

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. 2021-01

Petition for Jurisdiction
Over Proposed Solar Energy Facility in Milford, NH

MOTION TO INTERVENE

NOW COMES the Town of Milford, New Hampshire (“Town”), by and through its attorneys, Donahue, Tucker & Ciandella, PLLC, and respectfully submits this Motion to Intervene, in support whereof, the Town states as follows:

1. On or about December 3, 2020, Brox Environmental Citizens (“Brox”), a citizen group, filed two petitions (referred to collectively as “Petition”) requesting that the New Hampshire Site Evaluation Committee (“SEC”) assert jurisdiction over a solar energy development project proposed by Milford Spartan Solar, LLC (the “Facility”) located in, and covering approximately 83 acres of private and public land in the Town of Milford.
2. On or about February 2, 2021, the SEC issued a Notice and Order Convening Adjudicative Proceeding, ordering the establishment of a seven-member subcommittee to consider the Petition in accordance with RSA 162-H:4-a.
3. On or about March 5, 2021, the SEC issued a Procedural Order and Notice of Prehearing Conference, in which it ordered that motions to intervene shall be filed on or before March 22, 2021, and scheduled a prehearing conference for March 15, 2021 at 10:00 a.m.
4. The Town of Milford is a municipal corporation established under the laws of the State of New Hampshire with a principal place of business at 1 Union Square, Milford, New Hampshire, 03055.
5. The Town has adopted a zoning ordinance as provided in RSA 674:16, has

authorized the Milford Planning Board (“Planning Board”) to adopt subdivision regulations as provided in RSA 674:36, and has further authorized the Planning Board to adopt site plan review regulations as provided in RSA 674:43. Consistent with that authority, the Planning Board has adopted site plan and subdivision regulations that are referred to collectively as the Town of Milford Development Regulations (the “Development Regulations”).

6. The Development Regulations, by their plain terms, “pertain to all land within the boundaries of the Town of Milford” and require site plan approval for “[a]ny new commercial, industrial and multi-family uses of land” and “[a]ny cumulative land disturbance of greater than or equal to 20,000 SF for commercial, industrial and multi-family sites.” Town of Milford Development Regulations Art. II, §§ 2.01, 2.03(A), and 2.03(D) (2020).

7. The stated purposes of the Development Regulations are, *inter alia*, “[t]o provide for the safe, attractive and harmonious development of land,” “[t]o insure the health, safety and welfare of the residents of the Town,” “[t]o provide open spaces and green spaces of adequate proportions,” and “[t]o provide for harmonious and aesthetically pleasing development of the municipality and its environs.” Id. Art. I, § 1.01(A), 1.01(B), 1.01(D), 1.01(H).

8. The Facility proposed by Milford Spartan Solar, LLC will be located in the Town and will be situated on 47 acres of privately owned land and 36 acres of Town-owned land. Under the terms of the Town’s Development Regulations and applicable New Hampshire law, therefore, the Town has jurisdiction over the development of the proposed Facility.

9. The Town, therefore, moves to intervene in this matter pursuant to N.H. Code Admin. R. Site 202.11.

10. This Motion is being submitted in writing, with copies to all named parties, not less than 3 days before the prehearing conference scheduled for 10:00 a.m. on March 15, 2021, as

required by N.H. Code Admin. R. Site 202.11(b)(1).

11. As explained above, the proposed Facility will be located in the Town, on approximately 83 acres of land, and the Town has a duty to ensure full compliance with its land use regulations. As such, the Town's rights, duties, privileges, and/or other substantial interests are directly affected by these proceedings. See, N.H. Code Admin. R. Site 202.11(b)(2).

12. The interests of justice will be served by allowing the Town to intervene in this matter as the Facility will be located within the Town, placing the Facility within the Town's jurisdiction over development and site plan review. Further, the Town's intervention will not impair the orderly and prompt conduct of the proceedings as it will permit the Town to actively engage in these proceedings and respond to matters of local significance that will inevitably arise in the course of these proceedings. See, N.H. Code Admin. R. Site 202.11(b)(3).

WHEREFORE, the Town respectfully requests that the SEC:

- A. Grant the Town's Motion to Intervene; and
- B. Grant such further relief as justice demands.

Respectfully submitted,
TOWN OF MILFORD
By its attorneys,

DONAHUE, TUCKER & CIANDELLA, PLLC

Date: March 12, 2021

By:



John J. Ratigan, Esquire / NHB #4849
16 Acadia Lane, P.O. Box 630
Exeter, NH 03833-4936
(603) 778-0686
iratigan@dtclawyers.com

CERTIFICATE OF SERVICE

I certify that on this 12th day of March, 2021, a copy of the foregoing was forwarded by electronic mail to all parties listed on the SEC Docket 2021-01 Service List as required by N.H. Code Admin. R. 202.07.



