticut Siting Council (1 hard copy)
Mr. Jeffrey Macel, Principal (jmacel@lodestarenergy.com)
Carrie Larson Ortolano, Esq. (cortolano@lodestarenergy.com)

(W3218817)



Exhibit A

Summary of Town's Requests

A. Of the Petitioner

1. SSES Recommendations

- (a) Prepare vegetation management plan
- (b) Follow-up with CT DEEP Fisheries
- (c) Update soil symbols
- (d) Re-establish wetland boundary flags

2. Fire Department Recommendations

provide:

- (a) Access to the interior solar farm 16 feet in width, to be well-maintained
- (b) Site-specific training to the Fire Departments with an annual update to Department officers
- (c) Knox Box

3. Public Works Department Recommendations

- (a) Avoid stone walls
- (b) Consider design of road systems and furnish surveys
- (c) Consider adding a small maintenance building
- (d) Relocate and protect stockpile areas
- (e) Address concerns about drying due to the grass swale diverting water to the west
- (f) Provide temporary construction road and temporary storage area for drying of excess soils with erosion and sediment controls



- (g) Modify design of service and emergency spillways
- (h) Provide appropriate rebar on the outlet structure
- (i) Provide more information, including height, for the boulder wall at the driveway through the wetland crossings
- (j) Phase construction with Phase 1 limited to the construction of the driveway, construction trailer and staging areas only, with appropriate erosion controls
- (k) Construct the constructed wetlands after the site is stabilized and use roughed out area for constructed wetlands as a temporary sediment basin during construction
- (l) Conduct appropriate seed bed preparation after stump removal to avoid erosion
- (m) Pay close attention to preventing sloughing of slopes
- (n) Provide actual slopes, not average slopes, for the paths along the east side of the arrays
- (o) Provide grass swale vegetation management plan

4. Interrogatory Responses

provide:

- (a) Archeological assessment requested by State Historic Preservation Office
- (b) Exact provisions in Lease Agreement related to site restoration at end of project's useful life
- (c) Detailed winter work procedures for each phase
- (d) Explanation as to how the depth of conical plunge pool would be cleaned



5. O&M Plan Information

provide:

- (a) Qualifications of O&M Manager
- (b) Location of data acquisition center and proximity to Winchester
- (c) Maintenance steps to be taken if inspections detect any potential conditions listed, including cracks, rust, corrosion, insect or rodent infestation

B. Of the Council

1. Prohibit in the decision documents:

- (a) Blasting
- (b) Use of pesticides or herbicides on site
- (c) Use of chemicals or additives for cleaning the PV modules

2. Require an independent third party environmental site inspector

3. Require construction phasing

4. Require a bond for estimated removal costs based on projected decommissioning date

(WJ210017)

Attachments

- 1. SSER Report with Resumes
- 2. Public Works Department Memorandum

ATTACHMENT B

CEQ comments dated May 27, 2020



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

Keith Ainsworth

Alicia Charamut

David Kalafa

Lee E. Dunbar

Alison Hilding

Kip Kolesinskas

Matthew Reiser

Charles Vidich

Peter Hearn
Executive Director

May 27, 2020

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

RE: PETITION NO. 1398 - LSE Pictor, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a 1.99-megawatt AC solar photovoltaic electric generating facility on an approximately 104 acre parcel located off of Platt Hill Road, Winchester, Connecticut.

Dear Ms. Bachman:

The Council on Environmental Quality ("the Council") supports the development of clean, renewable energy technologies on appropriate sites in Connecticut. The Council offers the following comments with regard to Petition No. 1398 (Petition):

1. Proposed Project Site

The Council commends the Petitioner for their efforts to preserve portions of the site from any future development donating seventy-five (75) acres of the Site to the Winchester Land Trust, conditioned upon approval of this project and commencement of the site lease.

2. Stormwater and Erosion Controls

The Council urges strict adherence to the Department of Energy and Environmental Protection (DEEP) "General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities". In areas where the construction is planned for slopes, adherence to the procedures described in Appendix I of DEEP's proposed revisions to that permit would best prevent unnecessary erosion.

3. Wildlife

The Petitioner also indicated that approximately 1,900 trees will be removed for the proposed project. To protect Northern Long Eared Bat (NLEB) and other bat species that may be seasonally present on the proposed project site, the Council recommends that, if approved, no tree clearing activities be allowed during bat roosting periods.

4. Wetlands

The Petitioner has identified several large wetlands along the northern, eastern, and western portions of the proposed project site. The Council has reviewed the wetland delineation maps and the site plans and questions whether it would be feasible to access the proposed project site from Dayton Road (Vicinity Map, Sheet 8 of 13) in the northeast corner of the property to avoid crossing any wetlands.

The Council recommends that the Petitioner maintain a 100-foot buffer or setback from wetland resource areas where feasible. In addition, the Council recommends that if there are any mature trees within the suggested 100-foot buffer or setback that require clearing for shading abatement only, that the stumps be left to stabilize the soils and reduce possible erosion and sedimentation of the wetlands.

Thank you for your consideration of these comments. Please do not hesitate to contact the Council if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Hearn".

Peter Hearn
Executive Director