



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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www.ct.gov/csc

CERTIFIED MAIL RETURN RECEIPT REQUESTED

September 22, 2015

Kenneth C. Baldwin, Esq.
Joey Lee Miranda, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597

RE: **PETITION NO. 1178** – Fusion Solar Center, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, operation and maintenance of a ground-mounted 20 megawatt solar photovoltaic electric generating facility located on Potash Hill Road, Sprague, Connecticut.

Dear Attorneys Baldwin & Miranda:

At a public meeting held on September 17, 2015, the Connecticut Siting Council (Council) considered and ruled that the above-referenced proposal 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:

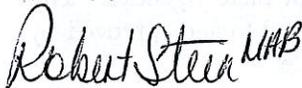
- The Petitioner shall prepare a Development and Management Plan (D&M) for this site in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Sprague for comment and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) A final site plan;
 - b) A wood turtle protection plan;
 - c) A plan to mitigate impacts to the long-eared bat;
 - d) Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control*;
 - e) A stormwater management plan; and
 - f) Landscaping plan consistent with the response to interrogatory number two, dated September 4, 2015;
- 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;

- 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 Town of Sprague;
- 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;
- This Declaratory Ruling may be transferred, provided the facility owner/operator/transferor is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
- If the facility owner/operator is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

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 July 29, 2015 and additional information received on August 13, 2015 and September 8, 2015.

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

Very truly yours,



Robert Stein
Chairman

RS/MP/lm

Enclosure: Staff Report dated September 17, 2015

- c: The Honorable Catherine A. Osten, First Selectman, Town of Sprague
 Joseph Smith, Zoning Enforcement Officer, Town of Sprague
 Honorable Roy Piper, First Selectman, Town of Canterbury
 Melissa Gil, Land Use Director, Town of Canterbury
 Honorable Thomas W. Sparkman, First Selectman, Town of Lisbon
 Robert D. Adams, Chairman, Planning and Zoning Commission, Town of Lisbon
 Nelson Teague, Fusion Solar Center, LLC, c/o Coronal Development Services, LLC
 Estelle Houle and Gale Boardman, 57 Potash Hill Road, Sprague
 Allen and Charlotte Rainville, 111 Potash Hill Road, Sprague
 Lawrence Nadeau Construction Company, Inc., 130 Winter Park Road, Southington



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Petition No. 1178

Fusion Solar Center, LLC

Potash Hill Road, Sprague

Staff Report

September 17, 2015

Introduction

On July 29, 2015, Fusion Solar Center, LLC (FSC or Petitioner) submitted a petition to the Connecticut Siting Council (Council) for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need (Certificate) is required for the construction, operation and maintenance of a 20 megawatt (MW) alternating current (AC) solar photovoltaic generating facility located at Potash Hill Road in Sprague, Connecticut. Council members Robert Hannon and James Murphy, Jr. and Council staff members Michael Perrone and Cyman Holzschuh visited the site on August 26, 2015 to review this proposal. Attorney Kenneth Baldwin, Robinson & Cole LLP (representing FSC); David Rooney, Director – Northeast Development, Coronal Development Services, LLC (CDS); Ben Combs, Senior Project Engineer, CDS; Joe Devine, Civil Engineer, Fuss & O’Neil; Michael Libertine, Director of Siting and Permitting, All Points Technology Corporation (APT); Matthew Gustafson, Environmental Scientist and Forester, APT; Catherine Osten, First Selectman, Town of Sprague and State Senator, District S19 attended the field review. Supplemental information requested at the field review was received on September 8, 2015.

The Petitioner notified the Towns of Sprague, Canterbury, and Lisbon and abutting property owners of the proposed project. The Council has not received any comments from abutters. At the field review, First Selectman Catherine Osten expressed her support for the proposed project.

Municipal Consultation

Prior to the submission of the Petition to the Council, FSC held a meeting with First Selectman Osten on December 15, 2014. FSC held a public presentation and information session (attended by First Selectman Osten and citizens of Sprague) on the project on April 14, 2015. Comments from residents included a request for additional screening of the project with landscaping along Potash Hill Road. On June 8, 2015, FSC conducted outreach to the Towns of Lisbon and Canterbury. By letter dated June 22, 2015, First Selectman Osten indicated that the Town of Sprague supports the proposed project.

