



**STATE OF CONNECTICUT**  
**CONNECTICUT SITING COUNCIL**  
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December 22, 2017

Lee D. Hoffman, Esq.  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103-3702

RE: **PETITION NO. 1313** – DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut.

Dear Attorney Hoffman:

By its Decision and Order dated December 21, 2017, the Connecticut Siting Council (Council) ruled that the project would not have a substantial adverse environmental effect, meets all applicable United States Environmental Protection Agency and Connecticut Department of Energy and Environmental Protection air and water quality standards, and therefore, pursuant to Connecticut General Statutes § 4-176 and § 16-50k, issued a declaratory ruling for the proposed solar photovoltaic electric generating facility.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

Very truly yours,

Robert Stein  
Chairman

RS/RDM/lm

Enclosures

c: Parties & Intervenors

STATE OF CONNECTICUT )

ss. New Britain, Connecticut

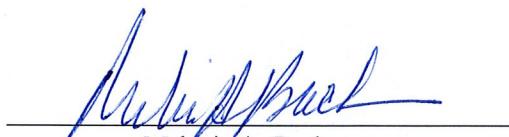
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December 22, 2017

COUNTY OF HARTFORD )

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

ATTEST:



Melanie A. Bachman  
Executive Director  
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Petition No. 1313 has been forwarded by Certified First Class Return Receipt Requested mail, on December 22, 2017, to all parties and intervenors of record as listed on the attached service list, dated October 26, 2017.

ATTEST:



Lisa Fontaine  
Fiscal Administrative Officer  
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Petitioner</b>	<input checked="" type="checkbox"/> E-mail	DWW Solar II, LLC	<p>Lee D. Hoffman, Esq.          Pullman &amp; Comley, LLC          90 State House Square          Hartford, CT 06103-3702          (860) 424-4315 (office)          (860) 424-4370 (fax)  <a href="mailto:lhoffman@pullcom.com">lhoffman@pullcom.com</a></p> <p>Aileen Kenney          Deepwater Wind, LLC          VP, Permitting and Environmental Affairs          56 Exchange Terrace, Suite 300          Providence, RI 02903          (401) 648-0607 (office)  <a href="mailto:akenney@dwwind.com">akenney@dwwind.com</a></p>
<b>Party (granted 07/20/17)</b>	<input checked="" type="checkbox"/> E-mail	Town of Simsbury	<p>Jesse A. Langer, Esq.          Robert M. DeCrescenzo, Esq.          Updike, Kelly &amp; Spellacy, P.C.          One Century Tower          265 Church Street          New Haven, CT 06510          (203) 786-8310  <a href="mailto:jlander@uks.com">jlander@uks.com</a>  <a href="mailto:bdecrescenzo@uks.com">bdecrescenzo@uks.com</a></p>
<b>Party (conditionally granted 8/31/17) Status Withdrawn 10/26/17</b>	<input checked="" type="checkbox"/> E-mail	Department of Energy and Environmental Protection	<p>Kirsten S. P. Rigney          Bureau of Energy Technology Policy          Department of Energy and Environmental Protection          10 Franklin Square          New Britain, CT 06051          (860) 827-2984 (phone)          (860) 827-2806 (fax)  <a href="mailto:Kirsten.Rigney@ct.gov">Kirsten.Rigney@ct.gov</a></p>

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Party (granted 8/31/17)</b>	<input checked="" type="checkbox"/> E-mail	Connecticut Department of Agriculture	Jason Bowsza Connecticut Department of Agriculture 450 Columbus Blvd Hartford, CT 06103 (860) 713-2526 <a href="mailto:Jason.Bowsza@ct.gov">Jason.Bowsza@ct.gov</a>
<b>Party (granted 8/31/17)</b>	<input checked="" type="checkbox"/> E-mail	Abutting Property Owners, Flammini et al	Alan M. Kosloff, Esq. Alter & Pearson, LLC 701 Hebron Avenue P.O. Box 1530 Glastonbury, CT 06033 <a href="mailto:akosloff@alterpearson.com">akosloff@alterpearson.com</a>
<b>Party (granted 10/10/17)</b>	<input checked="" type="checkbox"/> E-mail	Christine Kilbourn-Jones	Alan M. Kosloff, Esq. Alter & Pearson, LLC 701 Hebron Avenue P.O. Box 1530 Glastonbury, CT 06033 <a href="mailto:akosloff@alterpearson.com">akosloff@alterpearson.com</a>

**PETITION NO. 1313** – DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut.

} Connecticut

} Siting

} Council

December 21, 2017

## **Findings of Fact**

### **Introduction**

1. On June 29, 2017, DWW Solar II, LLC (DWW) pursuant to Connecticut General Statutes (C.G.S.) §16-50k and §4-176, 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, maintenance, and operation of a 26.4 megawatt (MW) alternating current (AC) solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road in Simsbury, Connecticut (refer to Figure 1). (DWW 1, p. 1)
2. DWW is a Delaware Limited Liability Company headquartered in Providence, Rhode Island. It is a subsidiary of Deepwater Wind LLC, a developer of renewable energy projects. (DWW 1, p. 2)
3. The parties in this proceeding are the Town of Simsbury (Town), Department of Agriculture (DOAG), Department of Energy and Environmental Protection (DEEP), and the grouped parties, pursuant to C.G.S. §16-50n(c), Abutting Property Owners (Flammini et al.) and Christine Kilbourn-Jones. (Record)
4. Pursuant to Regulations of Connecticut State Agencies (RCSA) §16-50j-40, notice of the Petition was provided to all abutting property owners by certified mail on or about June 26, 2017. (DWW 1, Tab E)
5. Notice to abutting property owners of the filing of a petition is a personal notice requirement. Personal notice requirements are procedural, not substantive, legal requirements. The only notice of constitutional dimension is the notice of the *hearing*, not the notice of the filing of the petition. A defect in personal notice does not deprive an agency of subject matter jurisdiction and the failure to give personal notice to a specific individual is not a jurisdictional defect. Parties do not have standing to raise a lack of notice to any other party. (*Town of Middlebury, et al v. Connecticut Siting Council*, 326 Conn. 40 (2017); *Mobley v. Metro Mobile CTS of Fairfield County, Inc.*, 216 Conn. 1 (1990); *Torrington v. Connecticut Siting Council*, 1991 Conn. Super. LEXIS 2084 (1991))
6. DWW provided notice to all federal, state and local officials and agencies listed in RCSA §16-50j-40. (DWW 1, p. 18, Tab F)
7. The proposed project, known as the Tobacco Valley Solar Project (TVS), would generate renewable electrical energy from solar power. Solar power is considered a Class I resource. (DWW 1, pp. 5-7; C.G.S. § 16-1(a)(20))

8. The proposed project would be a “grid-side distributed resources” facility under C.G.S. § 16-1(a)(37). (C.G.S. § 16-1(a)(37); DWW 1, p. 1)
9. DWW would sell power to four electric distribution companies in Massachusetts and Rhode Island, pursuant to its selection under the New England Clean Energy Request for Proposals (Tri-State RFP). Each participating State in the Tri-State RFP – Connecticut, Massachusetts, Rhode Island – legislatively established the procurement of renewable energy located in any of the three states. (Council Administrative Notice Item 38 – Tri-State Clean Energy RFP; DWW 1, pp. 6-7)
10. The State legislature established a renewable energy policy under C.G.S. §16a-35k that encourages the development of renewable energy facilities to the maximum practicable extent. (C.G.S. § 16a-35k)
11. The Council is required to approve the project by a declaratory ruling as long as the project meets DEEP air and water quality standards. (C.G.S. § 16-50k(a); Council Memorandum and Staff Report dated Sept. 29, 2017)

#### Procedural Matters

12. Upon receipt of the Petition, on June 30, 2017, the Council sent a letter to the Town of Simsbury as notification that the Petition was received and is being processed in accordance with C.G.S. §16-50k(a). Notice was also provided to the Town of Granby because it is located within 2,500 feet of the proposed site. (Council correspondence dated June 30, 2017)
13. During a regular Council meeting held on July 20, 2017, the Petition was deemed complete pursuant to RCSA §16-50j-39a, and in its discretion under C.G.S. §4-176, the Council voted to hold a public hearing on the Petition. A public hearing schedule was also approved by the Council. (Record)
14. Pursuant to C.G.S §16-50m, the Council published legal notice of the date and time of the public hearing in the Hartford Courant on July 28, 2017. (Record)
15. On August 3, 2017, the Council held a pre-hearing conference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, filing of pre-hearing interrogatories and the logistics of the public inspection of the site at the office of the Council, 10 Franklin Square, New Britain, Connecticut. Representatives from DWW, Town, DOAG, DEEP, Attorney General’s Office and other interested persons attended and participated in the pre-hearing conference. (Council Pre-Hearing Conference Memoranda, dated July 27, 2017 and August 4, 2017).
16. Pursuant to R.C.S.A § 16-50j-21, on August 30, 2017, DWW erected a total of three signs on Project property in the following locations: County Road adjacent to Munnisunk Brook, Hoskins Road adjacent to the middle and south solar fields, and along Hopmeadow Street in the Eversource right-of-way. The signs presented information including the project name, Petitioner name, date of Council public hearing, and contact information for the Council. (DWW 7)
17. The Council and its staff conducted a public inspection of the proposed site on September 12, 2017, beginning at 1:30 p.m. (Council Field Review Notice dated September 5, 2017)
18. Pursuant to C.G.S. § 16-50m, the Council, after giving due notice thereof, held a public hearing on September 12, 2017, beginning with the evidentiary hearing session at 3:00 p.m. and continuing with the public comment session at 6:30 p.m. at the Eno Memorial Hall, 754 Hopmeadow Street, Simsbury, Connecticut. (Council’s Hearing Notice dated July 25, 2017; Transcript 1 - September 12, 2017, 3:00 p.m. [Tr. 1], p. 1); Transcript 2 - September 12, 2017, 6:30 p.m. [Tr. 2], p. 100)

19. The Council held continued evidentiary hearing sessions on October 10, 2017 and November 2, 2017 at 11:00 a.m. at the office of the Council, 10 Franklin Square, New Britain, Connecticut. (Transcript 3 - October 10, 2017, 11:00 a.m., [Tr. 3], p. 170; Transcript 4 – November 2, 2017, 11:00 a.m., [Tr. 4], p. 416)
20. On October 24, 2017, DEEP withdrew its party status. (Record; Council Memorandum dated October 27, 2017)
21. The Connecticut Supreme Court acknowledges that constitutional principles permit an administrative agency to organize its hearing schedule so as to balance its interest in reasonable, orderly and non-repetitive proceedings against the risk of erroneous deprivation of a private interest. (*Concerned Citizens of Sterling v. Connecticut Siting Council*, 215 Conn. 474 (1990); *Pet v. Department of Public Health*, 228 Conn. 651 (1994); *FairwindCT, Inc. v. Connecticut Siting Council*, 313 Conn. 669 (2014))

#### **Municipal Consultation and Community Outreach**

22. Between March 2016 and the filing of the Petition with the Council, DWW representatives met with the Town of Simsbury to discuss the project. (DWW 1, pp. 15-18)
  23. DWW met with Town of Granby representatives on March 11, 2017. (DWW 1, p. 16)
  24. DWW hosted a public information session in the Town of Simsbury on March 11, 2017. DWW notified all abutters of the meeting by first class mail and distributed meeting information flyers at five locations in Town. The meeting was also announced on the Town's and DWW's website. (DWW 1, pp. 15-18)
  25. The Town of Simsbury hosted a Project public information session on June 7, 2017 at Eno Memorial Hall in Simsbury. (DWW 1, pp. 17-18; Town 5, Att. N)
  26. DWW hosted another public information session in the Town of Simsbury on June 22, 2017 at the Simsbury High School. DWW notified all abutters of the meeting by first class mail and published notification of the meeting in the *Valley Breeze*. (DWW 1, pp. 15-18; Town 5, Att. N)
  27. DWW representatives met individually with interested residents of Berkshire Way, Litchfield Drive, and Flintlock Ridge Road. (DWW 1, p. 18)
  28. In response to neighborhood concerns raised at the public information sessions, DWW redesigned the Project layout by reducing the project footprint by 18.2-acres. The locations where the Project layout was redesigned are identified below and in Figure 2.
    - a. Eliminated a 6-acre solar field area south of Howard Street due to visibility concerns;
    - b. Increased the setback from the Dorset Crossing property to 100 feet thereby reducing the project footprint by 5.3 acres;
    - c. Increased the setback from the Berkshire Way cul-de-sac to 300 feet thereby reducing the project footprint by 3.9 acres;
    - d. Increased the setback from the south side of Hoskins Road to 170 feet, thereby reducing the project footprint by 1.9 acres. Additionally, DWW committed to saving two tobacco barns and some of the existing vegetation on the north side of Hoskins Road;
    - e. Increased the setback from the south side of Knollwood Circle to 100 feet thereby reducing the project footprint by 0.3-acre; and
    - f. Increased the setback from the west side of Knollwood Circle to 100 feet thereby reducing the project footprint by 0.8-acre.
- (DWW 1, pp. 18-20; Tr. 3, pp. 190-191)

29. DWW would be willing to establish educational outreach regarding renewable energy and the Project to local schools and organizations such as the Boy Scouts. (Tr. 1, p. 84; Tr. 3, pp. 262-263)
30. DWW included community walking paths on the Project Site. The paths would be made of wood chips and would extend along significant portions on the east and west sides of the facility. (DWW 1, Tab C-Site Plans; Tr. 1, p. 77-78; Tr. 3, p. 262)
31. Numerous Town meetings were held from June to September 2017 to discuss the Proposed Project. A complete listing of meetings held at Town facilities is provided in Figure 3. (Town 5, Att. N)
32. By letter dated September 1, 2017, the Town expressed opposition to the Proposed Project and presents the following positions:
  - a. The Council should use the highest level of review possible. The Town supports the DOAg's interpretation of Public Act 17-218 that the law applies to the DWW's Petition;
  - b. DWW's Petition lacks sufficient information and data on environmental, conservation, historical and financial sustainability matters for the Council to issue a decision at this time. The Town further believes that there is inadequate information to fully evaluate air, soil and water impacts of the project;
  - c. If the Petition is approved by the Council, the project should be reduced in scope to lessen the impact on abutters and the public including the removal of the parcel located on the southern side of Hoskins Road; proposed visual "buffering" and landscaping should be improved and based on visual elements characteristic of and already existing in Simsbury; and historical landmarks which define the character of Simsbury including the viewshed and the residence at 85 Hoskins Road and the five tobacco barns located on the project site should be preserved.
  - d. A more robust financial support and decommissioning package is needed to ensure that environmental benefits and project oversight are guaranteed.

(Town 2a, Lisa L. Heavner, First Selectwoman, Town of Simsbury)

33. At the September 12, 2017 public comment session, Simsbury First Selectwoman Lisa Heavner gave a limited appearance statement. First Selectwoman Heavner stated that the Town is opposed to the Project for environmental and safety issues that the Town believes have not been addressed in the Petition filing. (Tr. 2, pp. 108-111)
34. The Town of Granby did not comment on the proposal. (Record)
35. State Representative John Hampton of the 16<sup>th</sup> Assembly District expressed written opposition to the proposed project, stating the project would be against the intent of PA 17-218. Representative Hampton also gave a limited appearance statement at the September 12, 2017 public comment session reiterating his opposition to the Project. (Record; Tr. 2, pp. 112-113)
36. C.G.S. § 22a-20a(2)(i) and DEEP's Environmental Justice Guidelines require applicants seeking a permit from DEEP or the Council for a new or expanded facility defined as an "affecting facility" that is proposed to be located in an environmental justice community to file an Environmental Justice Public Participation Plan (EJPPP). The proposed solar facility is not an "affecting facility" under C.G.S. §22a-20a because it uses non-emitting and non-polluting renewable resources. Thus, Environmental Justice does not apply to the facility and an EJPPP is not required. (DWW 1, p. 13; C.G.S. § 22a-20a(2)(i))

**State Agency Comments**

37. Pursuant to R.C.S.A. §16-50j-40, on June 30, 2017 and on July 25, 2017, the following state agencies were requested to submit written comments regarding the proposed facility: 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 Construction Services (DCS); Department of Transportation (DOT); the Connecticut Airport Authority (CAA); and the State Historic Preservation Office (SHPO). (Record)
38. On August 30, 2017, the Council received a response from the DOT's Bureau of Engineering and Construction indicating that a Highway Encroachment Permit would be required if Project-related work occurs within the Route 10 right-of-way. (DOT Letter dated August 28, 2017)
39. On August 29, 2017, the Council received comments from the CEQ, including, but not limited to, the following recommendations:
  - a. A comprehensive environmental review of the project that goes beyond air and water quality standards;
  - b. A thorough analysis of the potential impacts on wildlife and vegetation;
  - c. A thorough analysis of stormwater discharge from the site to ensure proper management and stormwater quality;
  - d. Restrict the amount of clearing to five acres at any one time;
  - e. Post-construction monitoring and management of pollinator habitat and other plantings; and
  - f. A decommission plan that includes proper re-vegetation and a plan to control invasive species.

(CEQ Letter received August 30, 2017)

40. On September 5, 2017, the Council received comments from the DOAg, including, but not limited to, the following:
  - a. DOAg believes that the proposed project would convert over 200 acres of Prime and Important Farmland Soils to a solar photovoltaic facility;
  - b. Prime and Important Farmland Soils are recognized federal, state and locally significant natural resources, and through adoption of Public Act 17-218, the legislature has formally acknowledged the importance of such resources;
  - c. The loss of Connecticut farms impacts efforts to combat food insecurity, results in food importation and increases the distance required to transport food, thus increasing the carbon footprint;
  - d. The proposed project is incompatible with the goals of the State of Connecticut to keep agriculture viable and growing, protect farmland, improve land use planning and increase agriculturally-based economic development and investment through grants and programs;
  - e. The petition only considers impacts to prime farmland and should consider impacts to statewide and locally important farmland soils;
  - f. The petition erroneously asserts that the project would “enhance” farmland soils solely due to the petitioner’s plan to plant certain cover crops;
  - g. The information necessary to develop a meaningful restoration plan upon decommissioning, including the determination of soil impacts during construction, has not been provided;
  - h. The impacts from the use of heavy equipment, the holes from the installation of driven metal support posts, trenching for electrical conduit, surface grading and the construction of access roads and equipment pads will significantly damage farmland soils and soil health;
  - i. The decommissioning plan does not provide adequate assurances that the site will be returned to its pre-construction condition; and

- j. Other mitigation measures could have been proposed, such as purchase of development rights/conservation easements on farmland in the community, paying to restore farmland in the area or some other farmland mitigation proposal.

(DOAg 2 -DOAg Letter received September 5, 2017)

41. On September 11, 2017, the Council received comments from DEEP, including, but not limited to, the following:

- a. The Project was selected under the Tri-State RFP, an important component of the State's goal of a cheaper, greener, more reliable energy future by diversifying the regional fuel mix, assist in the goal of obtaining 20 percent of energy needs from renewable sources by 2020, and reducing carbon emissions;
- b. DEEP did not select the TVS since it had a lower benefit to cost ratio than other projects. Massachusetts and Rhode Island selected more projects than Connecticut in the Tri-State RFP, including the TVS;
- c. Include provisions for an Aquifer Protection Program to protect water resources associated with the Hoskins Well Field Aquifer Protection Area;
- d. A preliminary assessment letter from DEEP regarding the Natural Diversity Database dated January 10, 2016 was provided to the Petitioner with a list of State-designated species that could potentially occur at the proposed site. The Petitioner submitted additional information regarding these species, including proposed mitigation measures, if applicable. DEEP is currently reviewing this information;
- e. DEEP recommends conditions to mitigate the loss of habitat, including the installation of one-acre of pollinator habitat. DWW should field survey the pollinator habitat to ensure it becomes established and is productive;
- f. The Project establishes a 100-foot minimum wetland buffer. The buffer would most likely maintain water quality and wetland functions;
- g. DEEP recommends the establishment of a performance bond or other security, to ensure Project decommissioning;
- h. The proposed project would require either an individual National Pollutant Discharge Elimination System discharge permit from DEEP, or DWW may be eligible to register under DEEP's General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit);
- i. To address stormwater concerns and related permitting issues associated with other solar farm construction projects, DEEP recommends additional measures for project construction oversight.

(DEEP Comment Letter received September 11, 2017)

42. On September 11, 2017, DEEP provided a recommendation document titled, "Stormwater Management at Solar Farm Construction Projects" and dated September 8, 2017 that it recommends be incorporated into a Stormwater Pollution Control Plan (SWPCP) for the proposed project. Such recommendations are listed below:

- a. Ensure that only a Professional Engineer and/or Landscape Architect serve as the DEEP Commissioner's agent to inspect the site and serve as the qualified inspector (Authorized Professional) for the purposes of the general permit;
- b. Ensure that the Authorized Professional prepare a proposed inspection checklist assure that the construction project is being conducted in compliance with the terms and conditions of the General Permit, and the SWPCP is implemented in accordance with the General Permit;
- c. Ensure that the credentials for the Authorized Professional proposed by the General Permit Applicant and the proposed inspection checklist be submitted for the review and approval of the Commissioner and be included with the registration application for the General Permit;

- d. Ensure that the Authorized Professional personally perform all pre-construction, construction and post-construction site inspections; perform inspections at the end of any storm event (whether or not such storm generates a discharge); and prepare and submit all inspection reports including the supporting inspection checklists in compliance with the General Permit;
- e. Ensure that the Authorized Professional report any violations of the terms and conditions of the General Permit or the SWPCP to the Commissioner's designee within two hours of becoming aware of such violation, or at the start of the next business day if outside normal business hours;
- f. Within five days of such violation, the Authorized Professional shall prepare and submit a signed and stamped written report, which documents the cause of the violation, during including dates and times, and corrective action taken or planned to prevent future occurrences;
- g. Ensure that if circumstances necessitate a revision to the SWPCP, the Authorized Professional works with the Permittee's design professional to ensure compliance with the terms and conditions of the General Permit, and any such change to the SWPCP shall be submitted for review and written approval of the Commissioner; and
- h. Ensure that the Authorized Professional reviews all stormwater monitoring reports to evaluate the effectiveness of the SWPCP and to document any adverse impacts that any stormwater controls on the construction site or discharges on the construction site may have on wetlands, streams, or any other receiving waterbodies. Such evaluation shall be documented in the inspection reports and inspection checklists performed in accordance with the General Permit.

