

VIA ELECTRONIC MAIL

October 18, 2017

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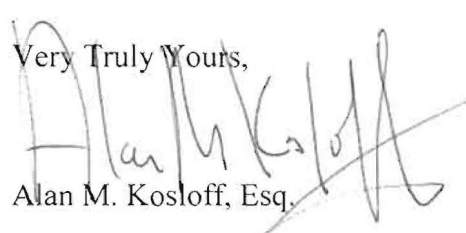
Ms. Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06501

**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 first set of interrogatories to DWW Solar II, LLC. An original and fifteen (15) copies of same is 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 18, 2017

FLAMMINI ET AL.'S FIRST SET OF INTERROGATORIES TO DWW SOLAR II, LLC

1. Reference to the Council's Interrogatory #5 to you: you responded that, "DWW can find no evidence that any portion of the site is enrolled in the Department of Agriculture's Public Act 490 Program. No portions of the parcels being acquired for the project are outside the Project limits." **Are you aware that Simsbury's Tax Assessor, David Gardner, reports that approximately 249 acres of the land are subject to Public Act 490 and that the current owner benefits from a lower tax rate for agricultural land as a result of the application of P.A. 490 to the property?**

2. Reference to the Council's Interrogatory #9 to you concerning proximity of the nearest off-site residence to the construction access points and the solar field area: you responded that, "the nearest off-site residence to the northwestern solar array is located at 13 Knollwood Circle, which is 275 feet to the east. The nearest off-site residence to northeastern solar array is located at 1 Centerwood Road, which is 247 feet to the north. The nearest off-site residence to central solar array is located at 14 County Road, which is 142 feet to the west. The nearest off-site residence to southern solar array is located at 85 Hoskins Road, which is 197 feet to the north. The nearest off-site residence to County Road construction access is located at 81 County Road, which is 122 feet to the south. 81 County Rd is across the street from the construction access road on County Rd. The nearest off-site residence to County/Hoskins Road construction access is located at 10 County Road, which is 562 feet to the northwest."

(a) Why did you not include #2, 4, 6, 8, 10, 12, 14, 16, & 18 Litchfield Dr. which are all within 100' from the access road, which runs behind Litchfield Dr.;

(b) Why did you not include #24, 43, 44, & 45 Berkshire Way, which are all within 400' of the access road and the solar field;

(c) Why did you not include #20 & 21 Saxton Brook which are 550' from the access road and the solar panels?

3. Reference to the Council's Interrogatory # 21 to you regarding the length and depth of the solar racking support posts: you responded that, "the solar racking support posts will be embedded 12 to 14 feet into the ground, however, the final design will be based on the results of geotechnical analysis. The posts will be 8-10 feet above ground." As indicated previously by you, there will be approximately 110,000 solar panels that will require 4-6 racking support posts. **What will DWW do to reduce the noise from such significant pile driving or auguring operations and what hours of operation will you be following with so many residences in close proximity?**

4. In your answer to the Council's Interrogatory #49 you state that no assessment of pesticide residues has been performed; yet in your answer to the Council's Interrogatory #35 you state that the racking posts for over 109,000 solar panels will be embedded 12 - 14 ft in the ground.

(a) What is DWWs plan for dust control and air monitoring of potentially contaminated dust released into the atmosphere during construction?

(b) What are DWW's plans for preventing the release of contaminants (including dissolved contaminants) into groundwater and surface water during construction?

5. In your answer to the Council's Interrogatory #57, DWW stated that arrival times for peak construction activity will be early in the morning and early in the evening thus avoiding peak commuting times. **School buses pick up and drop off our children during these early morning (6:30-7:15 am) and afternoon (2:30-4:00pm) times. The children are waiting at the side of the road, often in dim light in the morning and dropped off in the afternoon, often crossing the roads in these construction access areas. There are no traffic controls on that roadway and at least one of the**

entrances is a blind driveway at a three way intersection. How will DWW ensure a safe environment for our children with the increased construction traffic?