Public Benefit

The project would be a “grid-side distributed resources” facility, as defined in Connecticut General Statutes (CGS) § 16-1(a)(37). CGS § 16a-35k establishes the State’s energy policies, including the goal to “develop and utilize renewable energy resources, such as solar and wind energy, to the maximum extent possible.” The 2013 Connecticut Comprehensive Energy Strategy emphasizes low- or no-emission sources of electric generation and development of more distributed generation. The proposed facility is distributed generation. In July 2013, this project was selected by the Department of Energy and Environmental Protection (DEEP) under a Request for Proposals (RFP). Specifically, the proposed facility will contribute to fulfilling the State’s Renewable Portfolio Standard as a zero



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emission Class I renewable energy source. Construction of the project is expected to begin in the first quarter of 2016 and completed with commissioning and testing by late 2016.

Proposed Site

The project would be located entirely on the eastern-most 85 acres of the 57 Potash Hill Road property (owned by Estelle Houle and Gale Boardman) and all of the 111 Potash Hill Road property (owned by Allen and Charlotte Rainville). Both properties are located in residential zones and are directly north of Potash Hill Road. Currently, the subject properties are agricultural (i.e. open hay fields) and wooded, with two existing structures located on the 111 Potash Hill Road parcel. In addition, approximately 10 acres of the 111 Potash Hill Road parcel are used for timber harvesting. (FSC has lease options for two other properties: the Westminister Road parcel and the Melgey property; however, the proposed project will not be developed on these sites due to the presence of wetlands and other environmentally sensitive areas.)

Land uses adjacent to the project and within the immediate locale are mostly dominated by agricultural production, industrial manufacturing (including the former Fusion Paperboard site), and to a lesser extent, by residential development and open space.

Proposed Project

The solar field would include 97,000 photovoltaic modules, on a fixed rack system oriented to the south and at an angle of 25 degrees above the horizontal. Approximately 10 to 12 inverters and transformers would be located on concrete pads that are approximately 15 feet wide and 40 feet long. (The maximum height of electrical equipment would not exceed 15 feet. The maximum height of the top edges of the solar panels would not exceed 10 feet.) Electrical wiring to connect the panels would be underground. The electrical distribution line from the project site would be overhead and utilize five new 40-foot poles in order to reach and interconnect with Eversource's overhead electric distribution on Potash Hill Road.

The project would be surrounded by a six-foot chain link fence topped with barbed wire and with a mesh size not to exceed 1.25 inches as an anti-climbing measure. The total project area is approximately 144 acres, of which, 134 acres would be cleared.

The Petitioner would upgrade an existing farm access point for the main access drive to the project site. Such access drive would be gravel and approximately 16 feet wide by 700 feet long. There would also be a gravel perimeter maintenance/access road around the project area, approximately 16 feet wide and 12,400 linear feet long.

Environment, Cultural and Scenic Values

A Phase I Environmental Site Assessment concluded that the site contains one recognized environmental condition, which consists of a farm dump that includes metal containers, old appliances, and scrap metal near an existing access road, that warranted additional investigation or action. Accordingly, a Phase II Environmental Site Assessment was performed and indicated the presence of lead at two sampling locations. The first sample location was beneath a discarded automotive battery located on the 57 Potash Hill Road parcel. The second sample location, which was located near the boundary of both subject properties, included paint cans and rusted metal debris and may be associated with discarded lead paint. FSC's consultant, Fuss & O'Neil believes that the extent of contamination is minimal given the sizes of the apparent source material. The Petitioner

intends to aid the landowners in proper remediation, including the disposal of the underlying soil using appropriate handling precautions and further sampling, to ensure that contaminants are properly remediated.

Site development would require the clearing of 134 acres of trees or the removal of approximately 21,130 trees with a diameter of six inches or greater to achieve a 4.6 percent shading loss. However, achieving a perfect zero percent shading loss would result in an even greater number of trees to be cleared. In order to partially mitigate the amount of tree clearing, the Petitioner has determined that an average annual shading loss of 4.6 percent is acceptable and incorporated that into the design.

Minimal grading would be required for the installation of the solar racks due to FSC's use of pile-driven or ground screw foundations. No significant cut or fill operations would be expected.

