



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



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March 9, 2018

Good morning Senators Kennedy and Miner, Representatives Demicco and Harding, and members of the Environment Committee. Thank you for allowing the Department of Agriculture an opportunity to participate in today's Environment Committee Informational Hearing. The committee asked the agency to answer a number of questions. Those questions and responses from the Department of Agriculture are below.

1. When considering an application to construct a solar photovoltaic facility of more than two megawatts on prime farmland or core forest land, what is your agency's understanding of the role of DEEP and DoAG?

Under Public Act 17-218, the legislature gave the Department of Agriculture and the Department of Energy and Environmental Protection the opportunity to offer feedback into the permitting of certain grid scale solar projects. The Siting Council has two pathways to permit the siting of these developments: through a declaratory ruling and through a certification of environmental compatibility and public need. In order for projects greater than two megawatts in scale to be granted a declaratory ruling, DoAg needs to affirm in writing that there is no material impact on prime farmland, and DEEP needs to affirm in writing that there is no material impact on core forestland. If those letters aren't issued by the appropriate agencies, then the declaratory option is closed, but the certification process remains available. Under the certification process, the Siting Council must consider the impacts on agriculture and core forest, but no such similar written letter is required from either agency.

In a memo dated November 1, 2017 from the Connecticut Siting Council to representatives of the energy industry, the Council clearly stated the expectations on applicants. That memo said, in pertinent part, that "any petition for a declaratory ruling for a solar facility with a capacity of 2 or more megawatts that is submitted to the Council without the above-referenced written correspondence will be rejected as incomplete."

DoAg conducts its due diligence to review applications, examine proposed sites, and make a science-based determination as to whether prime farmland soils as defined by United States Department Agriculture's Natural Resources Conservation Service are included in the scope of the project. The agency will meet with applicants and may request additional clarifying information.

2. If DEEP or DoAG determine that an applicant's proposal will have a material affect on the status of the land as prime farmland or core forest land, how does this agency finding impact the Siting Council's analysis?

That would depend on whether the applicant were seeking approval under the declaratory process or the full certification process. The determination of a material impact on prime

farmland should preclude approval under the declaratory process. That determination would not necessarily preclude approval under a full certification process.

3. The Environment Committee is considering a change in the definition of potential land use impacts, from the current "materially" affect to the proposed "permanently" affect, that the Siting Council should consider when evaluating and approving the installation of solar facilities on prime farmland or core forest. What change do you expect that this will have on the application process? On the state's efforts to preserve and protect farms and forests?

Changing the word "material" to "permanent" would, in fact, be a material change. It introduces a threshold that would potentially be impossible for DoAg to prove. What is really permanent? The department acknowledges that there is some uncertainty about the most appropriate language to use in order to consider the impacts on prime farmland. We do not believe that "permanently" is the best solution.

An important consideration is how to ensure that the best of the best farmland in the state is available to farmers engaged in active agricultural production. Can solar development projects be sited on less desirable land, thereby better balancing two worthy public policy goals (renewable energy and farmers' access to prime farmland)? Can prime farmland really be returned to its previous condition after a project is decommissioned?

The Department of Agriculture has been having discussions with DEEP to help develop a tool that would provide enhanced guidance in determining a proposed development's impact on prime farmland and core forest.

4. The Environment Committee recently heard testimony regarding an application by Windham Solar (Petition No. 1323, filed 8/31/2017) to construct three 2-megawatt and two one-megawatt facilities on a 43 acre parcel, currently a farm located at 134 Bilton Road, Somers, Connecticut. According to testimony, the Siting Council determined on 1/22/18 that no Certificate of Environmental Compatibility was needed, even though the application was filed after the effective date of the new law that clearly requires the Council to seek the opinion of DoAG as to whether the proposed project would have a material affect on prime farmland. Please explain the process by which this determination was made.

This process question should be answered by the Connecticut Siting Council.

5. How many applications has the Siting Council received since July 1, 2017, that propose a solar voltaic installation of 2 megawatts or more? How many of these applications have triggered a review of the new law because they would have a potential material impact on farmland or forest?

This questions should also be answered by the Connecticut Siting Council.

6. Does the Siting Council currently have the authority to require applicants to post a decommissioning bond to cover the expenses of removing the solar panel installation and restoring the affected property after the useful life of a solar farm? If so, what have been the circumstances that the Siting Council has considered in exercising this authority?

This questions should be answered by the Connecticut Siting Council.

7. How do DEEP and DoAG receive timely notice of applications to the Siting Council that propose a solar farm installation?

The Connecticut Siting Council sends copies a full applications to the department. Some opportunities to comment may have been missed by the agency. Processes are being developed to more diligently track applications submitted to the Siting Council, so that future opportunities are not missed.

Applications are not limited to solar developments, but also include applications seeking approvals for cell phone towers, waste facilities, etc.

Since passage of PA 17-218, we have also had solar developers reach out to us directly. To date, the agency has had discussion with at least four applicants, two who were not covered by the law in Simsbury and Candlewood, and two who would be covered by the law Ellington and Stonington. Especially in the latter two cases, PA 17-218 has resulted in meaningful dialogue between the agency and the project developers. They are aware that DoAg must affirm an absence of a material impact due to their projects, and as a result they are interested and eager to have these conversations with the agency early in the process. That aspect of the law is working as intended.

8. For the Siting Council, since the 2017 law went into affect, have there been solar farm applications that have been filed where the Siting Council has determined that they would not have a "material affect" on prime farmland or core forest land? If so, how has the Siting Council made this determination? How many 2-megawatt or greater solar installations do you expect to be filed per year? How may of these are proposed for prime farmland or core forest?

This questions should be addressed by the Connecticut Siting Council.

Again, the Department of Agriculture wishes to thank the committee for its interest in this topic. We look forward to continuing a meaningful conversation in the coming weeks.