

STATE OF NEW YORK
SUPREME COURT COUNTY OF GREENE

ASSOCIATION OF PROPERTY OWNERS OF SLEEPY HOLLOW
LAKE, INC. and SLEEPY HOLLOW WATER COMPANY, INC.,

**VERIFIED PETITION AND
COMPLAINT**

Petitioners-Plaintiffs,

vs

Index No.

GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY;
GREENE COUNTY, NEW YORK; TOWN OF ATHENS, NEW YORK;
TOWN OF COXSACKIE, NEW YORK; COXSACKIE-ATHENS
CENTRAL SCHOOL DISTRICT; FLINT MINE SOLAR, LLC; JOHN
DOES 1-10; and ABC CORPORATIONS 1-10,

Respondents-Defendants.

Plaintiffs-Petitioners (collectively, "Plaintiffs"), the Association of Property Owners of Sleepy Hollow Lake, Inc. and Sleepy Hollow Water Company, Inc., by their attorneys, The Zoghlin Group, PLLC, for their Verified Petition and Complaint ("Complaint") allege as follows:

1. This hybrid Article 78 proceeding and plenary action concerns the improper actions of the Greene County Industrial Development Agency (the "GCIDA" or "IDA") in reviewing, and ultimately deciding to provide financial assistance to a large-scale renewable energy project known as Flint Mine Solar, a 100 megawatt (MW) solar electric generation facility consisting of up to 454 acres of photovoltaic (PV) panels, together with associated facilities, located within a 1,638 acre Facility Area on lands owned by the developer or leased from owners of private property (the "Project").

2. Plaintiffs do not oppose the Project. They merely seek to ensure that Project construction and operation do not contaminate Sleepy Hollow Lake.

3. The Project is within the Sleepy Hollow Lake Watershed¹, which is the sole source of drinking water for the Sleepy Hollow community and the back-up water supply for the Village of Athens.

4. Changes to the Project that were approved in March 2023 will disturb a great deal more land than initially approved. This, in turn, will cause contaminants to be released into the Sleepy Hollow Lake watershed, and ultimately Sleepy Hollow Lake.

5. The IDA has both statutory and Constitutional obligations to protect Sleepy Hollow Lake, as it is Plaintiffs' drinking water source and an important environmental resource. General Municipal Law Article 18-A requires the IDA to consider the effect that a Project it approves may have on the environment. N.Y.S. Const. Art. I (Bill of Rights), §19 (Environmental Rights) (adopted Nov. 2, 2021, Eff. Jan. 1, 2022) imposes an additional independent obligation on the IDA to protect the right of each person in the State to clean water and a healthful environment.

6. Plaintiffs asked the IDA to condition financial assistance on the creation of an independent monitoring fund to detect contamination of the watershed before it impacted Sleepy Hollow Lake.

7. The IDA rejected this request, even though FMS represented to the IDA that it intended to support Sleepy Hollow's monitoring activities and had a "good faith intention" to assist Sleepy Hollow with their water testing:

FMS intends to engage Sleepy Hollow to discuss and agree how FMS might provide future support to Sleepy Hollow's ongoing monitoring activities. FMS is open to contributing to the costs

¹ A watershed is an area of land that channels water such as rain and snow to a body of water like a lake, river, or stream. <https://earth.org/what-is-a-watershed> (last accessed 6/5/2023).

Sleepy Hollow will incur when engaging its own third-party engineers to review the reports and summaries of sampling to be carried out by Crawford Engineering. The amount and period over which FMS will make such contribution has yet to be discussed or agreed with Sleepy Hollow. This is a good faith intention by FMS to assist Sleepy Hollow with their ongoing costs of reviewing water testing completed by FMS and reflects FMS's commitment to partnering with community stakeholders.

See Letter from Flint Mine Solar to GCIDA dated February 3, 2023, a true and accurate copy of which is attached hereto as **Exhibit O**.

8. Moreover, the IDA's approval of financial incentives for the Project illegally violated the requirements of the Greene County Solar PILOT Law, Greene County IDA Incentive Policy for Solar Projects, and the GCIDA's Uniform Tax-Exempt Policy. Specifically, the IDA awarded a 30-year PILOT even though the IDA Incentive Policy for Solar Projects imposes a 20-year limit; failed to consider factors required by the IDA Project Evaluation Policy; made no factual findings to support the applicant's self-serving claims that the Project would not be built but for the Financial Assistance; made no factual findings to support its deviation from the Uniform Tax Exempt Policy; and utterly failed to conduct the required cost-benefit analysis.

9. This proceeding is brought to annul the IDA resolutions adopted on April 20, 2023 (the "Resolutions"), which, among other things, (a) made findings with respect to the Project's eligibility for financial assistance; and (b) approved financial assistance for the Project (the "Financial Assistance").

10. The Financial Assistance included:
- a. Mortgage Recording Tax Exemption in the amount of \$2,000,000.
 - b. Sales and Use Tax Exemption in the amount of \$5,000,000.

- c. Payment in lieu of taxes (“PILOT”) agreement which would reduce the project’s tax liability by between \$21,639,222 and \$128,350,389.²

11. Alternatively, if the Determinations are not annulled, Plaintiffs seek an order directing the Project applicant to provide funding to monitor water quality both upstream of and in Sleepy Hollow Lake during Project construction and for the first three years of operation.

GEOGRAPHIC SETTING

12. The Project will be located within a 1,638-acre Facility Area on lands owned or leased from owners of private property located between the New York State Thruway to the west and the CSX Railroad line to the east (the “Facility Area”) in the Town of Coxsackie, New York and the Town of Athens, New York, both of which are located in Greene County, New York.

13. The Project will require five short 115kV transmission lines, with a total length of approximately 500 feet, to connect a proposed 115/34.5kV Facility substation to a proposed 115kV point of interconnection (POI) switchyard, which will then interconnect to the existing bulk electric transmission system lines owned by Niagara Mohawk Power Corporation, d/b/a National Grid.

² Tables 8.2 and 8.3 on page 19 of the Findings Statement show the various values of FMS’ property tax savings, depending upon which of the three methods is used to calculate the PILOT. The savings amounts also represent how much money the local governments will be losing over the period as a result of the property tax break. These numbers do not reflect the Host Community Funds going to the Towns of Athens and Coxsackie.

The first method is the Discounted Cash Basis (DCB). This is the total tax liability over the 30 years if FMS had to pay property taxes like every other business or property owner in the county. This is the highest amount and is shown in the tables as \$147,146,730.

The next method is the Discounted Cash Flow (DCF) model which was recommended by NYSERDA. In the FMS situation it is the middle amount and is shown in the tables as \$40,435,563.

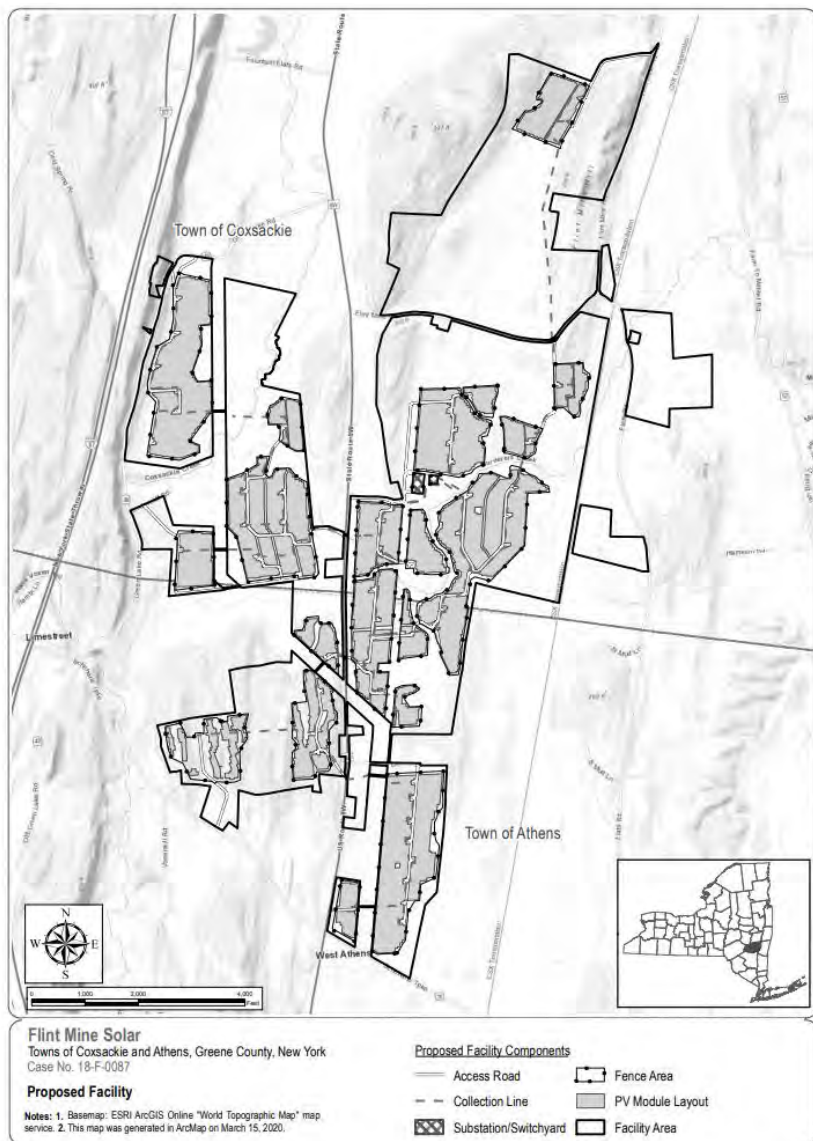
The final “method” is the amount that the GCIDA chose as the “PILOT” and happens to be the same amount that FMS recommended from the start. It is the lowest amount and is shown in the tables as \$18,796,341.

Consequently, the Payment in lieu of taxes (“PILOT”) agreement would reduce the Project’s property tax liability by between \$21,639,222 [difference between DCF of \$40,435,563 and PILOT of \$18,796,341] and \$128,350,389 [difference between DCB of \$147,146,730 and PILOT of \$18,796,341].

14. A true and accurate map of FMS’s Proposed Facility is available at

https://a.storyblok.com/f/175296/x/fc04901154/2020-03-15_filing-notice-figure.pdf and

reproduced below:



Sleepy Hollow Lake and the Surrounding Development:

15. The Sleepy Hollow Lake Development (the “SHLD”) is approximately 2,000 acres of land along Murderers Creek in sections of the Village of Athens and the Towns of Athens and Coxsackie, Greene County.

16. The Sleepy Hollow Lake Development extends northerly along both banks of Murderers Creek for about 3 miles from the northern section of the Village of Athens.

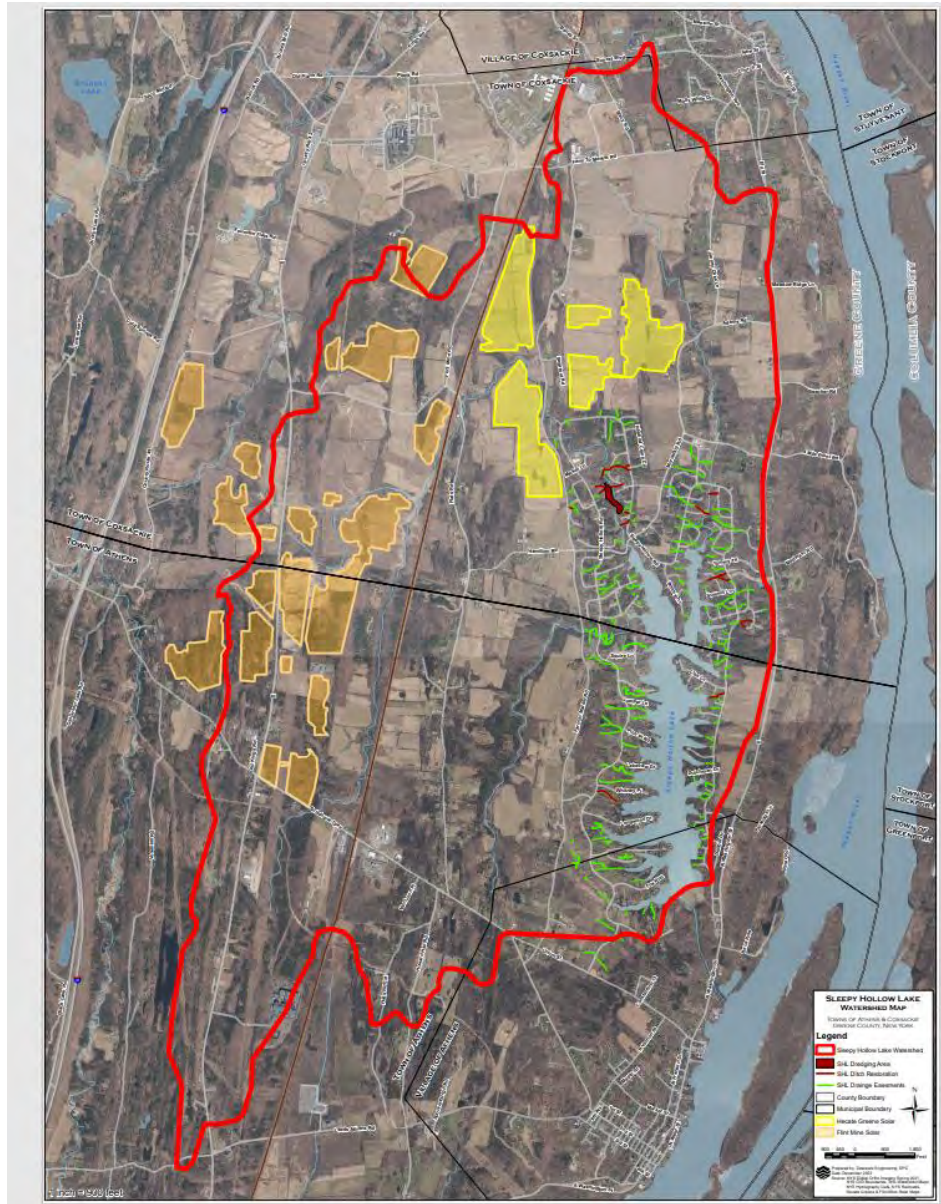
17. Sleepy Hollow Lake is a 325-acre impoundment at the center of the Sleepy Hollow Lake community. The lake is designated as a Class A Fresh Water. Class A water best usages include potable water supply, contact recreation, fishing, and fish and wildlife propagation.

18. Sleepy Hollow Lake is the source of drinking water for the community, with close to 900 service connections and annual potable water production of approximately 40 million gallons.³

The Project's Surface Water Drains Into the Sleepy Hollow Lake Watershed

19. As shown in the true and accurate map below, the vast majority of the Flint Mine Solar Project will be located within the Sleepy Hollow Lake watershed:

³ Princeton Hydro Review of the Flint Mine Solar Stormwater Pollution Prevention Plan dated 5/24/2023 ("PH Review"), a true and accurate copy of which is attached hereto as **Exhibit C**.



20. Murderers Creek is the largest tributary of Sleepy Hollow Lake.
21. Murderers Creek also traverses the FMS site and drains a significant portion of the site.
22. Murderers Creek will receive water from stormwater generated at the Project site during construction, operation, and decommissioning of the FMS facility and a direct vector to Sleepy Hollow Lake.

The Association's Support of the Project, and Concerns About the Project Amendment

23. The Association has at all times supported the Project and originally approved Project layout.

24. The Project's 2020 Preliminary Stormwater Pollution Prevention Plan ("SWPPP") recognized that the Project is sited both within the Murderers Creek catchment and within the Sleepy Hollow Lake watershed.

25. The Project's 2020 Preliminary SWPPP identified that the watershed is listed on the 303(d) list for pollutants related to construction activity.

26. FMS later applied for approval to amend to its approvals to "optimize facility layout" (the "Project Amendment").

27. On March 28, 2023, the Siting Board approved the Project Amendment. A true and accurate copy of the Flint Mine Amendment Order to the Project dated March 28, 2023 (the "Amendment Order") is attached hereto as **Exhibit G**.

28. The Project Amendment increases the area of potential land disturbance from 202 acres to 281 acres, almost 39%. This, in turn, poses a heavier burden on and risk to the downstream watershed, particularly Sleepy Hollow Lake.

29. FMS acknowledged to the IDA that 350 acres of the project would "conservatively be considered" to be within the SHL watershed. A true and accurate copy of the email dated December 14, 2022 is attached hereto as **Exhibit P**.

30. The greatly increased footprint resulting from the Project Amendment increases the risk of inducing more hydrologic, solids, and nutrient pollutant loads into the Sleepy Hollow Lake watershed.

31. This increase in pollutant loads into the Sleepy Hollow Lake watershed was accompanied by a 2023 SWPPP that fails to protect that drinking water source. In fact, the Project's 2023 SWPPP does not mention Sleepy Hollow Lake in the narrative, the recognition of silt/sediment impacts in the lake, or recognition of its 2022 listing for phosphorus.

32. The Project Amendment and 2023 SWPPP show a troubling shift in focus away from protecting those downstream sources and more narrowly focusing only on the Project site.

33. The 2023 SWPPP for the Project Amendment proposes the final vegetative cover target density of 80% over the pervious surface. However, this is inadequate to prevent erosion and mobilization of solids from these highly erosive soils, which will ultimately be discharged to Sleepy Hollow Lake.

34. The 2023 SWPPP for the Project Amendment proposes inadequate environmental inspection and monitoring of the site. It does not mention monitoring either total suspended solids or turbidity in any capacity besides visual observation and does not specify monitoring sites or monitoring frequency as outlined in the certificate conditions.

35. The 2023 SWPPP for the Project Amendment states that temporary structural best practices will not be used during construction, even though it recognized that brown or cloudy water will be discharged to the ground surface.

36. The 2023 SWPPP for the Project Amendment states that stormwater management in the proposed array areas will be provided with filter socks, in addition to controls around the various perimeters. The use of filter socks as the only measure of soil erosion and sediment control at the Project's perimeter is an inadequate, low level of control, particularly since there is a proposed area of disturbance in excess of 280 acres. While filter

socks will provide some level of solids abatement, it will do little to address volume and is prone to failure during large precipitation events. Moreover, the 2023 SWPPP for the Project Amendment does not address harmful chemicals entering the watershed or lake from land previously used for agriculture.

37. The 2023 SWPPP for the Project Amendment proposes few permanent structures, which consist primarily of filter strips to treat runoff from the impervious areas associated with pads and substation construction. Filter strips will also be constructed to manage runoff from the inverters, in some cases these will also consist of directed flow between berms with level spreaders. These designs are heavily dependent on achieving sufficient vegetative cover as well as minimizing soil compaction to promote infiltration, both of which are questionable.

38. Post-construction inspection and adaptive management practices described in the 2023 SWPPP for the Project Amendment do not sufficiently protect the Sleepy Hollow Lake Water supply. It proposes that the Applicant observe bare spots and washouts but does not establish a time frame to reseed and mulch them, or what temporary measures may be done before the next rainfall.

39. The 2023 SWPPP for the Project Amendment proposes to mitigate highly erodible areas using the placement of sod and energy dissipating Best Management Practices. However, given that almost 80% of the Project site has severe or very severe erosivity hazards, this may be very extensive. Furthermore, this is a post-hoc solution to managing those hazards after they manifest, contributing to solids and nutrient pollution, rather than a strong proactive plan to reduce those risks initially.

40. The scheduled inspection frequency described in the 2023 SWPPP for the Project Amendment is also low in the immediate post-construction period because it is limited to just three monthly events with subsequent annual events. It also describes inspections following large storm events but does not specify what qualifies as a large storm event.

41. The Project Amendment and 2023 SWPPP will contaminate Plaintiffs' water supply and recreational use of Sleepy Hollow Lake with contaminated surface water runoff from the Project Site.

42. The 2023 SWPPP for the Project Amendment does nothing to proactively prevent stormwater discharge into the Sleepy Hollow Lake watershed, and merely proposes to identify and possibly remediate damage to the Sleepy Hollow Lake water supply after it has already been contaminated.

PARTIES

Association of Property Owners of Sleepy Hollow Lake, Inc.

43. Plaintiff Association of Property Owners of Sleepy Hollow Lake, Inc. (the "Association"), is a domestic Not-for-Profit Corporation formed under Section 402 of the Not-for-Profit Corporation Law.

44. The Association was formed to promote the health, safety, and welfare of the Sleepy Hollow community and to maintain Sleepy Hollow Lake, among other things.

45. The Association is comprised of over 1,275 members, all of whom own parcels of land in the Sleepy Hollow Lake Development. Lot owners in the Sleepy Hollow Lake Development automatically become members of the Association.

46. Sleepy Hollow Lake serves as the sole source of drinking water for the Association's members.

47. Association members also enjoy the natural beauty of Sleepy Hollow Lake, and use it for swimming, boating, and other recreational pursuits.

48. The Association and its members will be harmed by the Project because it will discharge pollutants into Sleepy Hollow Lake, contaminate their water supply, and impair the water quality of Sleepy Hollow Lake for recreational use.

49. The Association's members' drinking water, lives and properties will be adversely impacted by the IDA's approval, which will allow the Project to be constructed and operated within the Sleepy Hollow Lake watershed and negatively impact Sleepy Hollow Lake.

50. The Association's (and its members') injuries fall within the zone of interests of General Municipal Law Article 18-A (the "IDA Act"). Section 852 sets forth the policy and purpose of Article 18-A, including the policy to "protect and promote the health of the inhabitants of this state by the . . . protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution" from projects the IDA considers. Moreover, Section 874(4)(a) requires the IDA to consider "the effect of the proposed project on the environment" and the extent to which "it will require the provision of additional services" in its uniform tax policy. GML § 874(4)(a).

51. The Association's (and its members') injuries fall within the zone of interests of the New York State Constitution, which states that: "Each person shall have a right to clean air and water, and a healthful environment." N.Y. Const. Art. 1., §19.

52. The Association's (and its members') harm is different from that to the general public by virtue of the fact that Sleepy Hollow Lake is the sole source of their drinking water, and that only Association members may use Sleepy Hollow Lake for recreational purposes.

53. The Association (and its members) are further injured because the PILOT will decrease the taxes that would otherwise be paid to tax entities with jurisdiction of the property owned by them, namely the Town of Athens, Town of Coxsackie, and Coxsackie-Athens Central School District.

54. The Association and its members have standing to pursue the claims asserted herein because they own real property in the Towns and have unique property and personal interests that will be adversely affected by the Project.

55. The Association and its members also have common law taxpayer standing to pursue claims that the IDA's lease resolution and PILOT Approval impermissibly provide public benefits.

56. The Association and its members further have standing to maintain a proceeding to compel a public body to perform its duty and to correct an arbitrary and capricious decision in relation to matters of great public interest, particularly when failure to accord such standing would, in effect, erect an impenetrable barrier to judicial scrutiny.

Sleepy Hollow Water Company, Inc.

57. Plaintiff Sleepy Hollow Water Company, Inc., (the "Water Company") is a private water supply company organized under New York State Transportation Corporation Law Article 4.

58. The Water Company has a duty to supply “pure and wholesome water” to the inhabitants it serves (NY Transportation Corporation Law section 42).

59. The Water Company was formed to supply water to the residents of the Sleepy Hollow Lake development.

60. The Water Company supplies water to members of the Association and serves as the backup water supply for the Village of Athens.

61. The Water Company uses Sleepy Hollow Lake as its sole source of drinking water, which it supplies to its customers, including the Association.

62. The Water Company will be adversely impacted by the IDA’s approval, which will allow the Project to be constructed and operated within the Sleepy Hollow Lake watershed without adequate monitoring and oversight.

63. The Water Company’s injuries fall within the zone of interests of General Municipal Law Article 18-A (the “IDA Act”). Section 852 sets forth the policy and purpose of Article 18-A, including the policy to “protect and promote the health of the inhabitants of this state by the . . . protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution” from projects the IDA considers. Moreover, Section 874(4)(a) requires the IDA to consider “the effect of the proposed project on the environment” and the extent to which “it will require the provision of additional services” in its uniform tax policy. GML § 874(4)(a).

64. The Water Company’s injuries fall within the zone of interests of the New York State Constitution, which states that: “Each person shall have a right to clean air and water, and a healthful environment.” N.Y. Const. Art. 1., §19.

65. The Water Company's harm is different from that to the general public by virtue of the fact that Sleepy Hollow Lake is the sole source of its drinking water.

66. The Water Company further has standing to maintain a proceeding to compel a public body to perform its duty and to correct arbitrary and capricious decision in relation to matters of great public interest, particularly when failure to accord such standing would, in effect, erect an impenetrable barrier to judicial scrutiny.

Greene County Industrial Development Agency

67. Defendant-Respondent GCIDA is a county industrial development agency organized and operating under the IDA Act, Article 18-A of the General Municipal Law of the State of New York (GML §895-j) with offices and a service address at 45 Sunset Blvd, Suite 3, Coxsackie, New York 12051.

68. The IDA Act, *inter alia*, sets forth the powers of an IDA in NYS and states that IDAs are authorized to provide financial assistance to "...thereby advance the job opportunities, health and general prosperity and economic welfare of the people...".

Flint Mine Solar, LLC

69. Defendant-Respondent Flint Mine Solar, LLC ("FMS") is a limited liability company organized in the State of Delaware in 2017 for the sole purpose of constructing, owning, and operating the Flint Mine Solar Project.

70. FMS is the holder of a Certificate of Environmental Compatibility and Public Need for Construction of a Solar Electric Generating Facility pursuant to Article 10 of the New York Public Service Law issued in August 2021 by the New York State Board on Electric Generation

Siting and the Environment, authorizing construction of the Project (Siting Board Case 18-F-0087).

71. In March 2022, FMS executed interconnection agreements with National Grid and the NYISO.

72. In June 2022, FMS was granted a Certificate of Public Convenience and Necessity pursuant to Section 68 of the New York Public Service Law, authorizing the construction and operation of the Project.

73. An Amendment to the Project was approved by the Siting Board on March 28, 2023 [Flint Mine Amendment Order].

74. In its application to the IDA for Financial Assistance, FMS represented that the Project would not be built without Financial Assistance from the IDA.

75. The IDA awarded Financial Assistance to FMS with respect to the Project.

The Government Respondent-Defendants

76. Defendant-Respondent Greene County, New York is a municipal corporation organized under the laws of the State of New York, including New York State County Law, with offices at 411 Main Street, Catskill, New York 12414. Greene County would receive a portion of the payments made pursuant to the PILOT agreement approved by the IDA.

77. Defendant-Respondent Town of Athens, New York is a municipal corporation organized under the laws of the State of New York, including New York State Town Law, with offices at 2 First Street, Athens, New York 12015. The Town of Athens would receive a portion of the payments made pursuant to the PILOT agreement approved by the IDA.

78. Defendant-Respondent Town of Coxsackie, New York is a municipal corporation organized under the laws of the State of New York, including New York State Town Law, with offices at 56 Bailey Street, Coxsackie, New York 12051. The Town of Coxsackie would receive a portion of the payments made pursuant to the PILOT agreement approved by the IDA.

79. Defendant-Respondent the Coxsackie-Athens Central School District is a New York State public school district, organized and existing pursuant to the laws of the State of New York with offices and a principal place of business located at 24 Sunset Boulevard, Town of Coxsackie, County of Greene, State of New York 12051. The School District would receive a portion of the payments made pursuant to the PILOT agreement approved by the IDA.

80. Upon information and belief, Respondents-Defendants GCIDA, FMS, the Towns, the County, and the School District, are or will be parties to the PILOT Agreement referenced in GCIDA's Decision, and so therefore are "Necessary Parties" to this litigation under CPLR §1001.

81. Respondents-Defendants GCIDA, the Town of Athens, the Town of Coxsackie, the County of Greene, and the Coxsackie-Athens Central School District are collectively referred to herein as the "Government Respondents" or "Government Defendants."

John Does

82. John Does 1-10 are other persons or entities that may be necessary parties to this action that have not yet presently been identified.

83. ABC Corporations 1-10 are other persons or entities that may be necessary parties to this action that have not yet presently been identified.

JURISDICTION AND VENUE

84. This Court has jurisdiction pursuant to New York Civil Practice Law and Rules (“CPLR”) Article 78 and CPLR §3001 and other applicable law.

85. Venue lies in the Supreme Court, Greene County, pursuant to CPLR §503, §506 and §7804(b) because Plaintiffs have their principal offices in Greene County and Defendant-Respondent IDA made the determinations complained of and material events took place in the Judicial District that includes Greene County.

86. This Court has personal jurisdiction over Defendants-Respondents under CPLR §301 and §302.

87. The time within which to commence this action and proceeding has not expired.

88. No previous application has been made to any court for the relief requested herein.

89. Plaintiffs do not have any other adequate remedy at law.

THE ARTICLE 10 APPROVAL PROCESS

90. The New York State Board on Electric Generation Siting and the Environment (“Siting Board”) granted FMS a Certificate of Environmental Compatibility and Public Need for Construction of a Solar Electric Generating Facility pursuant to Article 10 of the New York Public Service Law on August 4, 2021 (Siting Board Case 18-F-0087) and issued a Findings Statement. See GCIDA’s Findings Statement for the Project (at p. 287), a true and accurate copy of which is attached hereto as **Exhibit E**.

91. In March 2022, FMS executed interconnection agreements with National Grid and the New York Independent System Operator (“NYISO”).

92. In June 2022, the Siting Board granted FMS a Certificate of Public Convenience and Necessity pursuant to Section 68 of the New York Public Service Law, authorizing the construction and operation of the Project.

93. On June 30, 2022, the Flint Mine Solar Project was sold to D. E. Shaw Renewable Investments (“DESRI”). DESRI is now the long-term owner of the Project and responsible for bringing the Project through construction. DESRI and its affiliates develop, acquire, own, and operate long-term contracted renewable energy assets in the U.S. DESRI’s portfolio of contracted, operating, and in-construction renewable energy projects currently includes more than 65 solar and wind projects representing more than 6 GW of aggregate capacity.⁴

94. On August 29, 2022 FMS applied for an amendment to the Certificate of Need to “Optimize facility layout” by reducing in the number of PV modules; modifying the collection lines from messenger supported wiring/ racking integrated collection methods to the use of primarily overhead collection lines (with limited installation of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts); changing proposed grading; and using of single-axis trackers instead of fixed tile PV arrays for certain location.

95. The Siting Board approved an Amendment to the Project on March 28, 2023. A true and accurate copy of the Flint Mine Amendment Order is included as “**Attachment 8**” in GCIDA’s Findings Statement for the Project (**Exhibit E**). See **Exhibit E** at **Attachment 8**.

⁴ A basis of this belief is the defendant/respondent’s website for the [Flint Mine Solar Project](https://www.flintminesolarproject.com/), a true and accurate copy of which is attached hereto as **Exhibit F**, available at <https://www.flintminesolarproject.com/> (last accessed 6/5/2023).

IDA PROCESS REGARDING FINANCIAL ASSISTANCE FOR THE PROJECT

96. On September 9, 2021, FMS filed an Application for financial assistance for the Project with the GCIDA. A true and accurate copy of the FMS Application is attached hereto as

Exhibit H.

97. The Application disclosed (among other things) that:

- a. 100% of FMC's "sales/ activities" would occur in Greene County;
- b. 95% of FMC's raw materials purchases would be outside of Greene County;
- c. FMC would sell energy and capacity to the NYISO market, subject to a NYSERDA contract;
- d. FMC received NYSERDA incentives in the form of a 20-year contract to sell Renewable Energy Credits to NYSERDA at a fixed price;
- e. The project would create 3 part-time jobs with a combined estimated annual payroll of \$100,750 (plus \$45,388 fringe benefits).

98. FMS offered a conclusory, policy-based justification for Financial Assistance and did not provide any financial support for its assertions. See Exhibit H (executed GCADA application) at p. 21-22 of 24.

99. On January 1, 2022, New York State's Green Amendment (Article I, §19 of the New York State Constitution) went into effect, immediately confirming that "each person shall have the right to clean air and water, and a healthful environment." N.Y.S. Const. Art. I, §19.

100. The IDA conducted public hearings on the Application on October 4 and 5, 2022 (during the Jewish High Holiday of Yom Kippur, the holiest day in the Jewish Calendar).

101. During the public comment period, Plaintiffs demonstrated that Project construction (and, to a lesser extent, operation) would pollute Sleepy Hollow Lake.

102. During the public comment period, Plaintiffs asked the IDA to make water quality monitoring of the Sleepy Hollow Lake watershed a condition of Financial Assistance for the Project.

103. The IDA rejected this request, even though FMS represented to the IDA that it intended to support Sleepy Hollow's monitoring activities and had a "good faith intention" to assist Sleepy Hollow with their water testing. See **Exhibit O**.

104. The IDA's Application review did not consider Project impacts to Plaintiffs' rights to "clean water" and a "healthful environment" under the New York State Constitution.

105. Likewise, in reviewing and approving the Application, GCIDA failed to consider "the effect of the proposed project on the environment" as required by GML §874(4)(a).

106. On April 20, 2023 the GCIDA granted the following Financial Assistance to FMS:

a. 14.1 Mortgage Recording Tax Exemption in the amount of \$2,000,000.

b. 14.2 Sales and Use Tax Exemption in the amount of \$5,000,000.

c. 14.3 PILOT – A 30-year PILOT that will commence on the first taxable status date after commencement of commercial operation under the

following terms:

1. Term: 30 years
2. Initial PILOT Amount: \$5,000/MW/year
3. Annual Escalator: 1.5%
4. Payments: Annually, payable to GCIDA, Due January 1st of each year which will be distributed to the effected taxing jurisdictions.

107. In rendering its Determination, GCIDA failed to consider how changes to the Project that occurred after the Siting Board's issuance of the Article 10 Certificate will impact Sleepy Hollow Lake's water quality. Specifically, the IDA conflated the requirement that FMS monitor stormwater discharge with the request that FMS provide funding to monitor the water quality of the Sleepy Hollow Lake watershed before pollutants impacted it. As a consequence, the Project SWPPP will detect pollution only after it has occurred and is not intended to identify and mitigate contamination of Sleepy Hollow Lake before or shortly after it actually causes harm.

FIRST CAUSE OF ACTION
VIOLATION OF ARTICLE I §19 OF THE NEW YORK CONSTITUTION

108. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "107" as if set forth herein at length.

109. Section 19 of Article I of the New York Constitution (the "Green Amendment") provides for "Environmental rights," and guarantees "Each person shall have a right to clean air and water, and a healthful environment."

110. The Green Amendment recognizes and preserves New Yorkers' Constitutional right to clean air, clean water, and a healthful environment.

111. The inherent and inalienable rights conferred by the Green Amendment reflect the basic societal contract between citizens and the government of New York.

112. The Green Amendment creates a private cause of action. *E.g., Fresh Air for the Eastside, Inc. v. State*, 2022 N.Y. Slip Op. 34429(U), 10 (Monroe Co. 2022).

113. The legislative history behind enactment of the Green Amendment states that the "Amendment will **require government to consider the environment** and its citizens'

relationship to it **in all decision making**.” See Legislative History of N.Y. Const. Art. I, ¶19, Environmental Advocates Letter re passage of S528, Jan 12. 2021, *available at* [Environmental-Advocates-Letter-re-passage-of-S528.pdf \(bpb-us-w2.wpmucdn.com\)](#) (“**This language will finally put in place safeguards that require the government to consider the environment and our relationship to the Earth in decision making**. If the government fails in that responsibility, New Yorkers will finally have the right to take legal action for a clean environment because it will be in the State Constitution”) (emphasis added).⁵ See also Legislative History of N.Y. Const. Art. I, ¶19, Senate Transcript 1.12.2021, *available at* [Senate-Transcript-1.12.2021.pdf \(bpb-us-w2.wpmucdn.com\)](#) (Senator Jackson: “we will finally have safeguards **requiring government to consider the environment** and our relationship to Mother Earth **in the decision-making process**”) (emphasis added).

114. The New York State policy for Industrial Development Agencies, such as the GCIDA, under the IDA Act (GML §852), is to “protect and promote the health of the inhabitants of this state by the . . . protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution” from projects the IDA considers. GML § 852.

115. The IDA has an affirmative duty to all the citizens of New York to protect the environment and drinking water.

⁵ See Id. (Constitutional Green Amendments **ensure government officials are making informed decisions focused on protecting environmental rights from the beginning of the decision-making process** when protection is best accomplished. Green Amendments are also powerful for advancing environmental justice protections by ensuring government officials are protecting the environmental rights of all people and are constitutionally prohibited from creating environmental sacrifice zones.)

116. Accordingly, the IDA has the power and responsibility to consider how a project it reviews may impact the health of the inhabitants of this State and to control water or general environmental pollution from such projects. GML § 852.

117. The IDA's acts and omissions alleged herein were inconsistent with its obligation to protect the environment and the health, safety, and welfare of the inhabitants and the people of the State of New York.

118. Because the Project is upstream from Sleepy Hollow Lake, and within its watershed, construction and/or operation will result in silt, sediment, and other pollutants or chemicals from the Project site to flow downstream to the Lake and contaminate its waters.

119. The Project SWPPP will only measure surface water flow and turbidity during the Project's pre-construction and construction phases. It will not analyze the water for chemicals, toxic chemicals, invasive species, or other contaminants. The project SWPPP will not detect contamination of the Sleepy Hollow Lake watershed until after the pollutants actually impact Sleepy Hollow Lake.

120. The Association raised this issue to the IDA during the public comment period and asked the IDA to require as a condition of Financial Assistance that FMS be required to fund water quality monitoring of the Sleepy Hollow Lake watershed upstream from the Lake and in the Lake itself.

121. The IDA failed and refused to condition Financial Assistance on the requirement that FMS fund water quality monitoring of the Sleepy Hollow Lake watershed upstream from and in the Lake, even though FMS represented to the IDA that it intended to support Sleepy

Hollow's monitoring activities and had a "good faith intention" to assist Sleepy Hollow with their water testing. See **Exhibit O**.

122. According to FMS and the IDA, the Project would not be constructed but for the Financial Assistance.

123. The IDA's Determination to approve Financial Assistance for the Project without protecting Sleepy Hollow Lake's water quality before it becomes contaminated violated Plaintiffs' Constitutional rights under the Green Amendment, which requires that government entities consider the impacts of their decisions on individuals' Constitutional environmental rights to "clean water" and a "healthful environment" before granting a discretionary approval that may adversely impact the Environment or any individual's environmental rights.

124. The IDA's approval of FMS's Application for Financial Assistance for the Project violates the constitutionally protected, affirmative rights of the Association's Members to "clean water" and a "healthful environment" under the Green Amendment by enabling the construction and operation of the Project without safeguards to prevent contamination of Sleepy Hollow Lake (Plaintiffs' sole source of drinking water) before the pollution flows downstream from the Project site and impacts Sleepy Hollow Lake.

125. As a direct and proximate cause of the combined acts and omissions of the IDA in granting Financial Assistance but not requiring the FMS to fund water quality monitoring of the watershed upstream from and in Sleepy Hollow Lake, the IDA Determination will unnecessarily cause dangerous contamination of Sleepy Hollow Lake (with silt, sediment, and other pollutants or chemicals) and harm to Plaintiffs.

126. The IDA did not independently consider how the Project would impact the environment and the Association's environmental rights under Article I, §19 of the New York State Constitution. Instead, the IDA merely adopted the Siting Board's environmental review of the Project, the majority of which was conducted prior to when the Green Amendment went into effect on January 1, 2022. See **Exhibit E**.

127. Accordingly, the IDA illegally delegated to the Siting Board its Constitutional obligation to consider the impacts of its decisions on the environment and on Plaintiffs' environmental rights under the Green Amendment.

128. The IDA approved Financial Assistance for a Project that will emit silt, sediment, and other pollutants or chemicals into Sleepy Hollow Lake, contributing to the generation of polluted water and an unhealthy environment.

129. The IDA failed to abate such harms to clean water and a healthful environment by refusing to impose necessary mitigation measures including water quality monitoring or a condition that the Applicant set-aside funding for same.

130. The IDA took no action to mitigate harm to clean water and a healthful environment and did nothing to preserve clean water and a healthful environment, or to protect Plaintiffs' environmental rights.

131. As a result, the IDA violated Plaintiffs' constitutionally protected rights to "clean water ... and a healthful environment."

132. Because of this Constitutional violation, Plaintiffs are entitled to the relief requested herein.

SECOND CAUSE OF ACTION
DECLARATORY JUDGMENT AGAINST THE IDA

133. Plaintiffs repeat and reallege the allegations of paragraphs “1” through “132” as if set forth herein at length.

134. Pursuant to CPLR §3001 et seq., Plaintiffs seeks a declaration from this Court that the IDA is violating their Constitutional rights under the Green Amendment by depriving them of clean water and a healthful environment.

THIRD CAUSE OF ACTION
VIOLATION OF GENERAL MUNICIPAL LAW ARTICLE 18-A.

135. Plaintiffs repeat and reallege the allegations of paragraphs “1” through “134” as if set forth herein at length.

136. The IDA Act requires the IDA to consider “**the effect of the proposed project on the environment**” and the extent to which “it will require the provision of additional services.” GML § 874(4)(a) (emphasis added).

137. At the administrative level before the IDA, the Association raised concerns that granting the Application for Financial Assistance would result in the Project contaminating Sleepy Hollow Lake, which is the source of the Associations’ members’ drinking water, and specifically requested that the IDA impose a condition requiring funding for water quality monitoring to mitigate such risk (the “Request”).

138. The purpose of the Association’s Request was not to provide funding directly to the Association, but rather to require, as a condition of granting the Application, funding in some form to be used for independent water quality monitoring of the upstream of and in Sleepy Hollow Lake to ensure its waters remain clean and safe to drink.

139. The IDA rejected the Association's Request, even though FMS represented to the IDA that it intended to support Sleepy Hollow's monitoring activities and had a "good faith intention" to assist Plaintiffs with their water testing. See **Exhibit O**.

140. The IDA's Findings Statement for the Project misconstrued the Association's Request for water quality monitoring as asking that funds be provided directly to the Association. See **Exhibit E**.

141. In making the Determination to grant Financial Assistance, the IDA violated its obligation under GML §874(4)(a) to consider "the effect of the proposed project upon the environment."

142. Instead of considering "the effect of the proposed project upon the environment", the IDA adopted the environmental review of the Project performed by the New York State Siting Board's as part of FMS's Article 10 Application for a Certificate of Environmental Compatibility and Public Need (the "Certificate"), which was granted on or about August 4, 2021 (before the Green Amendment took effect, creating environmental rights).

143. The IDA did not independently analyze all of the underlying data, reports, and facts that were before the Siting Board.

144. Under GML §874(4)(a), the Siting Board is not responsible for, and does not have a statutory obligation to, consider "the effect of the proposed [IDA] project upon the environment."

145. The IDA illegally delegated its obligation to consider "the effect of the proposed project upon the environment" under GML §874(4)(a) to the Siting Board.

146. Accordingly, the IDA’s Determination to grant Financial Assistance violated GML §874, and so should be annulled.

FOURTH CAUSE OF ACTION

ARTICLE 78: ERROR OF LAW REGARDING REQUESTED CONDITION OF MONITORING SLEEPY HOLLOW LAKE.

147. Plaintiffs repeat and reallege the allegations of paragraphs “1” through “146”, as if set forth herein at length.

148. IDAs have the authority under New York State Law to impose conditions on their decisions to grant financial assistance for projects.

149. When the FMS Application was pending before the IDA, and due to concerns that granting the Application would result in the Project contaminating Sleepy Hollow Lake, the Association specifically Requested that the IDA impose a condition on any Approval requiring funding for water quality monitoring to mitigate such risk to Sleepy Hollow Lake. A similar request was made to the Siting Board.

150. By letter dated November 30, 2022, the Association clarified its request by: (1) expressing concern about the potential stormwater impact on the Lake from construction and operation of the Facility; (2) requesting that FMS share in the cost of independent water quality monitoring for Sleepy Hollow Lake; (3) explaining that the Association’s “goal is to ensure that our drinking water is safe and that the environmental impact upon the lake is minimized;” and (4) stating that “we would be willing to explore the possibility of a truly independent monitor” (the “November 30, 2022 Letter”). A true and accurate copy of the November 30, 2022 Letter is attached hereto as **Exhibit I**.

151. By letter dated January 31, 2023 (the “January 31, 2023 Letter”), the Association provided further context by explaining that:

[FMS’s] revised proposal, which includes more than 4 miles of underground trenching and drilling plus another 5 miles of wooden poles up to 60 feet high will generate a significant level of soil disturbance, including an additional 9.6 acres of grading. ... Because the new proposal calls for significant additional soil disturbance, ... water flow sampling and analysis must also include measuring the levels of various solids and nutrients composing the flow” of stormwater runoff from the Project to Sleepy Hollow Lake. ... Flint Mine’s new proposal requires this level of monitoring in order to protect the water quality of the reservoir. ... [T]he SHL water system not only serves residents of SHL, but it also serves as the backup water system to the Village of Athens water system which serve the Village and parts of the Town of Athens. ... **Accordingly and in recognition of the proposed level of soil disturbance and the potential impact upon stormwater runoff and water quality, the conditions document for the new proposal must include a provision that Flint Mine Solar contribute to the funding of an independent monitor. This monitor would be responsible for reviewing and analyzing the stormwater flow and residue that will, or potentially, be entering the SHL reservoir during pre-construction, construction and at least the first 3 years post-construction/operation. We request that Flint Mine be required to contribute no less than 50 percent of the costs per year for the monitor during the pre-construction period, construction period and at least 3 years of post-construction/operation. We propose that the Village of Athens be the lead agency for selecting and overseeing the independent monitor.** Working with Flint Mine and SHL, the Village, as lead agency, would oversee the RFP process, award the bid and manage the contract and contractor. Flint Mine would be responsible for covering all of the Village’s expenses in its role as lead agency, in addition to its part of the annual cost of the monitoring contract for the full period of the contract.

A true and accurate copy of the January 31, 2023 letter is attached hereto as **Exhibit J**. See **Exhibit J** at pages 1-2 (emphasis added).

152. The purpose of the Association's Requested condition was not to obtain funding directly to the Association, but rather for the IDA to require, as a condition of granting the Application, funding in some form or manner to be used for independent water quality monitoring of the upstream Sleepy Hollow Lake watershed and the lake itself to ensure its waters remain clean and safe to drink.

153. By Letter dated February 3, 2023, FMS represented to the IDA that it intended to support Sleepy Hollow's monitoring activities and had a "good faith intention" to assist Sleepy Hollow with their water testing:

FMS intends to engage with Sleepy Hollow to discuss and agree how FMS might provide future support to Sleepy Hollow's ongoing monitoring activities. FMS is open to contributing costs Sleepy Hollow will incur when engaging its own third-party engineers to review the reports and summaries of sampling to be carried out by Crawford engineering. The amount and period over which FMS will make such contribution has yet to be discussed or agreed with Sleepy Hollow. This is a good faith intention by FMS to assist Sleepy Hollow with their ongoing costs of reviewing water testing completed by FMS and reflects FMS's commitment to partnering with community stakeholders.

A copy of the February 3, 2023 Letter is attached hereto as **Exhibit "O."**

154. FMS did not act on its "good faith intention" and did not "engage with Sleepy Hollow to discuss and agree how FMS might provide future support to Sleepy Hollow's ongoing monitoring activities."

155. The IDA considered the Letters dated November 30, 2022, January 31, 2023, and February 3, 2023 in connection with its Determination to provide Financial Assistance to FMS. Consequently, the IDA knew that the Association's Request was not for direct or indirect payments to the Association, but merely for FMS to provide funding for such independent water

quality monitoring, either through a condition requiring such payment, or through an allocation of a portion of the PILOT payment to IDA or an affected taxing jurisdiction, to be used to offset the cost of such monitoring.

156. In Determining to grant Financial Assistance to FMS without the water quality monitoring condition that the Association Requested, the IDA considered and at least partially based its Decision on a September 30, 2022 letter from its attorney (the “Opinion”). The basis of this belief is the GCIDA’s Findings Statement. See **Exhibit E** at page 8.

157. The Opinion stated “the GCIDA and the Affected Tax Jurisdiction are not able to consent to an allocation to SHL of any portion of the payments in lieu of taxes from the FMS Project.” A copy of such letter is included in Attachment 5 to the GCIDA’s Findings Statement. **Exhibit E** at Attachment 5 (pages 283-285).

158. IDA rejected the Association’s Request based on an error of law that complying with such Request would be unlawful.

159. The IDA rejected the Association’s Request based on the IDA’s conclusion that the only mechanism by which to obtain the water quality monitoring sought by the Association was to divert PILOT payments, or a portion thereof, directly to the Association.

160. The IDA did not consider whether the Association’s Request could be legally implemented in a manner other than providing PILOT payment funds directly to the Association.

161. The Opinion does not address whether FMS could legally be required to set aside funding for independent water quality monitoring of Sleepy Hollow Lake as a condition of Financial Assistance for the Project either (1) in escrow (2) with GCIDA, or (3) with one of the Affected Tax Jurisdictions.

162. The Opinion also does not address whether the IDA could require a portion of the PILOT payment to be paid to either (1) GCIDA or (2) one of the Affected Tax Jurisdictions (to be used for independent water quality monitoring of the Sleepy Hollow Lake watershed).

163. Furthermore, the IDA did not consider whether the Association's Request could be legally implemented by requiring, as a condition of Approval of the FMS's Application, a portion of the PILOT funds paid to either (1) GCIDA or (2) one of the Affected Tax Jurisdictions, to be used for an independent water quality monitor.

164. The IDA's reliance on the Opinion in refusing to impose the Association's Requested condition regarding independent water quality monitoring was based on errors of law, and so must be set aside pursuant to CPLR §7803(3).

165. For the forgoing reasons, the IDA's determination was irrational, was unsupported by substantial evidence, and was arbitrary and capricious.

166. Accordingly, the IDA's Decision should be annulled. CPLR Article 78 et seq.

FIFTH CAUSE OF ACTION

ARTICLE 78: ERROR OF LAW REGARDING DEVIATION FOR UTEP. GML §859-a /GML §874(b).

167. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "166" as if set forth herein at length.

168. Under New York General Municipal Law §859-a ("GML §859-a"), "Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the [industrial development] agency must comply with the following prerequisites: 1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. **Such assistance shall be consistent with the uniform tax exemption policy** adopted by the agency pursuant to subdivision four of

section eight hundred seventy-four of this chapter, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.” GML §859-a(1) (emphasis added).

169. GML §874 further provides that, “The [industrial development] agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.” GML §874(b) (emphasis added).

170. The IDA specifically found that the Project does not qualify under the IDA’s Uniform Tax-Exempt Policy (“UTEP”) and therefore the Application could only be considered as a deviation from such policy. See **Exhibit E** at §14.3, page 28.

171. In granting FMS’s Application for Financial Assistance for the Project, the IDA deviated from its own UTEP. The basis of this belief is GCIDA’s Findings Statement for the Project, which states, “the provision of GCIDA benefits to this Project was addressed as a deviation from the UTEP.” **Exhibit E** at §4.3, page 11.

172. In making the Determination to grant the Financial Assistance, the IDA did not comply with its UTEP. The basis of this belief is the Findings Statement (**Exhibit E**) and GCIDA’s UTEP, a true and accurate copy of which is attached hereto as **Exhibit K**.

173. The IDA’s Findings Statement for the Project falsely, and in a conclusory manner, alleged that the deviation policy was followed. **Exhibit E** at §4.3, page 11.

174. The IDA's Findings Statement does not allege that the IDA deliberated on whether the UTEP deviation policy applied to the Project.

175. The IDA's Findings Statement for the Project did not set forth the facts that IDA relied upon in reaching its conclusion that the deviation policy had been followed.

176. The IDA's Findings Statement for the Project did not set forth the facts that the IDA relied upon in reaching its conclusion that the deviation policy could properly be applied to this Project/Application.

177. The IDA's Findings Statement for the Project did not set forth how and in what manner the IDA reached its decision that the Deviation policy applied.

178. The IDA's Determination was affected by an error of law, under GML §859-a(1) and §874(b), because GCIDA incorrectly determined that the Deviation policy from its UTEP applied to the Project.

179. The IDA's Determination was also arbitrary and capricious under CPLR §7803(3), (1) because GML §859-a(1) expressly requires that the IDA's financial assistance for Projects be consistent with its UTEP adopted under GML §874(b) "unless the agency has followed the procedures for deviation from such policy specified in" GML §874(b) and (2) because the IDA failed to set forth its reasons for concluding that such deviation was necessary and that it had followed the procedures for deviating from such policy. CPLR §7803(3).

180. The IDA failed to follow its own procedures, and in issuing the Resolution, the IDA failed to make any findings, including findings required by its own policies.

181. The Resolution is also impermissibly vague.

182. The IDA also impermissibly delegated its authority to other entities.

183. Accordingly, Plaintiffs request that the Court determine that the Resolution was arbitrary, capricious, and unlawful and annul the Resolution.

SIXTH CAUSE OF ACTION
ARTICLE 78: ERROR OF LAW REGARDING APPLICABILITY OF 20-YEAR PILOT CAP IN GREENE COUNTY SOLAR PILOT LAW.

184. Plaintiffs repeat and reallege the allegations of paragraphs “1” through “183” as if set forth herein at length.

185. The IDA’s “Incentive Policy for Solar Projects” caps “any proposed PILOT on solar projects at 20 years.” The basis of this belief is the IDA’s Incentive Policy for Solar Projects (the “Incentive Policy”), a true and accurate copy of which is attached hereto as **Exhibit L**.

186. The Incentive Policy allows the IDA, “to approve a longer-term PILOT but only when such PILOT will provide additional or enhanced benefits to the local community which may include but is not limited to providing funding and/or power to a community solar project.”

Exhibit L.

187. Accordingly, under the Incentive Policy limits, the IDA may only exceed the 20-year cap for PILOTS in its Incentive Policy if it determines “such PILOT will provide additional or enhanced benefits to the local community.” **Exhibit L.**

188. The IDA’s Determination to grant a 30-year PILOT was affected by an error of law because it did not comply with its Incentive Policy.

189. The IDA’s Determination to grant a 30-year PILOT was arbitrary and capricious because it did not articulate in its Findings Statement the facts it relied on in determining that “such PILOT will provide additional or enhanced benefits to the local community”

190. The IDA's decision to grant a 30-year PILOT was arbitrary and capricious because it did not explain how and in what manner it determined that such additional/enhanced benefits would only be available if a 30-year PILOT, rather than a 20-year PILOT, were granted.

191. There is not substantial evidence in the record to support a determination that "such PILOT will provide additional or enhanced benefits to the local community" sufficient to justify a 30-year PILOT rather than a 20-year PILOT agreement.

192. The IDA's Determination did not point to any underlying data or evidence to support factual findings or conclusions that "such PILOT will provide additional or enhanced benefits to the local community."

193. There is a not a rational basis stated in the Finding Statement to support a determination that "such PILOT will provide additional or enhanced benefits to the local community."

194. The IDA failed to follow its own procedures, and in issuing the Resolution, the IDA failed to make any findings, including findings required by its own policies.

195. The Resolution is also impermissibly vague.

196. The IDA also impermissibly delegated its authority to other entities.

197. Accordingly, Plaintiffs request that the Court determine that the Resolution was arbitrary, capricious, and unlawful and annul the Resolution.

SEVENTH CAUSE OF ACTION

ARTICLE 78: ERROR OF LAW REGARDING APPLICABILITY OF GREENE COUNTY SOLAR PILOT LAW.

198. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "197" of as if set forth herein at length.

199. In or about 2022, Greene County enacted a local law “establishing the Greene County Solar Energy System Pilot.” The basis of this belief is Greene County, New York’s Local Law Number 1 of 2022 (the “Solar PILOT Law”), a true and accurate copy of which is attached hereto as **Exhibit M**.

200. According to §2 (Purpose) of the Solar PILOT Law, “This Local Law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.” **Exhibit M** at §2.

201. The Solar PILOT Law defines the term “Solar Energy System” as meaning “an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.” **Exhibit M** at §4(7).

202. The Solar PILOT Law defines the term “Solar Energy Equipment” as meaning “collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.” **Exhibit M** at §4(6).

203. The Project involves an arrangement or combination of Solar Energy Equipment designed to provide electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

204. The Project therefore involves the installation of a Solar Energy System on property within Greene County.

205. The Solar PILOT Law states “The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the County of Greene consistent with the terms of this Local Law, excepting a) Residential Solar Energy Systems [and] b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).” **Exhibit M** at §5.

206. The County’s Solar PILOT Law is therefore applicable to the IDA’s review of the Application for the Project.

207. The contents of the PILOT Agreements required by the Solar Pilot Law are governed by §6 of the Solar PILOT Law. **Exhibit M** at §6.

208. The Solar PILOT Law requires that “Each PILOT Agreement entered into shall include ... (h) That the Annual Payment [defined under Exhibit M, §4(1)] as “the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law §487(9)” shall be (i) For Solar Energy Systems with a capacity greater than 50KW, \$8,750.00 per MW of Capacity.” **Exhibit M** at §6(1)(h).

209. “The Project is a 100MW-AC solar photovoltaic (PV) facility.” The basis of this belief is the GCIDA Findings Statement for the Project. **Exhibit E** at §2.0, page 9.

210. One (1) MW is equal to one thousand (1,000) KWs.

211. The Project's 100MW-AC solar photovoltaic (PV) facility has a greater capacity than a 50KW Solar Energy System.

212. Accordingly, under the Solar PILOT Law, the PILOT Agreement for the Project must include annual payment of at least \$8,750.00 per MW of capacity. **Exhibit M** at §6(1)(h).

213. The IDA's Determination approved a "PILOT payment of \$5,000/MW." The basis of this belief is the GCIDA's Findings Statement for the Project. **Exhibit E** at §14.3, page 28.

214. The IDA's Findings Statement acknowledges that "the PILOT payment of \$5,000/MW when considered alone is below the level required under the County's Solar PILOT Law (\$8,750/MW) for Section 487 PILOTS."

215. Accordingly, the IDA's Determination was affected by an error of law, and was arbitrary and capricious, because it approved a PILOT of \$5,000/MW which is below \$8,750/MW (the level required under the County's Solar PILOT Law), in contravention of the Solar PILOT Law.

216. Moreover, the IDA specifically found that "Projects identified by the GCIDA had secured IDA PILOTS ranging from \$3,000 MW to \$6,500/ MW with about half including some form of additional host community benefit payment." **Exhibit E** at p. FS000266.

217. The IDA failed to follow its own procedures, and in issuing the Resolution, the IDA failed to make any findings, including findings required by its own policies.

218. The Resolution is also impermissibly vague.

219. Accordingly, Plaintiffs request that the Court determine that the Resolution was arbitrary, capricious, and unlawful, and annul the Resolution.

220. The IDA's Determination was affected by further errors of law to the extent that it determined that the Solar PILOT Law did not apply.

EIGHTH CAUSE OF ACTION

ARTICLE 78: GCIDA'S DECISION TO GRANT FMS'S APPLICATION FOR FINANCIAL ASSISTANCE FOR THE PROJECT WAS ARBITRARY, CAPRICIOUS, AND AN ABUSE OF DISCRETION.

221. Plaintiffs repeat and reallege the allegations of paragraphs "1" through "220" as if set forth herein at length.

222. The purpose of Financial Assistance is to induce development of a project which will have a net positive effect on the community. This requires a careful weighing of the Project's costs against its benefits.

223. Pursuant to General Municipal Law section 859-a(5)(b), the IDA must produce a written cost-benefit analysis for the Project.

224. On or about June 16, 2016, the IDA adopted a "Project Evaluation Policy" that "sets forth the process and procedures by which the IDA evaluates Projects seeking IDA financial assistance in compliance with Section 859-a of NYS General Municipal Law." See **Exhibit N**.

225. The IDA's Project Evaluation Policy states that it applies to Applications for financial assistance for projects involving "Energy Production." **Exhibit N** at §II(h).

226. FMS's Application seeks Financial Assistance for a Project involving Energy Production.

227. The IDA's Project Evaluation Policy therefore applies to FMS's Application for Financial Assistance for the Project.

228. The IDA's Project Evaluation Policy includes 19 criteria that the IDA "will consider" in reviewing and deciding an application for financial assistance for a project. Exhibit N at §III.

229. In making a Determination to grant Financial Assistance to FMS, the IDA only considered 7 out of the 19 mandatory "Evaluation Criteria" contained in the IDA's Project Evaluation Policy. **Exhibit E** at §4.4.2, pg. 11.

230. The IDA's Project Evaluation Policy requires the IDA to conduct a cost-benefit analysis. See **Exhibit M** at §IV ("the IDA staff will complete a written Cost-Benefit analysis of the project based on the identified material factors. As a minimum the Cost-Benefit analysis will include consideration of the following criteria; • Extent the project will create or retain permanent jobs • Estimated value of tax exemptions to be provided • Amount of private sector investment • Likelihood of project being accomplished in a timely manner • Extent of new revenues to local taxing jurisdictions • Impacts to taxing jurisdiction budgets related to provision of services to the Project.")

231. The Applicant claimed on the record before the IDA that the Project would not be built but for the Financial Assistance. The Applicant did not provide the IDA with any factual data to support this bald, self-serving claim.

232. Upon information and belief, the Project would be profitable even without Financial Assistance from the IDA. Indeed, D. E. Shaw Renewable Investments ("DESRI") purchased the Flint Mine Solar Project for Three Hundred Million Dollars (\$300,000,000) on June 30, 2022, well before the GCIDA even commenced the public hearings on the application for Financial Assistance for the Project.

233. However, the IDA failed to prepare the required cost-benefit analysis, stating it would require “subjective” inputs, and, instead, produced what it called a “narrative” cost-benefit analysis that compared the Project to vacant land use:

A cost-benefit analysis is a standard tool for evaluating the costs of a specific project versus the related benefits. It is critical to determine if the cost of the public incentives offered for a Project are less or greater than the benefits the project will bring to the community. Cost-benefit analysis is often a complex and less than perfect analysis requiring various assumptions and the use of standard multipliers and other data that may be perfect for the analysis. Attempting to develop a precise mathematic quantified result would require the use of subjective inputs which would produce less than an objective outcome. For the purpose of this Statement of Findings, GCIDA has elected to produce a narrative cost and benefit analysis. The following section identifies and discusses key metrics that are typically considered when doing a cost-benefit analysis. Given the absence of a competing development proposal the analysis is based on a comparison of the Project to the current vacant land use. Findings Statement, Exhibit E, page FS000023.

234. The IDA’s Determination to award Financial Assistance is not actually based on a cost-benefit analysis.

235. The IDA’s Determination to award Financial Assistance lacks support for the PILOT as required by GML §859-a(5)(b).

236. The IDA’s so-called “narrative” cost-benefit analysis cannot justify the award of the PILOT and undermines any apparent rational basis for the IDA’s Determinations.

237. The IDA’s Determination that the Project is eligible for financial assistance was not supported by substantial evidence in the record.

238. The IDA’s Determination that the Project is eligible for financial assistance is irrational.

239. The IDA's Findings Statement does not state how or in what manner the IDA determined that the Project is eligible for financial assistance.

240. The IDA's Determination does not cite specific facts or evidence to support that conclusory determination that the Project is eligible for financial assistance.

WHEREFORE, Plaintiffs/ Petitioners respectfully request that this Court award the following relief:

- A. Directing FMS to provide a fund for Plaintiffs to use to engage in water quality monitoring that will detect contamination of the Sleepy Hollow Lake watershed and Lake before contamination impacts Sleepy Hollow Lake;
- B. Annulling the IDA's April 20, 2023 Determination / Resolution granting FMS's Application for Financial Assistance;
- C. Enjoining Defendants from executing the PILOT agreement for the Project;
- D. If the PILOT agreement for the Project has been executed, enjoining Respondents / Defendants from taking any action in reliance thereon;
- E. Annulling the PILOT Agreement for the Project;
- F. Declaratory judgment that,
 - a. under the New York State Constitution, the IDA:
 - i. failed to comply with its affirmative substantive duty under the ERA/Green Amendment (NYS Const. Art. I, §19) to consider the impacts of its actions/decisions/determinations on individuals' environmental rights.
 - ii. illegally delegated to the Siting Board GCIDA's affirmative substantive duty under the ERA/Green Amendment (NYS Const. Art. I, §19) to consider the impacts of its actions/decisions/determinations on individuals' environmental rights.
 - iii. failed to comply with their affirmative substantive duty under the ERA/Green Amendment (NYS Const. Art. I, §19) to ensure that its

actions/decisions/determinations do not infringe upon any individuals' environmental rights.

- b. Under General Municipal Law ("GML") Article 180-A, the IDA:
- i. failed to comply with its affirmative substantive duty under GML Article 18-A to consider "the effect of the proposed Project on the environment" and the extent to which it will require the provision of additional services" including educational. GML §852; GML §874(4)(a).
 - ii. illegally delegated to the Siting Board GCIDA's affirmative substantive duty under GML Article 18-A to consider a project's effects on the environment. GML §852; GML §874(4)(a).
 - iii. illegally deviated from its Uniform Tax Exempt Policy ("UTEP"), in violation of GML §859-a(1), without first finding that its Deviation Policy had been satisfied under GML §874(b).
- c. Under NYS Civil Practice Laws and Rules ("CPLR") Article 78 et seq.,
- i. The IDA's Determination not to require FMS to fund independent water quality monitoring of SHL as a condition of its Approval of the Application was based on an error of law that such a condition would be unlawful even though GML §859-a(6) expressly authorizes IDAs to impose conditions on discretionary decisions and to develop policies that set forth the terms and conditions under which financial assistance may be provided. Such a condition could have (1) required FMS to fund an independent water quality monitor; (2) required FMS to provide to GCIDA or an affected taxing jurisdiction such funds for an independent water quality monitor; or (3) required that a portion of the PILOT payments be made to either GCIDA or the affected taxing jurisdiction to conduct or contract for such independent water quality monitoring.
 - ii. The IDA's Determination to grant a 30-year PILOT was based on an error of law, i.e., that the Greene County Solar PILOT Law did not apply.
 - iii. The IDA's Determination to grant a 30-year PILOT was based on an error of law that PILOTs of that length may be granted. But the opposite is true. The GCIDA did not have the authority to grant the 30-year PILOT, here, because GCIDA's Incentive Policy

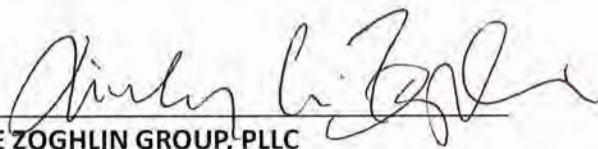
for Solar Projects only allows for PILOTs of a maximum length of 20 years.

- iv. The IDA's determination that the Project was eligible for financial assistance was arbitrary and capricious, an abuse of discretion, and based on an error of law.
- v. The IDA's failure to consider factors required by the GCIDA Project Evaluation Policy 4.4.2 was arbitrary and capricious, an abuse of discretion, and based on an error of law.
- vi. The IDA's Determination was arbitrary and capricious, an abuse of discretion, irrational, and not based on substantial evidence, because it "did not evaluate the financial strength of the applicant or its feasibility" but instead merely recited that "the Project has financing, [and] the Project will proceed upon completion of the relevant approval processes and any necessary permitting."
- vii. The IDA's Determination was arbitrary and capricious, an abuse of discretion, irrational, and not based on substantial evidence, because GCIDA took the Applicant's claim that it would not construct the Project without a PILOT as true without requiring independent evidence to support FMS's claim, and without considering evidence to the contrary submitted by Plaintiffs.
- viii. The IDA's Determination was arbitrary and capricious, an abuse of discretion, irrational, and not based on substantial evidence, because it failed to perform an independent Cost-Benefit Analysis, even after admitting that a cost-benefit analysis is "Critical", and instead merely included a subjective, narrative analysis that only compared the Project with current use, not any other alternative (or Project construction without financial incentives).
- ix. The IDA's Determination was arbitrary and capricious, an abuse of discretion, irrational, and not based on substantial evidence, because it failed to consider projects that result in better PILOT agreements for the GCIDA and/or affected taxing jurisdictions.
- x. The IDA's determination that its Deviation Policy was satisfied and warranted deviation from its UTEP was arbitrary and capricious, an abuse of discretion, irrational, and not based on substantial evidence, because it did not set forth in writing the

reasons for the deviation and because the Findings Statement contains no facts or reasons to support deviation from the UTEP.

G. Granting such other and further relief as the Court deems just and proper.

Dated: Rochester, New York
August 11, 2023



THE ZOGHLIN GROUP, PLLC

Mindy L. Zoghlin, Esq.

Jacob H. Zoghlin, Esq.

Attorneys for Petitioners/Plaintiffs

Association Of Property Owners of Sleepy

Hollow Lake, Inc., and

Sleepy Hollow Lake Water Company, Inc.

Office and Post Office Address

300 State Street, Suite 502

Rochester, New York 14614

Tel.: (585) 434-0790

E-mail: Jacob@ZogLaw.com;

Mindy@ZogLaw.com

EXHIBITS

- A. Google Map of general location of Sleepy Hollow Lake and relevant jurisdictions.
- B. Map of Flint Mine Solar's Proposed Facility.
- C. Princeton Hydro Review of Flint Mine Solar Stormwater Pollution Prevention Plan dated 5/24/2023.
- D. Sleepy Hollow Lake Watershed Map, showing that the FMS Project is located within the Sleepy Hollow Lake Watershed.
- E. GCIDA's Findings Statement for the Project, dated April 20, 2023
- F. Website for the [Flint Mine Solar Project](https://www.flintminesolarproject.com/), available at <https://www.flintminesolarproject.com/> (last accessed 6/5/2023).
- G. Flint Mine Amendment Order to the Project dated March 28, 2023.
- H. FMS Application to GCIDA for financial assistance for the Project dated September 9, 2021.
- I. November 30, 2022 letter from APOSHL to Siting Board.
- J. January 31, 2023 letter from APOSHL to Siting Board.
- K. GCIDA's Uniform Tax Exempt Policy.
- L. GCIDA Incentive Policy for Solar Projects.
- M. Greene County, New York's Local Law Number 1 of 2022 (the "Solar PILOT Law").
- N. GCIDA's "Project Evaluation Policy," adopted June 16, 2016.
- O. Letter from Flint Mine Solar to GCIDA dated February 3, 2023.
- P. Email and attachments from FMS dated December 14, 2022.

VERIFICATION

STATE OF NEW YORK)
COUNTY OF GREENE) s.s.:

Janet Kaplan, being duly sworn, deposes and says:

- 1. I am the President of Petitioner – Plaintiff Association of Property Owners of Sleepy Hollow Lake, Inc. named in the within proceeding.
- 2. I have read the Petition- Complaint and know the contents thereof to be true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The source of my information and belief is the books and records maintained by the corporate Petitioner/ Plaintiff, conversations with Petitioner’s managing agents, independent contractors, and/or employees.
- 3. This verification is made by your deponent because the Petitioner - Plaintiff is a corporation and I am an officer thereof.

Dated: _____, New York
August 11, 2023

Janet Kaplan
Janet Kaplan

Sworn before me this 11th
Day of August, 2023

Mia Fallati
Notary Public



VERIFICATION

STATE OF NEW YORK)
COUNTY OF GREENE) s.s.:

Janet Kaplan, being duly sworn, deposes and says:

- 1. I am the President of Petitioner – Plaintiff Sleepy Hollow Lake Water Company, Inc. named in the within proceeding.
- 2. I have read the Petition- Complaint and know the contents thereof to be true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The source of my information and belief is the books and records maintained by the corporate Petitioner/ Plaintiff, conversations with Petitioner’s managing agents, independent contractors, and/or employees.
- 3. This verification is made by your deponent because the Petitioner – Plaintiff is a corporation and I am an officer thereof.

Dated: _____, New York
August 11, 2023

Janet Kaplan
Janet Kaplan

Sworn before me this 11th
Day of August, 2023

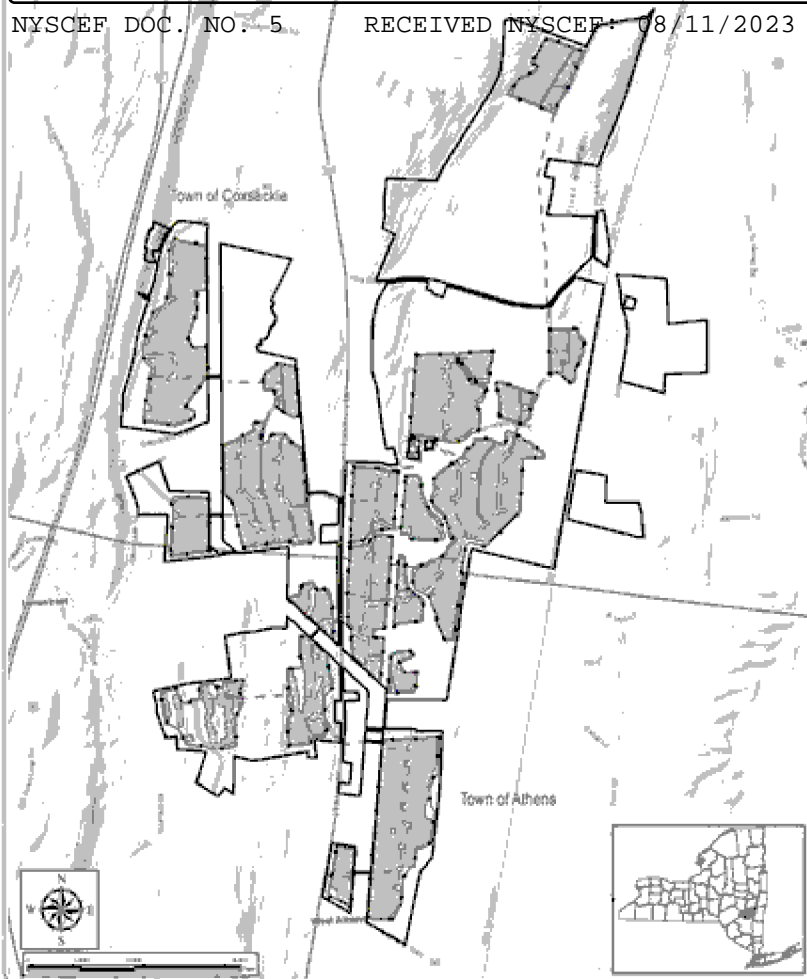
Mia Fallato
Notary Public



EXHIBIT A



EXHIBIT B



Flint Mine Solar
 Towns of Coxsackie and Athens, Greene County, New York
 Case No. 18-F-0087

Proposed Facility

Notes: 1. Base map: ESRI/ArcGIS Online "World Topographic Map" map service. 2. This map was prepared in ArcMap on March 15, 2022.

Proposed Facility Components

- Access Road
- - - Collection Line
- ☒ Substation/Switchyard
- ☐ Fence Area
- ▨ PV Module Layout
- Facility Area

EXHIBIT C

SCIENCE ENGINEERING DESIGN

PRINCETON
HYDRO

Ms. Laurel Wolfe
Association Manager
Association of Property Owners of Sleepy Hollow Lake
92 Randy Road, Unit 1095
Athens, New York 12015

RE: Review of Flint Mine Solar Stormwater Pollution Prevention Plan

May 24, 2023

Ms. Wolfe,

The Association of Property of Sleepy Hollow Lake (APOSHL) has retained Princeton Hydro, LLC (PH) to review the latest iteration of the Stormwater Pollution Prevention Plan (SWPPP) prepared for the Flint Mine Solar (FMS) project. PH has provided engineering and environmental consulting services dating to the beginning of the application of this proposed solar electric generation plant and throughout the Article 10 process. The same services have been provided related to a second proposed solar facility located within the watershed of Sleepy Hollow Lake. This memorandum summarizes the findings of the review for this specific application's SWPPP.

Background

APOSHL has been an active participant throughout the Article 10 process, being granted party status by the Siting Board, and has also participated in direct negotiations with the site's developer having advocated for certain measures and management practices agreed to in a Memorandum of Understanding (MOU) and incorporated and memorialized in the Certificate Conditions intended to mitigate the impacts of solar electric generation development. Throughout the process, APOSHL has had, and clearly stated, one overarching goal: **the protection of the quality of the drinking water resources for Sleepy Hollow Lake and the protection of the health, safety, and welfare of the Sleepy Hollow Lake community.**

To review, Sleepy Hollow Lake is a 325-acre impoundment at the center of the Sleepy Hollow Lake community. The lake is designated a Class A Fresh Water. Class A water best usages include potable water supply, contact recreation, fishing, and fish and wildlife propagation. Sleepy Hollow Lake is the source of drinking water for the community, with over 800 service connections and annual potable water production of approximately 40 million gallons. While water quality and ecology of the lake can generally be described as good, as reflected by its Class A designation, the lake is subject to impairments. Since 2002, Sleepy Hollow Lake has been listed on the 303(d) list of impaired waterbodies for silt/sediment pollution caused by streambank erosion, as noted in the State Pollutant Discharge Elimination System (SPDES) general permit included as an appendix of the SWPPP. The APOSHL has been actively combating, at their own expense, the impacts of silt and sedimentation in the lake through various programs including dredging, streambank stabilization, gully erosion and ravine restoration, riparian restoration and conservation, and other means. Streambank erosion in the watershed is a consequence of soil characteristics, topography, and land use, including agriculture. The impacts of high solids loading manifest in a number of ways including elevated turbidity, loss of depth, and elevated nutrient loading which causes increases in nuisance growth of aquatic plants, contributes to algal blooms, and impacts water quality. In 2022, the lake was also listed as impaired by total phosphorus. Total phosphorus is the sum of all phosphorus species, organic, inorganic, particulate, and dissolved, and is the primary nutrient pollutant of concern throughout most of the region. Excess phosphorus loading leads to eutrophication and can impact potable water production. As such, the lake and its various uses are sensitive to increasing loads of both solids and phosphorus, and increasing stormwater loads which mobilize and transport those substances and exacerbate channel erosion.



Murderers Creek is the largest tributary of Sleepy Hollow Lake. Murderers Creek also traverses the FMS site and drains a significant portion of the site. As such, this stream will be a receiving water for stormwater generated at the site during construction, operation, and decommissioning of the facility and a direct vector to Sleepy Hollow Lake.

Previous Reviews, General Concerns, and Certificate Conditions

Throughout the process, the concerns regarding site development have focused mainly on potential increases to stormwater volume and rate, increased potential for erosion and resultant sedimentation, and increasing nutrient loading, particularly phosphorus. All these are inextricably interrelated and are tied to a number of causes and effects. Those outcomes represent the greatest risk to both Murderers Creek and Sleepy Hollow Lake, and all can negatively affect water quality, physical habitat, aquatic flora and fauna, potable water production, recreation, and aesthetic value of Sleepy Hollow Lake. Some of the more specific concerns about the construction process, proposed stormwater management, operation, and site decommissioning included: soil compaction, imperviousness and erosion, topsoil stripping practices, extensive grading, streambank instability, poor revegetation, inadequate solids and nutrient treatment, restoration of sites to existing impaired conditions, and a lack of detailed stormwater plans.

As alluded to above, the APOSHL gained important concessions to ensure that the environmental resources of the Sleepy Hollow Lake community were adequately protected. This included the following:

- The draft SWPPP would be made available to APOSHL for review and comment
- The certificate holder would develop a construction impact monitoring plan focusing on water quality to include surface water monitoring at up to three locations on the site within the Sleepy Hollow Lake watershed consisting of, at a minimum, turbidity and total suspended solids (TSS), to be conducted four times prior to construction, twice quarterly during construction, and four times post-construction following rain events
- Consultation with APOSHL to determine appropriate seed mixes for restoration and revegetation
- The SPDES permit will identify that there is no net increase in stormwater runoff to Sleepy Hollow Lake

SWPPP

The draft SWPPP has been offered to the APOSHL for review. This differs significantly from earlier versions, both as part of the iterative nature of the design, but also because the site plans have been fundamentally altered. Of immediate concern is that the potential disturbance has increased by nearly 39%, from 202 acres to 281 acres. This represents a greatly increased footprint and risk of inducing the type of hydrologic, solids, and nutrient pollutant loads that are of significant concern with the project.

Several items merit discussion. Firstly, the 2020 Preliminary SWPPP recognized that the facility is sited not only within the Murderers Creek catchment, but within the Sleepy Hollow Lake watershed, and further identifies that the watershed is listed on the 303(d) list for pollutants related to construction activity. In this recent version, there is no such mention of Sleepy Hollow Lake in the narrative, the recognition of silt/sediment impacts in the lake, or recognition of its 2022 listing for phosphorus. Furthermore, there is no mention of mitigating for nutrient pollution. While it is true that most phosphorus renovation can be achieved by managing solids, this shows a troubling shift in focus away from protecting those downstream sources and more narrowly focusing only on the site. The new listing therefore demands enhanced protections for downstream resources.

Regarding vegetative cover and revegetation, the process for determining the proper seed mix is unclear. Section 3.3.2 indicates meadow grass (*Poa annua*) will be utilized. The efficacy of this choice is questioned. APOSHL, through their years of restoration and revegetation efforts and as area residents, have discovered that establishing vegetative cover is exceedingly difficult in this area, mostly as a consequence of the heavy clay soils. It is for this reason that pilot plots were recommended to best determine these mixes. The SWPPP indicates that seed mix recommendations were provided by Crawford and Associates for areas to be revegetated, although how this was determined is not clear and the APOSHL was not consulted, which could have provided valuable guidance on successful seed mixes. Related to this, is the final vegetative cover target density of 80% over the pervious surface. This is inadequate to prevent erosion and mobilization of solids from these highly erosive soils, which will ultimately be discharged to Sleepy Hollow Lake.



Environmental inspection and monitoring of the site is also inadequate. There is no mention of monitoring either total suspended solids or turbidity in any capacity besides visual observation, and does not specify monitoring sites or monitoring frequency as outlined in the certificate conditions 61f.