(DEEP Stormwater Recommendations received September 11, 2017)

- 43. 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. (Council Administrative Notice Item No. 97)
- 44. The following agencies did not respond to the Council's request for comment on the proposed facility: DPH, PURA, OPM, DECD, DESPP, DCP, DOL, DCS, CAA, and SHPO. (Record)

#### New England Regional System Planning

- 45. New England's electric power grid has been planned and operated as a unified system of transmission owners and market participants. The New England system integrates resources with the transmission system to serve all regional load regardless of state boundaries. Therefore, electrical performance in one part of the system affects all areas of the system. (Council Administrative Notice Item No. 24 – 2015 ISO-NE Regional System Plan, pp. 25-26)
- 46. Created in 1997, ISO-NE is the independent, not-for-profit corporation responsible for the reliable operation of New England's electric power generation and transmission system, overseeing and ensuring the fair administration of the region's wholesale electricity markets, and managing comprehensive regional electric power planning. (Council Administrative Notice Item No. 32 – ISO FCA #10 Press Release dated February 29, 2016, p. 2)
- 47. ISO-NE's primary responsibility is electric reliability. ISO-NE is fuel and technology neutral and takes no position on any proposed energy projects. ISO-NE does not own any transmission or distribution lines or power plants. (Council Administrative Notice Item No. 35 – ISO-NE State of the Grid Presentation, dated January 30, 2017, pp. 5-6)

48. On November 5, 2015, ISO-NE issued the 2015 Regional System Plan (2015 RSP) to identify the New England region's electricity needs and plans for meeting these needs for 2015 through 2024. (Council Administrative Notice Item No. 24 – 2015 RSP, p. i)
49. ISO-NE holds an annual auction to acquire the power system resources needed to meet future demand for the New England region. The annual Forward Capacity Market Auction (FCA) is held approximately three years before each capacity commitment period to provide time for new resources to be developed. Capacity resources can include traditional power generation, renewable generation, or demand-side resources, such as load management and energy efficiency measures. Resources clearing in the auction will receive a monthly payment during the delivery year in exchange for their commitment to provide power or curtail demand when called on by ISO-NE. (Council Administrative Notice Item No. 32 – ISO FCA #10 Press Release dated February 29, 2016, pp. 1-2)
50. ISO-NE computes and annually updates an installed capacity requirement (ICR) for the New England Region. ICR is a measure of the installed resources that are projected to be necessary to meet both ISO-NE's and the Northeast Power Coordinating Council's (NPCC) reliability standards, with respect to satisfying the peak load forecast for the New England Balancing Authority while maintaining required reserve capacity. (Council Administrative Notice Item No. 31 - ISO-NE ICR Report dated January 2016, p. 9)

***Generating Capacity Retirements in New England***

51. ISO-NE identifies the following power plants as "closed" or "retiring."

Power Plant	Fuel	Summer Capacity	Status
Vermont Yankee	Nuclear	604 MW	Closed
Mount Tom	Coal	146 MW	Closed
Salem Harbor	Coal and Oil	750 MW	Closed
Pilgrim	Nuclear	702 MW	Retiring May 2019
Brayton Point Nos. 1-4	Coal and Oil	1,493 MW	Projected to retire on or about May 2017
Norwalk	Oil	342 MW	Closed
<b>Total</b>		<b>4,037 MW</b>	

(Council Administrative Notice Item No. 26 – 2015 CELT Report, pp. 2.1.3, 5.1.7, and 5.1.8; Council Administrative Notice Item No. 35 – ISO-NE State of the Grid Presentation dated January 30, 2017, p. 12; Council Administrative Notice Item No. 30 – ISO-NE 2017 Regional Electricity Outlook, pp. 27-28; Council Administrative Notice Item No. 24 – 2015 RSP, p. 95)

(continued next page)

52. The 2017 Regional Electricity Outlook (2017 REO) identifies the roughly 6,000 MW as “at risk for retirement in coming years” and referred to these resources in a table as “hypothetical” retirements in the 2025 through 2030 timeframe. These “at risk” power plants are listed below. (Council Administrative Notice Item No. 30 – ISO-NE 2017 REO, pp. 27-28)

Power Plant	Fuel	Summer Capacity
Yarmouth Nos. 1-4	Oil	811 MW
Merrimack No. 1-2	Coal	436 MW
Newington No. 1	Oil/Natural Gas	400 MW
Schiller Nos. 4&6	Coal	95 MW
Mystic No. 7***	Natural Gas/Oil	575 MW
Canal No. 1-2	Oil	1,121 MW
West Springfield No. 3***	Natural Gas/Oil	94 MW
Middletown Nos. 2-4*	Oil/Natural Gas	744 MW
Montville Nos. 5-6**	Oil/Natural Gas	467 MW
New Haven Harbor	Oil/Natural Gas	447 MW
Bridgeport Harbor No. 3	Coal	383 MW
<b>Total</b>		<b>5,573 MW</b>

\*Middletown No. 4 is oil-fired only. Middletown Nos. 2 and 3 are oil/natural gas.

\*\*Montville No. 5 is oil/natural gas. Montville No. 6 is oil-fired only.

\*\*\*While primarily fueled by natural gas, these are steam turbine units.

(Council Administrative Notice Item No. 29 – ISO-NE 2016 Regional Electricity Outlook, p. 11;

Council Administrative Notice Item No. 30 – ISO-NE 2017 Regional Electricity Outlook, pp. 27-28;

Council Administrative Notice Item No. 26 – ISO-NE 2015 CELT Report, pp. 2.1.12, 2.1.13, 2.1.16, 2.1.43, 2.1.44, 2.1.48, and 2.1.49)

#### ***DWW's Participation in ISO-NE's Forward Capacity Market Auction***

53. ISO-NE acquires new sources of electric generating capacity for reliability through the FCA. Connecticut's load-serving entities rely on the FCA to meet projected peak load demands as well as ensure enough reserves are available. Capacity resources that clear the FCA are, by definition, needed for reliability. (DWW 1, p. 6)
54. For solar resource capacity, ISO-NE counts a percentage of a project's nameplate capacity - the megawatts it should produce under optimal conditions - and its measurable day-to-day performance, which can differ significantly due to the weather-dependent nature of solar resources. (Council Administrative Notice Item No. 29 – ISO-NE 2016 Regional Electricity Outlook, p. 34)
55. The Power Purchase Agreement (PPA) requires DWW to be an ISO-NE market participant or have entered into an agreement with a market participant that shall perform all of DWW's ISO-NE obligations in connection with the facility and requires DWW to comply with ISO-NE Rules and Practices relative to construction, operation and maintenance of the facility. (Council Administrative Notice Item No. 38- Tri-State RFP, Appendix C)
56. Under its PPA, DWW must take all necessary and appropriate actions to qualify and participate in the FCA and all commercially reasonable actions to be selected and compensated in every auction year for the duration of the project's PPA, including, but not limited to, best efforts to make network upgrades such that the maximum output of the facility is qualified to participate in the FCA. See section of this document entitled, “Power Purchase Agreement.” (Council Administrative Notice Item No. 38 - Tri-State RFP, Appendix C).

57. DWW is required by its PPA to participate in every FCA. DWW expects to be selected within the FCA regularly given that solar is a low cost power resource. In the event DWW does not get selected in a particular FCA, DWW will still sell its generated power to the four utilities under its PPA. (DWW 1, p. 6; Tr. 3, pp. 223-224, 232-233)
58. DWW is eligible to begin to participate in an FCA upon execution of the Project interconnection agreement. (Tr. 3, p. 222)

***Regional Collaboration Among the New England States***

59. In September 2013, the Governors of the six New England states in the ISO-NE region entered into a commitment to advance a regional energy infrastructure initiative that diversifies the region's energy supply portfolio while ensuring that the benefits and costs of investments are shared appropriately among the New England states. (Council Administrative Notice Item No. 44)
60. In April 2015, the Governors of the six New England states in the ISO-NE region convened a Northeast Forum on Regional Energy Solutions focused on energy infrastructure challenges and regional collaboration to support energy infrastructure solutions, and reaffirmed their commitment to work together toward a cleaner, more reliable and more affordable energy future. The Governors released a six-state action plan that includes, but is not limited to, continuing to invest in energy efficiency and distributed generation, utilizing existing authority to procure clean energy generation and transmission, and securing and utilizing state authority to find solutions to infrastructure challenges. (Council Administrative Notice Item No. 45; Council Administrative Notice Item No. 46)
61. Two types of standards are generally used to implement policy objectives in the electric power sector: Renewable Portfolio Standards (RPS) and Clean Energy Standards. Both standards have a requirement that regulated utilities or others providing certain services to consumers must either buy the desirable environmental attributes of certain power generation sources or pay a fee. (Council Administrative Notice Item No. 46)
62. A renewable energy certificate (REC) certifies that one megawatt-hour (MWh) of renewable electrical energy has been generated. RECs create a market to separate renewable energy attributes and resource output. Environmental attributes are sold into the REC markets. (Council Administrative Notice Item No. 46; Council Administrative Notice Item No. 72 - 2014 IRP, Appendix D)

**State of Connecticut Planning and Energy Policy**

63. PA 11-80 was the legislation that restructured the Department of Environmental Protection as the Department of Energy and Environmental Protection. Section 51 of PA 11-80 requires that DEEP prepare a Comprehensive Energy Strategy (CES) every three years that reflects the legislative findings and policy stated in C.G.S. §16a-35k.. As such, this statute consolidated Connecticut's energy planning for the first time. The final version of the state's inaugural CES was published on February 19, 2013 (2013 CES). It advocated smaller, more diversified generation projects using renewable fuels, as well as smaller, more innovative transmission projects emphasizing reliability. (Council Administrative Notice Item No. 49 – Council 2014/2015 Forecast Report, pp. 48-49; Council Administrative Notice Item No. 70 – 2013 CES; C.G.S. §16a-3d)
64. Biennially, DEEP, in consultation with the electric distribution companies, is required to prepare an energy and capacity resource assessment that includes:
  - a. The energy and capacity requirements of customers for the next three, five and ten years;
  - b. The manner of how best to eliminate growth in electric demand;
  - c. How best to level electric demand in the state by reducing peak demand and shifting demand to off-peak periods;

- d. The impact of current and projected environmental standards, including, but not limited to, those related to greenhouse gas emissions and how different resource could help achieve those standards and goals;
  - e. Energy security and economic risks associated with potential energy resources; and
  - f. The estimated lifetime cost and availability of potential energy sources.
- (C.G.S. §16a-3a)
65. Resource needs are required to first be met through all available energy efficiency and demand reduction resources that are cost-effective, reliable and feasible. Thereafter, needs for generation capacity and transmission and distribution improvements are considered. (C.G.S. §16a-3a)
66. Pursuant to C.G.S. §16a-3a, DEEP, in consultation with the electric distribution companies, is required to review the state's energy and capacity resource assessment and approve the Integrated Resource Plan (IRP) for the procurement of energy resources, including, but not limited to, conventional and renewable generating facilities, energy efficiency, load management, demand response, combined heat and power facilities, distributed generation and other emerging energy technologies to meet the projected requirements of customers in a manner that minimizes the cost of all energy resources to customers over time and maximizes customer benefits consistent with the state's environmental goals and standards. The goal of the IRP is to lower the rates and cost of electricity. (C.G.S. §16a-3a)
67. The IRP is required to consider approaches to maximizing the impact of demand-side measures; the extent to which generation needs can be met by renewable and combined heat and power facilities; optimization of the use of generation sites and generation portfolio existing in the state; fuel types, diversity, availability, firmness of supply and security and environmental impacts thereof, including impacts on meeting the state's greenhouse gas emission goals; reliability, peak load and energy forecasts, system contingencies and existing resource availabilities; import limitations and the appropriate reliance on such imports; the impact of the IRP on the costs of electric consumers; and the effects on participants and non-participants. (C.G.S. §16a-3a)
68. Annually, the procurement manager of the PURA, in consultation with each electric distribution company, shall develop a plan for the procurement of electric generation services and related wholesale electricity market products to enable the electric distribution companies to manage a portfolio of contracts to reduce the average cost of standard service while maintaining cost volatility within reasonable levels. The Procurement Plan shall provide for the competitive solicitation, including contracts for generation or other electricity market products and financial contracts and an explanation of why such purchases are in the best interest of ratepayers. (C.G.S. §16-244m)
69. From time to time, in accordance with the IRP and the Procurement Plan, DEEP shall initiate a generation evaluation and procurement process if it is determined to be in the best interests of Connecticut customers. The evaluation process entails a nonbinding prequalification process to identify potentially eligible new generators. Generators shall demonstrate how they will reduce electrical rates for Connecticut ratepayers while maintaining or improving reliability, improving environmental characteristics of the Connecticut generation fleet and providing economic benefit to Connecticut. (C.G.S. §16-244m)
70. Determination of generator eligibility is based on a showing of project attributes, including, but not limited to, ratepayer, environmental and economic benefits, as well as a demonstration of reasonable certainty of completion of development. If a determination of eligibility is made by DEEP, it shall issue a request for proposals. (C.G.S. §16-244m)

***Connecticut's Renewable Portfolio Standards***

71. RPS requirements are stimulating the need for and the development of renewable energy resources and energy efficiency in the region, which reduce emissions. States typically develop RPS to facilitate the development of new renewable energy sources with the goals of stabilizing long-term energy prices, enhancing environmental quality and creating jobs. RPS targets are designed to achieve a certain level of renewable energy penetration, typically in proportion to total electricity sales. (Council Administrative Notice Item No. 24 - 2015 RSP, p. 12; Council Administrative Notice Item No. 46 – NESCOE)
72. C.G.S. §16-245a establishes Connecticut's RPS. They call for 20 percent of Connecticut's electricity usage to come from Class I renewable resources by 2020, which is higher than Class I targets in Massachusetts and Rhode Island. (Council Administrative Notice Item No. 49 – Council 2014/2015 Forecast Report, p. 42; Council Administrative Notice Item 38 – Tri-State Clean Energy RFP, p. 7; Council Administrative Notice Item 42, MA Renewable Energy Portfolio Standard; Council Administrative Notice 43, RI Renewable Energy Standard)
73. RECs provide additional revenue to qualifying renewable resources in proportion to the energy each resource generates. RECs create a market that reveals the additional price required, beyond energy and capacity payments, to make projects economically viable and also identifies when there is a need for additional resources. The REC-based compliance feature is designed to use competitive market forces to identify the appropriate level of economic support to achieve the policy goals. (Council Administrative Notice 46 – NESCOE)
74. Connecticut electric utilities that do not obtain the required number of RECs are required to pay an Alternative Compliance Payment (ACP). According to DEEP's 2014 Integrated Resources Plan (2014 IRP), for Class I renewable energy in Connecticut, the ACP is \$55 per MWh. (Council Administrative Notice Item No. 72 - 2014 IRP, Appendix D, pp. D-3 and D-4)
75. The 2014 IRP projects that Connecticut will face a shortage of Class I renewable resources starting in 2015. Beginning in 2017, the region as a whole will face shortages of Class I renewables unless additional supply is procured or otherwise added to the market. (Council Administrative Notice Item No. 72 - 2014 IRP, p. iv)
76. To meet Connecticut's RPS goals, the 2013 CES estimates that meeting 2020 RPS would require the development of 6,196 gigawatt-hours (GWh) or nearly 3 gigawatts (GW) of low carbon supply. (Council Administrative Notice Item No. 46)

***Connecticut's Global Warming Solutions Act and Climate Change Preparedness Plan***

77. The Global Warming Solutions Act (Public Act 08-98) sets a goal of reducing greenhouse gas (GHG) emissions by 80 percent by 2050. (DWW 1, p. 7; C.G.S. §22a-200)
78. According to the Governor's Commission on Climate Change (GC3), overall statewide emissions are 10.6% below 1990 levels. In 2016, the GC3 built four mitigation scenarios:
  - a. The Pilgrim Nuclear Plant retires and is replaced with natural gas. The remaining 3 regional nuclear plants continue to operate through 2050. The grid evolves toward zero-carbon with utility-scale solar as the dominant resource;
  - b. All nuclear plants retire at the end of their current license periods and are replaced with natural gas. The grid evolves toward zero-carbon with utility-scale solar as the dominant resource;

- c. All nuclear plants retire at the end of their current license periods and are replaced with on-shore wind. The grid evolves toward zero-carbon with roughly an even split between on-shore wind and utility-scale solar; and
  - d. Scenario 1 with accelerated early deployment of mitigation technologies and measures, such as greater levels of energy efficiency to significantly reduce load. (Council Administrative Notice Item No. 76 – GC3)
79. Section 7 of Public Act 08-98 required the Governor's Steering Committee on Climate Change to establish an Adaptation Subcommittee to evaluate the projected impacts of climate change on Connecticut agriculture, infrastructure, natural resources and public health and develop strategies to mitigate these impacts. (Council Administrative Notice Item No. 86 – Climate Change Preparedness Plan)
80. Adaptation strategies for agriculture, infrastructure and natural resources include, but are not limited to, best management practices to ensure water recharge, sustainable water capture and storage and water reuse guidelines for industry; research, monitoring and education to analyze competing demands on Connecticut water quantity and quality to develop new approaches while supporting multiple and conflicting needs; and policy, legislation, regulation and funding to protect critical soil landscapes, adopt a water hierarchy and encourage collaboration with other states and federal agencies. (Council Administrative Notice Item No. 86 – Climate Change Preparedness Plan)

***DEEP Competitive Energy Procurements***

81. On December 9, 2011, pursuant to Section 127 of PA 11-80, DEEP issued notice for a Request for Proposals (RFP) for 30 MW of zero emission Class I renewable energy sources. On December 23, 2011, DEEP issued its final determination in the RFP and selected 2 out of 21 proposed projects to enter into long-term power purchase agreements with the electric distribution companies (EDCs). The 2 projects selected were the 5 MW East Lyme Solar Park in East Lyme, Connecticut and the 5 MW Somers Solar Center in Somers, Connecticut that DEEP found will serve the long term interests of ratepayers. (Council Administrative Notice Item Nos. 54 and 55; Public Act 11-80).
82. On July 8, 2013, pursuant to Section 6 of PA 13-303, DEEP issued notice for a RFP for Class I renewable energy resources. On September 26, 2013, DEEP issued its final determination in the RFP and selected 2 out of 47 proposed projects to enter into long-term power purchase agreements with the EDCs for a combination of energy and environmental attributes. The 2 projects selected were the 250 MW Number Nine Wind Farm in Aroostook County, Maine and the 20 MW Fusion Solar Center in Sprague, Connecticut that DEEP found to be in the interest of ratepayers, consistent with the requirements to reduce greenhouse gas emissions and in accordance with the policy goals of the CES. (Council Administrative Notice Item No. 56; Public Act 13-303)
83. On October 8, 2013, pursuant to Section 8 of PA 13-303, DEEP issued notice for a RFP for run-of-the-river hydropower, landfill methane gas and biomass Class I renewable energy resources. On January 31, 2014, DEEP issued its final determination in the RFP and selected 3 out of 28 proposed projects to enter into long-term power purchase agreements with the EDCs for a combination of energy and environmental attributes. The 3 projects selected were a 21.5 MW portion of an existing 43 MW biomass facility located in New Hampshire, a 5.4 MW portion of an existing 54 MW biomass facility located in Vermont and a 2.7 MW portion of an existing 54 MW biomass facility located in Vermont. (PA 13-303)

84. On November 12, 2015, pursuant to Section 1(c) of PA 15-107 and Sections 6 and 7 of PA 13-303, DEEP issued notice for a RFP, in coordination with Rhode Island and Massachusetts, for Class I renewable energy sources (Tri-State RFP). Project selection occurred on October 25, 2016. On June 27, 2017, DEEP issued its final determination in the RFP and selected 9 out of 31 proposed projects to enter into long-term power purchase agreements with the EDCs for a combination of energy and environmental attributes. The 9 projects selected were as follows:

- a. 21 MW Antrim Wind Project in New Hampshire;
- b. 49 MW Sanford Solar Project in Maine;
- c. 49 MW Chinook Solar Project in New Hampshire;
- d. 49 MW Quinebaug Solar Project in Connecticut;
- e. 49 MW Farmington Solar Project in Maine;
- f. 20 MW Enfield Solar Project in Connecticut;
- g. 126 MW Cassadaga Wind Project in New York;
- h. 20 MW Woods Hill Solar Project in Connecticut;
- i. 20 MW Hope-Scituate Solar Project in Rhode Island.

(Council Administrative Notice Item No. 38 - Tri-State RFP)

85. In the Tri-State RFP, Massachusetts and Rhode Island selected 11 out of 31 proposed projects to enter into long-term power purchase agreements with the EDCs for a combination of energy and environmental attributes. The 11 projects selected were as follows:

- a. 21 MW Antrim Wind Project in New Hampshire;
- b. 49 MW Sanford Solar Project in Maine;
- c. 49 MW Chinook Solar Project in New Hampshire;
- d. 49 MW Quinebaug Solar Project in Connecticut (Council Petition No. 1310);
- e. 49 MW Farmington Solar Project in Maine;
- f. 20 MW Enfield Solar Project in Connecticut;
- g. 126 MW Cassadaga Wind Project in New York;
- h. 20 MW Woods Hill Solar Project in Connecticut;
- i. 20 MW Hope-Scituate Solar Project in Rhode Island;
- j. 26.4 MW Simsbury Solar Farm in Connecticut (the subject of this Petition); and
- k. 20 MW Candlewood Solar Project in Connecticut (Council Petition No. 1312).

(Council Administrative Notice Item No. 38 - Tri-State RFP; CS 6a, p. 5)

86. On March 9, 2016, pursuant to Section 1(b) and 1(c) of PA 15-107, DEEP issued notice for a RFP for Class I renewable energy sources and Class III sources with a nameplate capacity rating of more than 2 MW and less than 20 MW (Small Scale RFP). Project selection occurred on November 28, 2016. On June 27, 2017, DEEP issued its final determination in the RFP and selected 25 out of 107 proposed projects to enter into long-term power purchase agreements with the EDCs for a combination of energy and environmental attributes. The 25 projects selected were as follows:

- a. 15 MW Pawcatuck Solar Center in Connecticut;
- b. 19.99 MW Hecate Energy Solar Greene County Project in New York;
- c. 6 MW Swantown Road Solar Project in Connecticut;
- d. 5 MW Holiday Hill Community Wind Project in Massachusetts;
- e. 19.99 MW Hecate Energy Solar Albany County Project in New York;
- f. 19.80 MW Litchfield Solar Plant and Park in Connecticut;
- g. 5 MW Kidder Hill Community Wind Project in Vermont;
- h. 17.50 MW Swanton Wind Project in Vermont;
- i. Incremental Energy Efficiency in Connecticut;
- j. 10 MW North Stonington Solar Plant in Connecticut;
- k. 14.69 MW W. Portsmouth St. Solar Project in New Hampshire;
- l. 19.59 MW Constitution Solar Project in Connecticut;
- m. 19.60 MW Highgate Solar Project in Vermont;
- n. 19.58 MW Hinckley Solar Project in Maine;

- o. 19.58 MW Randolph Center Solar Project in Vermont;
- p. 19.63 MW Sheldon Solar Project in Vermont;
- q. 19.58 MW Winslow Solar Project in Maine;
- r. 19.58 MW Davenport Solar Project in Vermont;
- s. 19.60 MW Nutmeg Solar Project in Connecticut;
- t. 4.98 MW GRE-15-North Haven-CT Solar Project in Connecticut;
- u. 19.99 MW Wallingford Renewable Energy Solar Project in Connecticut;
- v. 3.50 MW Wind Colebrook South Project in Connecticut;
- w. 12.50 MW Minuteman Wind Project in Massachusetts;
- x. 17.73 MW GRE-29-Waterford-CT Solar Project in Connecticut;
- y. 19.59 MW Coolidge Solar I Project in Vermont.

