

THE STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

Docket No. 2019-02

Application of Chinook Solar, LLC for a Certificate of Site and Facility

**COUNSEL FOR THE PUBLIC'S CLOSING ARGUMENT**

Counsel for the Public hereby submits the requested written closing argument. In support hereof, Counsel for the Public respectfully states as follows:

**A. Background.**

On October 18, 2019, the Applicant submitted an Application for a Certificate of Site and Facility to the New Hampshire Site Evaluation Committee to construct and operate a 30-megawatt solar energy generation facility and associated electrical infrastructure in Fitzwilliam, Cheshire County.

**B. Legal Standard.**

It is Counsel for the Public's responsibility to "represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy." RSA 162-H:9. RSA 162-H:16 provides the areas the Committee should consider when making a determination on a pending application. The Applicant has submitted closing arguments, which outline each area to be considered by this Committee. Rather than restate the facts referenced in the Applicant's closing, Counsel for the Public will focus on items of potential concern that would warrant certain conditions should the Committee grant a Certificate.

**C. Closing Argument.**

Counsel for the Public's role in these proceedings, pursuant to RSA 162-H:9, is to represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy. This function essentially requires a two-part balancing test. This proposed project is filling a need for renewable energy in the Northeast region. This determination certainly

weights in favor of the project under that prong of Counsel for the Public's review. On the other hand, it is weighed against by the environmental impacts the project may have. In this case, the Applicant is largely mitigating the environmental impacts by the siting of the project within an area already extensively logged. Testimony presented, largely supports that there is a minimal impact to the environment as proposed, assuming the construction of the proposed project in accordance with all of the permits and conditions thereto.

There are conditions that the Committee should consider imposing, if a certificate is granted. Counsel for the Public suggested a condition to ensure appropriate or adequate financial assurances in the event the operating entity has funding issues. During the evidentiary portion of the hearing, there was testimony about a bond, which would issue in an amount appropriate to allow for the decommissioning of the site. Counsel for the Public recommends the Committee ensure it has the ability to call the bond. At a minimum, the State of New Hampshire, via the Committee or its designee, should be an Obligee, so that the State has the ability to call the bond if warranted.

Counsel for the Public recommends a second condition to consider to require the Applicant provide notice to the Committee when the Applicant receives any complaint or notice of deficiency about the facility. The Applicant should have an internal process in place to handle any such complaints.

Counsel for the Public suggested a third condition to require a qualified environmental monitor to inspect for deer wintering areas before construction in an attempt to minimize the impact on deer wintering yards. Alternatively, construction activity could be prohibited between December 15 – March 15. It is worth noting that Mr. Parsons testified that timber harvesting would not need to be limited to protect deer wintering yards.

Counsel for the Public recommends a fourth condition, consistent with would be Dr. Reynolds testified that tree removal should occur during the non-active bat season of November – March.

Finally, the Committee should consider requiring a rock feature monitoring plan, as testified to by Dr. Reynolds, to be included in any construction or blasting plan. Such a plan, which would ensure inspections occur of any rock features before modification, during the active bat season of May 15 – August 15.

#### **D. Subdivision on the proposed Project**

The Applicant has submitted a Memorandum regarding the anticipated subdivision of land on which the substation for the project will be located. In that Memorandum, the Applicant confirms it is not seeking any action from this Committee and outlines the process it anticipates taking before the Town of Fitzwilliam to obtain subdivision approval. Given the information contained within the Applicant’s Memorandum, Counsel for the Public does not believe the Committee needs to reach the issue of subdivision. Rather, the project could be approved, as proposed, and required to be built as designed. This would place any risk associated with subdivision approval on the Applicant without requiring any determination on preemption by the Committee. It is Counsel for the Public’s position that the Public would be adequately protected in this situation, given the bond, which will ensure decommissioning.

#### **E. Conclusion**

Throughout this process, the Applicant worked cooperatively with Counsel for the Public’s experts and took great strides in alleviating initial concerns identified. With the above-identified conditions incorporated, Counsel for the Public believes the project does meet the standards that are required for approval of the certificate under RSA 162-H:16.

Respectfully submitted,

COUNSEL FOR THE PUBLIC

October 7, 2020

/s/ Heather Neville  
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**Certificate of Service**

I hereby certify that a copy of the foregoing Closing Argument has this day been forwarded via email to persons named on the Distribution List of this docket.

October 7, 2020

/s/ Heather Neville  
Heather Neville