The project would be registered under the DEEP's General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities at least 30 days prior to commencing any construction activities. FSC would also implement a stormwater management plan. An erosion and sedimentation control plan would be prepared prior to final site design. If approved, staff recommends including a condition that a stormwater management plan and an erosion and sedimentation control plan be filed for Council approval prior to construction.

The Petitioner has performed a Carbon Debt Analysis. While the loss of trees necessarily reduces carbon capturing ability, the carbon dioxide emissions reductions due to the solar power displacing more traditional generation (which includes fossil-fueled generation) results in a very rapid "carbon payback" of about three days of full energy production. Thus, the proposed project would very rapidly result in a net reduction in carbon dioxide emissions for the environment.

A Decommissioning Plan was included in the Petition and has provisions for project removal after a service life of up to 35 years.

The project would have no adverse environmental effect to air or water quality. The solar project would not produce air emissions of regulated air pollutants or greenhouse gasses during operation. No public water supply wells or aquifer protection areas are located in a one-half mile radius of the site.

The majority of the project is located in upland areas. One large wetland complex with six vernal pools is located to the east. While the project clearing limits would extend within nine feet of the wetland, no clearing would occur within the wetland. FSC has included a Wetland Protection Program including compliance with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control*. The project fenceline would have a 100-foot setback distance from all wetlands and a vernal pool buffer of about 280 feet. Although the project does fall within the critical terrestrial habitat (i.e. 100 to 750 feet) of the wetland's vernal pools, the project is designed in accordance with the Klemens and Calhoun 2002 guidelines.

By letter dated June 12, 2015, DEEP has determined that the clustered sedge (a State-designated Threatened Species), the long-eared bat (a State-designated Endangered Species and federally-designated Threatened Species), and the wood turtle (a State-designated Species of Special Concern) may occur in the vicinity of the proposed project. DEEP also noted that bald eagles nest along the Quinebaug River, several miles east of the project.

Suitable habitat for the clustered sedge does not appear to exist within the project area. No adverse impact to the bald eagle is expected because of the distance. No hibernaculum or breeding/roosting habitat for the long-eared bat is known to exist in the vicinity of the site. However, as a precaution,

if approved, staff recommends including a condition that a plan to mitigate possible impacts to the long-eared bat be submitted for Council review and approval prior to construction. While it is unlikely that the wood turtle would utilize the project area, the potential exists for the wood turtle to utilize portions of the adjacent wetland. If approved, staff recommends including a condition that a wood turtle protection program be submitted for Council review and approval prior to construction.

The State Historic Preservation Office (SHPO) has determined that no historic properties would be affected by the proposed project. SHPO recommends the avoidance of all fieldstone walls and stone wall segments to the greatest extent possible. Council staff notes that some existing stone walls are located within the western portion of the project footprint, but recommends including a condition that the removal of existing stone walls shall be minimized where possible.

Visibility of the project would be minimal due to existing surrounding tree cover on the north, east, and west sides of the project. The only area of possible visibility would be the southern boundary of the site as viewed from Potash Hill Road. Accordingly, in response to requests for additional visual screening along Potash Hill Road, FSC is amenable to planting shrubs and/or trees (no taller than eight to ten feet at maturity) along Potash Hill Road. Specifically, FSC is willing to plant along the southern edge of 111 Potash Hill Road property along Potash Hill Road and extending north and west to the residence at 111 Potash Hill Road. The Petitioner is also willing to extend the plantings to the west behind the residence at 111 Potash Hill Road to a point adjacent to the existing tree line. Council staff notes that this proposed planting scheme would minimize the visibility and improve the aesthetics of the project as viewed from Potash Hill Road. If approved, Council staff suggests including a condition that includes the planting design indicated in the interrogatory responses received on September 8, 2015.

There is an existing stone wall on the 111 Potash Hill Road property along Potash Hill Road that is concealed by overgrown brush and foliage. As an additional measure to improve aesthetics, FSC is amenable to clearing significant portions of the brush and foliage along the existing stone wall and enhancing the stone wall, as economically viable, with materials removed from other locations from the project site.