(Council Administrative Notice Item No. 75 – 2-20 MW RFP)

87. Section 6 of Public Act 13-303 (codified at CGS §16a-3g), which allows the Commissioner of DEEP to solicit proposals from providers of Class I renewable energy sources in coordination with other states in the ISO-NE region, was upheld as constitutional by the federal courts. (Council Administrative Notice Item No. 20 – *Alco Fin. Ltd. v. Klee*)

#### ***Power Purchase Agreement***

88. DWW has a PPA to sell the electricity that would be generated by the Project to the following Massachusetts utilities: Nantucket Electric Company and Massachusetts Electric Company, d/b/a National Grid; NSTAR Electric Company, d/b/a Eversource; Western Massachusetts Electric Company, d/b/a Eversource; and Fitchburg Gas and Electric Company, d/b/a Utilil. (Council Administrative Notice Item 38 – Tri-State Clean Energy RFP; DWW 2 response 2)
89. The PPA for each utility has a 20-year term with no provision for a renewal or an extension, but performance can be tolled for events such as force majeure. (DWW 2, response 3)
90. The PPAs will not be approved by PURA because Connecticut did not select the Project in the Tri-State RFP. They were approved by the Massachusetts Department of Public Utilities and were finalized in early 2017. (Council Administrative Notice Item No. 38; DWW 2, response 2, response 3; Tr. 3, p. 187)
91. DWW is obligated to abide by the PPAs. The total amount of power to be delivered in accordance with PPAs is 26.4 MW AC. The Project was also sized to be economically viable from a construction/operation aspect. Reduction in the size of the Project could have contractual and financial consequences as it was bid at a certain size and financially assumed to be constructed at that size. (Tr. 3, pp. 186-187; Tr. 4, pp. 699-705)
92. No energy storage system is proposed at this time. The structure of the RFP does not allow for changes to the PPAs related to such systems. The individual PPAs would have to be renegotiated if such a system was installed in the future. (DWW 2, response 15; Tr. 3, pp. 255-257; Tr. 4, pp. 774-776)

#### **Public Benefit**

93. A public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity. (Conn. Gen. Stat. §16-50p(c))
94. Public Act 05-1, An Act Concerning Energy Independence, established a rebuttable presumption that there is a public benefit for electric generating facilities selected by the Department of Public Utility Control (DPUC, now known as PURA) in a Request for Proposals. (Public Act 05-1)

**Project Alternatives**

95. DWW investigated other parcels that were reasonably available within the Connecticut, Rhode Island and Massachusetts region over a 2 year period with the intent of securing properties to bid into a variety of RFPs. Some of the RFPs, such as the Tri-State RFP, had minimum capacity requirements that required large parcels, or a combination of parcels such as the TVS, in order to meet the bid requirements. (DWW 1, p. 7; Tr. 3, pp. 223-224)
96. DWWs criteria in selecting sites include but are not limited to, landowner availability, favorable topography, avoidable environmental constraints, and proximity to a transmission or distribution substation. (DWW 1, p. 7)
97. Three properties were investigated in Connecticut but were rejected due to wetland constraints, access and property constraints, endangered species, and on-site contamination. (DWW 1, p. 7; Tr. 3, pp. 223-225)
98. DWW searched for brownfield sites, but brownfield sites are typically not large enough to host projects of this size, and they are often not found in as close proximity to electrical infrastructure as the proposed site. Additionally, property owners may not be willing to sell or lease their land. (Tr. 3, pp. 251-253)
99. DOAg suggested a clustered low impact development with rooftop solar, passive solar or geothermal on a portion of the property with the remaining areas of forestland, wetlands and farmland protected with a conservation easement. (DOAg 2 - DOAg Letter received September 5, 2017)
100. DOAG is not aware of any cluster developments in the surrounding area that provides a mix of residential, conserved land, farmland and renewable energy. (DOAg 4, response 13)
101. The Town's Plan of Conservation and Development (POCD) has recommendations that the Town should promote cluster developments to preserve open space and agriculture. There is no mention of a renewable energy component with the cluster development recommendations. (DWW Administrative Notice Item No. 1, pp. 24, 31, 54, 87)

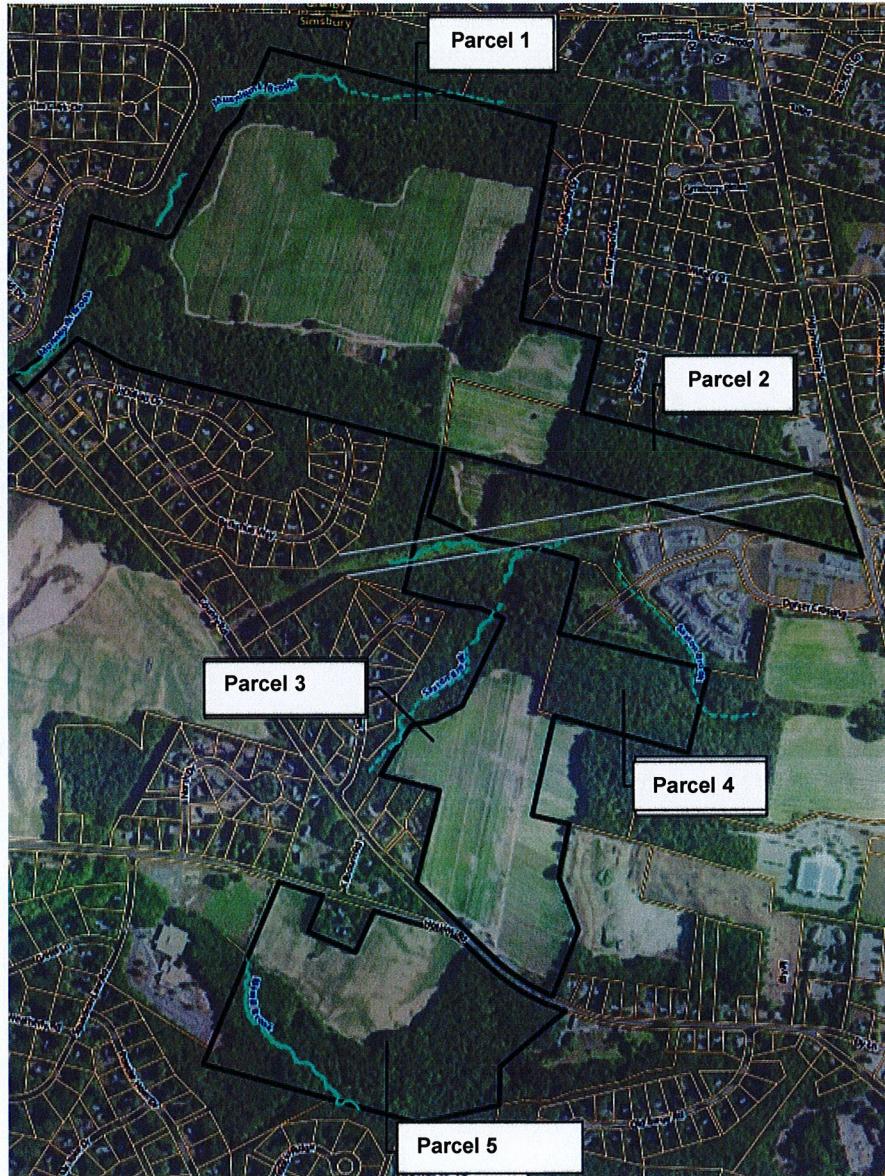
**Project Site**

102. The project site is composed of five abutting parcels. Based on an on-site Class A-2 survey performed by DWW, the parcels collectively consist of 289 acres. The size and associated zoning of the five parcels are as follows:

<b>Town Parcel ID (FOF reference)</b>	<b>Acreage</b>	<b>Town Zoning</b>
G03-403-032 (Parcel 1)	138	Industrial - I-1
H03-403-012 (Parcel 2)	30	Residential - R-40
H05-403-026-32H (Parcel 3)	54	Industrial - I-1
H043-403-014 (Parcel 4)	14	Industrial - I-1
H05-103-024 (Parcel 5)	53	Residential - R-40

(DWW 1, Tab C Site Plans, Tab O, p. 3)

103. The five parcels are located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road (Project Site), as shown below:



(DWW 1, p. 8, Tab B, Tab O, p. 3)

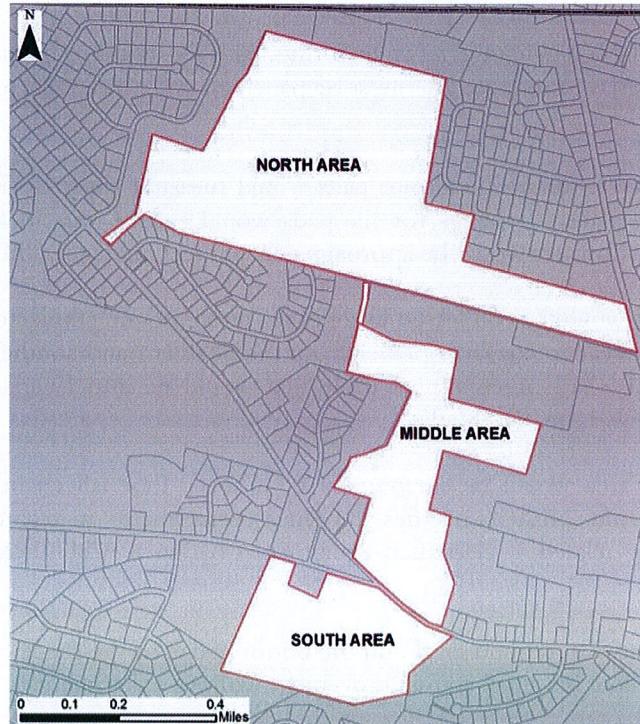
104. According to Town records, no applications for development on any of the five parcels have been submitted to the Town. (Town 5, response 2)
105. All five parcels are owned by River Bend Development CT, LLC. (DWW 1, Tab O, p. 9)
106. DWW has secured an option to purchase the five parcels from the landowner. (Tr. 1, p. 87)
107. Collectively, the parcels consist of agricultural fields, woodland and wetland areas. Unimproved dirt roads interconnect the agricultural fields and provide access from public roadways. A 115-kV Eversource right-of-way traverses Parcel 2 and Parcel 3. A municipal sewer easement is located on Parcel 3 and Parcel 5. (DWW 1, p. 8, Tab C)

108. There are no buildings on the parcels except for three barns on Parcel 1 and two barns on Parcel 3. (DWW 1, Tab C)
109. The Project Site consists of 131 acres of agricultural fields, 151 acres of deciduous and evergreen woodland, of which 36 acres is forested wetland, and 7 acres of non-forested wetlands and ponds. (DWW 1, pp. 28, 34)
110. Existing public road frontage for the Project Site includes:
  - a. Dirt access road extending from County Road (Parcel 1),
  - b. Property frontage along Hopmeadow Street (Parcel 2)
  - c. Frontage along the north side of Hoskins Road (Parcel 3)
  - d. Frontage along the north side of County Road near Hoskins Road (Parcel 3)
  - e. Frontage along the south side of Hoskins Road (Parcel 5)(DWW 1, Tab C)
111. The Project Site is bound to the west by residential development and Squadron Line School, the north by Town-owned open space and undeveloped land, the east by residential development and undeveloped land and, the south by Town-owned open space and residential development. (DWW 1, p. 8; Town 5, Att. M)
112. The Town's POCD includes a conceptual development plan that includes a “northern gateway” - a new road associated future development on Parcels 3 and 4. The POCD “Future Land Use Plan” shows parcels 3 & 4 as “Industrial” and Parcels 1, 2, and 5 as “Low Density Residential”. (DWW 1, p. 42; Town POCD; Town 5, response 7)
113. A conceptual as-of-right development of the Project Site could include more than 100 residential house lots and 400,000 square feet of industrial space. (DWW 1, p. 41)

(continued next page)

### Project Description

114. The proposed solar photovoltaic facility consists of a 156-acre project area, divided into three main solar field areas, as follows and shown below;
- North Solar Field, with two distinct sections, is located generally north of the Eversource right-of-way (Parcels 1 and 2);
  - Middle Solar Field is located south of the Eversource right-of-way and north of Hoskins Road (Parcels 3 and 4); and
  - South Solar Field is located south of Hoskins Road.



The Project would consist of approximately 109,888 fixed 340 Watt solar panels. The overall layout of the facility is shown in Figure 4. (DWW 2, response 14; DWW 5, response 34 Supplement, Fig. 7)

115. The photovoltaic panels are composed of crystalline silica cells supported in anodized aluminum frames. The panels are approximately 97 percent efficient in that very little light is reflected off the surface. (DWW 1, p. 9)
116. The proposed solar panels would be installed in linear arrays on racking systems generally in an east-west orientation with the panels facing the south. The panels would be oriented at an angle of approximately 25 degrees above the horizontal. (DWW 1, p. 9; DWW 2, response 13)
117. Once installed on the racking system, the panels are approximately three feet above grade at the bottom edge and approximately 10 feet above grade at the top edge. The three foot space between the ground and low panel edge is designed to allow for sufficient maintenance access, to allow for enough light below the panel to support vegetation, and to allow for snow to slide off the panel and pile without causing shading interference. (DWW 1, p. 9; Tr. 3, pp. 217-218)
118. The solar racking system would consist of driven steel posts or pre-drilled concrete piles in the event ledge is encountered. Approximately 10,000 posts would be driven 12 to 14 feet into the ground, depending on soil conditions to support the panel racking. Posts would be 8 to 10 feet above grade to support the solar panels. (DWW 1, p. 9; DWW 2, response 21, response 22, response 59; DWW 11, response 3; Tr. 3, p. 238)

119. Solar panel rows would be separated by a 13-foot wide aisle to provide enough construction space, post-construction maintenance and to prevent shading of panels, thus reducing energy output, during winter where the sun is at a lower azimuth. (DWW 10, response 100; Tr. 3, pp. 218-219)
120. Electricity from the panel arrays would be transmitted to centralized inverter/transformer locations via underground DC cable. The cable may be of cross-linked polyethylene (XLPE) construction and would either be direct buried or placed in a metal or PVC conduit three to four feet below grade. (DWW 1, p. 9; Tr. 1 pp. 24-27)
121. There would be 14 concrete inverter/transformer pads located throughout the Project to convert the DC power (37.4 MW) produced by the solar panels to AC power (26.4 MW). (DWW 1, pp. 9, 11, Tab G, p. 5)
122. The concrete inverter and transformer pads would measure approximately 20 feet by 20 feet and would be cast in place. Footings for the pads would extend four to five feet below grade. The inverters and transformers would be approximately ten feet in height. (DWW 1, p. 9)
123. The transformers would be connected in series via underground connector cables. The cables would connect to switchgear to combine power from the northern and southern parts of the Project into one underground XLPE interconnect cable that would tie into Eversource's Northeast Simsbury Substation. (DWW 1, pp. 9-11)
124. Each solar field area would be surrounded by a seven-foot tall chain link fence. The National Electric Safety Code (NESC) specifies the fence requirements in regards to security, signage, and minimum spacing related to electrified equipment. (Council Administrative Notice Item No. 101; DWW 1 p. 9)
125. A six-inch gap between ground level and the bottom edge of the fence can be incorporated into the fence design to allow for small animal movement without a detriment to overall security. (Tr. 3, pp. 193-194)
126. The solar field areas would be accessed by 20-foot gravel driveways extending from public roadways, as follows;
  - a. an existing access from County Road that leads to the north solar field;
  - b. a new defined access from County Road near Hoskins Road that enters the middle solar field; and
  - c. a new defined access road that enters the southern solar field.A bar gate would be installed at the access drive entrance at County Road to prevent unauthorized vehicle access into the interior of the site. The access driveways off Hoskins Road lead directly to solar field perimeter gates. (DWW 1, Tab C, Tab Q, p. 4)
127. A 20-foot wide gravel access road would be established around the perimeter of each solar field area. The solar field perimeter access roads would be located inside of the perimeter fenceline, with access controlled by chain link swing gates. The access drives would consist of compacted substrate covered with a geotextile fabric and 12 inches of crushed stone. (DWW 1, Tab C; DWW 2, response 55)
128. The total length of the Project access roads is 4.2 miles. (DWW 2, response 24)
129. Grass lanes, 20 feet in width, would extend from the perimeters solar field roads to the inverter/transformer pads. The grass lanes would be native soil with a prepared substrate. (DWW 1, Tab 3; DWW 100, response 100 d)

130. The closest off-site residences to the proposed solar field areas are as follows:

- a. northwestern solar array - 13 Knollwood Circle, 275 feet to the east;
- b. northeastern solar array - 1 Centerwood Road, 247 feet to the north;
- c. central solar array - 14 County Road, 142 feet to the west; and
- d. southern solar array - 85 Hoskins Road, 197 feet to the north.

(DWW 2, response 9)

### **Electrical Interconnection**

131. DWW consulted with ISO-NE regarding the Project in August 2016. ISO-NE indicated that since the Project would interconnect on the distribution level, it is not jurisdictional to ISO-NE. (DWW 1, p. 10)

132. The Project is to be interconnected with the 23-kV distribution system at Eversource's North Simsbury Substation. (DWW 1, p. 8; DWW 2, response 36)

133. DWW consulted with Eversource, as the Connecting Transmission Owner, throughout late 2016 and early 2017 and submitted a Large Generator Interconnection Request on February 13, 2017. (DWW 1, p. 11)

134. In April 2017 a System Impact Study Agreement was executed that specifies that the interconnection design must be performed in accordance with the Eversource Guidelines for Generator Interconnection and any ISO-NE requirements. (DWW 1, p. 11)

135. DWW and Eversource are in the process of working out the details of the interconnection agreement. Given the 26.5 MW AC Project rating, it is possible that Eversource would rather have the Project interconnect on the transmission side, as opposed to the distribution side. (Tr. 3, pp. 186-187, 235-236)

136. Two underground interconnection routes are being examined by DWW and Eversource; a northern cable route that would extend east from the north solar field then south into the substation; and the southern cable route that would extend northeast from the middle solar field along a public road (Castlebridge Crossing) to the substation located just north of the road. Refer to Figure 4 for the location of the potential cable routes. (DWW 1, p. 10)

### **Project Construction**

137. DWW would be required to obtain a DEEP General Permit prior to the commencement of construction activities. (DWW 2, response 42)

138. The primary construction access areas for the proposed project would be along the existing dirt access drive extending north from County Road to the north solar field and along County Road to access the middle and south solar field areas. Once off of the main access ways, construction vehicle would use connecting farm roads to access other areas of the site. (DWW 1, Tab B - Project Layout, Tab C Site Plans)

139. The existing access off County Road is currently used by agricultural equipment to access farm fields on Parcel 1. It would be upgraded and widened to accommodate construction vehicles. (Tr. 1, pp. 29-30)

140. The access extending from County Road is through a narrow strip of land that borders four residential properties to the east on Litchfield Drive, with the access drive being approximately 8-10 feet from the property line. The access drive turns eastward along the south property line and comes within 20 to 50 feet from five abutting residential properties on Litchfield Drive. (DWW 1, Tab C Site Plans)
141. The general construction sequence would include, but would not be limited to, the following:
  - a. Flag the limits of the construction necessary to facilitate the pre-construction meeting;
  - b. Hold pre-construction meeting and provide the Town 24-hour site contact information;
  - c. Inspect site to determine if surface water control features can be established as specified and revise if necessary;
  - d. Install erosion and sedimentation controls in accordance with the DEEP 2002 Guidelines for Erosion and Sediment Control and the Project erosion and sedimentation plan;
  - e. Complete clearing and grubbing where specified. Install remainder of temporary sediment traps/basins that are to be installed in existing wooded area;
  - f. Establish rough grade on the site and install perimeter chain link fence to serve as construction barrier;
  - g. Install landscaping & loam and seed all disturbed areas as early as practicable;
  - h. Remove temporary sediment traps/basins and their associated diversion channels once all tributary areas upstream have been completed and stabilized; and
  - i. After site is stabilized, remove temporary erosion and sedimentation controls, e.g. geotextile silt fences. Inspect site and remove accumulated sediment, if necessary.

(DWW 1, Tab L, pp. 13-14)
142. Approximately 31 acres of forest would be cleared for construction and to create a 100-foot buffer around the solar field areas to minimize solar panel shading. (DWW 1, Tab B-Tree Clearing Map; DWW 2, response 8, response 19)
143. Most of the project area consists of relatively level agricultural fields, approximately 126 acres with periphery farm roads. (DWW 1 p. 21)
144. The Project area would be graded as necessary to attain a 10 percent grade in the solar field area and 15 percent maximum grade in select adjacent areas. Approximately 33 acres of the project site would be re-graded. (DWW 1 pp. 9, 21, Tab C - Site Plans; DWW 2, response 8d)
145. The cut/fill for general site grading (including perimeter access roads) is estimated to be: 58,700 cu. yds. cut, 21,500 cu. yds. fill, for an excess of 37,200 cu. yds. Excess cut would be used on the Project site to construct perimeter access roads, backfill and landscaping. (DWW 2, response 56; DWW 10, response 104; Tr. 3, p. 407)
146. No excess soil would be removed from the site. (Tr. 4, pp. 720-721)
147. Heavy machinery, such as front end loaders, graders, bull dozers, and backhoes, would be used intermittently throughout construction. (DWW 1, p. 57)
148. Posts would be installed using a small track driven pile driver (Vermeer PD10s pile driver, or similar). If post refusal occurs, further action would be evaluated at that time. Ledge is not anticipated, however if encountered at a depth of less than six feet, the ledge would be drilled and the posts placed in concrete. (DWW 2, response 59; Tr. 1, pp. 24-25)

149. All construction activities are expected to begin in the summer of 2018 and completed by the summer of 2020. The construction schedule is dependent on a number of factors, including obtaining various regulatory approvals, weather conditions, and the potential for unknown site conditions, and may change accordingly. (DWW 8, p. 87)
150. Construction activities such as excavation/grading and installation of the solar panel systems would typically be limited to normal daytime working hours. Construction activities beyond normal daytime work hours would be minimized to the extent practicable. (DWW 1, p. 57)
151. Exact construction hours have not been determined. DWW would include the final construction hours in the D&M Plan. (DWW 11, response 3; Tr. 1, p. 66)

#### ***Traffic***

152. DWW anticipates that construction vehicles would utilize Hopmeadow Road (Route 202) and enter the project site from access points on County and Hoskins Road. Construction traffic will also be alerted to the presence of the Squadron Line School near the Project Site. (DWW 2, response 52, response 57; DWW 11, response 5)
153. A work force of up to 80-100 employees would enter the site each workday. (DWW 2, response 57)
154. Construction related traffic would occur before typical peak morning commute periods and before the evening peak commute. Most construction equipment will reside on the site during construction. Deliveries of materials via trucks would be made to the site throughout the construction period with an estimate of 10-20 truck trips occurring each day. Project mobilization/demobilization would last occur over a few weeks increasing truck traffic at these times. (DWW 2, response 57)
155. After the solar plant is operational, three vehicles on average would visit the site per week for Operations and Maintenance activities. (DWW 1, Tab Q, p. 4; DWW 2, response 64)
156. Heavy equipment would be moving on roads that were designed primarily for residential use. Due to the presence of the Squadron Line School on Hoskins Road, children have to walk along County and Hoskins Roads and cross the roads at designated crosswalks. (Flammini et al. 3c; Tr. 3, pp. 312-313)

#### **Facility Operation**

157. The project parameters, including the 25 degree angle of the panels above the horizontal, were selected to maximize total annual energy production. (DWW 2, response 13)
158. The estimated capacity factor of the project would be approximately 14.6 percent. The capacity factor is calculated using models that account for the solar irradiation of the specific location and elevation of the solar project, including diurnal and seasonal variations, and the specific details of the project design, including tilt and efficiency of the panels. (DWW 2, response 14, response 16)
159. The proposed project would be expected to produce a total output of approximately 37.4 MW DC / 26.4 AC. (DWW 2, response 14)
160. The overall output of the facility is an average over the life of the facility and includes increased losses due to degradation of the solar facility components. (Tr. 3, p. 230)
161. The proposed solar facility has an anticipated operational life of 20-30 years. (DWW 1, p. 8, Tab s, p. 3)

162. The solar facility cannot operate as an independent microgrid so if power is lost to the area at the substation level, the facility would not be able to provide useable power to local customers. (Tr. 3, p. 258-259)
163. The solar facility would produce power for use at the local distribution network served by the North Simsbury Substation. Power would be used in distribution areas served by the substation and would not be transported for use in Massachusetts. (Tr. 3, pp. 191-192)

#### ***Project Decommissioning***

164. DWW provided a decommission plan that includes solar facility infrastructure removal, waste disposition, and site restoration. (DWW 1, p. 59, Tab S – Decommissioning Plan)
165. A return to an agricultural use after decommissioning would be influenced by the economic conditions existing at the time of decommissioning and whether these conditions favor farmland operations or residential, commercial or industrial development. (DWW 1, p. 62)
166. The Decommissioning Plan includes provisions to restore the agriculture fields occupied by the facility to productive use, including but not limited to the following:
  - a. evaluating and categorizing all solar facility components and materials into categories of recondition and reuse, salvage, recycling and disposal prior to removal;
  - b. concrete pads would be removed to a depth of 24 inches;
  - c. underground wire in the array of the array would pulled and removed from the ground;
  - d. Removal of facility service roads by removing the processed stone and underlying geotextile fabric;
  - e. the sub-grade material and topsoil from affected areas will be de-compacted and restored to a density and depth consistent with the surrounding areas;
  - f. for post-project agricultural use, a sub-soiler plow would be used for deep tillage across the project site; and
  - g. prevention of soil erosion restoration by leveling, terracing, mulching, and the establishment of suitable grasses and forbs.

