



STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

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Hearing Program  
Petition No. 1312  
Tuesday, October 31, 2017  
11 a.m.  
Hearing Room One, Ten Franklin Square  
New Britain, CT 06051

I. Opening by Council

- A. Statement read by Chair.
- B. Comments by Public Official(s) (if any)
- C. Motions (if any)
- D. Administrative Notice taken by Council

**FEDERAL**

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2. NATIONAL RESEARCH COUNCIL, *Research on Power-Frequency Fields Completed Under the Energy Policy Act of 1992*, National Academy of Sciences, 1999, available at <http://books.nap.edu/openbook.php?isbn=0309065437>
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4. Presidential Proclamation No. 8460, Critical Infrastructure Month, 74 Fed. Reg. 234, December 8, 2009, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=86954>
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12. UNITED STATES FISH AND WILDLIFE SERVICE, Final 4(d) Rule for the Northern Long-eared Bat, January 14, 2016, available at <https://www.fws.gov/Midwest/endangered/mammals/nleb/pdf/FRnlebFinal4dRule14Jan2016.pdf>
13. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Office of Solid Waste and Emergency Response, *Handbook on Siting Renewable Energy Projects While Addressing Environmental Issues*, available at [http://www.epa.gov/renewableenergyland/docs/handbook\\_siting\\_repowering\\_projects.pdf](http://www.epa.gov/renewableenergyland/docs/handbook_siting_repowering_projects.pdf)
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20. *Alco Fin. Ltd. v. Klee*, 2014 U.S. Dist. LEXIS 170674 (D. /cibb,2914), affirmed by *Alco Fin. Ltd. v. Klee*, 805 F.3d 89 (2<sup>nd</sup> Cir. 2015)

## **REGIONAL**

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23. ISO-NEW ENGLAND, *2014 Regional System Plan*, November 6, 2014, available at <http://www.iso-ne.com/system-planning/system-plans-studies/rsp>
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## **STATE**

### **Connecticut Siting Council**

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54. **PETITION NO. 1042** – Somers Solar Center, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the construction and operation of a 5.0 MW AC Solar Photovoltaic Project located at 458 & 488 South Road, Somers, Connecticut. Record and Final Decision, available at <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=513338>

55. **PETITION NO. 1056** - GRE 314 East Lyme, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction and operation of a 5.0 MW Solar Photovoltaic Renewable Energy Generating Project located on Grassy Hill Road and Walnut Hill Road, East Lyme, Connecticut. Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=517566>
56. **PETITION NO. 1178** – DESRI CT Fusion Acquisition, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, operation and maintenance of a ground-mounted 20 megawatt solar photovoltaic electric generating facility located on Potash Hill Road, Sprague, Connecticut. Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&Q=568946&PM=1>
57. **PETITION NO. 1220** -Windham Solar LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of three 2.0 Megawatt and one 1.0 Megawatt Solar Photovoltaic Electric Generating facilities located at 1219 and 1240 Voluntown Road, Griswold, Connecticut. Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=578334>
58. **PETITION NO. 1221** - Windham Solar 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 two 1.0 Megawatt and one 1.5 Megawatt Solar Photovoltaic Electric Generating facilities located at 91 Plainfield Pike Road, Plainfield, Connecticut. Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=578336>.
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61. **PETITION NO. 1247** - C-TEC Solar, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance, and operation of a 3.75 MW solar photovoltaic electric generating facility located at 65 Thompson Road, Thompson, Connecticut. Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&Q=582976&PM=1>
62. **PETITION NO. 1294** – LSE Canes Venatici LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, operation, and maintenance of a 2.0 megawatt AC Solar Photovoltaic Electric Generating facility located at East Windsor Tax Assessor Map 037, Block 65, Lot 027A, Wapping Road, East Windsor, Connecticut. (NORCAP North). Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=591568>

63. **PETITION NO. 1295** – LSE Coma Berenices LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, operation, and maintenance of a 2.0 megawatt AC Solar Photovoltaic Electric Generating facility located at East Windsor Tax Assessor Map 027, Block 65, Lot 031, 90 Wapping Road, East Windsor, Connecticut. (NORCAP South). Record and Final Decision, *available at* <http://www.ct.gov/csc/cwp/view.asp?a=2397&q=591574>

**Department of Energy and Environmental Protection**

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## **ENVIRONMENTAL**

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**MAPS**

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E. State Agency comments

1. State of Connecticut Department of Transportation, dated August 28, 2017
2. State of Connecticut Council on Environmental Quality, dated August 30, 2017
3. Department of Energy and Environmental Protection's Interrogatory Responses to the Town of New Milford, Set One, dated September 19, 2017
4. State of Connecticut Department of Energy and Environmental Protection, dated September 21, 2017

F. Public Official comments

1. United States Senator Richard Blumenthal and Congresswoman Elizabeth H. Esty, dated September 22, 2017
2. State Representative Richard A. Smith, 108<sup>th</sup> District, dated September 21, 2017

II. Appearance by Petitioner

Petitioner: Candlewood Solar, LLC  
Representative: Paul R. Michaud, Esq.  
Michaud Law Group LLC

A. Administrative Notice.

1.