Conclusion

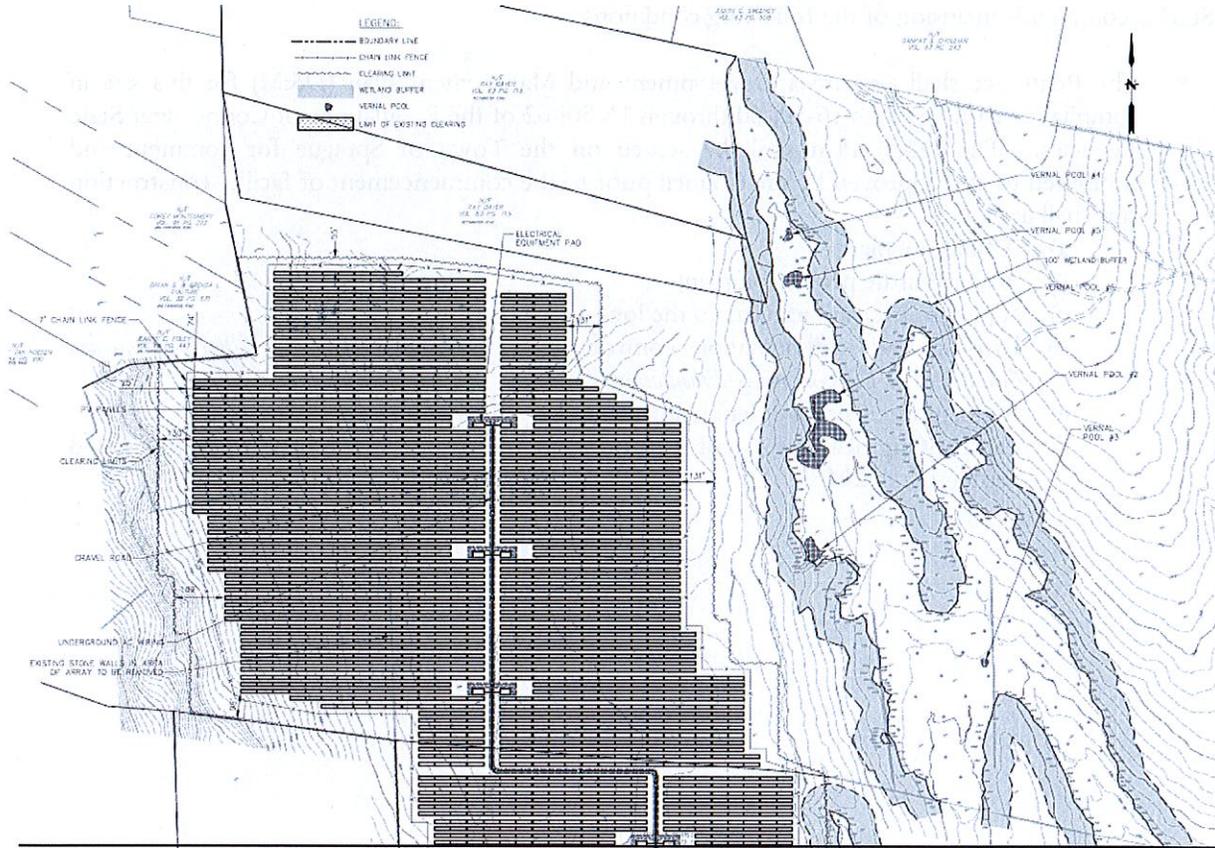
The Petitioner contends that pursuant to CGS § 16-50k(a), the Siting Council shall approve by declaratory ruling the construction or location of “any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as such project meets air and water quality standards of the Department of Energy and Environmental Protection.” The proposed project meets these criteria. The proposed project will not produce air emissions, will not utilize water to produce electricity, was designed to minimize wetland impacts, and furthers the State’s energy policy by developing and utilizing renewable energy resources and distributed energy resources. In addition, as demonstrated above, the proposed project will not have a substantial adverse environmental effect.

Recommendations

Staff recommends inclusion of the following conditions:

- The Petitioner shall prepare a Development and Management Plan (D&M) for this site in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Sprague for comment and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) A final site plan;
 - b) A wood turtle protection plan;
 - c) A plan to mitigate impacts to the long-eared bat;
 - d) Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control*;
 - e) A stormwater management plan; and
 - f) Landscaping plan consistent with the response to interrogatory number two, dated September 4, 2015

Proposed site layout (northern portion of project)



Proposed site layout (southern portion of project)