(DWW 1, Tab S- Decommissioning Plan)

#### **Public Safety**

167. The proposed project would meet or exceed applicable industry, national, state and local codes and standards, including but not limited to the National Fire Protection Association, National Electrical Code, and the National Electrical Safety Code. (DWW 1, p. 6-3; DWW 2, response 28)
168. The transformers would contain a non-toxic mineral oil dielectric fluid. PCBs were banned in 1979 and would not be used at the site. (DWW 5, response 28)
169. Safety lighting would be installed at access gates and at other select locations, if necessary. (DWW 5, response 60)
170. Safety signage for high voltage equipment would be installed as necessary along the security fence and in accordance with code requirements. (DWW 1, pp. 9, 58, DWW 5, response 60)
171. Signage identifying the facility and DWW personnel contact information would be installed at each driveway location. (DWW 1, p. 58)

172. The Project would have an Emergency Management Plan coordinated with local First Responders. (DWW 1, p. 58)
173. Prior to operation, and annually thereafter, DWW would meet with First Responders regarding site access and appropriate training for emergencies related to photovoltaic facilities. (DWW 1, p. 59, Tab Q, p. 6; Tr. 1, p. 80)
174. Each of the entrance gates would have a universal key lock for emergency responders. Emergency shutoff switches would also be locked with universal locks and would be clearly labeled and lit at night. (DWW 1, Tab Q, p. 6)
175. The proposed perimeter access road system and 20-foot access road width would provide sufficient access to the facility. (DWW 1, p. 58; DWW 2, response 25)
176. The solar facility would be remotely monitored through a data acquisition system and would feature remote shutdown capabilities. (DWW 1, Tab Q; DWW 2, response 32)
177. The solar facility would be equipped with an internal protection system that would shut down the entire facility, or an affected portion, in the event of internal or external disturbances, such as a fault or power outage. (DWW 2, response 27)
178. The design wind speed for the solar panels with a fixed vertical post foundation is 109 miles per hour. (DWW 2, response 23)
179. The solar panels/racking system is designed for snow loading in accordance with the International Building Code (IBC) and Uniform Building Code (UBC). Snow is expected to naturally slide off or melt off of the panels. If snow is retained for a number of days, DWW would manually remove the snow by hand with brooms. (DWW 2, response 61, response 62)
180. If snow builds up on the panels and cannot slide off due to accumulated snow beneath the drip line of the panels, a snow blower mounted on a skid loader would be removed to clear snow away from the panel area. (DWW 2, response 61, response 62)

***Aviation Safety - Glare***

181. The Project site is located 0.8 miles southwest of the Simsbury Airport, a private airport with two runways and 13 based aircraft, and 4.8 miles southwest of the Bradley International Airport in Windsor Locks. (DWW 1, p. 38)
182. DWW filed 17 Notice of Proposed Construction or Alteration - Off Airport (Form 7460-1) notifications with the FAA. On April 18, 2017, FAA issued a Determination of No Hazard to Air Navigation for the Project. (DWW 1, p. 53)
183. The FAA No Hazard Determinations are based on the height and location of the proposed facility. The FAA did not request a glare analysis in its determination. (DWW 8, responses 93)

### **Environmental Effects**

#### ***Air Quality***

184. During operation, the proposed project would not produce air emissions of regulated air pollutants or greenhouse gases. Thus, the project would meet DEEP air quality standards and no air permit would be required. (DWW 1, pp. 53, 63)
185. Given the loss of carbon dioxide sequestration over the life of the facility due to site development, tree clearing and the carbon dioxide emitted from the manufacture of the solar equipment versus the net carbon dioxide emissions reduction resulting from the solar facility displacing existing fossil fueled generation in the grid portfolio, the “carbon debt payback period” would be approximately 3.3 years. (DWW 10, Attach. D)
186. During construction DWW would comply with State regulations and policies relating to anti-idling of vehicles and would require construction vehicles not in use for more than three minutes to be turned off. (DWW 5, response 23)
187. During construction, fugitive dust would be controlled with applications of water and/or calcium chloride during construction. Water would be trucked in from off-site sources. (DWW 5, response 23; Tr. 3. 193)

#### ***Water Quality***

##### ***Site Hydrology***

188. The proposed project would not consume water during operation. (DWW 1, p. 13)
  189. Existing agricultural uses on the site property utilize water directly from two farm ponds and from two brooks, Munnisunk Brook and Saxton Brook, for irrigation. The Project would not utilize water from these resources, thus leaving more water available for stream base flow and stabilized pond levels. (DWW 1, p. 50)
  190. Although the Project Site contains Federal Emergency Management Agency (FEMA) floodplains along several brooks and one FEMA floodway along Munnisunk Brook, the solar facility would not be located within the FEMA designated floodplains or floodway (refer to Figure 5). (DWW 1, pp. 34, 50, Tab B – Floodplains, Surface, & Groundwater Map)
  191. The proposed project would be located within the Aquarion Water Company’s (AWC) Hoskins Well Field Aquifer Protection Area (refer to Figure 5). DEEP recommends that the Project be constructed in accordance with the Connecticut Aquifer Protection Area Program Municipal Manual Best Management Practices – “Road and Highway Construction/Reconstruction in Aquifer Protection Areas” The practices include but are not limited to the following:
    - a. Road construction plan that has a siting and design assessment to avoid or mitigate potential impacts.
    - b. A stormwater management plan to consider the quantity and quality of stormwater runoff and to provide groundwater protection
    - c. Allow sheet flow to above ground treatment structures such as detention basins.
- (DEEP comments of September 11, 2017)

192. The eastern portions of the Project Site are within the Aquifer Protection Area. DWW would comply with any applicable laws and regulations of the DPH, including submission of an Aquifer Protection Plan, if necessary. (DWW 5, response 15; DWW 11 response 9)
193. The eastern portion of the Project would be constructed within a Town-designated Aquifer Protection Zone. The zoning regulation stipulates that stormwater drainage should be designed for maximum aquifer recharge and if any hazardous materials are used or stored at the Project Site, a hazardous materials management plan must be developed and submitted to the Town. (DWW 1, pp. 35, 50; DWW 5, response 29)
194. DWW would comply with the town aquifer protection regulations in that no hazardous materials would be used or stored on-site and no sanitary discharges would occur. (DWW 1, p. 50; DWW 5, response 29)
195. Private water supply wells are generally located in the area northeast of the Project Site along Knollwood Circle, Howard Street, Centerwood Road, Willard Street, Gordon Street, Wescott Road and Hopmeadow Street. AWC supplies water to areas north, west, south and southeast of the Project Site. (Town 5, response 3)
196. Construction of the proposed project would involve driving racking posts into the ground to a depth of 12-14 feet. These activities would be a minimum 100 feet from any abutting property line and even further from potential off-site private wells. Given this distance and an examination of guidelines by the Federal Transit Administration, U.S. Bureau of Mines, and the California DOT, vibrations associated with pile driving are not expected to cause structural damage or sediment transport into nearby wells. (DWW 2, response 21; DWW 8, response 83)
197. DWW would immediately seed the agricultural fields for erosion and dust control once it assumes control of the Project Site. (DWW 11, response 4a)
198. DWW would use water and/or calcium chloride for dust suppression during construction activities. (DWW 5, response 23; Tr. 4, p. 587)
199. Regular solar panel cleanings are not anticipated due to rain/snow precipitation. If panel cleaning becomes necessary, water and a bristle brush would be used. (DWW 1, Tab Q, p. 4; DWW 5, response 21)
200. The solar panels are enclosed systems that would not chemically degrade over time. Therefore, the panels do not have the potential to discharge pollutants into the ground or groundwater. (DWW 2, response 84)

*Stormwater*

201. DWW used hydrological modeling incorporating 24-hour storm rainfall volumes derived from the National Oceanic and Atmospheric Administration Precipitation Frequency Data Server which is more conservative than the requirements of the General Permit and is widely accepted by State agencies. (DWW 8, response 86)
202. DWW evaluated stormwater impacts in accordance with the *2004 Connecticut Stormwater Quality Manual*. Project developers are required to mitigate any project-related changes to runoff rates, volumes or patterns through mitigation that may include detention basins, infiltration systems, swales, etc. (DWW 1, p. 36)

203. The analysis of existing conditions determined that stormwater runoff from most of the Project Site flows overland towards the wetland systems associated with Munnisunk Brook, Saxton Brook, Bissell Brook, or to neighboring properties. The Project Site is generally at a higher elevation throughout the agricultural fields and slopes down in all directions to the adjacent wetlands systems. (DWW 1, p. 37)
204. The Project has been designed to comply with the *2004 Connecticut Stormwater Quality Manual* and the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*. (DWW 1, p. 50)
205. Post-construction, the Project would not increase stormwater runoff rates or volumes. New impervious surfaces are minimal and the solar arrays are elevated above the ground so that permanent grass cover can be established beneath the panels, increasing infiltration. Through a majority of the site, existing agricultural lands and some woodland would be converted to grass surfaces and crushed stone roads. Modeled runoff rates would be reduced as a result of the project without the need for engineered stormwater management practices. (DWW 1, p. 51, Tab L – Stormwater Management Report, p. 13)
206. The post-construction design mimics existing topography and drainage patterns to maintain the current hydrologic balance. In the majority of the Project Site, a low cover crop would be established to promote more natural infiltration into the soil than currently exists, absorb pollutants, stabilize the topsoil from erosion, and result in lower runoff rates from the agricultural field areas to the surrounding discharge points. Mature vegetation would be preserved to the maximum extent practicable around the solar field areas, maintaining existing infiltration rates. (DWW 1, Tab L – Stormwater Management Report, p. 12)
207. Existing and post-construction stormwater peak discharge rates in cubic feet per second (cfs) are listed below. Post-construction discharge rates would decrease from the existing discharge rates at the identified locations under various storm events.

Design Point	2-year	10-year	25-year	100-year
<b>Design Point MB: Munnisunk Brook</b>				
Existing	12.9	51.5	81.5	132.5
Proposed	6.6	37.9	64.7	112.0
<b>Design Point KC: Knollwood Circle</b>				
Existing	14.7	46.5	69.5	107.6
Proposed	1.0	12.8	25.5	49.8
<b>Design Point HS: Howard Street</b>				
Existing	0.4	1.5	2.5	4.0
Proposed	0.0	0.3	0.7	1.6
<b>Design Point SB: Saxton Brook</b>				
Existing	7.9	36.4	60.1	101.2
Proposed	1.3	15.0	30.3	60.3
<b>Design Point BB: Bissell Brook</b>				
Existing	18.3	58.1	87.9	138.4
Proposed	2.5	21.0	38.8	72.1

\* Expressed in cubic feet per second

(DWW 1, Tab L – Stormwater Management Report, p. 9)

208. The Project does not contain any post-construction structural stormwater management facilities. Once the site is stabilized with ground cover, there would be no sediment transport and thus no need for a collection basin. (DWW 1, Tab Q, p. 5; Tr. 1, pp. 46-47)
209. The project gravel roads and grass surfaces would provide residence time of stormwater runoff to remove anticipated small amounts of sediment from runoff. Additionally, the vegetated buffers between the access roads and the wetland systems would provide water quality treatment. The proposed modification in ground cover from agricultural fields to grass and meadow surfaces would reduce the total amount of sediment runoff from the site that presently occurs. (DWW 5, response 26; Tr. 1, pp. 45-47)
210. DWW would inspect all on-site vegetated areas at least once per year, removing any accumulated sediment and debris that could affect stormwater patterns. Any bare areas or erosion channelization would be repaired by re-seeding and the installation of appropriate erosion control measures. Alternative mixtures of grass species would be planted if re-vegetation issues persist. (DWW 1, Tab Q, p. 5)

*Stormwater – Construction*

211. DWW would file a Stormwater Pollution Prevention Plan (SWPPP) as part of its General Permit application that identifies areas for storing petroleum fuels, refueling operations, and spill containment during construction. (DWW 5, response 20)
212. DWW would retain qualified professionals to conduct soil and erosion control inspections of the site during construction, as required by the General Permit. DWW anticipates that inspections would be performed weekly or more frequently as needed based on precipitation or other conditions of concern. (DWW 5, response 66)
213. DWW would phase the Project and may include phases of disturbance greater than five acres at a time due to the current condition of the site as open agricultural lands. A phasing plan would be submitted at a later date and would generally consist of the following elements;
- a. prior to construction, a cover crop will be established on all agricultural soils on the property;
  - b. install perimeter erosion and sedimentation controls in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*.
  - c. construction within a majority of the agricultural fields would utilize existing grades with soil disturbance limited to installation of the solar racking piles;
  - d. tree clearing/grubbing areas would be seeded immediately after final grading;
  - e. access roads would be stabilized with processed gravel as they are constructed;
  - f. completed utility trenches would be backfilled at the end of each workday; and
  - g. temporary cover would be established using quick germinating grasses or buckwheat.
- (DWW 1, Tab L, p. 13; DWW 2, response 43; Tr. 1, pp. 49-50)
214. Sediment traps would be installed in conjunction with site grading and would be located at the discharge point of each Project area sub-watershed when the contributing area exceeds one acre, but is less than five acres. A temporary sediment basin, a larger version of a trap that includes a staged release discharge structure, would be constructed for areas exceeding five acres. (DWW 2, response 44; Tr. 1, pp. 40-44)
215. Additional temporary sediment traps may be needed during construction depending upon construction phasing. (DWW 1, Tab L – Stormwater Management Report, p. 15)

216. The site would be hydro-seeded with a quickly germinating seed (annual rye) and chopped fiber mixture. The mixture would contain a tackifier to bind the material together and to the underlying bare soil. (Tr. 1, p. 48)

*Wetlands and Watercourses*

217. The Inland Wetlands and Watercourses Act (IWWA), CGS §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (CGS §22a-36, *et seq.*)
218. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (CGS §22a-42a)
219. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (CGS §22a-41)
220. A wetland survey of the Project Site was conducted in accordance with the Connecticut Inland Wetlands and Watercourse Act between December 2016 and April 2017. The survey identified nine wetland areas, four farm ponds and three brooks on the Project Site (refer to Figure 5). (DWW 1, p. 24, Tab H)
221. A majority of the wetland areas consist of forested wetlands associated with Munnisunk Brook (Parcel 1), Saxton Brook (Parcels 3 & 4) and Bissell Brook (Parcel 5) and are dominated by red maple and northern spicebush. The smaller isolated wetlands are also forested, dominated by red maple and highbush blueberry. (DWW 1, pp. 33-34)
222. No wetlands or watercourses would be directly impacted by the project. No clearing would occur directly in wetlands or watercourses. (DWW 1, pp. 47-48)
223. The project was designed to maintain a buffer between the project limits and the delineated wetland areas. The buffer is generally of a minimum distance of 100 feet which is sufficient to maintain wetland functions and water quality. (DWW 1, Tab C site plans; DEEP Comment Letter received September 11, 2017)
224. The Project limits would extend into the 100-foot wetland buffer in a few areas, as follows;
- a. The existing access road extending from County Road is within the buffer of Wetland 1. Minor road upgrades are proposed in this area but no work is proposed within adjacent wetlands;
  - b. Approx. 2,500 sq. ft. of clearing along the northern edge of the Wetland 1 buffer;
  - c. Approx. 2,000 sq. ft. of clearing along the northeastern edge of the Wetland 2 and Wetland 3 buffer;
  - d. Upgrade of an existing farm road within the Wetland 4 farm pond buffer;
  - e. Approx. 3,500 sq. ft. of clearing along the south edge of the Wetland 8 and Wetland 9 buffer; and
  - f. A 200-foot long portion of the south solar field perimeter access road would extend into the Wetland 8 buffer.
- (DWW 1, p. 47, Tab C site plans)

225. An existing access road extends between the north and middle solar fields and crosses Wetland 6 via existing culverts. DWW does not intend to perform any work within this wetland area. (DWW 5, response 31; Tr. 1, pp. 72-73)
226. Prior to construction, DWW Solar would develop a Resource Protection Plan to avoid and minimize impacts to on-site natural resources, including wetlands. (DWW 1, p. 47)

*Vernal Pools*

227. A vernal pool survey of the Project Site was conducted on April 3, April 19, 2017, and May 11, 2017 with the only potential vernal pools observed consisting of the four farm ponds constructed as part of the agricultural irrigation system on the property. All four ponds were found to support fish populations and therefore have compromised value as vernal pools. Wetland systems do extend beyond the property limits and vernal pools may occur off-site near the Project Site. (DWW 1, Tab K; Tr. 3, p. 208)
228. Wood frogs are a vernal pool indicator species. A wood frog egg raft was identified in Farm Pond #4 (Parcel 5), but due to the presence of fish, expected wood frog egg and larvae survivability would be low. Wood frogs were also identified along the existing access road extending from County Road and were likely breeding in off-site areas and migrating along the Munnisunk Brook corridor. (DWW 1, Tab K; Tr. 3, pp. 208-210)

*Phase 1 Site Assessment*

229. DWW performed a Phase 1 Environmental Site Assessment for the Project Site. The assessment was performed in accordance with the guidelines described in ASTM Standard Practice E1527-13 for Phase I Site Assessments. (DWW 1, Tab O, p. 1)
230. The objectives of the Phase 1 is to identify Recognized Environmental Conditions and provide an opinion as to whether the site is listed as an “establishment”. (Tr. 4, p. 668)
231. An examination of past use of the property indicates Parcels 1, 3 and 5 have historically been used as agricultural fields with barns that are similar in their configuration to barns typically associated with tobacco farming. Parcels 2 and 4 have historically consisted of undeveloped woodland. (DWW 1, Tab O, p. 6)
232. No evidence of Recognized Environmental Conditions were identified, except the following:
  - a. The Project Site has been historically used for tobacco farming. Pesticide and/or herbicide residuals may be present in soil and/or groundwater as a result of current or historical application, storage or disposal of these substances. The presence of groundwater monitoring wells on Parcel 5 suggests that subsurface investigations have been conducted.
  - b. A bulging 55-gallon drum, contents unknown, is present in a barn on Parcel 3. No release from the drum was evident. DWW notified the property owner of the presence of the drum.
  - c. Discarded building debris (e.g., shingles, roofing tar, furniture) are located in wooded areas of Parcel 5, and discarded empty metal drums in wooded areas at Parcels 1 and 3. It is possible that a historical release of hazardous substances or petroleum products occurred in these areas.

(DWW 1, Tab O, p. 23; DWW 8, response 92e; Tr. 4, p. 634)

233. The property owner did not submit requested information regarding current and past site usage and facility operations. The Phase 1 consultant considered this omission as a significant data gap. (DWW 1, Tab O, p. 24)
234. Under the Connecticut Transfer Act, an “establishment” means any real property at which or any business operation from which (A) on or after November 19, 1980, there was generated, except as the result of (i) remediation of polluted soil, groundwater or sediment, or (ii) the removal or abatement of building materials, more than one hundred kilograms of hazardous waste in any month, (B) hazardous waste generated at a different location was recycled, reclaimed, reused, stored, handled, treated, transported or disposed of, (C) the process of dry cleaning was conducted on or after May 1, 1967, (D) furniture striping was conducted on or after May 1, 1967, or (E) a vehicle body repair facility was located on or after May 1, 1967. (CGS §22a-134(3))
235. The Project Site is not subject to the Connecticut Transfer Act as the Project Site does not appear to meet the definition of an “establishment”. The act pertains to disclosure of environmental conditions when a property meeting certain criteria (establishment) is transferred. The Connecticut Transfer Act imposes strict liability on the property owner, not the purchaser of the property, for failure to correctly determine establishment status under the Connecticut Transfer Act. (DWW 1, Tab O, p. 24; DWW 5, response 12; Tr. 4, pp. 600-605, 649-650, 666-668)
236. DWW anticipates all debris identified on the site would be removed by the property owner in accordance with applicable regulations. Any identified solid waste left on the site would be disposed of by DWW in accordance with applicable regulations. (DWW 5, response 14; DWW 8, response 92)
237. The former contents of the empty drums found on Parcels 1 and 3 are unknown. It is unknown whether releases occurred from these drums and were not considered as Recognized Environmental Conditions. (Tr. 4, pp. 636, 657-658)
238. DWW does not intend to conduct soil or groundwater testing at the Project Site as such testing would not impact the development of the Project. (DWW 5, response 10)
239. Groundwater monitoring wells were identified on Parcel 5. DWW may abandon the wells in accordance with applicable regulations. (DWW 1, Tab O, p. 12; DWW 5, response 13)
240. The Town found files regarding Culbro Corporation (Culbro) properties in the Simsbury area. Files were found pertaining to the historic disposal of pesticides and subsequent removal of disposed materials. Also, contaminated soils were identified on Hall Farm and Hall Farm #2. (Town 7, pp. 4-5)
241. DWW conducted additional research of DEEP files on October 31 and November 1, 2017 and determined the historic disposal areas were not located on the Project Site. A disposal area was located adjacent to Parcels 3 and 4 and was subsequently remediated in 1989. (DWW 12, response 84b; Tr. 4, pp. 605-606; 645-647, 660; Town 4, Att. E)
242. Culbro owned various properties in the Simsbury area and many of the historic DEEP files pertaining to Culbro do not have specific locations or addresses listed. (Tr. 4, pp. 642-646)
243. Three of the Site parcels (Parcels 1, 3 and 5) appeared to have been historically used for tobacco farming. Parcels 2 and 4 have historically consisted of undeveloped wooded land. (DWW 1, Att. O, p. 21)
244. Residual pesticides may be present in soil and/or groundwater as a result of current or historical Site use. (DWW 1, Att. O, p. 22; Tr. 4, pp. 650-651)

245. Most historically-applied pesticides are present in the upper six inches to one foot of soil. The driving of racking piles would displace soil particles horizontally rather than pushing soils deeper into the ground. (DWW 2, Att. D; Tr. 4, pp. 660-661, 715)
246. It does not appear likely that any potential pesticide residues located on the Project Site would impact nearby wells or the aquifer as a result of Project construction. (DWW 2, response 84, Att. D)
247. Pesticide residues would constitute a small amount left over from historic use. DWW does not know the concentration of any residues, if present, on the site. Based on testing experience with other agricultural properties, concentrations of residues left over from agricultural use were at much smaller levels than what was expected. (Tr. 4, pp. 650-653)
248. The identified historic use of the site would not have a bearing on whether the Project meets water quality standards. Soil disturbance at the site would be temporary, and managed with dust control measures and soil and erosion control measures. (Tr. 4, pp. 647-650, 661-663, 733-734)
249. Current agricultural use at the Project Site disturbs the top portion of the soil without any dust control or erosion control measures. (Tr. 4, pp. 661-662, 733-734)
250. A Phase II analysis would be necessary to definitively determine whether there are contaminants in the soil. (Tr. 4, pp. 657-658)
251. The Town reviewed documentation regarding private drinking well water testing completed by various entities during the 1980s and other records from 2003-2004 for wells located within 500 feet of the Project Site. Tests indicate a pesticide contaminant (ethylene dibromide -EDB) was found in well water at five residences generally west and downgradient of Parcels 1 & 2. An additional residential well in this area had a second pesticide contaminant (Vorlex). (Town 7)
252. The Town review also found a water test result from a private well on County Road that is within 500 feet of Parcel 3 that contained Vorlex. (Town 7)
253. The Town identified a water test result that contained Vorlex from a well on Parcel 5. The well is located to the rear of the abutting 85 Hoskins Road parcel. (Town 7)
254. The Town recommends additional assessment and investigation of the Project Site to determine past pesticide storage and handling practices, and review of potential release areas. From these studies, a project specific soil management plan can be developed to mitigate potential Project-related impacts. (Town 7)
255. Based on information reviewed by the Town pertaining to private well water testing, DWW reviewed additional DEEP files regarding private drinking water wells in the area abutting the site. (DWW 12; Tr. 4, pp. 727-728)
256. The DEEP files indicate levels of EDB and 1,2,3 trichloropropane (TCP), soil fumigants historically used for tobacco farming, were found in several wells at concentrations that were above detection limits but below drinking water standards. Other wells had levels that were considered trace amounts and below detection limits. Over sixty wells were tested dating back to the 1990's. (DWW 12, Tr. 4, p. 727)
257. Although the concentrations of the pesticides were below action levels, DEEP installed water filters at several homes for a number of years before the filtering program was discontinued due to lack of funding. (DWW 12; Tr. 4, pp. 728- 732)

258. DWW, if requested, and if permitted on private property, would test private water wells abutting the Project Site. (Tr. 4, pp. 730, 767)