John J. Ratigan, Esquire

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Milford, NH**

**SEC Docket 2021-01
Service List**

Subcommittee Members

<p>Chair, Public Utilities Commission Dianne Martin, Chair 21 South Fruit Street, Suite 10 Concord, NH 03301 Dianne.h.Martin@puc.nh.gov Tel. (603) 271-2437</p>	<p>Commissioner, Department of Environmental Services Robert R. Scott, Vice Chair 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095 robert.r.scott@des.nh.gov Tel: (603) 271-2958</p>
<p>Commissioner, Public Utilities Commission Kathryn M. Bailey 21 South Fruit Street, Suite 10 Concord, NH 03301 Kate.Bailey@puc.nh.gov Tel: (603) 271-2437</p>	<p>State Librarian, Department of Natural and Cultural Resources Designee Michael C. York 172 Pembroke Road P.O. Box 1856 Concord, NH 03301 michael.york@dncr.nh.gov Tel: (603) 271-2397</p>
<p>Commissioner, Department of Transportation Victoria Sheehan 7 Hazen Drive, PO Box 483 Concord, NH 03302-0483 Victoria.Sheehan@dot.nh.gov Tel. (603) 271-1484</p>	<p>Public Member Robert A. Baines Manchester, NH bobbaines@outlook.com Term: September 20, 2018 - September 20, 2022</p>
<p>Public Member Lisa R. Noe Laconia, NH lnoe2@comcast.net Term: :April 17, 2019 - March 27, 2023</p>	

Committee Staff

<p>SEC:Admin admin@sec.nh.gov</p>	<p>Jody Carmody jody.m.carmody@puc.nh.gov</p>
<p>Attorney Department of Justice JD Lavallee 33 Capitol Street Concord, NH 03301 jon.lavallee@doj.nh.gov</p>	<p>Chairwoman, Public Utilities Commission Dianne Martin dianne.h.martin@puc.nh.gov</p>

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Parties

Brox Environmental Citizens c/o Suzanne Fournier, Coordinator 9 Woodward Drive Milford, NH 03055-3122 broxEnvironCitizens2@comcast.net	Granite Apollo, LLC Olivewood Energy 114 N. Main Street, 4 th Floor Concord, NH 03301 dom@olivewoodenergy.com
Michael Caplan Milford Spartan Solar, LLC c/o Olivewood Energy LLC 470 James St., Suite 7 New Haven, CT 06513 mike@olivewoodenergy.com	Barry Needleman McLane Middleton 11 South Main St., Suite 500 Concord, NH 03301 Barry.needleman@mclane.com

Interested Persons

Annie Ropeik New Hampshire Public Radio aropeik@nhpr.org	

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

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APPEARANCE

Please enter my appearance

Attorney/Representative Name: John J. Ratigan, Esquire

Address: Donahue, Tucker & Ciandella, PLLC, 16 Acadia Lane, P.O. Box 630, Exeter, NH 03833-4936

Telephone: (603) 778-0686 / Email address: jrattigan@dtclawyers.com

Signature: _____



as attorney or representative for:

Party Name: Town of Milford

Address: 1 Union Square, Milford, NH 03055

Telephone: (603) 249-0600

By signing this appearance, the attorney or representative certifies:

- (1) The named party has authorized the representative to act as the party's agent, including the authority to settle the case;
- (2) The named party has been sent a copy of this appearance;
- (3) He is aware of the restrictions on withdrawing (see Section TAX 201.11); and
- (4) He is aware that he binds the party by his actions.

Certification

I certify a copy of this appearance was forwarded by electronic mail to all parties listed on the SEC Docket 2021-01 Service List as required by N.H. Code Admin. R. 202.07.

Date: March 12, 2021

John J. Ratigan, Esquire / NNB #4849
Donahue, Tucker & Ciandella, PLLC

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<p>Commissioner, Public Utilities Commission Kathryn M. Bailey 21 South Fruit Street, Suite 10 Concord, NH 03301 Kate.Bailey@puc.nh.gov Tel: (603) 271-2437</p>	<p>State Librarian, Department of Natural and Cultural Resources Designee Michael C. York 172 Pembroke Road P.O. Box 1856 Concord, NH 03301 michael.york@dncr.nh.gov Tel: (603) 271-2397</p>
<p>Commissioner, Department of Transportation Victoria Sheehan 7 Hazen Drive, PO Box 483 Concord, NH 03302-0483 Victoria.Sheehan@dot.nh.gov Tel. (603) 271-1484</p>	<p>Public Member Robert A. Baines Manchester, NH bobbaines@outlook.com Term: September 20, 2018 - September 20, 2022</p>
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<p>SEC:Admin admin@sec.nh.gov</p>	<p>Jody Carmody jody.m.carmody@puc.nh.gov</p>
<p>Attorney Department of Justice JD Lavallee 33 Capitol Street Concord, NH 03301 jon.lavallee@doj.nh.gov</p>	<p>Chairwoman, Public Utilities Commission Dianne Martin dianne.h.martin@puc.nh.gov</p>

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Michael Caplan Milford Spartan Solar, LLC c/o Olivewood Energy LLC 470 James St., Suite 7 New Haven, CT 06513 mike@olivewoodenergy.com	Barry Needleman McLane Middleton 11 South Main St., Suite 500 Concord, NH 03301 Barry.needleman@mclane.com

Interested Persons

Annie Ropeik New Hampshire Public Radio aropeik@nhpr.org	