Section 8 Stormwater Management describes that there will be no use of temporary structural best management practices (BMPs) during construction, although under subsection 9.9, it states that “[d]ewatering of turbid water (water that is cloudy or brown in color) should be discharged via pump and hose or overland flow (via temporary ditch or grade cuts) to a temporary sediment basin for pretreatment.” It also states that “[t]he use of riprap apron (energy dissipation) should be used for the discharge location.” Within subsection 4.2, it states that “[e]arthen berms shall be installed around equipment and pad foundations and earthen dikes shall be used as a stormwater management to minimize the need for excavation.” All of these items are clearly structural measures. But, in Section 8, it states that stormwater management in the proposed array areas will be provided with filter socks, in addition to controls around the various perimeters. If, in fact filter socks are the only measure of soil erosion and sediment control at the project’s perimeter, this is a low level of control that seems inadequate, particularly accounting for proposed areas of disturbance in excess of 280 acres. While this will provide some level of solids abatement, it will do little to address volume and is prone to failure during large precipitation events. Few permanent structures are proposed, consisting primarily of filter strips to treat runoff from the impervious areas associated with pads and substation construction. Filter strips will also be constructed to manage runoff from the inverters, in some cases these will also consist of directed flow between berms with level spreaders. These designs are heavily dependent on achieving sufficient vegetative cover as well as minimizing soil compaction to promote infiltration, both of which continue to be questioned.

Other concerns to be addressed are as follows:

- The SWPPP does not address the phasing necessary to minimize the exposure of bare soils to storm events, and the maximum concurrent areas of disturbance that are proposed.
- Due to the extensive quantity of solar panels to be installed, it can be expected that runoff will, in fact increase, especially when conditions such as shading of vegetation leads to bare areas below the panels, which will increase the rate of runoff and create soil erosion conditions.
- The plans must be amended to show the areas for each phase of clearing, the location of “berms” and “dikes” to provide a barrier between the area of disturbance and regulated water resources.
- The site appears to be maximized in the area of disturbance, within surrounding required buffers for solar arrays, but it is not clear where any of the permanent stormwater management features will be placed.
- In our initial reviews, there was discussion about the installation of native plants and seeding established prior to construction and limiting the areas of grading, as well as following construction in order to provide the maximum potential for the survival of a vegetative cover. These measures do not appear to have been provided.
- It is important that the APOSHL be provided with the stormwater management calculations and the locations of compliance downstream of the project to show that there is no increase in the peak flow and volume of stormwater runoff, as well, as providing water quality treatment.

Post-construction inspection and adaptive management practices do not provide strong protections. Observation of bare spots and washouts specifies reseeding and mulching, but does not specify the time frame it is to be completed other than before the next rainfall event, the target for success, or the use of other temporary measures as the cover develops. Highly erodible areas will be mitigated using the placement of sod and energy dissipating BMPs; given that approximately 79.5% of the site has severe or very severe erosivity hazards, this may be very extensive. Furthermore, this represents a post-hoc solution to managing those hazards after they manifest, contributing to solids and nutrient pollution, rather than a strong proactive plan to reduce those risks initially. Scheduled inspection frequency is also low in the immediate post-construction period, limited to just three monthly events with subsequent annual events. It also describes inspections following large storm events, but does not specify what qualifies as a large storm event.



Section 12 Final Stabilization indicates that revegetation of the site will be the primary endpoint for stormwater management on the site. The need for permanent stormwater treatment BMPs is still debated, and described as only being constructed if required. Again, this highlights a reactive approach to stormwater management at the site, rather than a proactive. As such, many of the steps that could be implemented to reduce risk will not be implemented unless a failure or deficiency is identified. As it relates to Sleepy Hollow, this could be catastrophic. Even if addressed with the installation of a permanent solution, short term impacts can be severe and costly as it relates to seasonal water quality or potable water production.

Conclusion

In general, this SWPPP shows a regression from some of the earlier progress made towards addressing the concerns of the APOSHL. Several of the important matters in certificate conditions have not been addressed here, namely more advanced sampling of solids loading during various phases of site development and operation. This was included not just as a measure of appeasement, but a valuable tool for the developer to identify issues and take corrective action as needed, a method to monitor compliance with the permit requirements, and a means to ensure that the APOSHL is alerted to potential impacts. It could also be useful as a tool for FMS, a demonstration of meeting stormwater management goals and a potential sign of improvement relative to existing conditions. Seed mix elements were another important component of the negotiations, and while some work was performed to select that mix, the process is not clear. The APOSHL wants the site to achieve stormwater management goals, for the sake of all parties. Limiting their participation in this respect diminishes that type of cooperation that is vital to the success of the project and maintaining the environmental resources of the site and Sleepy Hollow Lake. The concerns of the APOSHL are further diminished by not recognizing Sleepy Hollow Lake at all, or identifying the system as impaired by solids and nutrient pollutants. The focus seems to have shifted from proactively engaging the community and improving hydrologic and pollutant loading from the site, to simply meeting base requirements. The APOSHL needs to be active as a participant in this process, see full incorporation of the certificate conditions, and a plan focused on risk minimization and not reactive corrections.

The Flint Mine Solar project as proposed to be completed, must strive to not just maintain the status quo, or meet the minimum criteria for maintaining the current designated use of the receiving waters, including Sleepy Hollow Lake, but provide a net improvement of water quality. It is assumed that Flint Mine Solar has pursued this renewable energy project, not just as a business opportunity, but to provide clean and renewable energy to the State of New York. They must also treat the landscape in a similar manner, including the protection of the local water resources that supply the majority of potable water and recreation for the residents of the area.

Sincerely,

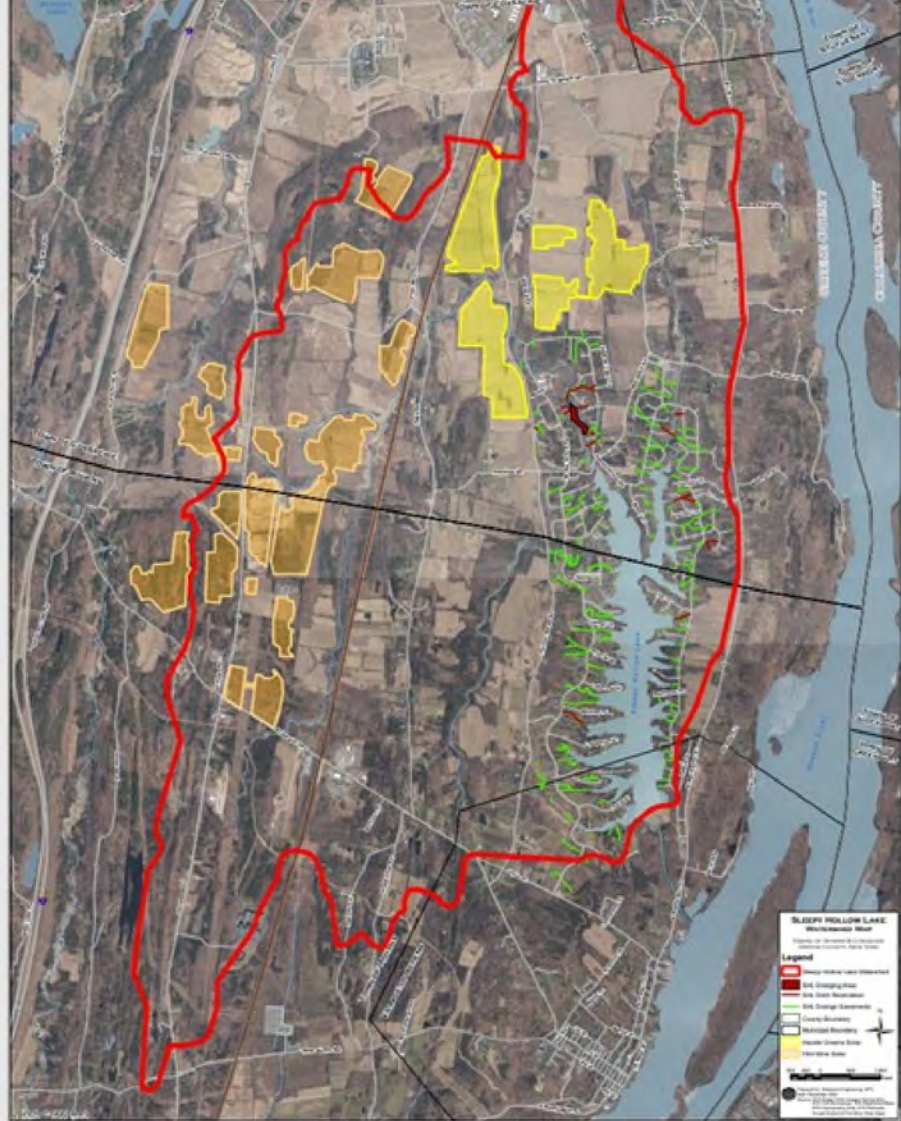
Geoffrey M. Goll, P.E.
President, Princeton Hydro, LLC

Paul A. Cooper
Technical Project Manager and Aquatic Ecologist, Princeton Hydro, LLC



Cc: Fred S. Lubnow, Ph.D.
Director of Aquatic, Princeton Hydro, LLC

EXHIBIT D



FINAL LEASE RESOLUTION

A meeting of the Greene County Industrial Development Agency was convened in public session at the Greene County Industrial Development Agency, 45 Sunset Boulevard, Coxsackie, Greene County, New York on Thursday, April 20, 2023 at 8:00 a.m., local time.

The meeting having been duly called to order by the Chairman and the following members and staff of the Greene County Industrial Development Agency were present:

PRESENT:

Eric Hoglund	Chairman
Dan Kelly	Vice Chairman
Fred Hinrichsen	Secretary
Margaret Moree	Assistant Secretary
Brian Christman	Member
Kenneth Dudley	Member
Keith Valentine	Member
Donna Williams	Member

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

April Ernst	Greene County Industrial Dev. Agency, Executive Director
Paul J. Goldman, Esq.	Goldman Attorneys PLLC, Agency Counsel

On motion duly made and seconded, the following resolution was placed before the members of the Greene County Industrial Development Agency, to wit:

RESOLUTION AUTHORIZING AND APPROVING: (i) THE STATEMENT OF FINDINGS FOR THE **FLINT MINE SOLAR, LLC PROJECT** (THE "PROJECT FACILITY"), (ii) THE EXECUTION AND DELIVERY OF THE CERTAIN AGENCY DOCUMENTS WITH RESPECT TO THE STRAIGHT LEASE TRANSACTION FOR THE PROJECT; AND (iii) THE PROVISION OF FINANCIAL ASSISTANCE BY THE AGENCY FOR THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York ("GML"), as amended, and Chapter 312 of the Laws of 1972, constituting §895-j of said GML (hereinafter collectively called the "Act"), the Greene County Industrial Development Agency (hereinafter called the "Agency"), was created with the authority and power, among others, to enter into the lease agreement, the mortgage and other documents for the purpose of, among other things, acquiring, constructing, reconstructing and equipping manufacturing, warehousing, research, commercial, or industrial facilities as authorized by the Act; and

WHEREAS, FLINT MINE SOLAR, LLC, a Delaware limited liability company (the "Company") has requested that the Agency undertake a certain project (the "Project") consisting of: (A) (1) the acquisition of a leasehold interest in a certain parcels of land consisting of approximately 1300 acres located at the southern end of the Town of Cossackie and the northern section of the Town of Athens, Greene County, New York (collectively, the "Land"); (2) the construction and installation of a 100MW-AC solar photovoltaic (PV) facility (the "Facility"); and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the "Equipment") (the Land, the Building and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within meaning of the Act §854(14)) with respect to the foregoing, consisting of potential exemptions from certain real property taxes, sales and use taxes and mortgage recording taxes (the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company, and agreed upon by the Agency; and

WHEREAS, public hearing on the provision of financial assistance for the Project Facility was duly held on **October 4, 2022 at 6:00 p.m.** local time at the Cossackie-Athens Central School District Auditorium, 24 Sunset Boulevard, Cossackie, New York and **October 5, 2022 at 6:00 p.m.** local time at the St. Patrick's Church (Rear Entrance), 24 North Washington Street, Athens, New York, following the publications of a Notice of Public Hearing on September 16, 2022 and September 20, 2022 in the Catskill Daily Mail, Hudson Register Star, a newspaper of general circulation published in Greene County, New York, each in accordance with GML §859-a; and

WHEREAS, a stenographic record of both public hearings was made by the Agency and those transcripts and written comments were reviewed by Agency staff and the members in connection with the Statement of Findings for the Project which is attached hereto as **Exhibit "A"**; and

WHEREAS, on or about September 16, 2022 and pursuant to GML §874, the Agency sent a deviation notice to the Affected Taxing Jurisdictions being the County of Greene, Town of Cossackie, Town of Athens and the Cossackie Athens Central School District (the "Deviation Notice"); and

WHEREAS, the provision of financial assistance for the Project Facility is a deviation from the Agency's Uniform Policy since solar and/or wind energy systems are not described in the Uniform Policy; and

WHEREAS, in order to consummate the Project Facility, and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents: (i) an underlying lease agreement (and a memorandum thereof) ("Underlying Lease") which, among other things, the Company agrees to undertake and complete the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project, Agency counsel fees and to pay all expenses incurred by the Agency with respect to the Project; (ii) a bill of sale from the Company to the Agency ("Bill of Sale"); (iii) a lease agreement (and a memorandum thereof) by and between the Agency and the Company ("Lease Agreement"); (iv) an environmental compliance and indemnification agreement by and between the Company

and the Agency ("Indemnification Agreement"); (v) a payment in lieu of tax agreement by and between the Company and the Agency ("PILOT"); (vi) a recapture agreement by and between the Company and the Agency ("Recapture Agreement"); (vii) a uniform agency project agreement by and between the Company and the Agency ("Project Agreement"); and (viii) various agreements and certificates relating to the Project Facility (hereinafter collectively referred to as the "Agency Documents"); and

WHEREAS, the Agency now desires to formalize its understanding with the Company regarding the undertaking and completing of the Project by the Company, as agent of the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Greene County Industrial Development Agency as follows:

SECTION 1. The Agency hereby finds and determines:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Project Facility constitutes a "project", as such term is defined in the "Act"; and

(C) The expansion, construction and equipping of the Project and the lease or sale of the Project to the Company will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Greene County, New York and the State of New York and improve their standard of living; and

(D) It is desirable and in the public interest for the agency to enter into the Agency Documents; and

(E) The location of the site of the Project Facility is hereby approved; and

(F) The financial assistance provided to the Company shall be an exemption from real property taxes pursuant to Act §874 and RPTL §412-a, an exemption from New York State sales and use taxes and an exemption from mortgage recording taxes.

SECTION 2. Pursuant to GML §874 and GML §859-a(5) and as set forth in the Statement of Findings attached hereto as **Exhibit "A"**, the Agency has determined to deviate from the Uniform Policy for the Project as set forth and limited to the financial assistance described in the Findings Statement.

SECTION 3. Pursuant to GML §859-a(5), the Agency approves the certain Statement of Findings for the Project Facility which is appended to this Lease Resolution as **Exhibit "A"**.

SECTION 4. Within the Statement of Findings, the Agency endeavored to address each and every comment on the Project Facility that it received as well as the comments made by participants at either public hearing.

SECTION 5. In consequence of the foregoing, the Agency hereby determines to: (i) execute and deliver the Lease Agreement and (ii) execute and deliver the Agency Documents.

SECTION 6. The Agency is hereby authorized to obtain a leasehold interest in the real property comprising the Project Facility and to do all things necessary or desirable for the accomplishment thereof, and all acts heretofore taken by the Company with respect to such acquisition are hereby approved, ratified and confirmed.

SECTION 7. The Agency is hereby authorized to do all things necessary or desirable for the accomplishment thereof, and all acts heretofore taken by the Company with respect to such acquisition are hereby approved, ratified and confirmed.

SECTION 8. The form and substance of the Agency Documents shall be approved by the Chairman and Agency counsel prior to execution by the Agency.

SECTION 9. Neither the members nor officers, agents, servants or employees of the Agency, nor any person executing the Agency Documents on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The Agency Documents shall never be an obligation of the State of New York, or Greene County, New York and neither the State of New York, nor Greene County, New York shall be liable thereon.

(A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency to execute and deliver the Agency Documents and any other document or agreement required to be executed by the Agency in connection with the execution and delivery of the foregoing documents and, where appropriate, the (Assistant) Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions, and insertions as the Chairman (or Vice Chairman) shall approve. The execution of the Agency Documents by the Chairman (or Vice Chairman) shall constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) is further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives of the Agency.

SECTION 10. The Company acknowledges receipt of notice of §858-b of the Act, which requires that the Company list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. The Company agrees where practicable to first consider for such new employment opportunities, persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

SECTION 11. The officers, employees and agents of the Agency are hereby authorized and directed for, and in the name and on behalf of the Agency, to do all acts and things required or provided by the provisions of the Agency Documents, and to approve, execute and deliver all such additional certificates, instruments and to do all such further acts and things as may be necessary or in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms,

covenants and provisions of the Agency Documents binding upon the Agency.

SECTION 12. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency; and that all deliberations of the Agency and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 13. Pursuant to the Agency's 2017 Project Benefit Termination, Reduction, Recapture and Amendment Policy, the Agency approves the adoption of the following Material Factors for the Financial Assistance for the Project:

(A) Primary. The undertaking of the Project will increase the equalized fair market value of the assessment of the tax parcels included in the Project by an amount of not less than Forty Million Dollars (\$40,000,000).

(A) Secondary. The Company will provide the Towns of Coxsackie and Athens with an annual Community Host Fee starting at \$200,000 annually per Town which will escalate at one and one-half percent (1.5%) annually over the term of the PILOT.

SECTION 14. This Resolution shall take effect immediately.

SECTION 15. All prior resolutions or parts thereof inconsistent with this resolution are hereby repealed to the extent of such inconsistency.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Eric Hoglund	Chairman	voting <u>yes</u>
Dan Kelly	Vice Chairman	voting <u>yes</u>
Fred Hinrichsen	Secretary	voting <u>yes</u>
Margaret Moree	Assistant Secretary	voting <u>yes</u>
Brian Christman	Member	voting <u>yes</u>
Kenneth Dudley	Member	voting <u>yes</u>
Keith Valentine	Member	voting <u>yes</u>
Donna Williams	Member	voting <u>yes</u>

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF GREENE)

I, the undersigned, as (Assistant) Secretary of the Greene County Industrial Development Agency, DO HEREBY CERTIFY:

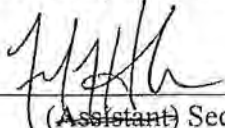
That I have compared the foregoing extract of the minutes of the meeting of the Greene County Industrial Development Agency (hereinafter called the "Agency") including the resolution contained therein, held on the 20th day of April, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 20th day of April, 2023.



(Assistant) Secretary

(SEAL)



Greene County Industrial Development Agency
45 Sunset Blvd, Suite 3, Coxsackie, NY 12051

STATEMENT OF FINDINGS

Project Name: Flint Mine Solar, LLC

Project Type: Power Generation - Solar

Date Adopted: April 20, 2023

Project Location: Towns of Coxsackie and Athens

Tax Parcels: Multiple, See Attachment 1

Taxing Jurisdictions: Town of Coxsackie
Town of Athens
Greene County
Coxsackie-Athens CSD

Project Description: +/- 100 MW solar generation facility

Total Project Investment: \$272,460,000

Greene IDA Incentives: PILOT (30 years)
Sales & Use Tax Exemption
Mortgage Tax Exemption

Material Factors:

1. Increase assessment base in the Towns of Coxsackie and Athens by \$40,000,000 in full value.
2. Achieve and maintain commercial operation during the entire term of the PILOT
3. Satisfy all terms and conditions Section 15.0 Community Benefits herein.

Flint Mine Solar, LLC Project Statement of Findings**TABLE OF CONTENTS**

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- 7.0 Community Benefits**
- 8.0 Property Tax & PILOT**
- 9.0 Incentive Request**
- 10.0 Investment Quality**
- 11.0 Governance**
- 12.0 Cost Benefit Analysis**
- 13.0 Material Terms and Project Monitoring**
- 14.0 Incentive Package**
- 15.0 Community Benefit Package**

Attachments

- 1. Location Map and parcels**
- 2. Public Hearing Minutes**
- 3. Public Comments and Responses**
- 4. Property Tax Calculations**
- 5. Legal Opinion**
- 6. Siting Board Article 10 Certificate Order dated August 4, 2021**
- 7. Siting Board Secretary's Letter dated February 16, 2023**
- 8. Public Service Commission Order Approving Amendment dated March 28, 2023**

1.0 Introduction

The Greene County Industrial Development Agency (“GCIDA”) is charged with developing employment opportunities as well as enhancing general prosperity and economic welfare in Greene County. While creation of new employment opportunities is a priority of the GCIDA, other goals such as economic development, increased property tax assessments and resulting revenues from new projects and contributions to municipal special districts (fire, ambulance, and library) are also substantial benefits to the community at large which comes from new projects and development.

The GCIDA uses tools such as financial assistance from tax exemptions and technical assistance to incent new development. While the GCIDA has the authority to provide these incentives, it also has an obligation to thoroughly consider any project seeking financial assistance. This document is the record of the determinations of the GCIDA for Flint Mine Solar, LLC Project (the “Project”).

2.0 Project Description

The Project is a 100 MW-AC solar photovoltaic (PV) facility proposed for the southern end of the Town of Coxsackie and the northern end of the Town of Athens referred to as the Flint Mine Solar Project (**Project**). The Project was originally proposed by affiliates of Hudson Energy Development and Amber Infrastructure between 2016 and 2022 and was granted a Certificate of Environmental Compatibility and Public Need (“Article 10 Certificate”) by the New York State Board on Electric Generation Siting and the Environment (“Siting Board”) on August 4, 2021 (see Attachment 6). The Project will annually generate approximately 175,000 megawatt hours (MWh) of renewable electricity from the solar facility, an amount of power roughly equivalent to the average annual electricity needs of the 21,000 residential customers. The Project will comprise approximately 200,000 PV modules connected to inverters that will convert the DC output of the PV modules to AC current. That AC current will be delivered via a system of medium-voltage collection lines to a substation east of State Route 9W. At the substation, the voltage will be boosted to 115kV and delivered via a five-breaker ring bus to National Grid’s high-voltage system for distribution in the central Hudson Valley and beyond.

The Project is being installed on approximately 21 tax parcels of mostly vacant fallow farmland that the Project has acquired or will acquire in fee simple, along with three additional leased parcels, situated north and south of Flint Mine Road in Coxsackie, and on both sides of NYS Route 9W in Athens and Coxsackie. The PV modules, to be installed on ground-mounted racking systems that will rest on steel posts driven into the ground, will cover approximately 350 acres, with approximately 800 remaining acres to remain as open space, consisting of undeveloped wetland and adjacent buffer areas, a wetland mitigation site and a large 300-acre habitat preserve that is expected to be used by short-eared owls, northern harriers, and other grassland bird species for winter foraging. Additional land will be used for access driveways, temporary laydown areas, collection lines, substation, and a switchyard that will be built by the Project and transferred to National Grid.

On August 29, 2022, FMS filed a request for an amendment of the project’s Article 10 Certificate. The Amendment reflects the outcomes of detailed constructability analysis and design optimization and includes:

- a. A modified layout that remains within the existing footprint of the Certificated Layout (the “Modified Layout”).
- b. Minor changes to the locations and technology of photovoltaic (PV) arrays set forth in the amendment have resulted in a 14% (51 acre) reduction of the area to be covered by panels.
- c. The use of additional overhead collection lines previously permitted above-ground on messenger-supported wiring.

- d. Limited areas of grading (to facilitate the reduction in the PV array area).
- e. Refinement of access roads, resulting in 2.6-mile total reduction in length.

The GCIDA finds that the modifications are typical of large-scale development projects. In the typical sequence of between project concept/permitting and detailed construction drawings, it is prevalent for large projects to be refined based on further site investigations, available technology, and other factors. For the Project, the environmental review was conducted by the New York State Siting Board through Article 10 process. In addition, the modifications to the Project were reviewed by the Siting Board, as well as staff from the New York State Department of Public Service, New York State Department of Environmental Conservation, and New York State Department of Health, resulting in a February 16, 2023 letter issued by the Secretary to the Siting Board determining that the Amendment was not expected to result in an “increase in the environmental impacts as compared to the Certified Facility” (Attachment “7”), and thus that it could be approved without further Article 10 hearings. The Siting Board concurred in an Order issued March 28, 2023, which formally approved the Amendment (see Order Approving Amendment in Siting Board Case 18-F-0087, Application of Flint Mine Solar LLC [March 28, 2023, DMM Item 249] [hereinafter “*Flint Mine Amendment Order*”]). The *Flint Mine Amendment Order* outlines the State’s assessment of potential impacts from the proposed Amendment on resources such as visual, archeological, cultural and historic, wetlands and streams, and threatened and endangered species, and finds that, as to each, the Amendment would not result in “significant adverse increase to environmental impacts as compared to the Certificated Project” (Attachment “8”). The GCIDA incorporates here by reference the Siting Board’s robust, multi-year record of environmental review of the Flint Mine Solar Project, including the proposed Amendment, in the Article 10 Certification proceeding (Siting Board Case 18-F-0087).

3.0 Company Description

Flint Mine Solar, LLC (**FMS**) is a limited liability company organized in 2017 for the sole purpose of constructing, owning, and operating the Project. FMS is the holder of a Certificate of Environmental Compatibility and Public Need for Construction of a Solar Electric Generating Facility pursuant to Article 10 of the New York Public Service Law issued in August 2021 by the New York State Board on Electric Generation Siting and the Environment, authorizing construction of the Project (Siting Board Case 18-F-0087). In March 2022, FMS executed interconnection agreements with National Grid and the NYISO. In June 2022, FMS was granted a Certificate of Public Convenience and Necessity pursuant to Section 68 of the New York Public Service Law, authorizing the construction and operation of the Project. An Amendment to the Project was approved by the Siting Board on March 28, 2023 [*Flint Mine Amendment Order*].

FMS is wholly owned by Flint Mine Solar Holdings, LLC (**FMS Holdco**), a holding company and the sole member of FMS. Ownership of FMS Holdco recently transferred from Hudson Energy Development and Amber Infrastructure to DESRI Flint Mine Development, LLC an indirect subsidiary of DESRI Holdings, L.P., an experienced owner, and operator of a diverse portfolio of renewable generation assets, with a primary focus on utility-scale solar projects throughout the United States and qualified to safely construct and operate the Project. This transfer of upstream ownership was approved by the State of New York State Public Service Commission by an order issued in June 2022 pursuant to Section 70 of the Public Service Law.

4.0 Regulatory & Policy Evaluation

During the consideration of any request for financial assistance, the GCIDA reviews projects pursuant to its authorizing legislation and the powers, and authorities set forth thereunder, as well as the various policies of the GCIDA. Prior to any action on a project’s application for assistance, the GCIDA must determine if the project is a permitted under General Municipal Law (“GML”) Article 18-A. If a project is found to not be a permitted Project,

then no financial assistance will be provided for that project. The GCIDA policies considered include the Uniform Tax Exempt Policy as well as the Project Evaluation Policy. The following is a summary of the GCIDA's findings on the FMS Project:

4.1 IDA Authorizing Legislation – The GCIDA is authorized to conduct its activities under Article 18-A of NYS General Municipal Law (the IDA Act). This legislation sets forth the powers of an IDA in NYS and states that IDAs are authorized to provide financial assistance to “...*thereby advance the job opportunities, health and general prosperity and economic welfare of the people...*”. In this case, the GCIDA has determined that the Project is consistent with the IDA authorizing statute and is a commercial project under GML Sections 854 and 858, respectively. While the Project's employment opportunities will be limited to short term construction jobs, the Project will provide a significant increase in revenues with no corresponding costs to the taxing jurisdictions. Revenues to vital special districts such as fire and ambulance will see a significant increase over the current condition.

4.2 Consistency with State Prohibitions – The GCIDA reviewed the restrictions on IDA activities as set forth in GML Section 862 which establishes limitations on the use of Agency funds and incentives for certain projects as defined therein. These limitations are primarily targeted at retail projects. It is the finding of the GCIDA that the Project is not subject to any GML Section 862 restrictions, including the anti-pirating provisions.

4.3 GCIDA Uniform Tax Exempt Policy – The GCIDA considered the request for assistance in the context of the Agency's Uniform Tax Exempt Policy (UTEP). The benefits the Project will provide are consistent with the goals of the UTEP. The provision of GCIDA benefits to this Project was addressed as a deviation from the UTEP with the GCIDA following the deviation process as set forth in the policy. As a deviation, the GCIDA held a public hearing as set forth in the UTEP. The minutes of the public hearing are included in Attachment 2 to this document.

4.4 GCIDA Project Evaluation Policy – In its consideration of an application for financial assistance, the GCIDA follows its Project Evaluation Criteria Policy, which can be found on the GCIDA website. The GCIDA reviewed the Project in the context of this policy and found the project type was consistent with the policy and the Project met at least five of the criteria included in the policy. The following documents consistency with the policy:

4.4.1 Project Types – The GCIDA policy sets forth a range of project types that the Agency will consider for financial assistance. Energy generation projects such as solar projects are specifically listed in the project evaluation policy. The GCIDA finds the Project to be consistent with the types of projects that will be considered for incentives as set forth in the policy.

4.4.2 Evaluation Criteria – The GCIDA policy sets forth a list of evaluation criteria to be considered by the GCIDA. Based on the Project Evaluation Policy the GCIDA finds the Project is consistent with multiple evaluation criteria, specifically:

- a. **Investment:** The Project will result in a projected investment of over \$272,460,000.
- b. **Project Feasibility:** The Project has a high degree of feasibility and is consistent with the State's Climate Leadership and Community Protection Act (“CLCPA”) which seeks to advance renewable energy sources. The Project has its Article 10 Certification (FMS is still finalizing post-certification conditions) and its DEC Water Quality Certificate. The ACOE permit application has been submitted, mitigation plans provided, and the GCIDA does not expect any issues that would prevent issuance of all remaining regulatory approvals.

- c. **Tax Revenues:** Revenues under the PILOT Agreement will result in a significant increase over revenues generated from the properties under their current state. In addition, special district taxes such as Fire, Ambulance, and Library will not be subject to the PILOT agreement and will be paid in full. Revenues are discussed in more detail later in this document.
- d. **Community Impacts:** The Project will not result in any additional strain on municipal services and school resources while providing additional property tax revenues, especially to special districts.
- e. **Direct Economic Impacts:** The GCIDA finds that the Project will have short term, as well as long term positive economic impacts. Short term direct impacts, including the creation of construction jobs, can be expected along with the associated spending by workers in the community. Long term direct impacts can be expected in the form of increased tax revenues.
- f. **Misc. Benefits:** FMS will fund a Community Host Fee for the Towns of Athens and Coxsackie over the entire term of the PILOT. Additional short-term benefits will be realized due to increased economic activity during the construction period as well as FMS intention to source as much of the materials locally as they can.
- g. **Contribution to NYS CLCPA To Reduce Greenhouse Gases:** New York's policymakers have set ambitious and far-reaching energy and climate change policies and goals. A law has been passed effectively mandating that by 2040 all electricity consumed in the State be generated by solar, wind, hydro or other zero-emissions facilities. This Project will contribute toward meeting those state greenhouse gas reduction goals.

4.5 NYS Real Property Tax Law Section 487 – In 1977 NYS enacted Section 487 of the Real Property Tax Law ("RPTL") which automatically makes solar projects exempt from property taxation for fifteen (15) years. Communities have the option of opting out of RPTL 487. However, the opt out under RPTL §487 affects solar systems in the Town including residential systems. The opt out must be full and complete for the entire jurisdiction of the municipality that opts out of the exemption. RPTL 487 provides that the taxing jurisdictions may require a PILOT from a solar project upon timely notice to the project applicant. RPTL 487 exemption does not extend to special district taxes. Prior to FMS's submission of an application, the GCIDA met with the Supervisors of each town who stated their preference that the Project be evaluated as an IDA PILOT rather than a RPTL 487 PILOT due to the experience of GCIDA in both negotiating as well as enforcing PILOTS. Additionally, since the Project was intending on seeking exemptions from Sales and Use Taxes and Mortgage Recording Taxes through the GCIDA. As a result, it was determined that it is more efficient for the GCIDA to manage the PILOT. Finally, FMS has stated that the RPTL exemption period of 15 years was not adequate based on the life span of the Project.

4.6 Other Factors – A primary consideration on all projects is the necessity of financial assistance from the GCIDA for the project to proceed. In this case, the GCIDA has evaluated numerous financial proformas for solar projects and has knowledge of current trends in the industry (i.e., financial incentives). It is well documented that at the current time alternative energy projects require a wide range of incentives to be financially viable. In recognition of the positive attributes of alternative energy to the environment, significant incentive programs exist at the local, state, and federal levels.

5.0 Project Environmental Review and Permitting

For this Project, all required local, State, or federal reviews and/or approvals were the sole responsibility of the Project developer. The Project was subject to review and approval under Article 10 of the NYS Public Service Law. Article 10 provides for the review of new and repowered or modified major electric generating facilities in New York State by the Board on Electric Generation Siting and the Environment (**Siting Board**) in a unified proceeding instead of requiring a developer or owner of such a facility to apply for numerous state and local permits and to procure local approvals.

The Project applied to the Siting Board in May 2020 and, following settlement negotiations among Article 10 stakeholder parties, the Project was issued a Certificate of Environmental Compatibility and Public Need in August of 2021. The Article 10 Certificate included extensive conditions to be met by the Certificate Holder prior to, during, and after construction of the Project, up to and including decommissioning at the end of the Facility's useful life. The Article 10 process preempts all local and state procedural and permitting requirements (NY PSL Section 172) for large-scale renewable facilities, though Article 10 Certificate Holders are still required to obtain a limited number of additional federal permits, or state permits which are based on federally-delegated authority (such as State Pollutant Discharge Elimination System permits delegated to New York State under the federal Clean Water Act).. Projects that are reviewed under Article 10 are specifically exempted from any additional review under the State Environmental Quality Review Act (**SEQR**) (6 NYCRR § 617.5(c)(44).

Like all projects granted IDA assistance, project agreements between the GCIDA and FMS will mandate compliance with the conditions in the Certificate and all approvals and permits and will allow for the revocation of any or all IDA provided benefits if approval conditions are violated and have a negative impact on the local community.

5.1 Sleepy Hollow Lake (SHL)

During the Article 10 review process, the Association of Property Owners at Sleepy Hollow Lake (**APOSHL**) participated in the review process as an intervenor due to their concerns over impact the Project might have on the water quality of Sleepy Hollow Lake, which is located approximately 1 mile from the Flint Mine Solar Facility at its closest point. APOSHL raised concerns because the Project is located within the SHL watershed. Through the review process, the APOSHL was granted formal Article 10 party status, and was awarded funding through the intervenor fund to facilitate their participation in the Article 10 process, particularly as it related to concerns that the Project would have a negative impact on the SHL watershed due to erosion during construction and the potential use of fertilizer, herbicides, and other chemicals during the life of the Project.

In June 2019, APOSHL's consultant Princeton Hydro submitted a technical memorandum which laid out their assessment of potential impacts on SHL from nearby solar development, including the Flint Mine Solar Project. Princeton Hydro focused on potential stormwater impacts from construction and post-construction runoff. The June 2019 technical memorandum was considered by the Siting Board during their review of the Project. In March 2021, Princeton Hydro submitted another document to the APOSHL summarizing their review of the proposed conditions to be included in the Article 10 Certificate. In that document, Princeton Hydro reviewed the APOSHL concerns against the proposed Certificate conditions and found that all the APOSHL requests except for a request to review the draft Stormwater Pollution Prevention Plan (SWPPP) prior to Certification, had been adequately addressed by FMS in the proposed Certificate conditions. On this basis, the APOSHL signed the final binding Stipulations for the Flint Mine Solar Project, which were ratified as Conditions to the Certificate by the Siting Board in its Article 10 approval for the Project.

Upon the Siting Board approval of the Project, the APOSHL submitted a request to the GCIDA that any financial assistance to the Project should include a requirement that FMS provide a dedicated funding

source to the APOSHL for the purpose of lake monitoring and protection. The initial funding request submitted by APOSHL was for \$101,000 annually. Upon review of the request and supporting budget, the GCIDA found that a significant portion of the funding requested was to remediate erosion sources associated from drainageways within the SHL community itself, as well as shoreline stabilization on the lake, both known sources of turbidity in SHL, but in no way associated with the FMS Project. The GCIDA acknowledges receipt of 288 form letters supporting this request, and finds the following:

1. As a public benefit corporation organized under GML Article 18-A, the GCIDA is authorized to negotiate financial incentives where there is a net financial benefit to the community. While the GCIDA may identify potential financial impacts and require projects to mitigate these impacts through various requirements including funding, the GCIDA can only share PILOT payments with affected taxing jurisdictions (i.e., Town, County or School District). The GCIDA does not have the authority to divert project available funds to private and/or not-for-profit corporations such as the APOSHL. The GCIDA's attorney's legal opinion is attached. See Attachment 4.
2. The identification, analysis, and mitigation of potential environmental impacts related to the Project was thoroughly addressed during the Article 10 review process and in the Amendment petition (Attachment 7-8). The APOSHL participated in this process as a formal intervenor and was provided funding which they used to hire Princeton Hydro to undertake a review of the Project and later to review the proposed actions to be taken by FMS to address the APOSHL's concerns. In a letter to the APOSHL, which reviewed the proposed conditions in the Project's settlement agreement, Princeton Hydro reported that the actions proposed in the settlement agreement addressed all Sleepy Hollow Lake's concerns except for being able to review the draft stormwater plan prior to Certification—though Flint Mine Solar did agree to a Certificate Condition in which that draft plan would be provided to APOSHL during the compliance phase of the process (Certificate Condition 78, see Attachment 6). In the final Certificate of Environmental Compatibility and Public Need, the PSC found that any potential adverse impacts from the Project on SHL will be minimized or avoided to the maximum extent practical and that the Facility is designed to be in full compliance with applicable state laws and regulations, including those related to stormwater runoff and erosion. If there had been a determination of adverse impacts, the Article 10 process and the final Article 10 Certificate would have reflected the need for additional mitigation measures, and the Siting Board would have had the authority to require additional mitigation. In addition, the Siting Board evaluated the Amendment Petition and determined that the "proposed modifications for the Project are not expected to result in an increase in the environmental impacts as compared to the Certificated Facility" (i.e., the Facility approved in the Certificate of Environmental Compatibility and Public Need (Attachment 6)). APOSHL submitted additional comments on the proposed amendments which were placed in the record considered by the Siting Board in their March 28, 2023 determination, and ultimately rejected by that State body. The Siting Board is the body legally empowered to make determinations regarding the environmental impacts of Article 10 facilities and the GCIDA sees no reason to disturb the Siting Board's extensive record, developed over five years in Siting Board Case 18-F-0087, or the Board's findings in the *Article 10 Certificate Order* (Attachment 6) or *Flint Mine Amendment Order* (Attachment 8).

In light of the foregoing, the GCIDA does not support the request from APOSHL that a funding obligation to APOSHL be imposed on the project, particularly since the New York State Siting Board found that the Flint Mine Solar Project will not result in significant adverse impacts to Sleepy Hollow Lake, and further given that the funding sought by APOSHL appears to address a private corporation's own drainage and erosion problems which have no nexus with the FMS Facility.

6.0 Consistency with Community Objectives

The goals and concerns of a proposed host community are important considerations. Typically, the GCIDA reviews existing planning documents such as community comprehensive plans as well as meeting with local officials to gauge interest and opposition to any proposed GCIDA projects. In this case, the consistency of the Project with community objectives has been complicated by several factors.

In 2007 (Athens) and in 2008 (Coxsackie) adopted Comprehensive Plans. However, neither municipality considered the potential demand for large scale solar generation facilities. Athens updated their comprehensive plan in May of 2021. Starting in approximately 2015, the Town of Coxsackie started to see significantly increased interest in solar projects. In the case of the Town of Athens, the same demand was not seen until this Project. The availability of large vacant land holdings with low prices compared to other areas in NYS lead to a rush of project proposals. Initially, the Town of Coxsackie was seeing proposals for smaller projects in the 2-5 MW range mostly targeted at the NYS Community Solar Law. The influx of these smaller projects in Coxsackie was followed by the introduction of the Hecate Solar Project (50 MW) and subsequently the Project (100 MW) in 2016-17. At one time, the Town of Coxsackie had +/- 13 separate solar projects being proposed.

The proposals for the Hecate and FMS projects also resulted in the Town of Coxsackie and subsequently the Town of Athens introduction to the NYS Article 10 approval process which preempts local permitting requirements and vests permitting and siting decisions in the State Siting Board. While the Article 10 process does have a robust public participation requirement and allows for an Ad-Hoc member of the Siting Board selected by the community, the process does not give the local community decision-making authority. Moreover, while the Siting Board must consider local land use and comprehensive planning documents, those documents are considered alongside other policies and the State's renewable energy goals.

While these large utility scale solar generation facilities were not foreseen by either the Town of Coxsackie or Athens when they approved the comprehensive plans, community reaction has been mixed at best. While the Hecate project (Coxsackie) resulted in swift and organized opposition from community members, the Project took a more comprehensive approach to addressing community opposition and building support for the Project. In Athens, a 2020 effort to update the community comprehensive plan noted that the opposition to large solar projects and support of such projects were mixed. Regarding the Project's consistency with local community objectives, it is the finding of the GCIDA that the community's planning documents did not contemplate such large-scale solar projects so there is no support that these facilities were a priority for either municipality. The IDA additionally finds that FMS undertook a significant effort to work with the communities to revise the Project as practical to address local concerns, which resulted in the Towns of Athens and Coxsackie, as well as APOSHL and other stakeholders signing mutually agreeable Stipulations to settle the Article 10 case; stipulations which were thereafter adopted by the Siting Board in full. FMS has also committed to several actions that will bring additional benefit to the community.

7.0 Community Benefits

The GCIDA identified several benefits to the communities associated with the Project. The benefits include financial contributions in the form of increased property tax revenues and Host Community Fees, as well as indirect benefits such as protection of open space and archaeological resources. The projected increase in real property taxes over the current condition will be accretive to the affected taxing jurisdictions. The special districts

in the Towns of Coxsackie and Athens (fire, ambulance, and library) will see significant increases in revenues over the current condition.

The GCIDA finds that the Project will have time limited secondary benefits associated with its development. While it is anticipated that primary construction will be completed by specialized crews from outside the area, it is reasonable to expect some materials and services to be procured locally. In addition, the presence of a workforce in the area will also result in increased economic activity as a result of their local purchases of food, fuel, and other items during the construction period.

The GCIDA additionally finds that, other than lease payments in six figures, the Project will not have significant long term indirect or secondary economic impacts. After construction, there will be no permanent employment and the facility is expected to have a limited demand for goods and services from the community. To address this lack of additional long-term benefits, FMS has proposed long term community benefit funding to the Towns of Athens and Coxsackie via Host Community Agreements.

Given the short-term nature of the construction impact, as well as the inability to accurately project this impact in actual dollars, the GCIDA recognizes that there will be benefits but did not include them in the cost-benefit analysis.

8.0 Property Tax and PILOT

To evaluate the property tax impact, the GCIDA develops projections of revenues to all taxing jurisdictions under alternative use scenarios. These projections also include the terms of the proposed PILOT such that the GCIDA and others can make an effective comparison of tax revenues under different alternative uses as compared to and the projected value of the GCIDA financial assistance.

To conduct this analysis, the GCIDA must make certain assumptions on future metrics such as assessed value, equalization rate, and tax rates for all taxing jurisdictions. Given that the projections are 30 years there is some uncertainty as to how any of these values may change in future years. For the intended purpose of comparing tax revenue projections of alternative development scenarios, any future changes in these factors would be consistent across all alternatives. While specific values may change, the comparison of one alternative against another would still be valid. In this case, the GCIDA used the following values in its calculation.

8.1 Assessed Value – In recent years, the valuation of alternative energy projects such as the Project has been the subject of much debate across NYS. The 2021-22 NYS budget enacted a new section of NYS Real Property Tax Law (NYSRPTL) Section 575-b to address the widespread variations in the methods being used to assess solar and wind projects. The law seeks to establish certainty as to the potential tax obligations for project developers and investors, help inform decisions on PILOT negotiations, and to reduce the risk of litigation. Prior to this law, most local assessors were using a cost basis methodology for assessment which set the assessed value to be the same as the construction cost. This position is not accurate since is the potential for sales of solar and alternative energy projects such that these projects are not specialty assets required to be valued using the reproduction cost new less depreciation method of valuation (i.e., those for which there is no active purchase and sale market) which finding is a condition precedent to the use of the reproduction cost new less depreciation method of valuation.

The new law requires local assessors to utilize the Discounted Cash Flow assessment methodology. Discounted Cash Flow (DCF) is a valuation method used to estimate the value of an investment based on its expected future cash flows. The analysis estimates a value estimate based on the amount of money an investment will generate in the future, and then discounts that cash flow to arrive at an estimated current

value of the investment. In addition, the law requires assessors to use an Excel based assessment model developed by the NYS Department of Taxation and Finance which in turn uses discount rates to be set annually by NYS Department of Taxation and Finance. The law requires the use of the State Model and discount rate starting with the 2022 tax rolls.

In April 2022, a series of towns filed a lawsuit challenging the model. As a result of the legal action (Town of Blenheim et al v Hiller), NYS Supreme Court issued a temporary restraining order against the use of the model for assessment determination. At the time of the analysis of this Project, the restraining order was in place, however, the requirement to use an income based valuation approach to assessing renewable projects is not subject to the lawsuit.

With the current uncertainty on setting solar assessments due to that court action, the GCIDA chose to retain the services of Emminger, Newton, Oigeon, & Magyar, Inc. (ENOM) to conduct an independent appraisal of the Project. The GCIDA requested an appraisal of the Project both using the DCF model as well as a Discounted Cash Basis appraisal not using the DCF model. The GCIDA did not consider or evaluate a Cost Basis appraisal, as this methodology is not appropriate since the Project is not a specialty asset. At the time of this evaluation, the projected Project cost is \$272,460,000. The assessments (Full Market Value) used by the GCIDA in its projections included:

- a. An assessment of \$46,788,953 based on the application of the discounted cash flow (DCF) model.
- b. An assessment of \$166,639,000 based on a different Discounted Cash basis calculation (ENOM) in the first year of the Project.

Another goal of the GCIDA in seeking an independent valuation of the Project was to determine the magnitude of the impact of the new law on solar assessments. As seen above, the use of the DCF model versus the ENOM Discounted Cash basis of valuation results in the model providing a 73% decrease in value.

8.2 Equalization Rate – For the purpose of this analysis, the GCIDA assumed the Equalization Rate would remain steady. While it is certain that this rate will fluctuate over the PILOT term, the GCIDA has no control over the direction of such Equalization Rates.

8.3 Tax Rate – For the purpose of this analysis, the GCIDA assumed an annual escalator of 1.5% across all taxing jurisdictions. This factor is impossible to estimate with any certainty but given the current 2% property tax cap law in New York State, and the fact that rate increases in recent years have been below the tax cap, the projection of a 1.5% annual increase was deemed reasonable.

8.4 Parcels – Within the Project are 24 tax parcels with 21 being acquired Fee Simple and 3 parcels being used under a lease arrangement. With so many parcels being involved the GCIDA combined the assessed value of all such parcels into a single value for purposes of the tax revenue projections. With this Project, FMS completed several subdivisions to create vacant parcels for their acquisition while leaving any homes or other structures with the original landowners. Given these newly created parcels were all vacant land, the GCIDA used the land value portion of the assessment records to project a new assessment for the vacant parcel to be acquired. The projections set forth herein are based on a combined analysis.

- a. In addition to the assumptions as set forth above, the GCIDA also must consider potential alternative uses for the subject parcel(s). To establish the alternative uses, the GCIDA has to consider a wide range of factors such as parcel location, zoning, environmental factors, neighboring uses, and others. The GCIDA also must rely on its experience, professional judgement, and current development trends to determine which alternatives are reasonable.

- b. While the parcels are located in two Towns and within multiple zoning districts, there is currently no infrastructure of any kind servicing the tax parcels the Project. Electricity and telecommunications are available but there are no water, sewer, or natural gas services available. Most of the land base is also highly constricted by the presence of wetlands and archaeology sites which is confirmed with the FMS layout. Given the lack of infrastructure and significant environmental constraints, GCIDA finds that there is no reasonable alternative development for the tax parcels other than slow conversion to single family homes over time.

During the course of this Project, some in opposition to the Project suggested the land should remain as farmland. Ignoring the constraints of the soils and other conditions which made farming these lands difficult at best; if there was a resurgence of agricultural uses as an alternative to the solar array, it is reasonable to project that this would only happen if the agricultural producers took advantage of the NYS Agricultural Assessment Program (Ag value). Under this program, actively farmed lands are assessed based on their productivity by soil type. While vacant land in the Project area is often assessed at \$2,500/ acre or higher, the maximum assessment under Ag value is \$1,119/Acre and that is for the most productive soils, none of which are within the Project area. Soils in the solar project area are more typically class 4 or 5 on the ag value table which range from \$561 to \$812/acre. An agricultural assessment can reduce the assessment on qualifying farmland by 75% which would be a significant detriment to the taxing jurisdictions. It is the GCIDA's finding that the alternative use of the land base for farming is not only unreasonable based on land conditions, but also a bigger detrimental impact on the tax revenues that can be derived from such land area in the Project than that provided from the PILOT.

In the following summary the GCIDA focused on four alternative tax scenarios:

Alt 1: Status Quo Current Condition – The GCIDA projected future tax revenues based on the site(s) remaining in private ownership under their current condition. Under this alternative the GCIDA did not investigate which parcels may have an Agricultural Value Assessment which would substantially drop the assessments on those parcels. If farming uses were to be revived as an alternative to the solar project, it is reasonable to expect that most farmers will take advantage of the Ag Value program and there would be significant reductions in assessments and resulting revenues from the current condition where much of the farmland is currently fallow and not eligible for ag value assessment.

Alt 2: Solar Project (Cash Basis) No Exemption – Using the ENOM developed discounted cash basis valuation of \$166,639,000, the GCIDA evaluated what the Project could be expected to generate in the absence of any exemptions or reductions. While evaluated, this alternative is not feasible given the inability of solar projects to remain profitable if required to pay full property taxes. Though the Project is not feasible without a PILOT, the GCIDA has used this scenario to determine the value of the GCIDA benefits to the company.

Alt 3: Solar Project (DCF Model) No Exemption – Using the DCF model, the \$46,788,953 valuation was used to project revenues from the Project without a PILOT.

Alt 4: Solar Project with Proposed PILOT – The GCIDA also estimated the tax revenues under the proposed PILOT. The proposed PILOT is structured such that there will be set tax payments for a defined period with an annual escalation of the tax payments over the term of the PILOT. The proposed PILOT is structured under the following terms:

- a. **Term** – 30 years, the PILOT will commence with the 1st taxable status date after the Project is completed and has initiated commercial operations.

- b. **Payments (Annual)** – The PILOT will start in year one at \$5,000/MW/Year. The PILOT payment will escalate at 1.5% per year over the term of the PILOT. Final payments will be based on the production rating of the finished Project, which may vary from the current proposed rating due to types of panels used and other factors.
- c. **Distribution** – To determine the distribution of the lump sum payment between the taxing jurisdictions, the GCIDA must estimate the portion of the Project in each Town. Apportionment of the Project was based on how much of the actual solar generation would be installed in each town and was not based on land area. Based on the final layout of the solar generation equipment approximately 54.7% is located within the Town of Coxsackie with 45.3% in the Town of Athens.

After determining the portion of the Project in each Town, the GCIDA used recent tax payments on a random set of properties to determine the percent of taxes paid to the three taxing jurisdictions in each town. The following table summarizes the breakdown of taxes between the Town, County, and School:

	Town	County	School
Town of Athens	8%	18%	74%
Town of Coxsackie	11%	17%	72%

The values as presented in the tables represent the projected aggregate of tax payments over the entire 30-year term of the PILOT. Detailed calculations of each alternative are provided in Attachment 3 to this document.

Alt 1: Vacant Condition	Alt 2: DCB Assessment	Alt 3: DCF Model	Alt 4: PILOT
\$2,819,990	\$147,146,730	\$40,435,563	\$18,796,341

As shown in Table 8.2, the proposed PILOT will result in an increase of \$16,564,131 as compared to the properties remaining under their current condition over the term (30 years) of the projections. This is an 851% increase in revenues under the PILOT as compared to the current condition. Table 8.3 below summarizes the projected tax savings to the Project under the various tax alternatives examined by the GCIDA.

Alternatives	Current Condition	Full DCB Assessment	DCF Assessment
Projected savings	N/A	\$128,377,389	\$21,666,222

As noted earlier in this document, while the DCF model is currently under a court stay, the projected savings to the Project should be based on the DCF model as that was the model approved by NYS Taxation and Finance.

The Project is projected to realize a projected savings of \$21,666,222 in real property taxes based on the assessment assumption. However, the payments under the PILOT Agreement will result in a significant increase in revenues for each taxing jurisdiction as compared to the current condition. Tables 8.4 and 8.5 below summarize the impact of the PILOT as compared to the parcels remaining in their current condition.

	School	County	Town	Ambulance	Fire	Library
Alt 1 Vacant	\$1,318,121	\$314,774	\$209,086	\$36,132	\$62,381	\$ 30,434

Alt 4 PILOT	\$7,392,117	\$1,745,361	\$1,129,351	\$441,092	\$761,530	\$371,528
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	School	County	Town	Ambulance	Fire	Library
Alt 1 Vacant	\$600,907	\$143,500	\$64,960	N/A	\$28,246	\$11,451
Alt 4 PILOT	\$6,291,858	\$1,530,452	\$680,000	N/A	\$626,407	\$253,937

The Coxsackie-Athens Central School District and Greene County are common taxing jurisdictions in both Towns. The GCIDA is required to estimate the tax revenues by Town which is an estimate since the tax rates vary between municipalities based on equalization rates and property trends that are beyond the scope of this analysis. Table 8.6 below represents the aggregated tax revenues to the School District and County which are common taxing jurisdictions.

	Alt 1	Alt 2	Alt 3	Alt 4
Greene County	\$458,274	\$25,019,688	\$7,025,036	\$3,275,813
C-A School	\$1,919,028	\$104,770,329	\$29,417,453	\$13,683,975

9.0 Incentive Request

For the purpose of this document the GCIDA focused solely on the Project incentives (benefits) that were requested to be provided by GCIDA. It is expected that the Project will also take advantage of various federal and State tax incentives for alternative energy, but these do not impact the local community and were not evaluated by the GCIDA. It must be noted that the analysis of this Project has been impacted by several factors outside the control of FMS and the GCIDA. Increased cost of materials and equipment, increased labor costs, increasing interest rates, and supply chain issues affect the Project all of which will negatively impact construction costs. On this Project the applicant requested the following GCIDA benefits:

9.1 Sales & Use Tax Exemption – The applicant has requested an exemption from State and County Sales & Use Tax for the Project construction. In the Draft Statement of Findings, there was a misinterpretation of the sales tax benefits associated with the Project. The calculation of sales tax benefit was incorrectly based on the Project qualifying for a 2012 State enacted exemption on retail sales and installation of commercial solar equipment. Under this exemption, qualified purchases are exempt from the 4% State sales tax and may be exempt from the local County sales tax if the County where the project is located did not opt out of the exemption. Greene County did opt out and the 4% County sales tax is not exempted under this section of the tax law. Based on the assumption that the Project would seek exemption under this section of the NYS Tax Law the IDA calculated that the taxable portion of the Project would be subject to the County sales tax and an exemption value of \$5MM in the County share of sales tax was calculated and analyzed in this document.

Subsequently, the applicant and the IDA have done additional research on sales tax obligations on solar projects and existing state exemptions, and it was determined that the exemption for solar projects as discussed above did not apply to this Project. The correct exemption that would apply in this case is a general sales tax exemption related to energy production. Solar generation facilities are eligible for this exemption; however, the County may opt out of such exemption. In a simplified explanation of the exemption in this specific case, purchases of supplies, materials etc. that are directly related to the production of energy are exempt while other costs not directly related to that production are not. For example, solar panels, DC wiring, inverters which are necessary to produce power are exempt while other

expense such as site improvements, roads, fencing, screening, and even the switchyard necessary to move the power to the grid are not exempt.

Based on this new information, the portion of the Project cost that is subject to both State and County sales tax was reduced from \$124,627,866 to \$62,500,000. Based on the revised projection of sales tax liabilities, the exemption value is reduced to \$5,000,000 in total or \$2,500,000 in County sales tax. This exemption does not extend to sales tax obligations for operating expenses.

9.2 Mortgage Recording Tax – The applicant has requested a Mortgage Recording Tax (MRT) exemption on \$156,341,409 of Project financing. Based on this request, the MRT exemption is calculated to be \$1,954,268.

9.3 PILOT – The applicant requested a thirty (30) year PILOT.

10.0 Investment Quality

A primary factor in the evaluation of projects is the financial strength of both the private and public investment. The GCIDA seeks to develop projects which represent fiscal responsibility and will result in economic vitality. It is important that projects have a strong financial position in order to protect that investment and ensure continuity of the benefits to the community. Findings related to the Project investment quality are summarized as follows:

10.1 Public Investment Proforma – Not applicable for this Project. No public investment is required nor will the Project result in any increase in public services or costs.

10.2 Fiscal Impact Analysis – The GCIDA's evaluation of the Project must also address any potential budgetary impacts on the affected taxing jurisdictions. It is important that this evaluation considers all public costs in both the short and long term. In this case, the Project will not result in any additional costs to any of the affected taxing jurisdictions. The Project does not require municipal services such as water/sewer, creates no demand on school resources, and puts very limited stress on existing resources such as road systems. The GCIDA determined that the Project will have a positive impact on budgets in the future.

10.3 Ratio of Public to Private Investment – Not applicable for this Project. No public investment is required.

10.4 Project Financing – When evaluating potential companies to receive assistance, the GCIDA must evaluate the financial strength of both the company as well as the feasibility of their project. In this case, the Project has financing, and the Project will proceed upon completion of the relevant approval processes and any necessary permitting.

11.0 Governance

As a public benefit corporation organized for Greene County, the GCIDA has a responsibility to structure its activities for the benefit of the entire County. The GCIDA must also assure that its actions or the actions of its agents are consistent with regulatory requirements at all levels and are undertaken in a manner that is transparent, verifiable, sustainable, and accountable. While GCIDA's evaluation of a future project must address potential impacts, it must also identify and provide institutional structure to ensure that the project goals and objectives are met.

11.1 Strategic Planning – The Project is consistent with the GCIDA’s objective of improving the economic health and prosperity of Greene County. While the creation of quality employment opportunities remains the primary objective of the GCIDA, the absence of an adequate workforce has made recruitment of traditional employers a challenge. When the Project is installed, the County will realize significant investment and notwithstanding the financial benefit of the PILOT, the community will receive significant new tax revenues as compared to the current condition. In addition, it is not a realistic assumption that the Project would be constructed with the Project obligated to pay normal real estate taxes. FMS has consistently represented that without the PILOT, the Project would not be constructed.

11.2 Stakeholder Engagement – In this case, the Project was reviewed and approved under the jurisdiction of the Siting Board under the NYS Article 10 siting process. As part of the Article 10 process FMS developed and implemented an extensive Public Involvement Plan (PIP) which provided numerous opportunities for public input. The PIP also included several public presentations by the project as well as their attendance at many meetings of the Towns. The Article 10 process also included several required opportunities for public and stakeholder participation and comment, including public hearings held prior to issuance of the Article 10 Certificate on October 22, 2020 at 1pm and 6pm, opportunities for written public comment on the Siting Board docket, and participation by local stakeholders as parties to the case and to the Stipulations which were used to resolve all issues in the FM Article 10 proceeding. In the Article 10 Certificate Order, the Siting Board acknowledges and summarizes the stakeholder and public engagement efforts of FMS, and notes that approximately “90% of the comments submitted by the public . . . were in favor of the Project.” (Attachment 6 at page 6).

The GCIDA acknowledges that the proposal for two large solar projects at the same time did result in community opposition. Based on the GCIDA’s observations during the Article 10 process, most of the opposition to the projects was focused on the Hecate project. In the case of FMS, local landowners and other proponents of clean renewable energy projects formed a Friends of Flint Mine group and actively promoted the Project while there was no organized opposition. The GCIDA additionally found that most of the opposition was targeted less at the specific project and more at the Article 10 process.

The GCIDA itself held two public hearings on the proposed incentive package for the Project. The minutes of the public hearings are included in Attachment 2.

11.3 Infrastructure Capacity – Not applicable. No infrastructure needed.

11.4 Project Accountability – In the evaluation of any project the GCIDA must use information provided by FMS to project the benefits to the community which are the basis of the GCIDA’s incentive package. Through a negotiated process, FMS and the GCIDA structured an incentive package that results in a positive benefit to the community and is adequate to meet the needs of FMS and ensures that the Project will proceed. In addition to determining the level of incentives necessary to attract the Project, the negotiation process set forth measurable performance standards which are based on investment levels and projected additional tax revenues. To ensure that the projections were accurate, and the public benefits realized, the GCIDA will conduct on-going monitoring of the Project through the term of the PILOT.

11.5 Anti-Pirating – In recent years, public economic development programs have faced increasing criticism for activities which result in securing new development and benefits for one community at the expense of another (i.e., Anti-Pirating). There has been significant public discussion regarding the trend where one community seeks to attract a business away from another. In this case, this is a new project and as such there is no issue with benefit poaching or anti pirating.

11.6 Relocation/Displacement Impacts – Not applicable. No relocations or displacement are involved with this Project.

12.0 Cost Benefit Analysis

A cost-benefit analysis is a standard tool for evaluating the costs of a specific project versus the related benefits. It is critical to determine if the cost of the public incentives offered for a Project are less or greater than the benefits the project will bring to the community. Cost-benefit analysis is often a complex and less than perfect analysis requiring various assumptions and the use of standard multipliers and other data that may be perfect for the analysis. Attempting to develop a precise mathematic quantified result would require the use of subjective inputs which would produce less than an objective outcome.

For the purpose of this Statement of Findings, GCIDA has elected to produce a narrative cost and benefit analysis. The following section identifies and discusses key metrics that are typically considered when doing a cost-benefit analysis. Given the absence of a competing development proposal the analysis is based on a comparison of the Project to the current vacant land use.

12.1 Benefit Factors –GCIDA has identified two primary benefits to the community which will provide new funding for the 30-year term of the GCIDA agreements and other project related agreements. While certain assumptions were required to establish the value of certain benefits (i.e., future tax and equalization rates), GCIDA purposefully took a conservative approach in estimating benefits. The GCIDA chose to not place monetary values on certain benefits such as the multiplier effect of payroll, on local spending, or construction employment even though it is obvious there will be additional positive economic activity associated with these factors. These benefits were not included in the GCIDA cost benefit analysis because the value of the benefits cannot be determined with any reasonable accuracy and are limited to the construction period.

All benefits were evaluated based on the 30-year term of the proposed PILOT. The following is a summary of the expected benefits comparing the Project to the existing land use/ownership status.

12.1.1 Property Tax Revenues – As discussed in Section 8.0, increased revenues for local taxing jurisdictions were identified as a primary benefit of the Project. The Towns of Coxsackie and Athens, Greene County, and the Coxsackie-Athens Central School District can expect net additional tax revenues of \$15,949,351 under the PILOT as compared to the existing condition. The following table summarizes the difference between project tax revenues assuming the project parcels stay vacant and the GCIDA PILOT. Detailed projections of tax revenues are provided in Attachment 3.

Table 12.1 Summary of Tax Revenues Under Pilot Versus Vacant			
Benefit	Flint Mine Solar PILOT	Current Status	New Revenues
Tax Revenues	\$18,769,341	\$2,819,990	\$15,949,351

12.1.2 Special District Revenue One significant benefit of these large scale solar projects is the addition of new funding for special districts such as Fire, Ambulance, and Library. These taxes are not subject to the PILOT and will be paid 100% based on the current tax rates. Increased revenues for critical services such as fire and ambulance reduce the cost burden on the remaining taxpayers. Again, using the DCF Model derived assessment as the baseline, the GCIDA projected the following

special district tax revenues which are probably high because the installation of a taxable assessment for the Project will reduce the tax rate for such special districts:

	Vacant	Solar	Net Revenues
Athens Fire	\$28,246	\$626,407	\$598,161
Coxsackie Fire	\$62,381	\$761,530	\$699,149
Coxsackie Ambulance	\$36,132	\$441,092	\$404,960
Athens Library	\$11,451	\$253,937	\$242,486
Coxsackie Library	\$30,434	\$371,528	\$341,094
Totals	\$ 168,644	\$2,454,494	\$2,285,850

12.1.3 Community Host Fee (CHF) – Early in the Project’s review, FMS took the lead in offering to fund a Community Host Fee (CHF) for both the Town of Athens and Coxsackie. The CHF is intended to offset and mitigate any specific Town impacts from the Project as well as to cover costs incurred by the Towns during construction. In addition to including the CHF, the CHF Agreement sets forth the requirements for construction monitoring, decommissioning and decommissioning security during the life of the Project. The CHF that FMS offered to the Towns will commence with the start of commercial operation (i.e., coterminous with the PILOT commencement and will run concurrent with the PILOT for 30 years). The CHF will be funded in year one at \$200,000 per Town and payments will escalate annually at a rate of 1.5%. Over the 30-year term of the CHF each Town will receive \$7,507,736.

12.2 Cost Factors – A key part of the GCIDA’s evaluation of any project is to identify and analyze potential costs the community may incur in the implementation of such project. These costs can be direct costs such as required spending on infrastructure or increased budgetary actions to address services required by the Project or indirect such as opportunity costs. In the following section, the GCIDA summarizes the status of current and future costs to the local community including the Towns, County, and School District:

12.2.1 Opportunity Costs – In evaluating the benefit of the Project the GCIDA considered opportunity costs which represent the loss of potential gains from an alternative project use or the loss of revenue due to the exemptions granted by the GCIDA. In the absence of a specific alternative project that would enable a detailed analysis of one project’s benefits against another, opportunity costs assumed the parcel will remain vacant.

To evaluate the impact of opportunity costs, the GCIDA must use best available information to determine the likeliness of an alternative use as well as the realistic timing. Based on the findings related to site limitations for development as set forth in Section 8.0 above, GCIDA finds that opportunity costs are summarized as follows:

Exempted Tax Revenue – This represents the loss of tax revenues as a result of the difference between taxation of the Project at 100% and the GCIDA PILOT. As noted earlier this determination is complicated by the current status of valuing solar projects for tax purposes. The assessment performed by GCIDA herein was based on the tax abatement using the DCF model derived assessment since it is likely that there will be a standard valuation model as a result of a legislative enactment in the future to incent these projects.

It should be noted that this analysis also assumes that the Project could be built without the GCIDA PILOT, which is a flawed assumption. FMS has represented and the GCIDA has received a consistent pattern of representation that solar projects are not financially viable in the absence

of mortgage recording tax and sales and use tax exemptions along with some form of abatement of their real property tax liability and certainty in the magnitude of these long term liabilities. As such, the calculations of the project at 100% taxation are theoretical revenues that would never be realized as the Project cannot and will not proceed without a PILOT. GCIDA is not aware of any large-scale solar project that has been constructed in New York without the benefit of a long-term PILOT. This is confirmed by the projected taxes using the Discounted Cash Basis valuation and without NYSERDA influence. The following is a summary of the tax exemptions proposed by the GCIDA.

- **Mortgage Recording Tax (MRT)** – Based on the GCIDA approval of \$2,000,000 in MRT exemption, the loss of revenue will be \$800,000 to Greene County, \$437,600 to the Town of Cossackie, and \$362,400 to the Town of Athens.
- **Sales & Use Tax (SUT)** – GCIDA's approval of a \$5,000,000 exemption in SUT will result in a direct loss to Greene County of \$2,500,000.
- **Property Tax** – Based on a comparison of the Project's DCF model derived assessment and the GCIDA PILOT, it is projected the loss of property tax revenues over the 30-year term will be \$21,729,222. The impact of taxing jurisdictions is discussed later in this document.

12.2.2 Operational Costs: Operational Costs represent those costs to the host community and taxing jurisdictions related to operation and maintenance of features (i.e., infrastructure, municipal services, etc.) that are required specifically to support the Project or other costs that may be incurred by the local taxing jurisdictions as a direct result of needing to provide new or increased services to the Project.

In the case of the Project, it is the finding of the GCIDA that there will be an impact on operational costs of the Towns of Athens and Cossackie related to their enforcement of NYS Building Code. As noted later in this document this is addressed by a requirement that FMS establish an escrow with the Towns and reimburse 100% of the Towns incurred costs to hire outside experts to help with compliance monitoring at the Project. As such, since there will be no cost impact to the Town as the cost will be 100% offset by FMS, the GCIDA did not factor that cost into the Cost Benefit calculation.

The Project will require no additional infrastructure to be provided at public expense and any impacts on local roads will be short term and not of enough volume or type (i.e., heavy trucks) to project any increase in maintenance costs. The Project has also already secured Road Use Agreements with both Towns and Greene County such that any potential damage to town or county roads would be at FMS's expense so again this was not factored into the cost benefit analysis. While there may be an argument that the nature of the Project may increase fire service needs, the budget for these services is not impacted as the Project will pay 100% of its Special District Fire Tax. In addition, FMS has already agreed to purchase special all terrain firefighting equipment for the Cossackie Hose 5 fire district as well as to provide specialized training.

12.3 Summary of Total Exemptions

The GCIDA is required to determine and disclose the projected value of all tax exemptions offered in an incentive package. The projection of these savings is necessarily limited by the assumptions as to equalization rate, and annual tax rate. In this case, the calculation of savings is complicated by the current uncertainty on the valuation of solar projects for assessment purposes.

For the purpose of the following summary of projected revenue losses, the GCIDA chose to use the DCF derived assessment as the baseline for 100% taxation without exemption. The following summary compares the project revenue losses of all exemptions by effected taxing jurisdiction.

Taxing Jurisdiction	Property Tax Loss ⁽¹⁾	MRT Loss ⁽²⁾	S&U Tax Loss ⁽³⁾	Total Loss Revenue
School	\$15,796,478	N/A	N/A	\$15,796,478
County	\$3,749,223	\$800,000	2,500,000	\$9,549,223
Town of Athens	\$760,388	\$362,400	N/A	\$1,122,788
Town of Coxsackie	\$1,423,133	\$437,600	N/A	\$1,860,733
Total	\$21,729,222	\$1,600,000	\$2,500,000	\$25,829,222

(1) Difference between projections of full taxation using DCF model based assessment and PILOT revenues
(2) Does not include State loss of .25%
(3) Reflects only County 4% S&U Tax

- From a real property tax perspective, while the proposed PILOT results in a reduction in future revenue to the taxing jurisdictions of -\$21,729,222, it must be acknowledged that solar projects will not have a viable proforma if they are subject to full taxation. Therefore, without a PILOT there would be no project and no loss of tax revenues. Each taxing jurisdiction is proposed to receive an increase in revenues over the vacant condition as was discussed under the cost benefit section.
- One significant benefit of these large projects is the addition of new funding for special districts charges such as Fire, Ambulance, and Library. These taxes are not subject to the exemption provided by the PILOT and will be paid 100% based on the current tax rate in the fire district. Increased revenues for critical services such as fire and ambulance reduce the cost burden on the remaining taxpayers. Using the DCF Model derived assessment as the baseline, the GCIDA projected the following special district tax revenues as discussed earlier under 12.1 Project Benefits.

12.4 Summary of Cost Benefit Analysis: Upon review of the cost of the requested incentives, it is the finding of the GCIDA that the Project will have a partially negative impact as measured by a cost-benefit analysis. Key findings include:

- The PILOT will have a positive impact in all taxing jurisdictions based on comparing PILOT revenues to projected taxes if the parcels remained in their current vacant condition. Each taxing jurisdiction will have PILOT payments that exceed a no project alternative with no corresponding costs to any of the taxing jurisdictions.
- The MRT and S&U Exemptions will result in a negative impact on the Towns and Greene County in terms of a revenue loss. While in the case of the Towns the loss of MRT will be offset by the net PILOT payments, in the case of Greene County the impact of the MRT and S&UT exemptions results in a net proforma. It is important to note that while property tax exemptions have opportunity costs spread out over time, the MRT and S&UT Exemptions are immediate and losses of revenues. The cost/benefit by taxing jurisdiction is discussed below.
 - In the case of the Town of Athens, while it is projected the PILOT will pay \$615,241 more than the current vacant condition, when the loss of \$362,400 in MRT is factored in the Town's net gain over 30 years is reduced to \$252,841.

- In the case of the Town of Coxsackie, while it is projected the PILOT will pay \$814,577 more than the current vacant condition, when the loss of \$437,600 in MRT is factored in the Town's net gain over 30 years is \$376,977.
- In the case of the County, while the projected PILOT will pay \$2,817,539 more than the vacant condition, when the "loss" of \$800,000 in MRT and \$2,500,000 in Sales & Use Tax is factored in, the County's net gain over 30 years is -\$482,461.
- In the case of the Coxsackie Athens Central School District, the PILOT will pay \$11,701,947 in net payments over the projected taxes under a remain vacant scenario. The gain is not offset by further exemptions.

Tax Jurisdiction	Net Impact
C-A School District	\$11,701,947
Greene County	-\$482,461
Town of Coxsackie	\$376,977
Town of Athens	\$252,841
TOTAL	\$11,849,304

13.0 Material Terms and Project Monitoring

For each project receiving GCIDA financial assistance the Board evaluates a wide range of factors and establishes primary and in some cases secondary goals called Material Terms which a project must meet, or it may be subject to repayment of the benefits. Items such as job numbers, increased tax revenues, etc. are considered Material Terms and are unique to each project the GCIDA assists. In this case, the GCIDA has established the following Material Terms:

13.1 Primary Material Terms

- Increase assessment base in the Towns of Coxsackie and Athens by \$40,000,000 of full market value based on either the DCF model or an appropriate alternative assessment methodology.
- Achieve and maintain commercial operation during the entire term of the PILOT. Failure to operate the facility for an extended period shall be considered a default of the final agreements unless such delay is caused by mechanical failure and is being fixed or if the Independent System Operators (ISO) direct the facility to stop production.

13.2 Secondary Material Terms

- Meet all terms and conditions as set forth in section 15.0 Community Benefits. Failure to meet any condition as set forth in this document shall result in the GCIDA's clawback of any and all exemption provided to date or to be provided in the future.

To monitor the success of FMS in meeting the Material Terms the GCIDA will monitor the Project status to verify commercial production has been commenced. Project principals shall provide in writing a commencement notice when the solar project goes online. FMS will pay an annual Project Administration Fee to GCIDA in the amount of \$1,000 per year to help cover the ongoing cost of monitoring during the term of the PILOT.

14.0 GCIDA Incentive Package

Based on the GCIDA analysis of the Project application and supplemental materials and investigations, the GCIDA approved the following incentives:

14.1 Mortgage Recording Tax Exemption – A MRT exemption in the amount of \$2,000,000 is approved.

14.2 Sales and Use Tax Exemption – A S&UT exemption in the amount of \$5,000,000 is approved. The loss of S&UT will be partially offset by a onetime PILOT payment equal to 10% of the exemption (\$500,000). \$250,000 will be restricted to the GCIDA's Tourism Center Redevelopment Project and \$250,000 will be provided to the Greene County Economic Development Fund for use in supporting economic development initiatives targeted by the County.

14.3 PILOT – The GCIDA approves a 30-year PILOT which will commence on the first taxable status date after commencement of commercial operation. Prior to negotiating a PILOT amount, the GCIDA researched recent PILOTs on similar industrial scale solar project. We found that settled PILOT numbers are quite varied with numerous similar scale projects in Western and Central New York paying as low as \$2,500/MW. The best comparison is a 50 MW project that also was recently approved by the PSC and is in the Town of Coeymans on the Greene County line. The Town Supervisor in Coeymans reported that they had reached a PILOT amount of \$3,500/MW with the developer of that project. That project did not include an annual Community Host Fee.

It is noted that while the PILOT payment of \$5,000/MW when considered alone is below the level required under the County's Solar PILOT Law (\$8,750/MW) for Section 487 PILOTs but it is important to note that the County solar law was based on smaller commercial and community projects which benefit from upfront capital contributions from NYSERDA and also have a higher revenue stream as compared to utility scale projects such as FMS, which is selling into a highly volatile wholesale market while the smaller projects are selling at retail pricing. In addition, the 487 PILOTs do not include a payment to the GCIDA or the Economic Development Fee.

Given that solar projects are not included in the GCIDA's Uniform Tax-Exempt Policy the Project was treated as a deviation and a public hearing held. The PILOT is approved by the GCIDA under the following terms.

- a. Term: 30 years
- b. Initial PILOT Amount: \$5,000/MW/year
- c. Annual Escalator: 1.5%
- d. Payments: Annually, payable to GCIDA, Due January 1st of each year which will distributed to the effected taxing jurisdictions.

15.0 Community Benefit Package

As a condition of the benefits to be provided in Section 14.0, the FMS has agreed to several additional benefits for the community. The negotiation of these benefits is based on the GCIDA's findings that the Project will have no long term indirect or secondary economic impacts and create unfunded liabilities for the Towns of Athens and Coxsackie. The benefit package also addresses community concerns related to decommissioning. The IDA documents will be cross defaulted with the HCF obligations and the GCIDA has the authority to assert an Event of

Default and clawback part of the financial assistance upon the occurrence of an Event of Default. In connection with the Project FMS has offered the following additional benefits:

15.1 Community Host Fee – FMS will provide the Towns of Coxsackie and Athens with an annual Community Host Fee. The Fee will start at \$200,000/year per community and will escalate at 1.5% annually over the term of the agreements. The term will be for 30 years to match the PILOT term. Over the 30-year term, the Community Host Fee will generate \$7,507,736 for each Town. The payments will commence with the start of the PILOT upon the project reaching commercial operation and will be due on January 1st of each year.

15.2 Compliance Monitor – While the Project was approved by the State under the Article 10 process, responsibility for enforcement of the NYS Uniform Fire Prevention and Building Code and the Energy Conservation Code of NYS remains with the Towns of Athens and Coxsackie. Given the complexity of the project it is unlikely that local Code Enforcement Officers will have the necessary experience to monitor the Project and the Towns will need to retain consultants with the necessary experience and qualifications. As such, FMS will establish with each Town a method for establishing and funding an escrow account to cover the Town's cost of outside experts. The escrow agreement should address initial contribution to the escrow fund and the terms for replenishment of funds as the escrow is drawn down.

15.3 Decommissioning – One of the biggest concerns the GCIDA hears from the community involves the decommissioning of the solar projects when they have completed their life cycle. While the PSC approval under the Article 10 process addresses decommissioning, the GCIDA proposes that the obligation for decommissioning also be memorialized at the local level. As such, FMS is required to negotiate an agreement with the Towns to address decommissioning of the solar project in the future. At a minimum, the decommissioning agreement shall include a mechanism for providing decommissioning security in the form of a bond, letter of credit, or establishment of an escrow. The Decommissioning Plan and Decommissioning Security with both Towns must be in place on or before the commencement of construction, as required by the Article 10 Certificate (Certificate Condition 39, see Attachment 6), which will be noted in the IDA documents for the provision of financial assistance for the Project.

15.4 Economic Development Fee – To address the lack of long term indirect or secondary economic activity, FMS will make a onetime PILOT payment to support ongoing economic development initiatives by the GCIDA and Greene County. The PILOT payment is based on 10% of the Sales and Use Tax exempted by the GCIDA. The funds will be used by the GCIDA and Greene County as follows.

- a. \$250,000 will be restricted to the GCIDA's Tourism Center Redevelopment Project. Tourism represents one of the oldest and largest business sectors in the Greene County economy. Since 2017, the GCIDA and Greene County have been working in partnership to undertake redevelopment of multiple parcels located at the Catskill Thruway exit. As a part of that effort, the GCIDA recently acquired 2.2 acres of land from the NYS Thruway Authority including the location of the current County tourism center.

The current tourism center must be relocated to allow for maximizing the benefit of redevelopment of that land base. To date, the GCIDA has secured the donation of the current Stewart's Shop (\$654,815 value) which will be vacated when they relocate to the new GCIDA site. In addition, since 2019 the GCIDA has approved financial incentives for (6) tourism related projects. In each case, the projects were required to make a one-time PILOT payment based on their sales tax exemption with the PILOT payments restricted for use in the retrofit of the current Stewart's Shop to serve as a new tourism center. These PILOT payments resulted in \$349,728 paid to date and \$120,000 in pending payments. The allocation of the \$250,000 FMS PILOT will bring total available funds for the redevelopment to \$749,728. With the addition of the FMS PILOT, the

project is nearly fully funded, and the result will be a new tourism center at no cost to the Greene County taxpayers.

- b. \$250,000 will be provided to the Greene County Economic Development Fund for use in supporting economic development initiatives targeted by the county.

Based on the approved Sales and Use Tax exemption of \$5,000,000, FMS will pay an Economic Development Fee in the amount of \$500,000. Payment will be made in two equal installments of \$250,000 with the first half due upon the Project's closing on its financing and the second payment due upon the Project reaching commercial operation. The second payment will be subject to increase after a reconciliation between the Sales and Use Tax exemption approved by the GCIDA and the actual amount of tax abatement used by the Project.

15.5 Miscellaneous Benefits

While not part of the GCIDA's consideration of the FMS request for financial assistance, we note for the record that the Project will provide other miscellaneous benefits to the broader community. In some cases, these benefits are targeted at specific interests and in other cases provide a broader community wide or environmental benefit. These additional benefits are summarized as follows:

15.5.1 Emergency Services – In addition to the new revenues for the fire and ambulance districts FMS has committed \$70,000 to the purchase of specialized firefighting equipment that will allow improved access within the solar field in the event of a fire.

15.5.2 Cultural Resources – In the GCIDA's experience, when large projects such as this are proposed there is often vocal concern about impacts to historic or cultural resources. In this case, FMS addressed cultural resource issues by acquiring a parcel that contains the Flint Mine Hill historic site. Flint Mine Hill has been known as a significant archaeological site since discovery in early 1900s and its ownership by the New York State Archaeological Association – Long Island Chapter, Inc. in recent years has resulted in minimal oversight or protection. To address impacts of their project, FMS acquired the historic site and transferred it to The Archaeological Conservancy (Conservancy) which has to date protected over five hundred unique historic or cultural sites in the US. The Conservancy had sought to acquire the project for many years with the intent to improve its protection.

