

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2019-02

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

December 17, 2019

**ORDER ACCEPTING APPLICATION AND GRANTING IN PART
AND DENYING IN PART REQUEST FOR WAIVER**

I. Introduction

On October 18, 2019, Chinook Solar, LLC (Chinook) filed an Application for a Certificate of Site and Facility (Application) seeking to site, construct and operate a 30-megawatt (MW) solar energy generation facility and associated electrical infrastructure (Project) in Fitzwilliam in Cheshire County.

On November 8, 2019, this Subcommittee was appointed. On December 3, 2019, the Subcommittee held a public hearing and deliberations on whether the Application contains sufficient information to carry out the purposes of RSA 162-H. The Subcommittee determined that the Application contains sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the siting, construction or operation of the proposed facility. *See* RSA 162-H:7, IV. The Subcommittee also made an independent determination that the Application contains sufficient information to carry out the purposes of RSA 162-H. *See* RSA 162-H:7, III.

On December 3, 2019, the Subcommittee also held a public hearing and deliberations on a Motion to Waive Certain Decommissioning Plan Requirements filed by Chinook contemporaneous with the Application. The Subcommittee granted the motion in part and denied the motion in part.

This Order memorializes the findings and decisions of the Subcommittee.

II. Description of the Project

The proposed Project will be located on approximately 513 acres south of NH State Route 119, east of NH State Route 12, and west of Fullam Hill Road. Directly east of the Project and west of Fullam Hill Road is a transmission corridor comprised of a 345-kilovolt (kV) electric transmission line owned by Eversource Energy (Eversource), along with a separate corridor containing two 115-kV electric transmission lines, both owned by National Grid PLC (National Grid). The Project will connect to the electric grid via one of the 115-kV electric transmission lines.

The Project will include approximately 116,766 solar panels and each panel is a 405-watt panel. The proposed solar panels will be a mono or poly-crystalline design. Chinook currently plans to install Eagle HC 72 405 W panels manufactured by Jinko. However, the panel supplier and model may change and will be finalized closer to construction. It is possible that solar panels selected at the time of construction may differ from those identified in the Application based on conditions such as availability and technological advances.

The Project will be located adjacent to two transmission line corridors, one containing a 345-kV line owned by Eversource and the other containing two 115-kV lines owned by National Grid. Chinook proposes interconnecting to the existing National Grid I-135 Line, which is the northeastern most of the two lines. The proposed interconnection location is approximately 2.9 miles south of Eversource's Fitzwilliam Substation. The Project will interconnect to the National Grid line through a new substation located onsite, directly southwest of the existing transmission line corridor and approximately 0.2 miles west of Fullam Hill Road. No new electric transmission lines will be required, other than the short conductors used to loop the

existing transmission line.

A new substation is necessary to connect the Project to the grid. The substation will be located in an area that is approximately 2-acres in size. Equipment within the substation will include circuit breakers, bus support, disconnect switches, a lightning mast, the 115/34.5-kV main transformer, metering equipment, and 115-kV A-Frame structures to support electric lines leaving the substation. The tallest equipment will be the lightning masts, which are self-supporting and approximately 55 feet tall. Short underground 115-kV bonds will loop the existing National Grid 115-kV transmission line into the substation.

III. Standard of Review

RSA 162-H:7, III, provides that: “[u]pon filing of an application, the committee shall expeditiously conduct a preliminary review to ascertain if the application contains sufficient information to carry out the purposes of this chapter.”

IV. State Agency Responses

RSA 162-H:7, IV provides, as follows:

[e]ach application shall contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and shall include each agency’s completed application forms. Upon the filing of an application, the committee shall expeditiously forward a copy to the state agencies having permitting or other regulatory authority and to other state agencies identified in administrative rules.

On October 28, 2019, the Administrator notified the state agencies having permitting or other regulatory authority that the Application was filed and requested that each agency conduct a preliminary review of the Application. She requested that each agency respond, in writing, no later than November 27, 2019, as to whether or not the Application contains sufficient information for agency review.

A. Department of Environmental Services – Water Division

On November 26, 2019, the Department of Environmental Services (DES) responded to the Administrator’s request. DES advised the Subcommittee that the Application contained sufficient information to satisfy the administrative completeness requirements for an Alteration of Terrain permit application. DES also advised the Subcommittee that it did not identify any other permit or license application requirements under its jurisdiction.

