

December 14, 2017

VIA ELECTRONIC MAIL

Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06501

RE: Petition 1312 submitted by Candlewood Solar LLC for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 mw AC (26.5 megawatt DC) solar photovoltaic electric generating facility located on a 163-acre parcel at 197 Candlewood Mountain Road and associated electrical interconnection to Eversource Energy's Rocky River Substation on Kent Road in New Milford, Connecticut

Dear Ms. Bachman,

I am writing on behalf of Party and Connecticut Environmental Protection Act Intervenor Rescue Candlewood Mountain (RCM) in regard to the Connecticut Siting Council's (the "Council's") December 8, 2017 draft Findings of Fact. RCM respectfully offers the following suggested revisions and additions:

State Agency Comments

42 k) An overhead interconnection line of 6,961' in length is proposed. Placement of this line underground would be extremely difficult and disruptive. Approximately 10 structures will be in wetlands. Shifting some of the structure locations to remove them from mapped wetlands may be possible, although the wetland impacts of the placement of these poles would be very minor.; The western portion of the interconnection line, shown on Sheet E-200 of Attachment C, traverses very steeply graded terrain. This portion of the line, from the end of the dam to the solar farm, is not marked in any way in the field and there is no map in the Petition sufficiently detailed to follow the alignment in the field.

42 m) Construction projects involving five or more acres of land disturbance require either an individual NPDES discharge permit or they may be eligible for a general permit. If facility decommissioning will cause a soil disturbance of five acres or more, the petitioner may need a stormwater permit from DEEP for that work.

Municipal Consultation and Community Outreach

26) By letter dated June 9, 2017, Town Mayor David R. Gronbach expressed his conditional support for the proposed project noting the provisions of the PILOT Agreement. (Letter from Mayor David R. Gronbach dated June 9, 2017; CS 1, Attachment 6). This was a letter personally written by Mayor Gronbach without any official support from the New Milford Town Council, Town Meeting, or Town Board or Commission approvals.

28) By letter dated July 24, 2017, the Town Planning Commission indicated the proposal is not in contravention with the Town Plan of Conservation and Development (POCD) provided the developer comply with the provisions of the Town Farmland and Forest Preservation Committee (FFPC) memo dated December 7, 2016 that was issued after the FFPC meeting held on November 30, 2016. (Town 3). The POCD lists Candlewood Mountain as a resource to be protected, as a natural diversity area, an area to encourage preservation abutting the zoned Candlewood Lake area for water protection. (Public Hearing, September 26, 2017, Page 30)

30, 32) New Milford's Zoning Commission asks that the project "Require a 100 foot landscape buffer along Candlewood Mountain Road and common property boundaries with single family homes." New Milford's Conservation Commission asks that the CSC "require the establishment of a 60 foot buffer zone surrounding the entire 80 acre project." These concerns must be addressed.

Project Alternatives

94) CS considered use of the Century Brass site, a 72-acre brownfield in New Milford, but it is not large enough to accommodate a 20 MW solar project, contains significant wetland areas and at the time of the investigation, this parcel was under contract to Panda Power, Inc. (CS 12, response 112). A contract with Panda Power has never been executed. The Panda Power proposal first came to the New Milford Town Council on October 11, 2016. No contracts had been executed or shared with the Town Council or Town Meeting, in which body the approval of said contract would have been vested.

93-98) CS states that "The proposed site is the only site CS was able to secure that had willing landowners, adequate acreage and close proximity to existing electrical infrastructure. [(Tr. 3, p. 13), (CSC Finding of Fact ("FOF") #93, 94, 95, 98). CS did not look at properties in other municipalities in Connecticut, Massachusetts or Rhode Island for a more suitable property.

The Site

106) The subject property is located in New Milford's Major Planned Residential Development District (MPRDD) #1. (CS 1, Environmental Assessment, p. 12)

110) The MPRDD zoning was established for the subject property approximately 12 years ago to allow for the potential development of a large scale, high-density, multi-story residential complex. Plans for a 508-unit active adult residential development (known as Dunham Farms) were submitted to the Town of New Milford in 2007, but approval was not granted by the Town, and thus, the Dunham Farms project did not go forward. (CS 2, response 10)

The Zoning Commission, may at the request of the property owner, change the zone from NMPRDD, allowing for alternate uses. (Public Hearing, November 14, 2017, Page 55). It is not a case of CS's project versus a 500-unit development. Other alternatives exist.

