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**VIA ELECTRONIC MAIL  
AND FEDEX**

**October 24, 2017**

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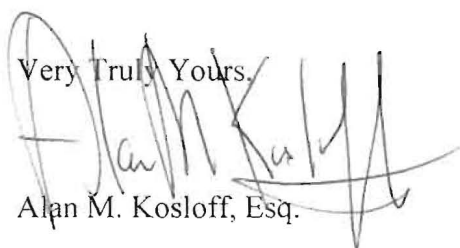
Ms. Melanie A. Bachman, Esq., Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06501

**Re: Petition 1313 -DWW Solar II, LLC Petition for Declaratory Ruling that No  
Certificate of Environmental Compatibility and Public Need Is Required for a 26.4  
Megawatt AC Solar Photovoltaic Electric Generating Facility in Simsbury, Connecticut**

Dear Attorney Bachman:

Attached please find Flammini, et al's response to DWW SOLAR II, LLC'S October 20 filing in opposition to Flammini, et al's request for relief from order to compel. An original and fifteen (15) copies of same are being mailed to you.

Very Truly Yours,



Alan M. Kosloff, Esq.

Enclosures

Cc: Service List (via electronic mail)

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

DWW SOLAR, II, LLC PETITION)  
FOR DECLARATORY RULING )  
THAT NO CERTIFICATE OF )  
ENVIRONMENTAL )  
COMPATIBILITY AND PUBLIC )  
NEED IS REQUIRED FOR A 26.4 )  
MEGAWATT AC SOLAR )  
PHOTOVOLTAIC ELECTRIC )  
GENERATING FACILITY IN )  
SIMSBURY CONNECTICUT )

PETITION NO. 1313

October 24, 2017

FLAMMINI ET AL.'S RESPONSE TO DWW SOLAR II, LLC'S OCTOBER 20 FILING IN  
OPPOSITION TO FLAMINNI, ET AL'S REQUEST FOR RELIEF FROM ORDER TO  
COMPEL

On October 17, Flaminni et al. reported that they simply did not have the funds to have their expert, Mr. George Logan, respond to interrogatories and appear for further cross examination by the parties. This is regrettable since under the Council's Rules of Practice, testimony and exhibits that have not been subjected to full and fair cross examination must be stricken from the record.<sup>1</sup> Although Flammini et al, believe that Logan's testimony and exhibits are relevant and have probative value, they also recognize the need to strike this evidence and they have no objection to the Council's taking action to do just that. Flaminni et al. observe that engaging in Siting Council proceedings as a party has become something of a rich man's game and it is too bad that participation by ordinary citizens is hampered by the costs of participation.

Notwithstanding our position, on October 20, DWW Solar II, LLC filed a response to Flammini et al's October 17 request for relief urging the Council to impose certain draconian measures that would effectively stymie their further participation in these proceedings. Measures such as denying our request for relief from the order to compel when we have reported that we do not

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<sup>1</sup> See RCSA, §16-50j-25(c)

have the funds to bring Mr. Logan back;<sup>2</sup> bar us from further participation in the proceeding; bar us from obtaining answers to interrogatories unrelated to the subject matter of Mr. Logan's testimony and exhibits.

DWW's filing suggests that Flammini, et al. have sufficient funds to pay an attorney to assist them in this matter. While it would be inappropriate for the undersigned to disclose my fee arrangements with my clients, I can say that I agreed to represent these parties at a much reduced fee. While I am happy to disclose the reasons for this arrangement to the Council, I doubt that those reasons have any relevance to the matters at hand. I am simply suggesting that you should not infer from my participation that my clients have the kind of money that would allow them to stand toe-to-toe with the Petitioner.

Petitioner's reliance on *Milbrook* is misplaced. That case recognizes the inherent power of the Trial Court to impose reasonable sanctions for a course of claimed dilatory, bad faith and harassing litigation conduct. One can hardly describe Flammini et al's request to constitute "dilatory, bad faith and harassing litigation conduct."<sup>3</sup>

The exclusion of Mr. Logan's testimony and exhibits is an appropriate measure in this instance. Employing any of the other measures advanced by the Petitioner would constitute an abuse of discretion and a violation of Flammini et al's rights to due process of law.

Respectfully Submitted,

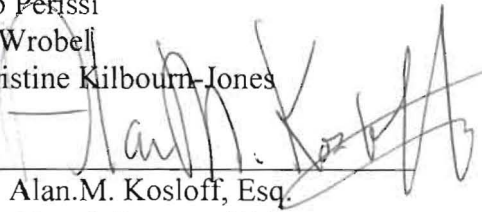
Michael Flammini  
Laura Nigro  
Linda Lough

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<sup>2</sup> It seems to us that since Petitioner's interrogatories are all addressed to Mr. Logan's report, that striking his testimony and exhibits would render any controversy over responses to these interrogatories moot.

<sup>3</sup> *Millbrook Owners Association, Inc. v. Hamilton Standard*, 257 Conn. 1, at 9 (2001),

Lisabeth Shlansky  
Zhenkui Zhang  
John Marktell  
Rob Perissi  
Ed Wrobell  
Christine Kilbourn-Jones

By:   
Alan.M. Kosloff, Esq.  
Alter & Pearson LLC  
Their Attorney

CERTIFICATION

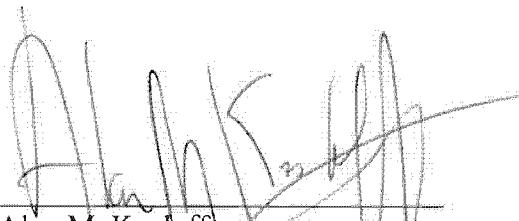
I hereby certify that on this day that the foregoing was delivered by electronic mail in accordance with RCSA §16-50j-12, to all parties and intervenors of record, as follows:

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Alan M. Kosloff  
Commissioner of the Superior Court  
October 24, 2017