***Visibility***

259. The solar panels would be colored blue/black with an anti-reflection coating on the glass. No 100 percent non-reflective panels are currently available. DWW expects to use panels with an eight percent reflectivity. (DWW 2, response 26)
260. DWW evaluated visibility using computer modeling and field surveys of the Project Site. (DWW 1, p. 51)
261. The Project would be visible from the Hoskins Road/Country Road area (middle and southern solar fields) due to a lack of intervening vegetation. (DWW 1, p. 52, Tab G, p. 9)
262. Hoskins Road is a well-traveled route and is considered a gateway to northern and western Simsbury. (Flammini et al. 3b)
263. The nearest public recreation area is the recreational field at the Squadron Line School, a Town elementary school abutting Parcel 5 to the west. (DWW 1, Tab G, p. 8; DWW 2, response 52)
264. To mitigate views from the Hoskins Road/County Road area, and the adjacent recreational fields at Squadron Line School, DWW would install a 10-foot architectural fence and intermittent native tree/shrub plantings in the buffer between the fence and road. (DWW 1, Tab G, pp. 8, 15, Figs. 4 & 5)
265. The Project is well screened from most other areas due to natural, intervening vegetation and sloping topography. The existing vegetative buffers along Berkshire Way, Litchfield Drive, Knollwood Circle, Halwood Drive, and Munnisunk Drive would limit open views toward the Project Site. It is possible that in some locations, where the vegetative buffer between the Project and a vantage point is less than 200 feet wide or is less dense, some Project visibility could occur. (DWW 1, Tab G, pp. 9-12; DWW 2, response 53)
266. If necessary, DWW proposes to plant native evergreens to supplement existing vegetation on or between the solar field and abutting properties. The plantings would be on an as needed basis. DWW anticipates plantings for abutting properties located on Knollwood Circle, Howard Street, Berkshire Way, and County Road. (DWW 1, Tab G, p. 15, Figs. 4 & 5)
267. A ten-foot high fence was incorporated into the visual mitigation design based on resident and Town representative comment that the solar arrays should not be visible. (DWW 5, response 6)
268. DWW would be willing to install a black vinyl-coated seven-foot high chain link fence with black posts and hardware in lieu of a ten-foot high vinyl fence, if requested. (DWW 5, response 39)
269. The Town is opposed to a ten-foot high solid vinyl fencing as visual mitigation. The Town requests that varied natural screening such as segments of earth berms, random tree clusters, indigenous trees and smaller undercover vegetation, and small wooden structures or screen segments and split rail fencing to create visual breaks and to enhance the historic authenticity of the area. (Town 2, Simsbury Historical Society letter - July 20, 2017, Office of Community Planning and Development letter - July 31, 2017, Simsbury Historic District Commission letter)
270. Hoskins Road is not a Town-designated scenic road. The tobacco fields and barns along Hoskins Road are listed as aesthetic Character Places in the Town's POCD. The POCD lists both current

and former Character Places. (DWW Administrative Notice item No. 3; Town 5, response 10; Town 2017 POCD, p. 41)

271. The Town initially proposed earthen berms at the site, several hundred feet long, that would reach a height of 12 feet. The base of such a structure with a 3:1 slope or 4:1 slope would be approximately 72 feet and 96 feet, respectively. (Town 2d; Tr. 3, pp. 368, 371, 397; Tr. 4, p. 556)
272. The berm design would mimic a grassland and would be supplemented with native trees and split rail fencing. A drought tolerate grass mix would be required on the berm to overcome drier soil conditions associated with berms. (Town 2d, Screening section simulations, Tr. 3, pp. 374-375, 381, 403-404)
273. The initial berm/landscape design would obscure the open, existing view of the eastern barn when viewed from the area of Hoskins Road/Country Road intersection. (Town 2d, viewpoint 39, Tr. 3. p. 392)
274. The location of the berm would encroach approximately 78 feet to 102 feet into the project site. It would also be in close proximity to the existing power lines and would be required to meet Eversource clearance requirements for trees. (Tr. 3, pp. 403-404; Council Administrative Notice Item No. 7 – NERC Reliability Standards; Council Administrative Notice Item No. 8 – FERC Report on Transmission Outages During the Northeast Snowstorm of October 29-30, 2011)
275. The berm system would have to be engineered to divert water property and not cause ponding and resulting sediment deposits or outwash on roadways. (Tr. 3, pp. 384-387)
276. A berm with 4:1 slopes can be traversed by wildlife; steeper slopes could hinder wildlife movement. (Tr. 3, p. 385)
277. Another option is to use a meandering, undulating berm that would have range in height from 4 to 8 feet with street trees and a split rail fence. The base of such a berm would be between 40 to 60 feet. (Tr. 4, pp. 554-555)
278. No cost estimates have been provided for the berm design. (Tr. 3, pp. 406-408)
279. A dense planting screen may have the same effect as a 10-foot to 12-foot berm. (Tr. 4, pp. 560-561)
280. DOAg would find construction of earthen berms that use on-site agricultural soil objectionable because soil movement and compaction could destroy the characteristics of agricultural soil. Additionally, berms that are tall would require a large support base that would encroach upon prime and statewide important soils and cause underlying agricultural soil compaction. Berms could also create hydrological changes that could affect soil conditions. (Tr. 4, pp. 443-445; 504-505)

#### ***Noise***

281. DWW performed a noise assessment study for the proposed project to take into account the 14 inverters and 14 transformers, which would be the sources of the noise for the proposed project. (DWW 1, p. 56; DWW 2, p. 47)
282. The assessment determined operational Project noise would be below DEEP noise criteria at abutting residential receptors. (DWW 1, p. 56; DWW 2, p. 47)
283. Construction noise is exempt from DEEP Noise Control Standards. (R.C.S.A. §22a-69-108(g))

***Historic and Archaeological Resources***

284. A Phase 1A Cultural Resources Assessment Survey Report (Phase 1A Report) dated February 2017 was prepared by Heritage Consultants, LLC (Heritage) for the proposed project. In regards to archeological resources, one previously identified archaeological site (Site 128-52) and, one newly recorded prehistoric cultural resource locus (Locus 1) exists at the Project Site (refer to Figure 6). (DWW 1, Tab M, p. 1)
285. A Phase 1B survey of areas with medium or high sensitivity that could be impacted by Project construction activities was conducted. The survey included a combination of a pedestrian survey and the excavation of 420 shovel tests throughout eight areas of moderate and high archaeological sensitivity, including the new locus area and Site 128-52. Although some artifacts were found, no additional archaeological examination was recommended and Project construction would have no adverse effect on archaeological resources. (DWW 5, response 34, response 37; DWW 8, response 94)
286. Upon consultation with SHPO, DWW would leave stumps in place within areas cleared to establish a solar field perimeter buffer in order not to disturb potential subsurface archeological sites. (DWW 10, response 94)
287. Five tobacco barns exist on the Project Site and are associated with a past use of the area by Cullman Brothers, Inc., one of the largest growers of tobacco leaf wrappers in the state in the early part of the twentieth century. All five barns date from the early portion of the twentieth century and are eligible for the National Register of Historic Places (refer to Figure 6). (DWW 1, Tab M, pp. 1-2)
288. The tobacco barns have an association with the seasonal presence of minority workers during and after World War II. The Cullman Brothers owned four tobacco farms in Simsbury and hired field laborers from Southern schools. Dr. Martin Luther King Jr. worked on one of the farms in the Barn Door Hills/Firetown Road area and wrote about his time working and living in non-segregated Simsbury as a pivotal moment in his life. Although no evidence to date has been found that directly links Dr. Martin Luther King Jr. to the Project Site, the agricultural landscape and buildings remain as important links to American history. (Town 2, Simsbury Historic District Commission letter)
289. Dr. Martin Luther King Jr. most likely stayed at the Morehouse Dormitory located near the Project Site. The dormitory, built in the 1940s, was destroyed during a training exercise by the Simsbury Fire District in 1984. (Town 4, response 14 Tr. 4, p. 588)
290. The Town suggests that DWW retain all five barns and conduct a barn condition assessment. Additionally, the Town requests that DWW consider allocating some space to be used for interpretive exhibit space on the Cullman farms and their laborers or for other educational exhibits. (Town 2, Simsbury Historic District Commission letter, Simsbury Historical Society letter, July 20, 2017; Tr. 4, p. 579)
291. A historic tobacco interpretive museum currently exists at Northwest Park in Windsor. (Tr. 4, pp. 587-588)
292. Tobacco barns in general are not easy to relocate since they were designed to be temporary in nature and use cable ties rather than post and beam construction. (Tr. 4, pp. 574-575)

293. DWW is consulting with SHPO regarding the historic barns at the Project Site. DWW is committed to retaining the two barns adjacent to Hoskins Road (Barns 1 and 2). Barn 1 is a typical agricultural maintenance barn and has visible roof and siding damage. Barn 2 is a typical tobacco drying shed and is in better condition than Barn 1. Barn 1 has visible roof damage. (DWW 1, Tab C site plans, Tab M, photo 1; DWW 5, response 35; Tr. 1, p. 82; Tr. 3, pp. 233-234; Tr. 4, p. 580)
294. DWW intends to remove Barns 3 and 4 on Parcel 1. Barn 3 is in a Project grading area and has visible roof and siding damage. Barn 4 is located within a 100-foot wetland buffer and would be adjacent to a proposed access drive. It would cause some shading to adjacent solar panels in the proposed solar layout. If panels were re-located from Parcel 5, then this barn would be directly within the Project footprint and would have to be removed. Barn 5, also located on Parcel 1, is located in a wooded area, outside of the Project area, and would be retained. (DWW 1, Tab C site plans; Tab O, photos 18 and 19; DWW 5, response 35; Tr. 3, pp. 233-234; Tr. 4, pp. 761-762)
295. For barns that are retained, SHPO would only seek to have them secured from access and mothballed in place. (Tr. 4, p. 773)
296. DWW would rather remove all five barns since they have no use and they could pose a safety and fire risk. Additionally, DWW would have to expend costs to maintain structures that have no use to the Project. (Tr. 1, pp. 82-83; Tr. 3, pp. 261-262; Tr. 4, p. 764)
297. The Town of Simsbury Fire Marshall submitted comment to the First Selectwoman indicating that the existing barns be removed as the largest hazard is children playing in and around the barns. A foundation for a barn that recently burned down, date unknown, is between Barns 3 and 4 on Parcel 1. (DWW 1, Tab O, p. 13; Town 2, Fire Marshall's Report, June 20, 2017)
298. Four historic properties were noted near the proposed solar facility: 45 Hoskins Road, 85 Hoskins Road, 100 Hoskins Road, and 10 County Road. (DWW 1, Tab M, Abstract)
299. The Project would not be visible from 45 Hoskins Road. The structure at 10 County Road has been significantly altered and would not be eligible for listing on the National Register of Historic Places. (DWW 1, Tab M, Abstract)
300. The buildings at 85 and 100 Hoskins Road date from the mid-nineteenth century and are fine examples of the Greek Revival type. Both buildings are considered eligible for listing on the National Register of Historic Places. (DWW 1, Tab M, Abstract; Flammini et al. 3b)
301. The residence at 100 Hoskins Road was constructed in 1851 and is listed in the 2013 Simsbury, Connecticut Historical and Architectural Resources Inventory. The Simsbury Historical Society recommends installation of vegetative screening to screen views from this historic structure. (Town 2, Simsbury Historical Society letter, July 20, 2017, 2013 Simsbury, Connecticut Historical and Architectural Resources Inventory)
302. The Simsbury Historical Society recommends elimination of the solar arrays south of 85 Hoskins Road to minimize the visual effect on the historic house as it is enclosed on two sides with panels. (Town 2, Simsbury Historical Society letter, July 20, 2017)

### ***Geology***

303. Bedrock within an approximately 290-acre study area based on the project footprint primarily consists of New Haven Arkose formation. Surficial material beneath parcels 1 and 2 are classified as sand. The surficial materials beneath Parcels 3, 4, and 5 are classified as sand and gravel overlying sand. (DWW 1, Exhibit O, p. 6)
304. The Project Site is characterized by the presence of approximately 12 different soil types ranging from sandy loams to muck. The most abundant soils types include Hinckley (loamy sand), Merrimac (fine sandy loam) and Scarboro muck soils covering approximately 122.9, 87.1, and 33.8 acres, respectively, of parcels 1-5. (DWW 1, Tab L, p. 20)
305. Hinckley and Merrimac and other like soils in the project area have a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission. Scarboro muck has a dual infiltration rate between low runoff potential and high runoff potential based chiefly of clays that have a high shrink-swell potential. The rate of water infiltration is gauged when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms. (DWW 1, Exhibit H; Exhibit L, Appendix A pp. 1-5; Exhibit M, pp. 4-6; Exhibit O, p. 6)

### ***Wildlife***

306. DWW consulted with DEEP regarding species listed in the Natural Diversity Database (NDDB) that may occur on or near the Project Site. The initial NDDB listing indicated 25 State listed species occur on or near the Project Site and include three mammal species, seven bird species, three reptile species, one amphibian species, three freshwater mussel species, four invertebrate species and four plant species. (DWW 1, pp. 29-32)
307. DWW has evaluated the Project Site for these species. Many of the species have habitat requirements that would be outside of the project limits. Consultation with DEEP regarding mitigation plans for all affected species is ongoing. (Tr. 3, pp. 195-197)
308. During DWW's ongoing assessment, as of mid-October 2017, DWW determined five grassland bird species, two plant species and one amphibian species do not occur on the site due to unsuitable habitat. (DWW 10, Att. C)
309. One State-listed plant species, a perennial herb and wildflower, occurs at a single location at the Project site. (DWW 10, Att. C)
310. A cluster of host plants for the larva of a State-listed moth was identified at the Project Site in June 2017. (DWW 10, Att. C)

### ***Habitat***

311. In its assessment, DWW performed a detailed spatial analysis of on-site habitats that are necessary to support the NDDB-listed species. The assessment was performed using unique Key Habitats as described in the 2015 Connecticut Wildlife Action Plan (CT WAP). (Council Administrative Notice Item No. 74; DWW 10, response 97, Att. C)

312. The Key Habitats occurring at the Project Site are as follows:

- a. Upland Forest - mixed evergreen-deciduous woodlands with little understory. Habitat may be suitable for the eastern whip-poor-will, silver-haired bat, red bat, hoary bat, and northern long-eared bat.
- b. Upland Woodland and Shrub - transitional zones located between the forest and the agricultural fields and along the managed Eversource right-of-way. This type of vegetative community is the most prone to hosting invasive species such as Asiatic bittersweet and multi-flora rose. This cover type appears suitable for brown thrasher, eastern box turtle, and eastern hognose snake.
- c. Upland Herbaceous – some sand based sub-habitat is located along the farm roads in Parcel 1. Although suitable for the big sand tiger beetle, vehicle travel during certain periods of agricultural operations may preclude occupation by this species. Another sub-habitat area occurs along a sewer line easement paralleling Bissell Brook that includes dense shrubs. Habitat is suitable for eastern box turtle, wood turtle and eastern whip-poor-will.
- d. Forested Inland Wetland - 34 acres of the Project Site consists of forested wetland, mostly red maple. Habitat is suitable for eastern box turtle, wood turtle and eastern whip-poor-will.
- e. Freshwater Aquatic - three perennial tributaries to the Farmington River that flow through the Project Area are classified as sub-habitat Cold Water Stream. Four farm ponds are also present. All aquatic habitats support fish and may support State-listed mussels. Rapids clubtail, a dragonfly, may be present along the stream corridors.
- f. Manmade, Public Utility Corridor, Shrub Inland Wetland- a Shrub Swamp occurs within the Eversource ROW north of Saxton Brook. Habitat is suitable for eastern box turtle and wood turtle. This wetland was investigated for tall swamp rosette panic grass but none was found.
- g. Manmade, Agricultural Fields - Actively farmed agricultural fields occupy approximately 131 acres of the Project Area. The actively managed state of the agricultural fields does not provide suitable habitat to grassland specific species

(DWW 10, Att. C)

313. Within the area of the tree clearing proposed outside the limit of the safety and security fence, vegetation maintenance would include selective removal of woody species with a mature height exceeding 20 feet. This maintenance would promote the establishment of a shrub habitat similar to that found in some electric transmission rights-of-way. (DWW 5, response 51)
314. An approximate 100-foot wide area around the east, west and south sides of the solar field perimeter fencing would be maintained in an open state, managed as shrub and meadow that would be cut once or twice annually to discourage the establishment of woody species. (DWW 1, pp. 9, 46)
315. The meadow and shrub areas outside of the perimeter fence line may provide suitable habitat for protected grassland/early successional bird species. Seasonal restrictions on mowing of these areas could be beneficial to birds, pollinators and other wildlife. (DWW 2, response 63)
316. The four solar field areas would be enclosed by security fencing designed with a six-inch gap along the bottom to allow for passage of small animals such as wood turtles. The fencing would create wildlife travel corridors around the periphery of the solar field areas for larger animals. (DWW 1, Tab I pp. 9-10; Tr. 3, pp. 202-205)

317. There would be minimal disruption to wildlife as the Project would not obstruct passage along stream corridors and between nearby natural habitats such as wetlands, woodland, and the existing shrubland in the transmission line right-of-way. Wildlife that currently traverses the agricultural fields would have to adjust their movements to use areas along the edge of the solar fields. (DWW 8, response 81; Tr. 3, pp. 202-205)
318. DWW would set aside 133 acres of open space, consisting of woodland, field and wetland habitat, for the life of the Project. If the parcels were developed in accordance with standard Town Zoning regulations, approximately 58 acres would be set aside as dedicated open-space. (DWW 1, p. 13; Tr. 4, p. 592; Tr. 4, p. 178)
319. The Project open space areas directly abut ten Town-owned open space parcels ranging in size from 0.4-acre to 24.6 acres. These abutting open space areas would maintain wildlife movement and habitat continuity. (DWW 10, response 98; Town 5, response 12, Ex. M)
320. The Project area is identified as an Inter-Conservation Area Connection in *The Farmington Valley Biodiversity Project: A Model for Intermunicipal Biodiversity Planning in Connecticut* publication, a designation that recommends porosity in development to allow for connection to core wildlife areas. The Project has different solar panel areas that would have non-fenced areas between them to allow for animal movement through the site. In addition, the periphery of the Project Site would generally be maintained in a natural state allowing for wildlife passage to off-site designated open space and other undeveloped land. (Council Administrative Notice Item No. 111, p. 43; DWW 10, response 98; Tr. 3, pp. 202-205)

*Birds*

321. The Project Site forested areas provide habitat for year-round resident and neo-tropical migrant songbirds. (DWW 1, Tab I, p. 2)
322. Weeds that grow in the agricultural fields provide foraging grounds for common and migratory bird species. These species would not be adversely impacted by the Project as they utilize other habitats readily and would continue to forage in the grassland associated with the solar fields. (Flammini et al. 2, p. 15; DWW 1, Tab I, pp. 2, 7)
323. Bird species that utilize edge habitat are likely to continue to be attracted to the 100-foot wide buffer at the edges of the solar fields. (DWW 1, Tab I, p. 7)
324. DWW examined the site for potential use by State-listed grassland birds and determined that due to the current agricultural use of the site and specific farm management techniques employed, the site does not have suitable habitat to support grassland birds. (DWW 1, p. 2; DWW 10, Att. C; Tr. 3, pp. 197-199)
325. The conversion of the active agricultural fields to a permanent grass cover is unlikely to attract grassland bird species as the solar arrays would preclude effective use of the area. (DWW 1, Tab I, p. 7)
326. An American Kestrel, a State threatened species, was observed in the northern portion of the site during early 2017. Kestrels are common overwintering migrants in southern New England. No Kestrels were observed during breeding season. (DWW 1, Tab I, p. 22; DWW 10, response 96)

327. Installation of the proposed project has the potential to impact breeding birds in agricultural and forested areas. DWW proposes impact avoidance and mitigation strategies such as avoiding vegetation removal between May 1 to August 15 to minimize impacts to nesting birds and avoid potential disturbance during periods of high bird activity. In the alternative, breeding bird surveys could be conducted and a modified vegetation removal plan developed. (DWW 1, pp. 48-49)

*Mammals*

328. Common mammals rely on the forested areas to provide cover and breeding areas. Agricultural fields may be foraged at certain times of the year as when corn is ripening. (DWW 1, Tab I pp. 9-10; Flammuni et al. 3c)
329. Three State-listed bat Species of Special Concern: red bat, silver-haired bat and hoary bat could occur at the site. (DWW 1, p. 10)
330. The forested areas of the Project Site offer suitable, active-season roosting habitat for each of these species. All species are reported to be migratory and therefore are not expected to overwinter within the Project Site. (DWW 1, p. 10)
331. The project site could support northern long-eared bat (NLEB), a federally listed threatened species and State-endangered species. (DWW 1, p. 32)
332. To minimize the possibility of “incidental take” of roosting bat species, the Applicant would avoid clearing activities during the bat pupping season between June 1 and July 31, in accordance with the guidelines established by the US Fish and Wildlife Service (USFWS). (DWW 1, pp. 32, 49)
333. There are no known NLEB hibernacula or no known maternity roosting trees within Simsbury. (DWW 1, Tab I, pp. 10-11)
334. Bat surveys were not conducted at the site and therefore DWW would construct the site under the assumption that state and federally listed bat species may be present within the Project Area. As such, DWW is proposing to avoid tree clearing from May 15 to July 31 to reduce the likelihood of impacts during breeding periods. (DWW 2, response 41)

*Reptiles and Amphibians*

335. The Project Site could support many different species of reptiles and amphibians. Observed species include painted turtle, spotted salamander, American toad, northern spring peeper, American bullfrog, gray tree frog, wood frog, and green Frog. (DWW 1, Tab I, pp. 30-31)
336. State-listed reptiles and amphibians that may occur at the Project Site include eastern box turtle, wood turtle, northern leopard frog, and eastern hognose snake. DWW is consulting with the DEEP Wildlife Division regarding appropriate mitigation actions that could include contractor awareness, time of year restrictions, construction barriers, work area sweeps, site monitoring, and GPS location information and reporting. (DWW 1, Tab I, pp. 8-9; DEEP Comment Letter received September 11, 2017)

***Core Forest***

337. Of the forested land in the state, 46 percent is considered “core forest,” defined as being outside the “edge effect,” over 300 feet in all directions from non-forested areas. Small core forests are core forest patches that are less than 250 acres. Medium core forests are core forest patches that are between 250 acres and 500 acres. Large core forests are core forest patches that are greater than 500 acres. (Council Administrative Notice Item No. 78 – Connecticut’s Forest Action Plan)
338. The state’s *Green Plan* identifies the value of large-scale, intact forest areas as they provide “key habitat linkages” for wildlife species. Other benefits identified in the *Green Plan* include, but are not limited to, the forests ability to absorb rainwater and slow runoff, filter pollutants and regulate air temperature. (Council Administrative Notice Item No. 78 – Connecticut’s Forest Action Plan)
339. The 2004 Environment Canada Report cited by the University of Connecticut Center for Land Use Education and Research suggests that 250 acres of upland forest should be considered the absolute minimum forest patch size needed to support area-sensitive edge-intolerant bird species. The recommended minimum forest patch size is 500 acres, as this is likely to provide enough suitable habitat to support more diversity of interior forest species. (DOAg Administrative Notice Item No. 15 – Connecticut’s Changing Landscape)
340. The Project Site includes approximately 155 acres of forest, as follows: 81 acres of upland broadleaf deciduous; 36 acres of upland coniferous, and 34 acres of forested wetland, dominated by red maple. (DWW 1, Tab I, p. 2)
341. Approximately 24 acres of upland deciduous forest and 6 acres of upland coniferous forest will be cleared for the Project, as follows; 18.1 acres for the north solar field, 7.2 acres for the middle solar field, and 4.7 acres for the south solar field. (DWW 1, p. 47, Tab B –Tree Clearing Map)
342. The CT WAP lists species of Greatest Conservation Need (GCN) which may utilize Upland Forests. The following GNC species were identified by DWW during on-site surveys; rose-breasted grosbeak, Baltimore oriole, veery, scarlet tanager, eastern wood-peewee, black and white warbler, worm-eating warbler, ovenbird, wood thrush, black-billed cuckoo, northern flicker, gray tree frog, and wood frog. (Council Administrative Notice Item No. 74; DWW 10, Att. C, p. 5)
343. Using UCONN Center for Land Use Education and Research definitions, the areas to be cleared consist of primarily of Edge Forest. There are existing Small Core Forest areas (less than 250 acres) that straddle the Project’s property boundary. Small Core Forest Areas would support few interior breeding bird species. (DWW 10, response 95, Att. C, p. 5)
344. The largest of the core forest in the Project area consists of approximately 20 acres along Munnisunk Brook at the north edge of the Project Site. Development of the north solar field would reduce the size of the core forest area by 3.7 acres, to 16.3 acres. Two other core forest blocks would be reduced from 8.3 acres (middle solar field) and 10.7 acres (southern solar field) to 4.6 acres and 6.4 acres, respectively (refer to Figure 7). (DWW 1, p. 48; DWW 10, response 95, Att. C, p. 5)

***Agriculture***

345. The statutory mission of the Governor’s Council for Agricultural Development (GCAD) is to develop a statewide plan for Connecticut agriculture. In 2012, GCAD recommended DOAg create an agriculture-friendly energy policy that includes, but is not limited to, on-farm energy production to reduce costs and supplement farm income, agricultural net metering for power production and