B. Department of Natural and Cultural Resources – Natural Heritage Bureau

On November 27, 2019, the Department of Natural and Cultural Resources, Natural Heritage Bureau (NHB) responded to the Administrator’s request. NHB reported that the Application contains sufficient information for the agency to review and consider the issuance of conditions regarding rare, threatened and endangered plants and exemplary natural communities.

C. Department of Natural and Cultural Resources – Division of Historical Resources

On November 14, 2019, the Department of Natural and Cultural Resources, Division of Historical Resources of (DHR) responded to the Administrator’s request. DHR advised the Subcommittee that the Application is sufficient to satisfy the agency’s requirements for review under RSA 227-C:9.

D. Fish and Game Department

On November 27, 2019, the New Hampshire Fish and Game Department (NHFG) advised the Subcommittee that the agency does not have statutory authority to issue permits, certificates or licenses for this type of development project. NHFG further advised that it received a full set of the proposed construction plans and has provided comments and recommendations to Chinook, including measures to protect fish and wildlife. NHFG stated that it would review any updated changes to the Project proposals throughout the Subcommittee’s

process, and if necessary, will continue to provide comments to Chinook’s consultants.

E. Department of Safety – State Fire Marshal’s Office

On November 26, 2019, the Department of Safety, State Fire Marshal’s Office, Bureau of Building Safety and Construction (Fire Marshal) responded to the Administrator’s request. The Fire Marshal advised the Subcommittee that he has been in contact with the Chief of the Fitzwilliam Fire Department who will be requesting assistance with the enforcement of the State Fire Code as it relates to the Project. The Fire Marshal also reports that he was informed that the Fitzwilliam Board of Selectman will submit a written request that the Fire Marshal enforce the State Building Code. *See* RSA 155-A:7. The Fire Marshal did not note that the Application was insufficient for its purposes.

F. Finding

It appears that each state agency with permitting or other regulatory authority over the Project has conducted a preliminary review and responded to the Subcommittee. No state agency has suggested that the Application is incomplete for the agency’s regulatory purposes. The Subcommittee finds that the Application is sufficient to meet the requirements of each state agency with jurisdiction or regulatory authority under state or federal law.

IV. Sufficiency and Acceptance of the Application

In addition to hearing from the state agencies, the Subcommittee has an independent obligation to “ascertain if the application contains sufficient information to carry out the purposes” of RSA 162-H. *See* RSA 162-H:7, II. It is worth noting that this obligation is not a determination on the merits of the Application. It is merely a determination that the Application contains sufficient information enabling the Subcommittee to perform the comprehensive review required by RSA 162-H.

RSA 162-H and the N.H. Admin. R., Site 100 et seq., provide the basis for the information that is required in order for the Subcommittee to determine that an application is complete.

The Application identifies Chinook and its parent companies; provides a detailed description of the Project that includes the type of construction and the type of equipment that will be installed; and contains information regarding the financial, managerial, and technical capabilities of Chinook.

The Application contains information identifying the relationship of Chinook to each parcel of land that will comprise the Project and identifies the contractual rights of Chinook with respect to the site and access to the site. The Application also provides alternatives considered by Chinook and explains why the Project, as currently proposed, is the preferred alternative.

The Application addresses the expected impacts and benefits on the orderly development of the region and the economy of the region. The Application also addresses the impacts and benefits of the Project on aesthetics, historic sites, the environment, air and water quality, wildlife and public health and safety. The Application contains information about how each major part of the Project will impact the environment and addresses measures to avoid, minimize, and mitigate the environmental impacts of the Project. The Application also contains information setting forth the factors that Chinook believes will demonstrate that the Project will serve the public interest.

The Application contains complete applications for each state agency with permitting or other regulatory authority.

Based upon its review, the Subcommittee determined that the Application, as filed, contains sufficient information to carry out the purposes of RSA 162-H. With the exception of

certain rules for which Chinook seeks a waiver (addressed below), the Application contains all of the information required by Site 301. The Application also complies with the statutory requirements set-forth at RSA 162-H:7. Therefore, the Application is accepted pursuant to RSA 162-H:7.

V. Motion to Waive Certain Decommissioning Plan Requirements

Chinook filed a Motion to Waive Certain Decommissioning Plan Requirements contemporaneous with the Application. Site 301.08 (d)(2) requires an applicant to submit a “facility decommissioning plan prepared by an independent, qualified person with demonstrated knowledge and experience in similar energy facility projects and cost estimates.” The decommissioning plan must provide that: “All underground infrastructure at depths less than four feet below grade shall be removed from the site and all underground infrastructure at depths greater than four feet below finished grade shall be abandoned in place.” *See* Site 301.08 (d)(2) Chinook requests that the Subcommittee waive the decommissioning requirement pursuant to Site 302.05, which permits a waiver in certain circumstances.