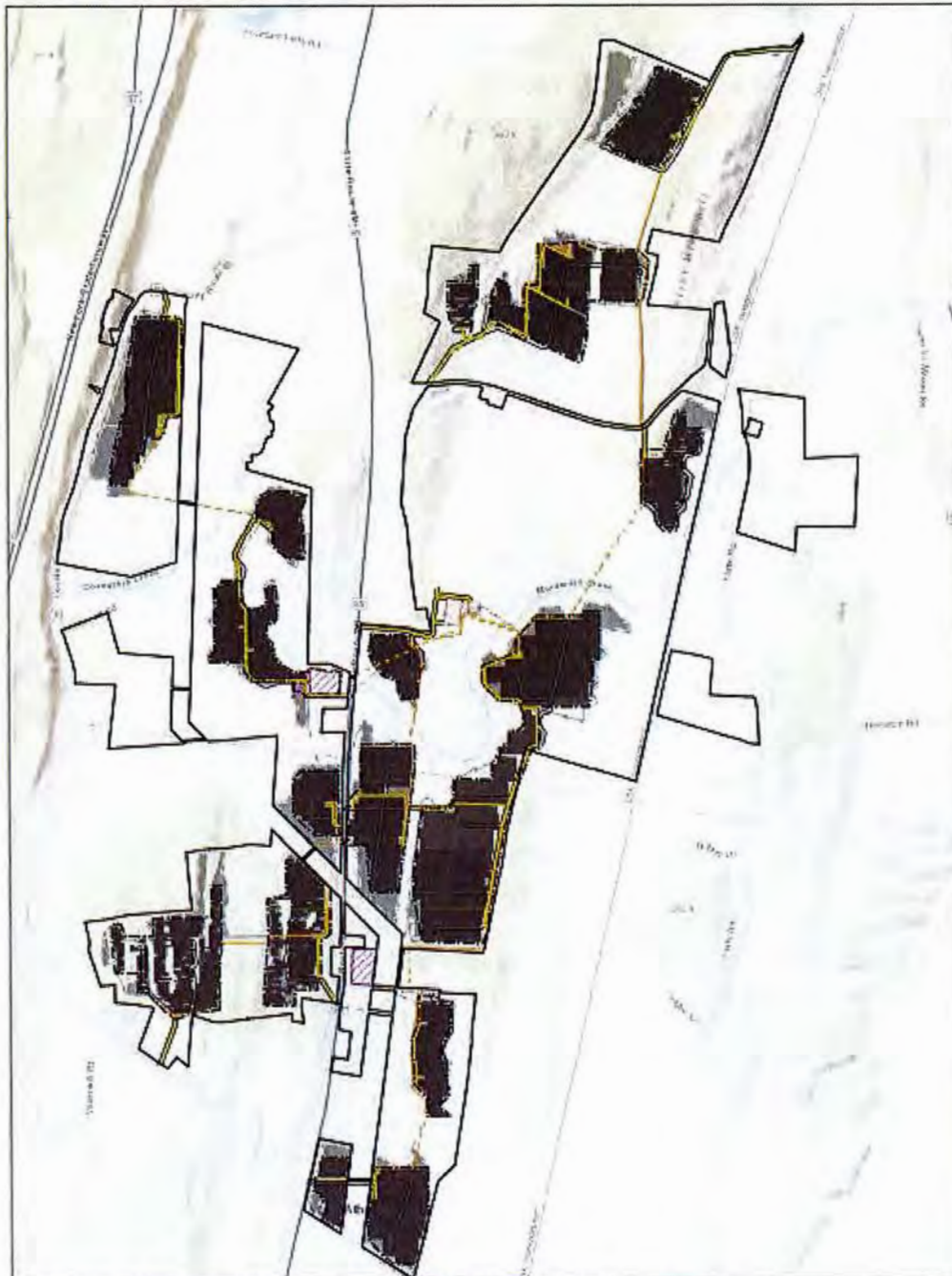
Signed:

_____ Date _____
Eric Hoglund, Chairman

_____ Date _____
April Ernst, Executive Director

ATTACHMENT 1 - LOCATION MAP

Figure 1. Facility Layout Comparison



Flint Mine Solar
 Town of Coxsack and Athens,
 Greene County, New York

Certificate Amendment Petition

EDR

Proposed Layout

- Underground Collection Line
- Overhead Collection Line
- Access Driveway
- PV Panel Array

Equipment Pad

- Equipment Pad
- Laydown Area
- Fence Area

Certified Layout

- Underground Collection Line
- Overhead Collection Line
- Access Driveway
- PV Module Area
- Equipment Pad
- Laydown Area
- Fence Area

Site Specifics of Change

- Facility Area
- Facility Subsection
- PMA Switchyard



Prepared August 21, 2023
 Survey by "Field Research" map.com

_____ Total

PARCEL #		Sub dividing	Current
Athens			
104.00-3-22.2	Flint Mine		40
104.00-3-31	Multari		4.9
104.00-3-32	GDM Solar		19.89
104.00-3-35	Sicliano		47.92
87.00-1-20 (+87.00-8-3)	L Zimmerman		67
104.00-2-28.2	Quaker Ridge	57.32	61.39
	M		
87.00-1-21	Zimmerman	115.4	118.2
104.00-3-16	Rotonsi		42.3
Coxsackie			
87.00-1-16	Agovino		4.7
87.00-2-9	Murphy		65
87.00-4-10	Picayo		35
87.00-4-12.2	Picayo		40.5
87.00-4-3	Micalizzi		105
70.00-4-21	Smith	4	41.9
70.00-4-27	Meier	46	64.6
70.00-4-9	Romito	30	100
87.00-2-16	Robinson	54	87.35
87.00-2-8	Oringer	78.8	95.7
87.00-4-13	Picayo	112.5	144.5
87.00-4-14	Lee	109	151.8
87.00-4-4	Drewello	103.1	123.1
88.00-1-41	Ritter	37	124
	M		
87.00-4-11	Zimmerman	25.1	25.1
87.00-3-6	Agovino		139.9

**ATTACHMENT 2
PUBLIC HEARING MINUTES**

Minutes are online at on the Flint Mine Solar Project Page:
<https://greeneida.com/sites-projects/new/flint-mine-solar>



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GREENE COUNTY

INDUSTRIAL DEVELOPMENT AGENCY

REMOTE PUBLIC HEARING

LOCATION: COXSACKIE-ATHENS CSD AUDITORIUM

TUESDAY, OCTOBER 04, 2022

6:06 p.m. - 7:27 p.m.



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THROUGHOUT NEW YORK STATE AND BEYOND

GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

-----x

IN THE MATTER OF:

FLINT MINE SOLAR, LLC CONSTRUCTION,

OWNING AND OPERATING A 100MW-AC

SOLAR PHOTOVOLTAIC FACILITY

BEING DEVELOPED AT THE SOUTHERN END OF

THE TOWN OF COXSACKIE AND NORTHERN END OF

THE TOWN OF ATHENS

-----x

PUBLIC HEARING

HELD: OCTOBER 4, 2022

TIME: 6:06 p.m.

LOCATION:

Coxsackie-Athens CSD Auditorium

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ON BEHALF OF GREENE COUNTY IDA:
APRIL ERNST, Executive Director
RENE VANSCHAACK, Consultant
PAUL GOLDMAN, ESQ., Counsel

SPEAKERS (IN ORDER OF APPEARANCE):

BARBARA BRUMELL
KEN GIFFORD
JOHN VANBUREN
JANET KAPLAN
AL KAPLAN
HELEN MEIER
DAVID UNGER
JAMES HUSTON
JEAN UNGER
BARBARA BRUMELL
RANDALL SCHMOLLINGER
RICHARD GARVEY
CAROL METZ
CHRIS GARVEY
RICHARD GARVEY
KEN GIFFORD

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PROCEEDINGS

MS. ERNST: Hello. We are going to get started.

My name is April Ernst and I'm with the Greene County IDA. I am joined by Paul Goldman, our attorney, and Renee VanSchaack, our Consultant.

I'm going to read the public notice and do a couple of housekeeping items.

If you need to use the bathroom, one is to the left and one is to the right of the doors in the back.

We are recording. We have a stenographer on hand, also, taking minutes. So, when you come up to speak, and I'll call your name, we are asking that each person be limited to three minutes to speak. At the end, if there are other comments that need to be addressed,

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you can speak again at the end.

All persons wishing to initially be part of the record for this hearing, we ask that you state your name and address clearly and your group affiliation, if any.

I'll read the public notice.

(Reading from Document)

Notice is hereby given that a Public Hearing pursuant to Section 859-a of the New York State General Municipal Law, as amended, will be held by the Greene County Industrial Development Agency, (GCIDA), on the 4th day of October of 2022 at 6:00 PM local time at the Cossackie-Athens Central School District Auditorium, 24 Sunset Boulevard, Cossackie, New York 12051.

Flint Mine Solar, LLC, ("FMS") is a limited liability

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P R O C E E D I N G S

company constructing, owning, and operating a 100 MegaWatt AC solar photovoltaic (PV) facility being developed at the southern end of the Town of Coxsackie and the northern end of the Town of Athens.

The GCIDA is proposing to provide incentives to the project in the form of a Payment in Lieu of Taxes, (PILOT), a Sales & Use Tax Exemption, and a Mortgage Tax Exemption. The application submitted by the company and relevant supporting documents submitted to the GCIDA in connection with the Project may be reviewed by the public on the IDA's website at www.greeneida.com. Inquiries about the Project and GCIDA assistance should be directed to April Ernst, Executive Director.

The GCIDA will at the above

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2 stated time and place hear all
3 persons with views in favor or
4 opposition to the rendering of
5 financial assistance by the GCIDA
6 for the project. Minutes of the
7 hearing will be made available to
8 the public and members of the
9 GCIDA.

10 So, we will be keeping the
11 comment period open until October
12 28th at 4:00 p.m. You can submit to
13 me by email. My email address is
14 ernst@greeneida.com, or you can
15 mail them to the office at 45
16 Sunset Boulevard, Coxsackie, New
17 York. All the information can be
18 found on the website.

19 With that, I will give it to
20 Paul Goldman, our attorney.

21 MR. GOLDMAN: Good evening.
22 Can everyone hear me?

23 It's nice to see everyone here

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2 tonight. We haven't had this many
3 people at one of our public
4 hearings in many years. I think
5 that the last public hearing that
6 was this well-attended was on our
7 Athens generator project.

8 So, just basic ground rules
9 for everyone's information: It's a
10 public hearing to give comment
11 about the project and about the
12 PILOT program. So, there are some
13 ground rules.

14 We have a stenographer.
15 Everyone knows what a stenographer
16 is? It's a person in a courtroom
17 that takes down the minutes. If
18 you're going to speak, keep your
19 voice up and speak slowly. Don't
20 talk over each other because it
21 makes a mess for the person who is
22 the stenographer. If you have ever
23 read a record that's messy, it's

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not helpful for anyone. So, I just ask everyone to kind of think about the person who is sitting there typing the document and give her courtesy.

What we do at these public hearings is we get the comments back. We provide comment and then take it back to the Board. We look at it and we write a synopsis of it and we create what's called a record. The record is all the documents including the paper documents that are reviewed and analyzed.

So, the decision hasn't been made, but I just wanted to let everyone know that's the goal of it, is to make a record so we have a clean body of everyone's comments and what we thought of it. So, those are the ground rules.

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Now, we present that record to the Board and they review it themselves. They are members of your community.

In my opinion, a bad record is where everyone comes up and repeats the same thing. If you heard it or said it, have the courtesy for the people who are going to read it, because it's more effective of a presentation if you limit your comments to stuff that hasn't been said, so we don't need to say it 10 times. And you could give it to us in writing, if that's what you wanted to do.

Does anyone know what a payment in lieu of tax agreement is?

Okay. So the IDA can do three things. We can give out three forms of financial assistance; there is a

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2 mortgage tax exemption; a sales
3 reduced tax exemption and a payment
4 in lieu of tax exemption. That's
5 what we can do. That's the limit of
6 our jurisdiction.

7 In terms of a payment in lieu
8 of tax agreement, it is intended
9 just as it sounds. It's a payment
10 in lieu of real property taxes. It
11 is required by law to go to the
12 taxing jurisdictions. It doesn't go
13 to private corporations. It doesn't
14 go to us. It has to go to the
15 taxing jurisdictions. That's what
16 the law says. I just want everyone
17 to understand that.

18 So, with that, why don't we
19 call the first person, and please
20 keep your voice up. This room is
21 large and the stenographer is going
22 to take this down.

23 MS. BRUMELL: Can I make a

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request?

MR. GOLDMAN: It's not going to come out unless you go to the mic, or you can take this one. Please give your name.

MS. BRUMELL: I'm Barbara Brumell, and I just wonder on the PILOT program. Who determines where the money goes?

MR. GOLDMAN: By law, unless otherwise agreed -- unless otherwise agreed, which is the operative term of the statute, it goes proportionately in accordance with the tax brackets.

Okay. Any other questions?

Thank you. That was a good question.

MS. ERNST: Ken Gifford is our first speaker.

MR. GIFFORD: My name is Ken Gifford and I'm a resident of

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2 Sleepy Hollow Lake and I'm
3 currently serving as the First Vice
4 President of the Association of
5 Property Owners, Board of
6 Directors.

7 I have a procedural question
8 that I'd like to step outside of
9 three-minute limit and ask the
10 esteemed council here tonight.

11 There are no members attending
12 tonight. If they are to read this
13 record tonight that you're talking
14 about, how do they take our input?
15 Is it just reading the minutes of
16 the recording? They are not here to
17 hear us.

18 MS. ERNST: It's doing both.

19 MR. GIFFORD: You're doing
20 both; okay.

21 I'm going to just give you a
22 brief history. Three minutes is
23 going to be tough because you need

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to understand the context of what we are speaking here tonight about. When this project, that will result in a decision later, came up, we immediately appointed a Solar Committee of people that had backgrounds in finance, energy, engineering and so forth. We took it seriously. So seriously, as a matter of fact, that we spent a lot of money paying for it with our own funds.

As you may know, Sleepy Hollow Lake is our reservoir. We drink that water as well as recreate in it.

We were not opposed to this. We had quite a bit of management in the community to deal with about the issues. People were concerned about the change in land use and visual impacts. We were more

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2 concerned with the engineering side
3 of it.

4 You think about the
5 intervenors when you're a Board
6 member. Intervenors are actually
7 someone who has gotten funds from
8 the proponents. In this case,
9 Flint Mine Solar.

10 We got a modest, less than
11 \$20,000, for the cost of doing it.
12 Everybody else hired lawyers. We
13 hired scientists and engineers.

14 You'll hear from Al Kaplan,
15 who is our Chair.

16 Al and I have extensive
17 background in economic development.
18 I ran SUNY's office for quite a few
19 years. We have been involved in the
20 last eight projects and a power
21 line coming up the CSX tracks and
22 the master plans that were put
23 together by NYSERDA and others.

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It was apparent that we were going to get it. We are not going to stand here and be opposed to it, and we are still not. We want to make that very clear. What we were concerned about, though, was the impact on our water body and, frankly, if it's done well, I still believe that this could be a benefit to our lake, rather than a deterrent.

The big question now, if it's done right, and we have a lot of indications right now that's not happening.

Sunday's Times Union had an extensive article on the shortage of staff with the number of people trying to hook into the system - the power system.

More importantly, the DEC did a magnificent job in reviewing this

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P R O C E E D I N G S

1 application and making things work.

2
3 Now, we have chambers of over
4 100 million dollars being removed
5 from the project - different
6 components, from what we are told.
7 We have already spent all of our
8 intervenor funds and all of a
9 sudden we have the project
10 devaluating.

11 So, in essence, we are
12 starting from scratch again to
13 re-evaluate this, and that's going
14 to be the issue tonight is our
15 funding - our modest request for
16 funding of this.

17 We have spent over two million
18 dollars over the six years. About
19 30% or 35% of that was the
20 declaration of these projects
21 coming and the technical
22 information that was given to the
23 solar proposals - we have met with

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them numerous times - we have actually helped them in some of the scientific aspects of getting ready to do this project. We got some pretty good reviews. That, going forward, the Times Union says that 20% of the DEC staff are not there since the 2000/2008 financial pandemic that occurred at that time. In that case, we are merely concerned that there are enough people. We stand alone in protecting this watershed. We do not believe that the villages or towns around us are interested or qualified to do this. We hope DEC is there, but we can't count on that.

So, we believe that it's our responsibility, as fiduciaries of this reservoir, to demand the absolute engineering and science

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judgment throughout the design construction and then beginning of the operation to make sure that it meets the things that we are told that it's going to do, and we want to have that trust.

I thank you for your time.

MR. GOLDMAN: Thank you. And as a reminder, you can give written comment, as well.

MR. GIFFORD: I also submitted written documents.

MR. GOLDMAN: Just don't be repetitive. I just wanted to point that out.

I know that you felt that you were cut off.

MR. GIFFORD: I understand the format.

MS. ERNST: Our next speaker is John VanBuren.

MR. VanBuren: Thank you.

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Just to introduce myself, my name is John VanBuren. I live at 12 Brom Bones Lane. The official address is Athens, but I actually live in the Town of Coxsackie.

I am a retired professional engineer and, at one point in my career with Central Hudson, I was involved with planning. In our Planning Department, my duties included financial analysis for different options for generating or manufacturing, if you will, the energy that serves our community.

As we look at these, one thing that we always look at as a given was that we were going to pay taxes. We were going to contribute to the communities where we were going to be building our facilities.

Remember taxes and the way

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that these laws are written to allow to bypass taxes.

We're talking about payment in lieu of taxes. What you have in front of you, from my understanding - the IDA did not take advantage of all the options they had to collect money from the developers of this facility. That means that we are potentially short-changed somewhat financially in our payment in lieu of taxes.

More specifically, this impacts the community I live in and the water source that we use for our drinking water in my household; the reservoir known as Sleepy Hollow Lake.

We just want our fair share of financial support to monitor the runoff from these fields. And yes, we hope that it will be

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significantly better than what's there, but if we don't check it, we don't know.

The people developing these facilities, first of all, you have to keep in mind they're not providing a lot of jobs to our community once construction is done. My understanding is there will be a single employee for this whole facility. That's not real economic development, in my mind.

So, I urge the IDA to reconsider and take a hard look at how much money they're getting for the PILOT and how they're allocating the funds, and make sure you do it on a fair basis.

Thank you.

MS. ERNST: Janet Kaplan.

MS. KAPLAN: My name is Janet Kaplan, and I am here as the

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President of the Board of Directors
of the Association of Property
Owners of Sleepy Hollow Lake.

I apologize. I didn't know
that you were going to have a
10-minute or three-minute limit. I
have a written statement which I'll
give you, and I'll try to excerpt
this as best I can a little bit.

We believe that the IDA
recommendation deviates
significantly from its own policies
and that their findings are made
basically using a number of
inconsistent logic and incorrect
statements. The draft findings had
a precedent that benefits a large
solar installation looking to
blanket the county with 200,000
solar panels creating only one
permanent job and paying very
little in property taxes compared

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to the actual value of the property.

Doing this, while Flint Mine will be using the property to generate approximately \$20 million dollars in revenue each year, while threatening our reservoir to us, this makes no sense. The IDA even acknowledges that the draft findings are a deviation from the IDA's uniform tax-exempt policy and that the project will not have any long-term indirect or secondary economic benefits. Yet, the draft proposes to agree to a PILOT that is well below established market value, well below the discounted normal tax rate and even well below the controversial NYSERDA guidelines, which various towns are suing over now because they're too low.

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On top of that, the findings bear no relation to the IDA incentive policy from solar projects including 30 years of tax breaks while their policy requires 20 or 15 years.

Beyond the deviations, the draft also includes many statements that are contradictory or inaccurate.

First and foremost, it states that no public investment is being made in Flint Mine. At the same time, it states that it's expected that Flint Mine will receive federal and state tax incentives that were not evaluated by the IDA.

Considering that the project will be getting both the tax credit of around 80 million dollars and a NYSERDA guaranteed price contract of around 100 million for sale of

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this energy, it's puzzling why these massive subsidies were not taken into account in any part of the decision.

It also states, without any supporting backup, that 15- or 20-year PILOT guidelines are not sufficient for solar projects. These are based on the IDA's familiarity with general financial performance for solar project and current trends.

Nowhere in its writings does it claim it has examined or reviewed Flint Mine's numbers. It's in congress to say that the property tax payments have a solid positive impact on local governments.

The recommended PILOT is not only well below the level required under county's solar PILOT Law. If

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this is adopted, the county will actually lose \$5.4 million dollars in the first year and lose again three-million dollars, overall.

The findings further refer to Friends of Flint Mine as a local group that supports the project to evidence lack of public opposition.

It's no secret that Friends of Flint Mine is primarily made of the landowners, brokers and other parties expecting to financially gain from the project. It's less widely known, however, that Friends of Flint Mine is represented by the New York City international law firm of Arnold & Porter.

Arnold & Porter has 14 offices worldwide, hundreds of attorneys, and represents clients in the energy and the alternative energy field.

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It creates a precedent for many other solar farms to come, and that is very disturbing.

On top of the fact that the taxpayers of Greene County will be subsidizing this multi-billion dollar, non-taxpayer with local, state and federal taxes we pay, Sleepy Hollow and our drinking water get short-changed.

I know my time is up, but let me just finish by saying what we are actually asking for.

A further misstatement in the draft findings is that we are asking the IDA to divert funds from the towns or school district for our request and the excuse that we are not a municipality is used to explain this rejection.

We have submitted proposals to the IDA to outline ways in which

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our monitoring needs could be funded without taking funds from municipalities and schools. Unfortunately, our proposals have been ignored.

To be clear, what we are asking for is that, as a condition of your decision to grant benefits to Flint Mine, you include a provision to require the project developer/owner help fund on-site monitoring and testing at our lake/reservoir in accordance with the budget you presented.

We are asking the IDA, which is supposed to be a public benefit corporation, to work with the county's tax-paying citizens to prioritize clean drinking water over hedge fund profits and ensure that Flint Mine doesn't become Flint, Michigan or Hoosick Falls.

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Thank you for time and attention.

MS. ERNST: Al Kaplan.

MR. KAPLAN: Thank you for letting us appear tonight. Thank you, Chairman and the IDA Board, and you, April and Paul.

I just found out that I only have three minutes.

One of the reasons that we are here - we are here to protect our reservoir because our reservoir is what we look at and it's the future for our children and our grandchildren and it's currently our drinking water. That is significant for us.

In addition, we're very interested in the contribution in what the Flint Mine is being asked to make on behalf of the taxpayers and the PILOT that is there.

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We believe that we are being short-changed. I won't repeat everything that everybody else has said, but let me talk about what our concerns are.

We have been having discussions about what our needs are with you and all the parties. As we have asked, we are being told - we should trust Flint Mine and Flint Mine tells us that - but we should trust them. They're going to monitor the water and we should trust what they say.

As Ken said, I've been around for a while. I worked in state government for 36 years, including working as Deputy Commissioner for Governor Mario Cuomo and as Deputy Director of the Division of the Budget for Governor Pataki.

One of the things that I have

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2 learned from my time in government
3 is yes, you have to have trust, but
4 you also have to verify.

5 The other part of it is if the
6 other party is pushing back against
7 verification, you better be
8 suspicious. That's what's happening
9 here.

10 What we have heard from D.E.
11 Shaw is, Trust us.

12 Trust is an interesting
13 concept. Trust is a concept which
14 says you can really believe what
15 someone is saying and you don't
16 have to worry about them, but when
17 it comes to our drinking water, we
18 do have to worry about that.

19 It gives us pause when we
20 begin to see what's happening here
21 relative to this particular
22 project. Other people have talked
23 about it. The PILOT is well below

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2 what has been used for some of the
3 other solar projects. It's well
4 below that level. At the same time,
5 the sales tax and the mortgage
6 recording tax benefits are there
7 for the front line when there are
8 others that didn't receive those
9 benefits.

10 So, when you talk about trust,
11 we had asked Flint Mine to help us
12 with our monitoring.

13 We showed them what our costs
14 were. We showed them what we were
15 doing it for and they refused to
16 help us.

17 Not only that, but once the
18 PILOT was settled and after the
19 project was sold from Amber to D.E.
20 Shaw, we begin to see that there
21 were changes made. All of a sudden
22 we see changes, we see amendments
23 to the project that even the

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Article 10 Judge has said, Let's hold off. We have some questions we have to answer here.

So, trust is important there because this project is changing dramatically. It's changing from cables on platforms to adding four miles of varying cables underground, disturbing the earth, and five miles of 600-foot telephone poles with cables, also creating additional disturbances.

So, when you think about this platform of 200,000 panels that is going to function like that table functions above that floor and now instead of having the ground absorbing the stormwater and the rainwater that's coming off - all of that is flowing off of those 200,000 panels. That gives us pause as to what's going to happen when

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2 that water starts flowing towards
3 our reservoir and what that's going
4 to do to our reservoir.

5 As I said, I'll give you my
6 full presentation. I want to be
7 fair to everyone else here.

8 Just one thing. We are all for
9 solar energy if we understand the
10 issues and we are grateful that
11 they are going to be able to get
12 some money out of this. We are not
13 saying stop this project, but what
14 we are saying is let's do this
15 right. Let's make sure that Flint
16 Mine is paying their fair share to
17 the taxpayers of this county - the
18 taxpayers and the schools. And
19 let's make sure that they are fair
20 to our children and our
21 grandchildren and our reservoir and
22 how it works.

23 MS. ERNST: Thank you.

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Our next speaker is Helen Meier.

MS. MEIER: Good evening. My name is Helen Meier. I live at 580 Flint Mine Road.

Good evening, Ms. Ernst and IDA members. My name is Helen Meier and I'm a resident of Coxsackie.

My family supports solar power and the Flint Mine Solar Project. Many of the farmers in that area have worked their whole lives making a living off the land that is not profitable for the farmers.

Most of you have worked and lived in Greene County your whole lives and are aware that 60 years ago there were several dairy farms in the area. The land was suitable at that time for growing hay to feed the cows. But the cows are gone and so is the dairy farming

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industry in Greene County. Solar power will allow the land to be used not just productively, but in a clean and sustainable manner. The project will bring revenue to the towns, school district, fire department and the county, as well as to the landowners and their businesses.

We ask the IDA to support the Flint Mine solar project and to provide its approval this year. These are very uncertain times and we need to eliminate barriers to these projects coming online quickly and efficiently as possible.

I don't think that my three minutes is up, but I did want to answer the link questions.

MR. GOLDEN: You have three minutes. You have three minutes to

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2 say what you'd like.

3 MS. MEIER: It's my
4 understanding that Sleepy Hollow
5 Lake feels and is entitled to a
6 large amount of money from Flint
7 Mine Solar. As a member of the
8 community, I would like you to take
9 the following things into
10 consideration.

11 Sleepy Hollow Lake is within
12 the confines of both Coxsackie and
13 Athens. It is a neighborhood, not a
14 town. Sleepy Hollow Lake does not
15 have its own school district, fire
16 department, library or EMS service.
17 In fact, it does not provide any
18 public services to either town or
19 for themselves.

20 Yes, Sleepy Hollow Lake
21 benefits from the services provided
22 by both the towns of Coxsackie and
23 Athens.

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It is not the responsibilities of the town to keep Sleepy Hollow Lake clean and pristine for the people who choose to live there. It is a man-made lake and therefore subject to the same water purity problems as the rest of the county faces.

During the present climate change period residents of Sleepy Hollow Lake do not allow any outsiders, townspeople of Coxsackie or Athens, to use the lake, pool or beach or any of the facilities enjoyed by the residents of the closed community. They do allow homeowners, as is their right.

In conclusion, I do not feel that Sleepy Hollow Lake is entitled to any of the PILOT funds.

Thank you.

MS. ERNST: David Unger.

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MR. UNGER: Hi. I live at 689 Sleepy Hollow Road.

So, as a resident of Sleepy Hollow, I just wanted to voice a few concerns.

There are no members of the IDA Board here, which gives me a little pause because, by my count, I had something like 60 people in the audience, which your attorney said was more people than had been here since the Athens Generator Plant, which kind of indicates a lot of significance in terms of what the community -

MR. GOLDMAN: That's not what I said. I said there were a lot of people here, so don't paraphrase my statements.

MR. UNGER: You did mention the Generator, but that's okay.

MR. GOLDMAN: Just don't

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paraphrase my statements.

MR. UNGER: Pardon me.

I simply want to point out that this is important, and I hope that the Board reviews this carefully.

A couple of quick things. In my reading and listening to what is going on here, I'm not sure why the IDA would grant more than a PILOT payment than the statute calls for, or value the property below what other projects are paying. Your responsibility is to lead taxpayers and you don't seem to be, by these decisions, if that's what ultimately happens. It doesn't appear that you would have the taxpayers' interests in mind.

The town can benefit, and the school districts can benefit much more by a less liberal

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interpretation of policies.

In addition, the project is now owned by D.E. Shaw, who bought it this year. When they bought the project, obviously they evaluated it and they bought it based on the approvals that had happened and why we are now going back. Obviously they considered the project viable if they purchased it because it cost a lot of money. Why go back now and redo the project, other than to try to save money?

Obviously, if the project was viable when they purchased it and the conditions that they purchased it in, it can be approved that way.

I don't object to solar. I think that solar is great.

Lastly, the woman before me said that Sleepy Hollow was asking for lots of PILOT payment money or

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something to that effect.

I think that Sleepy Hollow is asking for \$50,000 annually to test the water to make sure that drinking water for us in the Village of Athens, for which we are the back-up water supply, is safe. That seems to be to be a small price for conditions that we did not cause. This is caused by a project, and it is my feeling that it should be paid for by that project.

Thank you.

MS. ERNST: Would James Huston like to speak?

MR. HUSTON: Hi. I'm James Huston, and I live at 44 Carrie Court in Coxsackie.

I wasn't going to talk, but considering the prior woman said that Sleepy Hollow Lake doesn't

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contribute anything to the towns -
I'm about ready to pay my school
tax and I've paid my county tax. I
always pay it.

I also have to pay dues to the
community, and guess what? The Town
taxes the community in addition to
the fact that I got to pay taxes --
in fact, I am a member of that
community. So, I'm taxed double.

Solar is fine and solar is
good. It doesn't have to care about
what flows into my reservoir and I
think that the community is just
looking for some extra money to
make sure that our reservoir is
safe and that my kids and my
grandkids someday won't be drinking
water that is contaminated by this
solar project.

Thank you.

MS. ERNST: Jean Unger?

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MS. UNGER: I am Jean Unger,
689 Sleepy Hollow Road.

I'm not a member of the Board.
I'm just a person who lives in
Sleepy Hollow Lake that is here to
ask for assistance so that we can
protect our water supply.

Your statement of findings
denies that request because we are
not a public taxing authority.

But when it comes to clean
water, Sleepy Hollow Lake is a
vital part of the public watershed
and every action taken in the
watershed is interconnected.

Growth happens to Sleepy
Hollow Lake and to the Hudson
River. Our lake has experienced
blue-green algae for three of the
last four years. One of the most
significant sources of these moves
are the nutrient-rich run-off

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flowing into the lake from the surrounding areas and farm fields, a factor that will always be beyond our control without a unified regional center.

Flint Mine Solar will be clearing, excavating and grading soil on hundreds of acres of land in our watershed. What they do directly affects us. And Sleepy Hollow serves as drinking water as well as backup water for the village bathrooms, and it's essential that we monitor tests and work to mitigate any negative effects of these projects.

The IDA's findings provide community information to the citizens of Coxsackie and to the citizens of Athens and to the 2,000-plus citizens of Sleepy Hollow Lake, whose drinking water

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is most at risk and have been completely ignored.

The IDA's report does not even address the necessity of Flint Mine completing a satisfactory stormwater pollution prevention plan.

Sleepy Hollow Lake is a community of people who enthusiastically support the business, service and cultural organizations of our communities. We are significant contributing taxpayers that in return make few demands on municipal services because we also fund our own water, public safety and administration.

Frankly, I don't understand why the IDA and our own municipalities could not join us and insist on the need to ensure clean and safe drinking water for

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P R O C E E D I N G S

1
2 all.

3 In this proposal, the IDA
4 offers millions of dollars in
5 property tax savings. The county
6 stands to lose tax exemptions and
7 mortgage recording tax exemptions
8 to bring Flint Mine Solar group and
9 outside corporations that have no
10 ties to our communities, doesn't
11 commit to hiring local employees
12 during construction and brings just
13 one full-time job to a 30-year life
14 project.

15 MS. ERNST: I'm sorry, you're
16 out of time, but if you could
17 submit your writing to me -

18 MR. GOLDMAN: Yes, and some of
19 the stuff is becoming a little
20 repetitive, but you could submit it
21 in writing, too. It's all going to
22 be considered.

23 MS. UNGER: I will do that.

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I would just like to say that the proposed changes changes a lot of what was approved, and I would hope that you delay any residential commitment until those issues are resolved.

I hope that you would consider giving Sleepy Hollow Lake the money and set up an escrow fund for Athens and Coxsackie to hire outside contractors who would do the same for Sleepy Hollow Lake so we could hire an outside consultant.

Thank you.

MS. ERNST: Barbara Brumell.

MS. BRUMELL: My name is Barbara Brumell. I actually was a resident of Coxsackie for more than 50 years.

This evening, I'm reading a letter written by my great-niece

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from Auburn, who is currently a resident of Coxsackie, Greene County. As a 30-year-old, she is concerned for the future of the planet. She supports the solar power projects in the area, specifically the Flint Mine Solar installation.

Flint Mine is a well-connected thoughtful installation with a low disturbance for the surrounding areas, while still saving plenty of the land for wildlife. It is our understanding that Coxsackie was once known as a mushroom farming area where they would grow in large warehouses and out in the fields, as well as the dairy farms.

All these farms are now gone. With all this area no longer in use, it seems like a perfect alternative to make the land

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productive again. With your help,
it will also bring much needed
revenue into the area.

She would like to ask the IDA
to support the Flint Mine solar
project and provide its approval
this year.

It's been seven years. The
climate is becoming more and more
unstable and it's important to get
these projects into operation as
soon as possible.

Thank you.

MR. SCHMOLLINGER: My name is
Randall Schmollinger. I started
with Flint Mine Solar about seven
years ago. We have been at this for
seven years.

People talked tonight about
verifying and trust. I don't know
what more they can do with doing
these meetings for more than seven

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years to earn the public's trust.

With all due respect to the residents of Sleepy Hollow Lake, I don't remember seeing any of you seven years ago where I heard a 90-year-old barber say that he was going to be able to retire because of the money given by Flint Mine Solar.

I don't remember any of you at the meeting where I heard from a life-long mortgage adjuster on how they were going to raise home prices in the area, and now you want to come in seven years later - Oh, well, we are entitled to this money.

And maybe you are. That's a legal question, but it seems to me that if you want to show up and say you're part of a community, you should have shown up in the past

P R O C E E D I N G S

1
2 seven years.

3 You said that you spent
4 two-million dollars already on
5 scientists and engineers and now
6 you're asking for more money.

7 You're asking for money from
8 Flint Mine Solar. It seems to be
9 that you might have misspent that
10 two-million dollars.

11 I don't know what to tell you.
12 I don't got no quarrel with you
13 all, but that's my two cents on the
14 matter, and thank you all for
15 listening.

16 MS. ERNST: The last speaker
17 that I have on the list is Richard
18 Garvey.

19 MR. GARVEY: My name is
20 Richard Garvey. I'm a contractor
21 and I live in Coxsackie on Bailey
22 Street.

23 I have done some work for

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Flint Mine and I've met a lot of the landowners. In my opinion, they've been nothing but ethical and professional.

I'm in favor of the solar project.

MS. ERNST: I'm going to circle back to people who said they wanted to speak at the end.

MR. NANMACHER: My name is Scott Nanmacher. I am another Sleepy Hollow person. So, you're hearing from another Sleepy Hollow person.

I think to address one of the questions raised by the prior speaker, it seems that since this project was initially proposed and went through a lot of the meetings and things, it sounds like it has been changed fairly radically since our people did the analysis. As a

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result, I think this may be a reaction to all of those changes that have occurred recently to the project.

I'm going to address just one main issue that hasn't been raised here because Sleepy Hollow's drinking water has been very important and a thing to consider.

For those of us in Sleepy Hollow and on any lake in New York State, in particular, that is enduring something called blue-green algae, which essentially closes down the ability to use a lake. You can't swim in it. You can't fish or boat.

And in recent years, Sleepy Hollow Lake has been separated from a periodic balance of blue-green algae and it's a result of phosphorus coming into the lake as

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well as perhaps I know some people here who I'm sure know more about it than I do. Phosphorus from fertilizers, phosphorus from the ground and the like. Even though our drinking water is drinking qualified, it still has phosphorus in it to create this problem.

To the extent that this project ends up disturbing the land and providing a greater resource of phosphorus flowing into the lake, it's the kind of problem that consensually can eliminate the ability to use a lake for extended periods of time for all of the homes on the lake. It's a very important aspect to the economics of Sleepy Hollow and this area.

If prices go down, so does taxes. Sleepy Hollow pays more than its share in taxes.

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I just wanted to add that one aspect to this discussion.

MS. METZ: Hello. I'm Carol Metz and I live at 1381 Sleepy Hollow Road. And yes, I am a member of Coxsackie and Sleepy Hollow Lake.

I say Coxsackie first because I am a resident of Coxsackie and I support many businesses in Coxsackie through restaurants, landscapers, everyone who works at people's homes.

We support more industry. I think that Flint Mine would be supported.

I also want to say that we are a part of Coxsackie, like I said before. Our taxes do contribute.

And yes, we should help your fellow men and women in helping our waters to stay safe like drinking

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water.

So, please give us some support in making it safe.

Again, I didn't have anything prepped, but certain people inspired me.

Thank you, very much.

MS. GARVEY: I'm Chris Garvey, 3195 Sleepy Hollow Road. I've been here for about 31 years.

I'm really sorry that the lake is not available to the public. I would make a plea to my colleagues here that we make it open to the public at least once in a while or one day a year or something for the beach or pools, et cetera.

I'm embarrassed that Sleepy Hollow has come forward in this way and has informed the people who live in Sleepy Hollow what Sleepy Hollow has actually done to address

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the problems with the blue green algae in the lake.

Sleepy Hollow has a fabulous program underway that has been approved and fully funded. The run-off into the lake is primarily from our lawns and possibly from the adjacent farm, which is not part of the Flint Mine project.

The Flint Mine project is out near Route 9W. It is not anywhere near the lake. There is one stream that runs into the lake from the Flint Mine properties.

So, I hope that is taken into account when my colleagues ask for \$200,000 a year. I also heard \$100,000 a year.

I have never seen a break-down of the use for this considerable amount of money on a yearly basis.

I, for one, would volunteer to

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2 go take water samples in the entire
3 lake once a week, if that would
4 help with that considerable bill or
5 amount that you are proposing.

6 Anyway, I've worked with the
7 United Nations for 31 years. My
8 goal when I retired was to learn to
9 install solar panels. I haven't
10 managed to learn that yet.

11 I support solar 150%, and if
12 there is anything that I can do to
13 help this project go forward, I'm
14 willing to do it.

15 Anyway, thank you for giving
16 me the opportunity to speak. I
17 support you 150%. Thank you.

18 MR. GARVEY: I'll be brief.

19 Speaking of the people living
20 on Sleepy Hollow Lake, a good
21 percentage of them have not lived
22 here all year round; they come from
23 Connecticut, they come from

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2 Massachusetts, they come from other
3 areas.

4 Sleepy Hollow Lake is a good
5 community. The people that do not
6 live here, they don't have kids in
7 school, they are good raters of
8 this community.

9 We are not some evil people
10 that are a big burden on the
11 community.

12 That's really all I have to
13 say. Thank you, very much.

14 MS. ERNST: At this time, is
15 there anyone else who would like to
16 speak?

17 MR. GIFFORD: Ken Gifford.

18 A couple of quick things.

19 I am not wanting to offend
20 anyone, but the money that we have
21 spent, the two million that I spoke
22 about, about 30% of that has gone
23 specifically to ownership

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management.

The Flint Mine project does feed into a creek which is 48% of our flow that's into the body of water.

So, we have already done the science here. We have shared this with all of the solar proposals. We have all of our engineering data. You can call us and talk to our experts at any given time.

Secondly, we are at about 25% of the tax base here. We are like a shopping center or a major warehouse up in Schodack.

We contribute 25% generally across the board here with revenue. We take very little services. We pay the fire district, we pay the library and we pay for these other things. We cooperate with public safety for EMS and other services

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and the fire service. We have a very close relationship.

We send 14% of the enrollment of this district and we provide 25% of the revenue.

To the gentleman's point earlier, we are a net/net benefit, and we are not opposed to the solar business.

We have been fighting to work and get this thing done and get it done right. We are just raising a simple question, and I don't want to be repeating myself, but it bears repeating.

We need to find the right kind of help to go forward with this. We've already spent a lot of our money doing this and we need a little bit of help. We are not being greedy and looking for millions of dollars. We are looking

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for a simple, even a compromise to go forward on this to make this happen, to make sure that it's safe.

To Al Kaplan's point, it's about trust. We have a lot of trust and we still do for the good people who are involved.

These things do flip. We have a huge hedge fund of like \$166 billion dollars and we've got a \$20 million dollar a year before the tax benefits.

The project is support by state funds. It's a huge amount of money. New York State pays a lot to make these projects happen.

As I said before, this project, done right, we are all going to benefit. This is a win/win folks, but it's got to be done right. That's the simple bottom

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line.

But we also, as taxpayers of Greene County, ask you to look at the percentages of how you're looking at the PILOT and how it's going to affect things like the school district. Look how it affects the county, in terms of how it gets paid.

We think that there is a little bit more wealth here, respectfully.

You do have an important job and an important responsibility to the community, and we ask you to reopen this and let us talk to you about the info and data analysis that we provided.

This project is possible. Show me the income statement that you reviewed.

Thank you.

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MS ERNST: Anybody else?

(No verbal/audible
response.)

MS. ERNST: Before you leave,
if you want to submit your letters
in writing, please do so.

At this time I'm going to turn
the mic over to my consultant, Rene
VanSchaack.

MR. VANSCHAACK: I think that
there is one thing that's important
first. Mr. Gifford gave his
qualifications.

Some of you here know me. I
know that there are some people
that have known me for a while. Let
me tell you about who I am and what
is my background.

I was the Executive Director
of the Greene County Soil and Water
Conservation District in Greene
County for over 20 years.

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In 1989/1990, Sleepy Hollow Lake approached me in that capacity and asked me to help them work out some problems in Sleepy Hollow Lake. So, to help some of you out there with the math, that's 32 years ago.

Let me tell you what I have done with Sleepy Hollow Lake in my capacity as a private consulting individual. I first lobbied very hard to get them on the priority waterbodies list with DEC, which made them eligible for a ton of grant money.

To Scott's comment earlier, I wish you were there like 25 years ago when I was having the argument with the tax supervisors about the importance that million-dollar homeowners pristine lake turns 100,000 homes on a pond.

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So, the concept of lake quality to equity has been addressed before.

I got them their first grant to stabilize the drainage base so the rock linings that you have is a result of work that I did to get you grant money, which was because we were on a PWL list and that's the reason we could make you eligible for the grant in the first place.

In addition to that, I physically taught your operators in the work force how to run Bobcats and how to shift rocks in a stream channel. I have a very extensive background in stream channels and restoration.

In addition to that, I raised money for doing seeding demonstrations on Sea Collar Lake

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[sic]. I raised money for doing demonstrations projects in terms of how to stabilize the waterways. When Athens Generator Power Plant came into play -- and again, I was with the solar and water and IDA -- everybody wanted to speak out and it's the same thing that I'm hearing now.

At the time I said, Well, you know what? The air quality issue is a different animal, so maybe there is something to be said here.

So, I went out and pulled my favors and got them a sizable donation to study that.

I also set Sleepy Hollow Lake up with a monitoring plan for a ridged lake monitoring plan. We are not talking citizen science, and no disrespect to Chris. Good monitoring data can't replace

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science. We set up an approved monitoring plan with qualified professionals that did the monitoring on behalf of Sleepy Hollow Lake to develop this baseline.

Anyone in the room, raise your hand if you know you have that.

You were on the Board when we did that work. We did that on purpose so that you would establish a scientific record of the lake that would be recognized 20 years later. We had qualified people doing this.

So, you will note that, given my background and my signed statement, I purposely did not address any environmental claims for Sleepy Hollow Lake.

With all due respect to everybody in the room, I have a far

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greater wealth of experience than others -- than pretty much anybody here. I've been working on it a long time. Ken knows that.

Our process addresses more environmental items than I can remember to name to you. A couple of people have brought up tonight the changes in the project. The project was put in front of the PSC, initially. It was thoroughly vetted by the PSC and the other regulatory agencies. There were stipulation agreements. Those stipulation agreements were signed by Sleepy Hollow. Let's forget that for a minute. Now we are talking about change.

I read the Judge's Order on the changes and I thought that it was very thorough. I thought that the Judge made very good points. I

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think that the Judge says basically when he determined the initial project, as laid out, it's not an impact statement, you propose changes and we think that those changes need more review. It's the way the system works, for all the lay-people in the room. The people that make the mitigations and requirements and all the rest of that are the environmental agencies that you have to go to for the permit.

I have written more permits in my career of 36 years doing environmental work in this county than you can shake a stick at. And if you would like a clue for how many millions I would have to spend to get those permits and meet those conditions -- we are comfortable and are more comfortable and

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confident that those changes are going to go through the PSC, the regulatory agencies are going to review them in the context of the additional disturbance and whether it will or will not have an impact, and I definitely encourage Sleep Hollow volunteers to monitor that situation.

With all that being said, there are a couple of other comments that I want to make here. First is: every comment that is in here tonight will have a detailed written response. We took the time to come here tonight to hear the questions, and in some cases I would almost call them allegations. I would ask you respectfully that when the comments come out, to take five minutes and read them. There are findings statements that we

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PROCEEDINGS

post on the website. I would bet my career that it's the most transparent in New York State.

I would ask you respectfully, as residents of this community, on behalf of Ms. Ernst and myself to ask that you please look at that.

Public hearings are not meant to be a back and forth, but I have to ask two things of two individuals that spoke comments tonight. First is John VanBuren.

John, you made some allegations -- I don't think that you'd call it allegations, but you made some points.

MR. GOLDMAN: They were contentions.

MR. VANSCHAACK: I would ask that you put those contentions specifically in writing, so that we can address them specifically.

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P R O C E E D I N G S

1
2 I don't think that it's fair
3 to leave an open question that the
4 IDA didn't consider information
5 when all these people will go out
6 of this room with that contention
7 -- because I'm not sure what you're
8 talking about.

9 I've been doing this for 36
10 years. I would ask you to please
11 clarify that.

12 Janet, likewise, with you. I
13 haven't read the written response
14 yet, but your contention is that
15 there are a lot of incorrect
16 statements and otherwise, and they
17 can only be considered if we know
18 what they are. So, if you feel
19 that's the case, then I would ask
20 you to follow through with that in
21 writing so that all these people
22 later will hear about these
23 contentions -- so, we need you to

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P R O C E E D I N G S

1
2 address those in writing - so, if
3 you can.

4 We're not going to get into
5 the PILOT split. A number of people
6 have noted tonight that the PILOT
7 number, on itself, is based on
8 5,000 megawatts and was not
9 accurate. I guess I would have to
10 ask you what is the basis of your
11 information on that. I have been
12 monitoring solar PILOT projects for
13 12 years. I thoroughly researched
14 it and I think that if you,
15 yourself, would take some time,
16 that you would find two things. All
17 solar projects are not alike. You
18 cannot treat the project that we
19 did on 9W, across from Pegasus.
20 That is much smaller and is what we
21 call community solar.

22 Are people familiar with what
23 is community solar as a public

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utility? Community solar projects
sell at the retail market price.
There is a wholesale market for
these guys. They have long-term
purchase agreements. They won't
even build it until they have
someone buying it. These guys don't
have power purchase agreements.
They look at the ISO internet
intervals. Every 10 minutes. ISO
determines electricity uses. It
goes on 365 24/7. That can change
and fluctuate dramatically. What
does that mean? Monster risk. It
could be that I have had a contract
for 30 years, versus I have risk.
The economics are different and
there are a few advantages to
community solar projects that new
projects will not get to take
advantage of and that has to do
with NYSERDA payments and equipment

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P R O C E E D I N G S

stuff. The earlier projects have gotten advantages that current ones have not. So, there are definitely differences of scale. They enjoy other advantages that the larger solar projects don't.

The county adopted a law of 8,900 the IDA did a community project at 8,000. So, we are pretty close to that. So, we have been trying to be supportive. If you were to look around the state at this point and the large projects that are out there, the typical asking price they're coming in at is 2,100 to 2,500 per megawatt. The sweet spot where most negotiations seem to be landing, according to the Town Supervisor in the Town of Coeymans with a recent project up there, they settled on 3,500 megawatts. The recent Mohawk - a

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P R O C E E D I N G S

1
2 big project - 90 megawatts - that
3 was the first large scale solar
4 project approved in New York State,
5 by the way, with large panels,
6 etcetera, was settled at about
7 3,333 a megawatt. The largest
8 payments in the state that I can
9 find is at 5,000 megawatts. That's
10 what they are charging and here's
11 why.

12 In other parts of the state
13 the 5,000 megawatt - each one of
14 them hold community solar --
15 whether it's 30-year or some lump
16 sum, or whatever. Those larger ones
17 have a community host. In this case
18 the community host is another
19 400,000 megawatts on top of the
20 5,000; so effectively the combined
21 is \$9,000. The highest rate in the
22 state that I could find was 5,000.

23 So, again, I would ask anyone

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P R O C E E D I N G S

who has challenged our numbers, to be very specific. Anyone who has known me for any length of time knows that if I'm wrong, I say I'm wrong. We stand by that research and by those numbers of what those PILOT amounts are.

As far as consideration of federal tax credits, did you also notice in our findings statement that we do not discuss the impact on the state? We take sales tax and mortgage tax throughout the state and we don't discuss it. Do you know why? First of all, our constituents are you guys. Secondly, any performance of any analysis such as this should be highly reliable and verifiable.

Here's what I can verify. I can't verify what they are gaining in tax. What are they gaining in

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P R O C E E D I N G S

corporate tax? What are they gaining in fees? We don't know the revenue streams.

So, I think that I've hit on some points and some things that I really wanted to hit on and things that I wanted to mention up front. We will continue to watch the changes proposed in this.

I also want to note that the IDA Board will not take any action on this until we have your comments in and give everyone a chance to get them in and get the stenographic record in. So, there will not be action prior to that. We will be monitoring and we will be watching and we will see where it goes with the PSC and further.

In closing, I would just ask you to remember my background and my knowledge of land use issues and

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P R O C E E D I N G S

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2 impacts. It's not my role as a
3 consultant, though I would almost
4 welcome the IDA giving me an
5 assignment to answer environmental
6 questions here. But that's not the
7 IDA's job. Their job is to look at
8 environmental impacts. If we do our
9 own project, we sit in that chair
10 for a period of time and we have to
11 do the litigation.

12 I would ask to please provide
13 us more clarity. I want to be very
14 clear that we answer anybody's
15 questions that think that something
16 we did was wrong. I'm not afraid to
17 answer that.

18 Thank you very much.

19 MS. ERNST: Thank you very
20 much.

21 MR. GOLDMAN: I need any
22 documents you want to give me. I
23 will take them and I will just log

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them in.

Thank you, very much. I have learned a lot. I would just urge you to speak to each other and the applicant.

I take the comments that we respond to and we take this very seriously. It's important and we will take the time to look at them. I represent the Board and we are going to do a good job. You may not agree with what we conclude, but we are going to spend some time on this.

(Whereupon, the HEARING concluded at 7:27 p.m.)

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REPORTER'S CERTIFICATE

I, NANCY L. STRANG, a Court Reporter and Notary Public in and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand.

Nancy L. Strang
NANCY L. STRANG

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GREENE COUNTY

INDUSTRIAL DEVELOPMENT AGENCY

REMOTE PUBLIC HEARING

LOCATION: ST. PATRICK'S CHURCH, ATHENS, NY

WEDNESDAY, OCTOBER 05, 2022

6:06 p.m. - 6:58 p.m.



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THROUGHOUT NEW YORK STATE AND BEYOND

GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

-----x

IN THE MATTER OF:

FLINT MINE SOLAR, LLC CONSTRUCTION,

OWNING AND OPERATING A 100MW-AC

SOLAR PHOTOVOLTAIC FACILITY

BEING DEVELOPED AT THE SOUTHERN END OF

THE TOWN OF COXSACKIE AND NORTHERN END OF

THE TOWN OF ATHENS

-----x

PUBLIC HEARING

HELD: OCTOBER 5, 2022

TIME: 6:06 p.m.

LOCATION:

St. Patrick's Church

Athens, New York

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ON BEHALF OF GREENE COUNTY IDA:
APRIL ERNST, Executive Director
RENE VANSCHAACK, Consultant
PAUL GOLDMAN, ESQ., Counsel

SPEAKERS (IN ORDER OF APPEARANCE):

KEN GIFFORD
AL KAPLAN
JANET KAPLAN
ROB MUENKEL
JULIE FORMAN
SCOTT NAMMACHER
JANET LYONS
KIM CHEE
JOHN VAN BUREN
LOUIS IMBROGNO
JANET KAPLAN

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P R O C E E D I N G S

1
2 MS. ERNST: Notice is hereby
3 given that a Public Hearing
4 pursuant to Section 859-a of the
5 New York State General Municipal
6 Law, as amended, will be held by
7 the Greene County Industrial
8 Development Agency (GCIDA) on the
9 5th day of October, 2022, at 6:00
10 P.M. local time at St. Patrick's
11 Church, 24 North Washington Street,
12 Athens, New York 12015.

13 Flint Mine Solar, LLC ("FMS")
14 is a limited liability company
15 constructing, owning, and operating
16 a 100MW-AC solar photovoltaic (PV)
17 facility being developed at the
18 southern end of the Town of
19 Coxsackie and the northern end of
20 the Town of Athens.

21 The GCIDA is proposing to
22 provide incentives to the project
23 in the form of a Payment in Lieu of

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P R O C E E D I N G S

1
2 Taxes (PILOT), a Sales & Use Tax
3 Exemption, and a Mortgage Tax
4 Exemption. The application
5 submitted by the company and
6 relevant supporting documents
7 submitted to the GCIDA in
8 connection with this Project may be
9 reviewed by the public on the IDA's
10 website at www.greeneida.com.
11 Inquiries about the Project and
12 GCIDA assistance should be directed
13 to April Ernst, Executive Director.

14 The GCIDA will, at the above
15 stated time and place, hear all
16 persons with views in favor or
17 opposition to the rendering of
18 financial assistance by the GCIDA
19 for the project. Minutes of the
20 hearing will be made available to
21 the public and members of the
22 GCIDA.

23 Once again, we'll be keeping

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P R O C E E D I N G S

1
2 the comment period open until
3 October 28th at 4:00 P.M., and you
4 can e-mail me or mail us or drop
5 them off to us at the end of the
6 meeting. Thank you.

7 MR. GOLDMAN: Paul Goldman.
8 I'm the attorney for the IDA.

9 We had extensive comments last
10 night. We were taking it all down.
11 We have a stenographer here, so I
12 would ask you again, if you speak,
13 go slow.

14 For those of you who weren't
15 here last night, we had a lot of
16 comments, and I would ask again not
17 to have it repetitive, put it in
18 writing. We'll consider it.
19 Please give us the courtesy of
20 that.

21 We hear you. We are listening
22 to you. I'm sure the applicant is
23 listening to you, and your points

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P R O C E E D I N G S

are well taken.

Now, the reason we're here in Athens, just so everyone knows, is that because part of the project lies in Coxsackie and part of it lies in Athens, so we are required to have a public hearing in both locations. That's why we're here.

So, again it's still the same project. If you have comments on the project, the financial assistance, please make those comments, but please keep them succinct for the benefit of everyone.

Thank you.

MS. ERNST: Our first speaker is Nancy Gifford. Come on up.

NANCY GIFFORD: (Inaudible)

MS. ERNST: Come on up. I will give you six minutes.

KEN GIFFORD: After last

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P R O C E E D I N G S

1
2 night's hearing and listening to
3 some of the responses from the
4 consultant's numbers in defense of
5 the IDA finding report, I need to
6 reset the discussion tonight.

7 Indeed, public hearings are to
8 listen to the concerns and support
9 of the community, and we all are
10 rooting for both sides. This
11 conversation made me take away from
12 last night -- my take-away, anyway
13 -- is how the article Flint Solar
14 project pursuant to New York State
15 and the Greene County IDA in terms
16 of performing evaluations. I hear
17 a struggle to put your arms around
18 the best and fairly evaluate.

19 Like last night, we'll be
20 providing you with some more
21 specifics on this from where we
22 contend you disagree but are
23 willing to listen and learn from

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P R O C E E D I N G S

your experience in what you are doing.

I think what Sleepy Hollow Lake, what we're looking for is reflected in a recent article in the Times Union about the City of Hudson IDA, who, indeed, is challenging the way community benefits have been assigned by the IDA and coming up with new ways to measure community benefits. We kind of think that may be at the heart of the issue here for us, and I'm going to talk about why that is the case.

To do that, I need to give you a brief review of Sleepy Hollow Lake activities in the last several years, particularly in developing our close relationship with Greene County to solve the perennial problem of hundreds of tax lots

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P R O C E E D I N G S

going to them.

They paid no local real estate taxes. We lose all the fees induced from those lots. It's been an ongoing problem for years and years and years.

After a number of failed attempts with Greene County to solve the problem, a number of schemes involving outside developers that had visions, I guess, of fast cash get-rich schemes, they invoked the county and the Board at the time, and Sleepy Hollow Lake agreed to those.

It quickly failed. They were utter failures. More lots. More empty properties.

And you can't have a real estate development unfinished with hundreds of lots literally available.

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P R O C E E D I N G S

As a developer, I put them out
ten a time, come and get them
quick, they are gone. You can't
say that about 400 lots at a time.

I decided to run for the Board
as elected and brought my 50 years
of land planning and developer
experience as a landscape architect
planner and developer to the job
and to find what was basically a
real estate problem.

The problem, the largest real
estate (inaudible) in Coxsackie,
Sleepy Hollow Lake, 25 percent,
generally speaking, was in trouble.
We had not only hundreds of lots
that we lost, but we had over 40
years not paying serious attention
for maintenance and replacement of
facilities that we built. We were
in deep trouble, and getting worse.
We had notices about failure of our

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sewer plant for compliance, and we continued to have lots of problems with lake water declaring basically a lake in trouble.

So, what we did, basically, was to become the major player that we had to be and we also realized that the IDA over this period of time is a major player in the land use and economic development, not only in our area, but the county. The IDA needs to know that this area's major tax payer was in a quandary to find solutions.

In the past seven years, we borrowed over 17 million dollars, nearly completely rebuilding all of our infrastructures and amenities. We are a renewed community with a recent surge in Hudson Valley real estate. We are well on our way to solving drastic and reducing tax

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P R O C E E D I N G S

lots and local development for delinquent real estate taxes to the county and financial support so Sleepy Hollow Lake can remain solvent.

Indeed, the first time ever, we now, this year, fully funded our maintenance reserve requirement. We're funding our community. We do have an ongoing problem, however, you should be aware; Sleepy Hollow litigation with towns, villages and school districts, double taxation of our homes; yet again, common area property and open spaces in communities.

We return to court possibly early next year and believe we will prevail, therefore, be able to purchase remaining county tax lots and turn them into open space with no tax obligations.

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P R O C E E D I N G S

Over 50 years ago, when Sleepy Hollow Lake was planned, there was no local zoning ordinances. Subdivision ordinances were very basic compared to other ones, and what was allowed was a very dense like urban-type community on very poor soils that solely depended on public sewer and public water. Without it we could not be where we are.

So that starts this very problem of managing our watershed and therefore the quality of water in our lake.

As we have repeated last night, and I'm not trying to back off things here, there is no fault to any of the current planners here tonight, but our life is our reservoir. It is a backup water system from the Village of Athens.

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P R O C E E D I N G S

It is essential for us to be able to buy water for our 850-home community, which also demands that we have our waste-water treatment plant. Without this infrastructure our community is not viable.

As your own consultant pointed out last time, we're defined and impaired (inaudible). This problem is linked directly to this watershed in which the solar projects have been proposed. Sleepy Hollow alone has its responsibility for insurance.

As we pointed out last night, State agencies are overwhelmed, short-staffed to provide adequate personnel -- (sound interruption)-- let alone monitor new construction and operations.

I point out today's Times Union editorial, yet again,

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addresses this issue, and I point out that, and I quote this, DEC has asked polluters to self-certify that their operations are clean.

We were told last night maybe not to worry about this, the State is going to review the changes, everything is going to be hunky dory. And it was in this process, I must admit. DEC did a very credible job. They were very transparent. They responded to all of us interveners.

But I'm worried. I have been around State development. I have seen DEC disappear when we needed their help. Not that they wanted to. Not that the good people there would ever want to do that. It's just a reality. It's what happens when you really run projects in the State of New York. As a matter of

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P R O C E E D I N G S

fact, most states in this country
in my experience.

So maybe we get to it, maybe
we don't. That is why we're here,
okay.

We had no disagreements with
the IDA and with our understanding
of the value of the solar project.
We stated that very clearly. In
our watershed, indeed, with the
severe limitations of the towns and
villages surrounding us to provide
the extension of their sewer water
system is part of the reasons we
don't have other economic
development. We're too poor to be
able to do that.

This land use is an
appropriate land use for the farms
that have stopped farming in the
area. We believe that it is
essential that we have that

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P R O C E E D I N G S

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2 agreement and understanding with
3 you. But, we have asked that we
4 spend a little bit more time
5 looking at what the community
6 benefits of this project are and
7 who gets what.

8 I'm going to sum it up very
9 quickly.

10 We reverted the failure of
11 Sleep Holly Lake and will continue
12 to have to make millions more of
13 our own money investments to do the
14 very things that Rene talked about
15 last night.

16 We are dredging. We are
17 fixing drainage issues. This is on
18 top of paying back the 17 million
19 we borrowed and funding the
20 maintenance reserve. So we're
21 taxed.

22 Let me address when, if you
23 decided to give both towns the

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figures you have, you get no support to maintain the watershed. We get no support for the monitoring that we have asked for. We have asked the county to help us in perhaps sitting down and reviewing.

Thank you.

MR. KAPLAN: I'm Al Kaplan, from Sleepy Hollow Lake, chair of the SHL Solar Committee and what I want to talk about tonight, I want to talk about some of the things that I didn't get a chance to talk about last night.

Let me just say a quick word about last night's hearing. Over the last several months I have been able to do a lot in watching the IDA and getting a sense of what they do. And I have to say, I mean, I really believe that Greene

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2 County IDA is very professional.
3 They are doing great things for the
4 county and they are really trying
5 to improve things in our county,
6 particularly with a lot of the
7 things that are in the works, and
8 that's significant.

9 I also have witnessed, you
10 know, on Zoom, et cetera, some of
11 the hearings that they have held,
12 and I can tell you, I mean, in
13 addition to those hearings -- I
14 mean, I worked for the State 36
15 years, so I do a lot of advocacy
16 for not-for-profits for the State
17 and I have been to hundreds of
18 hearings, and last night's hearing,
19 among them. It was the first for
20 me. And I think that's enough
21 said.

22 So let me just reiterate some
23 of the aspects of what we talked

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about.

SHL is not opposed to Flint Mine, and people who think that just have not been listening or reading what we're saying.

We're not opposed to the funds that the farmers are going to get in dealing with this. We're in favor of all that. We're in favor of solar, as Ken was saying earlier. But what we want is that recognition of our needs, and our specific needs.

As I said last night, we're willing to trust, but trust has to come with verification. From a legal perspective, as fiduciaries of that reservoir, there are things that we have to do in terms of monitoring what is coming into that reservoir. And that's just the way it is. The fact that that costs

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money and that it's going to cost money because of an action that another party, another neighbor is taking, we're saying we need to have a good neighbor here that's going to recognize the issues they are creating for us. And as I said, trust to verify, be suspicious of the pushback.

So, it was this sense, coming from some of the folks who spoke last night about "you people" being the people of Sleepy Hollow Lake, I can just tell you, we're your neighbors. We live here. We pay taxes here. We work here. We volunteer here. We shop here. We eat here. We hire people from the local area, both as people who work for Sleepy Hollow Lake and the people who are contractors who work for the homeowners of Sleepy Hollow

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Lake. So, when you're talking about "you people", I'm not sure what that's all about.

I want to talk about equity and fairness, so let's look at the pilot that's involved. So, let me first say, I apologize. I'll try to summarize.

So the (inaudible) recently purchased for \$300 million dollars, right.

So the IDA had an issue of coming up with an evaluation of the valuation for tax purposes of this project knowing that \$300 million -- (Inaudible due to discussion in front of the microphone).

Well, first they do is -- so, the IDA had to come up with the valuation to be able to do the PILOT. The first thing they did was normally they do 20 years for

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the PILOT, that's their policy. They asked for 30, they gave them 30.

We'll look at 30 years. So the first thing they do is they come up with a discounted cash value. That essentially is the getting to a number that represents the assessment value that all of us would pay if we owned that property. So you and I pay with this discounted value.

So they came up with a value, and it's in the report, of \$167 million dollars. So that if we were the owners, meaning each of you were an owner of this project, you know, you would be taxed at the rate of \$167 million dollars.

But, you know, they looked at it and said that is a lot of money and the State already said they

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don't have to pay property taxes when you do a PILOT, so, there are other things we could use.

Well, the State came up with a model. They call it the NYSERDA model. There is a lot of controversy about that model, because the Town of Blenheim and some other towns are in a lawsuit and there are some issues with the model.

And their lawsuit says, Well, that's too low, that gives too many benefits to solar developers.

So anyway, the model that the State presented, you know, IDA did the work on it, came out with a valuation of \$47 million dollars, significantly different than the \$167, and kind of gives you an idea why some of the towns are suing over that.

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Then they had to look at what was requested, which was about half the State's model. So, in other words, if that's \$47, let's say it's about \$24 million.

So now from the valuation perspective, that's what Flint Mine was asking for. So the savings that that model would give you from the amount that we would pay, the discounted cash model of \$167, they are going to save \$128 million of that. From the State model, they are going to save about \$20 million. And then, if you add the town payments, which are not part of the PILOT, then there is no coming down because you have to give an approval of about \$12 million. So now the savings from the model that says what we would pay as taxpayers is only \$116

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million dollars over 30 years, and from the State model, it's still below the State model.

So I thought, just because I know sometimes it's not the easiest -- I'm a numbers guy, so I want to just do a quick visual.

So this page is \$300 million dollars, okay, if we had the whole. Okay. That's the market value, whole page. This is \$167. Okay. So that would be \$167. Take away that, that's where you begin to generate some savings.

Now you go to the State model, that's \$47 million, okay. Take away that, and that's how you get to those savings, because they are not having to pay that. And you're left with the State model.

But now you have their request, which the IDA has

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2 accepted, that's \$23 million. It's
3 not a big piece of paper.

4 So that's how they are valuing
5 this particular project. I don't
6 know, I hope that helps give you a
7 good perspective.

8 So, the IDA, you know, said,
9 Okay, we're going to accept Flint
10 Mine's request, but there was one
11 change, significant change. So
12 they did one change to the model,
13 which is they negotiated a \$500,000
14 up-front payment to the IDA. For
15 negotiation, that's pretty good,
16 but that's really the only change
17 from what Flint Mine was asking in
18 their application to the IDA.

19 So because of some of these
20 things and because they are not
21 following some of their own
22 policies, they had to file what is
23 called a deviation notice, and they

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filed that with the county, the towns, with the school district, just to let them know that they are not following that.

So, essentially what we have here is, you know, D.E. Shaw gets involved in a certain way here because D.E. Shaw Renewable Investments bought Flint Mine. D.E. Shaw is -- we've been saying, and I know people don't like to hear this -- is a \$128-billion dollar hedge fund today, based on the latest numbers that have been reported.

We're only going to make, probably again, I don't know the exact numbers, but our calculations are they are going to bring in about \$20-million dollars a year in revenue during this project. And, you know, we all know that, you

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know, solar is not the really economic development aspect -- and you can read that in the IDA report -- they are saying this is really not economic development.

Aside from the initial construction jobs in the pre-amended plan, they have one full-time equivalent job. I don't know if the amendment changes that number anywhere anyway. And this is the first big solar that the IDA is reviewing, first big one that's come in front of us. And right now we're setting a precedent, which is going to apply to all of the other big rollers.

We know that Heckity (phonetic) is looking at this and licking their chops in terms of what they think they can get. The county in this, they are actually

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going to end up with a net loss of revenue over the 30 years, which is unbelievable, but, you know, when you are looking at that kind of valuation, those things happen, and the sales tax and mortgage reporting taxes. Compared to what they would have gotten under the State model, the Coxsackie/Athens school district, over the 30 years, is going to lose \$16-million dollars.

Now, that is just compared to the State model. Compare that discounted cash, remember the \$167, everybody remember that? Compared to that rate, the school district is going to lose \$91-million dollars over the 30 years.

So, you know, I just want to make sure everybody puts this in perspective that this is what's

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2 happening. We have people coming
3 in, not economic development,
4 making a lot of money no matter how
5 you slice it, and, you know, we
6 question the equity and the
7 fairness of the taxes.

8 Now, these things do not
9 include any of the federal income
10 tax laws, the State NYSERDA subsidy
11 that they will be getting, or the
12 States's portion of the sales.
13 Those are savings on top.

14 And to top it off, just, you
15 know, they are telling us they
16 can't afford to help Sleepy Hollow
17 Lake. That's their position.

18 So, it doesn't sound right to
19 me. I don't think it's fair. I
20 don't think it's equitable and I'm
21 concerned about what we're saying
22 to everybody else.

23 So, in summary, we believe

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they are short-changing the county,
the schools, SHL and all of the
county taxpayers that are in this
room that pay federal and state
taxes.

But thank you very much.
Thank you for your time.

RENE VANSCHAACK: I just want
to clarify a few points because I
think it's important.

VOICE FROM THE AUDIENCE: Is
this a debate?

RENE VANSCHAACK: When you
talk about deviation notice, that
deals with uniform tax exempt
policy of the IDA, not the solar
policy. Uniform tax exempt policy
dates like 30 years now -- It's a
deviation policy. Not unusual.
Specifically the reason we wanted
to make sure that nobody could say
the IDA didn't have that experience

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to do that.

I think what is important here at the end of the day is you have to remember that the IDA wouldn't consider benefits if it wasn't for the problem -- (inaudible) so I would just ask if somebody is aware of pop-up projects that have happened without any benefit, we welcome that.

We can go back and forth all day with various opinions on that, but none much even as you noted we have acknowledged. Very key points, you know, the managed to nicely throw away the \$500,000 to the IDA, but you didn't qualify that IDA. So let's qualify why we did it.

In the document we recognize that this project, unlike a factory or warehouse where tomorrow I can

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tell you now a bunch of contractors are working on that, Ferguson and others to (inaudible) typical secondary and direct economy. We recognize that this would happen. That \$500,000 is restricted to go into to IDA's economic development fund to build business to allow us to build further traditional projects that would bring tax benefit jobs. It's not something that's going to bonus or benefit or salary. It's going very specifically to offset the absence of second economic impact.

And lastly, I agree with you on Heckity (phonetic). Heckity offered like \$2,200 of megawatt in this, so I think Heckity, if anything, they are clearly not clapping for joy at \$5,000 megawatt. They're probably

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2 thinking they are in trouble
3 because I would expect to see that.

4 So, I think, again, put a lot
5 of time in that finding stock and
6 it's very easy to cherry pick or
7 mention parts, but I would ask
8 everybody to take time and read
9 through that binding statement.
10 Verification is in the binding
11 statement articulated clearly and
12 accurately, so let's make sure
13 we're on the same playing field.

14 AL KAPLAN: (INAUDIBLE)

15 MS. ERNST: Janet Kaplan.

16 JANET KAPLAN: Thanks, April.

17 I'm Janet Kaplan. I am here
18 because I'm president for Sleepy
19 Hollow Lake.

20 I submitted written and spoken
21 comments last evening, and at the
22 end Rene commented on something I
23 said that there were numerous

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misstatements and misconceptions and inconsistencies in the report, that I had stated that, and asked me where they were.

Well, they are in my comments. I was going to go through and hit every one, but I decided I'm not going to do that. I just want to talk about one that is a mischaracterization of what Sleepy Hollow Lake is asking for and what the budget that we submitted as a proposal is.

We submitted a budget primarily for testing and monitoring the lake as a result of Sleepy Hollow under Flint Mine's potential to increase the level of phosphorus in the lake. The solar project, contrary to what some people think, they are not just skipping a hole in the ground.

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There is going to be tremendous disturbance of soil and we don't know the half life of all the chemicals that would be in there. Potentially it could be good, as Ken said, less phosphorus, potentially not, but we need to test and we need to monitor. We are testing now at our own expense to do baseline cleaning when the solar project starts. We submitted a proposed budget based on the initial Article 10 submission last year of \$100,000. In the findings report they stated that the majority of our budget is for mitigation and repair of existent drainage easements where we have a problem.

That's not permanent. We're repairing those are at our own expense as a continuous problem.

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We do it all the time and then that actually we met the majority of the budget. That's about \$30,000 based on this. Just a budget. It's a guess based on what we know and what we're expecting, and we expect that to be an annual cost to us.

The other part of what we're asking is a misstatement that we're asking to take money from the town or the school district, and we're not. We support the towns. We support the school district. I think all the money should go to the school district. I think they really need it. The school district could use all the money, but they are not getting it, whatsoever.

But we are not asking to take any money from that. We're asking the IDA to use it's leverage in

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2 giving these enormous benefits to
3 Flint Mine or whoever the operator
4 is going to be ultimately to
5 require them to (inaudible) with
6 our monitoring and testing.

7 The rest I can give you copies
8 of this budget. You have it
9 already, but I will give it to you
10 now.

11 That is it. I did it in three
12 minutes.

13 ROB MUENKEL: Rob Muenkel,
14 Sleepy Hollow resident for about
15 ten years now.

16 Just a couple of quick things.
17 The (inaudible) cycle changes. A
18 lot of variables. Putting in a
19 solar in the watershed will add to
20 those variables. So I guess the
21 key question to Flint Mine is have
22 you done any type of setup that's
23 close enough to (inaudible) Lake;

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that is our water source of
drinking.

Are there examples of that?
How did you mitigate catch basins?
So it's really a question of, you
know, what have you done and
experienced before, you know,
within New York State.

This is by far a well-managed
lake. And to be told -- not
against solar -- I have it on my
roof, so we're all pro solar for
the most part, but the fact that it
is in a watershed and that question
stands to Flint Mine to answer what
experience you have of in setting
up that.

Thank you.

MS. ERNST: Would Janet Lyons
like to speak?

JANET LYONS: I yield.

MS. ERNST: Robert Bullman?

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1 ROBERT BULLMAN: I yield.

2 MS. ERNST: Giuseppe Multari?

3 Giuseppe, did you want to
4 speak?

5 GIUSEPPE MULTARI: Not really,
6 no.

7 MS. ERNST: Okay. Julie
8 Forman.

9 JULIE FORMAN: Good evening.
10 My name is Julie Forman. I live at
11 21 Van Houten Drive. I'm a member
12 of Sleepy Hollow Lake.

13 The majority of the community
14 is in full support of this Flint
15 Mine project and the green energy
16 that will supply to my livelihood
17 at the lake, living here full time.
18 I'm a member of your community. I
19 pay taxes here.

20 My daughter was just a
21 kindergarten teacher in the school
22 district last year, so we're very
23

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invested in this.

With that being said, this project is being built on Murderers Creek, and Murderers Creek is a direct feed into Sleepy Hollow Lake, and Sleepy Hollow Lake is what provides my house with water that I drink, that I shower in and that I also enjoy recreationally.

So I'm asking that Flint Mine consider what we're asking for is that they continue to monitor our water to keep it clean and that any run-off associated with this has been thought of carefully and they are taking due consideration to make sure that our water stays clean.

Thank you.

MS. ERNST: Jim Foreman?

(No response.)

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MS. ERNST: Scott Nammacher?

SCOTT NAMMACHER: Scott Nammacher. I live at 54 Manhattoes in Sleepy Hollow Lake.

I have a home on the lake and I spoke on this yesterday about the issue with phosphorus. This has been raised again and I would ask you to let me put a hypothetical.

So we're doing the monitoring and assuming that this goes through and folks are able to negotiate the monitoring of the systems, what happens if we find heavy phosphorus is coming off through the disturbance? What happens at that point? Who is responsible? This is a question I have.

RENE VANSCHAACK: I will answer that question.

There is a violation of law. You have your rights. As any

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citizen does. It's not like we're going to enforce it, but if there is a violation of law, then you have your remedies. That's what would happen.

I just answered the question.

SCOTT NAMMACHER: Let me make sure I understand.

So in terms of a cost related to possibly processing the water before it gets to Sleepy Hollow, how does that work? How does that work?

If you had to move the phosphorus or reduce the level of phosphorus in the water? Is that a Sleepy Hollow cost?

RENE VANSCHAACK: The applicant, like every environmental permit that you get, it's like a compromise, usually you have some impact. I'm not talking about IDA,

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2 but any environmental (inaudible)
3 usually ends up to be a compromise
4 of some sort. The compromise is
5 usually worked out to some solution
6 that everybody agrees on, but the
7 applicant, if they don't -- if they
8 violate or exceed what everybody
9 agreed you could do, then the
10 regulatory agencies, DEC, Army Corp
11 and others, right now, whether they
12 have enforced it or not, but the
13 standards -- the daily storm water
14 violation fee is \$10,500 a day
15 every day you are found in
16 violation of that.

17 So any of the environmental
18 conditions, agencies that issued
19 them the permits that allow them to
20 do that project, that kind of falls
21 under their purview.

22 SCOTT NAMMACHER: Thank you.

23 JANET LYONS: My name is Janet

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Lyons. I live in Sleepy Hollow
Lake.

To follow up this gentleman's
concerns, if there are found to be
violations with this increase
phosphorus or there is increased
contamination to the lake, it's the
responsibility of the Sleepy Hollow
Lake owner to then remedy that
problem, or do I have to go and sue
individually or do we have to sue
as a whole the company who is
financing, the agencies that permit
it? Who does that?

When you speak of remedy, I'm
assuming you mean legal, which
would be a lawsuit, which would
take years, and you are at risk of
putting home owners out. You are
at risk of polluting the lake and
taking away drinking water from
both Sleepy Hollow Lake, and

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possibly the town of Athens.

RENE VANSCHAACK: So if there is a violation of the permit conditions, and again, as you noted before, we are answering a question out of courtesy and because I have experienced, I could tell you that pretty much 99 out of 100 permit violations that I have seen reported in my career have not come from a government source, they have come from private sources. They come from neighbors and they come from the people on the block and the system is well established. And I can tell you that we have had to meet our conditions ourselves in doing permits. They do take it serious.

Whether there is enough staff in this day and age to do it or not, I think that's a pretty

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impossible question for any of us to answer conclusively.

But when Paul says a remedy doesn't mean you have to go to a lawsuit. What they are violating, and if you are been watching what has going on in up in Cohoes with Norlite, for example, is has been exactly this problem up there. DEC has stepped in repeatedly, not the city of Cohoes and forced them to do additional mitigation, hire compliance monitors on site.

Is it enough or not? I'm not familiar with that project, but there is a local example in our area where there is a permit condition, it was violated, the citizenry pointed that violation out to regulatory agencies, the regulatory agency did their job, stepped up, realized they were in

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violation of the permit and took
action.

JANET LYONS: Thank you.

RENE VANSCHAACK: They can
revoke the permit. So if you are
two-thirds of the way through your
job, they can pull your permit.

PAUL GOLDMAN: The Dunn Mine
in Rensselaer is a perfect example
of that. That permit is off for
re-evaluation.

So, sometimes that's what
government does, actually act.

RENE VANSCHAACK: If you go
back and research in the Times
Union just a little bit, Port of
Albany, the oil company that was
down there, they had the permit
pulled on air quality violations
down in the public housing down at
that time. They may have gotten it
back. The project fell apart, but

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they did get a permit either pulled or not renewed because they were in violation of air quality standards.

JANET KAPLAN: That's exactly why we need to monitor and test, because we need to know.

KIM CHEE: My name is Kim Chee. I live at 7210 Trail, Sleepy Hollow Lake.

I just want to follow up on this wonderful person's comment or question.

My question is this: You have all these wonderful remedies for us in the event something should happen. I'm just curious, what is the time lapse between the original complaint and the remedy before we do harm to ourselves?

RENE VANSCHAACK: The answer to your question is you are really talking to the wrong people. We

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are the agency does that
environmental.

I can tell you this, if you
want to look at the documents that
Paul Goldman does on our end if
they default on a financial
condition, the penalties are swift.
I can't answer that.

KIM CHEE: I'm just making a
rhetorical question.

In the event that something
should happen, in the event that we
alert you, in the event that you
are so kind to offer all of these
remedies to us, and in the
meantime, what happens to our
drinking water? What happens to
the water that we rely on? What
happens to the value of our
property?

I just need to know that time
lapse. Because if you are talking

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about a week, I can handle that.
If you are talking about a month,
maybe. If you are talking about a
year, what am I going to do?

RENE VANSCHAACK: As I noted,
we can't speak for the agencies.

JOHN VAN BUREN: My name is
John Van Buren. I live on 12 Brom
Bones Lane in the town of
Coxsackie.

First of all, I want to state
that I am in favor of renewable
energy resources. I'm a retired
professional engineer from Central
Hudson.

At one point I was involved in
what we call generation planning or
the -- how we development energy
supplies for our future. This is
decades ago.

But one thing I would like to
point out. In our economic

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2 analysis, which I participated in
3 quite actively, we always took our
4 payment over our fair share to the
5 community into account. We
6 included it. I'm talking about all
7 the taxes involved with the -- in
8 light of solar's perceived benefit
9 to our society, we have decided to
10 bypass a lot of these things. And
11 I feel that there is a failure for
12 Flint Mine in this case to pay
13 their fair share.

14 For details on the failure,
15 please take a look at Al's
16 testimony and some documents that
17 were submitted last night.

18 My real concern is the
19 financial hardship on the people in
20 Sleepy Hollow. Flint Mine is going
21 to be building a facility that has
22 the potential of damaging our
23 reservoir, damaging our drinking

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water supply.

We also act as a backup for the village of Athens. And how do we keep track of this? How do we make sure it doesn't get carried away, get out of control? We monitor.

Now, who is going to pay for the monitoring? The idea is decided that Sleepy Hollow Lake residents should pay for the monitoring of water to make sure that water is not contaminated by Flint Mine. Think about that for a while.

Thank you very much.