- transmission, and qualification of agricultural anaerobic digestion projects for zero-emissions renewable energy credits (ZRECs). (Council Administrative Notice 93 – Grow CT Farms)
346. Agriculture in Connecticut is likely to be adversely impacted by climate change. It is most affected by changes in temperature and both the abundance and lack of precipitation. The top five most imperiled agricultural products are maple syrup, dairy, warm weather produce, shellfish and apple and pear production, but there are opportunities for production expansion with the future climate, including, but not limited to, biofuel crops, witch hazel and grapes. (Council Administrative Notice 86)
347. Adaptation strategies for climate change impacts to agriculture include promotion of policies to reduce energy use, conserve water and encourage sustainability. (Council Administrative Notice 86)
348. Pursuant to C.G.S. §22-26aa, *et seq.*, DOAg administers the Statewide Program for the Preservation of Agricultural Land (SPPAL) The main objective of the voluntary program is to establish a land resource base consisting mainly of prime and important farmland soils. A permanent restriction on non-agricultural uses is placed on the deed of participating properties, but the farms remain in private ownership and continue to pay local property taxes. (C.G.S. §22-26aa, *et seq.*)
349. The Project Site is not part of SPPAL program. (DWW 2, Response 4)
350. Connecticut preserved 1,289 acres of agricultural land in 2015, the most since 2009. Connecticut preserved 1,563 acres of agricultural land in 2016, the most since 2011. (Council Administrative Notice 90 - CEQ 2016 Report; Council Administrative Notice 91 - CEQ 2017 Report)
351. Public Act 490 is Connecticut's Land Use Value Assessment Law for Farm Land, Forest Land and Open Space Land that allows land to be assessed at its use value rather than its fair market or highest and best use value for purposes of local property taxation. The Project Site is enrolled within the Public Act 490 Program. (Town 2a; Tr. 4, pp. 614-615; C.G.S. §12-107a)
352. The Proposed Project would not qualify under Connecticut's Agricultural Virtual Net Metering Program because an agricultural virtual net metering facility is defined under C.G.S. §16-244u(a)(7)(B) as having a nameplate capacity rating of 3 MW or less. The nameplate of the Project is 26.5 MW. (DWW 1, p. 1; C.G.S. §16-244u(a)(7)(B); DWW 2, response 6)
353. DOAg supports all types of on-farm energy production as long as they are consistent with actual on-site farm activities. The Proposed Project is not an example of on-farm energy production as no farming would occur during solar facility operation. (DOAg 3, response 3)
354. Approximately 131 acres of the Project Site are currently used for agriculture by third parties. In 2016, most of the farmland in the Project area was managed in row crops such as summer squash, specialty gourds, cucumber, and melons (cucurbits). For this growing season the fields north of Hoskins Road were converted from ridge and furrow squash with plastic mulch to tobacco. The field south of Hoskins Road was used for sweet corn in 2016. After harvest, it was seeded with rye that was subsequently killed with herbicides to support cucurbits. (DWW 1, response 6; DWW 2, response 6; DWW 8, response 70)
355. Prime Farmland Soils are defined by the United States Department of Agriculture (USDA) National Resources Conservation Service (NRCS) as having the ideal combination of chemical and physical characteristics to support crop production, such as for food, feed, forage, fiber and oil and seed crops. These soils are also considered important for pasture land, range land and forest land. (DOAg 3, response 12; Conn. Gen. Stat. § 22-26bb(g))

356. Farmland of Statewide Importance are soils which do not meet all of the requirements to be considered Prime Farmland Soils, but they are equally as important in the production of food, feed, forage or fiber crops. (Council Administrative Notice Item No. 16 – USDA Soil Survey Manual; 7 C.F.R. §657.5 (2016) – Identification of Important Farmlands)
357. Locally important Farmland Soils do not meet the physical or chemical requirements of either Prime Farmland or Farmland of Statewide Importance soils, but they are still used for the production of food or fiber crops and support the local economy due to their productivity. (Council Administrative Notice Item No. 16 – USDA Soil Survey Manual; 7 C.F.R. §657.5 (2016) – Identification of Important Farmlands)
358. Agricultural best management practices, if properly employed, can prevent erosion and sedimentation from exposed agricultural soil during heavy rains. (DOAg 4, response 13)
359. The Project Site is located in the Connecticut River Valley microclimate region, an area that has a different climate and soils than most of New England that allows for a greater potential for agriculture, especially due to a longer growing season. For the Towns of Granby and Simsbury, part of the microclimate region, DOAg has secured Purchase of Development Rights to 150 acres located on two farms. Additionally, DOAg has restored 20 acres of agricultural land in these towns through a Farmland Restoration Program. (DOAg 2, p. 2; DOAg 3, response 32; DOAg 4, response 14)
360. The Proposed Project would remove 130-acres of high quality agricultural land from crop production. Certain types of agriculture such as large scale specialty crop or forage crops, need this size of land. (DOAg 3, response 48)
361. Local agriculture supports feed and equipment vendors, technical specialists, and skilled labor. Additionally, locally grown food is important to the food system because it is consumed locally and thus transported shorter distances and requires less storage, thereby reducing the carbon footprint, saving energy and resulting in less food waste. (DOAg 3, response 48)
362. According to the latest Natural Resources Conservation Service mapping, there are 64.7 acres of Prime Farmland and 65.1 acres of Farmland of Statewide Importance in active agricultural use at the Project Site. Forested areas of the Project Site contain 25.2 acres of Prime Farmland soils and 65.1 acres of Farmland soils of Statewide Importance (refer to Figure 8). (DWW 2, response 7)
363. Locally important soils have not been mapped for Simsbury. (DOAg 6, response 6)
364. The Proposed Project would directly disturb approximately 40 acres of prime and important farmland soils within existing agricultural fields, as follows:
- |   |             |
|---|-------------|
| a. Installation of 4.5 miles of roads/conduit trenches, walking paths, fencing: | 15-16 acres |
| b. Site grading to attain slopes of 10 -15 percent:                             | 9-10 acres  |
| c. Installation and removal of equipment pads:                                  | 1-2 acres   |
| d. Installation & removal of E&S practices such as sediment basins & traps:     | 4-5 acres   |
| e. Stockpiling/return of soils as part of grading:                              | 3-4 acres   |
| f. trenching, pad installation:   | 5-6 acres   |
| g. Installation of over 9,600 posts/piles:                                      |             |
- (DOAg 4, response 19)

365. DWW would establish a cover crop of grasses/forbs in the solar field areas. These semi-managed grassland/forbs could result in improvement of soil health over the 25 year life of the Project. (DOAg 2, p. 2; DOAG 5, response 35; DWW 8, response 71)
366. DWW proposes to restore the soil upon Project Decommissioning. Restoration measures include de-compaction and restoration of soil to a density and depth consistent with the surrounding areas. In all areas restoration shall include, as reasonably required, leveling, terracing, mulching, and other necessary steps to prevent soil erosion, to ensure establishment of suitable grasses and forbs, and to control noxious weeds and pest. If agriculture is the intended post-project use, deep till of the project site will be undertaken. (DWW 1, Tab S, p. 6)
367. During Project decommissioning, DWW would remove all structures related to the Project except for foundations or other materials that are located deep enough below grade not to have an impact on potential future use of the Project Site or such materials are located in non-agricultural areas. (DWW 5, response 76)
368. There are no details as to how on-site soils would be protected and restored during the decommission process. Additionally an on-site analysis of soil horizons and corresponding NRCS map units has not been done to establish baseline soil conditions. DAOg recommends site monitoring and stewardship for agricultural values throughout the life of the project. (DOAg 3, response 44, response 47; Tr. 4, p. 453)
369. DWW would be willing to prepare an agricultural protection plan as part of a D&M Plan which would include details regarding avoiding impact to farmland soils during construction and operation of the facility, planting and vegetation maintenance procedures, and restoration procedures. (DWW 5, response 67; DWW 6 response 15)
370. DWW would be willing to discuss the possibility of leasing or utilizing the existing field areas for agriculture use in the non-Project portion of Parcel 5. (Tr. 1, pp. 85-86)
371. DWW offered to DOAg an agricultural conservation easement, free of charge, on all five Project parcels that would restrict future non-agricultural development upon decommissioning of the Project. DOAg declined the initial offer but DOAg and DWW continue to discuss the concept of restricting future development rights of the Project Site. The Town was not included in the discussions and would be interested in reviewing any proposal restricting development on any of the parcels. (DWW 6, response 4; Tr. 4, pp. 452-453, 478-482, 523-524)
- Pollinator Habitat*
372. Although applicable only to electric transmission line right-of-ways, CGS §16-50hh permits the Council to consider post-construction site restoration or re-vegetation that includes the establishment of model pollinator habitat. (CGS §16-50hh)
373. DWW would enhance pollinator habitat by planting grass seed mixes that include flowering species such as white clover and alfalfa and using wildflower plantings along certain perimeter fences. (DWW 1, p. 13)
374. DWW would also establish a one-acre area of model pollinator habitat at the Project Site, in a location to be determined. It would be developed using a Native Pollinator seed mix developed for the northeastern United States by the Xerces Society following procedures developed by the National Resource Conservation Service. (DWW 1, pp. 49-50)

375. Monarch butterfly populations have been impacted by loss of suitable host plants. To enhance monarch usage at the Project Site, milkweed (monarch host plant) can be incorporated into the seed mix. (Flammini et al, 2, p. 12; DWW 8, response 82)

**Neighborhood Concerns**

376. Pursuant to C.G.S. § 16-50m, the Council, after giving due notice thereof, held a public comment session on Tuesday, September 12, 2017 at 6:30 p.m. at the Eno Memorial Hall, 754 Hopmeadow Street, Simsbury, Connecticut. (Council's Hearing Notice dated July 25, 2017; Tr. 2, p. 100)

377. Of the approximately 13 oral and written limited appearance statements in favor of the proposed facility, concerns include, but are not limited to, the following:

- renewable and zero emission source of energy;
- reduced reliance on fossil fuels;
- reduced Green House Gas emissions;
- low impact development;
- minimal decommissioning compared to a large typical electric generation project;
- little to no noise;
- minimal reliance on municipal services; and
- tax revenue.

(Tr. 2; Public Comment Record)

378. Of the approximately 27 oral and written limited appearance statements in opposition to the proposed facility, concerns include, but are not limited to, the following:

- applicability of Public Act 17-218;
- electricity production in favor of out-of-state utility;
- electricity costs;
- visual/aesthetic impacts;
- loss of open space and farm land;
- disturbing contaminated soils;
- well or other groundwater impacts;
- stormwater impacts;
- agricultural land impacts;
- impacts to wildlife;
- historic impact;
- construction access in proximity to residences;
- construction noise;
- decommissioning issues; and
- property values.

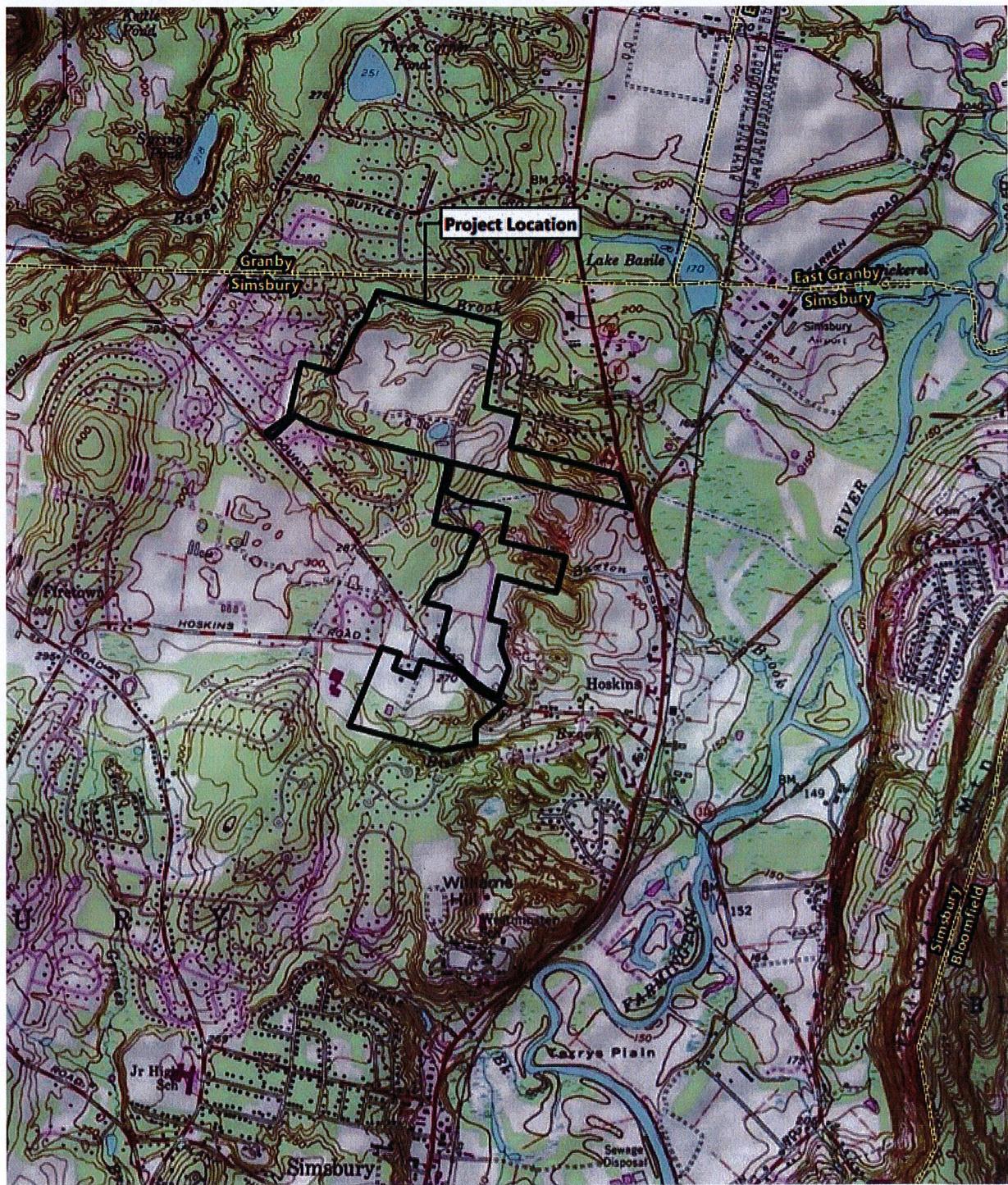
(Tr. 2; Public Comment Record)

379. In listening to comments at public meetings hosted by DWW prior to submission of the Petition to the Council, DWW redesigned the Project layout by reducing the project footprint by 18.2 acres. The reduction increased buffers to nearby residential areas and completely eliminated some solar field areas from considerations. These changes are listed in FOF 28 and are shown in Figure 2. (DWW 1, pp. 18-20; DWW 2, response 65)

380. The Town requested that the solar field on Parcel 5, south of Hoskins Road, (approx. 2.4 MW-AC output) be eliminated from the Project to protect visual, architectural, and, community characteristics as well as to maintain acreage in agricultural productivity. (DWW 8, response 66; Tr. 4, pp. 537-538)

381. If the Parcel 5 portion of the Project was entirely eliminated, it would require DWW to expand in other areas of the Proposed Site that were previously eliminated due to community concerns. The Project footprint was previously reduced by 18.2 acres and DWW intends to maintain a Project output design of 26.4 MW. (Tr. 4, pp. 708-710, 755-760, 770)
382. To address some of the concerns regarding the placement of solar arrays on Parcel 5 (south of Hoskins Road) DWW would be willing to reconfigure the Project Site to relocate some solar arrays directly south of 85 Hoskins Road to other areas of the Project Site (refer to Figure 9). By doing so, the buffer to Squadron Line School would be increased and the current open field vistas from the area by the historic properties near 85 and 100 Hoskins Road would be maintained. Additionally, if the area was managed properly, an approximate 5 to 6 acre area could be managed to support grassland birds such as the Savannah Sparrow or potentially be used for agriculture. (DWW 1, Tab G; DWW 8, response 67, Att. A; DWW 9; Tr. 1, pp. 85-86; Tr. 3, pp. 311-313)

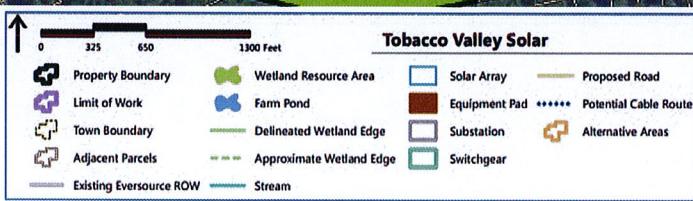
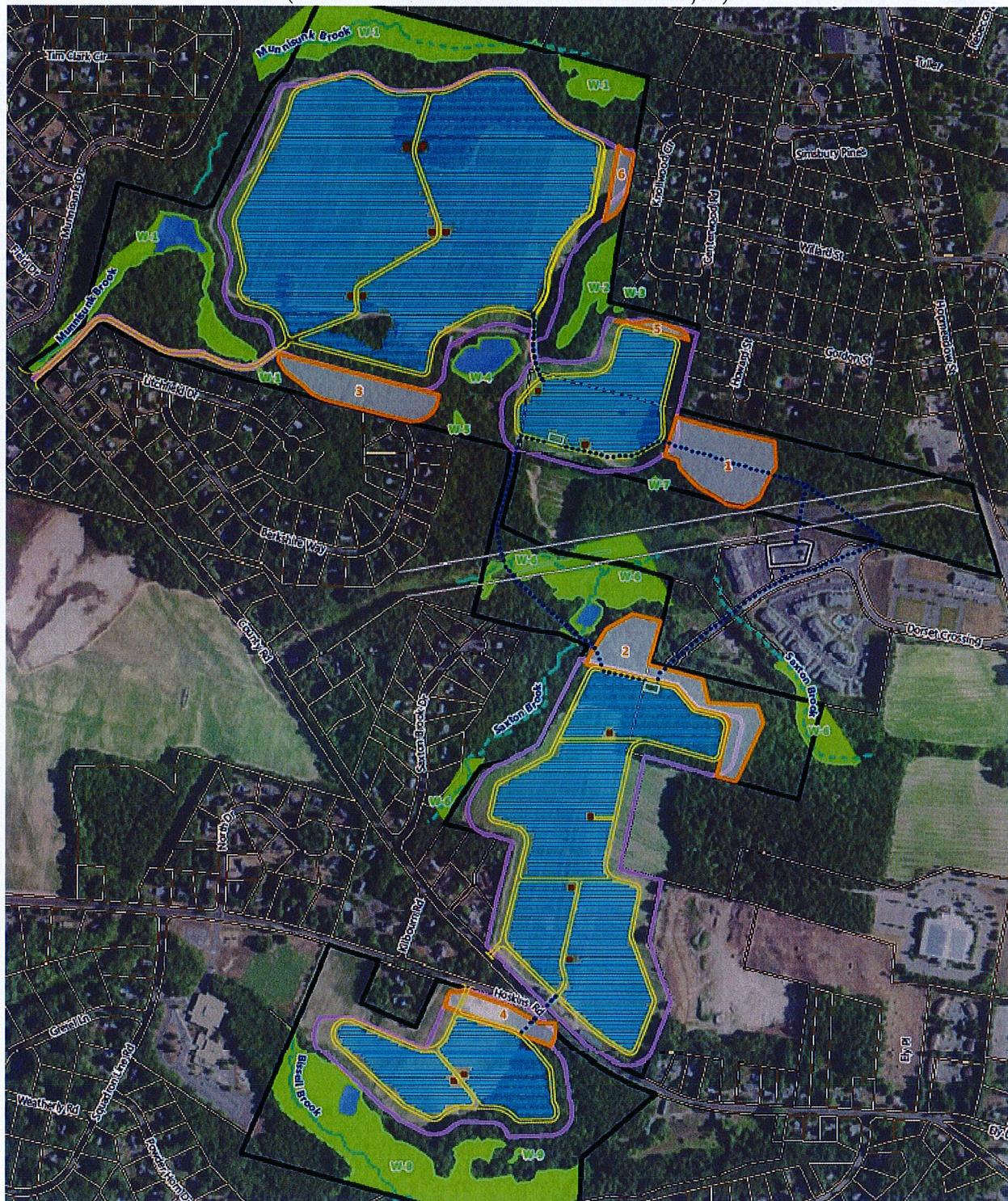
**Figure 1- Site Location**



(DWW 1, Tab 3)

**Figure 2 – Response to Community Concerns**

(Areas numbered 1 to 6 eliminated from Project)



(DWW 1. Tab B)

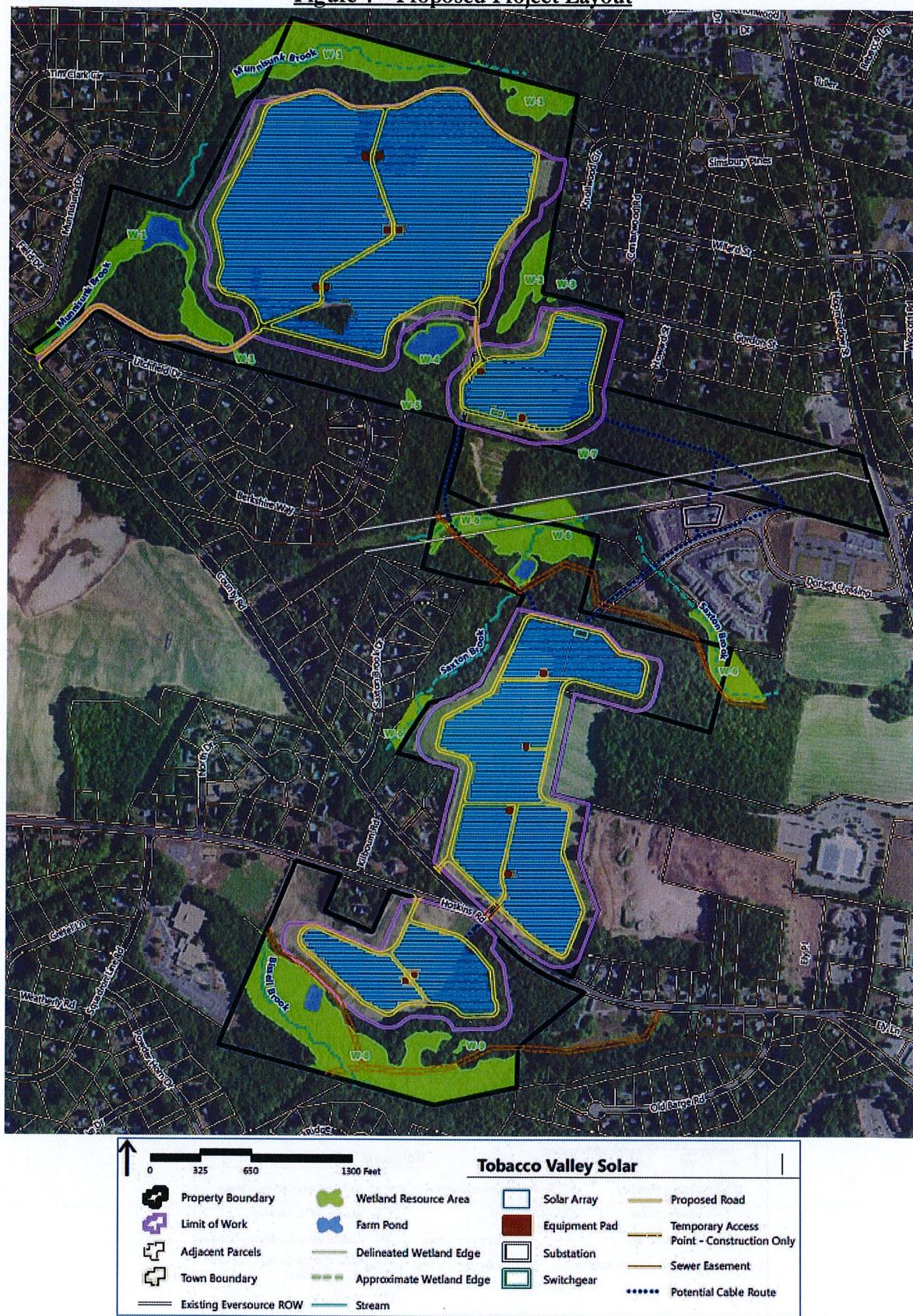
**Figure 3 – List of Town Meetings**

Date	Purpose	Location
06/07/17	Open House – Town Staff	Eno
06/22/17	Deepwater Wind	Simsbury High School
07/06/17	Director of Planning Public Buffer Workshop	Main Meeting Room
07/26/17	Discuss Landscaping	Main Meeting Room
07/26/17	Director of Planning Public Buffer Workshop	Main Meeting Room
09/12/17	Public Hearing	Eno Auditorium