B. Exhibits for Identification.

1. Petition for a Declaratory filed by Candlewood Solar, LLC, received June 28, 2017, and attachments.
2. Candlewood Solar, LLC's Responses to Council Interrogatories, Set One, dated August 28, 2017
3. Candlewood Solar, LLC's Pre-filed Testimony, dated September 19, 2017
  - a. Jim Walker, Ameresco, Inc.
  - b. Joel Lindsay, Ameresco, Inc.
  - c. Robert Bukowski, Pamela M. Chan, Amec Foster Environment & Infrastructure, Inc. and Brian Butler, Oxbow Associates, Inc.
4. Candlewood Solar, LLC's Responses to Town Interrogatories, Set One, dated September 19, 2017
5. Candlewood Solar, LLC's Affidavit of Sign Posting with Photograph, dated September 19, 2017
6. Candlewood Solar, LLC's Witness Resumes and Company Qualifications and Experience, received September 19, 2017
  - a. Jim Walker, Ameresco, Inc.
  - b. Joel Lindsay, Ameresco, Inc.
  - c. Amec Foster Wheeler Statement of Qualifications
  - d. Robert Bukowski, Amec Foster Environment & Infrastructure, Inc
  - e. Pamela M. Chan, Amec Foster Environment & Infrastructure, Inc.
  - f. Brian Butler, Oxbow Associates, Inc.
  - g. Oxbow Associates, Inc. Statement of Qualifications
7. Candlewood Solar, LLC's Phase IA Cultural Resources Assessment Survey of the Proposed Candlewood Solar Facility in New Milford, Connecticut, September 2017
8. Candlewood Solar, LLC's Federal Aviation Administration Determination of No Hazard to Air Navigation Letters, received September 19, 2017
9. Candlewood Solar, LLC's Supplemental Sign Posting Affidavit, signed and dated September 25, 2017
10. Candlewood Solar, LLC's Field Review Map, received September 25, 2017
11. Candlewood Solar, LLC's Responses to Council Interrogatories, Set Two, with attachments, dated October 24, 2017
12. Candlewood Solar, LLC's Responses to Council Interrogatories, Set Three, dated October 24, 2017
13. Candlewood Solar, LLC's Supplemental Pre-filed Testimony with attachments, dated October 24, 2017
  - a. Joel Lindsay, Ameresco, Inc.

- b. Robert Bukowski, Amec Foster Environment & Infrastructure, Inc.
- c. Patricia Foster, Amec Foster Environment & Infrastructure, Inc.
- 14. Resume of Patricia Foster
- 15. Conservation Restriction Area, dated October 24, 2017
- 16. Updated Proposed Conditions Map, dated October 24, 2017
- 17. Revised Response to Council Interrogatory #14 including Phase 1B Report, dated October 24, 2017
- 18. Oxbow Species Account Report, dated October 20, 2017
- 19. Correspondence to DEEP NDDB from Amec Foster Wheeler, dated October 27, 2017
- 20. Correspondence to SHPO from Amec Foster Wheeler, dated October 26, 2017

C. Swear Witnesses

- 1. Jim Walker, Ameresco, Inc.
- 2. Joel Lindsay, Ameresco, Inc.
- 3. Robert Bukowski, Amec Foster Wheeler Environment & Infrastructure, Inc.
- 4. Pamela Chan, Amec Foster Wheeler Environment & Infrastructure, Inc.
- 5. Brian Butler, Oxbow Associates, Inc.
- 6. Patricia Foster, Amec Foster Wheeler Environment & Infrastructure, Inc.

