



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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VIA ELECTRONIC MAIL

March 7, 2019

TO: Parties & Intervenors

FROM: Melanie Bachman, Executive Director *MAB*

RE: **PETITION NO. 1312** - Candlewood Solar LLC Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt 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. **Court-ordered remand regarding visibility.**

On March 5, 2019, the Connecticut Superior Court (Court) issued an order remanding the administrative appeals filed by Rescue Candlewood Mountain and Carl M. Dunham, Jr. in the above-referenced matter to the Connecticut Siting Council (Council). The basis for the remand is solely to clarify whether the Findings of Fact and Opinion of the Council on visibility agree with the evidentiary record.

The Court identified the following Findings of Fact and sections of the Opinion of the Council's December 21, 2017 final decision as matters to be addressed:

1. Findings of Fact Nos. 30, 112, 218, 219, 221, 222, 224, and 273; and
2. Opinion at page 5 under the heading, "Visibility."

The Council will hold an evidentiary hearing **specifically limited to the the Court's basis for the remand to clarify whether the Findings of Fact and Opinion of the Council on visibility agree with the evidentiary record.**

A copy of the March 5, 2019 Court Order is attached hereto and incorporated by reference.

The Council shall hold the evidentiary hearing on **Tuesday, May 14, 2019** in Hearing Room Two, Ten Franklin Square, New Britain, Connecticut, beginning at **1:00 p.m.** A schedule for this matter is attached.

The hearing shall proceed with the cross examination of Candlewood Solar, LLC by the Council and other parties in the order listed on the November 14, 2017 hearing program.

If you have any questions about Council procedures, please do not hesitate to contact me at the Council office at 860-827-2935.

Thank you.

MAB/MP/laf

c: Council Members

OFFICE OF THE CLERK
SUPERIOR COURT

2019 MAR 5 PM 4 03

JUDICIAL DISTRICT OF

CV 18 6042335 S

NEW BRITAIN SUPERIOR COURT

RESCUE CANDLEWOOD MOUNTAIN, : JUDICIAL DISTRICT
ET AL.

V. : OF NEW BRITAIN

CONNECTICUT SITING COUNCIL, : MARCH 5, 2019
ET AL.

CV 18 5021642 S : SUPERIOR COURT

CARL M. DUNHAM, JR. : JUDICIAL DISTRICT

V. : OF NEW BRITAIN

CONNECTICUT SITING COUNCIL, : MARCH 5, 2019
ET AL.

ORDER

This appeal is pending a ruling on the plaintiffs' aggrievement. Hearings were held on this issue on December 4, 2018, January 8, 2019, and January 9, 2019. The court has reviewed the record as presented at these hearings and has decided to remand these appeals to the defendant Siting Council. The basis of the remand is solely to clarify whether the findings and the opinion of the Siting Council on visibility agree with the agency record. See *Commission on*

(2335 #148)
(-1443 #134)

Human Rights & Opportunities v. Hartford, 138 Conn. App. 141, 154, note 9 (2012): “By analogy, a trial court hearing administrative appeals has the same power [as the appellate courts for a further articulation under Practice Book § 60-5], which sometimes is necessary to reach a reasoned and informed decision.”

The court has identified the following findings and sections of the opinion of the Siting Council as the matters to be addressed. These are not exclusive of any other findings or portions of the opinion that the Siting Council may further address. Findings ## 112, 218, 219, 221, 222, 224, and 273. There is also a finding referencing the Town zoning commission recommending a 100 foot buffer around the project. (Finding # 30). The relevant visibility discussion is found in the opinion at 2526. The plaintiffs have also cited to a conditions map in the record. Finally the environmental assessment, Exhibit B (Record 231-237) states that “the existing trees . . . would remain and provide a visual buffer.” The testimony in this court on January 9, 2019 indicates that the foregoing statement is incorrect, due to the intended tree removal by Candlewood Solar, LLC.

The court also asks that the attorney for Candlewood Solar, Paul Michaud, to contact DEEP, and to write to the court and the parties regarding the status of the issuance by DEEP of the storm water plan. (Siting Council order at 2531).

SO ORDERED.

BY THE COURT

A handwritten signature in cursive script, appearing to read "H.S. Cohn", written in black ink.

Henry S. Cohn, J.T.R.



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SCHEDULE

PETITION NO. 1312 - Candlewood Solar LLC Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 20 megawatt 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. **Court-ordered remand regarding visibility.**

Date of Court-Ordered Remand	03/05/19
Deadline for Filing Interrogatories	04/23/19
Deadline for Pre-Filed Testimony and Responses to Interrogatories	05/07/19
Evidentiary Hearing (1:00 p.m.)	05/14/19
Close of Evidentiary Record	05/14/19
Draft Decision	06/20/19