BOS Meetings	Agenda Item
02/22/16	Current Projects & Growth in Simsbury – James Rabbitt, Director of Planning
05/22/17	Explanation of Siting Council Role in Deepwater Wind Proposal – Attorney Robert DeCrescenzo
06/26/17	Approve Correspondence to Related to Deepwater Wind Solar Proposal
07/27/17	Update on Deepwater Wind Proposed Solar Project and authorize requesting extension of Discovery Schedule
08/14/17	Update on Deepwater Wind Proposed Solar Project and Possible Action
08/28/17	Discussion and Action regarding the Town's position in connection with the Deepwater Wind Solar Proposal
09/11/17	Deepwater Wind Solar Proposal Update

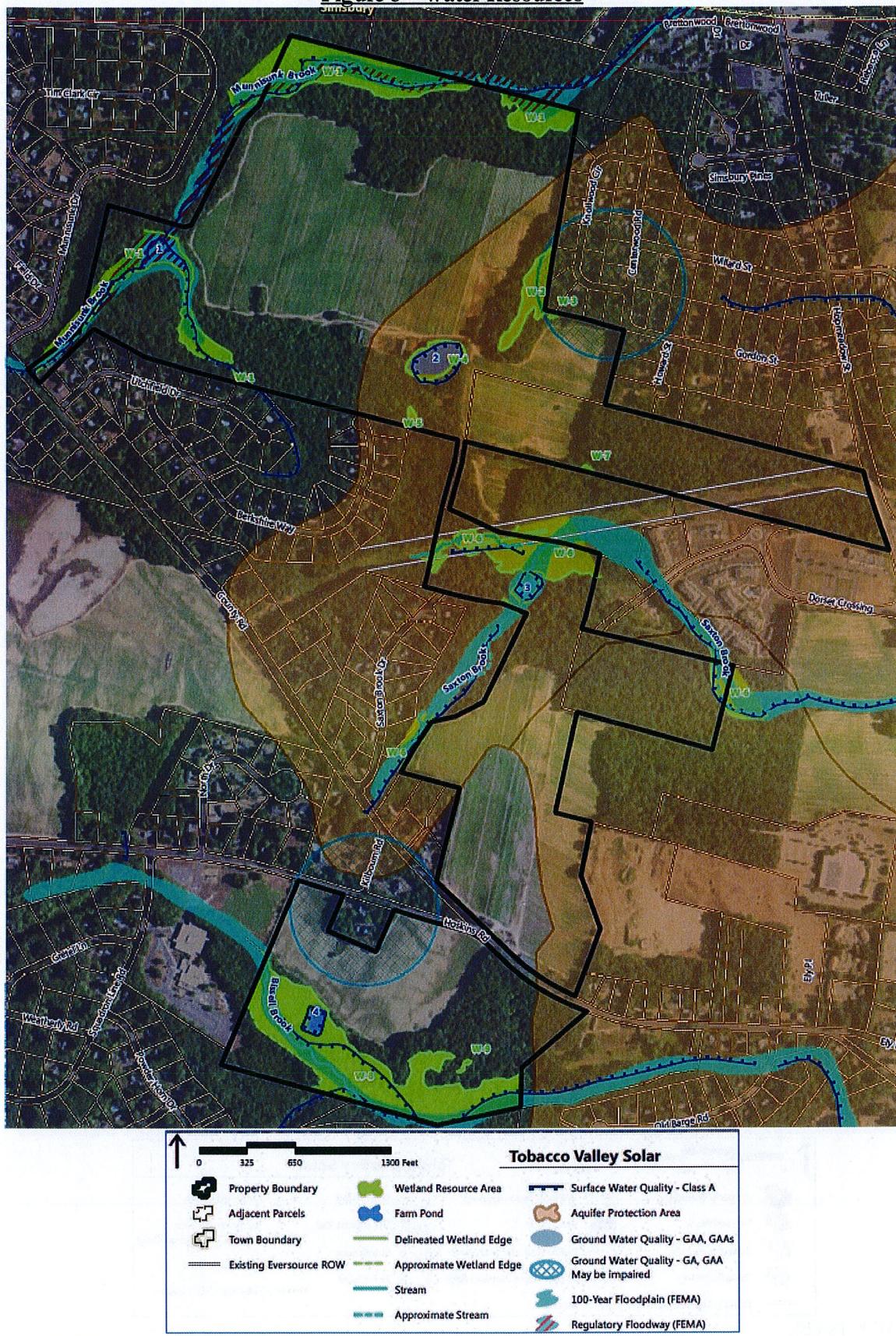
Other Meetings	Board or Commission
07/10/17	Clean Energy Task Force
07/11/17	Public Building Committee
07/11/17	Planning Commission
07/13/17	Economic Development Commission
07/17/17	Library Board of Trustees
07/17/17	Zoning Commission
07/18/17	Board of Finance
07/18/17	Conservation Commission
07/24/17	Design Review Board
07/25/17	Clean Energy Task Force
08/01/17	Conservation Commission
08/03/17	Historic District Commission
08/07/17	Technology Task Force
08/07/17	Zoning Commission
08/10/17	Historic District Commission
08/14/17	Clean Energy Task Force
09/11/17	Clean Energy Task Force

(Town 5, Att. N)

**Figure 4 – Proposed Project Layout**

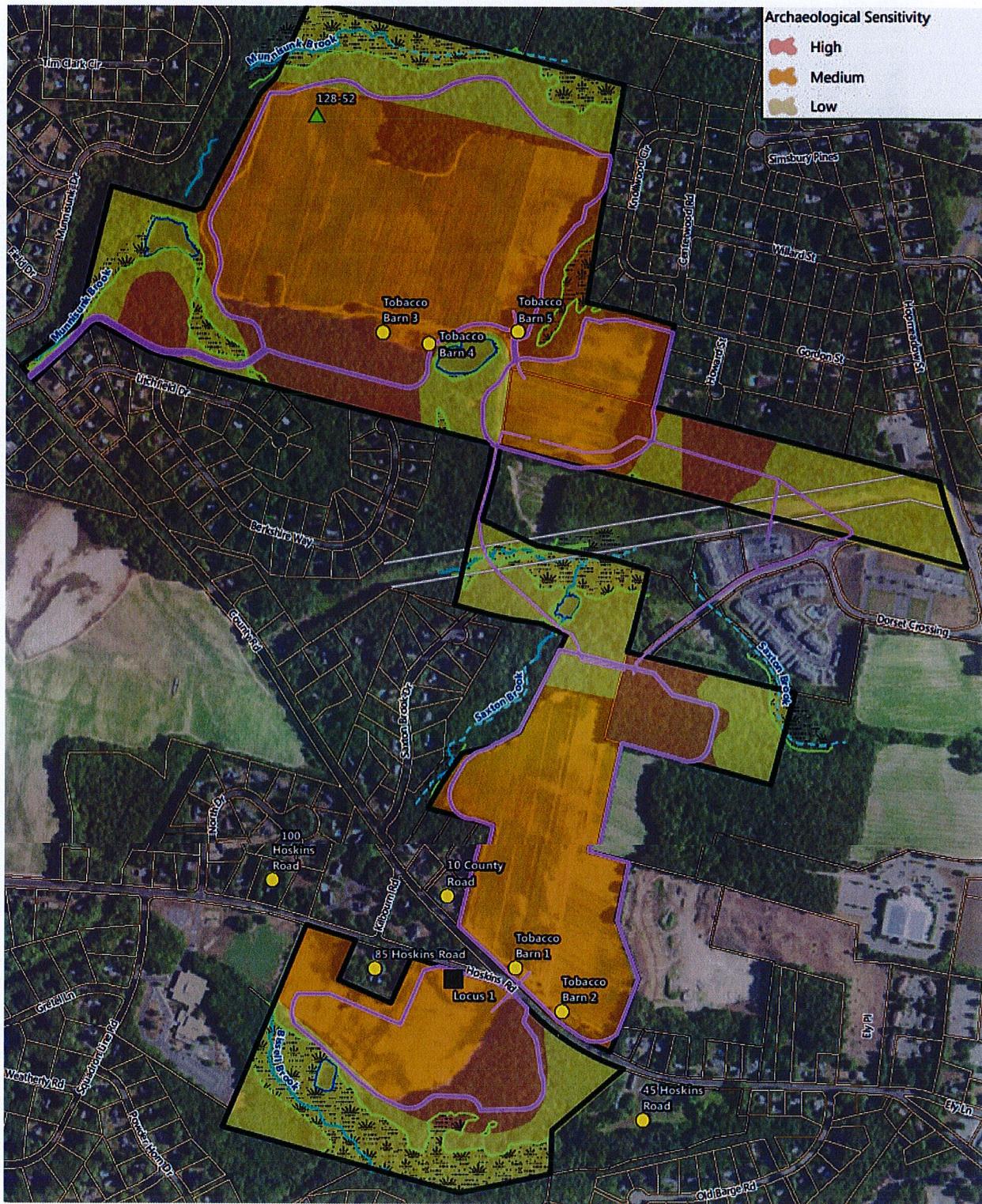
(DWW 1, Tab B)

**Figure 5 – Water Resources**



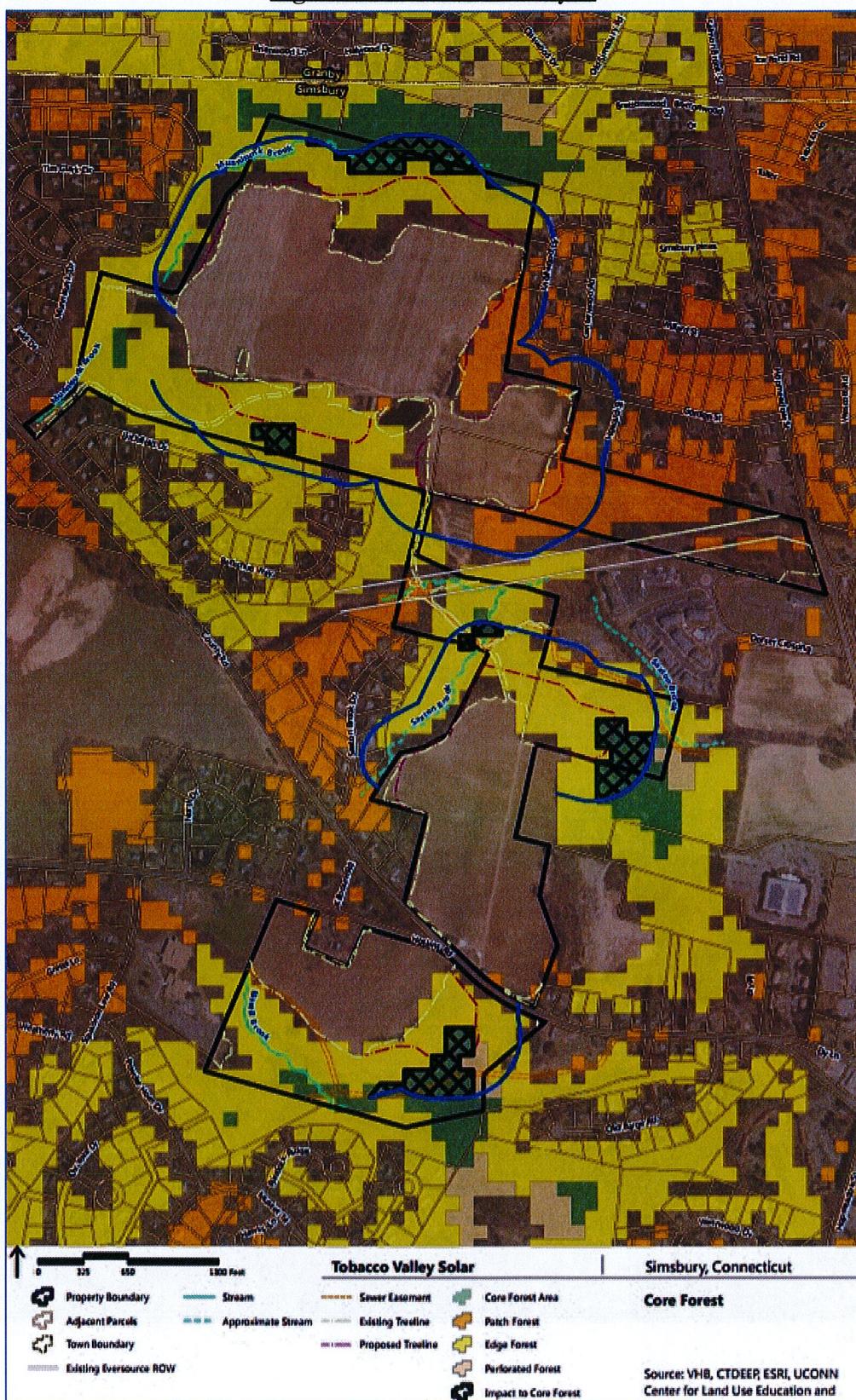
(DWW 1, Tab B)

**Figure 6- Historic Resources**



(DWW 1, Tab B)

Figure 7 – Core Forest Analysis



(DWW 10, Ex. C)

**Figure 8 – Agricultural Soils Map and Project Activities**



(DWW 8, Ex. B)

**Figure 9 – Panel Relocation Area**



(DWW 5, Att. A)

**PETITION NO. 1313** – DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut. }

Connecticut

} Siting

} Council

December 21, 2017

## Opinion

### Introduction

On June 29, 2017, pursuant to Connecticut General Statutes (CGS) §§16-50k and 4-176, DWW Solar II, LLC (DWW) 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, maintenance and operation of an approximately 26.4 megawatt (MW) alternating current (AC) solar photovoltaic electric generating facility located on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road in Simsbury, Connecticut (Tobacco Valley Solar Project). DWW is a subsidiary of Deepwater Wind LLC, a developer of renewable energy projects.

As it applies to this petition, CGS §16-50k<sup>1</sup> states in relevant part, "...the Council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling... (B) the construction or location... of any grid-side distributed resources project... 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 project would have a capacity of approximately 26 MW and would be a "grid-side distributed resources" facility, as defined in CGS §16-1(a)(37).

On November 12, 2015, pursuant to Section 1(c) of Public Act (PA) 15-107 and Sections 6 and 7 of PA 13-303, the Department of Energy and Environmental Protection (DEEP) issued notice of a Request for Proposals (RFP), in coordination with Rhode Island and Massachusetts, for Class I renewable energy sources (Tri-State RFP). The proposed project was submitted in response to the Tri-State RFP. On June 27, 2017, DEEP issued its final determination in the RFP and selected 9 out of 31 proposed projects to enter into long-term power purchase agreements (PPA) with the electrical distribution companies (EDCs) for a combination of energy and environmental attributes. The proposed project was not selected by DEEP. In the Tri-State RFP, Massachusetts and Rhode Island selected 11 out of 31 proposed projects to enter into long-term PPAs with the EDCs. Of those projects selected, one was DWW's Tobacco Valley Solar (TVS) Project. DWW entered into a PPA with Massachusetts utilities for the sale of electricity and renewable energy credits.

### Public Benefit

Pursuant to CGS §16-50p, a public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity. PA 05-1, An Act Concerning Energy Independence, portions of which were codified in CGS §16-50k, established a rebuttable presumption that there is a public benefit for electric generating facilities selected in RFPs. This project was selected in a Tri-State RFP.

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<sup>1</sup> CGS §16-50k was modified by Public Act 17-218 effective July 1, 2017. Public Act 17-218 does not apply to the proposed project because the petition was received by the Council on June 29, 2017.

### **Proposed Project**

As proposed, the Project consists of the installation of approximately 109,888 fixed 340 Watt solar photovoltaic panels and associated ground equipment on five parcels with a collective acreage of 289 acres. According to Town property cards, three of the site parcels (Parcels 1, 3 & 4) are zoned industrial and the remaining two parcels (Parcels 2 & 5) are zoned residential. All five parcels are currently owned by River Bend Development CT, LLC. DWW has secured an option to purchase all five parcels from the landowner.

Collectively, the five parcels consist of 131 acres of active agricultural fields, 151 acres of deciduous and evergreen woodland, of which 36 acres is forested wetland, and 7 acres of non-forested wetlands and ponds. Unimproved dirt roads interconnect the agricultural fields and provide access from public roadways. A 115-kV Eversource right-of-way traverses Parcel 2 and Parcel 3. A municipal sewer easement is located on Parcel 3 and Parcel 5. There are no buildings on the parcels except for three abandoned barns on Parcel 1 and two abandoned barns on Parcel 3.

The Project Site is bound to the west by residential development and Squadron Line School, a Town elementary school, the north by Town-owned open space and undeveloped land, the east by residential development and undeveloped land, and the south by Town-owned open space and residential development. To date, no applications for development per current zoning designations on any of the five parcels have been submitted to Town agencies.

The project development area, including the solar fields, equipment pads, and access roads, would be located on 156 acres of the 289-acre Project Site. The project area is divided into three distinct sections: the North Solar Field located generally north of the Eversource right-of-way (Parcels 1 and 2), the Middle Solar Field located south of the Eversource right-of-way and north of Hoskins Road (Parcels 3 and 4), and the South Solar Field located south of Hoskins Road (Parcel 5).

The solar field areas would be accessed by 20-foot wide gravel driveways extending from public roadways, including an existing access from County Road that leads to the North Solar Field, a new, defined access road from County Road near Hoskins Road that enters the Middle Solar Field and a new, defined access road that enters the South Solar Field from Hoskins Road.

A 20-foot wide gravel access road would be established around the perimeter of each solar field area. The solar field perimeter access roads would be located inside of the perimeter fenceline, with access controlled by chain link swing gates. The project access roads would consist of compacted substrate covered with a geotextile fabric and 12 inches of crushed stone. The main access roads would extend to access roads that go around the perimeter of each solar field area. The total length of the project access roads is 4.2 miles

### *Electrical Interconnection*

The Project would be interconnected with the 23-kV distribution system at Eversource's North Simsbury Substation located off Dorset Crossing. An interconnection agreement with Eversource is being finalized to determine the exact route of the interconnection and whether the connection would be on the distribution side or transmission side of the grid. Two underground interconnection routes are being examined by DWW and Eversource; a northern cable route that would extend east from the North Solar Field then south, into the substation; and the southern cable route that would extend northeast from the Middle Solar Field along a public road. There would be 14 concrete inverter/transformer pads located throughout the Project to convert the DC power (37.4 MW) produced by the solar panels to AC power (26.4 MW) that would be transmitted to the substation for use on the regional electric grid.

*Project Alternatives*

DWW investigated other parcels that were reasonably available within the Connecticut, Rhode Island and Massachusetts region over a 2 year period with the intent of securing properties to bid into a variety of RFPs. Some of the RFPs, such as the Tri-State RFP, had minimum capacity requirements that required large parcels, or a combination of parcels such as the TVS Project, in order to meet bid requirements. DWW's criteria in selecting sites include, but are not limited to, landowner availability, favorable topography, avoidable environmental constraints, and proximity to a transmission or distribution substation.

Three properties were investigated in Connecticut but were ultimately rejected due to wetland constraints, access and property constraints, presence of endangered species, and on-site contamination. DWW also searched for brownfield sites, but none were found that were large enough to host a project of this size.

During the proceeding, the Department of Agriculture (DOAg) suggested a clustered, low impact development with rooftop solar, passive solar or geothermal on a portion of the property with the remaining areas of forestland, wetlands and farmland protected with a conservation easement. This type of project does not exist on a grid-scale within the surrounding area and would not be a feasible alternative because of the proposed project size and the acreage required to produce the amount of electricity agreed upon through the Tri-State RFP.

The total amount of power to be delivered in accordance with the PPAs is 26.4 MW AC. The Project was also sized to be economically viable from a construction/operation aspect. Reduction in the size of the Project could have both contractual and financial consequences. The Project was bid at a certain size and financial assumptions were modeled to comport with the Project of that size.

**Public Safety**

The proposed project would comply with the National Electrical Code (NEC 2017) and all applicable safety and fire protection codes and standards. In the event of a fault within the facility, the system would have all protection systems including fuses, breakers, and reclosers that would isolate a section of the array or the entire solar facility, if necessary. DWW would train emergency responders to safely respond to an emergency at the solar facility. First responders would have a universal key to enter facility gates and facility shut off switches. The facility would be constructed to applicable building codes, including those pertaining to snow loading and wind loading. Decommissioning of the project at the end of its useful life would include solar facility infrastructure removal plans and site restoration plans. The Council will require that a detailed Decommissioning Plan that addresses all of the facility materials/components be provided in the Development and Management (D&M) Plan for the Project.

The Project Site is located 0.8 miles southwest of the Simsbury Airport. DWW notified the Federal Aviation Administration (FAA) of the Project and the FAA subsequently issued a Determination of No Hazard to Air Navigation. The FAA did not request a glare analysis in its determination.

Access to the site would be controlled by a seven-foot high chain link fence. Access drive entry gates would control access to the solar field perimeter access roads.

The primary or dominant source of noise for the proposed project would be from the 14 inverters. The collective noise from the inverters would be in compliance with the DEEP Noise Control Standards. Noise resulting from Project construction is exempt from the DEEP noise standards.

## **Environmental**

### *Historic and Archaeological Resources*

DWW performed an archaeological assessment of the Project Site upon consultation with the State Historic Preservation Office (SHPO). Based on initial archeological field assessments, no additional archaeological examination was recommended and construction would have no adverse effect on archaeological resources.

Five abandoned tobacco barns exist on the Project Site and are associated with a past use of the area by Cullman Brothers, Inc., one of the largest growers of tobacco leaf wrappers in the state in the early part of the twentieth century. All five barns date from the early portion of the twentieth century and are eligible for the National Register of Historic Places. The tobacco barns have an association with the seasonal presence of minority workers during and after World War II. Dr. Martin Luther King Jr. worked on one of the farms in the Barn Door Hills/Firetown Road area and wrote about his time working and living in non-segregated Simsbury as a pivotal moment in his life. Although no evidence to date has been found that directly links Dr. Martin Luther King Jr. to the Project Site and the barns, the agricultural landscape and barns remain as important links to American history. A former dormitory where Dr. Martin Luther King Jr. purportedly stayed during his time in Simsbury was burned down by the Simsbury Fire District in the 1980s.

Due to the past history of the general area, the Town requests that DWW retain all five barns, conduct a barn condition assessment and repair the barns. Additionally, the Town requests that DWW consider allocating some space within one of the barns to be used for interpretive exhibit space on the Cullman farms and their laborers or for other educational exhibits.

The Council finds that an existing tobacco museum in a tobacco barn currently exists at Northwest Park in Windsor and any new museum would be duplicative as well as an unnecessary financial burden to DWW. It seems that that an exhibit incorporating minority workers and Dr. Martin Luther King Jr.'s time in this area can be easily added to the existing tobacco museum at Northwest Park. In regards to educational outreach, DWW indicated it is amenable to conducting an educational program specific to renewable energy at local schools and to local organizations.

DWW is consulting with SHPO regarding the disposition of the barns at the Project Site. DWW is committed to retaining the two barns adjacent to Hoskins Road (Parcel 3) and one barn on Parcel 1 that is located out of the Project limits. Two other barns located on Parcel 1 would be removed as they are within Project-related areas.

The residences at 85 Hoskins Road and 100 Hoskins Road, west of the Middle and South Solar Fields, date from the mid-nineteenth century and are examples of the Greek Revival type. Both buildings are considered eligible for listing on the National Register of Historic Places. Due to the existing agricultural fields adjacent to 85 Hoskins Road, and the current historic-agricultural character of the Hoskins Road/County Road intersection area, the Town requests that the South Solar Field (Parcel 5) be eliminated from the Project to protect this Town-recognized "Character Place".

Given these concerns, DWW could re-design the Project by re-locating all or portions of the solar panels located south of the 85 Hoskins Road residence to other areas of the Project Site (Parcels 1 & 2). The relocation would enlarge the buffer to Squadron Line School, decrease Project visibility from the historic home at 100 Hoskins Road and only leave solar panels on one side of the property at 85 Hoskins Road, consistent with other area of the Project as there are no other residences along the perimeter of the Project Site that have solar panels abutting two sides of a residential property.