Project Decommissioning

162) The proposed solar facility would be decommissioned after 20 years. A decommissioning plan has not been finalized. CS would finalize the plan once a decision on this Petition is rendered by the Council. (CS 1, p. 20; CS 12, response 82). A decommissioning plan should be in place at the time of approval.

Wetlands

203) Wetland surveys were conducted in December of 2016 and May of 2017 that identified nine wetland areas and associated watercourses at the project area and along the electric interconnection route. See Figure 6. (CS 1, Environmental Assessment, pp. 4, 5).

Neighborhood Concerns

296) In response to neighborhood concerns, CS reduced the size of the project and associated area of disturbance to avoid slimy salamander habitat, increase-the size of buffers around vernal pools, and avoid-an area of archaeological sensitivity. (CS 13c, p.4; CS13a, p.2; TR.1, p.36)

Wildlife

244) DEEP's Natural Diversity Data Base records show a known extant population of Golden-Winged warbler, a state-endangered bird species. There are four areas on the proposed site identified by the NDDB as being potential habitat suitable for breeding. DEEP requested a site survey report for the bird. Its breeding seasons is from May through July. A site survey was performed on September 12 and 22. (CS 2, response 49; CS 18; DEEP comment letter dated September 21, 2017, page 6 and 11)

257) DEEP requested a survey of the slimy salamander, a state-listed threatened species. During the September 26, 2017 field visit to the site, a small, dark salamander was observed that was identified as potentially being a lead-back salamander or a juvenile slimy salamander. The salamander escaped before identification could be confirmed. (CS 11, response 100, DEEP comment letter dated September 21, 2017, page 6)

RCM also respectfully requests the Council incorporate the following Findings of Fact to accurately reflect the record as follows:

Procedural Matters

On August 29, 2017, the Department of Energy and Environmental Protection (DEEP) submitted a Motion to Deny Declaratory Ruling and Memorandum in Support of Motion to Deny Declaratory Ruling that stated the new provisions of Conn. Gen. Stat § 16-50k in Public Act (P.A.) 17-218 apply to Petition 1312.

In its Memorandum in Support of Motion to Deny Declaratory Ruling dated August 29, 2017, DEEP stated "the Project *will* materially affect the status of core forest land" (emphasis in original) and that "DEEP has not represented, and will not be representing, in writing that the project . . . will not materially affect the status of the land."

On September 19, 2017, the Department of Agriculture (DOA) submitted a Motion in Support of DEEP's Motion to Deny for the reasons set forth in DEEP's Memorandum in Support of Motion to Deny Declaratory Ruling dated August 29, 2017.

On September 19, 2017 Candlewood Solar, LLC (CS) submitted a Response in Opposition to DEEP's Motion that stated the new provisions of Conn. Gen. Stat § 16-50k in Public Act (P.A.) 17-218 do not apply to Petition 1312.

On September 22, 2017, DEEP submitted a Response to the Petitioner's Objection to Motion to Deny.# On September 28, 2017, the Council denied DEEP's Motion to Deny Declaratory Ruling, as well as DOA's supporting Motion to Deny Declaratory Ruling, dated September 19, 2017.

Hydrology

The water source and quantity of water needed during construction to regrow grass over the 70-acre disturbed area is not identified in the application materials. (RCM 8 – Supplemental Pre-filed Testimony of Russell Posthauer, P.E., p. 2)

Finally, RCM requests the Council revisits its Findings of Fact related to a potential conservation easement as referenced in Findings of Fact, including but perhaps not limited to 42(h), 109, 114, 162, 233, 268, and Figure 8. Because no such easement has been recorded or accepted by a conservation organization, it should not be a basis for the Council's decision or referenced as a source of (1) protection for the property or (2) mitigation from the impacts of the project. If reference to the easement is retained, the Council should include a finding that the easement is nonexistent and the record does not demonstrate it will ever exist.

Thank you for your consideration. Please do not hesitate to contact me, if you have any questions or concerns.

Sincerely,



Lisa Ostrove
Rescue Candlewood Mountain
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CC: Service List

CERTIFICATION OF SERVICE

I certify that this filing of comments in regard to the Connecticut Siting Council's December 8, 2017 draft Findings of Fact have been provided electronically to all counsel and self-represented parties of record

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Dated: December 14, 2017
New Milford, CT



Lisa Ostrove