MS. ERNST: At this time would anybody else like to speak?

PAUL GOLDMAN: Everybody should be aware that every comment written or otherwise will be published in its entirety with a

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detailed response on the back.

To everything you heard here tonight, there will be a response. It will be up on the website. The IDA will answer to it. And if there are things that the Board takes into consideration, changes and the changes made.

I would encourage everybody who had the interest to come out tonight and hear the questions.

I didn't intend with Al to get into any debate or allude that he misrepresented us, but there is further clarifications, I feel, in those documents that need to be heard and the purpose tonight is not for me to get up here and sell my end of the risk to you, and knowing that most people at public hearings after 36 years rarely follow up on questions that might

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have come up in their mind with all the speakers at a public hearing, I would encourage you please -- I would ask you -- I'm in this community my whole entire life too, so I'm not an outsider.

I'm born and raised in Coxsackie. My family is 150 years in Coxsackie since 1649 in the Hudson Valley. So, I'm not an outsider and I would ask one of you give us the respect and the courtesy to go back and answer your questions.

LOU IMBROGNO: My name is Lou Imbrogno.

My question is why wouldn't Flint Mine pay for this testing? On a project this big, why wouldn't they want to protect their interest?

That's my question to you.

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Thank you.

RENE VANSCHAACK: It comes really down to the simple fact that there are different agencies that have different rules and different responsibilities.

In this particular case, whether you like it, don't like it, I will tell you somebody who is local, has gotten my projects done. But there are those agencies and they are really -- (inaudible as speaker is facing away from the microphone).

LOU IMBROGNO: If the IDA of Greene County represents all our citizens, of which I pay a lot of taxes, why wouldn't the IDA force Flint Mine, regardless of what, to put aside a fund every year to pay for testing?

It's huge project, a project

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that was valued -- that they paid \$300-million for, and now they want to be taxed on between \$167-million, down to \$24-million or whatever it might be.

There is an economic value in it for Flint Mines to at least set aside and pay for this additional testing that Sleepy Hollow Lake requires. Period. That's the only way to prove our case. IDA should be protecting us.

Thank you.

PAUL GOLDMAN: All the comments will be considered by the Board. I can say to you, honestly, that, you know, we are going to be responding to that. The Board may elect to do that, they may not. It's really up to the Board, but your comment will be considered by the members of the Greene County

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2 Industrial Development Agency.

3 JANET KAPLAN: When we were
4 intervenor in the process I wasn't
5 the president of the Board at that
6 time. Ken was maybe chair of the
7 solar committee at that time and we
8 had an agreement with Flint Mine,
9 we created on, and when we raised
10 the issue of expenses for off-site
11 mining, they said, Oh, now is not
12 the time to do it, it's Article 10,
13 don't do it.

14 So, okay, we did our little
15 thing and here we are, and they are
16 saying, or you're saying now is not
17 the time to do it.

18 Now we're asking for
19 assistance to do this and you're
20 saying now is not the time to do
21 it.

22 Well, when would have been the
23 time to do it? Flint Mine told us

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specifically not during their
(inaudible).

MR. VANSCHAACK: I didn't say
this isn't the time, I said this
isn't the agency.

JANET KAPLAN: Same thing. It
really is.

And that was a rhetorical
question. You don't have to
answer.

MS. ERNST: The public hearing
is over.

(Whereupon the Hearing
concluded at 6:58 P.M.)

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I, MICHELLE TROY PARRISH, a Court Reporter and Notary Public in and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand.

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Held October 5, 2022

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**ATTACHMENT 3
PUBLIC COMMENTS AND RESPONSES**

2 October 2022

Exhibit A

Greene County IDA

Ms. April Ernst , Executive Director

45 Sunset Boulevard Suite 3

Coxsackie, New Yo 12051

Dear Ms. Ernst & IDA Members:

It is my understanding that Sleepy Hollow Lake feels that it is entitled to a large share of the PILOT money expected from Flint Mine Solar. As a member of the community, I would like you to take the following facts into consideration.

Sleepy Hollow Lake is within the confines of both Coxsackie and Athens. It is a neighborhood – not a town. SHL does not have its own school district, fire department, library or EMS services. In fact, it does not provide any public services to either town or for themselves. Yet SHL benefits from the services provided by both the towns of Coxsackie and Athens.

It is not the responsibility of the towns to keep SHL clean and pristine for the people who choose to live there. It is a man-made lake and therefore subject to the same water purity problems that the rest of the country faces during the present climate change period.

The residents of SHL do not allow any outsiders (townspeople from Coxsackie or Athens) to use the lake, pool or beach or any of the facilities enjoyed by the residents of the closed community. They do allow homeowners guests. As is their right!

In conclusion, I do not feel that Sleepy Hollow Lake is entitled to any of the PILOT funds.

Thank you .



Helen B. Meier

Exhibit B

4 October 2022

Greene County IDA

Ms. April Ernst, Executive Director

45 Sunset Boulevard Suite 3

Coxsackie, New York 12051

Good evening Ms. Ernst and IDA members. My name is Helen Meier and I am a resident of Coxsackie. My family supports solar power and the Flint Mine project.

Many of the farmers in the area have worked their whole lives to make a living off the land that is not profitable for farming. Most of you have lived and worked in Greene County your whole lives and are aware that 60 years ago, there were several dairy farms in the area. The land was suitable at that time for growing hay to feed the cows. The cows are gone and so is the dairy farming industry in Greene County.

Putting solar on the land will allow it to be used not just productively but in a clean and sustainable manner. The project will bring revenue to the towns, school district, fire department and the county, as well as to the landowners and businesses.

We ask the IDA to support the Flint Mine Solar Project and to provide its approval this year. These are very uncertain times, and we need to eliminate the barriers to these projects coming online as quickly and efficiently as possible.

Thank you very much for your time and attention to this matter.



Helen B. Meier

Exhibit C

October 3, 2022

Greene County IDA

April Ernst, Executive Director

45 Sunset Boulevard – Suite 3

Coxsackie, New York 12051

Dear Ms. Ernst and members of the IDA:

My name is Jennifer Bachar. I am a resident of Coxsackie in Greene County. As a young adult, I am concerned about the future of the planet. I support the solar power projects in the area, specifically, the Flint Mine Solar installation. Flint Mine is a well-planned and thoughtful installation. They have been careful not to disturb the surrounding areas, while still saving plenty of land for the wildlife.

My understanding is that Coxsackie was once known as a mushroom farming area, where they would grow in large warehouses (not in the fields) as well as for dairy farms. All these farms are now gone. With all this land no longer in use, solar seems like a perfect alternative to make the land productive again. With your help it will also bring some much-needed revenue into the area.

I would like to ask the IDA to support the Flint Mine Solar project and provide its approval this year. The climate is becoming more and more unstable. It is urgent that we do something immediately to get these projects into operation as soon as possible.

Thank you.



Jennifer Bachar

Exhibit D

Pg 1

Greene County IDA public hearing Flint mine solar project:

SHL testimony, October 4, 2022 by Ken Gifford Association of Property Owners (APO) Board Member

Sleepy Hollow Lake is a 326-acre manmade lake for the primary purpose of potable water for more than 850 homes within the Sleepy Hollow Lake community. There are 2 major tributaries that feed the lake, primarily Murderer's Kill Creek which discharges to the northwestern arm of the lake. A majority of Flint Mine Solar is located within the Murderer's Kill Creek sub-watershed and therefore that facility drains to the lake via that waterway. The land use conversion of this solar facility in conjunction with the Hecate Solar facility will impact the hydrology, hydraulics, and pollutant loading dynamics of the watershed and Sleepy Hollow Lake.

Through the network of tributaries of Murderers Kill Creek, there is a direct hydraulic connectivity between Flint Mine and SHL, providing a vector for pollutants and stormwater to the lake. The APO has a fiduciary responsibility to protect the lake as its reservoir, as well as the center of recreational activity for the community. Sleepy Hollow Lake is a Class A Lake and high-water quality must be maintained to continue the safe and reliable production and delivery of potable water.

One of the primary concerns is increased stormwater and sediment loading to Murderers Kill Creek from the site as a result of short-term construction activities and long-term site land use conversion from agricultural and open lands to an industrial-scale utility facility, which not only exacerbates the loading of solids and nutrient pollutants but will exacerbate in-channel erosion in the creek.

Review of soils data clearly indicate that the soils exhibit poor suitability for construction in general due to erosion hazards and susceptibility to compaction. These characteristics limit the capacity of the site to provide stormwater management. Given the scale of the project, the footprint, placement of generating devices and infrastructure and required construction activities paired with the known erosional risks within the watershed and sensitivity of down gradient resources, there is a high probability that this project will generate pollutants and runoff that could harm SHL.

This project will include soil disturbance through earth moving, including topsoil stripping and grading, as well as excavation, tree clearing and other construction activities. Certainly, the installation of 600 acres worth of PV racks, even in the absence of grading will result in high volume construction traffic within the proposed limit of disturbance, resulting in soil compaction, and rutting which reduces soil infiltration capacity leading to increased stormwater runoff, erosion, and mobilization of particulates. While these impacts are associated with the construction phase, the effect of compaction spans decades or even longer leading to

Exhibit D
Pg 2

management and soil and vegetation impacts at the facility, increasing channel erosion and bank instability, increased delivery of solids to SHL from facility soil erosion, increased stream bed load mobilization and elevated nutrient loads and concentrations.

Flint Mine Solar & Crawford Associates had agreed that it would be necessary to review their Stormwater Pollution Protection Plan (SWPPP) to help identify if there could be any potential impacts to our reservoir. Our mutual agreement was that as soon as the plan was completed, they would share it with us. To date, this has not happened. This evaluation is pivotal to our potential needs.

Further, we have been made aware of recent changes proposed by Flint Mine Solar that will add more soil disturbance within our watershed. This change is deeply concerning to the APO and Board, but we are somewhat relieved that the Article 10 judge is seeking further review as there are questions to be answered. The original plan of light touch construction with movable panels assured to us by Flint Mine Solar may now be gone, and much more grading of the site might be required. Likewise, the changing of the transmission power connectivity could have similar impacts.

The APO and Board of Directors began serious work on our lake in 2016 from dredging, stream channel restoration, professional services and more. Expenses to date include:

Lake and Watershed Management Consulting	\$275,000
Lake and Watershed Management work	\$680,000
Salaries and Wages for work	\$760,000
Project Management Consulting	<u>\$375,000</u>
Total	\$2,090,000

We implore the IDA to reconsider their stand and help the Sleepy Hollow lake community with its 850 homes (and growing). Are not we allowed to expect clean drinking water?

Exhibit E

JEAN & DAVID UNGER

689 SLEEPY HOLLOW RD UNIT 1183

ATHENS, NY 12015

518.945.7121

201.970.5117 DAVID CELL

908.665.0607 JEAN CELL

October 1, 2022

Greene County IDA
45 Sunset Blvd. Suite 3
Coxsackie, NY 12051

Dear IDA Board:

As you know, SHL has asked the IDA to designate funding so we can monitor the impact of construction and maintenance of the Flint Mint Solar project on our water quality.

Your Statement of Findings denies that request because we are not a "public taxing authority," but when it comes to clean water, Sleepy Hollow Lake is a vital part of the public watershed and every action taken in the watershed is interconnected—from Coxsackie and Athens to SHL to the Hudson River and on.

Our lake has experienced blue-green algae blooms for three of the last four years. One of the most significant sources of these blooms is the nutrient-rich runoff and sediment flowing into the lake from surrounding areas and farm fields, a factor that will always be beyond our control without a unified regional effort.

Flint Mine Solar will be clearing, excavating and grading soil on hundreds of acres of land in our watershed. What they do directly affects our water, and as SHL serves as our drinking water (as well as backup water for the village of Athens), it is essential that we monitor, test and work to mitigate any negative impacts from these projects.

The IDA's findings provide Community Host Fees to the citizens of Coxsackie and Community Host Fees to the citizens of Athens. But the 2000+ citizens of SHL, whose drinking water is most at risk by these solar projects, have been completely sidelined. The IDA's report does not even address the necessity of Flint Mine completing a satisfactory Stormwater Pollution Prevention Plan.

SHL is a community of people who enthusiastically support the business, service and cultural organizations of our communities. We are significant contributing taxpayers who in return make few demands on municipal services because we also fund our own sewer, water, public safety, administration and roads. Frankly, it baffles me that the Greene County IDA and our own municipalities do not join us and insist on the need to ensure clean and safe drinking water for all.

In its proposal, the IDA offers millions of dollars in property tax savings, county sales and use tax exemptions, and mortgage recording tax exemptions to Flint Mine Solar, a group of outside corporations that have no ties to our communities, does not commit to hiring local employees during construction, and brings just 1 full-time job here for the 30-year life of the project. Flint Mine Solar tells us they will monitor the impact on the watershed themselves but it is naive to believe they will have the staff or determination to prioritize the safety of our drinking water.

In fact, in a Petition for Amendment filed on Aug. 29, 2022, Flint Mine Solar proposed changes to their approved Article 10 Application that alters commitments they made to our communities during the approval process. Changes include over five miles of 60-ft. overhead collection lines vs. the approved lower-profile wiring system, additional grading and tree clearing — changes that the state Siting Board notes may impact historic properties, the Flint Mine Hill archaeological site, grassland birds conservation area, wetlands, viewsheds, buffers and noise—an obvious effort to lower costs and increase profits at our communities' expense.

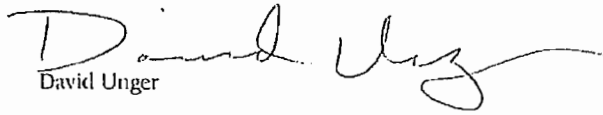
In light of these proposed changes, I ask the IDA to delay action on any financial agreement with Flint Mine Solar until the concerns regarding their proposed amendments are resolved.

I also ask you to please provide the people of SHL with the funds needed to monitor, test, verify, and protect our water.

Your report indicates a Compliance Monitor Escrow Fund will be established for both Athens and Coxsackie to hire outside experts to monitor fire and building code compliance. A similar fund would allow SHL to hire an outside expert to monitor changes to water quality and stormwater runoff.

While conversion to solar energy brings many benefits, the preservation of safe drinking water cannot be ignored and MUST be made an essential component of this project.

Thank you.


Jean Unger
David Unger

Rec'd 10/12/2022

Exhibit E part 2

JEAN & DAVID UNGER
689 SLEEPY HOLLOW RD UNIT 1183
ATHENS, NY 12015
518.945.7121
201.970.5117 DAVID CELL
908.665.0607 JEAN CELL

October 9, 2022

Greene County IDA
45 Sunset Blvd. Suite 3
Coxsackie, NY 12051

Attn: April Ernst, Executive Director; Rene Van Schaack, IDA Consultant; IDA Board

Re: Followup to IDA Public Hearing Oct. 4, 2022

Hello April and all:

As a followup to the IDA Public Hearing on Oct. 4, 2022, I wanted to share some additional comments.

My husband and I are particularly aware of Rene Van Schaack's contributions to Sleepy Hollow Lake as we met with him and Laurel, SHL's Association Manager, in July 2008 regarding designating a portion of our property to be used as a conservation easement to try and solve the damaging drainage and siltation issues in our cove.

Rene Van Schaack served as an educator, facilitator, and lake management expert in the early days of SHL finally taking the steps needed to protect and enhance the health of the lake. Following his guidance, SHL has worked hard to repair and restore drainage easements, create conservation easements from available lots, encourage homeowners to combine lots, and now we are slowly dredging the area of the lake that has filled in with nutrient-rich silt from Murderers Creek.

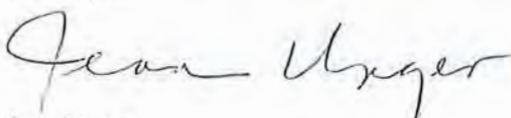
We believe his assistance and education are major factors in why the Sleepy Hollow Lake community is so aware of the need to monitor the potential impact of Flint Mine Solar on our water quality.

Looking at a map of the Flint Mine Solar project, Murderers Creek winds through the proposed panel areas so the project will involve clearing, excavating and grading hundreds of acres of land in our watershed. What Flint Mine does affects a major source of water flowing into our lake and drinking water.

We are aware of the benefits solar fields bring to Sleepy Hollow Lake and the environment over traditional farm fields, so have not been opposed to Flint Mine Solar. However, we want to be able to monitor, test and verify the impacts of the project on our water quality.

I hope you will find a way to provide SHL with the funds necessary to do this as well as urge Flint Mine Solar to complete an effective Stormwater Pollution Prevention Plan.

Thank you.



Jean Unger
David Unger

Exhibit F

Pg 1 of 4

TESTIMONY OF JANET S. KAPLAN, PRESIDENT OF APOSHL TO GREENE COUNTY
IDA

REGARDING DRAFT FLINT MINE SOLAR, LLC STATEMENT OF FINDINGS

OCTOBER 4, 2022

Thank you to Chairman Hoglund, Board members and Ms. Ernst for the opportunity to address the IDA regarding the draft statement of findings on Flint Mine Solar's application for property, sales and mortgage recording tax relief. I am Janet Kaplan, and appear here as President of the Association of Property Owners of Sleepy Hollow Lake.

While the property owners have generally always supported the work of the Greene County IDA, and support the concept of developing renewable energy, as county taxpayers and concerned citizens, we find it difficult to support the decisions in these draft findings. We come to this conclusion based upon the IDA's own assertion that the recommendations deviate from its own policies and that the findings are made using a number of inconsistencies in the logic and outright incorrect statements.

The draft's findings set a precedent that benefits large solar installations looking to blanket the county with 200,000 solar panels, creating only 1 permanent job and paying very little in property taxes compared to the actual value of the property. At the same time, the draft ignores that Flint Mine will be using this property to generate \$20 million in revenue each year while threatening the Sleepy Hollow reservoir and refusing to help pay for monitoring this threat to our drinking water. This makes no sense.

The IDA itself acknowledges that the draft findings are a "deviation from the GCIDA's Uniform Tax Exempt Policy Guidelines" and that "the Project will not have any long term indirect or secondary economic benefits". Yet, the draft proposes to agree to a pilot that is well below established market value, well below the discounted normal tax rate and even well below the controversial NYSERDA guidelines that various towns are suing over because they are too low. (And, even when you add in the extra funding that Flint Mine has proposed for the Towns of Coxsackie and Athens the rates are still substantially below the NYSERDA guidelines.)

On top of that, the findings bear no relation to the GCIDA Incentive Policy For Solar Projects, including 30 years of tax breaks when the policy itself calls for no more than 20 years. It even deviates substantially from the IDA's agreement with Freepoint Solar where the property tax rate is closer to the normal assessment level and there are no sales tax or mortgage recording tax exemptions granted.

Beyond these deviations, the draft includes many statements that are contradictory or inaccurate. First and foremost, it states that no public investment is being made in Flint Mine, but also states that it is expected that Flint Mine will receive federal and state tax incentives that were not evaluated by the GCIDA. Considering that the project will be getting both a tax credit (of around \$80 million) and a NYSERDA guaranteed price contract (of around \$100 million) for the sale

Exhibit F
pg 2 of 4

of its energy, it is puzzling why these massive taxpayer subsidies were not taken into account as part of the decisions to grant Flint Mine additional tax breaks.

The draft also states, without any supporting back up, that the 15 or 20 year PILOT guidelines are not sufficient for solar projects. It appears to base its decision to grant these on unsupported statements in the draft findings that "fifteen years is not adequate" for a PILOT based on the life of the Project, and upon the IDA's familiarity with general pro formas for solar projects and with current trends. Nowhere in its findings does it claim to have examined or reviewed Flint Mine's numbers, except for a very general set of bottom line numbers provided by Flint Mine and set forth in the findings to support a project cost of about \$272 Million.

It is incongruous to say that the property tax payments "have a solid positive impact" on local governments. The recommended pilot is not only well below the level required under the county's Solar PILOT law; if this is adopted, the county will actually lose \$5.4 million dollars in the first year, and lose a net \$3 million overall.

The findings further refer to Friends of Flint Mine as a local group that supports the project, to evidence lack public opposition. It is no secret that Friends of Flint Mine is a group primarily made up of the landowners, brokers, and other parties expecting to gain financially from the project. It is less widely known, however, that Friends of Flint Mine is represented by the NYC and International law firm of Arnold & Porter. Arnold & Porter has 14 offices world-wide, hundreds of attorneys and represents clients in the energy and alternative energy field.

To sum it up, the PILOT recommendation deviates substantially from the County's Solar Law and policy, from the State's guidelines and from the IDA's own Solar Policy. It calls for big local tax breaks without taking into account the massive tax breaks and subsidies Flint Mine is already getting from the federal and state taxpayers (us) and the hundreds of millions of dollars in revenue they will be getting from these solar panels. It provides these tax breaks knowing that virtually no permanent jobs will be created and that the project is neither economic development nor a boost to tourism.

As bad as this deal is, it creates a precedent for the many other solar farms to come, that is very disturbing. On top of the fact that the taxpayers of Greene County will be subsidizing this multi-billion dollar non-taxpayer with the local, state and federal taxes we pay, SHL's taxpayers and our drinking water get short shrift in the IDA's draft findings.

The draft's portrayal of SHL's needs is also very misleading. It states that all of SHL's needs were addressed in the Article 10 permitting process except for the Storm Water Pollution Protection Plan (the SWPPP), and that the Department of Public Service (DPS) would have called for additional mitigation if it was warranted.

The draft findings suggest that the monitoring budget SHL developed includes funding for drainage and erosion mitigation. Our proposed budget is in fact primarily for monitoring and testing. While we have taken, and will continue to take steps to protect our reservoir, it is our sincere hope that additional mitigation of impacts to our water source will not be required as a result of this project. But, we need to test and monitor to know this.

Exhibit F
Pg 3 of 4

These points appear to have been written by Flint Mine or its attorneys, who have used the exact same words to try to deny any funding for monitoring our reservoir, which also serves as the back up water source for the Village of Athens. As both the IDA and Flint Mine are aware, Flint Mine has failed to produce a Final SWPPP, and there wasn't one available when the Article 10 process concluded. DPS was taking Flint Mine at their word in order to expedite the approval. There was no way for DPS to know what Flint Mine is going to do without a final Pollution Protection plan in place and we still don't know.

Now that DE Shaw has taken over, there is still no Final SWPPP and it is likely to be further delayed by the fact that an amended Article 10 application is under DPS review. The amendment calls for 4 miles of underground buried cables and 5 miles of overhead cables, along with a certain amount of stationary solar panels. This level of soil disturbance and the introduction of stationery panels will clearly impact the flow of stormwater and the Final SWPPP.

This is all relevant because it is difficult to establish a final plan to monitor our drinking water without having Flint Mine's final pollution protection plan. As to the IDA's draft findings and its portrayal of the SHL budget to monitor and protect our reservoir, it naturally includes funding for monitoring the water, testing the water and mitigating the negative impact from the stormwater with its sediment coming into the lake at a variety of points. In our proposed budget, approximately 75% of the projected cost is for monitoring and testing. A final monitoring and mitigation plan can only be prepared after we see the Final SWPPP.

SHL knows we need to protect our reservoir. Our lake is already on the State's list of impaired waterbodies and is the only one in Greene County on that list. We know that if our lake fails, not only does that spell disaster for the property owners, it poses a danger to the towns, school district and the county who currently collect more than \$7 million in property and school taxes from SHL each year and to the Village of Athens as its back up water source.

We contribute significantly to the sales tax base and as a local employer of SHL staff and dozens of local contractors and contract workers. The actual impact of SHL taxes and spending has been, is, and will be, significantly greater than any increased economic benefit of construction of this project.

The decision of the IDA to ignore SHL's needs and refuse to require Flint Mine developers assist SHL to monitor water quality impacts is a policy choice. A policy choice just like the ones to push Freepoint Solar to fund the STEM Foundation and for the IDA to claw back \$500,000 in sales tax funds from Flint Mine in order to fund unspecified programs.

A further misstatement in the draft findings is that we have asked the GCIDA to divert funds from the Towns or the School District for our request, and the excuse that we are not a municipality is used to explain this rejection. We have submitted proposals to the GCIDA to outline ways in which our monitoring needs could be funded without taking funds from the municipalities and schools. Unfortunately, our proposals have been ignored. To be clear, what we are asking for is that as a condition of your decision to grant benefits to Flint Mine/DE Shaw, you include a provision to require that the project developer/owner help fund on-site monitoring

*Exhibit F
p 4 of 4*

and testing at our lake and reservoir in accordance with the budget presented. We are asking the IDA (which is supposed to be a Public Benefit Corporation) to work with the county's tax paying citizens to prioritize clean drinking water over hedge fund profits and insure that Flint Mine doesn't become Flint, Michigan or Hoosick Falls. Thank you for your time and attention this evening.

*Exhibit F
Attachment*

SOLAR FARM ANNUAL SHL BUDGET IMPACT

STORMWATER QUALITY TESTING	\$9,000
LAKE AND WATER CONSULTANTS MONITORING AND MITIGATION	\$35,000
LAKE TREATMENT	\$10,000
LAKE SUPPLIES	\$2,000
STORMWATER DIVERSION AND CONTROL (RIP RAP/CULVERTS)	\$20,000
EXISTING SHORELINE MITIGATION (REPAIR AND MAINTENANCE)	\$10,000
SELECT SCREENING	\$6,000
A&OH	\$9,000
	<hr/>
TOTAL	\$101,000

Exhibit G

pg 1

TESTIMONY TO THE GREENE COUNTY IDA REGARDING DE SHAW RENEWABLE
INVESTMENTS/FLINT MINE SOLAR LLC DRAFT STATEMENT OF FINDINGS-
10/4/2022 & 10/5/2022

Alden B Kaplan, SHL Solar Committee Chair

Thank you Chairman Hoglund, Members of the IDA Board and April Ernst for providing the opportunity to appear before you.

We are here to protect the water in the reservoir that our children and grandchildren drink from and the lake they play in. We are generally very appreciative of the work that the Greene County IDA does on our behalf and the contribution it provides to the county and its communities. I wish we could say that about these recommendations, but unfortunately we cannot.

As one of the first large solar projects to come before the IDA, we have been supportive of the need for renewable energy sources. We also support the funds that some of the towns' farmers will be getting, and the fact that the towns and other governments would be receiving more money. We were also supportive of Flint Mine through the Article 10 process. What we have learned, however, is that DESRI/Flint Mine is not interested in SHL's water or our community as much as it is interested in pure profit.

Throughout the process we were asked to trust Flint Mine and to believe that the Storm Water Pollution Protection Plan (SWPPP) would resolve our water concerns. They even prepared a draft SWPPP giving us and the Article 10 Siting Board the impression that they were serious.

While the draft SWPPP contains many generalities, it also contains many forms that were left blank. We have been waiting for the final SWPPP. As we waited, we discussed the need and requirement for SHL to independently monitor the water. Their answer, trust us. We will monitor the runoff, but we will not pay for SHL to monitor the runoff.

Let's think about what's happening here. SHL is at the bottom of a basin catching all the stormwater that runs from the top. Today, much of that water gets absorbed by the fields along the way.

Now picture this. DESRI will be churning up hundreds of acres of these fields and covering them with 200,000 large hard plastic table-like panels. So now when it rains the water will run off these panels, creating new streams flowing down the basin, since less of the water will get absorbed by the now covered fields. Less absorbed means more water with more particles in it streaming towards our reservoir.

DE Shaw answer is trust us. We will look out for you.

Trust is an interesting concept.

Now I've been around for a while. I served New York State for 36 years as the Minority Secretary to the State Senate Finance Committee; as a Deputy Commissioner under Governor Mario Cuomo and as a Deputy Commissioner and Deputy State Budget Director under Governor Pataki. One thing I learned was to trust, but always verify. And if they don't want you to verify, be suspicious.

Exhibit G
pg 2

What is there to be suspicious about? First of all, we still don't have a final SWPPP. Second, after receiving Article 10 approval, Flint Mine was sold to DE Shaw Renewables for \$300 million before one shovel has gone into the ground. As many of you know, DE Shaw was a \$60 billion hedge fund in 2021 that has grown to \$128 billion in 2022. And third, the DE Shaw Company, DESRI, has "cried poverty" to the IDA and negotiated a PILOT where the county will actually lose a net \$3 million over 30 years, with all the losses coming in the first 2 years.

To make matters worse, the PILOT agreement puts DE Shaw's assessment level at 28% of the level that the rest of us are taxed at, even though they will make more than \$20 million a year from this solar farm, without including the sizable tax credits they will get. The draft IDA proposal even puts them below the recommended state NYSEDA tax level that towns in other counties are suing the state over because it creates an assessment level that is too low. And to top it off, the IDA's draft proposes a tax level that leaves the Coxsackie-Athens Schools with \$16 million less than they would get under the state's low tax model.

The draft recommendations are so out of whack that the IDA was required to file a formal Deviation Notice to the county, the school district and the towns telling them that the PILOT draft agreement is not in line with the IDA's Uniform Tax Exempt Policy Guidelines. This is quite the precedent to set.

I trust you now understand why this makes us suspicious about trusting DE Shaw. You would think that with the hundreds of million of dollars they are getting from us, the taxpayers, through federal and state incentives, and the \$80 million that they are saving in local tax exemptions they could afford to help SHL.

But No!

They refuse to help us with the expenses of monitoring the flow and pollution from their runoff into our lake. But it doesn't end there.

Once they settled on the PILOT numbers with the IDA, DE Shaw filed an amendment to their Article 10 proposal to drop many of the roads they had in their original plan and add 4 new miles of buried cables and 5 new miles of overhead cables on 60 foot poles. They say they did this, in part, to make the project better for SHL. That is difficult to believe.

While they will tell you that expenses and profit have nothing to do with this amendment, when you read it, it says that their original Article 10 approach "would be operationally challenging to maintain" and the amendment would be "reducing project operational and maintenance costs". They also say (one more time) that they will be engaging the community as they prepare the elusive final Stormwater Pollution Protection Plan and we should trust them.

Trust them? An independent soil and water engineer who has been reviewing the amended plan believes that DESRI has done this to save tens of millions of dollars in operational and construction costs, a ploy which is common to these developments and this developer.

Even though they have told the Article 10 Siting Board that their amended plan can be approved "without the need for further evidentiary hearings", the Article 10 judge has questions. After reviewing the amendment, the judge did not sign off on these amendments and is asking for more information and details.

Exhibit A
pg 3

The bottom line is it is hard to trust that a giant hedge fund that is squeezing as much money as they can from Greene County and its taxpayers and mucking with our drinking water has our best interests in mind. Should we trust the hedge fund? Should we trust State En Con with its staffing shortages to monitor the hedge fund? Let's ask the people of Hoosick Falls; Flint, Michigan; and Jackson, Mississippi how that worked out for their drinking water.

SHL had supported this renewable energy project during the first part of the Article 10 process, trusting that Flint Mine's stated intentions to be a good neighbor were true. The IDA process and recent developments have demonstrated that DE Shaw Renewable Investments, LLC is just another hedge fund prioritizing profits over clean water.

As taxpayers of this community we implore the IDA to rethink this outrageous and unwarranted plan to give away our tax dollars without insuring that they pay to help us monitor ours, our children's and our grandchildren's water supply.

We are all for solar energy, but if the IDA is going to deviate from its mission and guidelines, let it be to protect our drinking water and to better protect our tax base.

Thank you

**WHITBECK
BENEDICT
& SMITH_{LLP}**436 UNION STREET
HUDSON, NEW YORK 12534-2427(518) 828-9444
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(Service by Fax or Email Not Accepted)www.wbsllp.comVIRGINIA D. BENEDICT
CORINNE R. SMITH*

LUCAS MACHADO**

VICTOR M. MEYERS
CARL G. WHITBECK, JR.
SENIOR COUNSEL*Also Admitted in Massachusetts
**Also Admitted in Pennsylvania

October 5, 2022

Sent Via Email OnlyApril Ernst, Executive Director
Greene County Industrial Development Agency
45 Sunset Blvd., Suite 3
Coxsackie, NY 12051
Email: ernst@greeneida.comRE: Flint Mine Solar, LLC
Public Hearing Comments on PILOT Statement of Findings

Dear Ms. Ernst and Members of the Board:

Our firm represents the Town of Athens in the review of the Flint Mine Solar, LLC ("Flint Mine") project. As such, we submit these comments on the draft Statement of Findings for the Greene County Industrial Development Agency's ("IDA") consideration at the public hearing to be held on October 5, 2022.

On August 29, 2022 Flint Mine submitted to the NYS Board on Electric Generation Siting and the Environment (the "Siting Board") a Petition to Amend the Certificate to modify certain project component locations, including the photovoltaic ("PV") module layout. The Siting Board responded by letter dated September 12, 2022 noting additional information that must be provided by Flint Mine prior to the Siting Board's consideration of the Petition. That information has not been provided by Flint Mine and it is unclear at this point what changes will ultimately be approved, if any, to the Certificate.

The PILOT payments are allocated between the Towns of Coxsackie and Athens in proportion to the percentage of installed nameplate generation capacity of the project sited in each town. Any changes to the PV module layout will likely change the installed nameplate generation capacity, which should be reflected in the proportions and calculations in the charts provided as Attachment 3 to the Statement of Findings. Flint Mine should confirm the percentages of installed nameplate generation capacity in each town based on the approved PV module layout and the proposed modified PV module layout.

As you know, the Town is negotiating a Host Community Agreement with Flint Mine to provide for payment of the host community fee and decommissioning, among other terms. Once a proposed PILOT Agreement has been prepared and is available, please provide a copy to the undersigned. As the PILOT Agreement and the Host Community Agreement are interrelated it is important that terms are not contradictory.

Exhibit A
Pg 2

WHITBECK BENEDICT & SMITH LLP

October 5, 2022
Page 2

Thank you for your consideration. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Corinne R. Smith
csmith@wbsllp.com

cc: Michael Pirrone, Town of Athens Supervisor
George McHugh, Attorney for the Town of Athens
Laura Bomyea-Darling, Attorney for Flint Mine
Paul Goldman, Attorney for IDA



Exhibit H
Response

October 5, 2022

Sent Via Email Only

Corinne R. Smith
Whitbeck Benedict & Smith LLP
436 Union Street
Hudson, NY 12534-2427
Email: csmith@wbsllp.com

**RE: Flint Mine Solar, LLC
Public Hearing Comments on PILOT Statement of Findings Response**

Dear Ms. Smith,

Thank you for the comments from the Town of Athens Board in regards to the proposed Flint Mine Solar incentive packages. By using production capacity as the basis for the PILOT payments, it allows for an easier and much cleaner distribution of the funds amongst the taxing jurisdictions. We appreciate that Athens understands that projects of this complexity are routinely subject to change and adjustments. As we know there is currently amendments in front of the PSC that could impact the current allocation of panels between the townships. The findings statement will be amended to reflect the current status of the final layout, the potential impact on panel distribution, and will set forth clearly that the PILOT distributions as currently set forth in the IDA's Statement of Findings will be subject to final revision based on the final constructed layout of the system.

In regards to the Host Community Agreement, as noted, that is a negotiation between the Towns and Flint Mine. As you are aware, the IDA's intention is to incorporate this requirement into our agreements such that default comes at the risk losing the PILOT as well as claw back of any tax exemptions taken at any time. We agree on consistency and would ask you to focus on language in Section 15.0 of the Findings Statement where the Material Terms of the project is discussed. You will note we broadly addressed the categories of payments under the CHA as we did not want to be inconsistent with the details of whatever is finally negotiated. Please examine that section as the terms as detailed there will be incorporated in the final IDA agreements. If something in that section is seen as a concern let us know specifically what that may be and please feel free to suggest edits or added language. The IDA will require copies of the executed agreements to be provide by FMS and which will be incorporated as an addendum to the findings.

Please let us know if we can be of any other help.

Thank you,

A handwritten signature in black ink that reads "April Ernst".

April Ernst
Executive Director
ernst@greeneida.com

cc: Michael Pirrone, Town of Athens Supervisor
George McHugh, Attorney for the Town of Athens
Laura Bomyea-Darling, Attorney for Flint Mine
Paul Goldman, Attorney for IDA

Exhibit I

April Ernst

From: Robert Butler <robertb@acolarusso.com>
Sent: Wednesday, October 5, 2022 3:06 PM
To: April Ernst
Subject: Town of Athens

April,

Will you be attending the meeting in Athens tonight for Flint Mine?

I will not be able to attend, is there any way that the host benefit can be written in a way that it is not to be used to keep taxes artificially low. I would like to see it be out in a way that it can only be used for special projects such as buildings, parks or infrastructure projects. Far to many times town or village boards spend this money with no true plan. Athens is in a great position right now and I don't want to see it squandered.

Sent from my iPhone

Exhibit J

April Ernst

From: Greene IDA <info@greeneida.com>
Sent: Tuesday, October 4, 2022 9:09 AM
To: Info
Subject: Greene County IDA: flint mine solar attn April Ernst

This is an enquiry email via <https://www.greeneida.com/> from:
amy sirkin <amysirkin@gmail.com>

I am concerned about Flint Mine Solar and its impact on Sleepy Hollow Lake reservoir. Please add my support to force Flint Mine to work with SHL re funding to monitor the runoff flowing into the lake.

I am unable to attend the in person meeting, please add our voices to the SHL community concerns.

amy sirkin

Lauren Sirkin

Tonya Roloson

Exhibit K

April Ernst

From: Greene IDA <info@greeneida.com>
Sent: Wednesday, October 5, 2022 1:23 PM
To: Info
Subject: Greene County IDA: Flint Mine Project

This is an enquiry email via <https://www.greeneida.com/> from:
Catherine and James Conner <connerpt@aol.com>

We live on Fox Run in the Sleepy Hollow Community. We attended the hearing on October 4th and were a little concerned about some comments that were made by our neighbors from Coxsackie and the town of Athens. They seemed to take a rather casual approach to the safety of the water supply of Sleepy Hollow Lake and implied that it was the community's problem to deal with. The residents of Sleepy Hollow would defend the drinking water supply of our Coxsackie and Athens neighbors as well as our other neighbors in Greene County and, indeed, throughout New York State. This beautiful area of the state has an excellent reservoir system and supplies the citizens of New York with some of the highest quality water in the nation. Sleepy Hollow Lake is our reservoir, and we will fight for the safety of that drinking water and do whatever it takes to protect it. It is true that this project was started seven years ago but we have every right to question it now because the project itself has changed so drastically. The engineering and construction are significantly different from what was originally approved and the ownership of the project itself has also changed. We would feel better if the project were run by a non-profit entity or even a state or local government agency rather than by a Hedge Fund. We are not aware of any Hedge Fund prioritizing safe drinking water over profits and that is very troubling. Our question to the Greene County IDA is as follows: what are you going to do to protect and guarantee the safety and purity of the Sleepy Hollow Lake drinking supply going forward? This community worked hard to protect our reservoir for many years prior to the inception of this project. What is your action plan to guarantee that we have safe drinking water into the future? That is what expect to hear at a minimum and we eagerly await your response.

Sincerely,

Catherine and James Conner
106 Fox Run
Athens, NY 12015

Exhibit L

April Ernst

From: Barbara Brumell <blbrumell@yahoo.com>
Sent: Friday, October 7, 2022 3:34 PM
To: Info
Subject: Flint Mine Solar

Dear April and Committee Members,

First I would like to thank you for holding the meeting the other night to allow various opinions to be voiced.

I currently work at a Coxsackie based business, but spent the first 22 years of my life here.

Upon listening to the assorted points of view at the meeting, I was left with the awareness that the residents of Sleepy Hollow Lake feel that Flint Mine Solar has somehow caused the blue algae in the lake. As Flint Mine Solar has not begun installing any of the panels, I can't imagine why the residents are entitled to monies from them to clean up a problem that has been ongoing for the past three years. The PILOT money is in lieu of taxes and is to benefit the communities, which it has been earmarked for. The Lake residents do contribute to the communities through shopping, eating out, etc. but so do all the other residents of Coxsackie and Athens. Therefore, why should the Sleepy Hollow society believe they are special and deserve to receive an extra allotment?

This project has attempted to meet with ALL residents for the past seven years and many never attended any of the informational meetings. Now when they want to clean up their lake they show up.

I urge you to disallow this fraudulent request and let Flint Mine begin it's work. Panels are getting more difficult to acquire and as with everything, prices are on the upswing.

Thank you for allowing me to voice my opinion.

Sincerely

BARBARA L. BRUMELL
HEART LAND REALTY
Office: 518-731-2145
Cell: 845-649-4201
Email: blbrumell@yahoo.com
WHERE DREAMS COME TRUE

Exhibit m

April Ernst

From: Jennifer Kinch <jennkinch@outlook.com>
Sent: Friday, October 7, 2022 6:18 AM
To: Info
Subject: SHL drinking water

I am writing with regard to the solar farm requirements to protect the people of Athens and Coxsackie from drinking potentially toxic water.

As you know we number in the hundreds of homes; thousands of people who rely on the water for safe drinking, cooking and bathing. We pay out of pocket for the upgraded filtration and delivery system, in addition to our tax base.

We are not all outsiders with second homes and deep pockets.

We are also the blue collar workers of Greene County.

We are the parents of children growing up here and attending C-A schools.

We are the children of elderly parents who visit or reside with us and consume the drinks made with this water.

We are the senior citizens who've busted their butts to get to this Golden Age and have limited income and also rely on the lake to drink.

But also, "we" includes the second-home owners with/without deep pockets, who chose to be our neighbors and who spend their money in our town and county, eating out and purchasing goods and hiring local laborers, and of course paying property taxes here.

The huge corporations and investment companies that run these solar farms HAVE what it takes to protect our resources. They don't WANT to spend it, but they WILL if required and they won't be hurting to do so.

THEY can afford to protect our citizens; We the People cannot carry the additional costly and unnecessary burden.

Please - do what you were tasked with doing here in Greene County for YOUR neighbors - and protect the people of Greene County from being railroaded and run out by this megamillion dollar corporation!

Think of the empty homes going to deteriorate when left and unsold.

Think of the overload on the tax lien list when people uproot and fall behind.

The loss of property taxes; sales revenues; job opportunities.

The people's health.

Don't get blinded by their offers and incentives. Think about your neighbors.

Sincerely,

Jennifer Kinch

77 Longwood Dr Athens

Full time Greene County resident since 1999

Blue collar healthcare worker for the people of Greene County, and SHL resident since 2018

RECEIVED OCT 17 2022

EXHIBIT N
PG 1

149 Potic Creek Road
Earlton
Town of Cocksackie
NY 12058

Greene County IDA
45 Sunset Blvd.,
Cocksackie, NY 12051

Attention: Ms. April Ernst
Executive Director

14th October 2022

Dear Ms. Ernst,

This letter is to advise you of my support for the generation of clean renewable energy and specifically my support for the Flint Mine Solar project. My family have owned 120 acres on Flats Road for years and since 2007 the land has been in the hands of my brothers and myself. I have hayed that grass for years with my old tractor and mower but the revenues have barely covered my costs. My brother and I are at (or past) retirement age and as a group we have decided that it is time for the land to be used for a different, and more productive, purpose.

As soon as we were approached by Flint Mine Solar we saw that building a utility-scale solar project on a portion of our land would be the most productive use of the property. The modules will be installed near the railroad tracks and an existing medium voltage power line, so installing solar PV on this property will not be an incompatible use. Not that we are selling all the property to the solar company – we are not selling two 5 acre parcels and the 22 acre parcel with the family home and agricultural barns to Flint Mine.

Exhibit N
Pg 2

Clearly the project will bring prosperity to Athens and Coxsackie and to New York State, in addition to improving the sustainability of the state's electricity system. The landowners, regional businesses and workers will all benefit. To that end, given that the proposed PILOT between the IDA and Flint Mine Solar, as well as the sales tax and mortgage tax exemptions, are critical to the project's financial viability, I support the provision of these benefits to the project to ensure they can finish their development activities and arrange the necessary financing. Once that happens the total annual \$500,000 PILOT payments to the taxing jurisdictions as well as the \$200,000 yearly payments to each of Athens and Coxsackie will benefit the Towns especially but also the School District and the County.

The Flint Mine Solar project is the kind of productive, clean investment that the County IDA should be supporting – it will even benefit the cleanliness of the water flowing through the area given all the green space and habitat land included in the project design!

I have lived here all my life and will continue to live in Coxsackie. As a long-time landowner and resident, I greatly appreciate your interest in this great project and would welcome your support for the application made by Flint Mine Solar for a PILOT and tax exemptions.

Sincerely,


Stephen Ritter

RECEIVED OCT 14 2022

Exhibit 0 p.1

TO: Greene County IDA
FROM: Jane Hale
RE: Flint Mines Solar Project & Sleepy Hollow Lake
Date: October 13, 2022

Attached please find my correspondence with the Board of Directors of Sleepy Hollow Lake and the Board of Directors of Scenic Hudson regarding the Flint Mine Solar Project as it affects Sleepy Hollow Lake and its surrounding watershed.

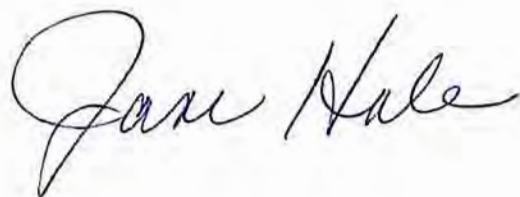


Exhibit 0 pg 2

TO: The Board of Directors, Sleepy Hollow Lake
FROM: Jane Hale
RE: Flint Mine Solar Project
DATE: October 6, 2022

As a Sleepy Hollow Lake homeowner I found last night's informational meeting in Athens with the Greene County IDA regarding the proposed Flint Mine Solar project an overwhelming disappointment. There should have been standing room only for residents anxious to protect not only the lake but also the Hudson River which receives the outflow from the lake. Essentially, whatever flows into the lake will eventually flow into the Hudson River thereby making SHL's problem a state issue, not a local problem. So after last night's informational meeting, I'm asking myself:

Where were our County Legislators?
Where was our NYS assembly representative?
Where were the representatives from the offices of our US Senate members?
Where was the mayor of Athens?
Where were the representatives of Scenic Hudson with its 25,000 members?
Where were the representatives of Hudson River Riverkeepers?
Where were the representatives of Hudson Valley Clearwater?

Sleepy Hollow Lake has neither the population nor financial clout to protect itself from the advances of companies like Flint Mine Solar. It's like David versus Goliath except that David's hands are tied but the above mentioned people and organizations combined with their advocacy memberships have the potential to untie David's hands. Unfortunately, they were all conspicuous by their absence at last night's meeting.

With so little time left before the IDA closes its books on the potential damage to our lake, perhaps the Board should consider looking for help with this problem beyond the scope of the APO.

Sincerely,

Jane Hale

Exhibit 0 p3

TO: Scenic Hudson Board of Directors
FROM: Jane Hale
RE: Sleepy Hollow Lake & Flint Mines Solar Project
DATE: October 13, 2022

I guess you could call this letter a desperate plea for help but I'm sure Scenic Hudson is no stranger to receiving that kind of letter.

My name is Jane Hale and I live on Sleepy Hollow Lake which covers land in both the towns of Athens and Coxsackie and is located entirely within Greene County. The lake is home to a community of approximately 800 homes, about half of which are vacations homes. Our lake is the only water source for the entire Sleepy Hollow community and, additionally, it serves as the backup reservoir for the town of Athens and is an outflow into the Hudson River. Unfortunately, no matter how you adjust the numbers of the people affected by that water source, there is neither the political nor financial clout to engage in a fair fight when it comes to protecting the lake and its outflow from potential harmful intrusion by sources that appear to have unlimited financial and political power. Sound like Storm King?

Flint Mines Solar Project is about to commence construction on a tract of former farmland spanning both the towns of Athens and Coxsackie. The communities involved do not oppose the building of the solar farm but after decades of use as farmland, there's no way to determine what residuals (think phosphorous fertilizers) will be disrupted by the project and fed into the watershed surrounding the lake. The Board of Directors of Sleepy Hollow Lake has requested that Flint Mines Solar put aside a fund to monitor the lake water but to date there has been no agreement reached between Flint Mines and the Board. Apparently Flint Mines cannot find an "appropriate time" to discuss monitoring. Advisors to the Board have put the cost of monitoring the lake at approximately \$100,000 a year which seems like a lot of money until you compare it to some of the other numbers involved: Flint Mines was recently sold to a \$128 billion dollar hedge fund for \$300 million dollars, Flint Mines has made a contribution to the Greene County IDA of \$500,000 and the discounted cash model for the solar project has gone from \$167 million to \$23 million, an unfathomable loss of tax revenue for the county, towns and school district involved.

The last community informational meeting held by the Greene County IDA and Flint Mines produced no answers as to why Flint Mines opposes the establishment of a fund to finance monitoring the lake water by an agency/agencies agreed upon by itself and the Board of Sleepy Hollow Lake. There were also unanswered questions about any existing plan for remediation if there were to be a contamination of the lake and what would be considered a reasonable time line between contamination and remediation.

Unfortunately, the Greene County IDA has put an October 28th deadline on information gathering before setting its seal of approval on this project which is why I referred to this letter initially as a "desperate plea." Sleepy Hollow and the towns of Athens and Coxsackie are at a decided disadvantage when it comes to protecting its watershed but the intervention of Scenic Hudson could make all the difference. The establishment of a fund to be used for monitoring the lake water by an agency or agencies agreed upon by both the Board of Sleepy Hollow Lake and Flint Mines does not seem like an overwhelming obstacle to surmount given the size and nature of the project involved.

Jane Hale

P.O. Box 141 43 Dutchman Drive
Athens, NY 12015

FS000212

RECEIVED OCT 24 2022

Exhibit P

pg 1

Quaker Ridge Capital Corp.

40 WINDING BROOK ROAD NEW ROCHELLE, NEW YORK 10804
(914) 576-6666

October 15, 2022

Ms. April Ernst
Executive Director
Greene County IDA
45 Sunset Blvd., #3
Coxsackie, N.Y. 12051

Dear Ms. Ernst

I write to you in support of the Flint Mine Solar project.

I am the longtime owner (along with some other partners) of the 60 acre parcel of land that lies to the west of NYS RT 9W in Athens. This parcel of land is very different from the land just to the north in Coxsackie, or to the east of the highway, which are largely flat and have seen some farming efforts over the years. Our parcel has a lot of surface shale, with several rocky ridges, and to our knowledge has never been used for farming or any other commercial activity. We have used it for several years as a private hunting preserve.

To my way of thinking, building a large-scale solar project on this piece of land is probably the highest value use of this property, given easy access to the nearby high voltage electrical transmission lines. Installing solar panels on this property will not be visible from any neighboring roads, or any neighboring homes, as far as I know. I believe this FMS project will generate enough clean and "green" electricity to meet the average annual needs of all the residential electric customers in Greene County, which is quite remarkable.

It is also my understanding that the proposed Pilot agreement with FMS is critical to the project's financial viability. I also believe the total annual payments to the local tax jurisdictions under this agreement, starting at \$500,000.00 along with the separate proposal to pay Athens and Coxsackie \$400,000.00 per year over a 30 year term, is probably the most generous local payment arrangement of any large scale solar project in NYS.

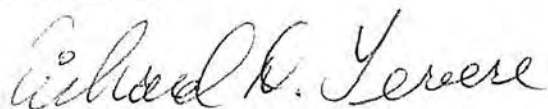
Exhibit P pg 2

Quaker Ridge Capital Corp.

40 WINDING BROOK ROAD NEW ROCHELLE, NEW YORK 10804
(914) 576-6666

It seems to me that energy projects like the FMS solar projects are exactly the kind of high value, environmentally clean investments the County IDA should be supporting.

Best Regards,



Richard D. Tevere - Partner

Quaker Ridge Capital Corporation

Exhibit Q pg 1

RECEIVED OCT 25 2022

194 Leeds-Athens Road
Athens
NY 12015

Greene County IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst
Executive Director

19th October 2022

Support for Flint Mine Solar PILOT and Exemptions

Dear Ms. Ernst,

Thank you for the opportunity to comment on the provision of financial incentives to Flint Mine Solar. We would like to advise you of our support for clean renewable energy in general and for the Flint Mine Solar project in particular.

Although not originally from here, we fell in love with Greene County when visiting in the 1960's and have farmed land in Athens here since the 1970's. For years we would cut hay on 20 acres on 9W to feed our goats but it has become more difficult recently to find the people and the machinery to deal with the hay, not to mention having to pay the higher fuel and fertilizer costs. Given the clay soil here, farming has really become an uphill challenge.

Even before we were approached by Flint Mine Solar we had set up an LLC (GDM Solar) to facilitate the installation of solar on that piece of our land that would be best suited for that purpose, recognizing that farming 20 or 30 acres is no longer economical. The developer we originally signed with wasn't able for the permitting challenge but we are delighted that we are working with Flint Mine Solar. They have been open, competent and trustworthy to work with.

Exhibit Q pg 2

The solar modules on our land will be installed on the far side of two 345kV and two 115kV lines, south of the County Garage, so installing solar PV on this property should fit right in. We are not selling all our 9W property to Flint Mine – we are keeping a six-acre parcel and barn on 9W as well as our family home and land on Leeds-Athens Road.

Three generations of our family are living here in Greene County and stand to gain from the economic and other advantages of Flint Mine Solar – annual PILOT and Host Community Payments, Special District Taxes, production of clean renewable energy and establishment of hundreds of acres of preserved green space, protected wetlands and wide setbacks. Landowners, regional businesses and workers all stand to benefit.

As long-time landowners and residents, we appreciate your interest in this great project and welcome your support for the application made by Flint Mine Solar for a PILOT and sales and use and mortgage recording tax exemptions.

Sincerely,

Domenica Multari Giuseppe o. Multari
Giuseppi and Dominica Multari

Exhibit R
RECEIVED OCT 25 2022

1458 Schoharie Tpke
Catskill
NY 12414

Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst
Executive Director

21st October 2022

Dear Ms. Ernst,

This letter is to confirm my support for solar energy and specifically my support for the Flint Mine Solar project. My family has owned 120 acres on Flats Road for years. I am approaching retirement age and our family have decided that it is time for the land to be used for a different, and more productive, purpose. Not that we are selling all the property to the solar company – we have kept 30 acres and the old family stone house.

As a resident and business owner I can see that the project will bring prosperity to Athens and Coxsackie and improve the sustainability of the state's electricity system. Landowners, regional businesses and workers will all benefit. Given that the proposed PILOT between the IDA and Flint Mine Solar, as well as the sales tax and mortgage tax exemptions, are critical to the project's financial viability, I support the provision of these benefits. With the IDA's support project financing can be finalized and the project built so the annual \$500,000 PILOT and the \$400,000 total Host Community payments can start flowing to Coxsackie, Athens, the School District and Greene County.

Flint Mine Solar is the kind of environmentally clean investment that the Greene IDA should support. Given the green space and habitat land in the project I can also see an improvement in the water quality in this corner of the Murderer's Creek watershed!

As a long-time landowner, business owner and resident, I greatly appreciate your interest in this great project and would welcome your support.

Sincerely,

Herman J Ritter



RECEIVED 2022

3195 Sleepy Hollow rd.
Unit 2037
Athens NY 12015

Exhibit 5

Greene County IDA
45 Sunset Blvd.,
Coxsackie, NY 12051Attention: Ms. April Ernst
Executive Director

19th October 2022

Flint Mine Solar PILOT and Exemption Support

Dear Ms. Ernst.

Thank you for the extended opportunity to comment on the provision of financial incentives to Flint Mine Solar. I would like to advise you of my support for clean renewable energy, and for the Flint Mine Solar project in particular.

I live in Athens and own a small property service business in Coxsackie. Over the past couple of years I have done numerous jobs with Flint Mine Solar, from improving driveways to cleaning up debris from participating and neighboring properties to helping to rehabilitate septic systems. Flint Mine has worked with landowners and neighbors to improve their properties, to the benefit of all. From the beginning right through to the present day Flint Mine Solar has been great to work with. They agreed to fair compensation for our services and pay their bills on time. They have developed good relationships with project neighbors, always going above and beyond.

The entire community and the taxing jurisdictions stand to gain from the economic and other advantages that Flint Mine Solar will bring, including annual PILOT and Host Community Payments, payment of Special District Taxes and the production of clean renewable energy. In addition, Flint Mine will create three hundred acres of preserved green space and protect wetlands and setbacks that might otherwise be farmed or otherwise developed.

In addition to the landowners, regional businesses and workers such as myself and those I work with all stand to benefit. I greatly appreciate your interest in this great project and welcome your support for the application made by Flint Mine Solar for a PILOT and tax exemptions.

Sincerely,



Richard Mwazi

Exhibit T
RECEIVED OCT 25 2023

23 October 2022

Greene County IDA

April Ernst, Executive Director

45 Sunset Boulevard – Suite 3

Coxsackie, New York 12051

Dear Ms. Ernst and members of the IDA:

I am writing this letter to encourage you to please pass the PILOT program for the Flint Mine Solar project as quickly as possible. This particular project has been on the table for several years and it is time to get it moving.

Anyone who has been watching the news is aware of the problems in other parts of the country. Lake Mead is drying up, the Great Salt Lake is drying up, the Mississippi River and the Colorado River are both drying up. Clearly, there is a problem with the environment. Let's try to fix this before it reaches the east coast. So far, we have been saved from the effects caused by climate change.

As far as Sleepy Hollow Lake is concerned, the area known as the Coxsackie Flats is where Flint Mine Solar is proposed to be located. This particular area was once known for its dairy farms. SHL seems very concerned about disturbing the fertilizer in the ground. I have spoken to most of the retired "farmers" in the area and have been assured that fertilizer has not been used in this area for decades, if ever.

I have read the proposed financial agreement between the IDA, the towns of Coxsackie and Athens and Flint Mine Solar. This PILOT seems more than generous to all concerned. It is certainly a great deal more money than would be collected in taxes from the current owners of the properties.

The Coxsackie Flats region is not suitable for growing crops. Installing a solar power array seems to be a perfect solution for making this land useful again.

In closing, I urge the IDA to make a decision before the end of 2022 so that we can begin to be part of the solution to controlling the environment.

Thank you,



Helen B. Meier

Exhibit u
RECEIVED OCT 25 2022

October 24, 2022

Ms. April Ernst
Executive Director
Greene County IDA
45 Sunset Blvd. #3
Coxsackie, NY 12051

Dear Ms. Ernst,

This letter will indicate my support of the Flint Mine Solar project.

A portion of my property is being considered for solar panel location as part of the overall project.

The land being considered has never had any farming value other than hay farming for Dairy cows.

The Dairy farm has **not** been in operation for at least the last 50 years-when I was an adolescent.

When it was farmed, **no** fertilizer was ever used other than cow manure so claims of potential phosphate runoff to the manmade lake of Sleepy Hollow seems to be exaggerated, at best. In fact, to my knowledge, none of the old farm properties being considered for this project ever used fertilizer other than organic materials (cow manure).

My property is located at the start of the project north and west of Flintmine road and is not viewable from any road. It is ideal for solar panels due to its relativity flat terrain but not economically farmable due to the clay-like soil, mixed with rocks.

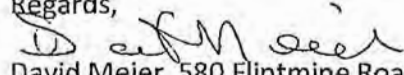
I would encourage the IDA to accept the proposed PILOT agreement in a timely fashion to help get this important project off "dead center". My understanding of the PILOT agreement is that it would put significantly more monies into the county and hosting towns than the revenue acquired by the taxes paid by the current land owners-now and in the future.

This project has been in the works for numerous years with the time for public comment to be ended and action started.

Exhibit W
pg 2

Should you have any questions/comments, feel free to contact me by letter, phone(732-547-1281) or e-mail (dconradmeier@yahoo.com).

Regards,



David Meier, 580 Flintmine Road, Coxsackie, NY 12051

Exhibit ✓

RECEIVED OCT 26 2022

Greene County IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst
Executive Director

October 2022

Support for Flint Mine Solar PILOT and Exemptions

Dear Ms. Ernst,

Thank you for the chance to comment on the provision of financial incentives to Flint Mine Solar. I attended the public hearing in Coxsackie on October 4th. Having attended most Coxsackie and Athens town board meetings over the past years, as well as various open houses and other events held on the project, I was surprised by the focus of certain commentators on environmental matters. Most people who took the time to stay informed know that the project went through four years of scrutiny by the NYS Energy Siting Board, the towns and the likes of Saving Greene, Sleepy Hollow Lake, Scenic Hudson and Greene Land Trust. The issues brought up by these groups and the public were addressed to their satisfaction by the project, resulting in an Order by the Siting Board approving the project from an environmental standpoint..

As a resident of Sleepy Hollow Lake, like my neighbors, I stand to gain from the many advantages of Flint Mine Solar – annual PILOT and Host Community Payments, Special District Taxes, the generation of renewable energy and the establishment of hundreds of acres of preserved green space, not to mention work for local businesses and workers..I trust in the measures that Flint Mine Solar has agreed to in its permit conditions, including on stormwater management and erosion & sediment control and I support the application made by Flint Mine Solar for a PILOT and sales and use and mortgage recording tax exemptions.

Yours Sincerely,

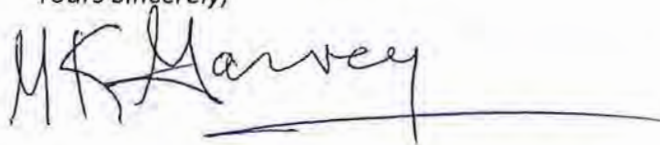


Exhibit W

RECEIVED OCT 26 2022



WWW.WINMORRISONREALTY.COM

63 John Street Kingston, NY 12401 845-339-1144 Fax 845-339-6877	56 John Street Kingston, NY 12401 845-339-9999 Fax 845-338-2444	232 Main Street Saugerties, NY 12477 845-246-3300 Fax 845-246-7060	2 Old Forge Road Woodstock, NY 12498 845-679-2929 Fax 845-679-0491	5 Tinker Street Woodstock, NY 12498 845-679-9444 Fax 845-679-2006	76 Main Street Phoenicia, NY 12464 845-657-4240 Fax 845-688-5217
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Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst
Executive Director

21st October 2022

Flint Mine Solar PILOT, Sales & Use and Mortgage Recording Tax Exemption

Dear Ms. Ernst,

I appreciate the opportunity to provide written comments on the provision of financial incentives to the Flint Mine Solar project. I support clean renewable energy, and the Flint Mine Solar project in particular.

As a native of Palenville here in Greene County and the owner of a large real estate business with offices throughout the Hudson Valley I am intimately familiar with Coxsackie and Athens. I have a brother and a cousin in Greenville and Coxsackie and am often in the area. My involvement with solar in the Flint Mine Road area began as many as seven or eight years ago as a result of one of my agents having a listing on Flats Road. I approached key landowners and persuaded them to work together and with Win Morrison. They were already knowledgeable about solar, having been approached by various solar companies, but they wanted to (a) work with a reliable, trustworthy and competent developer and (b) to get the best deal possible, having struggled with the economics of their land over the years.

I believe in fairness, in particular that the landowners should get their just rewards. The landowners of the area have worked hard in their diverse ways, producing hay, corn and vegetables over the decades. Their dedication has resulted, in addition to the production of animal feedstuffs and food, in the preservation of open space and the consequential generation of intangible wealth for the community.

Before recommending to our landowners that they team up with the developers of Flint Mine, we conducted our due diligence. The feedback was that the Hudson Energy team had decades of experience and, almost as important, could be trusted to offer the best deal to the landowners and the community. Although I realize the job is not done yet, with final project design to be approved, PILOT and sales tax exemptions to be negotiated and financing to be secured, I

Exhibit W
B32



WWW.WINMORRISONREALTY.COM

63 John Street Kingston, NY 12401 845-339-1144 Fax 845-339-6877	56 John Street Kingston, NY 12401 845-339-9999 Fax 845-338-2444	232 Main Street Saugerties, NY 12477 845-246-3300 Fax 845-246-7060	2 Old Forge Road Woodstock, NY 12498 845-679-2929 Fax 845-679-0491	5 Tinker Street Woodstock, NY 12498 845-679-9444 Fax 845-679-2006	76 Main Street Phoenicia, NY 12464 845-657-4240 Fax 845-688-5217
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believe that everyone is satisfied with the developer, their trustworthiness and progress to date. I know from our own experience that Flint Mine Solar has been more than fair with landowners and neighbors. From the beginning right through to the present day, as the development team has brought in the necessary entities to bring the project to conclusion, Flint Mine Solar has been great to work with. They agreed to fair compensation for our work and we have been paid in a timely manner for the property sales for which Win Morrison was responsible (all of which I might add have taken place after DESRI purchased the property).

The taxing jurisdictions and the wider community stand to gain from the economic revenues, green space protection and other advantages that Flint Mine Solar will bring. These benefits include annual PILOT and Host Community Payments (assuming the IDA approves), payment of Special District Taxes and the production of clean renewable energy. The landowners Win Morrison represents as well as Hudson Valley businesses and workers all stand to benefit.

Flint Mine Solar has lived up to our expectations and I ask the IDA to support the application made by Flint Mine Solar for a PILOT, mortgage recording and sales & use tax exemptions. Should you have any questions on the above, please don't hesitate to reach out.

Sincerely,


Win Morrison

RECEIVED OCT 25 2022

Dear members of the Greene County IDA,

Although I am a resident of Catskill, I did learn of the requests and issues that some of the Sleepy Hollow residents brought to your attention at local public hearings regarding the Flint Mine Solar project. I viewed the videos and read the transcriptions of the public hearings held earlier this month in Athens and Coxsackie, and I am concerned.

My concerns are multi-fold: Primarily, I am extremely worried about our environment and the serious impact of climate change which is ALREADY occurring in our region, and for years I have been very worried about the economic health of our county. As a bank officer, a member of Rotary International, and a board member of Bethany Village and of Catholic Charities, I received an eye-opening education about the financial status of large segments of our county's population. Also, and this may sound harsh, I am frightened by what I perceive as a widespread abandonment of critical thinking, and of intelligent research so that decisions are based on science and facts rather than on opinions and perceptions.

As a proponent of renewable energy, I have been excited that companies are working very hard to bring solar generation into our area. It is a brilliant and very beneficial way to utilize land that is no longer functional and is not contributing significantly to the tax base. It is very disturbing, however, to know that YEARS of the proliferation of baseless, nonfactual, selfish objections, and what appears to be political posturing, have delayed the actual installation of the solar projects. These delays are harmful in many ways, including the delayed economic benefit to the communities as well as to the landowners who can no longer sustain themselves through farming. Has anyone calculated what these delays have cost in terms of electricity that should have been generated and supplied to the grid? Surely additions to the electrical supply could have positively impacted the cost of electricity in our region? And in terms of taking steps to slow climate change, time is valuable and we citizens of this planet cannot afford to lose more time – we are terribly far behind and moving too slowly.

From watching the videos of the public meetings, I took away several things that have prompted me to write to you. Apparently, the residents of Sleepy Hollow have experienced algae growth in the lake which is the water supply to the SHL residents. Apparently, the cause of that algae growth has been established as phosphorus and it is currently being monitored, however, it has not caused the lake water to become non-potable. My questions, some of which may be rhetorical, are: Have scientific and environmental studies been conducted to determine the impact of converting farmland in the area to solar generation? Have studies determined how much of the runoff to the Sleepy Hollow Lake watershed is currently from the area where the Flint Mine Solar project will be situated, and how much is from immediately adjacent properties? Is the use of fertilizers containing phosphorus and nitrogen on the properties in Sleepy Hollow banned or controlled? Is it a fact that the Flint Mine Solar project is to be situated where vast amounts of runoff, potentially containing phosphorus and nitrogen, can actually reach the Sleepy Hollow Lake watershed? Is that land already leaching these substances or perhaps has the

Exhibit X p02

natural growth in the fallow land already reduced the presence of those substances? Is it a fact that installing solar panels disturbs the soil to the extent that storm runoff will carry nitrogen and phosphorus into a watershed? If so, has that distance between been established particularly in this case? My last question is also based on comments from speakers at the public hearing: How is it appropriate for property owners to request money from a business or other landowner for remediation and/or payment for oversight of a situation on their property that has not yet occurred, or if it is already occurring, was not caused by that business? Or to phrase it more simply: How can residents of Sleepy Hollow request money for the existing algae problem with the lake BEFORE solar generating systems are actually installed? IF there is scientific evidence that Flint Mine's project will exacerbate the algae problem, wouldn't NYSDEC haven't already acted to protect the watershed?

I do applaud the Greene County IDA for your years of careful research and conscientious work, and for adhering to your mission statement. You have brought clean, safe industries into the area, resulting in many good paying jobs and boosts in tax revenues. People need to recognize that beneficial projects are not all alike – not every not every project consists of a brick-and-mortar building or can create jobs. Obviously, there are other projects that are simply right and good for everyone. I have no doubt that your work has been difficult and sometimes frustrating, but I am confident that the board of the Greene County IDA will continue to make decisions and plans for the future using the same criteria and processes that have yielded great success and long term benefits for our county thus far.

Respectfully submitted for your consideration,

Ellen De Lucia

254 Grandview Avenue, Catskill, NY 12414

RECEIVED OCT 28 2022



COXSACKIE-ATHENS CENTRAL SCHOOL DISTRICT

October 27, 2022

April Ernst & IDA Board
Greene County Industrial Development Agency
45 Sunset Blvd., Suite 3
Coxsackie, NY 12051

District Office

24 Sunset Boulevard
Coxsackie, NY 12051

Randall W. Squier

Superintendent of Schools
Phone: (518) 731-1710
Fax: (518) 731-1729

Kerry Houlihan, Ed.D.

Assistant Superintendent
of Instructional Services
Phone: (518) 731-1702
Fax: (518) 731-1729

Ryan Palmer

Administrator for Business
and Finance
Phone: (518) 731-1715
Fax: (518) 731-1729

Special Education Office

Phone: (518) 731-1725
Fax: (518) 731-1820

Athletic Department

Phone: (518) 731-1722
Fax: (518) 731-1774

High School

24 Sunset Boulevard
Coxsackie, NY 12051
Phone: (518) 731-1800
Fax: (518) 731-1809

Middle School

24 Sunset Boulevard
Coxsackie, NY 12051
Phone: (518) 731-1850
Fax: (518) 731-1859

Edward J. Arthur

Elementary School
51 Third Street
Athens, NY 12015
Phone: (518) 731-1750
Fax: (518) 731-1765

Coxsackie

Elementary School
24 Sunset Boulevard
Coxsackie, NY 12051
Phone: (518) 731-1770
Fax: (518) 731-1785

www.cacsd.org

Greetings,

On behalf of the Coxsackie-Athens Central School District, I am sharing our concern regarding the exclusion of the school district from any community benefit package. As indicated in section 15 (page 25) of the Statement of Findings, both the Town of Coxsackie and Town of Athens will each receive over \$7,500,000 over the 30-year life of the PILOT as part of a community host benefit package which falls outside the PILOT and tax cap calculations. These benefits are based on the GCIDA's findings that the project will have no long term indirect or secondary economic impacts and creates unfunded liabilities for the Towns of Athens and Coxsackie.

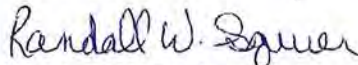
The district questions the exclusion of the school district from the community benefit package. The loss of potential land that could be developed for home construction as the district faces declining enrollment and tax base would in our view be reason to include the district in a community benefit package equal to or more than each town.

The IDA sets the per MW to \$5,000 MW, but when combined with the Host Community fee it's back up to \$9,000 for the towns only. Thus the IDA is literally taking the District's PILOT money away (and county) and giving it to the two towns through the HC fee mechanism.

The IDA claims there is no mechanism for a school district to negotiate outside the PILOT with the developer. There is no case law we are aware of that states that. The district is disappointed in the lack of clarity provided by the IDA for this and lack of transparency for the timeline to do so prior to the draft agreement being completed. There have been claims that the developer approached the towns directly to negotiate a CBP. If this is the case it demonstrates a lack of fair play on the part of the developer.

We request that the IDA board and developers reconsider these findings and provide for a community benefit package for the school district.

Sincerely,


Randall W. Squier
Superintendent of Schools

FS000227

Letter of Support - Exhibit Z

From

Mr & Mrs Goetchio

Marisa Mulari

Adam Moritz

Bryon Hale

Manga Murci

Theodore Kennedy

Isaiah Garvey

Lucretia Eany

Donald Gardner

Cari Gardner

Zachary Luft

David Barko

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Exhibits

RECEIVED OCT 28 2022

Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst, Executive Director

Flint Mine Solar PILOT, Sales and Mortgage Recording Tax Exemption

Dear Ms. Ernst,

We support clean renewable energy and specifically the Flint Mine Solar project.

The hard-working farmers of Coxsackie and Athens have struggled for years to farm their unyielding clay and now is the time for them to reap their retirement and pass the land on for a new purpose.

Flint Mine Solar has responsibly balanced the needs for an economic project with the requirement to avoid, minimize and mitigate environmental issues. The School District, the Towns and the community will gain from the economic revenues, green space protection and other advantages that Flint Mine Solar will bring.

Due to the following benefits, we ask you to support Flint Mine Solar's application for a PILOT, mortgage recording and sales & use tax exemptions.

- ✓ Generation of clean and renewable energy, improving sustainability
- ✓ Contribution of \$900,000 annually to the taxing jurisdictions
- ✓ Rewarding hardworking landowners by allowing them to sell their unproductive acres while holding on to their homes, barns and favored fields
- ✓ Protection of hundreds of acres as green space.

Thank you

Mr & Mrs Coetchio 18 Myrtle Ct Athens 12015

2

Ms. April Ernst, Executive Director
Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051
ernst@greeneida.com

27th October 2022

Re: Flint Mine Solar PILOT, Sales and Mortgage Recording Tax Exemption

Dear Ms. Ernst,

I appreciate the opportunity to provide written comments on the provision of financial incentives to the Flint Mine Solar project. I support clean renewable energy and specifically the Flint Mine Solar project. I attended a portion of the October 4th meeting at the school in Coxsackie, but unfortunately due to a clash with the CAFE (Coxsackie Athens Foundation) meeting at the same time in the same building I wasn't able to give my comments that night.

I grew up in Athens and continue to be very involved in the community, including being a founding member of the Friends of Flint Mine Solar. The landowners in Coxsackie and Athens, including my parents, aunts and uncles and cousins have worked hard over the years to produce animals, hay and food. They have contributed to the preservation of open space and the well-being of the community. But now, as those landowners reach "retirement age" the time has come to utilize the land for new purposes.

My understanding is that Flint Mine Solar has been fair with the landowners and has developed the project responsibly, balancing the needs for an economic project that best serves New York ratepayers with the requirement to avoid, minimize and mitigate environmental issues.

The School District and the Towns will gain from the economic revenues, green space protection and other advantages that Flint Mine Solar will bring. Subject of course to Town and IDA approvals, these benefits include annual PILOT and Host Community Payments, payment of Special District Taxes and the production of clean renewable energy.

In summary, the Flint Mine Solar project will do the following:

- ✓ Generate clean and renewable energy, improving sustainability
- ✓ Contribute \$1,000,000 annually to the taxing jurisdictions
- ✓ Reward our hardworking landowners ahead of project construction by allowing them to sell the acres they want at a good price while holding on to their homes, barns and favored fields
- ✓ Protect hundreds of acres as green space.

I respectfully request the IDA to support the application made by Flint Mine Solar for a PILOT, mortgage recording and sales & use tax exemptions. Thank you again for this opportunity to comment.

Sincerely,

Marisa Multari

RECEIVED OCT 28 2022

Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst, Executive Director

Flint Mine Solar PILOT, Sales and Mortgage Recording Tax Exemption

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Thank you

Adam Moritz
Adam Moritz

oct 26/2022

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RECEIVED OCT 28 2022

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Thank you

Bryon Hale B. Hale _____ _____

_____ _____ _____ _____

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RECEIVED OCT 28 2022

2

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45 Sunset Blvd.,
Coxsackie, NY 12051

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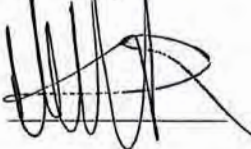
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Thank you



Manga Musci

3195 Sleepy Hollow Rd
Athens, NY 12015

RECEIVED OCT 28 2022

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45 Sunset Blvd.,
Coxsackie, NY 12051

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Thank you

Theodore Kennedy

 Theodore Kennedy _____
 30 Bailey St. _____
 Coxsackie, NY _____

RECEIVED OCT 28 2022

Greene IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

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Thank you

	Isaiah Garvey	10/27/22	
_____	3195 Sleepy	Hollow Rd	Unit 2037
_____	Athens,	N.Y	12015
_____	_____	_____	_____

RECEIVED OCT 28 2022

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Thank you

Lucretia Eany 3235 Sleepy Hollow Rd. Athens, N.Y. 12015

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RECEIVED OCT 28 2022

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45 Sunset Blvd.,
Coxsackie, NY 12051

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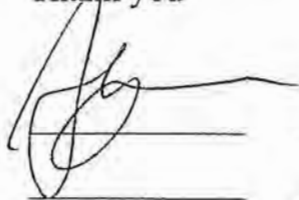
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Thank you



Donald Gardner 26 S. Greenwood Ln, Athens

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2

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45 Sunset Blvd.,
Coxsackie, NY 12051

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Thank you

 Cari Gardner 26 S Greenwood Ln Athens 1201

RECEIVED OCT 20 2022

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45 Sunset Blvd.,
Coxsackie, NY 12051

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Thank you

Barbara Luft 10/25 _____

RECEIVED OCT 28 2022

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45 Sunset Blvd.,
Coxsackie, NY 12051

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Thank you

[Handwritten Signature] 10/25/22

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Exhibit A

April Ernst

From: Ken Gifford <kagifford3@gmail.com>
Sent: Friday, October 28, 2022 1:29 PM
To: April Ernst
Subject: Flint Mine Solar Public Hearing Comment Closing Today

Hi April,

First let me thank you and the Board again for taking the time to listen to our plea for help for Sleepy Hollow Lake (SHL) to be included in the community benefits funding. Many of the summary comments I'm writing today are in earlier hearing minutes and written submittals. However, I'd like you to share with the Board my brief summary about what they should know before their final decision, as follows:

SHL Community Facts:

- SHL is the area's largest tax payer producing about 25% of local real estate tax revenues. However, we have been close to failure many times in our 50 year history. We provide all of our own services, roads, sewer, roads, recreation etc. We receive no services from the Towns or Village. We send to the school district about 14% of their student population, yet fund about 25% of the district's local taxes.
- We are an unfinished development with only about 1/2 of our lots with homes, many of the remaining empty lots have been turned over to the County over and over again for lack of tax payments. This is a considerable burden on the County to pay the local shares of the real estate taxes;
- We have no developer, we are trying to finish the development as property owners.
- Until 7 years ago, the County and the SHL Board kept thinking a new developer would be able to solve the problem by buying the County lots, trying to sell/develop them, only to fail in at least 3 attempts;
- When I was elected to the Board with land planning and extensive real estate development experience I demonstrated that we have "a real estate problem." Too much supply of lots with too little demand depresses the value of said lots. It further increases the financial burden on homeowners to pay for all the infrastructure and amenities of a 2200 acres lake community with only about 2/3's of the home/lots paying dues and fees;
- As you have already heard, we developed and have implemented a 5 years plan to revitalize the community with \$17M borrowing, and a 5 point plan with the County to buy and reduce the number of tax lots;
- We have also brought a law suite to have the real estate taxes on our lake, open space and amenities reduced to zero, as most planned communities are;
- We return to Court next spring, expect to win, and, upon winning, have offered to buy all the remain tax lots from the County, and more lots as they are turned over for taxes;
- We can borrow no more money, and we must fund loan repayments plus fund reserves for infrastructure/amenity repair and replacement. As we have stated, as we increase dues, more lots stop paying and go to the County;
- We must stop this cycle, find enough money to reduce the number of empty lots and increase the value of the built community to be commensurate with the expense of maintaining it;
- **WE HAVE TURNED THE CORNER ON ACCOMPLISHING THIS IN THE PAST 3 YEARS, BUT WE CAN'T TAKE ON MORE BURDEN OF PROTECTING OUR RESERVOIR WITHOUT SOME HELP!**

Why does SHL feel it needs to independently monitor the solar development in our watershed?

- The lake is our reservoir and we provide backup to the Village of Athens water supply. If our water or sewer fails, the community would face severe losses of value and the surrounding political jurisdictions would have to come in and provide those services. SHL cannot revert to wells and septic systems. Can this community sustain itself if that happens?

- The *Times Union* in August pointed out in an article and then a lead editorial, that State Agencies do not have enough personnel to oversee economic development projects. The editorial pointed out DEC has 20% less staff than they had in 2009, yet many more alternative energy projects to oversee, and have asked project developers to "self certify they are not polluting"
- Flint Mine has already filed an amendment to vastly modify their proposed project construction elements that also reduces their development and operational costs and could dramatically change the nature of stormwater runoff threatening our reservoir. Knowing DEC is short staffed, and the project developer is already making substantial changes to watershed protection, how could SHL not start all over in the project review and make sure that not only the design, but the construction/operations are done as promised? We have to stand very much alone doing this, we need help funding these activities.

Why do we believe the IDA has the basis for making this decision:

- Under Article 10 you have the authority, as you have exercised in your findings statement to grant these benefits and how much is to be allocated. This process can be continued;
- Because Flint Mine filed an amendment to their application on August 29, and the Article 10 Siting Board judge has determined the changes requested need answers before the application can be approved, therefor it generates time for all to re-evaluate the impacts generated by the project;
- In essence the "but for" provision is currently based on development costs that have now been changed, and we believe based on our professional knowledge the final number, if changes are approved, will be much lower in both construction and operational costs of the project. Therefore, the project pro-forma on which both the PILOT and Community Benefits are based is no longer valid, and must be recalculated;
- We have access only to costs and revenues contained in the public filings. Flint Mine has vigorously disagreed with the numbers we have found, yet have not produced, though asked, evidence that what we have is wrong. At the very minimum they should be forthcoming in correcting our knowledge of the project economics if their filings did disclose in accurate information. We hope you will also assist us in re-evaluation going forward.

I repeat that the IDA has made sound economic and land use decisions in supporting the proposed solar developments. Let's make sure we all understand the long term benefit needs of the community consistent with the likely massive commitment of our surrounding land to alternative energy development.

Respectfully submitted, Ken Gifford

RECEIVED OCT 28 2022

Exhibit B3

Ms. April Ernst
Executive Director
Greene County IDA
45 Sunset Blvd., #3
Coxsackie, NY 12051

Dear Ms. Ernst,

I write to you in support of the Flint Mine Solar project.

