

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 17, 2020

Via Email Only

Pamela G. Monroe, Administrator
N.H. Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301-2429

Re: SEC Docket No. 2019-02, Application of Chinook Solar, LLC for a
Certificate of Site and Facility

Dear Ms. Monroe:

Enclosed please find Counsel for the Public's Assented-to Motion to Continue
Deadline for Pre-Filed Testimony in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

/s/ Laura L. Maynard

Laura L. Maynard
Paralegal II
Environmental Protection Bureau
(603) 271-3679
laura.maynard@doj.nh.gov

/llm

Enclosure

ec: SEC Docket 2019-02 Service List dated 3/3/20

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 ASSENTED-TO MOTION
TO CONTINUE DEADLINE FOR PRE-FILED TESTIMONY**

Counsel for the Public hereby moves, to extend the deadline by which to submit pre-filed testimony by four weeks. 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. On November 8, 2019, the Vice-Chairperson of the Committee appointed a Subcommittee to consider the Application. The Subcommittee accepted the Application on December 17, 2019.

B. Legal Standard.

Pursuant to Site 202.17, Counsel for the Public requests the deadline for pre-filed testimony currently June 2, 2020, be extended by a month. This request is necessary due to the measures in place because of COVID-19. Executive Orders in Vermont and New Hampshire make a site visit by Arrowwood Environmental before May 15, 2020 impossible. Arrowwood Environmental will need more than two weeks from the date of the site inspection to the date pre-filed testimony is due to process the information collected, potentially have additional discussions with the Applicant's experts, and finalize the environmental analysis.

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." Moreover, RSA 162-H:10, V, authorizes Counsel for the Public to "conduct such reasonable studies and

investigations as [she] deem[s] necessary or appropriate to carry out the purpose of this chapter...” Counsel for the Public’s broad role includes conducting studies and investigations necessary and appropriate to carry out the purposes of the statute. *See* SEC Docket No. 2015-01, Order on Pending Motions, *In re Request of SEA-3, Inc. for Exemption*, dated August 10, 2015, at 9.

C. Argument.

Counsel for the Public retained Arrowwood Environmental to provide expert analysis and opinion concerning the proposed project’s impacts to: 1) Wetlands, waterbodies, and vernal pools; 2) Wildlife and wildlife habitat; 3) Rare, threatened, and endangered plants; and 4) Natural communities. Arrowwood Environmental has started this analysis with independent research, review of the filed documentation, and ongoing review of data provided by the Applicant through discovery (on-going).

Arrowwood Environmental is a Vermont entity. All but one of the biologists working on this project under Arrowwood Environmental are Vermont residents. On March 13, 2020, Vermont’s Governor Scott issued Executive Order 01-20, declaring a State of Emergency in Vermont. On March 24, 2020, Governor Scott issued an Addendum to this Executive Order directing all Vermonters to stay at home, leaving only for essential reasons and further directing all businesses to cease operations unless providing services “deemed critical to public health and safety.” Vermont Executive Order 01-20, Addendum 6.

The Vermont Governor found the significant risk posed by further spread of COVID-19 combined with the ability of the health care system necessitated all residents and non-residents alike coming from outside Vermont self-monitor and home-quarantine for a period of 14 days. The term “essential purpose” is defined by Governor Scott in his Executive Order as “travel required for personal safety, food, beverage or medicine; medical care; care of others; and to perform work,

services, or functions deemed critical to public health and safety.” Vermont Executive Order 01-20, Addendum 7.

As we know, Governor Sununu has issued similar Executive Orders in New Hampshire. Emergency Order #17 pursuant to Executive Order 2020-04 requires the closure of non-essential businesses and requires Granite Staters to stay home.

A site visit by Arrowwood Environmental was planned for the end of April to allow the biologist to hike the project area. This site visit is a crucial part of the environmental evaluation. Arrowwood Environmental scheduled more than a month from when the site visit would occur and pre-filed testimony was due. This timing was to allow the biologists to process and react to the information collected. The Applicant’s agents have been accommodating in scheduling this site visit. However, based upon the global pandemic and applicable Executive Orders issued during this State of Emergency, a site visit cannot occur before May 15, the current date to which the Vermont State of Emergency has been extended. Vermont Executive Order 01-20, Addendum 9.

Counsel to the Public requests the current deadline of June 2, 2020 be extended to July 2, 2020 and a brief status conference occur on or after May 18, 2020.

D. Position of the Parties on this Motion.

The Applicant’s Position:

The Applicant assents to the relief sought in this motion with the understanding that changing the deadline for filing testimony from June 2 to July 2, 2020 will not result in a change to the September hearing dates that were in the April 2, 2020 procedural schedule issued by the Committee.

The following parties concur in this Motion:

Town of Fitzwilliam.

The following parties object to this Motion:

None.

The following parties take no position on this Motion:

None.

WHEREFORE, Counsel for the Public prays that the Committee enter an Order extending the deadline by which Counsel to the Public must submit pre-filed testimony to July 2, 2020 based upon Arrowwood Environmental's inability to perform a site visit prior to May 15, 2020, and grant such other relief as may be just.

Respectfully submitted,

COUNSEL FOR THE PUBLIC

April 17, 2020

/s/ Heather Neville
Heather Neville, Esquire
Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, NH 03301
(603) 271-3679

Certificate of Service

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

April 17, 2020

/s/ Heather Neville
Heather Neville