

State of New Hampshire
Site Evaluation Committee

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October 28, 2019

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**Re: SEC Docket No. 2019-02, Chinook Solar, LLC
Application for a Certificate of Site and Facility for the Construction and Operation
of a 30MW Solar Electric Generating Facility in Fitzwilliam, NH**

Dear Agency Officials:

On October 18, 2019, Chinook Solar, LLC filed an Application with the Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to site, construct and operate a 30MW solar electric generating facility in Fitzwilliam, NH. An electronic copy of the Application is available on the Committee's website at the following link: https://www.nhsec.nh.gov/projects/2019-02/2019-02_application.htm.

Pursuant to RSA 162-H:7-a, I, state agencies having permitting or other regulatory authority may participate in Committee proceedings by: (i) receiving proposals or permit requests; (ii) determining completeness of elements required for an agency's permitting or other programs and reporting on such issues to the Committee; (iii) reviewing proposals or permit requests and submitting recommended draft permit terms and conditions to the Committee; (iv) identifying issues of concern on the proposal or permit request or notifying the Committee that the application raises no issues of concern; and (v) designating one or more witnesses to appear before the committee at a hearing to provide input and answer questions of parties and Committee members. RSA 162-H:7-a, VI, provides that a state agency may also intervene as a party in any Committee proceeding in the same manner as other persons under RSA 541-A.

Pursuant to RSA 162-H:7, IV, I am requesting that your agency conduct a preliminary review of the Application and respond in writing to me **prior to November 27, 2019**, as to whether or not the Application contains sufficient information to satisfy the application requirements for your agency to consider the issuance of permits, conditions or licenses, if any, under the jurisdiction of your agency. If the Application does not contain sufficient information for this purpose, please advise me, in writing, as to what additional information is necessary.

For your convenience, I have attached pages 17-21, of the Application that lists the agencies with permitting and other regulatory authority and identifies the permits and licenses that are required for the proposed Project. If you believe that the Application requires a permit from your agency that is not included on the list, please contact me as soon as possible.

I look forward to your response. If you have any questions or require any additional information, please feel free to contact me via e-mail at Pamela.monroe@sec.nh.gov or 271-2435.

Sincerely,



Pamela G. Monroe
Administrator

C.4. Identification of wetlands and surface waters of the state

As part of natural resource surveys to support Project development, wetlands, surface waters, and vernal pools were field delineated by wetland scientists and subsequently reviewed by a New Hampshire Certified Wetland Scientist. In accordance with the New Hampshire Code of Administrative Rules for the Delineation and Classification of Wetlands (Env-Wt 301), wetland delineations were conducted according to the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, v2* (USACE, 2012). Surface waters were identified using the State of New Hampshire Code of Administrative Rules Chapter Env-Wt 101 definitions, and vernal pools were identified using the State of New Hampshire Code of Administrative Rules Chapter Env-Wt 100.108 definitions.

Field delineations identified a total of 122 acres of wetlands, six streams, and 49 vernal pools within the 497-acre survey area. Though the Project land control area consists of approximately 513 acres, the wetland, waterbody, and vernal pool survey area was reduced to 497 acres due to the known existence of a large wetland complex in the northwestern portion of the Project land control area (see Figure J.1). Additionally, this portion of the Project land control area was not surveyed because this area was not considered for Project development in order to avoid these known natural resources. Wetland, waterbody, and vernal pool resources specific to the Project area are further described in Section J.3 of this Application, and a complete wetland, waterbody, and vernal pool survey report is provided in Appendix 15H.

Fitzwilliam has numerous surface water resources, such as Scott Pond, Stone Pond, Sip Pond, Collins Pond, Tarbell Brook, and Scott Brook. The pond nearest the Project is Scott Pond, located approximately 0.5 mile to the north of the Project, north of NH State Route 119. Scott Pond is 134 acres and is classified as eutrophic, indicating high phosphorous concentrations, less transparent water due to an abundance of algae, and many rooted plants in shallow waters (Town of Fitzwilliam, 2009). The pond is listed on the NHDES Consolidated List of Waterbodies Subject to RSA 483-B, the Shoreland Water Quality Protection Act (NHDES, 2019). Scott Pond supports a warmwater fishery and is connected to Scott Brook at the south end of the pond. Scott Brook is located along a portion of the western Project boundary. At the closest point, Scott Brook is approximately 0.25 mile west of the Project.

There will be no direct impacts to wetlands or waterbodies as result of the Project.