My family owns a medium-sized parcel of former farmland land on Flint Mine Rd. Over the years we have allowed part of our parcel to be farmed by our longtime neighbor one of the last of a kind, an inveterate, lifelong dairy farmer for his use as a hay meadow. Alas even that stalwart neighbor has abandoned his efforts to farm our corner of Greene County. More recently I've looked at some other kinds of commercial activities that might be appropriate for our land, without much luck in finding any other promising uses.

And so, to my way of thinking, building a larger-scale solar project on this piece of land is probably the highest value use of this property, especially given easy access to the high voltage electrical transmission lines that bisect our parcel.

Installing solar panels on this property will have only minimal impacts on the local environment or the local community. It's also my understanding the Flint Mine Solar project will generate enough clean and "green" electricity to equal the annual amount of electricity used by all the homeowners in Greene County--which is remarkable!

It's also my understanding that the proposed Pilot agreement with Flint Mine Solar is critical to the project's financial viability. And I believe the total annual payments to the local tax jurisdictions under this agreement, starting at \$500,000, along with the separate proposal to pay Athens and Coxsackie \$400,000 per year over a 30-year term, represent the most generous local payment arrangement of any large scale solar project in NYS.

It seems to me that energy projects like the FMS solar projects are exactly the kind of environmentally clean investments the County IDA should be supporting with both Pilot agreements and other tax breaks. Because these large-scale solar projects cost a lot to construct, it is my understanding these projects cannot get financed or built without the support provided by a special tax agreement of the sort being proposed by the IDA, given that these Pilots remove the large uncertainty around future tax liability that would otherwise be the case. .

Best regards,


Frank Micalizzi

Exhibits

199 Leeds-Athens Road
Athens
NY 12015

Greene County IDA
45 Sunset Blvd.,
Coxsackie, NY 12051

Attention: Ms. April Ernst
Executive Director
19th October 2022

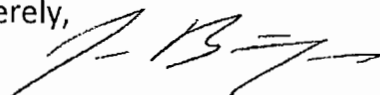
Support for Flint Mine Solar PILOT and Exemptions

Dear Ms. Ernst,

Thank you for the chance to comment on the provision of financial incentives to Flint Mine Solar. I attended the public hearing in Athens on October 5th but was quite taken aback by the focus of certain commentators on environmental matters. It is my understanding that the project went through four years of scrutiny by the state, the towns and regional organizations such as Saving Greene, Sleepy Hollow Lake, Scenic Hudson and Greene Land Trust. And that the issues brought up by these groups were addressed to their satisfaction by the project.

Three generations of our family live in Athens and, like our neighbors, stand to gain from the many advantages of Flint Mine Solar – annual PILOT and Host Community Payments, Special District Taxes, the generation of renewable energy and the establishment of hundreds of acres of preserved green space..I support the application made by Flint Mine Solar for a PILOT and sales and use and mortgage recording tax exemptions.

Sincerely,


Jason M Bishop

Letters rec'd
prior to comment
period from
Residents of SHL

Dear Eric Hoglund:

As a property owner at Sleepy Hollow Lake (SHL) in Greene County, I'm writing to express my concern about the cost of protecting our precious lake water source from solar farm runoff due to the government approvals of both the Flint Mine Solar Farm, and Hecate Greene Solar Farm.

It is estimated that monitoring the impacts of these solar farms to our lake community will minimally cost SHL property owners-- \$100,000 annually. And, that number will only grow annually over the life of the project, due to inflation. This is a significant and unbudgeted financial burden for SHL owners. We need to be held harmless fiscally.

Accordingly, I'm asking that both projects include Payment In Lieu Of Taxes (PILOT) and Host Community Benefit Funds payments to fully cover all monitoring expenses (including inflation).

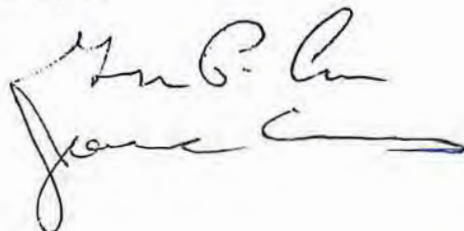
In order to be viable, the Flint Mine Solar Farm and the Hecate Greene Solar Farm will need to rely on massive Federal, New York State and Greene County tax subsidies and grants. We understand that these subsidies will insure the profitability of these investments. We also understand the grave need for alternative energy sources.

However, our federal and state tax dollars, alone, will be covering more than two-thirds of the costs of these projects. Before these projects are finalized, and property and sales tax relief is granted, we believe that the property owners of SHL should be protected from the financial burden of the impact of these farms.

The bottom line: we need assurances that we will receive the necessary financial assistance needed to cover both our monitoring and mitigation costs. Let's not prioritize profits over clean water!

We call upon the Greene County IDA to work with the Flint Mine and Hecate Solar Farm operators and SHL property owners to ensure that the environmental and financial issues that arise from these projects are addressed fairly and responsibly.

Thank you,



Emailed From	
6319266086@mms.att.net	Colleen
Adam Berry	Corratti, Sheryl
Adam Cherrington	Darin Leach
ADELE EL KAREH	Darren OConnor
Adrienne Foo	Dave Howard
Al D'Elia	davecassells
ALDEN KAPLAN	David Hellerstein
Aleem Hamil	David Unger
Alison Walsh	Dawn Kyea
Alun Williams	Deb Scarpinati
Alyson Pou	debgallo22
Amanda Sevilla	Deni Bank
Amy Sirkin	Denise Hart
Anastasija Kalnina	dennis coleman
Andrew Keen	Dennis Hanrahan
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antonia chabrowski	Don Dupont
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Barbara Cesario	Donald Gardner
barbaragiordano	Doug Calkins
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Bob Cristina	Elaine Turon
Bretts email	Elana Maser
Brian Choi	Ellen MacMillan
Bryan Levi	Frank Bultmann
C Go	Gail Markowitz
Carol Barrella	GB
Carol Frament	GEMMA CUOMO
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Cem Guray - Weiss	Glenn Clark
Cheryl Alonso	Henry Deltosto
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Jean McDermott	Lynn Randazzo
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Laura Morrissey	Patrick Bradley
Lee Roth	Paul Pugliani
Len Greer	peeyush mittal
leslie alvarado	Peter Lannon

Emailed From	
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Rebecca Trietley	
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robert hodes	
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Susan Pink	
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William Wallace	
Wood, Paul	
Zach	
Zeppelin Enterprises	

Hard copy letters received from:	
G & J C...	Michael W. Richter, MD
MaryBeth Maluccio	Margaret Doster
Diane & Charles Maurer	Paul Doster
Diane Ball	Gerald Doster
Marcia Cramer	Margaret Samoyadny
Jesse & Marie Hinton	William Ball
Maria Guard	Ronald Bozzo
Ryan & Llona Pattie	Lori & Rich Jacobsen
Robert Canessa	Frank & Sally Glausen
David W. Rogen	
Paul & Barbara Tavolacci	
Ronald & Marlene D'Amelia	
Gordon Fox	
Judith Cimmino	
O. & Stepha Cascrone	
Barbara Iraci	
Therea Baker	
Linda & Jeffrey Ferrucci	
David and Laurie Lester	
Kathleen Ryan	
Ronald Russett	
Anthony Przybyszewski	
Al Dell	
Charolette Gatigemi	
Carol Metz	
Janet Russett	
Judith A Rourke	
Michael Rourke	
Nancy Rogers	
James Cramer	
Claudia Canessa	
Judith Flannery	
Joan Komich	
Matthew Keruls	
Barbara Moor	
Eugene O'Neill III	
Marisa O'Neill	
WP Fanning	
Frederic Kaplan	
Caitlin Ball	
Phyllis & Mark Kesslen	
Cari & Donald Gardner	
James & Catherine Conner	
Laura Soddors	
William & Audrey McKee	



November 19, 2021

April Ernst
Greene County IDA
45 Sunset Blvd.
Coxsackie, NY 12051

Dear Ms. Ernst:

I write to you as the President of the Board of the Association of Property Owners of Sleepy Hollow Lake (APO SHL) to express our concerns regarding the PILOT and Host Community Benefit Fund being discussed regarding the Flint Mine Solar project. In particular, our concern is that the project's impact upon SHL's expenses will be significant, and it is incumbent upon this new neighbor to recognize the impact and to help deal with it. We also believe that the IDA should have a role in assisting us in this endeavor, as it is clearly in the County's and Towns' interests to protect all of its taxpayers.

As you know, SHL is a residential community and Census Designated Place comprising more than 2,500 residents and property owners in the towns of Coxsackie and Athens. Our lake is a 3.9-billion-gallon, 324-acre Class A Freshwater lake that serves as our water supply for drinking, contact recreation and wildlife propagation. In addition to the environmental, recreational, and aesthetic centerpiece of the community, it serves as the emergency back-up water supply for the Village of Athens and flows into the Hudson River. Finally, SHL is the only body of water in the county listed on the NYS DEC 303(d) list of Individual Waterbody Segments with Impairment, thereby requiring a Total Maximum Daily Load (TMDL) strategy to reduce the impact of pollutants.

The APO, therefore, has a significant vested public health interest in maintaining the water quality of the lake, and a State mandated requirement to do so. Furthermore, SHL is a named "Interested Party" related to the Flint Mine Application and was granted intervenor funding to conduct environmental reviews regarding the potential impacts of the proposed project. We need to be sure that this project, designed to improve our environment, does not cause any harm to the environment that is adjacent to it.

Now that the project has received NYS Department of Public Service (DPS) Article 10 approval, in order to ensure that the lake and the community are not threatened by the development of the Flint Mine site, SHL will need to diligently monitor, evaluate, assess and potentially mitigate the impact of the project upon the watershed, tributary network and the lake and its potable water. This will require a constant review of the stormwater runoff, sediment delivery, potential pollutant loading and alterations of stream flows. And, while the APO signed off on the Flint Mine proposal, subject to the agreed-upon Article 10 Conditions Document, the cost to SHL of testing, monitoring and maintenance will be significant.

At this time, it appears that the budgeted cost of monitoring, testing and maintaining the lake will be increasing to \$215,000 in Fiscal Year 2022, compared to \$150,000 in FY 2021 (an increase of \$65,000). Of course, this does not include any of the additional expenses that will be incurred as Flint Mine begins land clearing, vegetation removal, surface grading, soil compaction, topsoil disturbance, installation of rack pilings, and disturbance of wetlands, streams and wetland crossings.

To date, the property owners of SHL have had to cover all of these types of expenses in order to maintain the environment and the economic value of this significant part of Greene County. As these new neighbors enter and impact the environment, they need to be cognizant of the downstream impact of their venture. While we recognize

UNIT 1095 · 92 RANDY ROAD · ATHENS, NY 12015 · (518) 731-6175 ·
WWW.SLEEPYHOLLOWLAKE.ORG



Sincerely,

Janet S. Kaplan
APO Sleepy Hollow Lake President

cc. Eric Hogleund, Chairman, Greene County IDA
Rene VanSchaack, Executive Director, Greene County IDA

UNIT 1095 · 92 RANDY ROAD · ATHENS, NY 12015 · (518) 731-6175 ·
WWW.SLEEPYHOLLOWLAKE.ORG



August 12, 2022

Executive Director April Ernst
Greene County IDA
45 Sunset Blvd. Suite 3
Coxsackie, NY 12051

Dear April Ernst:

As you know, Sleepy Hollow Lake (SHL), has been supportive of the development of Solar energy as an environmentally friendly alternative. For the past two years, however, we have expressed our concerns to Flint Mine Solar and Hecate Greene Solar regarding the issues surrounding monitoring, analyzing, and mitigating the downstream impact of solar farm stormwater runoff to our drinking water and lake. As a Class A reservoir, we have a fiduciary responsibility to diligently review the water flowing into our reservoir, especially when large new developments impact the runoff. It makes no sense to ignore these potential environmental issues in the name of "protecting the environment".

Since October 2020, Flint Mine has made every effort to avoid its responsibility, saying it does not have the money, and pushing us to get the money from the others through the PILOT/Host Community Funds. It is now clear we need to explore an alternative. SHL is a reservoir and serves as the back-up source to the Village of Athens; any major pollution or land erosion could jeopardize SHL's value to the County and its towns; and any issues impacting the dam could have detrimental impacts upon SHL, surrounding communities and the Hudson River.

Attached is an alternative approach to protect drinking water in Greene County. This proposal acknowledges the massive taxpayer funded subsidies and benefits that solar farms will receive (Federal Tax Credits; guaranteed supply prices from the State; Real Property Tax exemptions)

On top of the Property Tax exemptions and the PILOT payments, the IDA is negotiating Sales Tax and Mortgage Recording Tax (MRT) exemptions which return no value to county taxpayers.

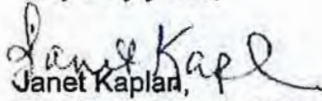
To correct this imbalance, the attached proposal establishes a "Clean Water Fund" through the IDA's Local Development Corporation (LDC) to cover part of the water expenses faced by the impacted villages (Athens and Coxsackie) and SHL.



We believe this approach provides a win-win solution to the stewards of clean drinking water impacted by the solar farms and to the solar farms themselves who (in Flint Mine's case) will continue to receive close to \$300 million in taxpayer credits, subsidies and exemptions, and would still receive Sales and MRT exemptions valued at more than \$20 million.

We would appreciate the opportunity to meet with the entire IDA board to discuss this proposal in more detail.

Very truly yours,


Janet Kaplan,
President, Board of Directors

Cc: Flint Mine Solar
Patrick Doyle
Greene County Legislature
Patrick Linger, Chairman
Charles Martinez
Thomas Hobart
Edward Bloomer
Shaun Groden, Administrator
Senators
Michelle Hinchey
Sue Serino
Assemblyman
Chris Tague
Town of Athens
Michael Pirrone, Supervisor
Mary Brandow
Anthony Paluch
Mike Ragaini
Shannon Spinner
Village of Athens
Amy Serrago, Mayor
Gail Lasher
Josh Lipsman
Nancy Polo
Robert Scott
Town of Coxsackie
Rick Hanse, Supervisor
Tom Burke
Patrick Kennedy
Michael Veeder
Linda Wilkinson

**PROTECTING OUR DRINKING WATER
KEEPING SHL'S WATER CLEAN AND SAFE**

THE PROBLEM:

The stormwater runoff from the almost 2,000 acres of Solar Farms known as Flint Mine Solar and Hecate Greene will drain into Sleepy Hollow Lake (SHL- a Class A reservoir). As construction begins, soil will be disturbed, sending phosphorus and additional invasive species downstream to SHL. When the 1,000+ acres of solar panels are completed, the flow and absorption of stormwater will be altered.

Flint Mine Solar will account for around 2/3 of this runoff, which could significantly change the velocity and volume of water flowing, thereby contributing to erosion issues.

As stewards of the lake, The Association of Property Owners of SHL (APO) estimates a cost of at least \$100,000 a year to monitor this flow and mitigate impairments caused by the stormwater and its contents. Since SHL, is not defined as a municipality, the proposed PILOTS are not available to cover these expenses. In addition, the Village of Athens, which serves as the back-up water supply to SHL, was left out of Host Community funding.

We propose creation of a "Clean Water Fund" by the Local Development Corporation (LDC) as described below. This Fund would be available to impacted villages and lakes with water systems and be financed by an amount representing a portion of the value of the Sales Tax and Mortgage Recording Tax exemptions.

THE ISSUE:

This is not a new issue, and it is one that SHL has continued to raise throughout the Article 10 process and beyond without a resolution. With SHL's fiduciary responsibility to protect the lake as a water source for both SHL and, in an emergency for the Village of Athens, the parties responsible for the runoff continue to rebuff our requests for help. In addition, both the towns of Coxsackie and Athens have ignored our requests for funding, with one Town official saying that "they laughed about it when they received it".

BACKGROUND:

Flint Mine is currently discussing PILOT payments and Host Community funding with the IDA and the towns of Athens and Coxsackie. The PILOT agreements recognize Flint Mine's impact upon the local community and the fact that the property tax abatements and federal and state tax subsidies worth more than \$250 million are available to Flint Mine investors. With all this, none of the Pilot funds nor the Host Community funds will be available to SHL to cover the need to protect the reservoir. In addition, Flint Mine (recently purchased by DESRI, a subsidiary of the \$60 billion hedge fund DE Shaw) is requesting another \$23 million in sales and mortgage recording tax (MRT) breaks from Greene County taxpayers through the IDA.

In September 2021, the State's Article 10 Siting Board approved Flint Mine Solar's application to build and operate a 100-megawatt Solar Farm on 1,015 acres of land in the Towns of Athens and Coxsackie. A Conditions document was negotiated among various government and private entities, including SHL. Early in the process, SHL recognized the need to monitor water flowing into the lake based on advice of Princeton Hydro (Report dated 6/28/2019). In response, Crawford Engineering (memo dated 10/22/2020) disagreed "with the need for Flint Mine to

install watershed stream monitoring stations outside the facility area", leaving SHL with that entire expense.

SHL prepared an initial estimate for monitoring and mitigation of the incoming water flow and began a process of baseline monitoring in conjunction with Princeton Hydro. As Flint Mine is seeking government subsidies and tax abatements from the Greene IDA well beyond the Federal Tax Credits worth \$80 million, the State NYSERDA Contract of \$100 million, and the property tax abatement, it appeared prudent to ask Flint Mine and the IDA to recognize a part of the burden that the large Solar Farms were placing upon SHL.

As the discussions with Flint Mine and the IDA have progressed, notwithstanding an outpouring of support from local residents, Flint Mine (prioritizing hedge fund profits over clean water) has continued to take a hard position against SHL's request, sending SHL back to the towns. Since the towns are not inclined to give up any of their funds, SHL is forced back to Flint Mine and the IDA.

We need a clean water solution and propose the following:

THE SOLUTION:

Create an additional agreement separate from the PILOT/Property Tax abatement agreement. This additional agreement would provide that in exchange for the Sales Tax and MRT abatements Flint Mine requests, the Greene County IDA would establish a "Clean Water Fund" through its Local Development Corporation (LDC). An amount equivalent to 1% of the Flint Mine Solar Sales and Use Tax liability would be paid by Flint Mine and deposited into the "Clean Water Fund" of the Greene County Local Development Corporation.

These funds would be distributed annually in increments of \$50,000- \$100,000/per water system/waterbody and would be available to Greene County villages with municipal water systems and non-profit Greene County lake associations impacted by Greene County Solar Farm stormwater runoff, to maintain clean drinking water supplies and/or monitor and mitigate the impact of stormwater flowing into reservoirs and lakes. Funding would also be available to the LDC to administer, monitor and distribute the funds. Under this agreement, Flint Mine would still (based on their construction estimates) receive \$21 million in sales tax and MRT breaks from Greene County taxpayers.

The fund could be increased by projects related to other large Solar Farms (such as Hecate Greene) and would alleviate some of the expenses faced by existing Greene County residents and taxpayers related to monitoring and mitigating the direct and indirect impacts of large Solar Farms on reservoirs and clean water.

FISCAL IMPACT:

In addition to more than \$250 million in public tax credits, tax abatements and grants, Flint Mine Solar will be generating almost \$800 million in revenue over the next 30 years (based upon the NYSERDA Solar Guidebook). On top of this, the full sales tax and MRT exemptions add another \$23 million in taxpayer subsidies.

One percent of the estimated eight percent sales tax credit is \$2.3 million, or 10% of the total sales and MRT subsidy; therefore, the sales tax and MRT exemptions would still be worth at least \$21 million to Flint Mine, before calculating potential additional tax benefits.

Exhibit DD

35 Second Street
Athens, New York 12015
November 7, 2022

Via email to kokomomike@hotmail.com

Michael Pirrone, Town Supervisor
Town of Athens
2 First Street
Athens, New York 12015

Re: Flint Mine Solar; Proposed PILOT Agreement

Hon. Supervisor Perrone:

In a draft Statement of Findings,¹ the Greene County IDA (“GCIDA” or “IDA”) proposes a PILOT Agreement for the Flint Mine Solar (“FMS”) power generation plant. For the reasons discussed below, I respectfully request the Town of Athens to reject the proposal.

BACKGROUND

New York State granted FMS permission to build a utility-scale solar power plant in Cossackie and Athens. The Towns’ Comprehensive Plans and local zoning laws disfavor and would have prohibited this project. However, local laws were superseded, and the solar plant was forced upon Cossackie and Athens by the State.

The plant will have considerable negative impact and will bring virtually no benefit to Cossackie or Athens, except one – tax revenue. But that single benefit is being squandered.

State law expressly confers upon each Town the unilateral power to impose payments in lieu of taxes (“PILOT”) in an amount equal to full property taxes. See *Real Property Tax Law* § 487. That power and the attendant responsibilities cannot be taken away by anyone or delegated to anyone. The IDA has no independent legal authority to grant the PILOT or other tax exemptions to FMS because it lacks requisite control of the project. *Regeneron Pharms., Inc. v. McCarthy*, 77 A.D.3d 1246 (3rd Dep’t 2010).

Nevertheless, FMS applied to the IDA for assistance. The IDA is negotiating with FMS, but formal approval must come from each Town.

According to the IDA, construction and acquisition costs for the FMS plant will amount to \$272,460,000. An appraisal method favored by the State Energy Research and Development Authority (“NYSERDA”) places Full Market Value at \$46,788,953, which would yield \$40,435,563 in taxes over a 30-year period. The IDA’s own expert consultants appraise the plant’s value at \$166,639,000, which the IDA says would yield \$147,146,730 in taxes.

Yet, the IDA is proposing a 30-year PILOT agreement that would yield \$18,769,34 plus \$15,000,000 in community host fees. This amounts to a tax forfeiture in the range of \$6 million-\$113 million.

In addition, the IDA proposes a \$5,000,000 sales tax exemption and \$2,000,000 mortgage

¹ In its draft dated September 15, 2022, the IDA states that “The Statement of Findings is the GCIDA’s vehicle to provide a clear and comprehensive record of the considerations associated with the Flint Mine Solar, LLC (Flint Mine) Project.” The Statement of Findings and FMS’s Application for Financial Assistance form the basis of my understanding of the project. Facts and figures in those two documents do not necessarily match.

tax exemption. According to the IDA, \$362,400 of the mortgage tax would go to the Town of Athens. These are one-time, up-front payments that could provide a substantial shot in the arm to the public coffers.

DUE DILIGENCE

The term "due diligence" is not just an aspiration. It is a legally required process. Due diligence is performed to confirm facts or details of a matter under consideration. In the financial world, due diligence requires an examination of financial records before entering into a proposed transaction with another party.

The towns are about to enter a financial transaction having upwards of \$100 million at stake based solely on a sweeping proclamation that "these projects are not financially viable" without tax abatement. Considering that FMS has raised \$207,070,000 in financing, private financiers seem satisfied with the viability. Minimal due diligence would require the municipalities to understand the project financing and profit projections in detail. FMS must disclose pertinent records (e.g., FMS's internal financial analysis, fixed-price contract with NYSERDA, note and mortgage documents, land lease agreements, etc.) and represent the truth of the matters under oath. Anything less would be sheer negligence by the municipalities. FMS expressly agreed to disclose detailed financial information in its application for IDA assistance.

UNSECURED CREDITORS

The IDA's comprehensive report is silent on the issue of security, so it seems that the Towns would be unsecured creditors of FMS. As such, you are at risk of having no remedy if FMS defaults on its payments. You could be last in line behind all other creditors, including the mortgage lenders. This is an unacceptable position. Compare that to the scenario for taxable property, in which you would be first in line by operation of law.

CONCLUSION

For the foregoing reasons, and others saved for later discussion, the FMS PILOT Agreement should be rejected. It is inequitable, unjustified, and lacks the requisite due diligence. The stakes are high, and your duties must be exercised with commensurate vigor.

Very truly yours,



Lee Palmateer

cc: April Ernst, Executive Director (via email only to ernst@greeneida.com)
Greene County IDA

Richard K. Hanse, Town Supervisor (via email to rhanse@coxsackie.org)
Town of Coxsackie

Exhibit EE
Received March 2022

Dear Eric Hoglund:

As a property owner at Sleepy Hollow Lake (SHL) in Greene County, I'm writing to express my concern about the cost of protecting our precious lake water source from solar farm runoff due to the government approvals of both the Flint Mine Solar Farm, and Hecate Greene Solar Farm.

It is estimated that monitoring the impacts of these solar farms to our lake community will minimally cost SHL property owners-- \$100,000 annually. And, that number will only grow annually over the life of the project, due to inflation. This is a significant and unbudgeted financial burden for SHL owners. We need to be held harmless fiscally.

Accordingly, I'm asking that both projects include Payment In Lieu Of Taxes (PILOT) and Host Community Benefit Funds payments to fully cover all monitoring expenses (including inflation).

In order to be viable, the Flint Mine Solar Farm and the Hecate Greene Solar Farm will need to rely on massive Federal, New York State and Greene County tax subsidies and grants. We understand that these subsidies will insure the profitability of these investments. We also understand the grave need for alternative energy sources.

However, our federal and state tax dollars, alone, will be covering more than two-thirds of the costs of these projects. Before these projects are finalized, and property and sales tax relief is granted, we believe that the property owners of SHL should be protected from the financial burden of the impact of these farms.

The bottom line: we need assurances that we will receive the necessary financial assistance needed to cover both our monitoring and mitigation costs. Let's not prioritize profits over clean water!

We call upon the Greene County IDA to work with the Flint Mine and Hecate Solar Farm operators and SHL property owners to ensure that the environmental and financial issues that arise from these projects are addressed fairly and responsibly.

Thank you,

A handwritten signature in black ink, appearing to read "Eric Hoglund". The signature is written in a cursive style with a long horizontal stroke at the end.

Emailed From	
6319266086@mms.att.net	Colleen
Adam Berry	Corratti, Sheryl
Adam Cherrington	Darin Leach
ADELE EL KAREH	Darren OConnor
Adrienne Foo	Dave Howard
Al D'Elia	davecassells
ALDEN KAPLAN	David Hellerstein
Aleem Hamil	David Unger
Alison Walsh	Dawn Kyea
Alun Williams	Deb Scarpinati
Alyson Pou	debgallo22
Amanda Sevilla	Deni Bank
Amy Sirkin	Denise Hart
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Diane & Charles Maurer	Paul Doster
Diane Ball	Gerald Doster
Marcia Cramer	Margaret Samoyadny
Jesse & Marie Hinton	William Ball
Maria Guard	Ronald Bozzo
Ryan & Llona Pattie	Lori & Rich Jacobsen
Robert Canessa	Frank & Sally Glausen
David W. Rogen	
Paul & Barbara Tavolacci	
Ronald & Marlene D'Amelia	
Gordon Fox	
Judith Cimmino	
O. & Stepha Cascrone	
Barbara Iraci	
Therea Baker	
Linda & Jeffrey Ferrucci	
David and Laurie Lester	
Kathleen Ryan	
Ronald Russett	
Anthony Przybyszewski	
Al Dell	
Charolette Gatigemi	
Carol Metz	
Janet Russett	
Judith A Rourke	
Michael Rourke	
Nancy Rogers	
James Cramer	
Claudia Canessa	
Judith Flannery	
Joan Komich	
Matthew Keruls	
Barbara Moor	
Eugene O'Neill III	
Marisa O'Neill	
WP Fanning	
Frederic Kaplan	
Caitlin Ball	
Phyllis & Mark Kessler	
Cari & Donald Gardner	
James & Catherine Conner	
Laura Sadders	
William & Audrey McKee	

**Flint Mine Solar Project
Public Comments and Response**

As part of the public hearing process on the Flint Mine Solar Project in the Towns of Coxsackie and Athens ("Project"), the Greene County Industrial Development Agency (GCIDA) developed a Statement of Findings for the Project which was distributed to the taxing jurisdictions and posted on the GCIDA website for public comment on 09/16/2022. To receive formal public comment, the GCIDA scheduled, properly noticed, and conducted two public hearings on October 4, 2022 (Coxsackie) and October 5, 2022 (Athens). The public comment period was left open until close of business on October 28, 2022 to allow for additional comments. The public hearings were video recorded and posted on the GCIDA YouTube channel and formal transcripts were prepared by a remote stenographer.

The following is a summary of the comments on the Project and GCIDA response thereto. Comments that strongly related to the same or similar issues are combined for brevity and clarity while individual comments on additional subjects are addressed by responses to each comment. Written and verbal comments made at the public hearings are summarized herein and a response to all such comments is presented herein although the response to redundant and/or similar comments are presented on a combined basis. Importantly, all comments on the GCIDA's proposed financial assistance for the Project are addressed herein. A transcript of the comments from the public hearings as well as copies of all written comments are provided as an attachment to this document.

A. Predominant Comments

The most significant number of comments were focused on multiple concerns related to the impact of the Project on Sleepy Hollow Lake (SHL). These included (1) assertions that the Project should be required to fund additional monitoring for potential impacts from the construction of the Project on the water quality of SHL and (2) concern over additional impacts from project amendments requested for the Project that were pending review by the New York State Board on Electric Generation Siting and the Environment ("Siting Board") during the public hearings, but which were subsequently approved by the Siting Board as minor amendments on March 28, 2023.

1. **Project Impact on Sleepy Hollow Lake:** Most of the comments made at the Public Hearings were submitted by residents of SHL. The GCIDA received 288 form letters from residents of SHL and a copy of the letter and a list of all persons who submitted one is attached to this summary. In addition to the form letter, written and verbal comments were received from residents of SHL and SHL has made various presentations to the members of the Board of Directors of the GCIDA at their October meeting.

While the Association of Property Owners of Sleepy Hollow Lake (APOSHL) and many of the commentors noted they did not oppose the Project, the bulk of their comments can be fairly summarized as concerning their belief that the Project will impact the water quality of SHL and the projected annual cost for SHL to monitor the lake during the construction and stabilization of the Project. The comments varied with some concerns voiced over long-term on-going impacts and others focused on potential impacts during construction. The letter,

comments, and formal presentations from the APOSHL focused on a request that the GCIDA condition the financial assistance for the Project on the payment by FMS to APOSHL of the annual cost of monitoring SHL for potential impacts.

Response: The GCIDA finds that the Statement of Findings adequately addresses the concerns raised by SHL (Section 5.1). First, the environmental review of the Project is not within the GCIDA's jurisdiction or mission, and the identification of potential impacts and the need for mitigation was thoroughly addressed in the Article 10 permitting process by the Siting Board. SHL participated in the Article 10 process, was granted intervenor status, and was provided funding by Flint Mine Solar, LLC (FMS) to help defray the costs incurred by the APOSHL in that Article 10 process. During the Article 10 review, the APOSHL raised the same issues as the current comments and was able to gain some concessions in the project's stipulation agreement to which APOSHL was a signatory. The stipulations agreement sets forth the detailed conditions the FMS project must meet to comply with the Article 10 permit.

The SHL comments also do not recognize that the NYSDEC stormwater permitting process requires not only completion and compliance with a SWPPP that meets or exceeds State standards, but also compliance with a detailed inspection schedule that must be certified by qualified personnel. FMS is required under Condition 61 of the Article 10 permit to hire a third party environmental consultant as well as agricultural monitor. The permit conditions provide strict requirements related to project monitoring. Lastly, the Siting Board expressly determined that the Facility would not result in significant adverse impacts on SHL, both in the Order Granting FMS an Article 10 Certificate and again in the Order Approving FMS's Amendment.

In addition to the monitoring that will be required in the Project's SWPPP, FMS has already formally committed to undertake enhanced monitoring of the Project as part of the project's Article 10 Certificate. The monitoring plan included monitoring of four storm events prior to construction which have already been done, as well as twice quarterly during construction, and four times after construction. This monitoring schedule is set forth in Condition 61(f) of the Article 10 permit.

Multiple SHL residents also commented on having access to review the projects SWPPP. Condition 78 of the Article 10 permit specifically requires the development of a SWPPP that will not impact runoff to SHL and requires consultation with NYSDEC and the APOSHL in the development of the SWPPP. Additionally, FMS is required to provide copies to both Towns, at which point they will become public records subject to the review by members of the public including the APOSHL and residents of SHL.

Regarding the subject of requiring payments to SHL as a condition of the GCIDA incentives, this was addressed by a formal opinion of the GCIDA attorney which is provided as an attachment to the Findings Statement. Specifically, SHL is not an affected taxing jurisdiction that is a permitted recipient of payments under a PILOT Agreement. In addition, the request to condition the approval of financial assistance

for the Project on the payment to SHL, a not-for-profit corporation, of sums for the monitoring of the SHL was not incorporated as a Condition in the Siting Board's permit for the Project so that there is no basis for GCIDA to request that same payment as a condition for the provision of financial assistance. The State Article 10 Siting Board process is the exclusive environmental review for the Project which supersedes all local permits and approvals. While the Siting Board rejected arguments that the FMS Facility will result in significant adverse impacts on SHL, after a thorough and lengthy environmental review of the project, FMS nevertheless voluntarily agreed to measures memorialized in their Article 10 Certificate which provide for testing and monitoring, and have agreed to consult with APOSHL in development of the project's final SWPPP. Further, the lack of a condition in the Siting Board's approval for the Project makes any request for such a payment to SHL of questionable ethical validity and the GCIDA declines the invitation to condition the financial assistance on payment to SHL to defray their cost of monitoring.

- 2. Article 10 Amendment:** At the public hearings and in later communications from multiple residents/representatives of SHL, comments focused on the requested amendments to approved project filed by FMS on August 28, 2022 with the Public Service Commission (PSC) and additional impacts the proposed changes to the project would cause to SHL.

***Response:** The environmental review of this project, including any amendments to currently authorized activities, is not the role of the GCIDA. As with the original approvals, identification, evaluation and if necessary, mitigation of any potential impacts will be conducted by the appropriate state and federal agencies, including the Siting Board. On February 16, 2023, the Secretary to the Siting Board made a formal recommendation to the Siting Board that it find the permit amendments being sought by FMS for the Project were not expected to result in an increase in the environmental impacts as compared to the Certified Facility and as such no further public review was deemed to be necessary. The GCIDA is aware that the APO-SHL submitted additional comments on the proposed amendments to the Project which were placed in the record considered by the Siting Board, but that the Siting Board ultimately concurred with the Secretary's letter, issuing a March 28, 2023 Order approving the FMS amendments.*

B. Coxsackie Public Hearing 10/4/2022

- 1. John Van Buren:** Mr. Van Buren commented that the Project would only result in one job which in his opinion was not "real economic development." Additional comments were also made by Janet Kaplan and Al Kaplan on the lack of employment created by the Project.

Response: The enabling legislation governing IDAs is set forth in General Municipal Law ("GML") Article 18-A. The GCIDA is authorized to provide financial assistance to "...thereby advance the job opportunities, health and general prosperity and economic welfare of the people...". While the Project's employment opportunities will be limited to short term construction jobs, the Project will provide a significant increase in revenues to local affected taxing jurisdictions with no corresponding costs or additional expenses for the affected taxing jurisdictions. In addition, the special districts such as fire and ambulance will see a significant increase in assessment over the current numbers which may result in a lowering of the applicable tax rate. The GCIDA finds that the provision of incentives for a solar project is a permitted project under GML Article 18-A and constitutes sound economic development in that it will be part of providing additional revenues to the affected taxing jurisdiction that will have a positive impact on general prosperity and the economic welfare of the people of Greene County.

2. **Janet Kaplan, Coxsackie Public Hearing 10/4/22:** Ms. Kaplan commented that the proposed PILOT deviates significantly from the IDA's own policies. She additionally commented that the PILOT is well below established market value, the discounted normal tax rate and the NYSERDA guidelines on valuation of solar projects.

Response: The GCIDA acknowledges that its incentive package deviates from its standard policies since the GCIDA's Uniform Tax-Exempt Policy does not address solar facilities. As a result, the provision of financial assistance was treated as a deviation under the IDA's Uniform Tax Exemption Policy. Regarding the IDA's Solar Policy, the policy was intended to address the increasing interest in smaller scale solar projects in Greene County at the time of the policy's adoption. At the time, the IDA as well as municipalities, were being contacted often by multiple projects weekly. It was intended to set guidelines for addressing projects typically between 5-20MW that were structured as "retail" projects selling energy directly to the consumer. When the policy was adopted, the IDA was aware that multiple large "wholesale" solar projects were in the initial steps of the Article 10 approval process and expected that these projects would be more complex and would likely require a deviation from policy if they were approved by the Siting Board.

Regarding the PILOT being well below "market rate," the GCIDA did evaluate the "market" for PILOT amounts on other large scale solar projects in NYS. While there is a limited number of these large projects in operation, a number have recently been approved, and others are in the process of negotiating PILOTS or are waiting to make application to the appropriate IDA. The GCIDA did identify several projects where PILOTS and other fees negotiations have concluded and compared them to the proposed FMS PILOT. Projects identified by the GCIDA had secured IDA PILOTS ranging from \$3,000/MW to \$6,500/MW with about half including some form of additional host community benefit payment.

The following chart shows these examples:

Solar Project	County	MW	Total \$ per MW	PILOT Term	notes
Horseshoe Solar	Livingston & Monroe	180	\$3,000	20	HCA + PILOT
Mohawk Solar	Montgomery	90	\$3,333	15	no HCA
Morris Ridge Solar	Livingston	180	\$3,650	20	no HCA mentioned
South Ripley Solar	Chautauqua	270	\$4,500	30	HCA + PILOT
Flint Mine Solar	Greene	100	\$5,000	30	PILOT Only
Hecate Energy Cider Solar	Genesee	500	\$5,450	30	HCA + PILOT
Trelina Solar	Seneca	80	\$6,164	15	HCA +PILOT
Excelsior Energy Center	Genesee	280	\$6,500	20	HCA + PILOT

3. **Janet Kaplan, Cossackie Public Hearing 10/4/22:** Ms. Kaplan commented that the Statement of Findings states that no public investment is being made in the FMS project and that the GCIDA did not evaluate federal and state tax incentives that the project will receive.

Response: The statement of no public investment in the cited section of the Statement of Findings (section 10.1) refers to the absence of any need for public funds to be spent on infrastructure or other public services for the Project. Federal and state tax incentives were considered during the valuation process.

4. **Janet Kaplan, Al Kaplan, David Unger, Cossackie Public Hearing 10/4/22:** Multiple people at the public hearing commented that the PILOT was well below the level required under the County's solar PILOT law, PILOTS granted for other projects, or statute requirements for PILOTS.

Response: While the County Solar PILOT law is not applicable to IDA PILOTS, the FMS incentive package generates a total first year revenue stream (when the host community payments are added to the IDA PILOT payments) to taxing jurisdictions of \$9,000/MW which exceeds the requirements of the County Solar policy. As noted in the Statement of Findings as well as responses to public comments in this document, the comment that the proposed PILOT is below PILOTS for other solar projects is not accurate and in fact the record here confirms that the proposed PILOT is in excess of almost all other PILOTS for which the GCIDA was able to find information. Article 18-A is the governing statute for the provision of PILOTS by the GCIDA, and the GCIDA believes that it has complied with its statutory requirements.

5. **Multiple people:** Comments were focused on general issues related to project impacts on SHL water quality. These included, Ken Gifford, John Van Buren, Janet Kaplan, Al Kaplan, James Huston, Jean Unger, Scott Nanmacher:

Response: Issues related to the impact on SHL have been addressed in Section A.1 above.

6. **Multiple people:** Comments were made in support of the project and the IDA's incentives by Helen Meier, Barbara Brumell, Randall Smollinger, Richard Garvey, Carol Meltz, Chris Garvey, M. Garvey. See the Statement of Findings on the basis and analysis for the provision of financial assistance for the Project.

C. Athens Public Hearing 10/5/2022

1. **Ken Gifford:** commented that state agencies are experiencing short staffing and will not have the resources to provide oversight of the Project. Mr. Gifford made the same comment at the Cocksackie public hearing.

Response: It is the experience of the GCIDA that NYSDEC is very proactive at addressing issues and problems related to stormwater impacts on large projects, something the GCIDA has seen with developers in our own GCIDA business parks. NYSDEC is quick to respond on larger projects and it has a wide range of enforcement tools. Additionally, it should be noted that the project documents between the GCIDA and FMS will require that the project to stay in full compliance with any federal or state approvals, permits and similar, and that the Siting Board has imposed numerous requirements on FMS through its Article 10 Certificate and Clean Water Act Section 401 Water Quality Certificate, including the requirement that a third-party environmental monitor be involved during construction, and empowering New York State Department of Public Service Staff to oversee and issue stop work orders during construction of FMS. In the event of an egregious default on any permits or approvals, the project documents allow for the GCIDA to suspend and even claw back any benefits the project has had to date.

2. **Al Kaplan:** made a series of comments on the valuation of the project and the methods used to determine the PILOT.

Response: The valuation of a solar array is not the subject of any settled precedent from any of the Appellate Divisions of the State of New York. As a result, there is considerable uncertainty as to the proper and required method of valuation of such projects. The Reproduction Cost New Less Depreciation ("RCN") method of valuation is not an appropriate valuation metric since solar projects will be subject to a purchase and sale transaction so that

this property type is not a specialty property which finding of property type must be present in order to use the RCN valuation. Matter of Brooklyn Union Gas v. SBEA, 65 N.Y.2d 472, 488 (1985). Matter of Allied Corp. v. Town of Camillus, 80 N.Y.2d 351 (1992). As a result of the uncertainty in valuation method for a solar array, the applicable law mandates that for assessment purposes, any fair and non-discrimination method that will achieve a fair and realistic value is all that is required. Matter of Allied Corp. v. Town of Camillus, 80 N.Y.2d 351, 356 (1992). Adirondack Mountain Reserve v. Board of Assessor of the Town of North Hudson, 106 A.D.3d 1232 (3d Dept. 2013). The method utilized by the GCIDA in this Statement of Findings certainly are appropriate for use in complex valuation matters such as the valuation of the Project especially in light of the current litigation on the New York State Taxation and Finance Model and the fact that utility prices are no longer based on forecast as we have a long operating history of the NYISO. Erie Boulevard Hydropower, L.P. v. Town of Ephratah Board of Assessors, 9 A.D.3d 540 (3d Dept. 2004). In addition, Real Property Tax Law Section 575-b requires all wind and solar projects to be assessed using the discounted cash flow analysis.

3. **Al Kaplan:** commented that the only change to the Draft Statement of Findings was the addition of a \$500,000 payment to the IDA.

***Response:** The proposed funds to the GCIDA were to be restricted to the development of Parks for placement in a segregated account and were targeted at continuing the GCIDA's work to prepare development sites to attract new business. The Statement of Findings has been amended and the \$500,000 will be directed to Greene County with \$250,000 dedicated to the relocation of the County tourism center and \$250,000 to the County's economic development fund.*

4. **Al Kaplan:** commented that federal income tax laws, NYSERDA subsidies, and state portion of sales tax were not considered in the analysis of the IDA benefits and represented additional benefits to the project.

***Response:** These items were all factored into the independent project valuation conducted by a third party appraisal consultant retained by the GCIDA. As noted in the statement of findings, the GCIDA does not evaluate the impact to the state on their portion of the sales tax exemption as the GCIDA is not able to accurately identify any offsetting revenues to the state in the form of fees and taxes. The GCIDA focuses its analysis of impacts on the local taxing jurisdictions which make up our constituency.*

5. **Scott Nammacher, Janet Lyons, Kim Chee. Ken Gifford:** commented on NYSDEC enforcement action in the event an impact occurs to SHL from the FMS project and questioned what remedies SHL has in the event of an impact.

See response to comments in Section A.1

6. **Multiple people:** Ken Gifford, Janet Kaplan, Rob Muenkel, Julie Forman, Scott Nammacher, Janet Lyons, Kin Chee, John VanBuren, Lou Imbrogno, commented on general issues related to project impacts on SHL water quality.

See response to comments in Section A.1

D. Written Comments

1. **Ken Gifford (Exhibit D):** submitted written testimony of his comments at the October 4th public hearing. The comments reiterated his comments at the public hearing.

Comments have been addressed in previous sections of this document.

2. **Letter, Jean and David Unger 10/1/22 (Exhibit E):** The Unger's commented the GCIDA Statement of Findings does not address the necessity of the FMS project to complete a satisfactory Stormwater Pollution Prevention Plan.

***Response:** The oversight of the development and implementation of Stormwater Pollution Prevention Plans (SWPPP) is the responsibility of the NYS Siting Board, as part of the Article 10 certification process, as well as the NYS Dept. of Environmental Conservation under Section 402 of the Clean Water Act, through the issuance of a State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities. The requirements for the development of a SWPPP are set forth in the project's Stipulations Agreement under its Article 10 approval, to which the APOSHL is a signatory. The state has well established program for permitting these activities including enforcement mechanisms, which are also spelled out in the FMS Article 10 Certificate. Additionally, while not specifically stated in the Statement of Findings, the GCIDA final project agreements with all companies we assist include standard language that the project must comply with all local, state, and federal approvals and failure to do so can result in a loss of the GCIDA benefits. This requirement would extend to the requirement to develop a SWPPP and comply with all NYSDEC stormwater regulations.*

3. **Letter, Jean and David Unger 10/9/22 (Exhibit E pat 2):** The Unger's commented that the GCIDA Statement of Findings required FMS to establish an escrow for Athens and Cocksackie to hire outside experts to monitor compliance with the Uniform Building and Fire Code and that the IDA should require a similar fund for APOSHL to monitor the lake.

Response: The items covered in Sections 15.1, 15.2 and 15.3 of the Statement of Findings are directly correlated with the general items and terms included in draft community host agreements that were under negotiation between FMS and the Towns prior to FMS's submission of an application to the GCIDA. These items, including the compliance fee, were identified by the municipalities as important components of the agreements. By inclusion in the Statement of Findings the GCIDA's intent is to strengthen the Town's ability to enforce the host agreements by making the host agreements part of the GCIDA incentive package with the risk of losing all incentives should there be a default on payments under the host agreements. Additionally, as noted previously, the GCIDA does not have the statutory authority to direct funds to non-public entities.

4. **Janet Kaplan (Exhibit F):** submitted written testimony of her comments at the October 4th public hearing.

Comments have been previously addressed in Sections A, B and C above.

5. **Al Kaplan (Exhibit G):** submitted written testimony of his comments at the October 4th public hearing. The testimony includes a comment that the IDA was setting a major precedent in using its authority to deviate from its Uniform Tax Exempt Policy.

Response: Most comments have been previously addressed in Sections B and C above. In regard to the use of the deviation process, this is not a precedence as the GCIDA frequently uses the deviation process to better structure incentive packages that are more closely tailored to a company's need, the benefit it brings and impacts on the community which is always completed on a case by case basis. While the GCIDA uses the deviation process to design better projects and provide the ability for flexibility to meet changing industry and business trends and needs, it does so responsibly. The development of a formal Statement of Findings setting forth the GCIDA's evaluation of the project is critical to this process.

6. **Town of Athens:** Letter dated 10/5/22 from the Town's attorney Whitbeck and Smith LLP (Exhibit H) requesting the IDA provide a distribution of PILOT funds based on the nameplate generation capacity installed within each taxing jurisdiction and the IDA should provide the Town with a copy of the final PILOT agreement to provide consistency between the PILOT agreements and Host Community Agreements being negotiated between FMS and the Towns.

Response: Given that the project layout has continued to be refined as detailed construction plans are being developed, it is the intent of the GCIDA to revise the projected PILOT schedules in the Statement of Findings based on the final production

capacity installed in each Town. Revised schedule will be distributed to the taxing jurisdictions when the project is constructed.

- 7. E-mail, Robert Butler (Exhibit I):** questioned whether the Host Community Agreements could be written to require the funds to be spent on special projects.

Response: The Host Community Agreements (HCA) were directly proposed by FMS to the Towns well in advance of their application for GCIDA assistance. The GCIDA was not involved in the negotiation of the HCAs. The terms of these agreements are to be determined by FMS and the Towns with no involvement of the GCIDA.

- 8. E-mail, Amy Sirkin, Lauren Sirkin, Tonya Roloson (Exhibit J):** Comments on FMS impacts on SHL.

Response: General comments on impact of FMS project on SHL have been addressed in Section A as well as in multiple other responses above.

- 9. Email, Catherine and James Connor (Exhibit K):** Comments on FMS impacts on SHL.

Response: General comments on impact of the Project on SHL have been addressed in Section A as well as in multiple other responses above.

- 10. E-mail, Jennifer Kinch (Exhibit M) Comments on FMS impacts on SHL:**

Response: General comments on impact of the Project on SHL have been addressed in Section A as well as in multiple other responses above.

- 11. Letter, Janet Hale (Exhibit O) Comments on FMS impacts on SHL:**

Response: General comments on impact of the Project on SHL have been addressed in Section A as well as in multiple other responses above.

- 12. Letter, Cocksackie Athens School District (Exhibit Y) The school provided multiple comments as summarized below:**

- a. That they had been excluded from any community benefit package.
- b. That the GCIDA diverted funds away from the PILOT to the community benefit package.

c. That the GCIDA claimed that there was no mechanism for a school district to negotiate outside the PILOT with the developer.

Response: The School District statements reflect a fundamental misunderstanding of the HCAs that were in the process of negotiation directly between FMS and the Towns prior to the commencement of negotiation of the PILOT for the Project with the GCIDA. Further, the GCIDA had no input or role in the negotiation of the HCA. The PILOT for the Project at the initial starting rate of \$5,000/MW is in excess of other comparable solar projects in New York State that have received IDA financial assistance which supports the initiation of the PILOT payments at \$5,000/MW. As a result, the GCIDA did not divert funds from the PILOT to the Towns for the HCA.

13. E-Mail, Ken Gifford (Exhibit AA) Comments on FMS impacts on SHL:

Response: General comments on impact of FMS project on SHL have been addressed in Section A as well as in multiple other responses above.

14. Letter, Lee Palmateer (Exhibit DD) dated December 11, 2022:

Response: The Author asserts that the Inflation Reduction Act of 2022 ("IRA") provides for a 30% tax credit for the Project and that the availability of such credits is a basis for increasing the PILOT payments. However, the credits under the IRA for projects in excess of 1 MW require that all laborers and mechanics involved in the construction of the project or maintenance of the Property for the entire ten (10) year period of the credit must be paid wages at least equal to the prevailing wages. FMS has not committed to prevailing wages for the Project, and the GCIDA has not imposed that commitment as a condition precedent to the grant of financial assistance for the Project. The GCIDA desires to have the Project constructed and to become operational because of the resulting tax revenue improvement over the existing conditions of the land base.

The escalation rate of 1.5% for the PILOT payments to be made by the Project is less than the current rate of inflation, but proximate to the lesser of the: (a) 2% maximum escalation under the New York property tax cap; or (b) rate of inflation. The tax cap has been in place for the fiscal year commencing in 2012. The GML does not require any escalation of PILOT payments or a minimum rate of escalation. The 1.5% escalation provides for escalation but ensures that the Project will ultimately be constructed and will remain viable for the term of the PILOT. The net result of the proposed PILOT for the Project is more than the revenues that would be realized from the existing conditions of the property base (i.e., vacant non-productive land).

The mortgage recording tax exemption is part of the financial assistance that the GCIDA may provide to a project under GML §874(1). Here the GCIDA balanced the financial assistance requested for the Project against the benefits that the entire community will receive from the Project being an increase in local tax revenues to the respective Towns and other taxing jurisdictions from that produced by the existing land base being used for the Project. In sum, the GCIDA believes that the installation of the Project with the net increase in tax revenues is an appropriate offset for the mortgage recording tax loss to the Towns.

15. Letter Lee Palmateer (Exhibit DD) dated November 7, 2022 to the Town of Athens Town Supervisor which was copied to the GCIDA:

***Response:** The Author asserts contentions about RPTL §487 which are not applicable to an industrial development agency payment in lieu of tax agreement which derives from an entirely different statute base being GML §412-a and RPTL §874. In addition, the Author's citation to Regeneron Pharms., Inc. v. McCarthy, 77 A.D.3d 1246 (3d Dept. 2010) misses the mark, because Regeneron stands for the legal principle that the lease and leaseback structure of IDA transactions is sufficient to establish "jurisdiction, supervision or control" in favor of that IDA under GML §874.*

The balance of this letter is directed to the Town Supervisor in terms of due diligence and collateral security for the PILOT payments. Importantly, in the event that any of the PILOT payments are not made, then the GCIDA has the ability to terminate the PILOT Agreement which would result in the Project being placed on the assessment rolls.

E. Letters of Support

In addition to the comments addressed above, the IDA received 25 direct letters of support for the project and the IDA incentives from the following. There were additional comments in support at each public hearing.

Helen Meir, Jenifer Bacher, Barbara Brumell, Stephen Ritter, Richard Tevere, Guieseppi & Dominica Multari, Richard Mwazi, David Meier, M.K. Garvey, Win Morrison Ellen De Lucia, Mr. & Mrs. Goetchio, Marisa Multari, Adam Morritz, Bryon Hale, Manga Murci, Theodor Kennedy, Isaiah Garvey, Lucretia Eamy, Donald Gardner, Cari Gardner, Zachery Luft, David Barko, Frank Micalizzi, Jason Bishop.

**ATTACHMENT 4
PROPERTY TAX CALCULATIONS**

Vacant 1.5%

STARTED AT 2022 TAX RATES

100% 1.5%

ATHENS VACANT							ATHENS					COXSACKIE		TOTAL
YEAR	Assessment	COX-ATHENS	ATHENS	ATHENS	Special Districts		COX-ATHENS	ATHENS	ATHENS	Special Districts		TAXES	TAXES	TOTAL
		SCHOOL	COUNTY	TOWN	WA FIRE	LIBRARY	SCHOOL	COUNTY	TOWN	WA FIRE	LIBRARY			
		TAX RATES					TAXES							
1	\$ 698,782	18.0094	4.300741	1.946869	0.846551	0.343181	\$ 12,585	\$ 3,005	\$ 1,360	\$ 592	\$ 240	\$ 17,782	\$ 41,277	\$ 59,058
2	\$ 709,264	18.279541	4.36525217	1.97607204	0.85924927	0.34832872	\$ 12,965	\$ 3,096	\$ 1,402	\$ 609	\$ 247	\$ 18,319	\$ 42,524	\$ 60,843
3	\$ 719,903	18.5537341	4.4307309	2.00571312	0.872138	0.35355365	\$ 13,357	\$ 3,190	\$ 1,444	\$ 628	\$ 255	\$ 18,873	\$ 43,810	\$ 62,682
4	\$ 730,701	18.8320401	4.49719186	2.03579881	0.88522007	0.35885695	\$ 13,761	\$ 3,286	\$ 1,488	\$ 647	\$ 262	\$ 19,443	\$ 45,134	\$ 64,577
5	\$ 741,662	19.1145207	4.56464974	2.06633579	0.89849838	0.3642398	\$ 14,177	\$ 3,385	\$ 1,533	\$ 666	\$ 270	\$ 20,031	\$ 46,498	\$ 66,529
6	\$ 752,787	19.4012385	4.63311948	2.09733083	0.91197585	0.3697034	\$ 14,605	\$ 3,488	\$ 1,579	\$ 687	\$ 278	\$ 20,636	\$ 47,903	\$ 68,540
7	\$ 764,078	19.6922571	4.70261528	2.12879079	0.92565549	0.37524895	\$ 15,046	\$ 3,593	\$ 1,627	\$ 707	\$ 287	\$ 21,260	\$ 49,351	\$ 70,611
8	\$ 775,540	19.987641	4.77315552	2.16072266	0.93954032	0.38087769	\$ 15,501	\$ 3,702	\$ 1,676	\$ 729	\$ 295	\$ 21,903	\$ 50,843	\$ 72,745
9	\$ 787,173	20.2874556	4.84475285	2.1931335	0.95363343	0.38659085	\$ 15,970	\$ 3,814	\$ 1,726	\$ 751	\$ 304	\$ 22,565	\$ 52,379	\$ 74,944
10	\$ 798,980	20.5917674	4.91742415	2.2260305	0.96793793	0.39238972	\$ 16,452	\$ 3,929	\$ 1,779	\$ 773	\$ 314	\$ 23,247	\$ 53,963	\$ 77,209
11	\$ 810,965	20.9006439	4.99118551	2.25942096	0.982457	0.39827556	\$ 16,950	\$ 4,048	\$ 1,832	\$ 797	\$ 323	\$ 23,949	\$ 55,594	\$ 79,543
12	\$ 823,130	21.2141536	5.06605329	2.29331227	0.99719985	0.40424969	\$ 17,462	\$ 4,170	\$ 1,888	\$ 821	\$ 333	\$ 24,673	\$ 57,274	\$ 81,947
13	\$ 835,476	21.5323659	5.14204409	2.32771195	1.01215176	0.41031344	\$ 17,990	\$ 4,296	\$ 1,945	\$ 846	\$ 343	\$ 25,419	\$ 59,005	\$ 84,424
14	\$ 848,009	21.8553514	5.21917475	2.36262763	1.02733404	0.41646814	\$ 18,534	\$ 4,426	\$ 2,004	\$ 871	\$ 353	\$ 26,187	\$ 60,788	\$ 86,976
15	\$ 860,729	22.1831817	5.29746237	2.39806705	1.04274405	0.42271516	\$ 19,094	\$ 4,560	\$ 2,064	\$ 898	\$ 364	\$ 26,979	\$ 62,526	\$ 89,505
16	\$ 873,640	22.5159294	5.37692431	2.43403805	1.05838521	0.42905589	\$ 19,671	\$ 4,697	\$ 2,126	\$ 925	\$ 375	\$ 27,794	\$ 64,519	\$ 92,313
17	\$ 886,744	22.8536683	5.45757817	2.47054852	1.07425098	0.43549173	\$ 20,265	\$ 4,839	\$ 2,191	\$ 953	\$ 386	\$ 28,634	\$ 66,469	\$ 95,103
18	\$ 900,045	23.1964733	5.53944185	2.50760685	1.0903749	0.44202411	\$ 20,878	\$ 4,986	\$ 2,257	\$ 981	\$ 398	\$ 29,500	\$ 68,478	\$ 97,978
19	\$ 913,546	23.5444204	5.62253347	2.54522096	1.10673052	0.44865447	\$ 21,509	\$ 5,136	\$ 2,325	\$ 1,011	\$ 410	\$ 30,391	\$ 70,548	\$ 100,939
20	\$ 927,249	23.8975868	5.70687148	2.58339927	1.12333148	0.45538428	\$ 22,159	\$ 5,292	\$ 2,395	\$ 1,042	\$ 422	\$ 31,310	\$ 72,680	\$ 103,990
21	\$ 941,158	24.2560506	5.79247455	2.62215026	1.14018145	0.46221505	\$ 22,829	\$ 5,452	\$ 2,468	\$ 1,073	\$ 435	\$ 32,256	\$ 74,877	\$ 107,133
22	\$ 955,275	24.6198913	5.87936167	2.66148251	1.15728417	0.46914827	\$ 23,519	\$ 5,616	\$ 2,542	\$ 1,106	\$ 448	\$ 33,231	\$ 77,140	\$ 110,371
23	\$ 969,605	24.9891897	5.96755209	2.70140475	1.17464344	0.4761855	\$ 24,230	\$ 5,786	\$ 2,619	\$ 1,139	\$ 462	\$ 34,236	\$ 79,471	\$ 113,707
24	\$ 984,149	25.3640275	6.05706537	2.74192582	1.19226309	0.48332828	\$ 24,962	\$ 5,961	\$ 2,698	\$ 1,173	\$ 476	\$ 35,271	\$ 81,873	\$ 117,144
25	\$ 998,911	25.7444879	6.14792135	2.78305471	1.21014703	0.4905782	\$ 25,716	\$ 6,141	\$ 2,780	\$ 1,209	\$ 490	\$ 36,337	\$ 84,348	\$ 120,684
26	\$ 1,013,894	26.1306553	6.24014017	2.82480053	1.22829924	0.49793688	\$ 26,494	\$ 6,327	\$ 2,864	\$ 1,245	\$ 505	\$ 37,435	\$ 86,897	\$ 124,332
27	\$ 1,029,103	26.52226151	6.33374228	2.86717254	1.24672373	0.50540593	\$ 27,295	\$ 6,518	\$ 2,951	\$ 1,283	\$ 520	\$ 38,566	\$ 89,524	\$ 128,090
28	\$ 1,044,539	26.9204543	6.42874841	2.91018013	1.26542459	0.51298702	\$ 28,119	\$ 6,715	\$ 3,040	\$ 1,322	\$ 536	\$ 39,732	\$ 92,230	\$ 131,962
29	\$ 1,060,208	27.3242611	6.52517964	2.95383283	1.28440595	0.52068182	\$ 28,969	\$ 6,918	\$ 3,132	\$ 1,367	\$ 552	\$ 40,933	\$ 95,017	\$ 135,950
30	\$ 1,076,111	27.7341125	6.62305733	2.99814032	1.30367204	0.52849205	\$ 29,845	\$ 7,127	\$ 3,226	\$ 1,403	\$ 569	\$ 42,170	\$ 97,889	\$ 140,059
							\$ 600,907	\$ 143,500	\$ 64,960	\$ 28,246	\$ 11,451	\$ 849,063	\$ 1,970,926	\$ 2,819,990

FS000278

COXSACKIE VACANT

YEAR	Assessment	COXSACKIE TAX RATE						Special Districts TAXES						TOTAL TAXES
		COX-ATHENS SCHOOL	COXSACKIE COUNTY	COXSACKIE TOWN	AMBULANCE	FIRE	LIBRARY	COX-ATHENS SCHOOL	COXSACKIE COUNTY	COXSACKIE TOWN	AMBULANCE	FIRE	LIBRARY	
1	\$ 1,063,079	25.9671	6.201068	4.119018	0.711803	1.228903	0.599545	\$ 27,605	\$ 6,592	\$ 4,379	\$ 757	\$ 1,306	\$ 637	\$ 41,277
2	\$ 1,079,025	26.3566065	6.29408402	4.18080327	0.72248005	1.24733655	0.6085382	\$ 28,439	\$ 6,791	\$ 4,511	\$ 780	\$ 1,346	\$ 657	\$ 42,524
3	\$ 1,095,211	26.7519556	6.38849528	4.24351532	0.73331725	1.26604659	0.6176662	\$ 29,299	\$ 6,997	\$ 4,648	\$ 803	\$ 1,387	\$ 676	\$ 43,810
4	\$ 1,111,639	27.1532349	6.48432271	4.30716805	0.744317	1.28503729	0.6269312	\$ 30,185	\$ 7,208	\$ 4,788	\$ 827	\$ 1,428	\$ 697	\$ 45,134
5	\$ 1,128,313	27.5605335	6.58158755	4.37177557	0.75548176	1.30431285	0.6363352	\$ 31,097	\$ 7,426	\$ 4,933	\$ 852	\$ 1,472	\$ 718	\$ 46,498
6	\$ 1,145,238	27.9739415	6.68031136	4.4373522	0.76681399	1.32387754	0.6458802	\$ 32,037	\$ 7,651	\$ 5,082	\$ 878	\$ 1,516	\$ 740	\$ 47,903
7	\$ 1,162,417	28.3935506	6.78051603	4.50391249	0.7783162	1.34373571	0.6555684	\$ 33,005	\$ 7,882	\$ 5,235	\$ 905	\$ 1,562	\$ 762	\$ 49,351
8	\$ 1,179,853	28.8194538	6.88222377	4.57147117	0.78999094	1.36389174	0.665402	\$ 34,003	\$ 8,120	\$ 5,394	\$ 932	\$ 1,609	\$ 785	\$ 50,843
9	\$ 1,197,551	29.2517456	6.98545713	4.64004324	0.8018408	1.38435012	0.675383	\$ 35,030	\$ 8,365	\$ 5,557	\$ 960	\$ 1,658	\$ 809	\$ 52,379
10	\$ 1,215,514	29.6905218	7.09023899	4.70964389	0.81386841	1.40511537	0.6855137	\$ 36,089	\$ 8,618	\$ 5,725	\$ 989	\$ 1,708	\$ 833	\$ 53,953
11	\$ 1,233,747	30.1358797	7.19659257	4.78028855	0.82607644	1.4261921	0.6957964	\$ 37,180	\$ 8,879	\$ 5,898	\$ 1,019	\$ 1,760	\$ 858	\$ 55,594
12	\$ 1,252,253	30.5879179	7.30454146	4.85199288	0.83846759	1.44758498	0.7062334	\$ 38,304	\$ 9,147	\$ 6,076	\$ 1,050	\$ 1,813	\$ 884	\$ 57,274
13	\$ 1,271,037	31.0467366	7.41410958	4.92477277	0.8510446	1.46929876	0.7168269	\$ 39,462	\$ 9,424	\$ 6,260	\$ 1,082	\$ 1,868	\$ 911	\$ 59,005
14	\$ 1,290,102	31.5124377	7.52532123	4.99864436	0.86381027	1.49133824	0.7275793	\$ 40,654	\$ 9,708	\$ 6,449	\$ 1,114	\$ 1,924	\$ 939	\$ 60,788
15	\$ 1,309,454	31.9851242	7.63820105	5.07362403	0.87676742	1.51370831	0.738493	\$ 41,883	\$ 10,002	\$ 6,644	\$ 1,148	\$ 1,982	\$ 967	\$ 62,626
16	\$ 1,329,095	32.4649011	7.75277406	5.14972839	0.88991894	1.53641394	0.7495704	\$ 43,149	\$ 10,304	\$ 6,844	\$ 1,183	\$ 2,042	\$ 996	\$ 64,519
17	\$ 1,349,032	32.9518745	7.86906567	5.22697431	0.90326772	1.55946015	0.7608139	\$ 44,453	\$ 10,616	\$ 7,051	\$ 1,219	\$ 2,104	\$ 1,026	\$ 66,469
18	\$ 1,369,267	33.4461527	7.98710166	5.30537893	0.91681674	1.58285205	0.7722261	\$ 45,797	\$ 10,936	\$ 7,264	\$ 1,255	\$ 2,167	\$ 1,057	\$ 68,478
19	\$ 1,389,806	33.947845	8.10690818	5.38495961	0.93056899	1.60659483	0.7838095	\$ 47,181	\$ 11,267	\$ 7,484	\$ 1,293	\$ 2,233	\$ 1,089	\$ 70,548
20	\$ 1,410,653	34.4570627	8.2285118	5.46573401	0.94452752	1.63069375	0.7955667	\$ 48,607	\$ 11,608	\$ 7,710	\$ 1,332	\$ 2,300	\$ 1,122	\$ 72,680
21	\$ 1,431,813	34.9739186	8.35193948	5.54772002	0.95869543	1.65515416	0.8075002	\$ 50,076	\$ 11,958	\$ 7,943	\$ 1,373	\$ 2,370	\$ 1,156	\$ 74,877
22	\$ 1,453,290	35.4985274	8.47721857	5.63093582	0.97307587	1.67998147	0.8196127	\$ 51,590	\$ 12,320	\$ 8,183	\$ 1,414	\$ 2,442	\$ 1,191	\$ 77,140
23	\$ 1,475,090	36.0310053	8.60437685	5.71539985	0.987672	1.70518119	0.8319069	\$ 53,149	\$ 12,692	\$ 8,431	\$ 1,457	\$ 2,515	\$ 1,227	\$ 79,471
24	\$ 1,497,216	36.5714704	8.73344251	5.80113085	1.00248708	1.73075891	0.8443855	\$ 54,755	\$ 13,076	\$ 8,686	\$ 1,501	\$ 2,591	\$ 1,264	\$ 81,873
25	\$ 1,519,674	37.1200425	8.86444414	5.88814781	1.01752439	1.75672029	0.8570513	\$ 56,410	\$ 13,471	\$ 8,948	\$ 1,546	\$ 2,670	\$ 1,302	\$ 84,348
26	\$ 1,542,470	37.6768431	8.99741081	5.97647003	1.03278726	1.7830711	0.869907	\$ 58,115	\$ 13,878	\$ 9,219	\$ 1,593	\$ 2,750	\$ 1,342	\$ 86,897
27	\$ 1,565,607	38.2419958	9.13237197	6.06611708	1.04827906	1.80981716	0.8829556	\$ 59,872	\$ 14,298	\$ 9,497	\$ 1,641	\$ 2,833	\$ 1,382	\$ 89,524
28	\$ 1,589,091	38.8156257	9.26935755	6.15710884	1.06400325	1.83696442	0.8962	\$ 61,682	\$ 14,730	\$ 9,784	\$ 1,691	\$ 2,919	\$ 1,424	\$ 92,230
29	\$ 1,612,927	39.3978601	9.40839791	6.24946547	1.0799633	1.86451889	0.909643	\$ 63,546	\$ 15,175	\$ 10,080	\$ 1,742	\$ 3,007	\$ 1,467	\$ 95,017
30	\$ 1,637,121	39.988828	9.54952388	6.34320745	1.09616275	1.89248667	0.9232876	\$ 65,467	\$ 15,634	\$ 10,385	\$ 1,795	\$ 3,098	\$ 1,512	\$ 97,889
								\$ 1,318,121	\$ 314,774	\$ 209,086	\$ 36,132	\$ 62,381	\$ 30,434	\$ 1,970,926
								\$ 1,919,027	\$ 458,273	\$ 274,046	\$ 64,378	\$ 73,831	\$ 30,434	\$ 2,819,990

FS000277

State Model 1.5%

STARTED AT 2022 TAX RATES

STATE MODEL 1.5%

ATHENS State Model														ATHENS COXSACKIE TOTAL															
YEAR	STATE MODEL	FMV	Athens MW % 45.3	EQ Rate	Assessment	COX-ATHENS SCHOOL	ATHENS COUNTY	ATHENS TOWN	Special Districts		COX-ATHENS SCHOOL	ATHENS COUNTY	ATHENS TOWN	Special Districts		ATHENS	COXSACKIE	TOTAL											
									WA FIRE	LIBRARY				WA FIRE	LIBRARY														
TAX RATE																													
1	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	18.0094	4.300741	1.946869	0.846551	0.343181	\$	354,996	\$	84,775	\$	38,376	\$	16,687	\$	6,765	\$	478,147	\$	599,023	\$	1,077,171	
2	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	18.279541	4.36525212	1.976072	0.859249265	0.3483287	\$	360,321	\$	86,047	\$	38,952	\$	16,937	\$	6,866	\$	485,320	\$	608,009	\$	1,093,328	
3	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	18.55373412	4.4307309	2.0057131	0.872138004	0.3535536	\$	365,726	\$	87,337	\$	39,536	\$	17,191	\$	6,969	\$	492,599	\$	617,129	\$	1,109,728	
4	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	18.83204013	4.49719186	2.0357988	0.885220074	0.358857	\$	371,212	\$	88,647	\$	40,129	\$	17,449	\$	7,074	\$	499,988	\$	626,386	\$	1,126,374	
5	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	19.11452073	4.56464974	2.0663358	0.898498375	0.3642398	\$	376,780	\$	89,977	\$	40,731	\$	17,711	\$	7,180	\$	507,488	\$	635,781	\$	1,143,270	
6	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	19.40123854	4.63311948	2.0973308	0.911975851	0.3697034	\$	382,432	\$	91,321	\$	41,342	\$	17,977	\$	7,287	\$	515,100	\$	645,318	\$	1,160,418	
7	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	19.69225712	4.70261628	2.1287908	0.925655489	0.375249	\$	388,168	\$	92,697	\$	41,962	\$	18,246	\$	7,397	\$	522,827	\$	654,998	\$	1,177,825	
8	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	19.98764097	4.77315552	2.1607227	0.939540321	0.3808777	\$	393,991	\$	94,087	\$	42,592	\$	18,520	\$	7,508	\$	530,669	\$	664,823	\$	1,195,492	
9	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	20.28745559	4.84475285	2.1931335	0.953633426	0.3865909	\$	399,901	\$	95,498	\$	43,230	\$	18,798	\$	7,620	\$	538,629	\$	674,795	\$	1,213,425	
10	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	20.59176742	4.91742415	2.2260305	0.967937927	0.3923897	\$	405,899	\$	96,931	\$	43,879	\$	19,080	\$	7,735	\$	546,709	\$	684,917	\$	1,231,626	
11	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	20.90064393	4.99118551	2.259421	0.982456996	0.3982756	\$	411,988	\$	98,385	\$	44,537	\$	19,366	\$	7,851	\$	554,910	\$	695,191	\$	1,250,100	
12	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	21.21415399	5.06605329	2.2933123	0.997193851	0.4042497	\$	418,167	\$	99,861	\$	45,205	\$	19,656	\$	7,968	\$	563,233	\$	705,619	\$	1,268,852	
13	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	21.5323659	5.14204409	2.3277712	1.012151759	0.4103134	\$	424,440	\$	101,359	\$	45,883	\$	19,951	\$	8,088	\$	571,682	\$	716,203	\$	1,287,885	
14	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	21.85535139	5.21917475	2.3626776	1.027334035	0.4164681	\$	430,807	\$	102,879	\$	46,571	\$	20,251	\$	8,209	\$	580,257	\$	726,946	\$	1,307,203	
15	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	22.18318166	5.29746237	2.398067	1.042744046	0.4227152	\$	437,269	\$	104,422	\$	47,270	\$	20,554	\$	8,332	\$	588,961	\$	737,850	\$	1,326,811	
16	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	22.51592938	5.37692431	2.4340381	1.058385206	0.4290559	\$	443,828	\$	105,988	\$	47,979	\$	20,863	\$	8,457	\$	597,795	\$	748,918	\$	1,346,713	
17	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	22.85366832	5.45757817	2.4705486	1.074260984	0.4354917	\$	450,485	\$	107,578	\$	48,699	\$	21,176	\$	8,584	\$	606,762	\$	760,152	\$	1,366,914	
18	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	23.19647335	5.53944185	2.5076069	1.090374899	0.4420241	\$	457,242	\$	109,192	\$	49,429	\$	21,493	\$	8,713	\$	615,863	\$	771,554	\$	1,387,418	
19	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	23.54442045	5.62253347	2.545221	1.106730523	0.4486545	\$	464,101	\$	110,830	\$	50,171	\$	21,816	\$	8,844	\$	625,101	\$	783,127	\$	1,408,229	
20	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	23.89758675	5.70687148	2.5833993	1.12333148	0.4553843	\$	471,062	\$	112,492	\$	50,923	\$	22,143	\$	8,976	\$	634,478	\$	794,874	\$	1,429,352	
21	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	24.25605055	5.79247455	2.6221503	1.140181453	0.462215	\$	478,128	\$	114,180	\$	51,687	\$	22,475	\$	9,111	\$	643,995	\$	806,797	\$	1,450,793	
22	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	24.61989131	5.87936167	2.6614825	1.157284174	0.4691483	\$	485,300	\$	115,892	\$	52,462	\$	22,812	\$	9,248	\$	653,655	\$	818,899	\$	1,472,554	
23	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	24.98918968	5.96755209	2.7014048	1.174643437	0.4761855	\$	492,580	\$	117,631	\$	53,249	\$	23,154	\$	9,386	\$	663,460	\$	831,183	\$	1,494,643	
24	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	25.36402753	6.05706537	2.7419258	1.192263089	0.4833283	\$	499,969	\$	119,395	\$	54,048	\$	23,502	\$	9,527	\$	673,412	\$	843,651	\$	1,517,062	
25	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	25.74448794	6.14792135	2.7830547	1.210147035	0.4905782	\$	507,468	\$	121,186	\$	54,859	\$	23,854	\$	9,670	\$	683,513	\$	856,305	\$	1,539,818	
26	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	26.13065526	6.24014017	2.8248005	1.22829924	0.4979369	\$	515,080	\$	123,004	\$	55,682	\$	24,212	\$	9,815	\$	693,766	\$	869,150	\$	1,562,916	
27	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	26.52261509	6.33374228	2.8671725	1.246723729	0.5054059	\$	522,806	\$	124,849	\$	56,517	\$	24,575	\$	9,962	\$	704,172	\$	882,187	\$	1,586,359	
28	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	26.92045432	6.42874841	2.9101801	1.265424585	0.512987	\$	530,648	\$	126,722	\$	57,365	\$	24,944	\$	10,112	\$	714,735	\$	895,420	\$	1,610,155	
29	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	27.32426113	6.52517964	2.9538328	1.284405954	0.5206818	\$	538,608	\$	128,623	\$	58,225	\$	25,318	\$	10,264	\$	725,456	\$	908,851	\$	1,634,307	
30	\$	46,788,953	\$	21,195,396	93%	\$	19,711,718	27.73412505	6.62305733	2.9981403	1.303672043	0.5284921	\$	546,687	\$	130,552	\$	59,098	\$	25,698	\$	10,417	\$	736,338	\$	922,484	\$	1,658,822	
														\$	13,326,090	\$	3,182,341	\$	1,440,589	\$	626,407	\$	253,937	\$	17,949,021	\$	22,486,542	\$	40,435,563

FS000278

COXSACKIE State Model																									
YEAR	STATE MODEL				ASSESSMENT	COXSACKIE				Special Districts			COXSACKIE				Special Districts								
	HMV	Cox MW % 54.7	LQ Rate			SCHOOL	COUNTY	TOWN	AMBULANCE	FIRE	LIBRARY	SCHOOL	COUNTY	TOWN	AMBULANCE	FIRE	LIBRARY								
TAKRATE													TAXES												
1	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	25.9671	6.201068	4.119012	0.711803	1.228903	0.599545	\$ 428,661	\$ 102,366	\$ 67,936	\$ 11,750	\$ 20,287	\$ 9,897	\$ 599,023							
2	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	26.3566065	6.29408402	4.1808033	0.722480045	1.2473365	0.6085382	\$ 435,091	\$ 103,902	\$ 69,016	\$ 11,927	\$ 20,591	\$ 10,046	\$ 606,009							
3	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	26.7519556	6.38949528	4.2435153	0.73317246	1.2660466	0.6176662	\$ 441,617	\$ 105,460	\$ 70,052	\$ 12,205	\$ 20,900	\$ 10,196	\$ 617,129							
4	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	27.15323493	6.48432271	4.307168	0.744317004	1.2850373	0.6269317	\$ 448,241	\$ 107,042	\$ 71,122	\$ 12,287	\$ 21,213	\$ 10,349	\$ 626,386							
5	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	27.56053346	6.58158755	4.3717756	0.75481759	1.3043129	0.6363352	\$ 454,965	\$ 108,648	\$ 72,189	\$ 12,471	\$ 21,531	\$ 10,505	\$ 636,781							
6	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	27.97394145	6.68031136	4.4373522	0.766813986	1.3238775	0.6458802	\$ 461,789	\$ 110,278	\$ 73,251	\$ 12,658	\$ 21,854	\$ 10,662	\$ 645,318							
7	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	28.39355058	6.78051603	4.5039125	0.778316196	1.3437357	0.6555684	\$ 468,716	\$ 111,932	\$ 74,350	\$ 12,848	\$ 22,182	\$ 10,822	\$ 654,996							
8	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	28.81945384	6.88222377	4.574712	0.789990939	1.3638917	0.665402	\$ 475,747	\$ 113,611	\$ 75,455	\$ 13,041	\$ 22,515	\$ 10,984	\$ 664,823							
9	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	29.25174565	6.98545713	4.6400432	0.801840803	1.3843501	0.6753383	\$ 482,883	\$ 115,315	\$ 76,597	\$ 13,237	\$ 22,853	\$ 11,149	\$ 674,795							
10	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	29.69052183	7.09023899	4.7096439	0.813868415	1.4051154	0.6855137	\$ 490,127	\$ 117,045	\$ 77,746	\$ 13,435	\$ 23,195	\$ 11,316	\$ 684,917							
11	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	30.13587965	7.19659257	4.7802885	0.826076441	1.4261921	0.6957964	\$ 497,478	\$ 118,800	\$ 78,912	\$ 13,637	\$ 23,543	\$ 11,486	\$ 695,191							
12	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	30.58791785	7.30454146	4.8519929	0.838467587	1.447585	0.7062334	\$ 504,941	\$ 120,582	\$ 80,036	\$ 13,841	\$ 23,897	\$ 11,658	\$ 705,619							
13	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	31.04673662	7.41410958	4.9247728	0.851044601	1.4692988	0.7168269	\$ 512,515	\$ 122,391	\$ 81,297	\$ 14,049	\$ 24,255	\$ 11,833	\$ 716,203							
14	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	31.51243767	7.52532123	4.9986444	0.863810277	1.4913382	0.7275793	\$ 520,202	\$ 124,227	\$ 82,517	\$ 14,260	\$ 24,639	\$ 12,011	\$ 726,946							
15	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	31.98512423	7.63820105	5.073624	0.876767424	1.5137083	0.738493	\$ 528,005	\$ 126,090	\$ 83,755	\$ 14,474	\$ 24,988	\$ 12,191	\$ 737,850							
16	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	32.4649011	7.75277406	5.1497284	0.889918936	1.5364139	0.7495704	\$ 535,926	\$ 127,982	\$ 85,011	\$ 14,691	\$ 25,363	\$ 12,374	\$ 748,918							
17	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	32.95187461	7.86906567	5.2269743	0.90326772	1.5594601	0.7608139	\$ 543,964	\$ 129,901	\$ 86,236	\$ 14,911	\$ 25,743	\$ 12,559	\$ 760,152							
18	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	33.44615273	7.98710166	5.3053789	0.916816736	1.582852	0.7722261	\$ 552,124	\$ 131,850	\$ 87,530	\$ 15,135	\$ 26,129	\$ 12,748	\$ 771,554							
19	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	33.94784502	8.10690818	5.3849596	0.930568987	1.6065948	0.7838095	\$ 560,406	\$ 133,828	\$ 88,834	\$ 15,362	\$ 26,521	\$ 12,939	\$ 783,127							
20	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	34.4570627	8.2285118	5.465734	0.944527521	1.6306938	0.7955667	\$ 568,812	\$ 135,835	\$ 90,227	\$ 15,592	\$ 26,919	\$ 13,133	\$ 794,874							
21	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	34.97391864	8.35193948	5.54772	0.958695434	1.6551542	0.8075002	\$ 577,344	\$ 137,873	\$ 91,531	\$ 15,826	\$ 27,323	\$ 13,330	\$ 806,797							
22	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	35.49852742	8.47721857	5.6309358	0.973075866	1.6799815	0.8195127	\$ 586,004	\$ 139,941	\$ 92,955	\$ 16,063	\$ 27,733	\$ 13,530	\$ 818,899							
23	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	36.03100533	8.60437685	5.7153999	0.987672004	1.7051812	0.8319069	\$ 594,794	\$ 142,040	\$ 94,349	\$ 16,304	\$ 28,149	\$ 13,733	\$ 831,183							
24	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	36.57147041	8.73344251	5.8011309	1.002487084	1.7307589	0.8443855	\$ 603,716	\$ 144,170	\$ 95,754	\$ 16,549	\$ 28,571	\$ 13,939	\$ 843,651							
25	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	37.12004247	8.86444414	5.8861478	1.01752439	1.7567203	0.8570513	\$ 612,772	\$ 146,333	\$ 97,201	\$ 16,797	\$ 29,000	\$ 14,148	\$ 856,305							
26	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	37.6768431	8.99741083	5.97647	1.032787256	1.7830711	0.869907	\$ 621,963	\$ 148,528	\$ 98,659	\$ 17,049	\$ 29,435	\$ 14,360	\$ 869,150							
27	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	38.24199575	9.13237197	6.0661171	1.048279065	1.8098172	0.8829556	\$ 631,293	\$ 150,756	\$ 100,139	\$ 17,305	\$ 29,876	\$ 14,576	\$ 882,187							
28	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	38.81562569	9.26935755	6.1571088	1.064003251	1.8369644	0.8962	\$ 640,762	\$ 153,017	\$ 101,641	\$ 17,564	\$ 30,324	\$ 14,794	\$ 895,420							
29	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	39.39786007	9.40839791	6.2494655	1.079963209	1.8645189	0.909643	\$ 650,374	\$ 155,312	\$ 103,159	\$ 17,828	\$ 30,779	\$ 15,016	\$ 908,851							
30	S	46,788,953	\$ 25,593,557	64.5%	\$ 16,507,844	39.98882797	9.54952388	6.3432075	1.096162749	1.8924867	0.9232876	\$ 660,129	\$ 157,642	\$ 104,713	\$ 18,095	\$ 31,241	\$ 15,241	\$ 922,484							
												\$ 16,091,363	\$ 3,842,695	\$ 2,552,484	\$ 441,092	\$ 761,530	\$ 371,528	\$ 22,486,542							