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

- 1. Council
- 2. Town of New Milford
- 3. Department of Agriculture (DOAg)
- 4. Rescue Candlewood Mountain

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III. Appearance by Party: Town of New Milford  
Representative: Rebecca L. Rigdon, Esq.  
Town Attorney - Town of New Milford

A. Administrative Notice.

- 1. FUSS & O'NEILL, *Low Impact Development Appendix to the Connecticut Stormwater Quality Manual*, August 2011, Partners for the Connecticut Low Impact Development and Stormwater General Permit Evaluation- Connecticut, *available at* [http://www.ct.gov/deep/lib/deep/water/nps/swgp/lid\\_stormwaterfinal.pdf](http://www.ct.gov/deep/lib/deep/water/nps/swgp/lid_stormwaterfinal.pdf)
- 2. FUSS & O'NEILL, *Low Impact Development Appendix to the Connecticut Guidelines for Soil Erosion and Sediment Control Manual*, August 2011, Partners for the Connecticut Low Impact Development and Stormwater General Permit Evaluation- Connecticut, *available at* [http://www.ct.gov/dot/lib/dot/documents/dpolicy/waternoisecompliance/helpsoftware/Report\\_LIDAppendixSoilErosion&SedimentControl\\_20110800.pdf](http://www.ct.gov/dot/lib/dot/documents/dpolicy/waternoisecompliance/helpsoftware/Report_LIDAppendixSoilErosion&SedimentControl_20110800.pdf)

B. Exhibits for Identification.

- 1. Town of New Milford's Request for Party Status, dated July 19, 2017
- 2. Town of New Milford's Zoning Commission Correspondence, dated July 14, 2017

3. Town of New Milford's Planning Commission Correspondence, dated July 24, 2017
4. Town of New Milford's Zoning Commission Regular Meeting Minutes, dated July 25, 2017
5. Town of New Milford's Zoning Commission Correspondence, dated September 11, 2017
6. Town of New Milford's Office of Inland Wetlands Commission Correspondence, dated September 18, 2017
7. Town of New Milford's Conservation Commission Correspondence, dated September 18, 2017
8. Town of New Milford's Farmland & Forest Preservation Committee Correspondence, dated September 18, 2017 and Attached Memorandum, dated December 7, 2016

C. Swear Witnesses

1. William Taylor, Chairman, New Milford Zoning Commission
2. Laura Regan, Land Use Supervisor/Zoning Enforcement Officer, Town of New Milford
3. James Ferlow, Inland Wetlands Enforcement Officer, New Milford Inland Wetlands & Watercourses Commission
4. Adam Halasi-Kun, Chairman, New Milford Conservation Commission
5. Steve Kleppin, Chairman, New Milford Farmland & Forest Preservation Committee

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Petitioner
3. DOAg
4. Rescue Candlewood Mountain

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IV. Appearance by Party: Department of Agriculture

Representative: Jason Bowsza

A. Administrative Notice.

B. Exhibits for Identification.

1. Department of Agriculture's Request for Party Status, dated August 1, 2017
2. Department of Agriculture's Responses to Council Interrogatories, Set I, dated October 20, 2017

C. Swear Witnesses

1. Kipen Kolesinskas, Consulting Conservation Scientist
2. Stephen Anderson

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Petitioner

3. Town of New Milford
4. Rescue Candlewood Mountain

V. Appearance by Party and CEPA Intervenor: Rescue Candlewood Mountain

Representative: Keith R. Ainsworth, Esq.  
Law Offices of Keith R. Ainsworth, Esq., LLC

A. Administrative Notice.

1. CONNECTICUT GENERAL ASSEMBLY, *Public Act 17-218 - An Act Concerning the Installation of Certain Solar Facilities on Productive Farmlands, Incentives for the Use of Anaerobic Digesters by Agricultural Customer Hosts, Applications Concerning the Use of Kelp in Certain Biofuels and the Permitting of Waste Conversion Facilities, Sections 1 and 2*, Raised S.B. No. 943 Session Year 2017, effective July 1, 2017, available at <https://www.cga.ct.gov/2017/ACT/pa/2017PA-00218-R00SB-00943-PA.htm>
2. UNIVERSITY OF CONNECTICUT-COLLEGE OF AGRICULTURE AND NATURAL RESOURCES, *Core Forest Explained*, Center for Land Use Education and Research (CLEAR), available at [http://clear.uconn.edu/projects/landscape/forestfrag/measuring/core\\_explained.htm](http://clear.uconn.edu/projects/landscape/forestfrag/measuring/core_explained.htm)
3. UNIVERSITY OF CONNECTICUT-COLLEGE OF AGRICULTURE AND NATURAL RESOURCES, *Landscape Fragmentation Tool (LFT)*, v. 2.0, Center for Land Use Education and Research (CLEAR), available at <http://clear.uconn.edu/tools/lft/lft2/index.htm>