C.5. Identification of natural, historic, cultural, and other resources at or within or adjacent to the site

General Setting

Most of Fitzwilliam is comprised of undeveloped forested lands consisting primarily of second and third growth mixed hardwood and softwood forests. The majority of forested areas in Fitzwilliam are located in the Rural Zoning District, which constitutes approximately 80% of the total area in Fitzwilliam (Town of Fitzwilliam, 2009). Timber harvesting in Fitzwilliam has increased over the past 20 years as a result of clearing land for housing, harvesting timber for pallets and cord wood, and harvesting timber for other commercial purposes outside the region. In addition to abundant forested areas, there are several water features and numerous designated conservation lands in and near Fitzwilliam.

Historically, much of Fitzwilliam was cleared for sheep farming. In the early 1800s, the cost of imported wool created a great demand at the local level, and many farmers in New England

were raising sheep. Currently, the land in and around the Project primarily consists of forest in various stages of maturity, ranging from recent clear-cuts and early successional stands resulting from timber harvesting to mature forests.

During consultations with the NHF&G, an estimate of tree clearing needed for the Project, along with an estimate of the site that had already been cleared by the current landowners, was requested. Based on this feedback, a forest composition survey was conducted in 2017, as detailed in Section J.3. This effort served to classify the lands within the Project footprint into discrete natural communities and to identify the approximate age and existing condition of the forests. Results of the forest composition survey are summarized in Section J.3, and the full report is provided in Appendix 15G.

Subsequent to the 2017 forest composition survey, some of the current landowners have performed ongoing timber harvesting within the Project footprint, resulting in significant changes to the forested cover. To accurately document existing conditions at the Project, a drone flight was conducted in May 2019 capturing photographs and video footage of the landscape. The photographs and video footage demonstrate extensive harvesting has occurred since the 2017 field survey, and much of the Project footprint area has been harvested. Photographs captured during the drone flight and a figure depicting the corresponding photo locations are provided in Appendix 1.

Wildlife Resources

Fitzwilliam includes expansive tracts of undeveloped land and diverse natural resources, which are characteristic of southwestern New Hampshire. Large tracts of undeveloped lands provide ample habitat for a diverse array of native wildlife. The abundant natural resources in and around the proposed Project also provide habitat for many of New Hampshire's indigenous wildlife species.

Chinook Solar consulted with NHF&G, NHHNB, and USFWS to identify any documented significant wildlife species or critical habitats in the vicinity of the Project. The NHHNB records identified two species of turtles, one Special Concern species and one state endangered, in the vicinity of the Project. Chinook Solar consulted with the NHF&G to determine appropriate BMPs and conservation strategies to employ during construction to protect turtles. Additional detail is provided in Section J.3.

The USFWS records identified the potential presence of northern long-eared bat, a federally threatened species, in the vicinity of the Project. A summer presence/absence survey was conducted in 2016 to determine the potential presence of northern long-eared bat. The survey did not detect northern long-eared bat presence within the Project land control area. Chinook Solar consulted with NHF&G to discuss potential Project impacts on bats. As recommended by NHF&G, Chinook Solar will only perform tree clearing activities between November 1 and March 31 in order to protect bats during the maternity season. Additionally, the Project has been designed to maintain forested corridors connecting suitable bat foraging habitat. Further detail is contained in Section J.3 and Appendix 15E.

Conservation Lands

The Project is not located on conservation lands. Several conservation lands in Fitzwilliam provide protection for various natural resources, including forests, riparian areas, ponds, streams, and wetlands. In addition to providing habitat and protecting lands from potential development,

these conservation areas serve as recreational resources for outdoor activities. Municipal conservation lands in Fitzwilliam include Holman Meadow, the Gaseau Property, Katie Metzger Town Forest, and Widow Gage Town Forest (Town of Fitzwilliam, 2009). There are also seven private conservation easements in Fitzwilliam. State parks and lands in Fitzwilliam include the Fitzwilliam Rail Trail, Grant State Forest, and Rhododendron State Park.

The conservation land nearest the Project is the Rine Conservation Easement, which is held by the New England Forestry Foundation, Inc. The intent of this easement is to manage and protect 20 acres of land located approximately 0.8 mile southeast of the Project.

Historic and Cultural Resources

Fitzwilliam was incorporated in 1773 by Governor John Wentworth (Fitzwilliam Planning Board, 2012). At this time, there were only two roads in Fitzwilliam: a military road dating back to the French and Indian War and the "Great Road," now known as Fullam Hill Road. By 1775, the population had grown to 250 people. Early settlers in Fitzwilliam were primarily farmers who were clearing the land to grow flax and raise sheep. At the start of the 19th century, sawmills, gristmills, tanneries, stores, 12 schools, and a singing school existed in Fitzwilliam. Economic growth and patterns of development primarily originated from the central points of Fitzwilliam Village and Fitzwilliam Depot.