FS000279

Flint Mine Solar, LLC Statement of Findings

FS000280

PILOT 1.5% escalator

\$5000 per MW @ 100MW

	Athens	Coxsackie	Total
megawatts	45.3	54.7	100
\$	500,000	273,500	5,000

YEAR	8%				18%				74%				100%				11%				17%				72%				100%				TOTAL	
	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School	Athens Portion	Town of Athens	County	School						
1	\$ 226,500	\$ 18,120	\$ 40,770	\$ 167,610	\$ 226,500	\$ 273,500	\$ 30,085	\$ 46,495	\$ 196,920	\$ 273,500	\$ 500,000	1																						
2	\$ 229,898	\$ 18,392	\$ 41,382	\$ 170,124	\$ 229,898	\$ 277,603	\$ 30,536	\$ 47,192	\$ 199,874	\$ 277,603	\$ 507,500	2																						
3	\$ 233,346	\$ 18,668	\$ 42,002	\$ 172,676	\$ 233,346	\$ 281,767	\$ 30,994	\$ 47,900	\$ 202,872	\$ 281,767	\$ 515,113	3																						
4	\$ 236,846	\$ 18,948	\$ 42,632	\$ 175,266	\$ 236,846	\$ 285,993	\$ 31,459	\$ 48,619	\$ 205,915	\$ 285,993	\$ 522,839	4																						
5	\$ 240,399	\$ 19,232	\$ 43,272	\$ 177,895	\$ 240,399	\$ 290,283	\$ 31,931	\$ 49,348	\$ 209,004	\$ 290,283	\$ 530,682	5																						
6	\$ 244,005	\$ 19,520	\$ 43,921	\$ 180,564	\$ 244,005	\$ 294,637	\$ 32,410	\$ 50,088	\$ 212,139	\$ 294,637	\$ 538,642	6																						
7	\$ 247,665	\$ 19,813	\$ 44,580	\$ 183,272	\$ 247,665	\$ 299,057	\$ 32,896	\$ 50,840	\$ 215,321	\$ 299,057	\$ 546,722	7																						
8	\$ 251,380	\$ 20,110	\$ 45,248	\$ 186,021	\$ 251,380	\$ 303,543	\$ 33,390	\$ 51,602	\$ 218,551	\$ 303,543	\$ 554,922	8																						
9	\$ 255,151	\$ 20,412	\$ 45,927	\$ 188,811	\$ 255,151	\$ 308,096	\$ 33,891	\$ 52,376	\$ 221,829	\$ 308,096	\$ 563,246	9																						
10	\$ 258,978	\$ 20,718	\$ 46,616	\$ 191,644	\$ 258,978	\$ 312,717	\$ 34,399	\$ 53,162	\$ 225,156	\$ 312,717	\$ 571,695	10																						
11	\$ 262,862	\$ 21,029	\$ 47,315	\$ 194,518	\$ 262,862	\$ 317,408	\$ 34,915	\$ 53,959	\$ 228,534	\$ 317,408	\$ 580,270	11																						
12	\$ 266,805	\$ 21,344	\$ 48,025	\$ 197,436	\$ 266,805	\$ 322,169	\$ 35,439	\$ 54,769	\$ 231,962	\$ 322,169	\$ 588,974	12																						
13	\$ 270,808	\$ 21,665	\$ 48,745	\$ 200,398	\$ 270,808	\$ 327,002	\$ 35,970	\$ 55,590	\$ 235,441	\$ 327,002	\$ 597,809	13																						
14	\$ 274,870	\$ 21,990	\$ 49,477	\$ 203,404	\$ 274,870	\$ 331,907	\$ 36,510	\$ 56,424	\$ 238,973	\$ 331,907	\$ 606,776	14																						
15	\$ 278,993	\$ 22,319	\$ 50,219	\$ 206,455	\$ 278,993	\$ 336,885	\$ 37,057	\$ 57,270	\$ 242,557	\$ 336,885	\$ 615,878	15																						
16	\$ 283,178	\$ 22,654	\$ 50,972	\$ 209,551	\$ 283,178	\$ 341,938	\$ 37,613	\$ 58,130	\$ 246,196	\$ 341,938	\$ 625,116	16																						
17	\$ 287,425	\$ 22,994	\$ 51,737	\$ 212,695	\$ 287,425	\$ 347,068	\$ 38,177	\$ 59,001	\$ 249,889	\$ 347,068	\$ 634,493	17																						
18	\$ 291,737	\$ 23,339	\$ 52,513	\$ 215,885	\$ 291,737	\$ 352,274	\$ 38,750	\$ 59,887	\$ 253,637	\$ 352,274	\$ 644,010	18																						
19	\$ 296,113	\$ 23,689	\$ 53,300	\$ 219,123	\$ 296,113	\$ 357,558	\$ 39,331	\$ 60,785	\$ 257,442	\$ 357,558	\$ 653,670	19																						
20	\$ 300,554	\$ 24,044	\$ 54,100	\$ 222,410	\$ 300,554	\$ 362,921	\$ 39,921	\$ 61,697	\$ 261,303	\$ 362,921	\$ 663,475	20																						
21	\$ 305,063	\$ 24,405	\$ 54,911	\$ 225,746	\$ 305,063	\$ 368,365	\$ 40,520	\$ 62,622	\$ 265,223	\$ 368,365	\$ 673,428	21																						
22	\$ 309,639	\$ 24,771	\$ 55,735	\$ 229,133	\$ 309,639	\$ 373,890	\$ 41,128	\$ 63,561	\$ 269,201	\$ 373,890	\$ 683,529	22																						
23	\$ 314,283	\$ 25,143	\$ 56,571	\$ 232,570	\$ 314,283	\$ 379,499	\$ 41,745	\$ 64,515	\$ 273,239	\$ 379,499	\$ 693,782	23																						
24	\$ 318,997	\$ 25,520	\$ 57,420	\$ 236,058	\$ 318,997	\$ 385,191	\$ 42,371	\$ 65,482	\$ 277,338	\$ 385,191	\$ 704,189	24																						
25	\$ 323,782	\$ 25,903	\$ 58,281	\$ 239,599	\$ 323,782	\$ 390,969	\$ 43,007	\$ 66,465	\$ 281,498	\$ 390,969	\$ 714,751	25																						
26	\$ 328,639	\$ 26,291	\$ 59,155	\$ 243,193	\$ 328,639	\$ 396,834	\$ 43,652	\$ 67,462	\$ 285,720	\$ 396,834	\$ 725,473	26																						
27	\$ 333,569	\$ 26,685	\$ 60,042	\$ 246,841	\$ 333,569	\$ 402,786	\$ 44,306	\$ 68,474	\$ 290,006	\$ 402,786	\$ 736,355	27																						
28	\$ 338,572	\$ 27,086	\$ 60,943	\$ 250,543	\$ 338,572	\$ 408,828	\$ 44,971	\$ 69,501	\$ 294,356	\$ 408,828	\$ 747,400	28																						
29	\$ 343,651	\$ 27,492	\$ 61,857	\$ 254,302	\$ 343,651	\$ 414,960	\$ 45,646	\$ 70,543	\$ 298,771	\$ 414,960	\$ 758,611	29																						
30	\$ 348,806	\$ 27,904	\$ 62,785	\$ 258,116	\$ 348,806	\$ 421,185	\$ 46,330	\$ 71,601	\$ 303,253	\$ 421,185	\$ 769,990	30																						
	\$ 8,502,511	\$ 680,201	\$ 1,530,452	\$ 6,291,858	\$ 8,502,511	\$ 10,266,829	\$ 1,129,351	\$ 1,745,361	\$ 7,392,117	\$ 10,266,829	\$ 18,769,341																							

100% 1.5%

STARTED AT 2022 TAX RATES

ATHENS 100% Cash Basis

100% 1.5%

YEAR	FMV	Athens MW %			Assessment	COX-ATHENS				Special Districts				ATHENS		TOTAL										
		45.3	EQ Rate			SCHOOL	ATHENS COUNTY	ATHENS TOWN TAX RATES	WA FIRE	LIBRARY	SCHOOL	ATHENS COUNTY	ATHENS TOWN TAXES	WA FIRE	LIBRARY		TAXES	TAXES								
1	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	18.0094	4.300741	1.946869	0.846551	0.343181	\$	1,264,320	\$	301,926	\$	136,677	\$	59,431	\$	24,092	\$	1,786,446	\$	2,133,423	\$	3,919,869
2	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	18.279541	4.36525212	1.97607204	0.85924927	0.34832872	\$	1,283,285	\$	306,455	\$	138,727	\$	60,322	\$	24,454	\$	1,813,243	\$	2,165,424	\$	3,978,667
3	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	18.5537341	4.4307309	2.00571312	0.872138	0.35355365	\$	1,302,534	\$	311,052	\$	140,808	\$	61,227	\$	24,821	\$	1,840,442	\$	2,197,906	\$	4,038,347
4	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	18.8320401	4.49719186	2.03579881	0.88522007	0.35885695	\$	1,322,072	\$	315,718	\$	142,920	\$	62,145	\$	25,193	\$	1,868,048	\$	2,230,374	\$	4,098,523
5	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	19.1145207	4.56464974	2.06633579	0.89849838	0.3642398	\$	1,341,903	\$	320,454	\$	145,064	\$	63,078	\$	25,571	\$	1,896,069	\$	2,264,337	\$	4,160,407
6	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	19.4012385	4.63311948	2.09733083	0.91197585	0.3697034	\$	1,361,032	\$	325,260	\$	147,240	\$	64,024	\$	25,954	\$	1,924,510	\$	2,298,303	\$	4,222,813
7	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	19.6922571	4.70261628	2.12879079	0.92565549	0.37524895	\$	1,382,462	\$	330,139	\$	149,448	\$	64,984	\$	26,344	\$	1,953,378	\$	2,332,777	\$	4,286,155
8	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	19.987641	4.77315552	2.16072266	0.93954032	0.38087769	\$	1,403,199	\$	335,091	\$	151,690	\$	65,959	\$	26,739	\$	1,982,678	\$	2,367,769	\$	4,350,447
9	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	20.2874556	4.84475285	2.1931335	0.95363343	0.38659085	\$	1,424,247	\$	340,118	\$	153,965	\$	66,948	\$	27,140	\$	2,012,419	\$	2,403,285	\$	4,415,704
10	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	20.5917674	4.91742415	2.2260905	0.96793793	0.39238972	\$	1,445,611	\$	345,220	\$	156,275	\$	67,952	\$	27,547	\$	2,042,605	\$	2,439,335	\$	4,481,939
11	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	20.9006439	4.99118551	2.25942096	0.982457	0.39827556	\$	1,467,295	\$	350,398	\$	158,619	\$	68,972	\$	27,960	\$	2,073,244	\$	2,475,925	\$	4,549,169
12	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	21.2141536	5.06605329	2.29331227	0.99719385	0.40424969	\$	1,489,305	\$	355,654	\$	160,998	\$	70,006	\$	28,380	\$	2,104,343	\$	2,513,063	\$	4,617,406
13	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	21.5323659	5.14204409	2.32771195	1.01215176	0.41031344	\$	1,511,644	\$	360,989	\$	163,413	\$	71,056	\$	28,805	\$	2,135,908	\$	2,550,759	\$	4,686,667
14	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	21.8553514	5.21917475	2.36262763	1.02733404	0.41646814	\$	1,534,319	\$	366,404	\$	165,864	\$	72,122	\$	29,237	\$	2,167,946	\$	2,589,021	\$	4,756,967
15	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	22.1831817	5.29746237	2.39806705	1.04274405	0.42271516	\$	1,557,334	\$	371,900	\$	168,352	\$	73,204	\$	29,676	\$	2,200,466	\$	2,627,856	\$	4,828,322
16	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	22.5159294	5.37692431	2.43403805	1.05838521	0.42905589	\$	1,580,694	\$	377,478	\$	170,878	\$	74,302	\$	30,121	\$	2,233,473	\$	2,667,274	\$	4,900,746
17	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	22.8536683	5.45757817	2.47054862	1.07426098	0.43549173	\$	1,604,404	\$	383,140	\$	173,441	\$	75,417	\$	30,573	\$	2,266,975	\$	2,707,283	\$	5,074,258
18	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	23.1964733	5.53944185	2.50706085	1.0903749	0.44202411	\$	1,628,470	\$	388,887	\$	176,042	\$	76,548	\$	31,032	\$	2,300,979	\$	2,747,892	\$	5,048,872
19	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	23.5444204	5.62253347	2.54522096	1.10679052	0.44865447	\$	1,652,897	\$	394,721	\$	178,683	\$	77,696	\$	31,497	\$	2,335,494	\$	2,789,111	\$	5,124,605
20	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	23.8975868	5.70687148	2.58339927	1.12333148	0.45538428	\$	1,677,691	\$	400,641	\$	181,363	\$	78,862	\$	31,969	\$	2,370,526	\$	2,830,947	\$	5,201,474
21	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	24.2560506	5.79247455	2.62215026	1.14018145	0.46221505	\$	1,702,856	\$	406,651	\$	184,084	\$	80,045	\$	32,449	\$	2,406,084	\$	2,873,412	\$	5,279,496
22	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	24.6198913	5.87936167	2.66148251	1.15728417	0.46914827	\$	1,728,399	\$	412,751	\$	186,845	\$	81,245	\$	32,936	\$	2,442,176	\$	2,916,513	\$	5,358,688
23	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	24.9891897	5.96755209	2.70140475	1.17464344	0.4761855	\$	1,754,325	\$	418,942	\$	189,648	\$	82,464	\$	33,430	\$	2,478,808	\$	2,960,260	\$	5,439,069
24	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	25.3640275	6.05706537	2.74192582	1.19226309	0.48332828	\$	1,780,640	\$	425,226	\$	192,492	\$	83,701	\$	33,931	\$	2,515,990	\$	3,004,664	\$	5,520,655
25	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	25.7444879	6.14792135	2.78305471	1.21014703	0.4905782	\$	1,807,349	\$	431,605	\$	195,380	\$	84,956	\$	34,440	\$	2,553,730	\$	3,045,734	\$	5,603,464
26	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	26.1306553	6.24014017	2.82480053	1.22829974	0.49793688	\$	1,834,459	\$	438,079	\$	198,310	\$	86,231	\$	34,957	\$	2,592,036	\$	3,095,480	\$	5,687,516
27	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	26.5226151	6.33374228	2.86717254	1.24672373	0.50540593	\$	1,861,976	\$	444,650	\$	201,285	\$	87,524	\$	35,481	\$	2,630,917	\$	3,141,912	\$	5,772,829
28	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	26.9204543	6.42874841	2.91018013	1.26542459	0.51298702	\$	1,889,906	\$	451,320	\$	204,304	\$	88,837	\$	36,013	\$	2,670,380	\$	3,189,041	\$	5,859,422
29	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	27.3242611	6.52517964	2.95383283	1.28440695	0.52068182	\$	1,918,255	\$	458,089	\$	207,369	\$	90,170	\$	36,554	\$	2,710,436	\$	3,236,877	\$	5,947,313
30	\$ 166,639,000	\$ 75,487,467	93%	\$	70,203,344	27.734125	6.62305733	2.99814032	1.30367204	0.52849205	\$	1,947,028	\$	464,961	\$	210,479	\$	91,522	\$	37,102	\$	2,751,093	\$	3,285,430	\$	6,036,523
											\$ 47,460,910	\$ 11,333,919	\$ 5,130,664	\$ 2,230,951	\$ 904,399	# \$ 67,060,842	\$ 80,085,888	\$ 147,146,730								

Flint Mine Solar, LLC Statement of Findings

FS000281

Flint Mine Solar, I

FS000282

COXSACKIE 100% Cash Basis																	
YEAR	ASSESSMENT	Cox MW %		Assessment	COX-ATHENS	COXSACKIE	COXSACKIE	Special Districts			COX-ATHENS	COXSACKIE	COXSACKIE	Special Districts			TOTAL TAXES
		SCHOOL	COUNTY		TOWN	AMBULANCE	FIRE	LIBRARY	SCHOOL	COUNTY	TOWN	AMBULANCE	FIRE	LIBRARY			
		54.7	EQ Rate		TAX RATE									TAXES			
1	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	25.9671	6.201068	4.119018	0.711803	1.228903	0.599545	\$ 1,526,677	\$ 364,578	\$ 242,168	\$ 41,849	\$ 72,251	\$ 35,249	\$ 2,133,423
2	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	26.3566065	6.29408402	4.18080327	0.72248005	1.24733655	0.6085382	\$ 1,549,577	\$ 370,046	\$ 245,801	\$ 42,477	\$ 73,334	\$ 35,778	\$ 2,165,424
3	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	26.7519556	6.38849528	4.24351532	0.73331725	1.26604659	0.6176662	\$ 1,572,821	\$ 375,597	\$ 249,488	\$ 43,114	\$ 74,434	\$ 36,314	\$ 2,197,906
4	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	27.1532349	6.48432271	4.30716805	0.744317	1.28503729	0.6269312	\$ 1,596,413	\$ 381,231	\$ 253,230	\$ 43,760	\$ 75,551	\$ 36,859	\$ 2,230,874
5	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	27.5605335	6.58158755	4.37177557	0.75548176	1.30431285	0.6363352	\$ 1,620,359	\$ 386,950	\$ 257,029	\$ 44,417	\$ 76,684	\$ 37,412	\$ 2,264,337
6	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	27.9739415	6.68031136	4.4373512	0.76681399	1.32387754	0.6458802	\$ 1,644,665	\$ 392,754	\$ 260,884	\$ 45,083	\$ 77,834	\$ 37,973	\$ 2,298,303
7	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	28.3935506	6.78051603	4.50391249	0.7783162	1.34373571	0.6555684	\$ 1,669,335	\$ 398,645	\$ 264,797	\$ 45,759	\$ 79,002	\$ 38,543	\$ 2,332,777
8	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	28.8194538	6.88222377	4.57147117	0.78999094	1.36389174	0.665402	\$ 1,694,375	\$ 404,625	\$ 268,769	\$ 46,446	\$ 80,187	\$ 39,121	\$ 2,367,769
9	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	29.2517456	6.98545713	4.64004324	0.8018408	1.38435012	0.675383	\$ 1,719,790	\$ 410,694	\$ 272,801	\$ 47,142	\$ 81,390	\$ 39,708	\$ 2,403,285
10	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	29.6905218	7.09023899	4.70964389	0.81386841	1.40511537	0.6855137	\$ 1,745,587	\$ 416,855	\$ 276,893	\$ 47,850	\$ 82,611	\$ 40,303	\$ 2,439,335
11	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	30.1358797	7.19659257	4.78028855	0.82607644	1.4261921	0.6957964	\$ 1,771,771	\$ 423,107	\$ 281,046	\$ 48,567	\$ 83,850	\$ 40,908	\$ 2,475,925
12	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	30.5879179	7.30454146	4.85199288	0.83846759	1.44758498	0.7062334	\$ 1,798,347	\$ 429,454	\$ 285,262	\$ 49,296	\$ 85,107	\$ 41,521	\$ 2,513,063
13	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	31.0467366	7.41410958	4.92477277	0.8510446	1.46929876	0.7168269	\$ 1,825,323	\$ 435,896	\$ 289,541	\$ 50,035	\$ 86,384	\$ 42,144	\$ 2,550,759
14	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	31.5124377	7.52532123	4.99864436	0.86381027	1.49133824	0.7275793	\$ 1,852,703	\$ 442,434	\$ 293,884	\$ 50,786	\$ 87,680	\$ 42,776	\$ 2,589,021
15	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	31.9851242	7.63820105	5.07362403	0.87676742	1.51370831	0.738493	\$ 1,880,493	\$ 449,071	\$ 298,292	\$ 51,548	\$ 88,995	\$ 43,418	\$ 2,627,856
16	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	32.4649011	7.75277406	5.14972839	0.88991894	1.53641394	0.7495704	\$ 1,908,700	\$ 455,807	\$ 302,767	\$ 52,321	\$ 90,330	\$ 44,069	\$ 2,667,274
17	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	32.9518746	7.86906567	5.22697431	0.90326772	1.55946015	0.7608139	\$ 1,937,331	\$ 462,644	\$ 307,308	\$ 53,106	\$ 91,685	\$ 44,730	\$ 2,707,283
18	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	33.4461527	7.98710166	5.30537893	0.91681674	1.58285205	0.7722261	\$ 1,966,391	\$ 469,584	\$ 311,918	\$ 53,902	\$ 93,060	\$ 45,401	\$ 2,747,892
19	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	33.947845	8.10690818	5.38495961	0.93056899	1.60659483	0.7838095	\$ 1,995,887	\$ 476,627	\$ 316,597	\$ 54,711	\$ 94,456	\$ 46,082	\$ 2,789,111
20	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	34.4570627	8.2285118	5.46573401	0.94452752	1.63069375	0.7955667	\$ 2,025,825	\$ 483,777	\$ 321,345	\$ 55,531	\$ 95,873	\$ 46,774	\$ 2,830,947
21	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	34.9739186	8.35193948	5.54772002	0.95869543	1.65515416	0.8075002	\$ 2,056,212	\$ 491,033	\$ 326,166	\$ 56,364	\$ 97,311	\$ 47,475	\$ 2,873,412
22	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	35.4985274	8.47721857	5.63093582	0.97307587	1.67998147	0.8196127	\$ 2,087,056	\$ 498,399	\$ 331,058	\$ 57,210	\$ 98,771	\$ 48,187	\$ 2,916,513
23	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	36.0310053	8.60437685	5.71539985	0.987672	1.70518119	0.8319069	\$ 2,118,361	\$ 505,875	\$ 336,024	\$ 58,068	\$ 100,252	\$ 48,910	\$ 2,960,260
24	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	36.5714704	8.73344251	5.80113085	1.00248708	1.73075891	0.8443855	\$ 2,150,137	\$ 513,463	\$ 341,064	\$ 58,939	\$ 101,756	\$ 49,644	\$ 3,004,664
25	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	37.1200425	8.86444414	5.88814781	1.01752439	1.75672029	0.8570513	\$ 2,182,389	\$ 521,165	\$ 346,180	\$ 59,823	\$ 103,282	\$ 50,388	\$ 3,049,734
26	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	37.6768431	8.99741081	5.97647003	1.03278726	1.7830711	0.869907	\$ 2,215,125	\$ 528,982	\$ 351,373	\$ 60,720	\$ 104,832	\$ 51,144	\$ 3,095,480
27	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	38.2419958	9.13237197	6.06611708	1.04827906	1.80981716	0.8829556	\$ 2,248,352	\$ 536,917	\$ 356,644	\$ 61,631	\$ 106,404	\$ 51,911	\$ 3,141,912
28	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	38.8156257	9.26935755	6.15710884	1.06400325	1.83696442	0.8962	\$ 2,282,077	\$ 544,971	\$ 361,993	\$ 62,556	\$ 108,000	\$ 52,690	\$ 3,189,041
29	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	39.3978601	9.40839791	6.24946547	1.0799633	1.86451889	0.9096443	\$ 2,316,308	\$ 553,145	\$ 367,423	\$ 63,494	\$ 109,620	\$ 53,480	\$ 3,236,877
30	\$ 166,639,000	\$ 91,151,533	64.5%	\$ 58,792,739	39.988828	9.54952388	6.34320745	1.09616275	1.89248667	0.9232876	\$ 2,351,053	\$ 561,443	\$ 372,935	\$ 64,446	\$ 111,264	\$ 54,283	\$ 3,285,430
											\$ 57,309,439	\$ 13,685,769	\$ 9,090,681	\$ 1,570,951	\$ 2,712,191	\$ 1,323,197	\$ 80,085,888

ATTACHMENT 5 - LEGAL OPINION

GOLDMAN ATTORNEY PLLC*Attorneys and Counselors at Law*255 WASHINGTON AVENUE EXTENSION, SUITE 108
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September 30, 2022

VIA EMAIL ernst@greencida.com

Ms. April Ernst

Executive Director

Greene County Industrial Development Agency

45 Sunset Boulevard, Suite 2

Coxsackie, New York 12051

Re: Flint Mine Solar, LLC

Dear Ms. Ernst:

Pursuant to your request, this letter shall constitute my legal opinion to the Greene County Industrial Development Agency as to whether any portion of the payment in lieu of taxes from the Flint Mine Solar, LLC project (the "FMS Project") may be paid to the Association of Property Owners of Sleepy Hollow Lake, Inc. ("SHL"). Please note that this opinion is subject to the approval of any payment in lieu of tax agreement for the FMS Project by the Board of Directors of the Greene County Industrial Development Agency ("GCIDA") which has not occurred at this point.

Importantly, SHL is a New York not-for-profit corporation that is the homeowners' association responsible for the operation and management of the Sleepy Hollow Lake development in the Towns of Athens and Coxsackie, Greene County, New York. Sleepy Hollow Lake, Inc. v. McBride, 174 A.D.3d 1027 (3d Dept. 2019).

The term "Payment in lieu of taxes" (the "PILOT") is defined in the GML as follows:

"shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an **affected tax jurisdiction if the project was not tax exempt by reason of agency involvement.**" General Municipal Law ("GML") §854(17) (*emphasis added in bold*).

The Affected Tax Jurisdiction is defined as "any municipality or school district, in which a project is located, which will fail to received real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved project". GML §854(16).

The term Municipality is defined as "any county, city, village, town or Indian reservation in the state. GML §854(3).

GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

Since SHL is a not-for-profit corporation, it does not qualify within the enumerated categories of an Affected Tax Jurisdiction (as such term is defined in General Municipal Law (“GML”) §854(16)). Under the definition of payment in lieu of taxes set forth in GML §854(17), only an Affected Tax Jurisdiction may receive an allocation of a portion of a payment in lieu of taxes since those payments are a replacement for what the Affected Tax Jurisdiction would have received but for the involvement of an industrial development agency in the project. Since SLH is a not-for-profit corporation, and thus does not qualify as a municipality or school district, it is not an Affected Tax Jurisdiction and is ineligible to share in any portion of the payment in lieu of taxes that may be paid by the FMS Project. This is further supported by the fact that SLH does not impose real estate taxes on the FMS Project.

The operative part of the definition of payment in lieu of taxes is that a PILOT payment is a contract payment that is paid to the Agency in lieu of the real estate taxes that would have been levied by and on behalf of an Affected Tax Jurisdiction if the project was not exempt by reason of the supervision, jurisdiction and control of the Greene County Industrial Development Agency (“GCIDA”).

GML §858(15) provides in operative part that payment in lieu of taxes between affected taxing jurisdictions must be allocated amongst the affected tax jurisdictions in proportion to the amount of real property tax and other taxes that they would have received (i.e. proportionate to the tax rate) as follows:

“Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project.” See *Barker Central School District v. Niagara County Industrial Development Agency*, 62 A.D.3d 1239, 1241 (4th Dept. 2009).

Here, even if the Affected Tax Jurisdiction were to agree that SHL was entitled to a share of the payment in lieu of taxes pursuant to the “unless otherwise agreed language in GML §858(15), such allocation would not be permitted since such sharing would be with a not-for-profit corporation that is not a taxing jurisdiction having no connection with the property where the FMS Project is to be allocated. See *Matter of Hudson Falls Cent. School District v. Saratoga County Industrial Dev. Agency*, 217 A.D.2d 330, 332 (3d Dept. 1995) *aff’d* 88 N.Y.2d 1026 (1996). In operative part, the Appellate Division held as follow:

In this case, however, it is undisputed that the South Glens Falls Central School District is not an affected tax jurisdiction. It conferred no benefit upon the project and would have derived no revenue from the project had it been subject to real estate taxation. As such, there is no legal or logical basis for a distribution of PILOT payments to it.

GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

The Appellate Division Third Department went on to conclude that an allocation of the payment in lieu of taxes to a school district having no connection with the project was irrational.

In conclusion, the GCIDA and the Affected Tax Jurisdiction are not able to consent to an allocation to SLH of any portion of the payments in lieu of taxes from the FMS Project.

Should you have any questions or comments, do not hesitate to contact me. I am,

Very truly yours,

GOLDMAN ATTORNEYS PLLC

Paul J. Goldman

PJG/am

**ATTACHMENT 6
SITING BOARD ARTICLE 10 CERTIFICATE ORDER DATED AUGUST 4, 2021**

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

CASE 18-F-0087 - Application of Flint Mine Solar, LLC for a
Certificate of Environmental Compatibility and
Public Need Pursuant to Article 10 for
Construction of a Solar Electric Generating
Facility Located in the Towns of Coxsackie and
Athens, Greene County.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED, WITH CONDITIONS

Issued and Effective: August 4, 2021

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NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

At a session of the New York State
Board on Electric Generation Siting
and the Environment held in the City
of Albany on August 4, 2021

BOARD MEMBERS PRESENT:

Tammy Mitchell, Alternate for the Chair of the
New York State Public Service Commission

James McClymonds, Alternate for
Basil Seggos, Commissioner
New York State Department of Environmental Conservation

Kevin Malone, Alternate for
Howard A. Zucker, M.D., J.D., Commissioner
New York State Department of Health

Vincent Ravaschiere, Alternate for
Kevin Younis, Executive Deputy Commissioner & COO, Empire
State Development

John Williams, Alternate for
Richard L. Kauffman, Chair
New York State Energy Research and Development Authority

Michael Pirrone, Ad Hoc

CASE 18-F-0087 - Application of Flint Mine Solar, LLC for a
Certificate of Environmental Compatibility and
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ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED, WITH CONDITIONS

(Issued and Effective August 4, 2021)

CASE 17-F-0182

BY THE BOARD:

I. INTRODUCTION

By this Order, we grant to Flint Mine Solar, LLC (Flint Mine or Applicant) a Certificate of Environmental Compatibility and Public Need (CECPN) to construct and operate a solar energy generating facility in the Towns of Cossackie and Athens, Greene County. With the extensive conditions attached to and made a part of this Order, we determine the solar farm will meet all the statutory requirements for certification under Article 10 of the Public Service Law (PSL). Our decision is supported by the extensive evidentiary record compiled before the Presiding Examiner appointed by the Department of Public Service (DPS) and the Associate Examiner appointed by the Department of Environmental Conservation (DEC), as well as the extensive settlement proposal developed by the parties.¹ We base our decision on the evidentiary record, the initial and reply briefs of the parties, public comments, and applicable law and policy.

II. BACKGROUND

A. Description of the Project

The proposed Facility, or Project, will be a

¹ The parties to this case include Flint Mine, the Department of Public Service Trial Staff (Staff or DPS Staff), the Department of Environmental Conservation (DEC), the Department of Agriculture and Markets (DAM), the Department of Health, the Town of Cossackie (Cossackie), the Village of Cossackie, the Town of Athens (Athens), the Village of Athens, the Friends of Flint Mine Solar (FOFM or Friends), the Greene Land Trust (GLT), Scenic Hudson, Inc. (Scenic Hudson), and the Sleepy Hollow Lake Association of Property Owners (SHLAPO or Sleepy Hollow).

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100 megawatt (MW) solar electric generation facility consisting of up to 454 acres of photovoltaic (PV) panels, together with associated facilities, located within a 1,638 acre Facility Area on lands leased from owners of private property located between the New York State Thruway to the west and the CSX Railroad line to the east (the Facility Area) in the Towns of Coxsackie and Athens, Greene County, New York. Five short 115kV transmission lines, with a total length of approximately 500 feet, will connect a proposed 115/34.5kV Facility substation to a proposed 115kV point of interconnection (POI) switchyard, which will then interconnect to the existing bulk electric transmission system lines owned by Niagara Mohawk Power Corporation, d/b/a National Grid.²

The Facility will connect to the existing LaFarge to Pleasant Valley 115 kV transmission line, and the Feura Bush to North Catskill 115 kV transmission line, both owned and operated by National Grid, allowing power to be delivered from the Facility to the grid.³ The Project will require the construction of internal infrastructure, such as transformers, inverters, voltage cable collection systems, an onsite substation, access roads, a temporary laydown area, and security fencing.⁴

B. Procedural History

The Applicant filed a Public Involvement Program (PIP) Plan on February 9, 2018.⁵ DPS Staff submitted comments on the

² Hearing Exh. 3, Application Exh. 2 at 1.

³ Hearing Exh. 3, Application Exh. 34 at 1-2.

⁴ Application Exh. 2 at 1.

⁵ Hearing Exh. 3, Application Exh. 2.

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plan, and the Applicant filed a revised PIP on April 9, 2018. The PIP was provided to local document repositories established in the area and docketed on the Siting Board's Document and Matter Management (DMM) system.⁶ A summary of the PIP was included on a dedicated Project Website maintained by the Applicant.

On November 2, 2018, the Applicant submitted a Preliminary Scoping Statement (PSS) describing the proposed contents of the Application and describing the scope and methodology of the pre-application studies to be performed and the data to be included in the Application. Comments on the PSS were filed by November 30, 2018, and the Applicant filed responses to party comments on January 11, 2019. A pre-application procedural conference was held January 3, 2019, to award intervenor funding and commence the pre-application stipulations process. The Applicant issued notices of its intention to pursue stipulations negotiations beginning on January 29, 2019, and such discussions took place through September 2019. Thereafter, the Proposed pre-application Stipulations were made available for public review and comment, pursuant to the requirements of Article 10.⁷ Final Executed Stipulations were filed on January 23, 2020.⁸

⁶ Hearing Exh. 3, Application Exh. 2. Public document repositories included the Heermance Memorial Library, in Cossackie, New York; the D.R. Evart Library, in Athens, New York; the Cossackie Town Hall; and the Athens Town Hall. Hearing Exh. 3, Application Exh. 2.

⁷ 16 NYCRR §1000.5(j).

⁸ Hearing Exh. 1.

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The Application was filed on May 22 and May 27, 2020,⁹ and supplemented on July 24, 2020.¹⁰ The Chair of the Siting Board deemed the Application to be compliant with the Public Service Law as of August 12, 2020.¹¹ Public Statement Hearings were held on October 22, 2020, and a Procedural Conference was held on October 23, 2020.¹²

The parties then entered settlement negotiations to attempt to resolve disputed issues in the case, following Flint Mine Solar's issuance of a notice on November 5, 2020.¹³ As part of those negotiations, Flint Mine proposed a Settlement Layout to avoid or mitigate resource impacts of concern to other Parties to the case.¹⁴ The settlement negotiations resulted in proposed consensus Certificate Conditions and a Site Engineering and Environmental Plan (SEEP) Guide, that were filed on January 12, 2021. These settlement proposals were signed by the Applicant, DPS trial Staff, DEC, DAM, the Towns of Athens and Coxsackie, Scenic Hudson, and the Friends of Flint Mine Solar.¹⁵ Thereafter, the Parties filed their direct testimony and

⁹ Hearing Exh. 3-5. While the bulk of the Application was filed on May 22, 2020, technical issues with the DMM system required the Applicant to make a subsequent filing, on May 27, 2020. The May 27, 2020 filing included both materials previously submitted and documents that were not included in the May 22 filing. See Hearing Exh. 5.

¹⁰ Hearing Exhs. 6-7.

¹¹ Hearing Exh. 9.

¹² Those events were conducted via remote teleconferencing to protect public health and safety due to the ongoing COVID-19 pandemic.

¹³ Hearing Exh. 13.

¹⁴ Hearing Exhs. 14-20.

¹⁵ Hearing Exh. 2.

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exhibits on January 13, 2021, and Rebuttal Testimony and Exhibits were filed on January 29, 2021. After having had an opportunity to review the direct and rebuttal testimony and exhibits, the Parties agreed that formal cross-examination of witnesses at evidentiary hearings would not be necessary. The Parties also proposed consensus exhibit list and an index of testimony. Motions to admit the pre-filed testimony and Exhibits were filed in March of 2021.

On June 16, 2021, the Applicant submitted a notice that on or about June 21, 2021, the Applicant will submit a joint application and request for Water Quality Certification to the U.S. Army Corps of Engineers and the siting Board.¹⁶

C. Public Involvement and Comment

The Applicant's public outreach activities are described in detail in the Application.¹⁷ DPS Staff testified that the Applicant has met its PIP goals and has actively encouraged participation from municipal officials and affected local, state, and federal agencies.¹⁸ Nearly all public comments received at the Public Statement Hearing and on DMM system are supportive of the Project and indicate that community members believe the Project will create economic opportunity and provide environmental benefits. DPS Staff testified that 90% of the comments submitted by the public in this proceeding were in favor of the Project.¹⁹ All nineteen individuals who offered

¹⁶ 16 NYCRR §§1000.8(a)(8) and 1000.7(b)(3).

¹⁷ Hearing Exh. 3, Application Exh. 2 and Appx. 2-C.

¹⁸ DPS SPSS Direct at 72-77; Hearing Exh. 3, Application Appx. 2-B.

¹⁹ DPS SPSS Panel Direct at 83.

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remarks at the Public Statement Hearings held on October 22, 2020, spoke in favor of the Project.²⁰ The owners of over 75% of the private lands within the Town of Coxsackie's Residential Agricultural-2 zoning district have signed petitions asking the Town to allow the Project in that district.²¹ The record demonstrates that the Project is largely supported locally and that the Applicant has considered and addressed local concerns in the proposed Facility design and Settlement Layout.²²

D. Settlement Layout

Prior to the filing of direct testimony and exhibits by the agencies and intervenor parties, and in an effort to minimize litigation, on December 7, 2020, Flint Mine filed and circulated a proposed Settlement Layout.²³ The Settlement Layout was based on input received from DEC in response to Flint Mine's information requests, and on feedback received from other Parties who had engaged in settlement discussions. The Settlement Layout was designed to avoid and minimize impacts to sensitive environmental resources and to maximize the Facility's efficiency to the extent possible.

²⁰ Applicant Panel at 38.

²¹ Hearing Exh. 42.

²² Applicant Panel Direct at pp. 17-18 and 37-38.

²³ Hearing Exh. 14. That settlement proposal, dated December 4, 2020, included both a narrative description and supporting figures and tables calculating the environmental impacts of the Settlement Layout and comparing it to the project layout originally proposed in the Application. See Hearing Exh. 14, Flint Mine Settlement Layout Memo and Table 2 Impact Calculations.

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The December 7, 2020 filing included a Settlement Layout Memo which quantified how the revised proposal would reduce impacts to federal and state wetlands, occupied habitat of threatened and endangered species, and agricultural lands. The information provided was at a level of detail comparable to the original Application Layout.²⁴

On January 11, 2021, the Applicant submitted additional information on the potential temporary and permanent impacts to wetland resources from the Settlement Layout, as well as further analysis of development on steep slopes in the Town of Athens.²⁵ The Applicant also provided information on the Settlement Layout through the discovery process.

On January 13, 2021, the agencies and intervenor parties filed and served their direct testimony and exhibits. That testimony addresses the Applicant's proposed Settlement Layout and the Certificate Conditions and Guidelines for Developing a Site Engineering and Environmental Plan (SEEP) agreed to among the Parties.²⁶ Nearly all Parties have executed

²⁴ Hearing Exh. 14, Flint Mine Settlement Layout Memo and Table 2 Impact Calculations, Figures 2-3 and 6-8. See also Hearing Exh. 18.

²⁵ Hearing Exh. 18.

²⁶ DPS Staff Panel Direct Testimony in Support of Settlement at 27, 31, and 33; Scenic Hudson-Greene Land Trust Direct Testimony of Lee Harper at 5; DAM Direct Testimony of Jason Mulford at 13.

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the Settlement Agreement²⁷ and it represents Flint Mine's proposal for Siting Board certification. Flint Mine asserts the Settlement Agreement is supported by a full and complete record including all information needed by the Siting Board to make the findings and determinations necessary for the issuance of a certificate pursuant to PSL §168.

No Party raised any adjudicable issue of fact in this proceeding, with respect to the Settlement Layout or any other topic. Therefore, an evidentiary hearing was not necessary and this case is presented based on the parties' submissions.

III. REQUIRED STATUTORY FINDINGS UNDER PSL §168

A. Article 10 Standards

Pursuant to PSL §168(2), the Siting Board must make express findings regarding the nature of probable environmental impacts, including cumulative impacts, resulting from the construction and operation of a proposed facility. These include impacts to (a) ecology, air, ground and surface water, wildlife, and habitat; (b) public health and safety; (c) cultural, historic, and recreational resources, including visual, aesthetic, and scenic values; and (d) transportation, communication, utilities, and other infrastructure.²⁸

²⁷ The signatory parties to the settlement agreement include Flint Mine, DPS Staff, DEC, DAM, DOH, the Town and Village of Coxsackie (with exceptions, as discussed as necessary in this order), Town and Village of Athens (same), Friends, and Scenic Hudson. Greene Land Trust and Sleepy Hollow did not sign the settlement agreement but Flint Mine states that the issues they raised are largely addressed and remaining issues could not be resolved through further modifications to the Project layout or the Settlement Agreement.

²⁸ PSL §168(2)(a)-(d).

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Pursuant to PSL §168(3), the Siting Board may not grant a certificate unless it determines that the facility will be a beneficial addition to or substitution for the State's electric generation capacity and serve the public interest; that the facility's adverse environmental impacts have been minimized or avoided to the maximum extent practicable, including any significant disproportionate impacts on the community in which it is located; and that the facility is designed to operate in compliance with applicable State and local laws concerning, among other matters, the environment, public health and safety.²⁹

In making these determinations, the Siting Board considers several factors, including available technology, reasonable alternatives, environmental impacts, impacts on related facilities, consistency with the State Energy Plan, impacts on community character and whether the community is disproportionately impacted by cumulative levels of pollutants, and any other social, economic, aesthetic, environmental considerations deemed pertinent.³⁰ In issuing a certificate, the Siting Board may impose any terms and conditions it deems necessary and the Department of Public Service or the Commission "shall monitor, enforce and administer compliance with any terms and conditions" set forth in the Siting Board's Certificate and Order.³¹

The applicant in an Article 10 proceeding has the burden to prove that, based on the evidentiary record, all findings and determinations required by PSL §168 can be made by

²⁹ PSL §168(3)(a)-(e).

³⁰ PSL §168(4)(a)-(g).

³¹ PSL §168(5).

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the Siting Board.³² When factual matters are involved, the applicant must sustain that burden by a preponderance of the evidence, unless a higher standard has been established by statute or regulation.³³

B. Beneficial Addition to Electric Generation Capacity

Before issuing a certificate, the Siting Board must find and determine that a project will be a beneficial addition to the electric generation capacity of the State.³⁴ When deciding this question, we consider, among other things, the facility's consistency "with the energy policies and long-range energy planning objectives and strategies contained in the most recent state energy plan [SEP]."³⁵

Renewable resources are vital to New York's energy future, "providing resilient power, reducing fuel cost volatility, and lowering [greenhouse gas (GHG)] emissions."³⁶ The SEP made renewable energy development a top priority, setting New York on the path to generate 50% of its electricity with renewable sources by 2030.³⁷ Large-scale renewables help power New York's economy and will serve as the backbone to the State's power grid.³⁸ They offer immediate benefits, including

³² 16 NYCRR §1000.12(b).

³³ 16 NYCRR §1000.12(c).

³⁴ PSL §168(3)(a).

³⁵ PSL §168(4)(e).

³⁶ SEP at 69.

³⁷ SEP at 112; Exh. 51 (Application Exhibit 10), p. 1.

³⁸ SEP at 70.

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"economic development and jobs for communities across the State, greater stability in customer bills, [and] cleaner air" ³⁹

New York established renewable development at the forefront of its energy policy by implementing in the CES Order the renewable target in the SEP.⁴⁰ The chief focus of the CES initiative is on building new renewable resource power generation facilities and reducing total emissions of air pollutants resulting from fossil fuel combustion.⁴¹ The CES Order provides for procurement of environmental attributes from large-scale renewables.⁴²

The State's efforts to increase renewable generation have only accelerated within the past two years. In early 2019, Governor Cuomo announced that New York would more than double the amount of wind and solar energy generation being developed under the CES.⁴³ The State then enacted one of the nation's most ambitious climate laws in July 2019: the Climate Leadership and Community Protection Act (CLCPA), which ramps up the State's renewable energy goals even further, increased "the State's renewable energy penetration goal to 70% by 2030, with 6 GW of solar generation by 2025" and 100% carbon-free electricity by 2040.⁴⁴

³⁹ Exh. 51 at 1 (quoting SEP at 71).

⁴⁰ CES Order at 93-95.

⁴¹ Exh. 51 at 1 (quoting CES Order at 3, 78).

⁴² Exh. 51 at 1-2 (citing CES Order at 16).

⁴³ Governor Cuomo Announces Green New Deal Included in 2019 Executive Budget, Governor Andrew M. Cuomo (Jan. 17, 2019), <https://www.governor.ny.gov/news/governor-cuomo-announces-green-new-deal-included-2019-executive-budget>.

⁴⁴ Exh. 51 at 2; see CLCPA §4 (amending PSL §66-p(2)); SEP Climate Act Amendment.

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The Siting Board has previously determined that the CLCPA applies to the consideration of Article 10 certificate applications. The Siting Board has also recognized that, when considering and issuing permits, licenses, and other administrative decisions, the CLCPA requires all State agencies to consider whether their decisions are consistent with the attainment of the Statewide greenhouse gas emission limits.⁴⁵

The Project will advance New York's emissions goals because it is a renewable energy resource and will reduce GHG emissions and help combat the harmful effects of climate change, consistent with the SEP and CLCPA. Flint Mine has forecasted that the Project will reduce annual CO² emissions by approximately 45,027 tons.⁴⁶ Emissions of Nitrogen Oxides are forecasted to be reduced by eight tons.⁴⁷ DPS Staff did not dispute these estimates.⁴⁸ DPS Staff testified that the Project will provide benefits consistent with State policies on renewable energy generation and will help the State meet its regional greenhouse gas emissions goals.⁴⁹ No party has introduced evidence through an expert witness disputing any of these conclusions.

Flint Mine's production cost modeling demonstrates that operation of the Facility will have only a *de minimis* impact on must-run resources, such as hydroelectric, nuclear,

⁴⁵ Case 16-F-0328, Number Three Wind LLC, Order on Rehearing (issued February 13, 2020), at 14 (citing CLCPA §7(2)) (internal quotation marks omitted).

⁴⁶ Hearing Exh. 4 (App. Exh. 8, Table 8-1).

⁴⁷ Hearing Exh. 4 (App. Exh. 8, Table 8-1).

⁴⁸ Staff SPSS Testimony at 48.

⁴⁹ SPSS Testimony at 44-45.

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and other renewable energy facilities, and will not result in any material impacts to existing co-generation facilities.⁵⁰

Overall, the record demonstrates that the GHG emissions reductions from the Project will be considerable. Moreover, the Project will meaningfully contribute to the achievement of the emission reduction goals set forth by the SEP, CES Order, and the CLCPA. Based on these factors, we find that the Project will be a beneficial addition to the electric system.

C. Public Interest Standard

1. Air Quality and Greenhouse Gas Emissions Reductions

Unlike fossil fuel generation plants, solar facilities generate electricity directly from sunlight and without emitting air pollutants. Therefore, the Project will not generate air emissions and does not require any federal, State or local air emissions permits. The Project is expected to displace air emissions from conventional power plants. The Applicant's analysis shows that, on an annual basis, the Project is expected to displace as much as 45,027 short tons of carbon dioxide (CO₂), 18 short tons of nitrogen oxide (NO_x), and 0.02 short tons of sulfur dioxide (SO₂) from conventional power plants on an annual basis.⁵¹

2. Economic and Local Benefits

The development, construction, and operation of renewable energy facilities brings significant benefits to the host communities, surrounding regions, and the State. Because

⁵⁰ See Hearing Exh. 4 (Application Exhibit 8, Table 8-5)

⁵¹ Hearing Exh. 2 (Exhibit 17).

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renewable energy facilities capture their fuel locally, a significant amount of the economic benefit of renewable energy facilities accrues to local participating landowners, who often have strong connections to the land and to the local community. As a result, direct economic benefits accruing to participating landowners are often reinvested locally or regionally, and provide local and regional economic support.

New York State has repeatedly emphasized the positive socioeconomic development opportunities associated with increased private investments in renewable energy development. Over the past decade, a key goal of the State's energy policies has been increasing such private investment in New York's clean energy economy. These policies recognize the direct and indirect economic benefits of increased private investment in clean energy technologies.⁵²

In this case, the record shows that the Project will provide such benefits to the host communities and the State.⁵³ As required by PSL Article 10, Exhibit 27 to the Application includes detailed information about the beneficial socioeconomic impacts of the Project.⁵⁴ By way of both direct and indirect benefits, prior to construction the Applicant will purchase as much as 90% of the land needed for the Project directly from current landowners, resulting in a direct infusion of almost \$15 million into the local economy.⁵⁵ This is a significant direct benefit to the participating landowners in this case. The lands

⁵² Hearing Exh. 3 (Application Exh. 10(g)).

⁵³ Hearing Exhs. 3-5 (Application Exh. 27).

⁵⁴ Hearing Exh. 3 (Application Exh. 27).

⁵⁵ Application Exh. 27 at 1.

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in the Project area are ill-suited to agriculture and the infrastructure to support family farms no longer exists in the area.⁵⁶ The Project will allow participating landowners to realize significant value from their land resources and this, in turn, will accrue to the local taxing jurisdictions and local businesses in Cossackie and Athens. This immediate and significant increase in the value of the Project lands will be grounded upon the energy of the sun, a clean and sustainable resource.

Other significant Project benefits will include the direct and indirect creation of jobs in construction and construction-related services, related supply chain jobs, jobs associated with induced impacts, and annual revenues for local economies during construction.⁵⁷ In addition, local governments will receive significant payments in lieu of taxes (PILOT) over 25 years that will be distributed to the Towns of Athens and Cossackie, Greene County, the Cossackie-Athens Central School District, the West Athens-Limestone Fire Company and Cossackie Hose Company #3, and the Cossackie and Athens Libraries.⁵⁸ For example, payments of special district taxes to fire and library districts are estimated to total an additional \$192,257 and \$243,585 annually, respectively.⁵⁹

At the same time, the Facility will impose little, if any, additional operating or infrastructure costs on the local municipalities because solar facilities require limited police,

⁵⁶ Application Appendix 4-a.

⁵⁷ Hearing Exh. 3 (Application Exh. 27).

⁵⁸ Hearing Exhs. 3-5 (Application Exh. 27(h), and Appx. 27-A).

⁵⁹ Applicant Panel at 16.

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fire and emergency medical services.⁶⁰ Damage to local roads relating to construction and operation of the Facility will be addressed under Road Use Agreements with the affected towns and county.⁶¹

Although the Town of Coxsackie testified that the Project will not provide any local benefits beyond the proposed PILOT agreement,⁶² this is not supported by the record. The record shows that this Facility will be a major investment in Coxsackie and will provide beneficial economic opportunities for workers and local firms during construction and operation of the Facility.⁶³ Moreover, the Applicant will purchase and conserve the 62.5-acre Flint Mine Hill parcel, and create a nearly 300-acre grassland conservation area improved with a recreational walking trail near Flint Mine Road.⁶⁴ These significant open space conservation benefits are in addition to the direct financial benefits to participating landowners.⁶⁵

Based on this record, we find that the construction and operation of the Project is in the public interest. It is consistent with State policies and law and will provide

⁶⁰ Hearing Exh. 3 (Application Exh. 27(f)-(g), and (k)).

⁶¹ Hearing Exh. 2, Certificate Condition 3(d); Hearing Exhs. 3-5 (Application Exh. 27(g)).

⁶² Coxsackie Panel at 10-11.

⁶³ Applicant Direct at 16-19; Hearing Exh. 3 (Application Exh. 27).

⁶⁴ Applicant Panel at 35-36.

⁶⁵ Applicant Panel at 16-19, and 35. To confirm the economic benefits of the Project, within 15 months of the Project becoming operational, the Applicant will file a tracking report identifying the actual number of jobs created and actual tax payments to local jurisdictions. Hearing Exh. 2, Certificate Condition 34.

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significant benefits to the host communities and the surrounding region and the State.

D. Nature of Probable Environmental Impacts – PSL §168(2)(a) and 168(3)(c) and (e)

1. Ecology, Air, Ground and Surface Water, Wildlife, and Habitat

a. Ecology, Wildlife and Habitat

i. Grassland Birds

PSL §168(2)(a) requires the Siting Board to make explicit findings regarding the potential environmental impacts of construction and operation of a project on wildlife. To grant a certificate, the Siting Board must determine that the adverse environmental effects of the construction and operation of the facility will be minimized or avoided to the maximum extent practicable, and that the facility is designed to operate in compliance with applicable State environmental laws protecting wildlife.⁶⁶ The State Endangered Species Act and its implementing regulations are the environmental law provisions applicable to this Project.⁶⁷

A portion of the Facility area is located in the DEC designated Cocksackie Flats Winter Raptor Concentration Area (WRCA).⁶⁸ The Cocksackie Flats WRCA includes predominantly open field communities that serve as habitat for grassland bird species.⁶⁹ One State listed endangered grassland bird species, the Short-eared Owl, and one State listed threatened species,

⁶⁶ PSL §168(3)(c) and (e).

⁶⁷ ECL §11-0530; 6 NYCRR Part 182.

⁶⁸ DEC Staff Initial Brief at 6.

⁶⁹ DEC Staff Initial Brief at 6.

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the Northern Harrier, have been documented within the Project area.⁷⁰

The Application details the two types of facility related impacts that may affect threatened and endangered grassland bird species: construction related impacts that could result in incidental mortality, and operational impacts related to adverse modification of habitat.⁷¹ To address construction related impacts, the Applicant has proposed a settlement layout that reduces the Facility's impacts to occupied habitat by 34% and created a much larger, centralized and continuous core habitat area located north and south of Flint Mine Road.⁷² In addition, the Applicant will implement various measures, including seasonal work windows, on-site environmental monitor surveys as well as the reporting and recording of species observations during construction, in order to avoid and minimize risk to these species.⁷³

Post-construction, the Applicant has agreed to restoration requirements for occupied habitat areas that are temporarily disturbed during construction, avoidance and minimization measures to be outlined in the Net Conservation Benefit Plan (NCBP) and a post-construction avian monitoring plan for the Facility site.⁷⁴

To address potential operational impacts, the Applicant has removed and relocated some Project components in

⁷⁰ Applicant Initial Brief at 26-27.

⁷¹ Applicant Initial Brief at 27.

⁷² Applicant Initial Brief at 27-28.

⁷³ Applicant Initial Brief at 27-28.

⁷⁴ Applicant Initial Brief at 28.

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the Settlement Layout as well as proposed Certificate Conditions, all in an effort to minimize impacts to identified habitat.⁷⁵

DEC Staff and Scenic Hudson have indicated that taken together, the Settlement Layout, NCBP, Certificate Conditions and SEEP Guide ensure compliance with 6 NYCRR Part 182.⁷⁶ We note that while DEC Staff disagrees with the Applicant regarding the methodologies utilized in this matter to develop the mitigation plan for threatened and endangered grassland birds, DEC Staff concludes that the settlement proposal satisfies the requirements of Part 182.⁷⁷ Ultimately, the settlement proposal requires the Applicant to conserve and manage 297 acres of winter raptor habitat, which is in excess of the minimum customarily required by DEC.⁷⁸ Accordingly, we take no position on the methodology utilized by the Applicant in the development of mitigation in this matter.

No party sought to adjudicate any issues relating to threatened or endangered grassland bird species. Based upon our review of the record, we conclude that any adverse environmental effects to threatened or endangered grassland bird species from the construction and operation of the Facility will be minimized or avoided to the maximum extent practicable, and that the Facility is designed to operate in compliance with applicable State laws and regulations.

⁷⁵ Applicant Initial Brief at 28-29.

⁷⁶ DEC Staff Initial Brief at 10.

⁷⁷ DEC Staff Reply Brief at 1-2.

⁷⁸ Applicant Initial Brief at 30.

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ii. Vegetation and Wildlife Other Than Grassland Birds

Impacts to plant communities from construction of the Facility relate to vegetation clearing and disturbance from construction as well as permanent loss of vegetated habitats as a result of Facility fabrication.⁷⁹

The Applicant indicates that the Project has been sited to avoid, minimize and mitigate impacts to vegetation.⁸⁰ The Applicant has selected previously disturbed successional field, avoided wetlands, sited access roads on existing roads and farm lanes when possible and confined areas of disturbance to the smallest feasible area.⁸¹ Wherever practical, the Applicant has avoided areas identified as containing threatened or endangered plant species. Design measures include use of overhead collection lines, messenger-supported collection wiring, and horizontal directional drilling in areas with wetland communities.⁸² A stormwater pollution prevention plan would be implemented, as well as long term vegetation management in accordance with the Facility's Operation and Maintenance (O&M) Plan.⁸³

Construction related impacts to wildlife will be limited to incidental injury and mortality due to construction activity, habitat disturbance and displacement, however, these impacts are not anticipated to significantly affect wildlife

⁷⁹ Applicant Initial Brief at 32.

⁸⁰ Applicant Initial Brief at 33.

⁸¹ Applicant Initial Brief at 33.

⁸² Applicant Initial Brief at 33.

⁸³ Hearing Exhibit 3, Application Exhibit 22(c), Application Appendix 23-A, Application Appendix 5-A.

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populations.⁸⁴ The Applicant indicates that the Project has been sited to avoid, minimize and mitigate impacts to wildlife.⁸⁵ In addition to siting the Facility to avoid sensitive habitats and minimize disturbance, the Applicant has proposed Certificate Conditions to further avoid, minimize and mitigate potential impacts to ecological resources.⁸⁶

DEC Staff notes that with respect to the threatened Northern Long-eared Bat (*Myotis septentrionalis*) (NLEB), Project construction, including tree-clearing during certain times of the year in NLEB occupied habitat, can result in adverse impacts to NLEB, including direct mortality. DEC Staff also notes, however, that pursuant to proposed Certificate Conditions and SEEP Guide provisions, the Applicant will adhere to all tree-clearing limitations in NLEB occupied habitat, and thereby avoid any potential take of NLEB. Accordingly, DEC Staff states that based upon the agreed-upon Certificate Conditions and SEEP Guide provisions related to NLEB, Project construction and operation will comply with ECL Article 11 and 6 NYCRR Part 182.⁸⁷

No party sought to adjudicate issues relating to vegetation, wildlife and habitat. Based upon our review of the record, we conclude that any adverse environmental effects of the construction and operation of the Facility related to vegetation, wildlife and habitat will be minimized or avoided to the maximum extent practicable, and that the Facility is designed to operate in compliance with applicable State laws and

⁸⁴ Applicant Initial Brief at 32; Hearing Exh. 3.

⁸⁵ Applicant Initial Brief at 34.

⁸⁶ Hearing Exhibit 2.

⁸⁷ DEC Staff Initial Brief at 13-14.

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regulations.

iii. Invasive Species

Article 9 of the ECL requires that projects subject to State review be examined for any risks posed to the State's environment by invasive species, and that where practicable, invasive species be prohibited and actively eliminated at project sites.⁸⁸

Flint Mine Solar's application materials include field studies conducted during portions of the 2017, 2018, and 2019 growing season documenting the presence and extent of invasive species in the Project area.⁸⁹ The field studies uncovered nineteen invasive plant species. No invasive insects were observed.⁹⁰

To address invasive plant species, the Applicant prepared an Invasive Species Prevention and Management Plan (ISPMP) and has committed to conduct a pre-construction baseline survey to establish the distribution and cover of invasive species located in areas that will be impacted by construction of the Facility.⁹¹ The ISPMP sets forth the Applicant's proposed invasive species control measures and monitoring, which are intended to prevent the introduction or spread of invasive species within the Project area.⁹² As set forth under proposed Certificate Condition 55, the Applicant will submit the final

⁸⁸ ECL §§9-1701, 9-1709(2) (b) (iv).

⁸⁹ Applicant Initial Brief at 36.

⁹⁰ Hearing Exhibit 3, Application Exhibit 22 at 11-12 and Appendix 22-D (Invasive Species Prevention and Management Plan [ISPMP]).

⁹¹ Applicant Initial Brief at 36.

⁹² Hearing Exhibit 3, Application Appendix 22-D.

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ISPMP by commencement of construction.

No party sought to adjudicate issues relating to invasive species, nor did any party raise such issues in their respective closing briefs. Based upon our review of the record, we conclude that the proposed Project will comply with ECL Article 9 and will avoid or mitigate impacts related to invasive species to the maximum extent practicable.

iv. Agricultural Resources

In support of the Application, the Applicant performed a detailed study that investigated the quality and viability of the agricultural resource base in the Facility area and determined that the Facility area has been undergoing a transition from agricultural use.⁹³ Only approximately 232 acres of lands within the 1,638 acre Facility area were utilized for agriculture in the past 5 years.⁹⁴

The Applicant's proposed settlement layout will impact approximately 79 acres of active agricultural lands.⁹⁵ However, none of these impacts are to prime agricultural soils, defined as lands within the New York Agricultural Land Classification of mineral soil groups 1-4.⁹⁶ As a result of this, AGM Staff has indicated that construction of the Facility at this location

⁹³ Hearing Exhibit 3; Application Appendix 4-B.

⁹⁴ Applicant Initial Brief at 38.

⁹⁵ Applicant Initial Brief at 38.

⁹⁶ AGM Initial Brief at 11.

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does not propose a significant loss of agricultural resources.⁹⁷

In addition, the Applicant and the parties have agreed to Certificate Conditions and SEEP Guide provisions to further avoid and minimize impacts to the small areas of active agricultural lands that might occur during construction.⁹⁸

No party sought to adjudicate issues relating to agricultural resources, nor did any party raise such issues in their respective closing briefs. Based upon our review of the record, we conclude that the construction and operation of the proposed Project will avoid or minimize impacts to agricultural resources to the maximum extent practicable.

b. Air Impacts

In accordance with 16 NYCRR §1001.17, an applicant must demonstrate that the proposed facility will comply with applicable federal, State, and local regulatory requirements regarding air emissions. Application Exhibit 17 discusses air quality and potential air emissions related to the Project.⁹⁹

Because solar facilities generate electricity without releasing pollutants into the atmosphere, the Applicant states

⁹⁷ In its brief, AGM Staff requests for the first time in this proceeding that the NCBP be revised to exclude active hayfields proposed for use as grassland habitat mitigation areas from the mowing restrictions required by DEC for grassland mitigation lands. As we have noted in prior proceedings, objections regarding the draft NCBP are not ripe for review, and may be raised and addressed when the final NCBP is submitted during the Compliance Filing phase of this proceeding (Case No. 17-F-0182, Application of Mohawk Solar LLC – Solar Electric Generation Siting, Order Granting Certificate of Environmental Compatibility and Public Need, with Conditions (issued Nov. 19, 2020) at 39).

⁹⁸ Applicant Initial Brief at 42.

⁹⁹ Hearing Exhibit 3, Application Exhibit 17.

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that the proposed Facility will not require an air permit. Several air emission sources used on-site during construction, such as one or more fossil fuel-fired generators, also will not require an air permit or registration.¹⁰⁰

The Applicant states that, during construction, air quality impacts will be typical of such impacts from a construction project, and will include emissions from construction equipment and vehicles, as well as dust from site preparation and construction traffic. These emissions would be temporary and minor. To minimize or avoid adverse impacts, fossil fuel-fired generators will not be left idling when not in active use, and the generators will be maintained in accordance with manufacturer instructions or best management practices.¹⁰¹

Once constructed, the Facility will not generate air emissions during normal operations. The Applicant states that the Facility would instead displace air emissions from conventional power plants.¹⁰²

DPS Staff notes that the Facility does not require any federal, State or local air emissions permits. DPS Staff also notes the Applicant's analysis that the Facility would annually displace approximately 45,027 short tons of carbon dioxide (CO₂).¹⁰³

No party sought to adjudicate issues relating to air quality impacts, nor did any party raise such issues in their respective closing briefs. Based on the record, we conclude

¹⁰⁰ Hearing Exhibit 3, Application Exhibit 17 at 1.

¹⁰¹ Hearing Exhibit 3, Application Exhibit 17 at 2.

¹⁰² Hearing Exhibit 3, Application Exhibit 17 at 2-3.

¹⁰³ DPS Staff Initial Brief at 18-19.

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that the Facility's potential impacts to air quality will be avoided, minimized or mitigated to the maximum extent practicable, and that the construction and operation of the Facility will comply with all applicable State air pollution control laws.

c. Water Resources

i. Wetlands

The public policy of the State of New York is to preserve, protect, and conserve freshwater wetlands and the benefits they provide, to prevent the despoliation and destruction of freshwater wetlands, and to regulate their use and development consistent with the general welfare and beneficial economic, social and agricultural development of the state.¹⁰⁴

The Applicant states that it sought to avoid and minimize impacts to freshwater wetlands wherever practicable. The Applicant delineated 303.8 acres of wetlands within the Facility area.¹⁰⁵ The Applicant developed a settlement layout that reduced impacts to wetlands over which DEC has jurisdiction to 0.1 acres of temporary impacts and 0.1 acres of permanent impacts, attributable to access roads, collection lines and other linear facility components which require crossing these areas.¹⁰⁶ Under the settlement layout agreed to by the parties,

¹⁰⁴ ECL §24-0103; 6 NYCRR §663.1.

¹⁰⁵ Generally, the Applicant and DEC were not in agreement regarding the classification of NYS jurisdictional wetlands in the Facility site. However, in the interests of settlement, the Applicant revised its layout and removed PV arrays from all wetlands over which DEC claimed jurisdiction. Applicant Initial Brief at 43-44.

¹⁰⁶ Applicant Initial Brief at 44.

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impacts to wetland adjacent areas was reduced to 12.7 acres of temporary impacts and 2.2 acres of permanent impacts.¹⁰⁷

To address unavoidable wetland impacts, the Applicant and parties have agreed to Certificate Conditions and a SEEP Guide that include provisions related to wetland resources, including federally regulated wetlands.¹⁰⁸ In addition, the Applicant, in consultation with DEC and DPS, will prepare a wetland mitigation plan.¹⁰⁹

The Applicant states that it generally avoided wetland and stream impacts by selecting narrow wetland swales or marginal quality agricultural wetlands as locations for crossings of collection lines or access driveways and using horizontal directional drilling or overhead collection lines in locations where wetland or stream crossings are necessary.¹¹⁰

DEC Staff also concluded that the Applicant's adherence to proposed Certificate Conditions 64, 71, 74, and 75 will assure compliance with the requirements of the ECL and its implementing regulations.¹¹¹

Upon our review of the record, we conclude that any adverse environmental effects on freshwater wetlands from the construction and operation of the Facility will be minimized or avoided to the maximum extent practicable and that the Facility is designed to operate in compliance with applicable State laws and regulations.¹¹²

¹⁰⁷ Applicant Initial Brief at 44.

¹⁰⁸ Applicant Initial Brief at 45.

¹⁰⁹ Applicant Initial Brief at 45.

¹¹⁰ Applicant Initial Brief at 44-45.

¹¹¹ DEC Staff Initial Brief at 21.

¹¹² ECL Article 24; 6 NYCRR Part 663.

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ii. Sleepy Hollow Lake

Sleepy Hollow Lake is a large man-made lake in the Towns of Athens and Cossackie and the Village of Athens, separated from the Facility by numerous man-made barriers including State Route 9, the CSX railroad line, Flats Road, and Farm to Market Road.¹¹³

The Sleepy Hollow Lake Association of Property Owners (SHLAPO) raised issues regarding the Facility's potential impacts to the Lake from potential stormwater runoff, the siting of facility components in non-DEC jurisdictional wetlands and the potential use of pesticides, herbicides, fertilizers or release of petroleum or other contaminants during construction.¹¹⁴

To address SHLAPO concerns, the Applicant prepared a robust preliminary Stormwater Pollution Prevention Plan, committed to best management practices, and Certificate Conditions designed to minimize and mitigate potential impacts to Sleepy Hollow Lake.¹¹⁵ Moreover, given the proposed Settlement Layout, the record in this matter supports a determination that the Applicant has avoided and minimized impacts to Sleepy Hollow Lake to the maximum extent practicable.

Based on this record, we conclude that any adverse environmental effects on Sleepy Hollow Lake from the construction and operation of the Facility will be minimized or avoided to the maximum extent practicable and that the Facility is designed to operate in compliance with applicable State laws

¹¹³ Applicant Initial Brief at 46.

¹¹⁴ Applicant Initial Brief at 46-47.

¹¹⁵ Applicant Initial Brief at 49-50.

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and regulations

iii. Streams and Other Waterbodies

ECL Article 15 and the implementing regulations at 6 NYCRR Part 608 govern the disturbance of protected streams. Pursuant to Article 15, State approval is required for the disturbance of a stream with a classification of C(T) or higher.

The Applicant delineated streams and waterbodies, and characterized projected impacts to these resources within the Facility area.¹¹⁶ The Facility area contains three streams designated as Class C by DEC, including Cossackie Creek, Murderers Creek and their respective tributaries.¹¹⁷ However, construction and operation of the Facility would not result in any impacts to DEC jurisdictional streams.¹¹⁸

Project construction will result in approximately 967 linear feet of temporary impacts and 291 linear feet of permanent impacts to non-DEC jurisdictional streams.¹¹⁹ Crossing of these streams will be conducted in accordance with best management practices. Moreover, the Applicant and settlement parties have agreed to Certificate Conditions and SEEP Guide provisions that address stream and waterbody resources.¹²⁰

No party sought to adjudicate issues relating to streams, nor did any party raise such issues in their respective closing briefs. Based upon our review of the record, we conclude that any adverse environmental effects on streams and waterbodies from the construction and operation of the Facility

¹¹⁶ Applicant Initial Brief at 52.

¹¹⁷ Applicant Initial Brief at 52.

¹¹⁸ Applicant Initial Brief at 52.

¹¹⁹ Applicant Initial Brief at 52.

¹²⁰ Applicant Initial Brief at 52-53.

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will be minimized or avoided to the maximum extent practicable and that the Facility is designed to operate in compliance with ECL Article 15 and 6 NYCRR Part 608.

iv. Groundwater

The Applicant has indicated that as a result of the Facility design, impacts to groundwater resources, including drinking water resources, have been avoided, minimized, and mitigated to the maximum extent practicable.¹²¹ The Applicant has agreed to Certificate Conditions prohibiting the installation of certain Facility components and certain construction activities within specified distances of drinking water wells.

In addition, the Facility is not expected to have significant adverse environmental impacts on drinking water resources including public or private wells. No known public water supply wells or intakes occur within five miles of the Facility. No blasting for construction of this Facility is anticipated.¹²²

Finally, Certificate Conditions agreed to by the parties will ensure that construction of the Facility will not have a significant adverse impact on residential water wells, or groundwater quality or quantity.¹²³

No party sought to adjudicate issues relating to groundwater or water wells, nor did any party raise such issues in their respective closing briefs. Based upon our review of the record, we conclude that any adverse environmental effects

¹²¹ Applicant Initial Brief at 53-54.

¹²² Applicant Initial Brief at 55.

¹²³ Hearing Exhibit 2, Certificate Condition 72.

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on groundwater or existing water wells from the construction and operation of the Facility will be minimized or avoided to the maximum extent practicable, and that the Facility is designed to operate in compliance with applicable State laws and regulations.

v. Section 401 Water Quality Certification

The Project will require a water quality certification (WQC) pursuant to Section 401 of the federal Clean Water Act (Section 401). The Applicant indicates that it intends to file a joint permit application with the United States Army Corps of Engineers (ACOE) under Clean Water Act Section 404 and a request for a WQC from the Siting Board. Notices and service of the WQC application would be made in accordance with 16 NYCRR §1000.8.¹²⁴

To obtain a WQC, the Applicant must demonstrate that the Project will comply with State water quality standards under 6 NYCRR §608.9. The Applicant states that it has agreed with the parties to Certificate Conditions that require the provision of additional information to the Siting Board and parties relating to the ACOE and WQC submissions.¹²⁵ DEC Staff has indicated that the Applicant's proposed Certificate Conditions and SEEP Guide capture all of DEC's recommendations to ensure the Project complies with the State water quality program pursuant to Section 401.¹²⁶

2. Public Health, Safety and Security

a. Noise and Vibration

The Applicant has fully evaluated the potential noise and vibration impacts associated with the construction and

¹²⁴ Applicant Initial Brief at 76.

¹²⁵ Applicant Initial Brief at 76.

¹²⁶ DEC Staff Initial Brief at 21-22.

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operation of the Facility.¹²⁷ Flint Mine has proposed noise limits that appropriately avoid and minimize potential noise impacts from the Facility, are attainable and protective of human health and the environment, and are consistent with recent Siting Board cases.¹²⁸ Potential noise impacts resulting from the Settlement Layout, and compliance with the recommended noise mitigation design goals, were evaluated by the Applicant based on the revised inverter locations.¹²⁹ Flint Mine's analysis confirmed that the Facility, as designed in the Settlement Layout, will meet the noise limits agreed upon by the parties to the Settlement.¹³⁰

The settling parties have stipulated to the Certificate Conditions and SEEP Guide provisions related to noise limits, design goals, and handling of noise-related complaints.¹³¹ In addition, the Applicant and DPS Staff agreed upon a Facility Communications and Complaint Resolution Plan containing provisions for addressing noise-related complaints.¹³² No other party raised issues related to noise and vibration.

We conclude that sound impacts of the construction and operation of the Facility will be avoided or minimized to the maximum extent practicable.¹³³

¹²⁷ Hearing Exh. 7 (Application Exh. 19 and Appendix 19-A, Pre-Construction Noise Impact Assessment; Hearing Exh. 16 (Settlement Layout Sound Modeling Addendum).

¹²⁸ Hearing Exh. 2; Certificate Condition 58.

¹²⁹ Hearing Exh. 16.

¹³⁰ Flint Mine Panel Testimony at 6-7.

¹³¹ Hearing Exh. 2.

¹³² Hearing Exh. 20; DPS SPSS Panel Testimony at 61-62.

¹³³ PSL §168(2)(c) and (3)(c).

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b. Construction and Operation

The information in the record supports a finding that impacts during construction have been avoided, minimized and/or mitigated to the maximum extent practicable.¹³⁴ To ensure the safety of construction and operations personnel and the security of the Facility, the Applicant has developed and will implement plans for site security, worker safety, and emergencies.¹³⁵ The Applicant submitted the Site Security Plan to the New York State Department of Homeland Security, pursuant to 16 NYCRR §1001.18(d), and to Greene County and local emergency responders.¹³⁶

Further, the Applicant has consulted with local emergency responders and will coordinate with these officials during construction and operation.¹³⁷ The settling parties have agreed to specific commitments in Certificate Conditions 21 and 41-43 related to coordination with, and notification of, local emergency departments during construction and operations.¹³⁸ No party raised issues with respect to this topic in their testimony.

In accordance with the Article 10 regulations,¹³⁹ Flint Mine developed a preliminary Quality Assurance and Control Plan

¹³⁴ Hearing Exh. 3 (Application Exhs. 12, 18, 25, and Appx 25-A).

¹³⁵ Hearing Exh. 3, Appx 5-A (Preliminary Operations and Maintenance Plan); Appx 18-A (Preliminary Site Security Plan); Appx 18-B (Preliminary Emergency and Fire Response Plan); and Appx 18-C (Preliminary Health and Safety Plan).

¹³⁶ Hearing Exh. 3 (Application Exh. 18(d) & (h)).

¹³⁷ Hearing Exh. 3 (Application Exh. 18(h)); and Hearing Exhs. 28 and 41.

¹³⁸ Hearing Exh. 2.

¹³⁹ 16 NYCRR §1001.12.

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(QA/QC Plan) for monitoring and assuring that the Facility will comply with all applicable design, engineering, and installation standards and criteria.¹⁴⁰ The Record includes an overview of the Facility construction process and measures to be taken to avoid, minimize and mitigate impacts during construction.¹⁴¹ For example, the Settlement Parties have agreed to a Certificate Condition specific to avoiding, minimizing and mitigating construction noise.¹⁴² The Applicant will provide construction notices to the Town and County, emergency responders, and the public at large¹⁴³ and will provide contact information to the public for obtaining more information or submitting complaints related to construction activities.¹⁴⁴ The Applicant and DPS agreed to a Facility Communications and Complaint Resolution Plan for addressing complaints, including complaints during construction.¹⁴⁵ To ensure the public is aware of how important notices will be issued, and how a complaint may be submitted, the Applicant will file the final Facility Communications and Complaint Resolution Plan with the Siting Board and host municipalities, and will also provide copies to local document

¹⁴⁰ Hearing Exh. 3 (Application Exh. 12 and Appendix 12-A). The final site-specific QA/QC Plan will be developed once the balance of plant contractor has been selected and Facility construction proceeds.

¹⁴¹ Hearing Exh. 3 (Application Exh. 12).

¹⁴² Hearing Exh. 2 (Certificate Condition 70).

¹⁴³ Hearing Exh. 2 (Conditions 21-25, 59-60).

¹⁴⁴ Hearing Exh. 2 (Conditions 21-22); Hearing Exh. 3 (Application Appx. 12-C, Facility Communications and Complaint Resolution Plan).

¹⁴⁵ Hearing Exh. 20 (Appx. 12-C [Rev 2]).

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repositories.¹⁴⁶

The record information described above provides a sound basis for finding that the construction and operational impacts of the Project will not adversely impact public health or safety. Accordingly, we find that the adverse environmental effects of the construction and operation of the Facility related to public health, safety, and security have been avoided or minimized to the maximum extent practicable.¹⁴⁷

3. Cultural, Historic and Recreational Resources – PSL §168(2)(c) and 168(3)(c)

Article 10 requires that we make findings regarding cultural, historic, and recreational resources, including aesthetic and scenic values and any significant, adverse impacts that the Project may create.¹⁴⁸ The impact of construction and operation of the Facility on cultural, historic, and recreational resources is addressed in Application Exhibit 20.¹⁴⁹

The Applicant supplemented its analysis of potential cultural resource impacts in conjunction with its proposal of the Settlement Layout.¹⁵⁰ Consistent with 16 NYCRR §1001.20, the Applicant consulted with Office of Parks, Recreation, and Historic Preservation (OPRHP) to develop the scope and

¹⁴⁶ Hearing Exh. 2, Condition 40.

¹⁴⁷ PSL §168(2)(b), (3)(c).

¹⁴⁸ PSL §168(2)(c).

¹⁴⁹ Hearing Exh. 3-5 (Application Exh. 20; Appx 20- A, SHPO Correspondence; 20-B, Phase 1B Archeological Survey Scope of Work; 20-C, Phase 1B Archeological Survey Report; 20-D, Unanticipated Discovery Plan; 20-E, and Historic Resources Survey Report); Hearing Exh. 6 (Supplement to Appx. 20-A, Additional SHPO Correspondence); Hearing Exhs. 63-64.

¹⁵⁰ Hearing Exh. 14 (Settlement Layout Memo); Hearing Exh. 16 (Figure 6, Supplemental Archeological Reconnaissance).

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methodology for the resource studies conducted for the Facility and included with the Application.¹⁵¹ As discussed below, the Application includes the information needed for us to make its required findings under PSL §168(2)(c).

a. Archeological Resources

Beginning during Facility development, the Applicant examined the archaeological sensitivity of the Project area and the potential impacts of construction and operation of the Facility on archeological resources.¹⁵² Approximately 70% of the Facility Area is within the Flint Mine Hill Archaeological District, which is listed in the State and National Registers of Historic Places.¹⁵³ The Applicant engaged in extensive outreach, formal and informal consultations with the New York State Historic Preservation Office (SHPO), the Stockbridge Munsee Band of Mohicans, the Southold Indian Museum, and the Archeological Conservancy to discuss cultural and archeological resources, and potential methods for avoiding, minimizing and mitigating impacts to such resources in the area.¹⁵⁴

To identify potential archaeological sites within the Facility Site, the Applicant completed a Phase IB archaeological survey in accordance with a Phase IB archaeological scope of work which was reviewed and approved by the OPRHP/SHPO.¹⁵⁵ In December 2020, the Applicant conducted a supplemental archeological reconnaissance on the Facility Site to evaluate any additional

¹⁵¹ Hearing Exh. 3 (Application Exh. 20)

¹⁵² Hearing Exh. 3 (Application Exh. 20 and Appx 2-C).

¹⁵³ Hearing Exh. 3 (Application Exh. 20).

¹⁵⁴ Hearing Exh. 3 (Application Exh. 20 and Appx 2-C).

¹⁵⁵ Hearing Exh. 3 (Application Appx. 20-B); Hearing Exh. 5 (Application Appx 20-C).