6. In response to Simsbury's Interrogatory #72, you state that that vegetative maintenance (weed and grass mowing) will be performed once per year as is the industry standard or "more frequent if deemed necessary based on site conditions". **What is your definition of "necessary based on site conditions?"**
7. **Will "danger high voltage" signs be posted on the fences along Hoskins and County Roads, clearly visible to those passing by?**
8. Regarding yours answers to the Council's Interrogatories ##10 and 14, wherein you state the anticipated facility is a 26.4 MW-AC/37.4 MW-DC solar power generating facility, but the DC figure is subject to change based on final site specific engineering: **Does that mean the project may exceed the current estimate?**
9. Regarding your response to Simsbury's Interrogatory #15, you responded in part you objected to the question because "it presumes, without evidence, that the Project is located over an Aquifer Protection Zone. . ."
 - (a) **Reference your Exhibit B, and in particular, the 7th figure therein, isn't that evidence that the Project is located over an Aquifer Protection Zone?**
 - (b) **Also, do you believe that you would be entitled to construct this project if Simsbury's Aquifer Protection Regulations were applied to it by the Council. If so, why?**
10. Also, reference is made to Conn. Gen. Stat. §22a-354p(g) which in relevant part reads, "(g) (1) Notwithstanding any other provision of the general statutes, the commissioner [of Energy and Environmental Protection] shall have sole authority to grant, deny, limit or modify, in accordance with regulations adopted by him, a permit for any regulated activity in an aquifer protection area proposed by (A) . . .any person to whom the commissioner has issued a permit for the subject site under the provisions of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) for a treatment, storage or disposal facility, (B) any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, (C) any large quantity generator, as defined in regulations adopted by the commissioner under section 22a-449. . ."**If Mr Carr's findings are correct [see his letter dated October 5, 2017 included with Simsbury's supplemental disclosure dated October 5, 2017], that a RCRA disposal facility was operated within the Hall Farm and that more than 1,000 kgs per month**

of hazardous waste were generated at the Hall Farm, would not your project be required to (i) undergo generator closure, (ii) obtain a RCRA permit for the closure of a TSD facility, and (iii) obtain an aquifer protection permit from DEEP notwithstanding the Council's possible favorable action on your petition?

11. Also, reference is again made to Mr. Carr's letter: **If Mr. Carr is correct, that the origin of the hazardous wastes referenced in the RCRA manifests noted by Mr. Carr was the Hall Farm, would not the Hall Farm parcels be considered an "establishment" under the Connecticut Transfer Act? If so, would you accept a condition requiring you to comply with the Connecticut Transfer Act upon transfer of the property to you?**

12. **Given Mr. Carr's findings concerning the presence of hazardous wastes at the Hall Farm,**

(a) have you conducted or are you planning to conduct any soils testing to either confirm or refute his findings?

(b) Have you conducted or are you planning to conduct any soils testing in the vadose zone at the Hall Farm to determine whether there are any exceedances of DEEP's Pollutant Mobility Criteria?

(c) If not, what evidence in the record do you point to that establishes that your construction/operation activities will not have the effect of mobilizing hazardous wastes in the form of dissolved solids so as to result in violation of DEEP's Water Quality Standards or otherwise cause "pollution of the waters of the State" (as that term is defined in Title 22a of the Connecticut General Statutes)?

13. Petitioner states in its answer to the Council's interrogatory #39 that the power generated by this project "will be sold in accordance with the terms of the project's PPAs."

(a) Will any of the power purchasers be Connecticut customers?

(b) If so, who are they?

(c) How much power will they be purchasing?

14. According to the Public Utility Environmental Standards Act, (§16-50p) "a **public benefit** exists when a facility is necessary for the reliability of the electric power supply of the state [of Connecticut] or for the development of a competitive market for

electricity, and a **public need** exists when a facility is necessary for the reliability of the electric power supply of the state [of Connecticut].” (emphasis added)

(a) In what way does your project constitute a “public benefit”;

(b) In what way does your project fulfill a “public need”?

(c) What evidence is there in the record to support your contentions?

15. Why is your facility necessary for the reliability of the electric power supply of the State of Connecticut in view of DEEP’s determination that, “Resources within Connecticut are expected to be sufficient to meet Connecticut’s Local Sourcing Requirement as defined by the Transmission Security Analysis criteria through 2024. Within the Connecticut sub-area specifically, no new capacity will be needed because existing resources, planned transmission, and energy efficiency will exceed the local requirement beyond the ten-year IRP horizon.” (See DEEP 2014 Integrated Resource Plan, at p.13 as restated in the Council’s Docket No. F-2014/2015 10-year Load Forecast, at p. 48)

16. According to your Petition (p. 7), you were selected to supply power “to Massachusetts electric distribution companies”; were you also selected to supply power to Connecticut electric distribution companies?

17.

(a) Are you aware that the U.S. Commerce Department recently approved a collection of steep tariffs on imports of most solar panels made in China?

(b) Will the Petitioner switch to the purchase of American-made panels as a result of the Commerce Department’s action?

(c) If not, will Petitioner seek to pass the added expense of the tariffs on to the consumer?

Respectfully Submitted,

Michael Flammini

Laura Nigro

Linda Lough

Lisabeth Shlansky

Zhenkui Zhang

John Marktell

Rob Perissi

Ed Wrobel

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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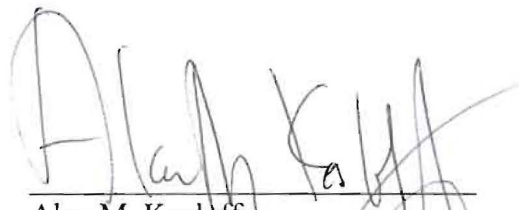
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Alan M. Kosloff
Commissioner of the Superior Court
October 18, 2017