*Visibility*

The solar panels would be colored blue/black with an anti-reflection coating on the cover glass to reduce reflection as much as possible. The Project is well screened from most areas due to existing, intervening vegetation and sloping topography. The existing vegetative buffers along Berkshire Way, Litchfield Drive, Knollwood Circle, Halwood Drive, and Munnisunk Drive would limit open views toward the Project. If necessary, DWW proposes to plant native evergreens to supplement existing vegetation on or between the solar field and abutting properties. The plantings would be on an as needed basis. DWW anticipates plantings for abutting properties located on Knollwood Circle, Howard Street, Berkshire Way, and County Road.

For the Hoskins Road/County Road area and the adjacent recreational fields at Squadron Line School where there is no intervening vegetation, DWW proposes to install a 10-foot architectural fence and intermittent native tree/shrub plantings in the buffer between the fence and road. The Town requested a 10 to 12-foot tall berm system with landscaping and split-rail fencing to entirely block the facility from view.

The Council finds this request unreasonable given that the panels extend approximately 10 feet above grade and the Town's Zoning regulations allow for dense plantings to be installed to screen a multi-story building. Additionally, the berms could impact prime and important agricultural soils through disturbance and compaction, and could create water drainage issues and barriers to wildlife movement. The Council also finds the 10-foot fencing an acceptable form of screening and fencing type for this area given that a mix of fencing already exists in the general area in the form of chain link and stockade fencing. Shorter berms with landscape plantings could be used as a potential screening method as long as water control and any safety concerns are addressed. The Council will require a Visual Mitigation Plan be provided in the D&M Plan for the Project.

*Agriculture and Soils*

The Project Site is located in the Connecticut River Valley microclimate region, an area that has a different climate and soils than most of New England that allows for a greater potential for agriculture, especially due to a longer growing season. According to the latest Natural Resources Conservation Service mapping, there are 64.7 acres of Prime Farmland and 65.1 acres of Farmland of Statewide Importance in active agricultural use at the Project Site. Forested areas of the Project Site contain 25.2 acres of Prime Farmland soils and 65.1 acres of Farmland soils of Statewide Importance.

Approximately 131 acres of the Project Site are currently leased to third parties for agricultural use. In 2016, most of the farmland in the Project area was managed for row crops such as summer squash, specialty gourds, cucumber, and melons. Tobacco and corn were grown on a portion of the site this past growing season.

Construction of the Project would remove 131 acres of agricultural land from production, disturbing approximately 40 acres of prime and important farmland soils within existing agricultural fields. DWW would establish a cover crop of grasses/forbs in the solar field areas. These semi-managed grassland/forbs could result in improvement of soil health over the 25 year life of the Project. An exact seed mix for different areas of the Project Site would be specified in the D&M Plan.

In order to maintain some agricultural use of the Project Site, DWW would be willing to discuss the possibility of leasing or utilizing the approximate 4 to 6 acre field area in the non-Project portion of Parcel 5 for agriculture. As an additional benefit, DWW is committed to establishing a one-acre area of model pollinator habitat at the Project Site, in a location to be determined, consistent with the DOAg sponsored recommendation set forth in CGS §16-50hh to establish pollinator habitat for electric transmission line right-of-ways.'

Public Act 490 is Connecticut's Land Use Value Assessment Law for Farm Land, Forest Land and Open Space Land that allows land to be assessed at its use value rather than its fair market or highest and best use value for purposes of local property taxation. The Project Site is currently enrolled in the Public Act 490 Program.

DWW offered all five parcels to DOAg, free of charge, including a perpetual agricultural conservation easement, to restrict future non-agricultural development upon decommissioning of the Project. DOAg declined the initial offer, but DOAg and DWW continue to discuss the concept of restricting future development rights of the Project Site. The Town was not included in these discussions and seeks to be an active partner in discussing the long-range use of these properties. The Town's Plan of Conservation and Development envisions a Northern Gateway development on portions of the Project Site that includes light industrial, commercial, residential development and associated roads. Given the differing overall future land use goals of the Project Site, the Council encourages DWW to continue to meet with DOAg, the Town, and local land preservation groups to determine overall land use of the five parcels at the end of the Project's life.

DWW proposes to restore the soils within the soil field areas upon Project Decommissioning. Restoration measures include de-compaction and restoration of soil to a density and depth consistent with the surrounding areas. In all areas restoration shall include, as reasonably required, leveling, terracing, mulching, and other necessary steps to prevent soil erosion, to ensure establishment of suitable grasses and forbs, and to control noxious weeds and pests. If agriculture is the intended post-project use of the site, a deep till will be undertaken to loosen any compacted soils. Although the agricultural soils may not be exactly the same quality in every area post-construction, the restored soils would be able to support future crop production. As indicated by DWW, an Agricultural Protection Plan would be submitted as part of the D&M Plan to be implemented after Project Decommissioning only if the post-construction use of the site will be agriculture. If other development plans are envisioned, such as development associated with the Town's Northern Gateway concept, the Council does not expect DWW to restore the soil to agricultural use.

#### *Core Forest*

According to the 2004 Environment Canada Report, cited by the University of Connecticut Center for Land Use Education and Research, core forest areas that are a minimum of 250 acres in size should be considered the absolute minimum needed to support sensitive edge-intolerant bird species. Four small core forest areas that would be impacted by the Project but all four are currently 20 acres or less in size and have limited value in supporting interior forest breeding bird species, therefore core forest values would not be impacted.

Approximately 24 acres of upland deciduous forest and 6 acres of upland coniferous forest will be cleared for the Project, as follows: 18.1 acres for the north solar field (Parcels 1 &2), 7.2 acres for the middle solar field (Parcels 3& 4), and 4.7 acres for the south solar field (Parcel 5). Stumps of trees cleared outside of the perimeter roads would be retained, lessening the effect on underlying soils and offering beneficial shrub habitat.

*Wildlife*

DWW consulted with DEEP regarding species listed in the Natural Diversity Database (NDDB) that may occur on or near the Project Site. The initial NDDB listing indicated 25 State-listed species occur on or near the Project Site and includes three mammal species, seven bird species, three reptile species, one amphibian species, three freshwater mussel species, four invertebrate species and four plant species. Surveys for these species have been completed by DWW and consultation with DEEP regarding mitigation plans for affected species is ongoing.

DWW has evaluated the Project Site for the listed species, including a detailed spatial analysis of on-site habitats that are necessary to support the listed species. The assessment was performed using unique Key Habitats identifiers described in the 2015 Connecticut Wildlife Action Plan. Seven types of Key Habitats exist at the site. Based on the analysis, many of the species have habitat requirements that would be outside of the project limits.

During DWW's ongoing assessment, as of mid-October 2017, DWW determined five grassland bird species, two plant species and one amphibian species (leopard frog) do not occur on the site due to unsuitable habitat. One State-listed plant species, a perennial herb and wildflower, occurs at a single location at the Project Site. A cluster of host plants for the larva of a State-listed moth was identified at the Project Site.

State-listed reptiles that may occur at the Project Site include eastern box turtle, wood turtle, and eastern hognose snake. DWW is consulting with the DEEP Wildlife Division regarding appropriate mitigation actions that could include contractor awareness, time of year restrictions, construction barriers, work area sweeps, site monitoring, and GPS location information and reporting.

Three State-listed bat Species of Special Concern: red bat, silver-haired bat and hoary bat could occur at the site. DWW would avoid tree clearing from May 15 to July 31 to reduce the likelihood of impacting these bat species that utilize the forested areas of the site for roosting.

Construction of the Project has the potential to impact breeding birds in agricultural and forested areas. DWW proposes impact avoidance and mitigation strategies such as avoiding vegetation removal between May 1 to August 15 to minimize impacts to nesting birds and avoid potential disturbance during periods of high bird activity. Alternatively, breeding bird surveys could be conducted in areas to be cleared, and if breeding birds are found, a modified vegetation removal plan could be developed to avoid specific areas.

DWW would set aside 133 acres of open space, consisting of woodland, field and wetland habitat, for the 25-year life of the Project. The Project open space areas directly abut ten Town-owned open space parcels ranging in size from 0.4-acre to 24.6 acres. Wildlife that currently traverses the agricultural fields would have to adjust their movements to use areas along the edge of the solar fields. DWW would install the perimeter chain link fence so that a six-inch gap is maintained along the bottom end, to allow for small animal movement into the solar field areas.

The Council finds that the 133 acres of open space that are set aside is a benefit to wildlife when compared to development that could occur under traditional Town zoning where approximately 58-acres would be required to be set aside. In general, the periphery of the Project Site would be set aside in a natural state, maintaining habitat continuity between Project Site and adjacent open space areas, allowing for wildlife movement through the site and within the site. The natural area connectivity is consistent with the recommendations for development porosity as set forth in *The Farmington Valley Biodiversity Project: A Model for Intermunicipal Biodiversity Planning in Connecticut*.

### *Air Quality*

The project would have no adverse effect on air quality. During operation, the proposed project would not produce air emissions of regulated air pollutants or greenhouse gases. Thus, no air permit would be required. The proposed project would meet DEEP air quality standards. Given the loss of carbon dioxide sequestration over the life of the facility due to site development, tree clearing and the carbon dioxide emitted from the manufacture of the solar equipment versus the net carbon dioxide emissions reduction resulting from the solar facility displacing existing fossil fueled generation in the grid portfolio, the “carbon debt payback period” would be approximately 3.3 years.

### *Water Quality*

#### Wetlands and Watercourses

The Connecticut Inland Wetland and Watercourses Act (IWWA) strikes a balance between economic activities and wetlands preservation. The impact of a proposed activity on the wetlands and watercourses that may come from outside the physical boundaries of the wetlands or watercourses is a major consideration. Defined upland review areas, such as 100 feet, provide a trigger for reviewing whether a regulated activity is likely to affect wetlands and watercourses. Under CGS §22a-41(d), regulatory agencies shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life *unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.*

A wetland survey of the Project Site was conducted in accordance with the IWWA. The survey identified nine wetland areas, four farm ponds and three brooks on the Project Site. A majority of the wetland areas consist of forested wetlands associated with Munnisunk Brook (Parcel 1), Saxton Brook (Parcels 3 & 4) and Bissell Brook (Parcel 5). No functional vernal pools were identified on the Project Site although vernal pools may exist on abutting properties and vernal pool species could disperse onto the Project Site. One farm pond had limited use by wood frog, a vernal pool species, but due to the presence of fish, anticipated wood frog egg and larvae survivability is low.

No wetlands or watercourses would be directly impacted by the project. No clearing would occur directly in wetlands or watercourses. The project was designed to maintain a buffer between the project limits and the delineated wetland areas. The buffer is generally a minimum distance of 100 feet, and according to DEEP, is sufficient to maintain wetland functions and water quality. Prior to construction, DWW would develop a Resource Protection Plan to avoid and minimize impacts to on-site natural resources, including wetlands.

#### Phase 1 Site Assessment

A Phase 1 Site Assessment concludes that Parcels 1, 3 and 5 have historically been used as agricultural fields with barns that are similar in their configuration to barns typically associated with tobacco farming. Parcels 2 and 4 have historically consisted of undeveloped woodland. Scattered debris areas were found on the Project Site but no evidence of contaminant releases from these areas were evident. The debris would be removed prior to project construction in accordance with applicable regulations. The Project Site is not subject to the Connecticut Transfer Act as the Project Site does not appear to meet the definition of an “establishment”.

A former pesticide farm disposal area was located off-site, adjacent to Parcels 3 & 4, and was remediated in 1989 and 1990. Remediation included soil removal, soil testing and groundwater testing. Due to the potential of groundwater contamination, DEEP tested private water wells in adjacent residential areas, downgradient of the disposal site. Water testing occurred from the 1990s to 2013 and results indicate contaminants associated with soil fumigants historically used for tobacco farming were found in several wells above detection limits, but at concentrations below drinking water standards.

Residual pesticides may be present in soil and/or groundwater as a result of current or historical Project Site agricultural use. In general, most pesticides adsorb to soil particles, become immobile, and do not leach. Leachable soil contaminants, if present, would have already leached into groundwater and potentially migrated to nearby receptors years ago. Most historically-applied pesticides are present in the upper six inches to one foot of soil. The driving of racking piles would displace soil particles horizontally rather than pushing soils deeper into the ground and it does not appear likely that any potential pesticide residues located on the Project Site would impact nearby wells or the aquifer as a result of Project construction. DWW indicated during the proceeding that they would be willing to conduct private well water testing on abutting properties, if requested and permitted by the property owners.

The Department of Public Health (DPH), Drinking Water Section, submitted correspondence to the Council on December 14, 2017 indicating that the Project Site is within two Level A Aquifer Protection Areas, one associated with the Aquarion Water Company Hoskins Well Field and the other associated with the Tarriffville Fire District Water Department. In its letter, the DPH offered to work with DWW, in addition to the affected water utilities, to ensure measures in the D&M Plan conform to the DPH's applicable statutes and regulations. DEEP recommended that the Project be constructed in accordance with the Connecticut Aquifer Protection Area Program Municipal Manual Best Management Practices – "Road and Highway Construction/Reconstruction in Aquifer Protection Areas" and that the D&M Plan include an Aquifer Protection Program to protect water resources. The Council will include such a provision in its Decision and Order.

#### Stormwater

DWW would file a Stormwater Pollution Prevention Plan (SWPPP) as part of its General Permit application that identifies areas for storing petroleum fuels, refueling operations, and spill containment during construction. DWW would retain qualified professionals to conduct soil and erosion control inspections of the site during construction, as required by the General Permit. DWW anticipates that inspections would be performed weekly or more frequently as needed based on precipitation or other conditions of concern.

Once DWW assumes control of the Project Site, the agricultural fields and any other bare soil areas would be seeded immediately prior to Project construction activity to establish a cover crop and root mass for erosion and dust control.

Approximately 10 acres of the Project Site would be disturbed during site grading resulting in an estimated cut of 58,700 cubic yards and an estimated fill of 21,500 cubic yards. An excess cut of 37,200 cubic yards would be used on the Project Site to construct perimeter access roads, backfill and landscaping. No soil is to be exported from the Project Site. DWW would use water and/or calcium chloride for fugitive dust suppression during construction activities.

DWW would phase construction of the project and may include phases of disturbance greater than five acres at a time. Work area phases greater than five acres may be possible, with DEEP concurrence, due to the current condition of the site as open agricultural lands and the different areas of the site that can be worked on at once. The Council will require a detailed phasing plan as part of the D&M Plan that shall include a rationale for any proposed work area phasing that exceeds five acres.

Sediment traps would be installed in conjunction with site grading and would be located at the discharge point of each Project area sub-watershed when the contributing area exceeds one acre, but is less than five acres. A temporary sediment basin, a larger version of a trap that includes a staged release discharge structure, would be constructed for areas exceeding five acres. The Council will require final stormwater design plans and its related phasing plan in the D&M Plan.

Post-construction stormwater discharge from the Project Site would be designed to meet the *2004 Connecticut Stormwater Quality Manual* and the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*. Final post-construction discharge rates associated with the proposed revised project would be no greater than the existing discharge rates.

Although DWW indicated it would inspect all on-site vegetated areas at least once per year and remove any accumulated sediment and debris that could affect stormwater patterns, the Council will order DWW to submit an Vegetation Management Plan that specifies inspections of all on-site vegetated areas, at a minimum, on a quarterly basis given the lack of post-construction stormwater basins, the presence of highly erodible soils and the presence of stream corridors and wetlands within approximately 100 feet of the Project development limits, as well as plans for the frequency of mowing and any related seasonal restrictions.

### Project Modifications

Prior to submission of the Petition to the Council, DWW discussed the Project with the Town and attended several public information meetings to listen to neighborhood concerns. As a result of Town and neighborhood feedback, DWW reduced the Project size by approximately 18 acres in six distinct areas prior to submission of the petition to the Council. The reductions included larger buffers between residential areas and the Project limits, increasing the setback from Hoskins Road and the complete elimination of a solar field area on Parcel 2. DWW also proposed to incorporate wood chip walking paths on portions of the Project Site based on comments from area residents who currently walk on the portions of the private property. The installation of walking paths is not necessary for operation of the facility and thus the Council will not order the inclusion of walking paths within the D&M Plan. The walking paths may have to be eliminated to account for Project Site re-configuration based on final stormwater features, access road alignment, or for expansion of certain solar arrays if solar panels are relocated from other areas of the Project Site.

During the proceeding, the Town requested elimination of all solar arrays on Parcel 5, south of Hoskins Road. In response to this request, the Council finds that DWW has made a strong effort to work with the Town and has reasonably addressed neighborhood concerns by reducing the Project footprint to the greatest extent practical prior to the submission of the Petition to the Council, and has even agreed to an additional modification suggested during the proceeding by removing solar panels from the area south of 85 Hoskins Road. Further reduction of the Project would be detrimental to the Project's financial viability, and more importantly, its overall goal in reducing fossil fuel emissions from traditional power plants. That said, the Council requests that DWW explore the possibility of further reducing or even eliminating the South Solar field on Parcel 5 by considering the use of higher wattage solar panels to produce the same amount of contractually-obligated electricity on a smaller Project footprint.

### Conclusion

Based on the record in this proceeding, the Council finds that there would not be a substantial adverse environmental effect associated with the construction, maintenance and operation of an approximately 26.4 MW Solar Photovoltaic Project on approximately 289 acres located on five parcels located generally west of Hopmeadow Street, north and south of Hoskins Road, and north and east of County Road and the associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut.

The proposed project is a grid-side distributed resources project with a capacity of less than 65 MW under CGS §16-50k, it was selected through a Tri-State RFP under CGS §16a-3f, it is consistent with the state's energy policy under CGS §16-35k, and the proposed project would meet all applicable U.S. Environmental Protection Agency and DEEP Air and Water Quality Standards. Therefore, the Council will issue a declaratory ruling for the proposed project.

**PETITION NO. 1313** – DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut. }

Connecticut }  
 Siting }  
 Council }  
 December 21, 2017

### Decision and Order

Pursuant to Connecticut General Statutes (CGS) § 16-50k(a), CGS §4-176 and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the construction, maintenance, and operation of a 20 MW Solar Photovoltaic Project on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street, north and south of Hoskins Road, and north and east of County Road and an associated electrical interconnection to Eversource Energy's North Simsbury Substation in Simsbury, Connecticut would not have a substantial adverse environmental effect, would meet all applicable U.S. Environmental Protection Agency and Connecticut Department of Energy and Environmental Protection (DEEP) Air and Water Quality Standards, and therefore, the Council will issue a declaratory ruling for the proposed solar photovoltaic electric generating project.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and is subject to the following conditions:

1. 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 Towns of Simsbury and Granby for comment and all parties and intervenors on the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a. A final site plan including, but not limited to, the solar field areas, solar array design, all access roads and access ways, grading details, soil stockpile and disposition areas, wildlife-friendly fence design, underground electric wire detail, and electrical utility corridor and interconnection;
  - b. Erosion and sedimentation control plan consistent with the *2002 Connecticut Guidelines for Erosion and Sedimentation Control*;
  - c. Resource Protection Plan that include details for site clearing, grubbing, and stabilization details, including two rows of sedimentation barriers proximate to any wetland/watercourse area;
  - d. Site construction phasing plan with details of each clearing /earthwork phase. If phases are greater than five acres, a detailed rationale shall be provided as to why work phases should exceed five acres;
  - e. A stormwater management plan consistent with the *2004 Connecticut Stormwater Quality Manual*, including an analysis on the potential impact of driveways on stormwater flows, including, but not limited to potential diversion of stormwater away from wetlands;
  - f. Plans to comply with the recommendations outlined in DEEP's "Stormwater Management at Solar Farm Construction Projects" dated September 8, 2017;

- g. Agricultural Protection Plan to reduce impacts to farmland soils during construction and operation of the facility, and restoration of the site at the end of its useful life if future use of the site will be agriculture;
  - h. Final plant and wildlife protection measures and/or seasonal restriction timelines for all DEEP-identified Natural Diversity Database species, as recommended by DEEP;
  - i. Preventative measures for breeding birds and forest roosting bats, including clearing restrictions or field surveys with subsequent avoidance measures;
  - j. Identification of barns to be retained at the Project Site;
  - k. Identification of areas for fuel storage and equipment refueling outside of the aquifer protection area;
  - l. Compliance with Department of Public Health Public Water regulations and consultation with the Department of Public Health to develop a Project Aquifer Protection Program;
  - m. Construction schedule, including, work days and hours;
  - n. Construction traffic management measures;
  - o. Visual Mitigation Plan, including but not limited to, landscape plantings and fencing, where appropriate;
  - p. Post-construction restoration plan, including appropriate seed mixes, plantings, one-acre of model pollinator habitat, and proposed use/management of the non-Project field area on Parcel 5;
  - q. Vegetation Management Plan including, but not limited to, provisions for frequency of mowing and vegetation maintenance that incorporate any DEEP-required seasonal restrictions, post-construction site inspections on a quarterly basis, and plans to remove and dispose of any accumulated sediment and debris that could affect stormwater patterns; and
  - r. Decommissioning Plan to include a listing of all materials to be removed, methods of removal, and any above-ground and subsurface materials to remain.
2. The Petitioner shall immediately seed the agricultural fields for erosion and dust control upon assuming control of the Project Site, weather permitting.
3. 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;
4. 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;
5. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed;
6. 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;

7. 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
8. 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.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed in the Service List, dated October 26, 2017, and notice of issuance published in the Hartford Courant.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

## DECLARATORY RULING

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **PETITION NO. 1313** - DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut, and voted as follows to issue a declaratory ruling:

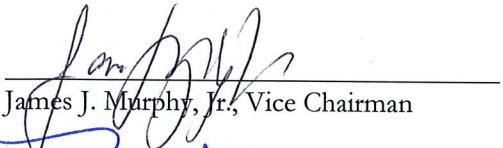
### Council Members



Robert Stein, Chairman

### Vote Cast

Yes



James J. Murphy, Jr., Vice Chairman

Yes



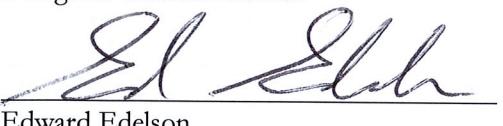
Chairman Katie Dykes  
Designee: Larry Levesque

Yes



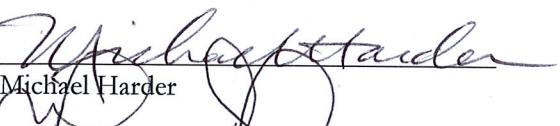
Commissioner Robert Klee  
Designee: Robert Hannon

Yes



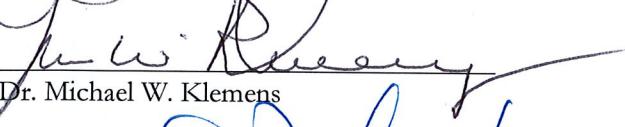
Edward Edelson

Abstain



Michael Harder

Yes



Dr. Michael W. Klemens

Yes



Daniel P. Lynch, Jr.

Yes



Robert Silvestri

Yes

Dated at New Britain, Connecticut, December 21, 2017.



**STATE OF CONNECTICUT**  
**CONNECTICUT SITING COUNCIL**  
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December 22, 2017

TO: Classified/Legal Supervisor  
**1313170725**

The Hartford Courant  
285 Broad St.  
Hartford, CT 06115

FROM: Lisa Fontaine, Fiscal Administrative Officer

RE: **PETITION NO. 1313** – DWW Solar II, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of a 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut.

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Please publish the attached legal notice for one day on the first day possible from receipt of this notice.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LAF



**STATE OF CONNECTICUT**  
**CONNECTICUT SITING COUNCIL**  
Ten Franklin Square, New Britain, CT 06051  
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**NOTICE**

Pursuant to Connecticut General Statutes § 16-50k and § 4-176, the Connecticut Siting Council (Council) announces that, on December 21, 2017, the Council issued Findings of Fact, an Opinion, and a Decision and Order, approving a petition from DWW Solar II, 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 26.4 megawatt AC solar photovoltaic electric generating facility on approximately 289 acres comprised of 5 separate and abutting privately-owned parcels located generally west of Hopmeadow Street (US 202/CT 10), north and south of Hoskins Road, and north and east of County Road and associated electrical interconnection to Eversource Energy's North Simsbury Substation west of Hopmeadow Street in Simsbury, Connecticut. This petition record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.