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areas proposed for PV arrays in the Settlement Layout and reported the results of that reconnaissance in the Record.¹⁵⁶ No quarries or other readily visible archeological resources were observed in the additional areas surveyed.¹⁵⁷

The Applicant prioritized design and construction measures to minimize soil disturbance and thereby minimize potential impacts to archaeological sites.¹⁵⁸ While the Applicant changed the proposed locations of some Facility components in the Settlement Layout, Flint Mine intends to install the Facility utilizing the same measures to minimize disturbance described in the Application.¹⁵⁹ The measures to be used to avoid soil disturbance during construction are described in detail in the Application. In most instances the Applicant will employ pile-driven posts and low-profile racking systems. These are the least intrusive systems available for mounting PV modules and will help minimize soil disturbance from excavation, concrete or other foundations.¹⁶⁰ The Applicant also will utilize racking-integrated wire management and messenger-supported wiring systems for collection lines among the PV modules. These methods of wire management which also avoid soil disturbance. Horizontal directional drilling (HDD) or overhead collection lines will be employed in some limited locations to minimize impacts to archeologically sensitive

¹⁵⁶ Hearing Exh. 14 and 16.

¹⁵⁷ Id.

¹⁵⁸ Hearing Exh. 14 (Supplement Layout Memo).

¹⁵⁹ Id. See Hearing Exh. 3 (Application Exh. 20).

¹⁶⁰ Hearing Exh. 3 (Application Exh. 20).

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areas.¹⁶¹ The Applicant will use earthen berms for equipment pad foundations and earthen dikes as stormwater management practices to minimize the need for excavation. Flint Mine will also install pervious gravel access driveways to reduce soil disturbance and minimize the need for excavation for additional stormwater management features that might otherwise be needed to manage runoff from impervious access roads.¹⁶²

To mitigate unavoidable impacts from Facility construction and operation upon these resources, the Applicant is also investigating the purchase of a portion of the nearby Flint Mine Hill archaeological site¹⁶³ and is committed to implementing the mitigation measures for cultural resources described in the Application.¹⁶⁴ The Applicant is consulting with other key stakeholders on the proposed mitigation plans, and will include details of its final mitigation plan in a Cultural Resources Avoidance, Minimization and Mitigation Plan, which will be submitted as a compliance filing in this proceeding.¹⁶⁵

No parties have identified issues relating to the potential archaeological impacts associated with the Facility.

¹⁶¹ Hearing Exh. 3 (Application Exh. 20; Application Appx. 11-A, sheet E-5.3 (describing specific locations)).

¹⁶² Hearing Exh. 3 (Application Exh. 20).

¹⁶³ Hearing Exh. 3 (Application Exh. 20 and Appx 2-C). The New York State Office of Historic Preservation has accepted Flint Mine's proposal to purchase the 62.5-acre Flint Mine Hill parcel for transfer into a permanent conservation easement, or to redraft the 1978 Flint Mine Hill Archeological District nomination. Hearing Exh. 15 (Supplement Layout Memo); Hearing Exh. 63-64.

¹⁶⁴ Hearing Exh. 15 (Supplement Layout Memo).

¹⁶⁵ Hearing Exh. 15 (Supplement Layout Memo); Hearing Exh. 2, Certificate Condition 52.

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DPS Staff testified that Flint Mine has successfully avoided and minimized impacts to archeological resources and that the stipulated Certificate Conditions were consistent with those imposed by the Siting Board on other major renewable energy projects.¹⁶⁶ SHPO has determined that the Applicant has reduced direct effects to archeological resources to the greatest extent possible by incorporating construction techniques that minimize soil disturbance into the project design.¹⁶⁷

Based on the record, we find that the Facility has avoided, minimized and mitigated potential impacts on archaeological resources to the maximum extent practicable.¹⁶⁸

b. Cultural and Historic Resources

The Facility will have no physical impacts to aboveground historic resources (i.e., no historic structures will be damaged or removed). The Facility's potential effect on any given historic property would be a change in the property's visual setting, due to the introduction of PV panel arrays or other Facility components.¹⁶⁹ Flint Mine conducted a historic resources survey for the Facility.¹⁷⁰ There were 14 resources evaluated as part of the historic resources survey, which were incorporated into the Applicant's analysis of visual impacts on visually sensitive resources.¹⁷¹ Some of these resources may have limited views of the Facility, though most views are distant and in the background. The effect of the Facility on

¹⁶⁶ Hearing Exh. 63; DPS SPSS at 34-39.

¹⁶⁷ Hearing Exh. 63

¹⁶⁸ PSL §168(2) (c).

¹⁶⁹ Hearing Exh. 3 (Application Exhibit 20(b)).

¹⁷⁰ Hearing Exh. 3 (Application Appx. 20-E).

¹⁷¹ Hearing Exh. 3 (Application Appx 24-I).

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these historic resources depends on a number of factors including distance to the Facility, the number of visible PV panels, the extent to which the Facility is screened or partially screened by buildings, trees, or other objects, and the amount of existing visual clutter and/or modern intrusions in the view.¹⁷² For most of the identified historic structures and properties identified within the Historic Resources Study Area, their distance from the Project effectively minimizes the Project's visual impacts. SHPO has not raised additional concerns specific as regards historic resources impacts, beyond the archeological resources already discussed above.

The next step in the review of cultural and historical resources impacts is to wait until the involved federal agency initiates a formal consultation process under Section 106 of the National Historic Preservation Act. Once this process begins, OPRHP will finalize its review and provide the involved Federal agency with its recommendations on effects and possible mitigation measures. In anticipation of this process, the Parties have stipulated to Certificate Conditions 52-53, which call for (a) plans to avoid or minimize impacts to archaeological and historic resources to the extent practicable; (b) preparation of a final Unanticipated Discovery Plan; (c) consultation with OPRHP and DPS Staff if complete avoidance of archaeological sites is impossible; and (d) preparation of a final Cultural Resources Avoidance, Minimization and Mitigation Plan.¹⁷³

Based on the above, we find that that the Applicant has avoided, minimized, and mitigated impacts to archaeological,

¹⁷² Hearing Exh. 3 (Application Exh 20 and 24-I).

¹⁷³ Hearing Exh. 2; Certificate Condition 52.

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cultural and historic resources to the maximum extent practicable.¹⁷⁴

c. Visual Impacts

Probable visual impacts of the Facility are addressed in detail in the Application.¹⁷⁵ The Applicant performed a Visual Impacts Analysis (VIA), which was then updated to reflect the Settlement Layout.¹⁷⁶ The VIA assessed the potential visibility of the Project and evaluated the character and visual quality of the existing landscape. This analysis includes identification of visually sensitive resources, viewshed mapping, visual assessment fieldwork, visual simulations in the form of photographic overlays, and potential visual mitigation measures.¹⁷⁷

The Facility will be visible from approximately 2.7 square miles, most of which is within the Facility Area itself, with approximately one square mile visibility from outside the boundaries of the Facility Area.¹⁷⁸ Visual impacts during construction are anticipated to be relatively minor and temporary in nature.¹⁷⁹ Representative photographs of

¹⁷⁴ PSL §168(3)(c).

¹⁷⁵ Hearing Exhs. 3-5 (Application Exh. 24, Figures 24-1 through 24-12; Appendices 24-A through 24-K); Hearing Exh. 6 (Appendices 24-H and 24-K); Hearing Exhs. 14 and 16.

¹⁷⁶ Hearing Exhs. 14 and 16, Figure 7. During discovery, in response to a request from the Town of Coxsackie, the Applicant produced additional mapping showing the location of representative viewpoints relative to the Settlement Layout. Hearing Exh. 49.

¹⁷⁷ Hearing Exh. 3, Hearing Exh. 16, Figures 7-8.

¹⁷⁸ Hearing Exh. 14 (Settlement Layout Memo).

¹⁷⁹ Hearing Exh. 3 (Application Exh. 24(a)(7)).

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construction activities were included in the VIA.¹⁸⁰ Visual impacts associated with construction may include but are not limited to: temporary increase in truck traffic on area roadways, construction/operation of construction laydown yards, disturbance associated with construction and operation of the access roads, and installation of PV modules and other components. Temporarily disturbed areas will be restored and reseeded to minimize visual impacts following the completion of construction.¹⁸¹

To address potential visual impacts during operation, the Applicant developed a conceptual Visual Mitigation Planting Plan. This conceptual planting plan was developed as a site-specific solution appropriate to the scale of the Facility and the visual character of its setting. The plan uses native species and mimics the character of successional fields in the study area to minimize and mitigate the Facility's visual effect on the surrounding landscape.¹⁸² This analysis was conducted as part of the siting process, and the Facility was specifically located in areas that have natural screening afforded by adjacent hills and vegetation. During this process, long stretches of open roadways were avoided to the extent possible.¹⁸³ The planting of native tree and shrub mixes interspersed with pollinator plants along the roadsides adjacent to the Facility will provide a visual buffer of natural vegetation between the Facility and the viewer, effectively

¹⁸⁰ Hearing Exh. 3 (Application Figure 24-8).

¹⁸¹ Hearing Exh. 3 (Application Exh. 24(a)(7)).

¹⁸² Hearing Exh. 3 (Application Exh. 24(a)(10) and Appx 24-D).

¹⁸³ Hearing Exh. 3 (Application Exh. 24(a)(10)).

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minimizing the potential visual effect of the Facility.¹⁸⁴ In response to a request from the Town of Athens, the Applicant revised its visual mitigation proposal to add visual mitigation for residences in the vicinity of Scott Road.¹⁸⁵ The Applicant also agreed to other minor modifications of the Visual Mitigation Planting Plan to address comments and questions from Parties and will continue these discussions during the compliance phase.¹⁸⁶

The Applicant has agreed to submit a final Visual Mitigation Planting Plan as a compliance filing.¹⁸⁷ The Settlement Agreement requires a 5-year monitoring period for the Visual Mitigation Planting Plan and requires that mitigation be appropriate for the scale of the Facility and visual character of the surrounding area and use only native species or orchard crop species.¹⁸⁸ DPS Staff testified that the Applicant has appropriately assessed visual impacts from the Facility and that, given the Settlement Agreement achieved, has avoided, minimized and mitigated visual impacts from the Facility to the maximum extent practicable, and is consistent with other Article 10 facilities.¹⁸⁹

The Town of Coxsackie raised concerns about two discrete aspects of the Applicant's visual mitigation proposals:

¹⁸⁴ Hearing Exh. 3; Hearing Exh. 16 (Figure 8); Hearing Exhs. 30, 33-34, 38, 48-49.

¹⁸⁵ Hearing Exh. 30; Applicant Technical Panel Rebuttal at 8-9.

¹⁸⁶ Hearing Exhs. 33, 34, 39, 48-49; Applicant Technical Panel Rebuttal at 9-12.

¹⁸⁷ Hearing Exh. 2, Condition 57.

¹⁸⁸ Hearing Exh. 2, Condition 57; see generally, Applicant Technical Panel Rebuttal at 9-12.

¹⁸⁹ DPS SPSS at 39-43.

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the spacing of plantings and the proposed seeding rate for pollinator seed mixes to be used in some areas where the Applicant proposed pollinator-friendly plantings as a visual mitigation measure.¹⁹⁰ The Applicant maintains that the record supports its approach on both issues and notes that the Town's concerns can be resolved when the Visual Mitigation Planting Plan is revised and finalized post-certification but prior to commencement of construction.¹⁹¹

We find that the record supports the Applicant's approach to mitigation of visual impacts. Coxsackie has not provided any specific visual impact it believes has not been addressed and has not offered any proof that the Applicant's proposed mitigation measures will not be effective.¹⁹² We therefore find the Applicant's visual mitigation proposals are sufficient. Therefore, based upon the record, including Certificate Conditions 45 and 57, we find that the visual impacts of the construction and operation of the Project will be avoided or minimized to the maximum extent practicable.¹⁹³

d. Land Use and Cumulative Impacts

The Applicant conducted a land use analysis to determine whether the Facility is compatible with existing and proposed land uses and confirm that impacts on land use will be minimized or avoided to the maximum extent practicable.¹⁹⁴ This

¹⁹⁰ Hearing Exh. 33 and 39; Applicant Technical Panel Rebuttal at 11-12.

¹⁹¹ Hearing Exh. 2, Condition 57.

¹⁹² Hearing Exh. 33 and 39; Applicant Technical Panel Rebuttal at 11-12.

¹⁹³ PSL §168(2)(c) and (3)(c).

¹⁹⁴ Hearing Exh. 3-5 (Application Exh. 4, Figures 4-1 through 4-9).

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analysis is set forth in Exhibit 4 to the Application. During this review, the Applicant identified existing and proposed land uses based on publicly available data from publicly available sources, including Greene County GIS resources, as well as from host municipalities and adjacent municipalities within a 2-mile radius of the Facility Site.¹⁹⁵ The Applicant also reviewed land use-related data, including comprehensive plans for the Towns, data relating to specially designated areas (e.g., agricultural districts, flood hazard areas, etc.) and recreational areas and other sensitive land uses (e.g., open space, archaeological, geologic, historical or scenic areas, and the like) and regional planning documents.¹⁹⁶

The operation of the Project is not anticipated to impact land uses outside of the Facility Site itself.¹⁹⁷ The main off-site impacts during Facility operations will be visual impacts from those limited vantage points from which the Facility will be visible. However, the visual impact analysis for the Facility concluded that the overall contrast presented by the Facility is likely to be moderate. In addition, the viewshed analysis affirmed that most Facility visibility would be constrained to the Facility Area itself.¹⁹⁸ DPS Staff testified that, through the Settlement Layout and the Settlement Agreement,

¹⁹⁵ Hearing Exh. 3 (Application Exh. 3 and Appx 4-C, Land Use Outreach Letter); Hearing Exh. 5 (Application Exh. 4).

¹⁹⁶ Hearing Exh. 5 (Application Exh. 4(c), (e), (g)-(i)); Hearing Exh. 3 (Appendix 4-A, Comprehensive Plans, and Figures 4-1 through 4-9).

¹⁹⁷ Hearing Exh. 5 (Application Exh. 4(i)).

¹⁹⁸ Hearing Exh. 5 (Application Exh. 4(i)); Hearing Exh. 3 (Application Exh. 24, Visual Impacts Analysis); Hearing Exhibits 14 and 16.

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the Applicant has avoided, minimized and mitigated impacts to land uses.¹⁹⁹

Witnesses for the Town of Coxsackie testified that the Facility was inconsistent with the Town's Comprehensive Plan.²⁰⁰ The Applicant challenges this procedurally, based on the Town's past actions. Flint Mine notes that, in 2016, Coxsackie adopted solar regulations permitting utility-scale solar uses in areas zoned as Residential Agricultural-2 (RA-2), just as proposed by Flint Mine in this case.²⁰¹ At that time, Flint Mine asserts, Coxsackie was legally required to consider the consistency of that 2016 local law with Coxsackie's Comprehensive Plan, because that Plan was adopted in 2008 and has not been amended since.²⁰² Flint Mine charges that the character of the Town did not change between the passage of the 2016 law and the Town's subsequent 2019 amendments to its local law, which prohibited, and still prohibit, commercial scale solar facilities in areas zoned RA-2.²⁰³ Given this history, Flint Mine asserts that the Town's present claim, that the Project is inconsistent with the Town's Comprehensive Plan, is illogical.²⁰⁴

Flint Mine also challenges the substance of Coxsackie's claim that the Project is not consistent with Coxsackie's Comprehensive Plan.²⁰⁵ Flint Mine argues that the Town's testimony selectively focuses on certain vague and broad

¹⁹⁹ DPS SPSS Testimony at 3-33, 52-53.

²⁰⁰ Coxsackie Panel at 5.

²⁰¹ Applicant Panel at 13; Hearing Exh. 23.

²⁰² Hearing Exh. 46.

²⁰³ Applicant Panel at 13-14.

²⁰⁴ Applicant Panel at 13.

²⁰⁵ Applicant Panel at 14-17.

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statements in the Comprehensive Plan about preservation of rural character and conservation of open space to support its claim that the Project is inconsistent with the Plan. Flint Mine argues that a key element of its proposal is the protection of up to 1,000 acres of open space in the Town of Coxsackie. This will include the proposed protection of Flint Mine Hill as an archeological resource and the proposed conservation of nearly 300 acres of grassland habitat along Flint Mine Road, in exchange for developing approximately 103.6 acres of well-screened vacant land further back from the roadway with PV modules and related components.²⁰⁶ Flint Mine argues that, because it proposes to conserve up to ten times more open space than it seeks to develop for solar electric generation facilities, the Project represents a significant advancement of the Town Comprehensive Plan's open space conservation goals and, therefore, is fully consistent with the Coxsackie's Comprehensive Plan.

Flint Mine also argues that Coxsackie fails to credit those portions of its Comprehensive Plan that emphasize the importance of increased use of alternative energy sources, such as solar, and commits the Town to consider incentivizing renewable development.²⁰⁷ The Applicant also notes that Coxsackie's Plan recognizes the existing utility and transmission land uses within the Town and encourages consideration of shared utility corridors and consolidation of

²⁰⁶ Applicant Panel at 14-17.

²⁰⁷ Applicant Panel at 14-17.

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utility uses along existing utility rights-of-way.²⁰⁸ Inasmuch as this is what Flint Mine proposes to do, Flint Mine argues its proposed use is consistent with Cossackie's Comprehensive Plan.

Cossackie also asserted in testimony that Flint Mine failed to evaluate the cumulative impacts of the Project and another nearby Article 10 solar facility, the Hecate Greene County Solar Facility.²⁰⁹ Flint Mine responds first by arguing that Cossackie is estopped from challenging the scope of Flint Mine's studies relating to cumulative impacts because Cossackie executed pre-application stipulations agreeing to the scope and methodology of studies to be performed by Flint Mine in support of its Application and none of the exceptions raised by Cossackie when it signed the pre-application stipulations related to a cumulative impacts analysis. Therefore, Flint Mine argues, Cossackie cannot now claim that the Application is deficient for lack of a cumulative impacts analysis.

Addressing the substance of this dispute, Flint Mine argues that Cossackie's claims are legally and factually incorrect. First, Flint Mine argues that Article 10 does not per se require applicants to evaluate cumulative impacts. To the contrary, Flint Mine argues, the only textual references to cumulative impacts in both the Article 10 and its implementing regulations involve (1) the evaluation of cumulative air quality

²⁰⁸ Applicant Panel at 14-17. Here again, Flint Mine notes that these already existing electric transmission facilities were a major factor in its decision to propose development of the Project in this particular area.

²⁰⁹ Cossackie Panel at 11-13 (citing Case 17-F-0619, Application of Hecate Energy Greene 1 LLC, Hecate Energy Greene 2 LLC, and Hecate Energy Greene County 3 LLC).

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impacts on environmental justice communities;²¹⁰ (2) a reference to cumulative impacts of construction and operation of related facilities;²¹¹ and (3) one reference to a "cumulative visual impact analysis" in 16 NYCRR §1001.24(a). Therefore, Flint Mine argues, at most the regulations require a cumulative visual impacts analysis of the Project, which Flint Mine argues, it has provided.²¹²

Based on the above, we find Coxsackie's arguments regarding land use impacts to be unpersuasive. Based on this record, we find that the Project as proposed, if constructed and operated in accordance with the terms and conditions under this Order, will avoid, minimize and mitigate land use impacts to the maximum extent practicable.

4. Impacts on Infrastructure-PSL §168(2) (d) and 168(3) (c)

PSL §168(2) (d) requires the Siting Board to make findings regarding the nature of probable environmental impacts of the construction and operation of a facility including impacts on transportation, communication, utilities, and other infrastructure. PSL §168(3) (c) requires a determination that the adverse environmental effects of the construction and

²¹⁰ PSL §§164(1) (g), 168(2) and 168(4) (f); 16 NYCRR §§1000.5(1) (2) (xi) and 1001.17(d) (3)).

²¹¹ PSL §168(2). Flint Mine notes that "related facilities" is defined only in regulations, as "[t]he interconnections, all offsite ancillary facilities, and all onsite and offsite ancillary equipment, including mobile or moveable equipment, associated with the Major Electric Generating Facility." 16 NYCRR §1000.2(aj). Here, Flint Mine argues, it does not propose any "related facilities" as so defined, so the Siting Board need not make any findings regarding such facilities.

²¹² Hearing Exh. 3-5 (Application Exhibit 24/VIA materials); Figure 24-11, Cumulative Viewshed Analysis; Hearing Exh. 48, Response to IR- 1C; Applicant Panel at 36-37.

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operation of the facility will be minimized or avoided to the maximum extent practicable.

a. Transportation

The regulations at 16 NYCRR §1001.25 require, among other things, an applicant to provide a conceptual site plan of all facility site access roads and driveways and an analysis of traffic and transportation impacts related to the construction and operation of the facility. Flint Mine identified the probable impacts to transportation in Exhibit 25 of the Application.²¹³ The Transportation Study Area includes roadways between the Catskill (exit 21) and Coxsackie (exit 21-B of I-87). Roadways in this area include State Route 23 (SR23), US Route 9W (Route 9W), County Route 49/Green Lake Road (Green Lake Rd), Country Route 28 (CR28)/Schoharie Turnpike, and Flint Mine Road. The major connector for this project will be Route 9W, which bisects the Facility Site and runs north/south between exits 21-B and 21 of I-87. I87 and SR23 were not studied in detail in the Transportation Study Area as they currently support large volumes of commercial traffic and the added volumes from this project would be negligible.²¹⁴

Traffic volume and accident data along the listed roadways were analyzed and discussed in Appendix 25-A, which concludes that, because the existing traffic volumes are low to moderate for the identified haul routes, construction and operation of the Project, it is not anticipated to have a significant impact on the traffic volumes within the Facility vicinity. An increase in accident occurrences due to minor

²¹³ Hearing Exh. 3 (Application Exhibit 25).

²¹⁴ Hearing Exh. 3 (Application Appendix 25-A).

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increases in traffic volume is not anticipated.²¹⁵ Therefore, traffic from Facility operations should not appreciably increase daily traffic counts on any of the roadways surrounding the Facility area.²¹⁶

As reflected in the Proposed Certificate Conditions,²¹⁷ Flint Mine will provide SEEP filings to mitigate potential transportation impacts associated with construction and operation of the Facility. The SEEP Guide requires the Certificate Holder to provide to the Secretary copies of any required Road Use Agreements, utility crossing agreements, a Route Evaluation Study, and a Traffic Control Plan. Also, as required by section B.7 of the SEEP Guide, the Certificate Holder shall not permit construction vehicles or construction equipment to park or idle at public roadside locations for extended periods of time.²¹⁸

Proposed Certificate Condition 62 requires the Certificate Holder to hold a preconstruction meeting with agencies, including the New York State Department of Transportation (NYSDOT), Town supervisors, highway departments, and local first responders, and to provide maps showing designated travel routes, construction worker parking and access road locations and a general facility schedule.²¹⁹

Proposed Condition 70 requires the Certificate Holder to comply with all local laws regarding construction noise

²¹⁵ Hearing Exh. 3 (Application Appendix 25-A).

²¹⁶ Hearing Exh. 3 (Application Exhibit 25).

²¹⁷ Hearing Exh. 2 (Certificate Condition 26).

²¹⁸ Hearing Exh. 2 (SEEP Guide).

²¹⁹ Hearing Exh. 2 (Certificate Condition 62).

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(unless they are waived), to maintain functioning mufflers on vehicles and machinery used during construction, and to respond to noise and vibration complaints according to protocols established in the Complaint Resolution Plan.²²⁰

b. Communications

The Article 10 regulations, codified at 16 NYCRR §1001.26, require all applications to include analyses and a discussion of potential impacts to communication systems. This information is included in Application Exhibit 26.²²¹ A Communications Study prepared on behalf of the Applicant is included as Appendix 26-A. This study identified three tower structures and 37 communication antennas (4 microwave transmission antennas, and 33 land mobile antennas) within two miles of the Facility and the associated interconnection. Half of the land mobile services in the area are associated with local services, such as emergency response, school districts, highway departments, and police stations. The other land mobile antennas are associated with commercial uses, such as CSX Rail, electric and gas utility owners, telecommunications companies, and others. Also, according to the study, there is no research conducted to date that indicates utility-scale solar generation facilities interfere with or otherwise affect communication systems, as the Facility lacks tall structures and does not have exposed moving parts.

The PV arrays generate weak electromagnetic fields (EMFs) during the day that dissipate at short distances. The EMFs are generated in the same low frequency range as electrical

²²⁰ Hearing Exh. 2 (Certificate Condition 70).

²²¹ Hearing Exh. 3 (Application Exhibit 26).

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appliances and wiring found in most homes and buildings. Therefore, the Project is not expected to have any material impact on communication systems related to AM/FM radio, television, telephone, microwave transmission, military or civilian radar, air traffic control, armed forces, global positioning system (GPS), long-range navigation (LORAN) system, amateur radio, or the NYS Mesonet system.²²²

If the Facility does impact communications systems, Certificate Condition 40 requires the Applicant to take appropriate steps to review and respond to related complaints. Certificate Condition 40 requires the Certificate Holder to submit a "Final Complaint Resolution Plan" and imposes other requirements for complaint reporting and resolution procedures.²²³

c. Utilities

Among other things, the Article 10 regulations require that applications include discussions of conformance with Public Service Commission requirements and plans to avoid interference with existing utility systems.²²⁴ The Applicant has identified the location of two transmission corridors with lines owned by National Grid that will require crossing agreements. There is a significant 345kV corridor owned by National Grid that runs through the northern portion of the Facility Area on the western side of 9W before crossing 9W to the eastern portion of 9W in Athens. National Grid also owns two 115kV transmission lines on the eastern side of 9W, which the Facility has proposed to

²²² Hearing Exh. 3 (Application Exhibit 26).

²²³ Hearing Exh. 2 (Certificate Conditions).

²²⁴ 16 NYCRR §1001.12. Hearing Exh. 3 (Application Exhibit 12).

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interconnect. Although Central Hudson does not own any transmission lines in the area, it does own distribution lines that run through the Facility Area. There are multiple underground crossings proposed beneath the distribution lines. Finally, the Champlain Hudson Power Express Line, is proposed to be installed within the CSX right of way (ROW) which is located east of the Facility Area. However, it is not anticipated that the construction of the Facility would require any work within the CSX ROW. Pursuant to the SEEP Guide, post-certificate filings shall include copies of any crossing agreements with utility companies. Also, the SEEP Guide requires the submission of proof that details and methods of construction are approved by owners of existing utilities subject to co-locations or crossings by proposed facilities.²²⁵

Proposed Certificate Condition 65 requires the Certificate Holder to comply with the requirements of the Commission's regulations regarding the protection of underground facilities²²⁶ and also requires that, prior to commencement of operations, the Certificate Holder must become a member of the Dig Safely New York system.²²⁷ Additionally, Certificate Condition 67 requires the Certificate Holder to comply with all requirements of the Commission's regulations regarding identification and numbering of aboveground utility poles.²²⁸

We therefore find that the probable transportation, communications, and utility impacts from construction and

²²⁵ Hearing Exh. 2 (SEEP Guide).

²²⁶ 16 NYCRR Part 753.

²²⁷ Hearing Exh. 2 (Certificate Condition 65).

²²⁸ 16 NYCRR Part 217; Hearing Exh. 2 (Certificate Condition 67).

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operation of the Facility have been identified and will be minimized to the greatest extent practicable.²²⁹

5. Decommissioning, Site Restoration, and Financial Security

Article 10 requires every applicant to provide a plan for the decommissioning and restoration of the facility site, including how such decommissioning and site restoration shall be funded and a schedule for the conduct of decommissioning and site restoration activities. This information is included in Application Exhibit 29.²³⁰

Certificate Condition 39 includes detailed requirements for decommissioning and site restoration, including financial assurance requirements and obligations regarding submission of estimates and financial agreements.²³¹ Certificate Condition 39 requires the Certificate Holder to file a final Decommissioning and Site Restoration Plan with the Secretary. The final plan must include a decommissioning and site restoration estimate based on final design of the Project and a description of procedures and timeframes for providing written notice to the Towns of Athens and Coxsackie, DEC, and host and adjacent landowners, of planned decommissioning and site restoration activities prior to commencement of those activities.

Certificate Condition 39 requires the Applicant to restore agricultural lands according to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction mitigation for Agricultural lands

²²⁹ PSL §168(2)(d).

²³⁰ Hearing Exhibit 3.

²³¹ Hearing Exh. 2 (Certificate Condition 39).

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(Revision 10/18/2019).²³²

Certificate Condition requires the Certificate Holder to provide financial assurances for decommissioning which must be in the form of letters of credit, to be held by the Towns of Athens and Coxsackie. The letters of credit must be based on the final overall decommissioning and site restoration estimate (exclusive of project salvage value). That estimate must be updated to reflect inflation (and any other changes), and must be submitted to the Secretary after one year of operation and every fifth year thereafter. Certificate Condition 39 also requires the Certificate Holder to file with the Secretary proof that the letters of credit have been obtained in the required amount, along with copies of agreements between the Certificate Holder and the Towns of Athens and Coxsackie, demonstrating the right of those Towns to draw upon the financial security for decommissioning purposes.²³³ The terms of Certificate Condition 39 are generally consistent with conditions imposed by the Siting Board in prior orders.

Based on the above, we find that the adverse environmental effects of the construction and operation of the facility related to decommissioning and site restoration will be minimized or avoided to the maximum extent practicable.²³⁴

E. Environmental Justice – PSL §168(2)(a) and (3)(d)

PSL §168(2)(d) requires that the Siting Board make explicit findings regarding the cumulative impact of emissions on the local community, including whether the construction and

²³² Hearing Exh. 2 (Certificate Condition 39).

²³³ Hearing Exh. 2 (Certificate Condition 39).

²³⁴ PSL §168(3)(c).

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operation of a facility would result in a significant and adverse disproportionate environmental impact to an environmental justice (EJ) area. This required finding must be made in accordance with the environmental justice regulations promulgated by DEC at 6 NYCRR Part 487 (Part 487).

In accordance with the provisions of 6 NYCRR §487.5, an applicant must determine whether the impact study area for a project contains an EJ area. The impact study area must, at a minimum, encompass the geographic area within a one-half mile radius around the proposed location of the facility. As set forth at 6 NYCRR §487.5(e), if an EJ area is not present within the impact study area, the applicant is not required to undertake a full environmental justice analysis. If an EJ area is present within the impact study area, the applicant must undertake a full EJ analysis in compliance with the requirements of 6 NYCRR §487.²³⁵

Here, the Applicant evaluated an impact study area within a one-half mile radius around the Facility Site. Using 2014-2018 American Community Survey (ACS) census data, the Applicant identified two U.S. census block groups within the impact study area that qualified as EJ areas. The first, census tract 808, occurs 0.3 miles north of the Facility Site, bordering the Village of Coxsackie, and exclusively contains the incarcerated populations within both the Coxsackie Correctional Facility and the New York State Department of Corrections Greene Correctional Facility. The second, census tract 809, is located 0.3 miles southwest of the Facility Site bordering the New York State Thruway to the west, in the Town of Athens. Although the

²³⁵ 6 NYCRR §487.5(d).

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population in census tract 809 is approximately 25 percent low income, the Applicant determined that no residences were located within that portion of the census block located in the applicable EJ study area.²³⁶

Given the absence of residences within the portion of census block 809 that is located in the EJ study area for the Facility, the Applicant did not include a full environmental justice analysis for that census block.²³⁷

With respect to avoidance, minimization, and mitigation measures, the Applicant stated that the Facility is not anticipated to create any disproportionate environmental impacts to the EJ areas identified in the impact study area. The Applicant noted that the Facility will not generate odor or significant noise that might adversely impact those living around the Facility, and the Facility is not anticipated to be visible, audible, or otherwise noticeable for the persons residing in the EJ areas identified above. The Applicant further noted that the Facility presents an opportunity to generate electricity in a clean manner, without contributing to air or water pollution in these EJ areas, or elsewhere in the community. Because no adverse impacts are anticipated, the Applicant proposed no further avoidance, minimization, or mitigation measures.²³⁸

The Applicant argues that given the lack of environmental impacts to persons residing in the identified EJ areas -- a population that is limited to those persons

²³⁶ Hearing Exhibit 3, Application Exhibit 28 at 1-3.

²³⁷ Hearing Exhibit 3, Application Exhibit 28 at 3.

²³⁸ Hearing Exhibit 3, Application Exhibit 28 at 3.

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incarcerated at the two State prisons -- the Siting Board can find under PSL §168(3)(d) that no disproportionate environmental impacts from the Facility are anticipated to occur on either of the potential EJ communities.²³⁹ DPS Staff reviewed the Applicant's evaluation of potential environmental justice issues and concluded that the Facility is not expected to have any environmental justice impacts.²⁴⁰ No party challenged or objected to the Applicant's analysis of the environmental justice issue.

Based upon our review of the record, we conclude that the proposed project would not result in a significant and adverse disproportionate environmental impact to an environmental justice area.

F. State and Local Laws and Regulations – PSL §168(2)(d) and (3)(d)

PSL §168(3)(e) addresses the applicability of State and local law requirements to the construction and operation of a proposed major electric generating facility under Article 10. It requires the Siting Board to find that the facility is designed to operate in compliance with all applicable State and local laws and regulations concerning the environment, public health and safety, all of which are binding on the applicant.²⁴¹ With certain limited exceptions, State and local procedural requirements for solar facilities are preempted, including any local approval, consent, permit, certificate, or other condition

²³⁹ Flint Mine Solar Initial Brief at 74.

²⁴⁰ DPS Staff Initial Brief at 37.

²⁴¹ PSL §168(3)(e).

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for construction and operation of a facility.²⁴²

We may elect not to apply, in whole or in part, a substantive local environmental or public health and safety requirement if we find that, as applied to the proposed facility, it is unreasonably burdensome in view of the technology or the needs of, or costs to, ratepayers whether located inside or outside of the municipality in which the facility is located.²⁴³ An applicant may seek a waiver of a local substantive requirement and has the burden of justifying its request by showing “the degree of burden caused by the requirement, why the burden should not reasonably be borne by the Applicant, that the request cannot reasonably be obviated by design changes to the proposed facility, the request is the minimum necessary, and the adverse impacts in granting the request are mitigated to the maximum extent practicable.”²⁴⁴ Thus, we may elect not to apply, in whole or in part, any otherwise applicable local requirement if we find that it is unreasonably burdensome.²⁴⁵

1. State Law

The discussion of issues elsewhere in this Order supports our finding that, subject to appropriate Certificate Conditions and SEEP Guide, the construction and operation of the Facility would comply with applicable State laws and regulations.

2. Local Laws

The Application identified a list of substantive local

²⁴² PSL §172(1); 16 NYCRR §1001.31(a).

²⁴³ PSL §172(1); 16 NYCRR §1001.31(a).

²⁴⁴ 16 NYCRR §1001.31(e).

²⁴⁵ PSL §168(3)(e).

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ordinances and laws that the Applicant is requesting the Siting Board waive pursuant to PSL §168(3)(e) because their application to the Facility would be unreasonably burdensome. In connection with the proposed Settlement Layout, the Applicant provided an updated analysis of local law compliance, which was largely unchanged except that the Applicant identified a small number of local law provisions for which additional waivers from the Siting Board were needed.²⁴⁶

Both Towns raised potential issues in direct testimony regarding the Settlement Layout's compliance with local laws. The Town of Athens questioned whether the Settlement Layout complied with Town lot coverage requirements, agricultural buffers, grade of access driveways, and construction on steep slopes.²⁴⁷ The Applicant then clarified that the Project meets the Town of Athens' lot coverage requirements²⁴⁸ and complies with the Town's agricultural buffer requirements.²⁴⁹

The Applicant seeks waivers of certain sections of the Athens access driveway grade and steep slopes requirements.²⁵⁰ The Applicant believes these issues have been resolved with the Town.

In its testimony, the Town of Coxsackie raised a potential issue regarding the Settlement Layout's compliance with setbacks, buffer requirements and lot coverage.²⁵¹ In

²⁴⁶ Hearing Exh. 14, Settlement Layout Memo.

²⁴⁷ Direct Testimony of Tighe Bond at 3 and 8.

²⁴⁸ Applicant Rebuttal Panel at 7; Hearing Exh. 21.

²⁴⁹ Applicant Technical Panel at 9.

²⁵⁰ Applicant Technical Panel at P6, L9 through P9, L2; Hearing Exhs. 28-29.

²⁵¹ Coxsackie Panel at 8-9.

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rebuttal testimony, the Applicant confirmed that the Facility complies with local setbacks (except with respect to a National Grid parcel for which the Applicant sought a waiver in Exhibit 31 of the Application).

Flint Mine Solar requests that the Siting Board authorize both Towns to exercise their authority under local law to issue ministerial permits and/or dispense with ministerial permits through execution of Road Use Agreements with the Applicant for permits related to streets, driveways, and local roads (Hearing Exh. 3, Application Exh. 31(b)). This would allow the Towns to either impose existing permitting requirements and local ordinances or enter into Road Use Agreements in lieu of highway work permit applications and the application of substantive road use and maintenance laws. Thus, to the extent the Towns have such road-use related local laws, the Applicant requests Siting Board authorization for local oversight of such ministerial approvals, to the extent they are applicable in this case.

Local Law Waivers

The Applicant requests that the Siting Board waive the following local laws and ordinances, on the ground that requiring compliance with such local requirements would be unreasonably burdensome:

Town of Coxsackie Code:

- (1) Section 167-6(B) (1)-(2) use restriction
- (2) Section 167-6(C) (4) (b)'s setback requirement (only as applied to a parcel owned in fee by National Grid)
- (3) Section 167-6(B) (5) lot coverage
- (4) Section 167-6(C) (4) (d) fencing requirements, as applied to substations

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- (5) Section 167-6(C) (4) (e) buffer inside fence line
- (6) Section 167-6(C) (4) (q) on burial of lines
- (7) Section 167-6(C) (4) (t) on height, as applied to substations
- (8) Section 167-6(F) (2) - (3) decommissioning timelines
- (9) Section 201-48(A) watercourse buffers

Town of Athens Code:

- (1) Section 180-52(D) (4) (a) 's setback requirement (only as applied to a parcel owned in fee by National Grid)
- (2) Section 180-52(D) (7) decommissioning timelines
- (3) Section 180-29(G) 's maximum grade of access drives and parking areas
- (4) Section 180-32(D) - (E) provisions on steep slopes

The Applicant's justification for these waivers is set out in Application Exhibit 31, the Settlement Layout Memorandum, and in the Applicant's rebuttal testimony.²⁵² What follows is a summary of the salient points of the disputed matters relating to compliance with, or the waivers of, local laws as applied to the Project.

Town of Coxsackie-Use Restriction

Utility scale solar collector systems are a permitted use only within the Town's Commercial District and its Industrial District. Under Flint Mine's proposed settlement layout, the Project is wholly within the Town's Residential Agricultural-2 district and is not a permitted use under local

²⁵² Hearing Exh. 3 (Application Exh. 31); Hearing Exh. 14, 22, 26-29, 41; Applicant Technical Panel at 4-8; Applicant Panel at 7-34.

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law. (Hearing Exh. 3, Application Exh. 31 and Figure 4-5; Hearing Exhs. 26-27). As a result, absent a waiver of this local law, the Project cannot be constructed.

Flint Mine argues that, given the clean energy mandates under the CLCPA and the CES, the Cocksackie zoning law is unreasonably burdensome in view of existing technology, costs, economics, and/or consumer needs. The Applicant cites a prior Siting Board decision stating that a local law preventing construction of a Facility is per se unreasonably burdensome. Case 17-F-0597, High River Energy Center, Order Granting Certificate of Environmental Compatibility and Public Need, With Conditions (issued March 11, 2021), at 110.

Flint Mine also points out that the Siting Board has waived compliance with local law where the locality has not raised any valid substantive objections to the requested waiver and the Applicant's "design adequately reflects the balancing of competing interests that is both characteristic of such projects and consistent with Article 10's overall intent." Id. at 110. Here, Flint Mine argues, the record supports the requested waiver and the Town of Cocksackie has not raised any substantive objection thereto.

Cocksackie argues that it is a small rural and historic Town with a valid local zoning law limiting the siting of commercial-scale solar energy generating facilities to lands zoned as Commercial and Industrial Districts. This local law, Cocksackie asserts, is a valid exercise of the Town's police powers, and serves the important purpose of protecting the Town's agricultural areas and landscapes. If built as proposed, Cocksackie argues, the Project would be inconsistent with the rural character of the Town and would therefore cause

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irreparable harm to the Town.²⁵³

The Town charges that Flint Mine has not shown that requiring compliance with the Town's use restriction would be unreasonably burdensome. First, Cossackie denies that it has wholly prohibited the Flint Mine project. Rather, Cossackie argues, its zoning law limits the size of the Flint Mine project to the amount of lands potentially available within the Town's Industrial and Commercial Districts. The mere fact that Flint Mine proposes a project larger than the lands potentially available, Cossackie argues, does not justify waiving compliance with the Town's zoning law when there are other Towns in the State that can host such a facility. Because Flint has not shown that the Project must be built in this particular Town, Cossackie argues, the record does not support a finding that requiring compliance with the local zoning law would be unreasonably burdensome.²⁵⁴

Flint Mine responds that the record supports a determination from the Siting Board that the Project meets the requirements of PSL §168 and that the substantive provisions of local law for which the Applicant has sought a waiver are unreasonably burdensome. Flint Mine also asserts that Cossackie has not introduced any competent evidence to the contrary. Flint Mine argues the record demonstrates that the Project area does not have an agricultural character and that the lands within the Project area are not viable for agricultural uses.²⁵⁵

²⁵³ Cossackie Direct at 5-8.

²⁵⁴ See Cossackie Direct at 8 (Cossackie is not the only Town in which solar projects can be sited in this State).

²⁵⁵ Hearing Exh. 3, Application Appx. 4-B; Hearing Exhs. 48, 58, and 60.

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Flint Mine points out that the Project site already hosts existing high-voltage transmission infrastructure, and the local zoning requirements are inconsistent with achieving the stated goals in the CLCPA and other State renewable energy policies.

More generally, Flint Mine argues that allowing the Town to enforce what amounts to a local ban on renewable energy development would be unreasonable because it would encourage other municipalities to adopt similar local laws which would be inconsistent with State law and policies. Flint Mine argues that the Siting Board cannot allow local municipalities to erect hurdles preventing renewable energy developers from gaining access to pre-existing high-voltage transmission infrastructure. Such access is needed in order to interconnect new renewable energy projects to the State's electric grid. The State cannot meet its CLCPA targets, Flint Mine argues, if localities are, in effect, allowed to prohibit renewable energy projects within their borders.²⁵⁶

The Town of Athens Local Laws

The Applicant has clarified that the Project meets the Town of Athens' lot coverage requirements²⁵⁷ and complies with the Town's agricultural buffer requirements.²⁵⁸ Therefore, those requested waivers are moot. Flint Mine also seeks a waiver of Athens' local laws establishing minimum grade requirements for

²⁵⁶ In this case, Flint Mine asserts, the Town of Coxsackie responded to local objections to another proposed solar facility by amending its local zoning law in a way that, if enforced, would prohibit the Flint Mine Project. Applicant Initial Brief at 81.

²⁵⁷ Applicant Rebuttal Panel at 7; Hearing Exh. 21.

²⁵⁸ Applicant Technical Panel at 9.

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access driveways and parking lots, as well as local laws regulating construction activity on lands having steep slopes.²⁵⁹

Maximum Grades for Access Driveways and Parking Areas

Under section 180-29 of the Athens Town Code, access driveways must have a grade of no more than 8% and parking areas must have a grade of no more than 3%. As proposed under the Settlement Layout, grading of certain access drives would be necessary to comply with this local law. Specifically, access drives 1, 5, 5-1, 6, 6-2, 7, and 12 have grades greater than 8%. With respect to these particular access drives, Flint Mine seeks a waiver because these driveways will be used primarily during construction and will be used only infrequently after construction is finished. Also, Flint Mine reviewed the Project's access driveway design with the Town of Athens Highway Superintendent and the West Athens Limestreet Fire Chief and neither of those officials expressed concern with the proposed access driveway grades.²⁶⁰ Flint Mine argues that, under these circumstances, requiring compliance would be unduly burdensome.

In addition, there are some temporary parking areas that will be used during Project construction that have an existing grade of greater than the 3% grade permitted under provisions of the Town of Athens Code that govern parking lots. Here again, Flint Mine seeks a waiver because it does not intend to grade these temporary parking areas. Instead Flint Mine proposed to leave them undisturbed, to limit ground disturbance that would itself create increased risks of runoff and, potentially, surface water impacts. Flint Mine argues the local

²⁵⁹ Direct Testimony of Tighe Bond at 3 and 8.

²⁶⁰ Hearing Exh. 14, Settlement Layout Memorandum, at 5.

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law was intended for permanent parking areas and does not apply to the temporary parking areas in question. Even if applicable, Flint Mine argues, a waiver of this requirement will mitigate environmental impacts by avoiding the need to grade these areas merely for the purpose of compliance.²⁶¹

Construction on Steep Slopes

The Athens Zoning Code, Sections 180-32(D) and (E), prohibit development, grading, and vegetation stripping on parcels that feature "steep slopes" as defined under the Town Code.²⁶² For such parcels, a local variances is required for roadway or utility crossings. Unless waived, this local law would apply to three Facility parcels comprising a total of approximately 150 acres.²⁶³ The area to be actually affected, however, is only 0.5 acres, where there will be soil disturbance on slopes greater than 25% (in connection with access driveways and collection lines).²⁶⁴ In any event, the Applicant does not propose vegetation stripping on these steep slopes.

Flint Mine argues a waiver is warranted because requiring compliance would be unreasonably burdensome due to technical infeasibility and impossibility.²⁶⁵ Flint Mine asserts it has avoided or minimized any disturbance on steep slopes to the maximum extent practicable but cannot redesign the Project

²⁶¹ Id.

²⁶² This requirement applies to any parcel that falls, in whole or in part, on a parcel containing more than 10% of the total acreage in slopes 15% or greater. Hearing Exh. 3 (Application Exh. 31); Applicant Technical Panel at 6.

²⁶³ Applicant Technical Panel at 6.

²⁶⁴ Id.

²⁶⁵ Flint Mine Initial Brief at 97.

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layout to avoid all disturbance of slopes of 25% or greater.²⁶⁶ For this reason, Flint Mine argues, the waiver is needed for construction of a necessary collection line between the involved PV module segments.²⁶⁷ The Applicant will implement best management practices to ensure that the adverse impacts of this needed work are mitigated to the maximum extent practicable.²⁶⁸ For these reasons, Flint Mine argues, it has demonstrated that compliance with this local requirement is unreasonably burdensome and the requested waiver should be granted.

DISCUSSION

The Town of Coxsackie does not dispute that the Town's local zoning law would prohibit the Project as proposed. The Town's argument, that the local law is not unreasonably burdensome because Flint Mine could build a smaller facility or find another Town to host the Project, is not persuasive. The Town's reasoning is inconsistent with Article 10 and would frustrate the siting of the Project. We find that requiring compliance with the Coxsackie local laws identified in the Application and the settlement materials would be unreasonably burdensome. Therefore, the requested waivers of Coxsackie's local laws are granted.

With respect to the requested waivers of the local laws of the Town of Athens, Flint Mine has demonstrated that requiring compliance with the Town of Athens' local laws would be unreasonably burdensome. We therefore grant Flint Mine's

²⁶⁶ Applicant Technical Panel at 7.

²⁶⁷ Id.

²⁶⁸ Id.

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requested waivers of the local laws of the Town of Athens.

IV. CONCLUSION

Based on the record before us, the arguments of the parties, and all applicable laws and policies, we grant the Certificate of Environmental Compatibility and Public Need to the Applicant, subject to the Certificate Conditions attached to this Order as Appendix A.

The Board on Electric Generation Siting and the Environment orders:

1. This Order constitutes the decision of this Siting Board in this proceeding.
2. Subject to the conditions set forth in this Order and appended to it, a Certificate of Environmental Compatibility and Public Need is granted, pursuant to Article 10 of the Public Service Law, to Flint Mine Solar, LLC, for the construction and operation of a solar generating facility with a capacity of 100 megawatts, consisting of utility-scale arrays of photovoltaic solar generating panels located on private land, either leased or purchased from the landowners, and associated facility components to be located in the Towns of Coxsackie and Athens, New York, and connecting to the existing LaFarge to Pleasant Valley 115 kV transmission line and the Feura Bush to North Catskill 115 kV transmission line, both of which are owned and operated by National Grid, provided that Flint Mine Solar, LLC, files a written acceptance of the Certificate pursuant to 16 NYCRR §1000.15(a) within 30 days after the date of issuance of this Order or within 30 days after the issuance of the Siting Board's final decision upon a petition for a rehearing, if any.

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3. Upon acceptance of the Certificate granted in this Order or at any time thereafter, Flint Mine Solar, LLC, shall serve copies of its compliance filings in accordance with the requirements set forth in 16 NYCRR §1002.2(c) and applicable Certificate Conditions. Pursuant to 16 NYCRR §1002.2(d), interested persons and parties may file comments on any compliance filing within 21 days after its service date.

4. Prior to the commencement of construction, Flint Mine Solar LLC, shall comply, to the extent required by law, with those requirements of Public Service Law §68 that do not relate to the construction and operation of the Facility.

5. If Flint Mine Solar, LLC, decides not to commence construction of the Project or any portion of the Project, it shall so notify the Secretary in writing within 30 days after making such decision and shall serve a copy of such notice upon all parties and all entities entitled to service of the application or notice of the application.

6. If the Certificate Holder believes that any action taken, or determination made, by a State or municipal agency in connection with this Certificate is unreasonable or unreasonably delayed, it may petition the Siting Board, upon reasonable notice to that agency, to seek a resolution of any such unreasonable or unreasonably delayed action or determination. Such agency may respond to the petition, within five business days, to address the reasonableness of any requirement or delay.

7. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, include a justification for the extension, and be filed at least three days prior to the affected deadline.

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8. This proceeding is continued.

By the New York State Board
on Electric Generation Siting
and the Environment,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

APPENDIX A**GUIDANCE FOR THE DEVELOPMENT OF SITE ENGINEERING AND ENVIRONMENTAL PLAN FOR THE CONSTRUCTION OF FLINT MINE SOLAR PROJECT**

The proposed Flint Mine Solar Project requires the submission of a Site Engineering and Environmental Plan (SEEP). The SEEP is intended to meet the requirements of New York State Code of Rules and Regulations 16 NYCRR Section 1002.3 and 1002.4 and describe in detail the final Facility design and the environmental protection measures to be implemented during construction of the Flint Mine Solar Project (Facility). The SEEP shall include a description of existing and proposed conditions at the Facility, plan and profile drawings illustrating the linear and non-linear components of the Facility, construction access and clearing requirements, protective measures for streams, wetlands, and protected habitats, identification of sensitive receptors, agricultural lands, and protocols to protect previously unknown cultural resource sites during construction.

The SEEP is not intended to be a reiteration of the materials contained in the Application, but instead is intended to demonstrate compliance with the construction avoidance, minimization and mitigation measures, as described in the Application and as clarified by the Certificate Holder's supplemental filings, the Order Granting Certificate and the Certificate Conditions.

For reference, the SEEP will include a table outlining the specific Certificate Conditions incorporated into the SEEP with references to the section of the SEEP where those conditions may be found.

This SEEP guide includes the minimum requirements for the specific Certificate Conditions incorporated into the SEEP. The Certificate Holder's adherence to this guide will be achieved to the maximum extent practicable. Any deviation from the relevant and applicable requirements of the SEEP Guide attached to this order shall be justified in the SEEP and shall be subject to approval by the Siting Board as applicable.

Definitions

Adjacent or Contiguous: located on the same parcel of real property or on separate parcels of real property separated by no more than 500 feet, except for those areas adjacent to wetlands.

Linear Facility Components: electric transmission lines, electric collection or distribution lines, and temporary or permanent access roads, and fencing.

Non-Linear Facility Components: solar array PV modules, collection substation and point of interconnection switchyard, energy storage, inverters, storage facility, visual mitigation plantings, and staging/laydown area(s).

Facility Area: All parcels or portions of parcels under the Applicant's control that have been evaluated during development of the project, as well as any parcels or portions of parcels being considered for conservation, mitigation, or open space.

Facility Site: All areas where construction activities may occur (also called Limit of Construction Activity).

Facility Components: Linear Facility Components and Non-Linear Facility Components.

Section A – Plans, Profiles and Detail Drawings

Section A of the following Site Engineering and Environmental Plan (SEEP) addresses the requirements for development of final Facility engineering details; site plans for construction, restoration, visual mitigation plantings, and environmental control measures; plan and profile drawings of the development site and Facility components; and maps of the Facility Area and the overall Facility setting as appropriate to demonstrate compliance with the Certificate of Environmental Compatibility and Public Need for the Flint Mine Solar Project.

Plan sheets will be submitted showing the location and design details for all Facility components, including: linear facilities such as electric collection lines, transmission lines and associated access roads, communications lines, and all temporary and permanent access roads, staging/laydown areas, and fencing. Plans shall also indicate the location and size of all major structures, features and buildings, collection substation, point-of-interconnection switchyard, including associated access roads, visual mitigation plantings, and the limits of disturbance for work area associated with any component of the Facility. Plans shall include plan-view drawings or photo-strip maps, and illustrations including but not limited to all of the following information:

1. Plan, Profile, and Elevation Details

PV modules and Related Non-Linear Components:

For all proposed PV modules and other Non-Linear Facility components, the Certificate Holder shall provide site plans, elevations, and detail drawings (scale minimum 1 inch = 200 feet)¹ showing:

- a. Locations of existing utility infrastructure based on an American Land Title Association (ALTA) survey.
- b. Details and specifications of the selected PV module model(s).
- c. Foundation drawings including plan, elevation, and section details for each foundation type proposed; if multiple foundation designs are to be utilized for the Facility, the foundation type at each location shall be specified on site plans; applicable criteria regarding foundation design shall be listed and described in the drawings and details.
- d. Details showing limits of construction activity (LOCA), limits of vegetation management (LOVM), and temporary grading and permanent grading details based on the Stormwater Pollution Prevention Plan (SWPPP) should be indicated.
- e. Details showing the location and specific vegetation type to be planted at each designated visual mitigation area in accordance with the specifications and planting layout depicted in the Final Visual Mitigation Planting Plan (VMPP) as prepared by the Applicant's Landscape Architect. A distinct, site-specific VMPP will be developed and implemented

¹ Contour lines at appropriate scale are desirable on the plan view or photo-strip map if they can be added without obscuring the required information.

at each designated visual impact area.

- f. The location and boundaries of any areas proposed to be used for fabrication, designated equipment parking, staging, access, lay-down, conductor pulling and splicing; or other materials preparation or processing sites; operations and maintenance buildings, yards and equipment storage areas. Indicate any planned fencing, surface improvements or screening of storage and staging areas. Demonstrate setback distances appropriate to Facility design; and conformance with applicable requirements of the Certificate or local requirements.
- g. Maps showing the location for an operations and maintenance (O&M) (or storage facility) building, if proposed to be located on-site. If new building is to be constructed on-site, the Certificate Holder shall provide the final building details and construction drawings prior to construction. Plans for the building property indicating: zoning designation; compliance with use and area requirements, and setbacks to property lines; access, employee parking, building details, exterior lighting details; any outdoor storage areas, fencing and signage; water source and sewage disposal facilities (if applicable); and related site development information. This information may be submitted after Commencement of Construction (as that term is defined in the Certificate Conditions) of the Facility, in which case a plan for the timing of the submission of the building details and construction drawings will be provided.
- h. The locations or descriptions of locations for concrete chute washout and any other cleaning activities (e.g. equipment cleaning for control of invasive species).
- i. General concrete testing procedures including a plan outlining the Certificate Holder's monitoring and testing of concrete procedures in conformance with the NYS Uniform Code.

Linear Facility Components:

For all Linear Facility Components including: electric transmission lines, medium voltage electric collection or distribution lines, and access roads, site plan and profile figures shall include profile drawings of linear components' centerline; for medium voltage collection lines (whether above ground or underground) plans shall include sample Line² Profiles (at an appropriate scale) and plan drawings (scale minimum 1 inch = 200 feet) showing:

- a. *Collection System Medium Voltage Circuits Map* for the collection substation and collection line circuits' configuration and location, indicating locations of all overhead and underground installations and the number of required circuits per circuit-run.
- b. Final design and details of single and multiple electric circuit underground medium voltage

² The lowest conductor of an overhead electric transmission, collection or distribution facility design shall be shown in relation to ground elevation at the maximum permissible conductor temperature for which the line is designed to operate, i.e., normally the short-time emergency loading temperature specified by the New York Independent System Operator. If a lesser conductor temperature is used for the line profile, the maximum sag increase between the conductor temperature and the maximum conductor temperature shall be indicated for each ruling span. For underground Project design, show relation of Project to final surface grade, indicating design depth-of-cover.

- collection lines. Each medium voltage circuit layout (single, double, triple, etc.) shall include a cross-section and clearing and ROW widths needed for accommodating circuit installations. Typical cross-sectional detail should include the proposed topsoil stripping, stockpile segregation from subsoils, and typical equipment access.
- c. Final details of overhead electric collection line layouts. Each Project circuit layout (single, double, triple, etc.) shall include typical elevation details for all overhead structures, proposed guying, and associated clearing.
 - d. Final details of typical Direct Current (DC) PV Source and PV Output circuits including the maximum number of circuits per bundle, typical spacing and separation requirements, and typical elevation details for rack-integrated and messenger supported wiring.
 - e. The boundaries of any new, existing, and/or expanded utility right-of-way or road boundaries, and where linear Facility lines or cables are to be constructed overhead or underground; plus, any areas contiguous to the Facility or street within which the Certificate Holder will obtain additional rights.
 - f. The location of each Facility structure (showing its height, material, finish and color, and type), structural foundation type (e.g., concrete, direct bury) and dimensions, fence, gate, down-guy anchor, and any counterpoise required for the Facility (typical counterpoise drawings will suffice recognizing that before field testing of installed structures the Certificate Holder may be unable to determine the specific location of all required counterpoise), conductors, insulators, splices, and static wires and other components attached to Facility structures.
 - g. Each Facility access road will be identified by a unique name designation. Each access road will be shown on a scaled drawing indicating the width used during construction and the proposed width post-construction on the restoration plan. Temporary and permanent cut and fill contours for each road shall also be shown at two-foot contours. Access controls such as gates shall be indicated, with typical or specific design indicated as applicable to individual sites, and identifying construction and material details of gates, berms, and associated plantings, if applicable.
 - h. Discuss the types of access roads or paths that will be used including consideration of:
 - i. temporary installations (e.g., corduroy, mat, fill, earthen road, geotextile underlayment, gravel surface, etc.);
 - ii. permanent installations (e.g., cut and fill earthen road, geotextile underlayment, gravel surface, paved surface, pervious gravel, etc.);
 - iii. use of existing roads, driveways, farm lanes, rail beds, etc.; and,
 - iv. other access, e.g., temporary laydown and parking areas .
 - i. For each temporary and permanent access type, provide a typical installation plan view, cross section and side view with appropriate distances and dimension and identification of material. Where existing access ways will be used, indicate provisions for upgrading for Facility construction. Identify any planned or proposed future access to sites and lands within or adjacent to the access road(s) and landowner requested improvements (e.g.,

- access roads across linear features such as wires, pipes, or conduits).
- j. Indicate the associated drainage and erosion control features to be used for access road construction and maintenance. Provide re-vegetation materials specifications. Provide diagrams and specifications (include plan and side views with appropriate typical dimensions) for each erosion control feature to be used, such as:
- i. check dam (for erosion control within ditches);
 - ii. water bar (for water diversion across the access road);
 - iii. roadside ditch with turnout and sediment trap;
 - iv. French drain;
 - v. diversion ditch;
 - vi. culvert (including headwalls, aprons, etc.);
 - vii. sediment retention basin (for diverting out-fall of culvert or side ditch); and,
 - viii. silt fencing.
- k. Indicate the type(s) of stream and/or wetland crossing method(s) to be used in conjunction with temporary and permanent access road construction. Provide diagrams and specifications (include plan and side view with appropriate dimensions, alignment, extent of clearing) for each crossing device and rationale for their use. Stream and wetland crossing methods and design may include, but not be limited to:
- i. timber mats or other similar measures to prevent soil compaction;
 - ii. culverts including headwalls;
 - iii. bridges (either temporary or permanent); and,
 - iv. fords.
- l. All diagrams and specifications should include material type and size to be placed in streams and/or wetland, as well as on stream or on wetland approaches.
- m. Existing utility and non-utility structures on or adjacent to the Facility, indicating those to be removed or relocated (include circuit arrangements where new structures will accommodate existing circuits, indicate methods of removal of existing facilities, and show the new locations, types and configurations of relocated facilities). Depict each Facility conductor's clearance from the nearest adjacent overhead electric transmission or distribution lines and communications lines.
- n. Existing underground utility or non-utility structures including but not limited to gas, water, telecommunication or electric cable or pipeline. The relationship of the Facility to adjacent fence lines; roads; railways; airfields; property lines; hedgerows; fresh surface water bodies; wetlands; other water bodies; significant habitats; associated facilities; water springs; adjacent buildings; water wells; or structures; major antennas; oil or gas wells, pipeline facilities, and compressor and pressure-limiting and regulating stations. Regarding co-location and crossing of existing and/or proposed future utilities as of the issuance date of the Certificate, by Project components, the following additional information shall be provided:
- i. Results of any cathodic protection impact studies;
 - ii. Any approval documentation (including a statement that Facility installations meet

- existing utility owner technical and safety requirements and copies of all relevant technical and safety manuals) from each existing utility that will be co-located with or that will be crossed by Facility components (including construction equipment crossings of existing utilities);
- iii. Details of existing utility owner approved crossing plans (crossed by Facility components) showing methods, separation of existing utility and Facility components, cover, installation of protection measures, and workspace, including any bore pits or similar features;
 - iv. Details of existing utility owner approved co-location installations (with Project components) showing separation distances of existing utilities and Project components and any required or recommended protection measures; and
 - v. Details and descriptions of existing utility owner approved methods regarding Project construction equipment crossing of existing utilities approved by each existing utility owner.
- o. The location, design details, and site plan of any proposed Facility components, generator sites, collection station, control building, point of interconnection switchyard, or other terminal or associated utility or non-utility structure (attach plan³ - plot, grading, drainage, and electrical - and elevation views with architectural details at appropriate scales). Indicate the type of outdoor lighting, including design features to avoid off-site illumination and minimize glare; the color and finish of all structures; the locations of temporary or permanent access roads, parking areas, construction contract limit lines, property lines, designated floodways and flood-hazard area limits, buildings, sheds, relocated structures, and details of any plans for water service and sewage and waste disposal.

2. Stormwater Pollution Prevention

The plan drawings shall be consistent with the NYSDEC-acknowledged Stormwater Pollution Prevention Plan (SWPPP), and indicate the locations and details of soil erosion and sediment control measures and any proposed permanent stormwater management controls developed in accordance with the New York Standards and Specifications for Erosion and Sediment Control (e.g., stabilized construction entrances, drainage ditches, silt fences, check dams, and sediment traps) in effect at the time the Certificate is issued. Such plan and drawings shall include contingencies for construction during extreme weather events (e.g., a 100-year storm) to avoid and minimize the cumulative impacts of multiple proximate disturbed areas.

3. Vegetation Clearing and Disposal Methods

Identify on the plan and profile drawings:

- a. the locations of sites requiring trimming or clearing of vegetation including both above and below ground (i.e., stumps) and the geographic limits of such trimming or clearing;

³ Preferably 1" = 50' scale with 2-foot contour lines.

- b. the specific type and manner of cutting, disposition or disposal method for vegetation (e.g., chip; cut and pile; salvage merchantable timber, etc.);
- c. the disposal locations of all vegetation (including stumps) to be cut or removed from each site;
- d. any geographical area bounded by distinctly different cover types requiring different cut-vegetation management methods;
- e. any geographical area bounded at each end by areas requiring distinctly different cut-vegetation methods due to site conditions such as land use differences, population density, habitat or site protection, soil or terrain conditions, fire hazards, or other factors;
- f. site specific vegetation treatment or disposal methods, including any property-owner required details such as log storage or wood chip piling areas, or “no-herbicide” zones;
- g. areas requiring danger tree removal (i.e., trees with cracks or decay in proximity of a utility right-of-way);
- h. the location and details of any areas where specific vegetation protection measures will be employed including those measures to avoid damage to specimen tree stands of desirable species, important screening trees, hedgerows etc.; and
- i. identification of invasive species within/adjacent to the area of clearing, and specific disposal methods required for invasive species pursuant to the Invasive Species Prevention and Management Plan (ISPMP).

4. Building and Structure Removal

- a. Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed. Provide plans for site access; and plans and standards for control of dust, runoff and containment of any debris or other waste materials related to removals.

5. Streams and Other Waterbodies

- a. Indicate the name, water quality classification and location of all rivers and streams (whether perennial and/or intermittent), and other drainages within the construction area or crossed by any proposed Linear or Non-Linear Facility Component or access road constructed, improved or maintained for the Facility. On the plan and profile drawings, indicate:
 - i. stream crossing method and any designated streamside “protective or buffer zone” in which construction activities will be restricted to the extent necessary to minimize impacts on rivers, streams, and/or other drainages;
 - ii. the activities to be restricted in such zones; and,
 - iii. identify any designated floodways or flood hazard areas within the Facility Site, or otherwise used for Facility construction or the site of associated facilities. Provide topographic and flood hazard area elevations (if determined by engineering study); and specifications for facilities to be located within designated flood hazard or

floodway zones; and design engineering and construction measures to demonstrate conformance with local ordinances, avoid damage to facilities, or avoid increasing flood elevation at any other location due to Facility installation and operation.

- b. Show the location of all potable water sources, including springs and wells, within 100 feet of Facility components and 500 feet of HDD locations, indicating on a site-by-site basis, precautionary measures to be taken to protect each water source.

6. Wetlands

- a. All federal and state jurisdictional wetlands and state-regulated 100-foot adjacent areas (“adjacent areas”) located within the Facility Site, or those that will be crossed by or adjacent to any access road to be constructed, improved, used or maintained for the Facility shall be depicted on plan drawings. Each wetland will be identified by a project identification number and by appropriate New York State Department of Environmental Conservation (DEC) Freshwater Wetland designations, when applicable (i.e., for state jurisdictional wetlands).
- b. Indicate the community type (e.g., emergent, scrub-shrub, forested), location, and identification code(s) of any federal or state regulated wetland within or adjoining the Facility and its components, as determined by site investigation and delineation.

7. Land Uses

- a. Agricultural Areas:
 - i. Indicate the locations of sites under cultivation or in active or recently active agricultural use (defined as active three (3) of the last five (5) years) including pastureland, hayfields, and cropland. Designations and descriptions will be those in current use by the NYS Department of Agriculture and Markets (NYSDAM).
 - ii. Indicate the location of any known unique agricultural lands, such as (if applicable) maple sugarbush sites, organic muckland, and permanent irrigation systems, as well as areas used to produce specialty crops such as vegetables, berries, apples, or grapes.
 - iii. Indicate the location of vulnerable soils in agricultural areas that are more sensitive than other agricultural soils to construction disturbance due to factors such as slope, soil wetness, or shallow depth to bedrock.
 - iv. Indicate the location of all known land and water management features including subsurface drainage, surface drainage, diversion terraces, buried water lines, and water supplies.
 - v. Designate the site-specific techniques (in accordance with NYSDAM Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands [Revision 10/18/2019]) to be implemented to minimize or avoid construction-related impacts to agricultural resources.
- b. Sensitive Land Uses and Resources:
 - i. Identify and indicate the location of known sensitive land uses and resources that may be affected by construction or maintenance of the Facility or by construction-related traffic (e.g., hospitals, emergency services, sanctuaries, schools, and residential areas).

- c. Geologic, Historic, and Scenic or Park Resources:
 - i. Indicate the locations of geologic, historic, and existing or planned scenic or park resources, and specify measures to minimize impacts to these resources (e.g., specified setback distances, vegetation protection, fencing, signs).
- d. Recreational Areas:
 - i. Indicate the locations where existing and/or proposed recreational use areas, designated trails, trailhead parking areas or associated access driveways would affect or be affected by the Facility location, site clearing, construction, operation or management of the Facility.

8. Access Roads and Workpads

- a. Indicate the locations of temporary and permanent access roads, laydown areas, and workpads.
- b. Provide construction type, material, and dimensions and their associated limits of disturbances.
- c. Indicate provisions for upgrading any existing access roads.
- d. Where access is required for continued agricultural activities, ensure sufficient access for farm operators (crossings or turn-offs) for the site-specific agricultural equipment and/or livestock.

9. Noise Sensitive Sites

- a. Show the locations of sound sensitive receptors. Identify locations and specifications of measures to mitigate construction noise as required by the Certificate.

10. Ecologically and Environmentally Sensitive Areas

- a. Indicate the general locations of any known ecologically and/or environmentally sensitive sites (e.g., rare, threatened, and endangered species habitat areas; agricultural districts; special flood hazard areas; archaeological sites) that are adjacent to the Facility and/or within 100 feet of any facility component to be constructed, improved or maintained for the Facility. Specify the measures that will be taken to protect these resources (e.g., fencing, flagging, signs stating "Sensitive Environmental Areas, No Access").
- b. Measures for avoidance of archaeological sites identified within the Facility Site shall be indicated on the final site plans. The mapped locations of all identified archaeological sites within 100 feet of proposed Facility-related impacts shall be identified as "Environmentally Sensitive Areas" or similar on the final Facility construction drawings and marked in the field by construction fencing with signs that restrict access.

11. Invasive Species

- a. Identify the location(s) of prohibited invasive species pursuant to 6 NYCRR Part 575 and identified in the ISPMP and the results of pre-construction invasive species surveys as required by the Certificate, and the prescribed method(s) to control the spread of the identified species on the site during construction. The need for post-construction control of

on-site invasive species will be determined based on the results of post-construction monitoring as described in the annual monitoring report and determined in consultation with DEC.

12. Vegetation Controls and Herbicides

- a. Areas where no herbicide is allowed (wetlands, streams, adjacent areas to wetlands and streams, organic farms, etc.) will be labeled on the site plans and construction drawings. In areas where herbicides are allowed, such use will be conducted by NYSDEC certified pesticide applicators in accordance with all label restrictions and notification requirements.

13. Visual Mitigation Landscaping and Buffers

The location of visual mitigation planting areas and specific planting modules proposed will be shown on the Visual Mitigation Planting Plan (VMPP). The VMPP will include the species composition, planting plans and specifications for each of the mitigation modules.

Section B – Description and Statement of Objectives, Techniques, Procedures, and Requirements

The narrative portion of the SEEP and referenced Compliance filings for the Facility shall include, but need not be limited to, all of the following information, and shall address the requirements of 16 NYCRR §1002.3. Chapters or sections of the document shall identify whether it is addressing a specific certificate condition.

1. Facility Location and Description

This section of the SEEP should contain:

- a. A brief description of the final Facility location, Facility Site and Facility Area;
- b. A description of the construction hours and schedule as presented in the Certificate Conditions;
- c. A description of the PV modules and associated infrastructure selected for the Facility including any manufacturer provided information regarding the design, safety and testing information for the panels, substation, transformer, and battery storage equipment to be installed during construction;

2. Environmental Compliance and Monitoring Plan.

The SEEP shall include copies of the final *Environmental Compliance and Monitoring Plan*. The *Environmental Compliance and Monitoring Plan* shall include the names, titles, qualifications and contact information of all individuals responsible for ensuring minimization of environmental impact by the Project and for enforcing compliance with environmental protection provisions of the Certificate and the compliance filings, including but not limited to:

- a. Full-time (when appropriate)⁴ Environmental Monitor;
- b. Full-time General Construction Manager(s); and
- c. Part-time or full-time agricultural environmental monitor, if separate from environmental monitor, for work in active agricultural lands; and
- d. Part-time Safety Manager.,
- e. Part-time Administrative Manager,
- f. Part-time Design Manager, and
- g. Part-time Public Information Manager

⁴ The Plan will identify any times when a part-time monitor may be used.

The Certificate Holder may utilize one or more qualified individuals to satisfy the Project oversight responsibilities listed above and explained in more detail in the QA/QC Plan..

The *Environmental Compliance and Monitoring Plan* shall also include:

- a. Protocols for supervising demolition, vegetation clearing, use of herbicides, construction, and site restoration activities to ensure minimization of environmental impact and compliance with the environmental protection provisions specified by the Certificate.
- b. Specify responsibilities for personnel monitoring all construction activities, such as clearing, sensitive resource protection, site compliance, change notices, etc.
- c. Include a statement that the Certificate Holder has made compliance with the SEEP an obligation of its contractors and has provided a copy to those employees and contractors engaged in demolition, clearing, construction and restoration.
- d. Describe the procedures to “stop work” in the event of a Certificate violation.
- e. The company’s designated contact including 24/7 emergency phone number, for assuring overall compliance with Certificate conditions.
- f. Ensure that required safety procedures and worksite hazards are communicated to site inspectors in a documented meeting prior to entry onto the site of work on such Certificate Holder’s Project Components.
- g. Include a procedure for providing NYSDPS Staff, NYSDAM, NYSDEC, and the Towns with construction schedules indicating construction activities and location schedules, including a procedure for providing scheduling updates.

3. Facility Communication and Complaint Resolution Plan

The SEEP shall include a copy of the final *Facility Communication and Complaint Resolution Plan*, which shall include protocols for:

- a. Communication between parties, including a flowchart of proper communications;
- b. The Certificate Holder shall provide at least a two week notice to the associated landowner prior to project staking/flagging for construction activity..
- c. Notifying the Towns and the public of the complaint procedures;
- d. Registering a complaint;
- e. Identifying and including procedures that may be unique to each phase of the project (eg. tree clearing, construction, operation, decommissioning) or type of complaint;

- f. Responding to complaints in a consistent and respectful manner;
- g. Logging and tracking of all complaints received, and resolutions achieved;
- h. Actions the Certificate Holder will take if a complaint remains unresolved, including reporting to the Towns and DPS Staff any complaints not resolved within 30 days of receipt;
- i. Mediating complaints not resolved within 60 days, assuming the complainant and nature of complaint are amenable to resolution; and
- j. Providing annual reports of complaint resolution tracking to DPS Staff that shall also be filed with the Secretary.

4. Health and Safety Plans

The SEEP shall include copies of the following final plans for construction:

- a. The *Final Emergency and Fire Response Plan (EFRP)* that shall be implemented during Facility construction, operation and decommissioning. Copies of the final plan also shall be provided to DPS Staff, the NYS Division of Homeland Security and Emergency Services, the Towns and local emergency responders that serve the Facility. The plan will also address follow-up inspections for panels and substation facilities following emergency events for high winds, tornadoes, and hurricanes.
- b. The *Final Site Security Plan* for Facility construction. Copies of the final plan also shall be provided to DPS Staff, NYS Division of Homeland Security and Emergency Services, the Towns, and local emergency responders that serve the Facility. The plan shall include, but not be limited to, the following:
 - i. posting signs at the edges of the ROW in those locations where the collection lines intersect public roads; and
 - ii. working with the County Sheriff, and local law enforcement officials in an effort to prevent trespassing.
- c. The *Final Health and Safety Plan* that shall be implemented during Facility construction.
- d. A final site-specific construction *Quality Assurance and Quality Control Plan (QA/QC Plan)*, to be developed in coordination with the selected General Construction Managers (GCMs).

5. General Construction

- a. Provide a copy of the SWPPP, which will include an Erosion and Sediment Control Plan and will specify appropriate measures that will be used to minimize fugitive dust and

airborne debris from construction activity as outlined in the *New York State Standards and Specifications for Erosion and Sediment Controls* (NYSDEC, 2016a). The Erosion and Sediment Control Plan will also contain trenching details including:

- i. Though not prevalent in the proposed Facility, in locations where electric collection lines and transmission lines will be installed by open trenching, particularly along or across areas of steep slopes, the Erosion and Sediment Control Plan will describe measures to address temporary erosion contingencies (e.g., stormwater events with open trench) and erosional risks that will extend the life of the Facility (e.g., “piping” erosion after backfilling of the trench). Related subsurface drainage to relieve hydraulic pressure behind trench plugs or breakers for the life of the facility will also be addressed.
- ii. The following measures to address in-trench erosion will be implemented, as necessary:

1. Trench Plugs:

Temporary trench plugs will be placed in the excavated trench to impede the flow of water down the trench. Hard plugs (unexcavated earth segments of the ditch line) will be maintained adjacent to streams and wetlands to protect those resources until cable installation activities occur. Soft plugs (replaced trench spoil, fill, sandbags) will be spaced in the trench in sloping areas to reduce erosion and trench slumping. Hay or straw bales will not be used as material for temporary trench plugs.

After cable installation, permanent sandbag or alternative trench breakers will be installed and spaced according to Appendix 1 “Trench Breaker Spacing” before backfilling. At the request of landowners or at the discretion of the environmental inspector or construction supervisor, un-disturbed areas (“hard plugs”) will be left in place until cable installation commences, to accommodate equipment crossings. Hard plugs should be a minimum of 50 feet in length for areas where cable splices will occur. For animal and vehicle crossings of the trenchline area, a plug 25 to 30 feet in length should suffice.

2. Trench Breakers:

Trench breakers may be constructed of sandbags or alternative materials. Impervious materials may be used to retain water in the wetlands. Trench breakers should be installed at all wetland edges. The location of these impervious trench breakers will be determined in the field based on locations identified in the construction plan documents. Trench breakers should also be installed at the top of bank of each wetland, stream, or waterbody crossing.

3. Backfill:

Backfill operations will commence immediately after cable installation operations and will continue until completed. When backfilling the trench, the

following will apply:

- (a) Only on-site, native material should be used in backfill operations unless the native material does not meet specifications, or ledge rock (i.e. bedrock) is encountered in the trench. Imported material may be brought in to protect the cables and achieve depth-of-cover requirements. Imported backfill must be free of invasive species pursuant to ISPMP.
 - (b) Where topsoil has been segregated from trench spoil, backfill will be done in reverse order with trench spoil returned first.
 - (c) Excess subsoil spoil will be removed. Under no circumstances will excess spoil be spread within the Facility Site or stockpiled in a manner that permanently changes the soil profile.
 - (d) Trench breakers made of foam, sandbags, or other impervious materials shall be installed at the edge of all wetlands. For those areas where conditions and topography warrant, and the Certificate Holder identifies prior to the start of construction, the installation of trench breakers at the upland/wetland boundaries is appropriate to minimize changes to hydrologic regime in the wetlands such as drainage from the wetland.
- b. The SEEP shall attach a final *Spill Prevention, Control and Countermeasures (SPCC) Plan* for construction to minimize the potential for unintended releases of petroleum and other hazardous chemicals during Facility construction and operation. The SPCC Plan shall be applied to all relevant construction activities and address the following:
- i. General Information about water bodies, procedures for loading and unloading of oil, discharge or drainage controls, procedures in the event of discharge discovery, a discharge response procedure, a list of spill response equipment to be maintained on-site (including a fire extinguisher, shovel, tank patch kit, and oil-absorbent materials), a statement that methods of disposal of contaminated materials in the event of a discharge will follow the appropriate requirements, and spill reporting information. A statement that any spills shall be reported in accordance with DEC and/or federal regulations.
 - ii. Storage, handling, transportation, and disposal of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be used during, or in connection with, the construction, operation, or maintenance of the Facility.
 - iii. Avoiding spills and improper storage or application.
 - iv. Reporting, responding to and remediating the effects of any spill of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances in accordance with applicable state and federal laws, regulations, and guidance, and include proposed methods of handling spills of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be stored or utilized during the construction and site restoration, operation, and maintenance of the Facility.
 - v. Providing of SPCC Plan to the Towns and local emergency responders; notifying

the Towns and local emergency responders of locations of hazardous substance storage.

6. Clean up and Restoration

The Certificate Holder's program for clean-up and restoration following construction will be described in the Site Restoration Plan, and will include, at a minimum:

- a. the removal and restoration of any temporary roads or staging areas; the finish grading of any scarified or rutted areas; the removal of waste (e.g., excess concrete), scrap metals, surplus or extraneous materials or equipment used; and
- b. plans, standards and a schedule for the restoration of vegetative cover, including but not limited to, specifications indicating:
 - i. design standards for ground cover, including:
 1. species mixes and application rates by site;
 2. site preparation requirements (soil amendments, stone removal, subsoil treatment, or drainage measures); and
 3. acceptable final cover % by cover type.
 - ii. planting installation specifications and follow-up responsibilities if needed;
 - iii. a schedule or projected dates of any seeding and/or planting if needed.
- c. To address temporary impacts to wetlands, the Certificate Holder will restore wetland and adjacent area using native seed mixes.; and
- d. If subject to continued agricultural use, restoration seeding will be consistent with pre-existing crop species or as requested by landowner.

7. Transportation

- a. The SEEP shall include copies of the Road Use Agreements with any County and local municipalities. The SEEP will include copies of any crossing agreements with utility companies.
- b. The SEEP shall attach a *Route Evaluation Study* that demonstrate that all municipalities within the Route Evaluation Study Area including the NYS Department of Transportation, NYS State Police Barracks, County Department of Public Works, local school districts, County Sheriffs and local Police department have been contacted or when they will be contacted. The plan shall identify weight limited bridges in the area to be avoided. The plan shall include constraints on use of heavy equipment and vehicles used for construction.
- c. The SEEP shall attach a *Traffic Control Plan* that identifies:
 - i. The delivery route(s) in the Towns of Athens and Coxsackie, for oversize or over length equipment or materials and the route(s) for delivery of earthen materials and

concrete.

- ii. The plan shall describe the delivery of materials to the facilities site and shall indicate mitigation measures to manage traffic during construction and operation.
- iii. Copies of all permits associated with the delivery of such equipment and materials shall be provided prior to using a route to haul equipment or materials requiring a permit.
- iv. The Certificate Holder shall not permit construction vehicles or construction equipment to park or idle at public roadside locations for extended periods of time.

8. Construction Vegetation Clearing and Disposal Methods

For vegetation clearing during construction the SEEP shall:

- a. Describe the specific methods for the type and manner of cutting and disposition or disposal methods for cut vegetation.
- b. Indicate specifications and standards applicable to salvage, stockpiling or removal of material.
- c. Identify ownership of cleared vegetation based on landowner agreements (as applicable).
- d. Specify the locations where herbicides are to be applied. Provide a general discussion of the site conditions (e.g., land use, target and non-target vegetation species composition, height and density) and the choice of herbicide, formulation, application method and timing. Provide lists of desirable and undesirable vegetation species.
- e. Describe the procedures that will be followed during chemical application to protect non-target vegetation, streams, wetlands, sources of potable water supply (i.e. wells and reservoirs) and other water bodies, and residential areas and recreational users on or within 100 feet of the ROW.