In this case, Chinook asserts that a waiver is appropriate in two circumstances. First, Chinook relies on the National Electrical Safety Code (NESC) requirements for burial of electric cable. The NESC requires burial of electric cable at a minimum depth of three feet. The AC collector cables must be buried at a minimum depth of three feet in compliance with NESC. Chinook argues that subsequent removal of the cables at the time of decommissioning would cause unnecessary ground disturbance. Chinook seeks a waiver of the rule and requests that cables buried at depths less than three feet remain in place.

Chinook also explains that the proposed site contains areas of shallow rock. In those areas, the common pile driving method for installing solar racks may not be possible. Where

there is shallow rock, the preferred method of construction is to drill into the rock and then use concrete to anchor the pile to the rock in order to provide structural support for the solar racks. At the time of decommissioning, removal of the concrete to depths below four feet may require extensive disturbance of the terrain as well as blasting of the rock. Chinook seeks a waiver of the rule and proposes to cut off the pile at the interface to the concrete instead of removing the pile and concrete to a depth of four feet.

In order to grant a waiver, Site 302.05 provides that the Subcommittee must first determine that the waiver is not statutorily prohibited. If it is not statutorily prohibited, then a waiver may be granted, provided that the Committee finds that the waiver serves the public interest and that it will not disrupt the orderly and efficient resolution of matters before the Subcommittee. In determining the public interest, the Subcommittee shall waive the rule if compliance would be onerous or inapplicable given the circumstances, or the purpose of the rule would be satisfied by an alternative method.

After consideration of the request, the Subcommittee determined to grant the waiver in part and to deny the waiver in part without prejudice. The Subcommittee finds that granting a waiver from the application requirement of Site 301.08 (d)(2), serves the public interest because it will allow the Subcommittee to consider the substance of the waiver request during the adjudicative phase of these proceedings. At that time, Chinook can present evidence as to why the substantive waiver request is in the public interest and other parties to the proceeding will have an opportunity to challenge those claims by cross-examination of witnesses or presentation of contrary evidence. At this point in the proceeding, the Subcommittee has insufficient evidence upon which to grant a waiver of the substantive standard contained in Site 301.08 (d)(2).

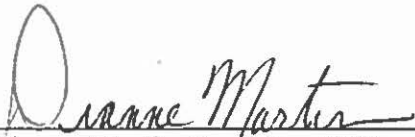
The motion is granted in part. To the extent that Site 301.08 (d)(2) requires that the Application contain a decommissioning plan requiring removal of underground infrastructure at depths less than four feet below grade, the motion is granted. However, to the extent that Chinook seeks relief from the substantive requirements of Site 301.08 (d)(2), the motion is denied without prejudice and reserved for consideration during the adjudicative proceedings.

VI. Conclusion

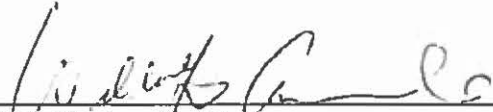
The Application contains sufficient information for the Subcommittee to carry out the purposes of RSA 162-H and is accepted as administratively complete.

The Motion to Waive Certain Decommissioning Requirements is granted in part, and denied in part, without prejudice, in accordance with this Order.

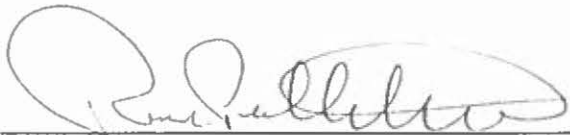
SO ORDERED this seventeenth day of December 2019.



Dianne Martin, Presiding Officer
Site Evaluation Committee
Commissioner and Chair
Public Utilities Commission



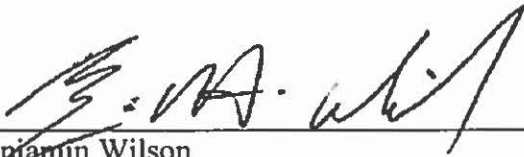
Wildolfo Arvelo, Designee
Director
Division of Economic Development
Department of Business and Economic Affairs



Rene Pelletier, Designee
Assistant Director
Water Division
Department of Environmental Services



William J. Oldenburg, Designee
Assistant Director of Project Development
Department of Transportation



Benjamin Wilson
Director, Division of Historical Resources
Department of Natural and Cultural
Resources



Susan V. Duprey, Public Member



Thomas R. Eaton, Public Member