Settlement in Fitzwilliam developed in conjunction with 19th century industrial activity and construction of the Cheshire Railroad. The railroad's proximity to Fitzwilliam's substantial granite outcroppings catalyzed the growth of the local granite industry, which peaked between 1915 and 1918. Agricultural production remained an important economic engine in the late 19th and early 20th centuries, largely aided by the railroad. Manufacturing continued through the early 20th century, though overall declines in output occurred. By 1924, Route 12 in Fitzwilliam was constructed, incorporating parts of the old military road (also known as Turnpike Road). By 1936, the highway system also included Route 119 in Fitzwilliam.

The Fitzwilliam Historical Society was formed in 1961 (Fitzwilliam Planning Board, 2012). The primary function of the Historical Society is to discover and collect material that illustrates the history of the area. In 1970, Fitzwilliam established a Historic District Commission to define one or more historic districts. The current boundaries of the Historic District, which primarily consist of the current village center, were established in 1992. The Historic District Commission oversees the historic structures within the district.

Fitzwilliam is now a largely residential community, with seasonal and year-round populations. Scenic and recreational tourism is a major economic driver in Fitzwilliam. Abandoned farmland in the region has gradually reverted to forest. Development pressures stemming from population increases in the 1970s and 1980s resulted in several land conservation and management plans. Fitzwilliam adopted a land use ordinance in 1982. Fitzwilliam currently owns over 400 acres of public forests and meadowlands (Fitzwilliam Planning Board, 2012).

C.6. Evidence that the applicant has a current right, an option, or other legal basis to acquire the right to construct, operate, and maintain the facility on, over, or under the site

The Project will be sited on property currently owned by five landowners. Chinook Solar has signed Option Agreements with four of those landowners, which gives Chinook Solar the irrevocable option to purchase the respective properties in fee simple. Chinook Solar has also signed a Lease Agreement with the fifth landowner. This Lease Agreement provides Chinook Solar the rights to construct and operate the Project on that property. Memoranda describing the Option and Lease

Agreements are contained in Appendix 2. Between the Option Agreements and the Lease Agreement, Chinook Solar has the existing right, or the irrevocable legal basis to acquire the right, to construct, operate, and maintain the Project on the site. The area of the leased property may be redefined to only include the developed area. Additional agreements may be required for a temporary staging (laydown) area.

C.7. Evidence that the applicant has a current or conditional right of access to private property within the boundaries of the proposed energy facility site sufficient to accommodate a site visit by the committee

Chinook Solar currently has the right of access to the Project area, which will accommodate a site visit by the SEC. In Section 12(e) of the Option Agreements, the current landowners explicitly agreed to cooperate with Chinook Solar's efforts to secure all necessary permits. Similarly, in Section 7.5(a) of the Lease Agreement, the property owner also agreed to fully support and cooperate with Chinook Solar's efforts to obtain all necessary permits.

D. OTHER REQUIRED APPLICATIONS AND PERMITS

D.1. Identification of all other federal and state government agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility

- NHDES, Water Division, Alteration of Terrain (AoT) Bureau (authority under state and federal law over alteration of terrain and pollutant discharge);
- New Hampshire Division of Historical Resources (NHDHR) (consultation to determine compliance with Section 106 requirements of the National Historic Preservation Act);
- New Hampshire Department of Transportation (potential permit for oversize/overweight vehicles);
- New Hampshire Department of Safety (NHDOS) (blasting permit); and
- NHDOS, Division of Fire Safety, Office of the State Fire Marshal (authority to enforce applicable fire codes).

The Project has been designed to avoid impacts to wetlands and waterbodies; therefore, no permits will be required from the NHDES Wetlands Bureau, the NHDES Water Management Bureau, or the United States Army Corps of Engineers (USACE). The USACE provided a letter confirming no USACE jurisdiction for the proposed Project, included in Appendix 3. Following with no USACE jurisdiction, there is no requirement for consultation with the United States Fish and Wildlife Service (USFWS) or the United States Environmental Protection Agency (USEPA).

D.2. Documentation that demonstrates compliance with the application requirements of such agencies

Information satisfying the application requirements, if applicable, of the agencies listed above in D.1 has been included within the agency application forms. Copies of these forms are included in the Appendices to this application, as referenced in Section D.3, below

D.3. A copy of the completed application form for each such agency

A copy of the completed NHDES AoT permit application is provided in Appendix 4 of this Application.

D.4. Identification of any requests for waivers from the information requirements of any state agency or department whether represented on the committee or not

Chinook Solar has requested, and the Committee granted on September 5, 2019, a waiver from the requirement that the Applicant generate complete paper copies for each recipient. Chinook Solar proposed to provide complete copies of the Application in a combination of paper and electronic format.

Chinook Solar will be requesting a waiver from the requirement that underground infrastructure at depths less than four feet below grade be removed from the site; requesting instead that the removal requirement apply to all infrastructure to a depth of three feet. Chinook Solar will also be requesting a waiver for solar racking piles that will have been concreted into rock.