B. Exhibits for Identification.

1. Rescue Candlewood Mountain's Request for Party and CEPA Intervenor Status, dated September 6, 2017
2. Rescue Candlewood Mountain's Comments from Carl M. Dunham, Jr., dated July 19, 2017
3. Rescue Candlewood Mountain's Comments from Lisa Ostrove, dated July 19, 2017
4. Rescue Candlewood Mountain's Comments from Martin Fridson, dated July 19, 2017
5. Rescue Candlewood Mountain's Comments from Nancy Saggese, dated July 19, 2017
6. Rescue Candlewood Mountain's Comments from David Kellogg, dated July 20, 2017
7. Rescue Candlewood Mountain's Comments from Lisa Ostrove, dated July 26, 2017
8. Rescue Candlewood Mountain's Comments from Timothy Abbott, Housatonic Valley Association, dated July 26, 2017
9. Rescue Candlewood Mountain's Comments from Nancy Saggese, dated August 4, 2017
10. Rescue Candlewood Mountain's Comments from Helen Applebaum, dated August 14, 2017
11. Rescue Candlewood Mountain's Comments from Rabbi Ari Rosenberg, dated August 15, 2017
12. Rescue Candlewood Mountain's Comments from Nili and Alberto Baider, dated August 18, 2017
13. Rescue Candlewood Mountain's Comments from Patricia Laurence, dated August 18, 2017
14. Rescue Candlewood Mountain's Comments from Debra Schueler, dated August 23, 2017
15. Rescue Candlewood Mountain's Comments from Nancy Saggese, dated September 1, 2017
16. Rescue Candlewood Mountain's Comments from Nili and Alberto Baider, dated September 2, 2017
17. Rescue Candlewood Mountain's Comments from Don Pezzolo, dated September 15, 2017
18. Rescue Candlewood Mountain's Pre-filed Testimony, dated September 19, 2017
  - a. Starling Childs
  - b. Timothy Abbott
  - c. Russell Posthauer
  - d. Lisa Ostrove



- e. Carl Dunham
- f. Milan G. Bull

19. Rescue Candlewood Mountain's Comments from Nancy Saggese, dated September 20, 2017
20. Rescue Candlewood Mountain's Comments from Devon Dobson, dated September 25, 2017
21. Rescue Candlewood Mountain's Comments from Nancy Saggese, dated September 28, 2017
22. Rescue Candlewood Mountain's Comments from Melissa Pezzolo, dated October 3, 2017
23. Rescue Candlewood Mountain's Comments from James Umbarger, dated October 5, 2017
24. Rescue Candlewood Mountain's Comments from Ostrove family, dated October 8, 2017
25. Rescue Candlewood Mountain's Comments from Brian Tivnan, dated October 8, 2017
26. Rescue Candlewood Mountain's Comments from Larry and Sherry Thaler, dated October 14, 2017
27. Rescue Candlewood Mountain's Comments from Patricia Laurence, dated October 15, 2017
28. Rescue Candlewood Mountain's Comments from Nili Baider, dated October 15, 2017
29. Rescue Candlewood Mountain's Comments from Mary Olsen, dated October 17, 2017
30. Rescue Candlewood Mountain's Comments from James Umbarger, dated October 18, 2017
31. Rescue Candlewood Mountain's Supplemental Pre-filed Testimony of Russell Posthauer, dated October 20, 2017
32. Rescue Candlewood Mountain's Comments from Nancy Macklin, dated October 22, 2017
33. Rescue Candlewood Mountain's Comments from Sue Randolph, dated October 22, 2017
34. Rescue Candlewood Mountain's Comments from Sven Olsen, dated October 23, 2017
35. Rescue Candlewood Mountain's Comments from Terry McClinch, dated October 24, 2017
36. Rescue Candlewood Mountain's Responses to Council Interrogatories, dated October 24, 2017
37. Rescue Candlewood Mountain's Comments from Michael Torracco, dated October 25, 2017
38. Rescue Candlewood Mountain's Comments from Kirsten Torracco, dated October 25, 2017

C. Swear Witnesses

1. Starling Childs, Connecticut Forester
2. Timothy Abbott, Regional Land Protection and Greenprint Director, Housatonic Valley Association
3. Russell Posthauer, P.E., CCM Engineering
4. Lisa Ostrove
5. Carl Dunham
6. Milan Bull, Sr., Director of Conservation, CT Audubon Society

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Petitioner
3. Town of New Milford
4. DOAg