9. Plans, Profiles, and Detail Drawings

See Section A of the SEEP for the details to be provided on the Plans, Profiles and Detail Drawings.

10. Land Uses

- a. The SEEP shall attach the New York State Department of Agricultural and Markets, Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (Revision 10/18/2019) which shall describe the programs, policies, and procedures to mitigate agricultural impacts.
- b. If required by the issued Certificate, a description of avoidance, minimization or mitigation for impacts to any other sensitive land uses not covered by other sections of the SEEP.

11. Final Geotechnical Engineering Report

- a. The SEEP shall attach a final Geotechnical Engineering Report.

12. Inadvertent Return Plan

- a. The SEEP shall attach an *Inadvertent Return Plan* showing all locations where horizontal directional drilling (HDD) or other trenchless method(s) are proposed. The plan shall assess potential impacts from frac-outs, establish measures for minimizing the risk of adverse impacts to nearby environmental resources, and require the following:
 - i. Prior to conducting HDD or other trenchless method typical material safety data sheets will be provided to DPS and DEC staff, and the Towns.
 - ii. Drilling fluid circulation shall be maintained to the extent practical.
 - iii. If inadvertent returns occur in upland areas, the fluids shall be immediately contained and collected.
 - iv. If the amount of drilling fluids released is not enough to allow practical collection, the affected area will be diluted with freshwater and allowed to dry and dissipate naturally.
 - v. If the amount of surface return exceeds that which can be collected using small pumps, drilling operations shall be suspended until surface volumes can be brought under control.
 - vi. If inadvertent drilling fluids surface returns occur in an environmentally sensitive area (i.e. wetlands and water bodies) the returns shall be monitored and documented.
 - vii. Drilling operations must be suspended if the surface returns may result in a violation of water quality standards or Certificate Conditions.
 - viii. Removal of released fluids from environmentally sensitive areas will take place only if the removal does not cause additional adverse impacts to the resource. Prior to the removal of fluids from environmentally sensitive areas DPS and DEC staff will be notified and consulted.
 - ix. If inadvertent drilling fluids surface returns occur in an environmentally sensitive area DPS and DEC Staff shall be notified immediately and a monitoring report summarizing the location of surface returns, estimated quantity of fluid and summary of cleanup efforts shall be submitted within 48 hours of the occurrence.
 - x. The plan shall establish protocols for recovery of inadvertent releases, handling and disposal.
 - xi. Any drilling fluid inadvertently discharged must be removed from agricultural areas.

13. Visual Mitigation

- a. The SEEP shall attach a final VMPP, based on the mitigation section presented in the VIA that meets or exceeds the certificate conditions. The VMPP shall include:
 - i. Details showing the location and specific vegetation type to be planted at each

designated visual mitigation area in accordance with the specifications and planting layout depicted in the Final VMPP as prepared by the Applicant's Landscape Architect. A distinct, site-specific module will be developed and implemented at each designated visual impact area.

- ii. A construction timeline and schedule including
 - a) Installation guidelines &
 - b) Field assessment
 - iii. Maintenance/replacement program.
- b. The final VMPP will be implemented (i.e. planting will occur) prior to or in conjunction with the installation of the solar panel arrays, to the extent practicable. All plantings should occur during the spring or fall planting season.
- c. Prior to the installation of exterior lighting on facility components a "Facility Exterior Lighting Plan" shall be submitted, which shall address:
1. security lighting needs at PV panel module arrays, inverter and transformer pads, substation and switchyard sites, the Facility Operations and Maintenance building site (if any), and any exterior equipment storage yards;
 2. plan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement at the collection substation and switchyard sites, the Facility Operations and Maintenance building site, and any exterior equipment storage yards;
 3. lighting should be designed to provide safe working conditions at appropriate locations;
 4. exterior lighting design shall be specified to avoid off-site lighting effects, by:
 5. using task lighting as appropriate to perform specific tasks; task lighting shall be designed to be capable of manual or auto-shut off switch activation rather than motion detection;
 6. requiring full cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare) for permanent exterior lighting; and
 7. manufacturer's cut sheets of all proposed lighting fixtures shall be provided.

14. Cultural Resources

- a. The SEEP shall attach a *Final Unanticipated Discovery Plan*, establishing procedures to be implemented in the event that resources of cultural, historical, or archaeological importance are encountered during Facility construction.
- b. The SEEP shall attach an approved *Cultural Resources Avoidance, Minimization and Mitigation Plan* (CRAMMP). The final CRAMMP will provide a detailed description of cultural resources mitigation measures approved by the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP).

15. Avian and Bat Impacts

- a. The SEEP shall describe clearing measures to be implemented during construction to avoid and minimize impacts to bird and bat species as outlined in the Certificate Conditions.

- b. The SEEP shall attach the final “Net Conservation Benefit Plan” (NCBP). The final NCBP shall identify which sections of the NCBP have been updated or changed from any preliminary NCBP filed prior to Certification the Facility.

At a minimum, the final NCBP shall address the Siting Board’s Order and Certificate (Certificate Condition 51) and contain the following information if not already included:

- a) A detailed description of measures identified by NYSDEC and those considered by the Certificate Holder to fully avoid impacts to Northern Harrier and Short-eared Owl (“Affected Species”), and a demonstration that measures to fully avoid impacts are impracticable;
- b) A detailed description of measures identified by NYSDEC and those considered by the Certificate Holder to minimize, to the greatest extent practicable, unavoidable impacts to the Affected Species, and a discussion of the minimization actions to be implemented at the Project;
- c) A detailed description of measures and sites considered by the Certificate Holder to mitigate for unavoidable impacts to the Affected Species;
- d) An identification of the mitigation actions to be undertaken by the Certificate Holder that will result in a net conservation benefit to the Affected Species and not solely an offset for the potential adverse modification of occupied habitat. To achieve a net conservation benefit for unavoidable impacts to the Affected Species, mitigation actions will be implemented to compensate for the loss of Northern Harrier and Short-eared Owl occupied wintering habitat as described in the Certificate;
- e) A detailed discussion of the net benefit calculations based on the actual location and type of minimization and mitigation measures to be taken for each of the Affected Species;
- f) Full source information used as inputs to the net benefit calculations for each of the Affected Species;
- g) An identification of the location(s) and size of mitigation area(s);
- h) A discussion of the management and maintenance actions required to achieve a net conservation benefit for impacts to the Affected Species, including conditions for maintenance of grassland bird habitat within freshwater wetlands and 100-foot adjacent areas regulated pursuant to Article 24 of the Environmental Conservation Law;
- i) A proposed method for monitoring the effectiveness of the plan;
- j) Identify a timeline for implementation of measures required by the plan;
- k) Proof of access to and right to perform land management activities on the mitigation site(s);

- l) Identification of all persons that will be involved in implementing the NCBP, with individuals responsible for funding and implementing the plan clearly identified;
- m) A letter or other indication of the Certificate Holder's financial and technical capability and commitment to fund and execute such management, maintenance, monitoring, and adaptive management for the 40-year life of the Project/term of the Certificate.; and,
- n) The Certificate Holder will consult with NYSDPS, NYSDEC, Scenic Hudson, and Greene Land Trust in the development of land management strategies for grassland habitat conservation areas proposed as part of the NCBP.

16. Wetlands, Streams, and Other Waterbodies

- a. The SEEP shall include a table listing all delineated federal and state jurisdictional wetlands, streams, vernal pools and other waterbodies located on or adjacent to the Facility site, along with the following information for each resource: Town name, centroid coordinates of the resource, location within/relative to the Facility site (i.e., associated site plan and profile drawing sheet number and reference location); stream name (as applicable), delineated feature identification code, community type, DEC Stream Classification (as applicable), DEC Freshwater Wetland designation (as applicable), DEC Water Index Number (for streams), specific construction activities or crossing method affecting the resource (if any; specify the crossing distance across the resource or to the associated Facility construction area).
- b. A description of construction activities within delineated federal and state jurisdictional wetlands, streams⁵, and/or other waterbodies outlining the following requirements, where applicable:
 - i. Where any access roads in wetlands are to be constructed through wetlands
 - a) Temporary access roads shall use construction matting or similar material; and
 - b) Permanent access roads shall use a layer of geotextile fabric and at least six inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed.
 - c) Permanent access roads in wetlands shall be designed to maintain hydrological connectivity of the wetland and be designed to the minimum size needed for operational and maintenance activities, including emergency access requirements.
 - ii. The Certificate Holder shall utilize free span temporary equipment bridges or temporary culverts designed to DEC and/or U.S. Army Corps of Engineers standards where applicable to cross all delineated streams with flow at the time of the proposed crossing. This will outline how:

⁵ Delineated streams refer to the streams identified and delineated by Flint Mine Solar in the Application.

- a) Bridges or culverts may not be dragged through the stream and must be suitably anchored to prevent downstream transport during a flood.
 - b) Fill may not be placed within the stream channel below bankfull elevation and placement of abutments or fill is authorized only above and outside bankfull boundaries.
 - c) Geotextile fabric must be placed below and extending onto the bank and suitable side rails built into the bridges to prevent sediment from entering the stream.
- iii. If there is an inadvertent puncturing of a hydrologic control for a wetland, then the puncture shall be immediately sealed, and no further activity shall take place until DPS and DEC staff are notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved by DPS and DEC;
 - iv. Low weight to surface area equipment shall be used and/or equipment shall be placed on temporary matting as needed to minimize soil compaction and erosion;
 - v. Work areas shall be isolated from flowing streams by use of sandbags, cofferdam, piping or pumping around the work area. Waters accumulated in the isolated work area shall be discharged to an upland settling basin, field or wooded area to provide for settling and filtering of solids and sediments before water is returned to the stream. Return waters shall be as clear as the flowing water upstream from the work area. Temporary dewatering structures (i.e., cofferdams, diversion pipes, etc.) and associated fill shall be completely removed, and the disturbed area shall be regraded and restored immediately following the completion of work;
 - vi. All fish trapped within cofferdams shall be netted and returned, alive and unharmed, to the water outside the confines of the cofferdams, in the same stream; and
 - vii. All excess materials shall be completely removed to upland areas more than 100 feet from state-regulated wetlands and streams and shall be suitably stabilized.
 - viii. Cut vegetation in wetlands may be left in place (i.e. drop and lop) or will be piled in upland areas outside of the State regulated 100-foot adjacent areas.
- c. Description of construction activities to facilitate utility crossings that will temporarily impact delineated federal and state jurisdictional wetlands, streams, and other waterbodies, including a site-specific assessment of constructability for all utility crossings that cannot use trenchless methods; specific plans with the alignment for each wetland crossing; the extent of clearing and ground disturbance; description of methods used to minimize soil disturbance and compaction; and adherence to the following requirements:
- i. Excavation, installation, and backfilling must be done in one continuous operation;
 - ii. Work within wetlands should be conducted during dry conditions without standing water or when the ground is frozen, where practicable;
 - iii. Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of turbid trench water from entering wetlands, streams, or waterbodies;
 - iv. Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent

- v. wetland draining during construction as described in Section B(5);
 - vi. Only excavated wetland topsoil, hydric soils, and subsoil shall be utilized as backfill at wetland restoration areas;
 - vii. Wetland topsoil shall be removed and stored separately from wetland subsoil and temporarily placed onto a geo-textile blankets;
 - viii. The length of the trench to be opened shall not exceed the length that can be completed in one day. This length of trench generally should not exceed 1,500 feet in a wetland; and
 - ix. When backfilling occurs in wetlands, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth as prior to disturbance.
- d. Description of wetland restoration measures, including:
- i. Contours shall be restored to pre-construction conditions within 48 hours of final backfilling of the trench within wetlands and state-regulated adjacent areas;
 - ii. Immediately upon completion of grading, wetland and adjacent areas shall be seeded and/or replanted with native shrubs and herbaceous plants at pre-construction densities. Seeding with an appropriate native wetland species mix (e.g. Ernst Wetland Mix (OBL-FACW Perennial Wetland Mix, OBL Wetland Mix, Specialized Wetland Mix for Shaded OBL-FACW), or equivalent) shall be completed to help stabilize the soils;
 - iii. Wetland restoration areas shall be monitored for a minimum of 5 years or until an 80% cover of plants with the appropriate wetland indicator status has been reestablished over all portions of the restored area. At the end of the first year of monitoring, the Certificate Holder shall replace lost wetland and/or wetland adjacent area plantings if the survival rate of the initial plantings is less than 80%; and
 - iv. If at the end of the second year of monitoring, the criteria for restoration plantings (80% cover, 80% survival of plantings) are not met, then the Certificate Holder must evaluate the reasons for these results and submit an approvable Wetland Planting Remedial Plan (WPRP) for DEC and DPS approval. The WPRP must including the following:
 - a) Analysis of poor survival;
 - b) Corrective actions to ensure a successful restoration; and
 - c) Schedule for conducting the remedial work. Once approved, the WPRP will be implemented according to the approved schedule.
- e. A site-specific Stream Crossing Plan shall be developed for each permanent delineated stream crossing and shall include detailed plan, profile and cross-sectional view plans.. Bridges or culverts can be utilized at each permanent delineated stream crossing and culverts shall be designed as follows:
- i. Sized per DEC and/or U.S. Army Corps of Engineers culvert sizing criteria;
 - ii. To safely pass the 2% annual (50-year return) chance storm event;

- iii. To contain native streambed substrate or equivalent using an open bottom arch, three-sided box culvert, or round/elliptical culvert with at least 20% of the culvert height embedded beneath the existing grade of the stream channel at the downstream invert;
 - iv. Shall be a minimum width of 1.25 times (1.25X) the width of the mean (ordinary) high-water channel;
 - v. The slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert;
 - vi. Shall facilitate downstream and upstream passage of aquatic organisms; and
 - vii. Water handling plan describing the measures to direct stream flow around the work area and measures to dewater the isolated work area.
- f. A description of stream restoration demonstrating adherence with the following:
- i. The restored stream channel shall be equal in width, depth, gradient, length and character as the pre-existing stream channel and tie in smoothly to profile of the stream channel upstream and downstream of the project area. The planform of any stream shall not be changed;
 - ii. Any in-stream work or restoration shall not result in an impediment to passage of aquatic organisms;
 - iii. Any in-stream work (excluding dewatering practices associated with dry trench crossings) and restoration shall be constructed in a manner which maintains low flow conditions and preserves water depths and velocities similar to undisturbed upstream and downstream reaches necessary to sustain the movement of native aquatic organisms. Any in-stream habitat structures shall not create a drop height greater than six inches;
 - iv. All disturbed stream banks below the normal high-water elevation must be graded no steeper than one vertical to two horizontal slope (1:2), or to the original grade as appropriate, and adequately stabilized;
 - v. All other areas of soil disturbance above the ordinary high-water elevation, or elsewhere, shall be stabilized with natural fiber matting where appropriate, seeded with an appropriate perennial native conservation seed mix, and stabilized with straw within two (2) days of final grading. Mulch shall be maintained until suitable vegetation cover is established; and
 - vi. Destroyed bank vegetation shall be replaced with appropriate native shrubs, live stakes, and/or tree plantings as site conditions, as appropriate.
- g. The SEEP shall attach a copy of the final Wetland Mitigation Plan, developed in coordination with DEC and DPS Staff, addressing permanent impacts to state-regulated wetlands. The final Wetland Mitigation Plan shall:
- i. Describe all activities that will occur within federal and state-regulated wetlands.
 - ii. For each state-regulated wetland or associated adjacent areas, indicate the type of activity (e.g., construction, filling, grading, vegetation clearing, and excavation) and summarize how the activity is consistent with the weighing standards set forth in 6 NYCRR 663.5(e) and (f).

- iii. Describe how impacts to wetlands, adjacent areas, associated drainage patterns and wetland functions will be avoided, and how impacts will be minimized.
- iv. Describe the precautions or measures to be taken to protect all other wetlands (i.e., federal wetlands) associated drainage patterns, and wetland functions, including describing the measures to be taken to protect stream bank stability, stream habitat, and water quality including, but not limited to: crossing technique; crossing structure type; timing restrictions for in-stream work; stream bed and bank restoration measures; vegetation restoration measures; and other site-specific measures to minimize impacts, protect resources, and manage Facility construction.
- v. Include the creation of compensatory wetlands at a ratio that is consistent with state and federal regulations;
- vi. Provide a mitigation project construction timeline;
- vii. Describe construction details for meeting all requirements contained in these proposed certificate conditions;
- viii. Describe performance standards that meet state and federal requirements for determining wetland mitigation success;
- ix. Include specifications for post-construction monitoring for at least five years after completion of the wetland mitigation project. After each monitoring period at years 1, 3, and 5 after construction, the Certificate Holder shall take corrective action for any areas that do not meet the above referenced performance standards to increase the likelihood of meeting the performance standards after five years. If, after five years, monitoring demonstrates that the wetland mitigation is still not meeting the established performance standards, the Certificate Holder must submit a Wetland Mitigation Remedial Plan (WMRP). The WMRP must include the following:
 - a) Evaluation for why performance standards are not being achieved;
 - b) Corrective actions to ensure a successful mitigation; and
 - c) Schedule for conducting the remedial work. Once approved, the WMRP will be implemented according to the approved schedule.

17. Invasive Species Prevention and Management Plan

- d. The SEEP shall attach a final ISPMP, based on the pre-construction invasive species survey of invasive species conducted within the Project Area during the previous growing season. The ISCP shall include:
 - i. Measures that will be implemented to minimize the introduction of Prohibited invasive species pursuant to 6 NYCRR Part 575 and control the spread of existing invasive species during construction (i.e., as a result of soil disturbance, vegetation clearing, transportation of materials and equipment, and/or landscaping/re-vegetation). Control measures may include construction materials inspection and sanitation, mechanical/chemical treatment, and site restoration, among others.
 - ii. A post-construction monitoring program (MP) shall be conducted in year 1, year 3, and year 5 following completion of construction and restoration. The MP shall collect information to facilitate evaluation of ISCP effectiveness and inform

potential remedial action.

18. Sound

- a. A statement that the Certificate Holder will comply with the following conditions regarding construction noise:
 - i. Comply with all local laws regulating construction noise;
 - ii. Maintain functioning mufflers on all transportation and construction machinery;
 - iii. Respond to noise and vibration complaints according to the protocols established in the Complaint Resolution Plan.
- b. Specify procedures to be followed to minimize noise impacts related to facility site clearing and construction of the Facility. Indicate the types of major equipment to be used in construction and Facility operation; sound levels at which that equipment operates; days of the week and hours of the day during which that equipment will normally be operated; any exceptions to these schedules; and any measures to be taken to reduce audible noise levels caused by either construction equipment or Facility operation.
- c. Final computer noise modeling shall be conducted by using:
 - i. The ISO-9613-2 Sound Propagation Standard with no meteorological correction (Cmet);
 - ii. All noise sources operating at maximum sound power levels, as applicable to the daytime and nighttime periods;
 - iii. A maximum ground factor of $G=0.5$;
 - iv. A factor of $G=0$ for water bodies, if any;
 - v. A height of evaluation of 1.5 meters for all receptors; and
 - vi. A temperature of 10 degrees Celsius and 70% Relative Humidity.
- d. Sound modeling results shall include sound results in tabular and graphical format and conform to the following:
 - i. Results shall be included in a report that shall include among others, sound results in tabular and graphical format.
 - ii. Sound contours shall be rendered above a map that shall include all sensitive sound receptors and boundary lines (differentiating participating and non-participating parcels); noise sources within the Sound Study Area (including transformer(s), inverters, and other noise sources, if any); collection lines and solar arrays.
 - iii. Sound contours shall be rendered at a minimum, until the 30 dBA noise

- contour is reached, in 1 dBA steps.
- iv. Full-size, hard copy maps (22" x 34") in 1:12,000 scale shall be submitted to DPS Staff.
 - v. Only properties that have a signed contract with the Certificate Holder prior to the date of filing shall be identified as "participating."
 - vi. GIS files used for the final computer noise modeling, including noise source and receptor locations and heights, topography, final grading, boundary lines, and participating status shall be forwarded to DPS Staff in digital media.
 - vii. Final computer noise modeling files shall be delivered to DPS Staff.
- e. For noise sources, other than the substation transformer(s) (e.g., inverters, Medium to Low Voltage transformers) and for non-participating receptors exceeding a sound level of 40 dBA Leq as modeled above, a prominent tone analysis will be presented subject to the following requirements:
- i. The "prominent discrete tone" constant level differences (Kt) in ANSI S12.9-2013/Part 3 Annex B, section B.1, will be used as follows: 15 dB in low-frequency one-third-octave bands (from 25 up to 125 Hz); 8 dB in middle-frequency one-third-octave bands (from 160 up to 400 Hz); and, 5 dB in high-frequency one-third-octave bands (from 500 up to 10,000 Hz).
 - ii. The analysis will use one-third octave band information from the manufacturers (from 10 Hz. up to 10,000 Hz, if available). If no manufacturers information is available, sound information can be based on field test(s). The field test(s) will report at a minimum sound pressure and sound power levels and clear explanations about how the test was conducted and Sound Power Levels were obtained. The analysis will be performed for a single noise source (e.g., central inverter) or a group of noise sources (inverters/transformer package), depending on available sound power level information.
 - iii. For the purposes of tonality assessment, calculations will include the following Attenuations as specified in ANSI/ASA S12.62 / ISO 9613-2: 1996 (MOD). Acoustics – Attenuation of Sound During Propagation Outdoors-Part 2: General Method of Calculation:
 - a) Attenuation due to geometrical divergence (Adiv)⁶,
 - b) atmospheric absorption for a temperature of 10 degrees Celsius and 70% Relative Humidity (Aatm)⁷,

⁶ Adiv can be assumed to be the same at all 1/3-octave bands and be omitted from analysis.

⁷ The same full-octave band atmospheric attenuation coefficients indicate in Table 2 of ANSI S12.62 , can be used for the three adjacent one-third octave bands corresponding to each full-octave band.

- c) Attenuation to the ground effect (A_{gr} ^{8,9}),
 - d) Attenuation due to a barrier (A_{bar}) if any¹⁰.
 - e) No miscellaneous attenuations (A_{misc}) will be included.
- iv. If no manufacturers information or field tests are available, sounds will be assumed to be tonal and the broadband overall (dBA) noise level at the evaluated position as determined with computer noise modeling shall be increased by 5 dBA for evaluation of compliance with sub-condition 58 (b) (i) and (ii).

19. Operations Plans/Reports, Schedule and Timing

- a. This section of the SEEP should include a discussion of Pre-Operational and Post-Operational Filings and Expected Timing of Submissions.
- b. The Facility Communications and Complaint Resolution Plan will include, at a minimum, a flowchart of proper communications and proper protocol for communications among parties, as relevant to the operations and maintenance of the Facility.
- c. A long-range Facility Operations and Maintenance (O&M) Plan shall be filed within one year after the commencement of operation. The plan shall address specific standards, protocols, procedures and specifications including:
 - i. Vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;
 - ii. All proposed chemical and mechanical techniques for managing undesirable vegetation;
 - iii. Where feasible, to limit the introduction and spread of invasive species, the New York Utility Company Best Management Practices for Invasive Species Transportation Prevention (Environmental Energy Alliance of New York [Jan. 2015]) will be employed;
 - iv. Herbicide use and limitations, specifications, and notification requirements will be included. In areas where herbicides are allowed, such use will be conducted by NYSDEC certified pesticide applicators in accordance with all label restrictions and notification requirements;

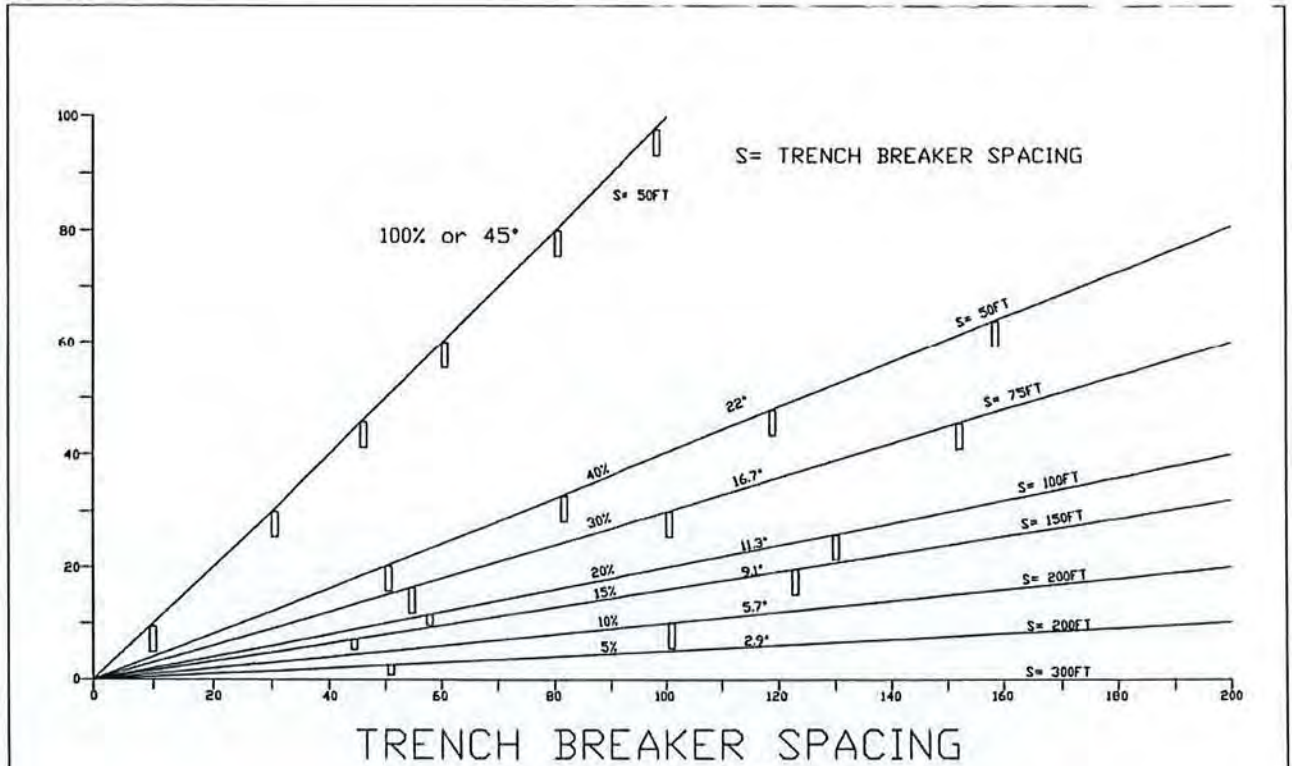
⁸ The same full-octave band attenuations as indicated in Table 3 of ANSI S12.62, can be used for the three adjacent one-third octave bands corresponding to each full-octave band.

⁹ Calculations will use the maximum height of the equipment as the height of the noise source.

¹⁰ Should the analysis show that a barrier will be needed, the barrier will be implemented before the start date of operations.

- v. Substation Fence-line Clearances, and Overhead Wire Security Clearance Zone specifications, indicating applicable safety, reliability and operational criteria;
- vi. Review and response procedures to avoid conflicts with future use encroachment or infrastructure development;
- vii. Host landowner notification procedures;
- viii. Inspection and target treatment schedules and exceptions;
- ix. Standards and practices for inspection of facilities easements for erosion hazard, failure of drainage facilities, hazardous conditions after storm events or other incidents; and
- x. Wetland and stream protection areas, principles and practices.

Appendix 1 - Trench Breaker Spacing



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Environmental Management and Construction Standards and Practices NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE	DRAWING DESCRIPTION: TRENCH BREAKER SPACING NON AG. AREAS	DATE: 09.03.04
	PROJECT DESCRIPTION: STANDARD DETAIL	FIGURE NO: TABLE 2
	File Name:	

Flint Mine Solar Proposed Certificate Conditions

I. Facility Authorization

1. The Certificate Holder is authorized to construct and operate the Facility (or the Project), as described in the Application by Flint Mine Solar, LLC (Flint Mine) for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the New York State Public Service Law (PSL) (the Application) and clarified by the Certificate Holder's supplemental filings, except as waived, modified or supplemented by the New York State Board on Electric Generation Siting and the Environment's (Siting Board's) Order Granting Certificate or other permits.
2. Pursuant to Title 16 of the New York Codes, Rules and Regulations (NYCRR) §1000.15, the Certificate Holder shall, within 30 days after the issuance of the Certificate, file with the Siting Board either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate for the Project. Failure of the Certificate Holder to comply with this condition shall invalidate the Certificate.
3. The Certificate Holder is responsible for obtaining all necessary permits and any other approvals, land easements, and rights-of-way that may be required for this Facility and which the Siting Board is not empowered to provide, or has expressly authorized. In addition, the following are expressly authorized:
 - a. The PSC to require approvals, consents, permits, other conditions for the construction or operation of the facility under PSL Sections 68, 69, 70, and Article VII, as applicable, with the understanding that the PSC will not duplicate any issue already addressed in this proceeding and will instead only act on its police power functions related to the entity as described in the body of this siting permit;
 - b. The NYSDOT to administer permits associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the facility; and
 - c. The Towns of Coxsackie and Athens to implement the New York State Uniform Fire Prevention and Building Code, as necessary and applicable.
 - d. Greene County and the Towns of Coxsackie and Athens to handle local approvals for work within municipal rights-of way or on municipally owned roads, for the installation of driveways, and the repair of roads damaged by construction of the Facility, through the execution of a Road Use Agreement (RUA) with the Applicant or through the issuance of local ministerial permits. Such RUAs will be executed prior to commencement of construction.
4. If the Certificate Holder believes that any action taken, or determination made, by a State or local agency or their respective staffs, in furtherance of such agency's review of any applicable regulatory permits or approvals, or actions or the lack thereof by a utility subject to the Commission's jurisdiction, is unreasonable or unreasonably delayed, conditioned or withheld, the

Certificate Holder may petition the Siting Board or the Commission, as the case may be, upon reasonable notice to that agency, to seek a determination of any such unreasonable or unreasonably delayed, conditioned or withheld, action or determination. The permitting agency, agency staff or utility, as the case may be, may respond to the petition, within ten days, to address the reasonableness of its action or determination.

5. Facility construction is authorized for a photovoltaic (PV) solar energy generating project in the Towns of Athens and Cossackie, in Greene County, together with the following: PV modules producing direct current (DC) mounted on metal pier structures, inverters to convert DC electricity to alternating current (AC) electricity, transformers, energy storage components, 34.5 kilovolt (kV) underground and above ground collection system, collection substation, point of interconnect switchyard, loop-in/loop-out interconnection structures, temporary or permanent access roads, fencing and gates, operations and maintenance building (if necessary), underground communication/fiber cables, and temporary staging areas. The total nameplate capacity of the Facility interconnected to the grid shall not exceed 100 megawatts (MWs-AC).

6. If the Certificate Holder decides not to commence construction of any portion of the Project (not including the removal of modules, inverters, or associated infrastructure as a result of final facility design), it shall so notify the Secretary to the Siting Board (Secretary) promptly after making such decision and shall serve a copy of such notice upon all parties and all entities entitled to service of the application or notice of the application. Should there be any removal of modules, inverters, or associated infrastructure as a result of final facility design, such removals shall not require an amendment to the Certificate.

7. Prior to commencing construction, the Certificate Holder shall request and obtain a water quality certification pursuant to Section 401 of the Clean Water Act for areas regulated under federal law, if required. This request shall be filed and served and noticed pursuant to 16 NYCRR §1000.8(a)(8) and shall be filed concurrently with the permit application filed with the United States Army Corps of Engineers (USACE or Corps) pursuant to Section 404 of the Clean Water Act. Construction activities regulated under federal law may not commence until a Water Quality Certification has been issued:

a. Upon receipt, copies of any federal permits and/or approvals required to conduct jurisdictional activities under Sections 401 or 404 of the Clean Water Act associated with certain aspects of construction and operation of the Facility shall be filed with the Secretary. If relevant Project plans require modifications due to conditions of federal permits, the final design drawings and all applicable compliance filings shall be revised accordingly and submitted pursuant to 16 NYCRR 1002.

b. Should any federal permits and/or approvals required to conduct jurisdictional activities under Sections 401 or 404 of the Clean Water Act be denied, the Certificate Holder shall file with the Secretary documentation demonstrating the reasons for the denial and how it plans to proceed with its Project plans in light of the denial.

8. The Certificate Holder has not asserted that it has the power of eminent domain to acquire real property or demonstrated that the feasibility of the Project relies in any way upon the Certificate Holder or any other entity having the power of eminent domain or exercising the power of eminent

domain to acquire permanent or temporary real property rights for the Facility or for any of the access roads, construction staging areas or interconnections necessary to service the Facility. By granting this Certificate to the Certificate Holder, an entity in the nature of a merchant generator and not in the nature of a fully regulated public utility company with an obligation to serve customers, the Siting Board is not making a finding of public need for any particular parcel of land such that a condemnor would be entitled to an exemption from the provisions of Article 2 of the New York State Eminent Domain Procedure Law ("EDPL") pursuant to Section 206 of the EDPL. As a condition of this Certificate, the Certificate Holder shall not commence any proceedings or cause any other entity having the power of eminent domain to commence any proceedings under the EDPL to acquire permanent or temporary real property rights for the Facility or for any of the access roads, construction staging areas or interconnections necessary to service the Facility without an express amendment to this Certificate, granted by the Siting Board, authorizing such proceedings.

9. This Certificate will automatically expire in seven years from the date of issuance of this Certificate (the "Expiration Date") unless the Certificate Holder has completed construction and commenced commercial operation of the Facility prior to said Expiration Date.

10. The Secretary to the Siting Board, or Secretary to the Commission after the Siting Board's jurisdiction has ceased, may extend any deadlines established by this order for good cause shown. Any request for an extension must be in writing, include a justification for the extension, and be filed prior to the expiration of the affected deadline.

11. Decisions on compliance filings will generally be made at the next available session of the Board or the Commission, as the case may be, provided the compliance filing is received sufficiently in advance of such sessions that there is adequate time in the circumstances to receive comments and process the matter. If DPS Staff determine that a compliance filing requires additional information, details or deliberation, such that the filing will not be decided at the next available session of the Board or Commission, DPS Staff will notify the Certificate Holder within 30 days of submission of the filing and inform the Certificate Holder of all required information.

II. General Conditions

12. Certificate Holder and its contractors shall not commence construction until a "Notice to Proceed with Construction" has been issued by the Secretary or by the Deputy Director of the Environmental Certification and Compliance Section of the DPS Office of Electric, Gas & Water. The "Notice to Proceed with Construction" will be issued promptly after all applicable pre-construction compliance and informational filings have been filed by the Certificate Holder and approved, accepted or revised by the Commission or Secretary. The Notice to Proceed will not be unreasonably withheld or delayed by the Commission or Secretary.

13. Commencement of construction is defined as the beginning of unlimited and continuous site clearing, site preparation (except installation of temporary erosion and sedimentation control measures) and grading activity, and construction of the Facility does not include staging, tree-cutting activities related to testing or surveying (such as geotechnical investigation), together with such testing, drilling and similar pre-construction activities to determine the adequacy of the site for construction and the preparation of filings pursuant to these conditions, such as limited staging and limited tree cutting, that are required to perform such pre-construction

activities.

14. Construction may commence in phases or stages provided the Certificate Holder files all applicable compliance and informational filings prior to the commencement of construction for each phase or stage of the Facility. Phases of construction have been identified as (a) Site Preparation, which includes tree clearing; (b) Commencement of Civil Construction; and (c) Commencement of Operations.

15. Commencement of commercial operation or commercial operation date (COD) is defined as the date on which the Facility as a whole first commences generating or transmitting electricity for sale, excluding electricity generated or transmitted during the period of on-site test operations during commissioning of the Project.

16. The Certificate Holder shall implement the impact avoidance, minimization and/or mitigation measures, as described in the Order Granting Certificate.

17. The Certificate Holder shall construct and operate the facility in accordance with the substantive provisions of the applicable local laws as identified in this proceeding, except for those provisions of local laws that the Siting Board determined to be unreasonably burdensome, as stated in the Order Granting Certificate.

18. The Certificate Holder shall construct and operate the Facility in a manner that conforms to all substantive State requirements identified in Exhibit 32 of the Application.

19. The Certificate Holder shall incorporate and implement as appropriate, in all compliance filings and construction activities, American National Standards Institute (ANSI) standards and measures for engineering design, construction, inspection, maintenance and operation of its authorized Facility, including features for Facility security and public safety, utility system protection, plans for quality assurance and control measures for facility design and construction, utility notification and coordination plans for work in close proximity to other utility transmission and distribution facilities, vegetation and facility maintenance standards and practices, emergency response plans for construction and operational phases, and complaint resolution measures.

20. The Certificate Holder shall work with National Grid and any successor Transmission Owner (as defined in the New York Independent System Operator (NYISO) Agreement), to ensure that, with the addition of the Facility (as defined in the Interconnection Agreement between the Certificate Holder, NYISO and National Grid), the system will have power system relay protection and appropriate communication capabilities to ensure that operation of the National Grid transmission system is adequate under Northeast Power Coordinating Council (NPCC) standards, and meets the protection requirements at all times of the North American Electric Reliability Corporation (NERC), NPCC, New York State Reliability Council (NYSRC), NYISO, and National Grid, and any successor Transmission Owner (as defined in the NYISO Agreement). Certificate Holder may be required to demonstrate compliance with applicable NPCC criteria and shall be responsible for the costs to verify that the relay protection system is in compliance with applicable NPCC, NYISO, NYSRC, NERC and National Grid criteria.

21. The authority granted in the Certificate and any subsequent Order(s) in this proceeding is

subject to the following conditions necessary to ensure adherence with such Order(s):

- a. The Certificate Holder shall regard Department of Public Service (Staff or DPS Staff), authorized pursuant to PSL §66(8), as the Siting Board's representatives in the field and, after the Siting Board's jurisdiction has ceased, as the Public Service Commission's (Commission's) representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the Certificate, Compliance Filings, or any other order in this proceeding, DPS Staff may issue a stop work order for that location or activity. Any stop work orders shall be, to the maximum extent possible, limited to affected portions of the Project.
- b. A stop work order shall expire 24 hours after issuance, or earlier if the issue promoting the stop work order is resolved, unless confirmed by the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, including by Order issued by the Chair of the Siting Board or by one Commissioner of the Commission. DPS shall use best efforts to provide Certificate Holder notice of any application to the Siting Board or Commission to have a stop work order confirmed. If a stop work order is confirmed, Certificate Holder may seek reconsideration from the confirming Commissioner, Siting Board or the whole Commission. If the emergency prompting the issuance of a stop work order is resolved to the satisfaction of DPS Staff, the stop work order will be lifted. If the emergency has not been satisfactorily resolved, the stop work order will remain in effect.
- c. Stop work authority shall be exercised sparingly and with due regard to potential environmental impact, economic costs and consequential damages involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff will consult wherever practicable with the Certificate Holder's authorized representative(s). Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Managers and the Director of the DPS Office of Electric, Gas and Water. If DPS Staff issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. Issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of DPS Staff during these discussions.
- d. If DPS Staff discovers a specific activity that represents a significant environmental threat that is, or immediately may become, a violation of the Certificate, Compliance Filings, or any other Order in this proceeding, DPS Staff may, in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with DPS Staff, refuse to take objectively appropriate action, direct the field crews to stop the specific potentially harmful activity immediately. If responsible Certificate Holder personnel are not on site or available by telephone, DPS Staff will immediately thereafter inform the Certificate Holder's construction supervisor(s) (during Construction), National Control Center (during operation) and environmental monitor(s) of the action taken. The stop work order may be lifted by DPS Staff if the situation prompting its issuance is resolved.

e. If DPS Staff determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific measures, DPS Staff may, in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with DPS Staff, refuse to take objectively appropriate action, direct the Certificate Holder or the relevant Contractors to implement the corrective measures identified in the approved Certificate. However, all directives must follow the protocol established for communication between parties as identified in a flowchart of proper communications which will be included in the relevant Facility plans (QA/QC, Site Security Plan, Facility Communication and Complaint Resolution Plan, as appropriate), and made available at the construction site for Flint Mine Solar. The field crews shall immediately comply with DPS Staff's directive as provided through the communication protocol. DPS Staff will immediately thereafter inform Certificate Holder's Construction supervisor(s) and or Environmental Monitor(s) of the action taken.

22. The Certificate Holder will adhere to National Grid and NYISO requirements for any additional studies, as well as design parameters involving relays and other necessary components per the interconnection agreement.

23. The Certificate Holder shall provide host community benefits, such as Payments in Lieu of Taxes (PILOTs), other payments or other project(s) agreed to by the host community (i.e., the Towns of Coxsackie and Athens) pursuant to a host community agreement. Such host community agreement(s) will be executed prior to commencement of construction.

III. Notifications

21. At least fourteen (14) days prior to the commencement of construction date, the Certificate Holder shall notify the public as follows:

- (a) Provide notice by mail to host landowners, and to adjacent landowners within 2,500 feet of parcels with Project components, and persons who reside on such property (if different than the landowner);
- (b) Provide notice to local Town Supervisors and County Administrator and emergency personnel;
- (c) Publish notice in the local newspapers of record for dissemination, including at least one free publication, if available (e.g., Pennysaver);
- (d) Provide notice for display in public places, which shall include, but not be limited to, the Town Halls of the host municipalities, at least one (1) library in each host municipality, at least one (1) post office in each host municipality, the Facility website, and the Facility on-site construction trailers/offices;
- (e) Provide notice to Parties to this proceeding; and

(f) File notice with the Secretary for posting on the DPS Document Matter Management website.

22. The Certificate Holder shall write the notice(s) required in subdivisions (a) and (c) of this section in plain language reasonably understandable to the average person and shall ensure that the notice(s) contain(s):

- a. A map of the Facility;
- b. A brief description of the Facility;
- c. The construction schedule and transportation routes;
- d. The name, mailing address, local or toll-free telephone number, and email address of the appropriate Facility contact for all inquiries, including complaints;
- e. Instructions on how to register a complaint (e.g. in writing, by telephone, in-person and online) and where to find a copy of the Facility Complaint Resolution Plan;
- f. Contact information for the NYSDPS and Commission; and
- g. A list of public locations where information on the Facility, construction, and the Certificate Holder will be posted.

23. At least seven (7) business days prior to commencement of construction, the Certificate Holder shall file an affirmation that it has provided the notifications required by this Section and include a copy of the notice(s), as well as a distribution list.

24. The Certificate Holder shall file a written notice with the Secretary within 14 days in advance of the declared date of commencement of commercial operation of the Facility. Prior to project declared Commercial Operation Date, the Certificate Holder shall notify the entities identified in Condition 21 and provide a telephone number, email and mailing address for the Facility.

25. Within fourteen (14) days of the completion of all final post-construction restoration, the Certificate Holder shall notify the Secretary that all such restoration has been completed in compliance with the Certificate and the Order(s) approving applicable compliance filings.

IV. SEEP, Information Reports and Compliance Filings

A. Site Engineering and Environmental Plan (SEEP)

26. Prior to the commencement of construction of the Facility, the Certificate Holder shall submit a Site Engineering and Environmental Plan (SEEP) in accordance with the attached "Guidance for the Development of Site Engineering and Environmental Plan for the Construction of Flint Mine Solar" (SEEP Guide) which shall describe in detail the final Facility design and the environmental protection measures to be implemented during construction of the Facility. The Certificate Holder's adherence to the SEEP Guide will be achieved to the maximum extent practicable. Any deviation

from the relevant and applicable requirements of the SEEP Guide attached to this order shall be justified in the SEEP and shall be subject to approval by the Siting Board, as applicable. The SEEP will include a table outlining the specific Certificate Conditions, informational reports, and compliance filings incorporated into the SEEP with references to the section of the SEEP where those conditions may be found.

27. The SEEP shall be submitted in accordance with the rules for submittal, public comment, and decisions set forth in 16 NYCRR §1002.2 such that the Siting Board, or Commission after the Board's jurisdiction has ceased, can review and approve the incorporated compliance filings as outlined in this Certificate.

B. Information Reports

The following information will be reported to and shall be filed with Secretary to the Siting Board in accordance with 16 NYCRR §1002.4. The following information shall be filed prior to the commencement of activity pertaining to the phase of construction in which the information is relevant.

General

28. A table of all participating landowners associated with Flint Mine Solar shall be provided to DPS Staff and redacted to protect confidential information prior to the Commencement of Construction.

29. Interconnection:

a. Provide a copy of the Interconnection Agreement (IA) between the NYISO, National Grid, and the Certificate Holder upon receipt. Any updates or revisions to the Interconnection Agreement shall be submitted throughout the life of the Project.

b. Except in the event of an emergency, if any equipment or control system with materially different characteristics than in the IA is installed throughout the life of the Project, the Certificate Holder shall, at least 90 days before any such change is made, provide information regarding the need for, and the nature of, the change to National Grid and file such information with the Secretary. If any such change(s) is made in the event of an emergency, the Certificate Holder shall notify the Secretary as soon as practicable, within one week of the date of installation.

30. All Facilities Studies issued by National Grid and the NYISO related to the Facility, and any updated facilities agreements, will be filed throughout the life of the Facility.

31. Any System Reliability Impact Study (SRIS) required as part of a future Facility modification or upgrade, performed in accordance with the NYISO Open Access Transmission Tariff (OATT) approved by the Federal Energy Regulatory Commission, and all appendices thereto, reflecting the interconnection of the modified Facility will be filed.

32. The Certificate Holder shall file with the Secretary within 60 days after the commercial

operation date a certification that the collector lines were constructed to the latest editions of ANSI standards. The Facility's electrical collection system shall be designed in accordance with applicable standards, codes, and guidelines as specified in Exhibit 5 of the Application.

33. Prior to Certificate Holder providing final design plans and profile drawings of the interconnection facilities, the Certificate Holder shall work with National Grid to ensure such documents are in accordance with the Interconnection Agreement and Facility Study Report and National Grid's Electric System Bulletins, as well as the New York State High Voltage Proximity Act.

34. The Certificate Holder shall file with the Secretary, within 15 months after the Project becomes operational, a tracking report of the actual number of direct jobs created and payments to local jurisdictions made during the construction and operational phases of the Project.

Local or State Permits and Approvals

35. Upon receipt, copies of any local or state permits and/or approvals required for construction and operation of the Facility, if such approvals were authorized by the Siting Board in Condition 3 above, and not otherwise included in other filings (e.g., Stormwater Pollution Prevention Plan (SWPPP), 5-acre waiver (if necessary), DEC's acknowledgment of Notice of Intent for coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity, county or local permits for sewage and water, and local certificates of completion and temporary certificates of completion issued by a qualified independent engineering firm engaged by the Towns) shall be filed with the Secretary. If relevant Project plans require modifications due to conditions of local or state permits, the final design drawings and all applicable compliance filings shall be revised accordingly.

Plans, Profiles, and Details Drawings

36. As-Built Plans in both hard and electronic copies shall be filed within one year of the commencement of commercial operation of the Facility and shall include the following:

- a. GIS shapefiles showing all components of the Project (PV panel array locations, electrical collection system, substation, buildings, access roads, point of interconnection, etc.);
- b. Collection circuit layout map; and
- c. Details for all Project component crossings of, and co-located installations with existing high-pressure pipelines showing: cover; separations; any protection measures installed; locations of such crossings; and co-located installations.

37. Prior to installation of any PV modules, if not already provided to the Siting Board, the Certificate Holder shall file equipment specifications indicating that the PV modules have received an Underwriters Laboratories (UL) certification.

C. Compliance Filings

The following plans, drawings, and other documents shall be filed for approval by the Siting Board or Public Service Commission in accordance with the rules for submittal, public comment, and decisions set forth in 16 NYCRR §1002.2 and §1002.3, unless otherwise noted. The Certificate Holder shall implement all requirements of the compliance filings, as approved or amended by the Siting Board. Required compliance filings shall be filed with the Secretary prior to the commencement of the phase identified as directly related to the filing, unless otherwise noted.

General

38. The Certificate Holder shall file Operation and Maintenance Plan(s) for the Facility with the Secretary prior to commencement of operations. The plan will address vegetation and stormwater management as well as maintenance of built facilities and equipment, including conformance with manufacturer's required maintenance schedules.

39. Prior to installation of PV modules, a final Decommissioning and Site Restoration Plan shall be submitted. Financial security will be in the form of a letter of credit and will be established by the Certificate Holder to be held by the Towns of Athens and Coxsackie. The total amount of the financial security created for the Towns will represent the total final decommissioning and site restoration estimate, as described below. The financial security shall remain active until the Facility is fully decommissioned. The letter of credit shall not be subject to claims or encumbrances of the Certificate Holders' secured or unsecured creditors nor considered to be property of a bankruptcy estate. The final Decommissioning and Site Restoration Plan will include:

- a. A final decommissioning and site restoration estimate (offset for project salvage value is not permitted in the calculation of the estimate) based on the final Project layout. The costs will be allocated between the Towns of Athens and Coxsackie based on the estimated cost associated with the removal and restoration of the facilities located in each Town. The estimate shall be updated by a qualified independent engineer licensed to practice engineering in the State of New York to reflect inflation and any other changes after one year of Facility operation, and every fifth year thereafter. Updated estimates will be filed with the Secretary after one year of Project operation and every fifth year thereafter;
- b. Affirmation that, prior to commencement of construction, (i) the letter of credit will be obtained in the final decommissioning and site restoration estimate amount, as calculated pursuant to subsection (a) of this Condition, (ii) the Towns' approval of the letter of credit form will be obtained, and (iii) copies of agreements between the Certificate Holder and the Towns, establishing a right for the Towns to draw on the letters of credit until the Facility is fully decommissioned and the Facility Site restored, shall be filed with the Secretary;
- c. Procedures and timeframes for providing written notice to the Towns, DEC and host/adjacent landowners of planned decommissioning and site restoration activities prior to commencement of those activities.
- d. Where former agricultural lands will be returned to their former agricultural state, the Certificate Holder will follow the restoration of agricultural lands according to the Solar Energy Projects – Construction mitigation for Agricultural lands (Revision 10/18/2019); and
- e. The Certificate Holder's decommissioning plan shall adhere to all state laws and regulations in effect at the time of decommissioning regarding the disposal and/or, recycling

of components.

f. Decommissioning and site restoration processes will be triggered if the Project has not generated electricity for a period of 12 continuous months, unless (i) the 12-month period of no energy output is the result of a repair, restoration or improvement to an integral part of the Project that affects the generation of electricity and that repair, restoration or improvement is being diligently pursued by the Certificate Holder, or (ii) the Facility has been directed by the New York Independent Systems Operator (NYISO) or interconnecting utility not to feed energy into the state's electric grid. In the event that the Certificate Holder anticipates that corrective options (regarding energy output) will extend beyond that 12-month period, it will file a notice with the Secretary, describing the circumstance, and provide updates regarding the estimated amount of time required for those actions.

40. The Certificate Holder shall submit a final Facility Communications and Complaint Resolution Plan for both construction and operation phases of the Project, which shall identify the Certificate Holder's construction organizational structure, contact list, and protocol for communication between parties, as well as the complaint reporting and resolution process for construction and operational phases.

- a. A copy of the Facility Communications and Complaint Resolution Plan shall be submitted to DPS Staff, the Towns and filed at the Facility document repositories.
- b. The Certificate Holder shall provide to DPS Staff and the Towns the names and contact information of individuals responsible for Project oversight. The Certificate Holder may utilize one or more qualified individuals to satisfy the Project oversight responsibilities associated with the environmental monitor and the agricultural-specific environmental monitor.
- c. The Certificate Holder may submit separate Facility Communications and Complaint Resolution Plans for construction and operation. Complaint procedures for construction must be submitted prior to the commencement of construction and complaint procedures for operation must be submitted prior to the commencement of commercial operation.

Health and Safety

41. A final Emergency and Fire Response Plan (EFRP) that shall be implemented during Facility construction, operation, and decommissioning. The Certificate Holder may submit separate emergency procedures for construction and operation, if preferred. Emergency procedures for construction must be submitted prior to the commencement of construction and emergency procedures for operation must be submitted prior the commencement of commercial operation.

- a. The EFRP shall address, amongst other potential contingencies, provisions for notification of emergencies.
- b. Training drills with emergency responders will be offered by the Certificate Holder at least once per year.
- c. Copies of the final EFRP shall be provided to DPS Staff, NYS Division of Homeland Security and Emergency Services, Greene County Emergency Management, the Towns of Athens and Coxsackie, and local emergency responders that serve the Facility.

42. A Site Security Plan for Facility construction and operations will be submitted. Copies of the final Site Security Plan shall be provided to DPS Staff, the NYS Division of Homeland Security

and Emergency Services, the Towns of Athens and Coxsackie and local emergency responders that serve the Facility. The Certificate Holder may submit separate Site Security Plans for construction and operation. Security procedures for construction must be submitted prior to the commencement of construction and security procedures for operation must be submitted prior the commencement of commercial operation.

43. A Health and Safety Plan that shall be implemented during Facility operation and construction will be submitted. The Certificate Holder may submit separate health and safety procedures for construction and operation. Health and safety procedures for construction must be submitted prior to the commencement of construction and health and safety procedures for operation must be submitted prior the commencement of commercial operation.

44. A final site-specific construction Quality Assurance and Quality Control Plan (QA/QC Plan) will be submitted prior to the commencement of construction.

45. Prior to the installation of exterior lighting on facility components a Facility Exterior Lighting Plan shall be submitted, which shall address those requirements set forth in the SEEP.

Transportation

46. The Certificate Holder will develop final construction routes in consultation with the Towns and will use the final construction routes in preparing the final construction drawings. The Certificate Holder shall file the following:

- a. Pursuant to 16 NYCRR §1002.4, prior to using a route to haul equipment or materials requiring a permit, the Certificate Holder shall file copies of all necessary transportation permits from the affected State, County, and Town agencies for such equipment and materials on such route. Such permits shall include but not be limited to: Highway Work Permits to work within the highway Right-of-Way (ROW), permits to exceed posted weight limits, Highway Utility Permits to work within the highway ROW, Traffic Signal Permits to work within the highway ROW, Special Haul Permits for oversized or overweight vehicles, and Divisible Load overweight Permits;
- b. Final or updated "Route Evaluation Study," including maps of final transportation routes for Project component deliveries;
- c. "Traffic Control Plans" for any City, Town, or Village that may experience delays to local traffic during construction activities. The "Traffic Control Plans" shall include copies of any Road Use Agreements with Greene County and any affected towns where the local roads will be utilized for delivery or construction vehicle transportation; and
- d. Upon receipt, pursuant to 16 NYCRR §1002.4 copies of all necessary agreements with utility companies for raising overhead wires where necessary to accommodate the oversized or overweight delivery vehicles, if applicable.

Plans, Profiles and Detail Drawings

47. The Certificate Holder shall provide all of the information required pursuant to Section A of the SEEP Guide as applicable to the Project. Maps, site plans, profile figures, and environmental controls and construction details incorporating all components of the final layout of the Project shall be provided in the SEEP for Flint Mine Solar.

48. Shapefile data shall be provided to DPS Staff, DEC and the Towns upon submittal of the SEEP document for the final locations of PV panel arrays, collection lines, transmission lines, substation, designated clearing, construction and laydown areas, access ways, limits of disturbance and other Project facilities.

Environmental

49. The Certificate Holder shall prepare a Geotechnical Engineering Report verifying subsurface conditions and characterizing subsurface conditions at the Facility site, including where horizontal directional drilling (HDD) is proposed. The Geotechnical Engineering Report shall identify appropriate mitigation measures required in locations with highly corrosive soils, soils with a high frost risk, soils with high shrink or swell potential, and locations where subsurface karst conditions are observed. This report shall be submitted prior to commencement of construction.

50. An Inadvertent Return Plan showing all locations where horizontal directional drilling (HDD) or jack and bore is proposed. The plan shall assess the potential impacts from frac-outs at the proposed drilling locations, establish measures for minimizing the risk of adverse impacts to nearby environmental resources, and contain details as outlined in Section B of SEEP Guide.

51. The Certificate Holder shall prepare and implement a final "Net Conservation Benefit Plan" (NCBP) in accordance with 6 NYCRR Part 182 for the take of State-listed threatened and endangered grassland bird species occupied habitat. The NCBP shall be developed in consultation with NYSDPS, NYSDEC, Scenic Hudson, and Greene Land Trust, and that shall be accepted by NYSDEC. The NCBP shall be filed prior to commencement of construction activities (as defined in Condition 13 above) in occupied habitat, and shall include the following:

- a. A demonstration that the NCBP results in a net conservation benefit on each of the affected species (Short-eared Owl and Northern Harrier);
- b. Detailed explanation of the net conservation benefit to the species based on the actual location and type of minimization and mitigation measures to be taken for each of the affected species;
- c. Full source information supporting a determination as to the net conservation benefit for each of the affected species;
- d. A consideration of impact minimization and mitigation measures for each of the affected species;
- e. An identification of sites for mitigation measures for the affected species;
- f. A letter or other indication proof of the Certificate Holder's financial and technical capability and commitment to fund and execute such management, maintenance and monitoring for the life of the Facility/term of the Certificate;
- g. The Certificate Holder will consult with NYSDPS, NYSDEC, Scenic Hudson, and

Greene Land Trust in the development of land management strategies for grassland habitat conservation areas proposed as part of the NCBP;

h. On-site grassland bird habitat management activities performed within freshwater wetlands and 100-foot adjacent areas regulated pursuant to Article 24 of the Environmental Conservation Law will adhere to the requirements specified in the NCBP.

52. The Certificate Holder shall implement the approved Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP). The final CRAMMP will provide a detailed description of cultural resources mitigation measures approved by the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP). Prior to construction, the Certificate Holder will provide demonstration of land rights for mitigation parcels that would be placed into a conservation easement (or similar).

53. The Certificate Holder shall implement a Final Unanticipated Discovery Plan, approved by NYSOPRHP, which will describe procedures that will be followed in the event that unanticipated archaeological finds are observed during construction.

54. A long-range Facility Operations and Maintenance (O&M) Plan shall be filed within one year after the commencement of operation. The plan shall address specific standards, protocols, procedures and specifications as indicated in the SEEP Guide.

55. The Certificate Holder shall prepare a Final Invasive Species Prevention and Management Plan (ISPMP) which shall be submitted by commencement of construction. The Final ISPMP shall include pre-construction invasive species control if necessary, construction materials inspection and sanitation, and site restoration in accordance with the Facility's final approved Storm Water Pollution Prevention Plan (SWPPP). A post-construction monitoring program (MP) shall be conducted in year 1, year 3, and year 5, following completion of construction and restoration. The MP shall collect information to facilitate evaluation of ISPMP effectiveness. At the conclusion of the MP, a report shall be submitted to DPS Staff, DEC, the Towns, and DAM, and filed with the Secretary, that assesses how well the goal of no net increase of invasive species per the recommendation of the Invasive Plant Species Survey Baseline Report ("Baseline Species Report"), due to construction of the Facility, is achieved. In the event that the report concludes that ISPMP goals are not met, and there is an increase of invasive species due to Facility construction, the Certificate Holder, DPS, DEC and DAM will meet to consider why initial control measures were ineffective and determine if remedial control measures would be feasible and effective without the need for perpetual treatments.

56. The Certificate Holder shall prepare an Agricultural Area Plan consistent with the New York State Department of Agriculture and Markets "Guidelines for Solar Energy Project – Construction Mitigation for Agricultural Lands (Revision 10/18/2019)."

Visual

57. Prior to commencement of construction, the Certificate Holder shall submit a final Visual Mitigation Planting Plan (VMPP), which shall be appropriate for the scale of the Facility and visual character of the surrounding area, based on the conceptual mitigation plan presented in Appendix 24-D of the Application. The VMPP shall include:

- a. Details showing the location and specific vegetation types to be planted at each designated visual mitigation area in accordance with specifications and planting layout depicted in the VMPP as prepared by the Applicant's Landscape Architect. A distinct, site specific module will be developed and implemented at each designated visual mitigation buffer. All plantings shall be appropriate for the scale of the Facility and visual character of the surrounding area.
- b. Visual contrast minimization and mitigation measures;
- c. Solar glare mitigation requirements.
- d. A construction timeline and schedule including installation guidelines and field assessment. The timeline shall specify that final VMPP will be implemented (i.e. planting will occur) prior to or in conjunction with the installation of the solar panel arrays, to the extent practicable. All plantings should occur during the spring or fall planting season.
- e. A maintenance and replacement program which shall specify that:
 - (i) The Certificate Holder will retain a landscape architect and/or Certified Landscape and Nursery Professional (CLNP) to inspect the visual mitigation plantings at one year following installation to identify any plant material that did not survive, appears unhealthy, and/or otherwise needs to be replaced. The Certificate Holder will remove and replace plantings that fail in materials, workmanship or growth within one-year following the completion of installing the plantings.
 - (ii) Following the first-year inspection, the Certificate Holder will retain a landscape architect and/or CLNP to review landscape plantings on an annual basis for the next 4 years (i.e., on annual basis for the first 5 years of project operation) to confirm that the landscape plantings are functioning to provide visual screening per the VMPP. Results of this review will be filed with the Secretary. The landscape architect will recommend remedial measures identified, along with a schedule for implementation, if necessary.
 - (iii) The Certificate Holder will retain a landscape architect and/or CLNP review the visual mitigation plantings as part of routine maintenance following the five-year monitoring period to evaluate the health condition of the plantings.
 - (iv) In the case of excessive damage or localized die-back of the mitigation plantings after the first five years, planting condition will be evaluated by a representative of the Certificate Holder to evaluate and determine if the mitigation plantings are accomplishing the mitigation/screening goals set forth in the VMPP. If the remaining vegetation does accomplish these goals, then no further action is necessary. If deemed insufficient, new plantings or other means of screening will be recommended for installation

Noise

58. Sixty (60) days prior to commencement of construction, the Certificate Holder shall submit:
 - a. Final drawings for the Solar Generating Facility, incorporating any appropriate changes to the design including:
 - i. Location of all noise sources and receptors identified with Geographic Information Systems (GIS) coordinates and GIS files;
 - ii. Proposed grading and noise source heights and ground elevation;

- iii. Site plan and elevation detail of substation components as related to the location of all relevant noise sources (e.g. transformers, emergency generator, HVAC equipment, if any);
 - iv. Any identified mitigations, specifications, and appropriate clearances (e.g., for sound walls, barriers, and enclosures, if any); and
 - v. Sound information from the manufacturers for all noise sources (e.g., transformers, inverters, and HVAC equipment, if any).
- b. Revised sound modeling with the final specifications of equipment selected for construction to demonstrate that the Project is modeled to meet local laws on noise (if any) and the following noise limits:
- i. A maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any non-participating residence (existing at the date the Order is issued), and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence;
 - ii. A maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment;
 - iii. A prohibition on producing any audible prominent tones, as defined by using the constant level differences listed under ANSI S12 .9-2005/Part 4 Annex C (sounds with tonal content), at the outside of any existing non-participating residence. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance with subparagraph (i) and (ii) of this paragraph; and
 - iv. A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average sound level from the facility across any portion of a non-participating property (except for portions delineated as NYS-regulated wetlands and utility/transportation ROWs), to be demonstrated with modeled sound contours drawings and discrete sound levels at worst-case locations. No penalties for prominent tones will be added in this assessment.
- c. Final computer noise modeling and tonal evaluation shall be conducted in accordance with the specifications in the SEEP Guide.

V. Facility Construction and Maintenance

59. *Construction Hours.* Construction activities which may result in noise off-site, including excavation, tree clearing, or pile driving activities, shall be limited to 7 a.m. to 7 p.m. Monday through Saturday and 8 a.m. to 7 p.m. on Sunday and national holidays, with the exception of construction, deliveries or maintenance work which may need to occur during extended hours beyond this schedule on an as-needed basis, subject to the notice requirements in subsection (b).

- (a) Construction work hour limits apply to facility construction and to construction-related activities, including maintenance and repairs of construction equipment at outdoor locations, large vehicles idling for extended periods at roadside locations, delivery and off-loading of equipment, and related disturbances. This condition shall not apply to vehicles used for

transporting construction or maintenance workers, small equipment, and tools used at the facility site for construction or maintenance activities. Crews will be allowed to assemble in Project Area and conduct pre and/or post workday meetings (i.e. morning plan of the day and/or safety brief, evening progress meeting) outside of the timeframes identified in this Condition. This condition shall also not apply to activities that do not generate noise.

(b) If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable work hours, the Certificate Holder shall notify the NYSDPS, affected landowners and the host Towns. Such notice shall be given at least twenty-four (24) hours in advance, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided. Such notice shall include appropriate measures taken to avoid, minimize and mitigate any noise, traffic or other construction impacts.

60. During Facility operations, maintenance activities which generate noise off-site will generally be conducted between the hours of 7 a.m. to 7 p.m. Monday through Saturday. If, due to safety or continuous operation requirements, noise-producing maintenance activities are required to occur beyond the allowable work hours, the Certificate Holder will provide the notices outlined in Condition 59(b). This condition shall not apply to routine snow removal or mowing activities.

61. *Environmental and Agricultural Monitoring.*

a. The Certificate Holder shall hire an independent, third-party environmental monitor to oversee compliance with environmental commitments and siting permit requirements. The environmental monitor will have sufficient expertise (or training) to implement Certificate Conditions specific to threatened and endangered species concerns, as described herein. The environmental monitor shall perform regular site inspections of construction work sites and, in consultation with the NYSDPS, issue regular reporting and compliance audits.

b. The environmental monitor shall have stop work authority over all aspects of the facility. Any stop work orders shall be limited to affected areas of the facility. Copies of the reporting and compliance audits shall be provided to the host town(s) upon request.

c. The Certificate Holder shall identify and provide qualifications and contact information for the independent, third-party environmental monitor to the NYSDPS, with a copy to the appropriate State permitting agency.

d. If the New York State Department of Agriculture and Markets (NYSDAM) determines that the environmental monitor is not qualified to serve as an agriculture-specific Environmental Monitor, the Certificate Holder shall also retain an independent, third-party agriculture-specific environmental monitor (if required by subsection(s) below).

e. The Certificate Holder shall ensure that its environmental monitor (and agricultural-specific Environmental Monitor, if a separate entity) are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor the

Certificate Holder's contractor's compliance with the provisions of the siting permit with respect to such Certificate Holder's facility components and to applicable sections of the Public Service Law, Executive Law, Environmental Conservation Law, and Clean Water Act Section 401 Water Quality Certification, substantive provisions of local law (not otherwise waived by the Siting Board), and the SEEP.

f. The Certificate Holder shall implement a construction impact monitoring plan that generally includes the following provisions:

- (i) Surface water sampling shall be conducted at up to 3 discharge or design point/outfalls from the Facility Site which are within the Sleepy Hollow Lake Watershed.
- (ii) Test results shall be recorded on site and will include, at a minimum, turbidity (NTU) and total suspended solids (TSS)
- (iii) Sampling shall be conducted at least 4 times prior to construction, twice quarterly during construction, and at least 4 times after construction. Samples shall be collected following rain events.

62. *Pre-Construction Meeting.* At least fourteen (14) days before the commencement of construction, the Certificate Holder shall hold a pre-construction meeting or meetings with staff of the appropriate State permitting agency, NYSDPS, NYSDEC, NYSAGM, NYSDOT, Town of Athens and Cossackie supervisors and highway departments, county highway departments and appropriate local first responders. The balance of plant (BOP) construction contractor, the agricultural monitor and environmental monitor shall be required to attend the pre-construction meeting. If necessary due to public health restrictions, pre-construction meetings discussed herein may be held virtually or in person.

- a. An agenda, the location, and an attendee list shall be agreed upon between staff of the appropriate State permitting agency and the NYSDPS and the Certificate Holder and distributed to the attendee list at least one (1) week prior to the meeting;
- b. Maps showing designated travel routes, construction worker parking and access road locations and a general facility schedule shall be distributed to the attendee list at least one (1) week prior to the meeting;
- c. The Certificate Holder shall supply draft minutes from this meeting to the attendee list for corrections or comments, and thereafter the Certificate Holder shall issue the finalized meeting minutes; and
- d. If, for any reason, the BOP contractor cannot finish the construction of the facility, and one (1) or more new BOP contractors are needed, there shall be another pre-construction meeting with the same format as outlined in this section.

63. *Construction Reporting and Inspections.* During facility construction, the Certificate Holder shall report construction status and support inspections as follows:

- a. Every two (2) weeks, the Certificate Holder shall provide NYSDPS and appropriate

State permitting agency staff, and the host municipalities with a report summarizing the status of construction activities, and the schedule and locations of construction activities for the next two (2) weeks.

b. Prior to their entry onto the facility site for on-site inspections, the Certificate Holder shall conduct a tailgate meeting to communicate required safety procedures and worksite hazards to site inspectors.

c. The Certificate Holder shall accommodate reviews of any of the following during a monthly inspection and at other times as may be determined by NYSDPS staff:

(i) The status of compliance with siting permit conditions;

(ii) Field reviews of the facility site;

(iii) Actual or planned resolutions of complaints;

(iv) Significant comments, concerns, or suggestions made by the public, municipalities, or other agencies and indicate how the Certificate Holder has responded to the public, local governments, or other agencies; and

(v) The status of the facility in relation to the overall schedule established prior to the commencement of construction; and

(vi) Other items the Certificate Holder, NYSDPS staff, or staff of the appropriate State permitting agency consider appropriate.

d. After every monthly inspection, the Certificate Holder shall provide the municipalities and agencies involved in the inspection with a written record of the results of the inspection, including resolution of issues and additional measures to be taken.

64. *Flagging*. Prior to commencement of construction in any project component area, the Certificate Holder shall stake or flag the following:

a. The limits of tree clearing;

b. The limits of disturbance;

c. Wetlands, streams, waterbodies and DEC wetland adjacent areas within limits of disturbance;

d. Designated restrictive areas and sensitive environmental resources.

e. All on or off ROW access roads

f. Other areas needed for construction such as, but not limited to, laydown, and storage areas and areas to be planted with landscaping as visual screening.

65. *Dig Safely NY*. Prior to the commencement of construction, the Certificate Holder shall become a member of Dig Safely New York. The Certificate Holder shall require all contractors, excavators, and operators associated with its facilities to comply with the requirements of the PSC's regulations regarding the protection of underground facilities at 16 NYCRR Part 753.

66. *Natural Gas Pipeline Cathodic Protection.* The Certificate Holder shall contact any pipeline operators within the facility site and land owners, if necessary, on which facility components are to be located or whose property lines are within the zone of safe siting clearance, if any, and shall reach an agreement with each operator to provide that construction and operation of the Facility will not damage any identified pipeline's cathodic protection system or produce damage to the pipeline, either with fault current or from a direct strike of lightning to the collection and interconnection systems, specifically addressing 16 NYCRR Section 255.467 (External corrosion control; electrical isolation).

67. *Pole Numbering.* The Certificate Holder shall comply with all requirements of the PSC's regulations regarding identification and numbering of above ground utility poles at 16 NYCRR Part 217.

68. *Fencing.* All mechanical equipment, including any structure for storage of batteries, shall be enclosed by fencing of a minimum height of seven (7) feet with a self-locking gate to prevent unauthorized access.

69. *Air Emissions.* To minimize air emissions during construction, the Certificate Holder shall:

- a. Prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used;
- b. Implement dust control procedures to minimize the amount of dust generated by construction activities in a manner consistent with the Standards and Specifications for Dust Control, as outlined in the New York State Standards and Specifications for Erosion and Sediment Controls;
- c. Use construction equipment powered by electric motors where feasible, or by ultra-low sulfur diesel; and
- d. Dispose or reuse cleared vegetation in such a way that that minimizes greenhouse gas emissions (e.g., lumber production or composting).

70. *Construction Noise.* To minimize noise impacts during construction, the Certificate Holder shall:

- a. Maintain functioning mufflers on all transportation and construction machinery;
- b. Respond to noise and vibration complaints in accordance with the Complaint Resolution Plan; and
- c. Comply with all substantive provisions of all local laws regulating construction noise unless they are waived.

71. *General Environmental Requirements.*

- a. *Limits of Construction Activity (LOCA)*. Construction shall not disturb areas outside the construction limits shown on the design drawings.
- b. The use of blasting is prohibited.
- c. *E&S Materials*. Permanent erosion control fabric or netting used to stabilize soils prior to establishment of vegetative cover or other permanent measures shall be one hundred (100) percent natural or biodegradable product, to the maximum extent practicable (except for example, on steep slopes). Use of hay for erosion control or other construction-related purposes is prohibited to minimize the risk of introduction of invasive plant species.
- d. *Spill Kits*. All construction vehicles and equipment shall be equipped with a spill kit. All equipment shall be inspected daily for leaks of petroleum, other fluids, or contaminants; equipment may only enter a stream channel if found to be free of any leakage. Any leaks shall be stopped and cleaned up immediately. Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the NYSDEC's Spill Hotline within two (2) hours, in accordance with the NYSDEC Spill Reporting and Initial Notification Requirements Technical Field Guidance (see section 900-15.1(i)(1)(iii) of this Part). NYSDPS staff and Sleepy Hollow Lake Association of Property Owners shall also be notified of all reported spills in a timely manner.
- e. *Construction Debris*. Any debris or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials is allowed.
- f. *Clearing Areas*. Tree and vegetation clearing shall be limited to the minimum necessary for facility construction and operation, and as detailed on final construction plans.
- g. *Clearing Methods*. When conducting clearing, the Certificate Holder shall:
- (i) Comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and ECL Section 9-1303 and any quarantine orders issued thereunder;
 - (ii) Not create a maximum wood chip depth greater than three (3) inches nor store or dispose wood chips in wetlands, within stream banks, delineated floodways, or active agricultural fields. This provision shall not apply to chip roads, if proposed;
 - (iii) Not dispose of vegetation or slash by burning anywhere or burying within a wetland or adjacent area, or any areas proposed to return to agricultural production post decommissioning; and
 - (iv) Coordinate with landowners to salvage merchantable logs and fuel wood. Where merchantable logs and fuel wood will not be removed from the facility site during clearing activities, final construction plans shall indicate locations of stockpiles to be established for removal from site or future landowner resource recovery.

(v) Specific paths/routes will be prepared for clearing, which will be completed with tracked, low ground pressure vehicles and then followed up by shallow, superficial decompaction methods, such as aeration to a maximum depth of 6 inches.

h. *Invasive Species.* To control the spread of invasive insects, the Certificate Holder shall provide training for clearing and construction crews to identify the Asian Longhorn Beetle, the Emerald Ash Borer, Sirex Woodwasp, Spotted Lanternfly, and Hemlock Woolly Adelgid and other invasive insects of concern listed per NYSDEC Part 575 Regulations as a potential problem at the project site. If these insects are found, they shall be reported to the NYSDEC as soon as practicable.

72. *Water Supply Protection.*

(i) HDD and pier and post driving activities, except for fence poles or ground screws (which are permitted), shall be prohibited within one hundred (100) feet of any existing, active drinking water supply well.

(ii) HDD operations shall be prohibited within five hundred (500) feet of an existing, active drinking water supply well on a non-participating parcel.

(iii) The Certificate Holder shall engage a qualified third party to perform pre- and post-construction testing of the potability of water wells within the below specified distances of construction disturbance before commencement of civil construction and after completion of construction to ensure the wells are not impacted, provided the Certificate Holder is granted access by the property owner:

A. Collection lines or access roads within one hundred (100) feet of an existing, active water supply well on a non-participating property;

B. Pier or post installations within two hundred (200) feet of an existing, active water supply well on a non-participating property; and

C. HDD operations within five hundred (500) feet of an existing, active water supply well on a non-participating property.

(iv) Should the third-party testing conclude that the water supplied by an existing, active water supply well meet applicable federal and state standards for potable water prior to construction, but failed to meet such standards post construction as a result of facility activities, the Certificate Holder shall cause a new water well to be constructed, in consultation with the property owner, at least one hundred (100) feet from collection lines and access roads, and at least two hundred (200) feet from all other facility components. The results of such tests and reports shall be made available to the relevant municipalities upon request.

73. *Threatened and Endangered Species.*

a. For purposes of avoiding and minimizing impacts to NYS threatened or endangered

grassland birds, the Certificate Holder shall implement the following:

- (i) To avoid direct impacts to NYS threatened or endangered grassland bird species, the following work windows apply for all ground disturbance and construction-related activities, including restoration and equipment/component staging, storage, and transportation, within occupied habitat: In NYS threatened or endangered grassland bird occupied wintering habitat, work shall be conducted in occupied wintering habitat only between April 1 and October 31 to the maximum extent practicable;
- (ii) If the Certificate Holder has identified construction activities that must occur between November 1 and March 31 in identified NYS threatened or endangered grassland bird occupied wintering habitat, the occupied habitat area(s) proposed for active construction shall be assessed by an on-site environmental monitor or biologist who shall conduct surveys for NYS threatened or endangered grassland bird species. The surveys shall occur daily, following protocol provided by DEC, until construction activities have been completed in the occupied habitat area, unless otherwise agreed to by NYSDEC. If no NYS threatened or endangered grassland bird species are detected during the survey of a given area, the area shall be considered clear for no more than twenty-four (24) hours. If NYS threatened or endangered grassland bird species are detected, a stop work order shall immediately be issued for that survey area and shall remain in place until such time until notice to continue construction is granted by NYSDPS staff, in concurrence with NYSDEC, provided however that the Certificate Holder may engage in emergency activities (such as those situations threatening personal injury, property, or severe adverse environmental impact) within such survey area.
- (iii) All temporary disturbance or modification of established grassland vegetation communities that occurs as a result of facility construction, restoration, or maintenance activities shall be restored utilizing a native herbaceous or pollinator-friendly seed mix by re-grading and re-seeding after disturbance activities are completed. These temporarily disturbed or modified areas include all areas within the facility site that do not have impervious cover such as temporary roads, material and equipment staging and storage areas, and electric line rights of way.
- (iv) The Certificate Holder shall implement avoidance and minimization measures as defined in the NCBP to avoid and minimize potential take of the species.
- (v) A post-construction avian monitoring plan for the Facility Site shall be developed in consultation with NYSDEC and a final, NYSDEC-accepted Monitoring Plan filed prior to the Start of Facility operation. The Monitoring Plan shall include breeding and wintering bird surveys, and include details of the surveys (i.e., start and end dates, point count and transect locations, frequency and scope of monitoring, methods for observation and survey, and reporting requirements). The Monitoring Plan will be used to gather data regarding use of the Facility Site by breeding and wintering birds, including State-listed species, after construction and will include at least one multi-season survey during the first three years of Project

operation. Findings from the survey conducted will not trigger additional surveys or additional mitigation and will not result in changes to operations of the Project.

b. To avoid impacts to NYS threatened or endangered bat species, the Certificate Holder shall implement the following:

(i) No Facility component shall be sited or located within one hundred fifty (150) feet of any known northern long-eared bat maternity roost, or within one quarter (0.25) mile of any known northern long-eared bat hibernaculum.

(ii) If at any time during the life of the facility, a NYS and/or federally threatened or endangered bat species maternity colony roost tree (or structure) is discovered within the facility site, the NYSDPS, NYSDEC, and USFWS shall be notified within twenty-four (24) hours of discovery (during construction) and forty-eight (48) hours of discovery (during operation), and the colony site shall be marked. A five hundred (500)-foot radius around the colony shall be posted and avoided until notice to continue construction, ground clearing, grading, non-emergency maintenance or restoration activities, as applicable, at that site is granted by the NYSDPS, NYSDEC, and USFWS. A re-evaluation of the potential impacts of the Project on NYS and/or federally listed bat species shall be prepared and provided to the NYSDPS, NYSDEC, and USFWS.

(iii) *Tree Clearing Limitations for Northern Long-eared Bats*

A. No tree clearing activities shall occur at any time within one hundred fifty (150) feet of any known maternity roost or one quarter (0.25) mile of any known hibernaculum.

B. All tree clearing activities (except for hazard tree removal to protect human life or property) occurring within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between November 1 and March 31) without further restrictions unless otherwise approved by NYSDEC. This limitation does not include trees less than or equal to four (4) inches in diameter at breast height (DBH).

C. From April 1 to October 31, the following restrictions shall be implemented for all tree clearing activities in the facility site, unless otherwise agreed to by NYSDEC:

1) The Certificate Holder shall leave uncut all snag and cavity trees, as defined under the NYSDEC Program Policy ONRDLF-2 Retention on State Forests, unless their removal is necessary for protection of human life and property. This restriction pertains to trees that are greater than or equal to four (4) inches DBH. When necessary, snag or cavity trees may be removed after being cleared by an environmental monitor who shall conduct a survey for bats

exiting the tree. This survey shall begin thirty (30) minutes before sunset and continue until at least one (1) hour after sunset or until it is otherwise too dark to see emerging bats. Unoccupied snag and cavity trees in the approved clearing area shall be removed within forty-eight (48) hours of observation.

2. If any bats are observed flying from a tree, or from a tree that has been cut, tree clearing activities within five hundred (500) feet of the tree shall be suspended and the NYSDPS and NYSDEC shall be notified as soon as possible. The Certificate Holder shall have an environmental monitor present on site during all tree clearing activities. If any bat activity is noted, a stop work order will immediately be issued and shall remain in place until such time as the NYSDPS and NYSDEC have been consulted and authorize resumption of work. Such authorization shall not be unreasonably withheld, and consultations must take place in a timely manner.

c. *Record All Observations of NYS Threatened or Endangered Species.* During construction, restoration, operation and maintenance of the Facility and associated facilities, the Certificate Holder shall maintain a record of all observations of NYS threatened or endangered species as follows:

(i) *Construction.* During construction, the on-site environmental monitor shall be responsible for recording all occurrences of NYS threatened or endangered species within the Facility Site. All occurrences shall be reported in a biweekly monitoring report submitted to the NYSDPS and NYSDEC and such reports shall include the information described in subparagraph (iii) of this paragraph. If a NYS threatened or endangered bird species is demonstrating breeding or roosting behavior, it shall be reported to the NYSDPS and NYSDEC within twenty-four (24) hours (or as soon as possible, in the event that more than 24 hours are needed to compile the required details for such reports/notifications).

(ii) *Post-Construction Restoration.* After construction is complete, incidental observations of any NYS threatened or endangered species shall be documented and reported to the NYSDPS and NYSDEC, in accordance with the reporting requirements in subparagraph (iii) of this paragraph.

(iii) *Operation and Maintenance:* During regular operation and maintenance, the Certificate Holder will be responsible for training permanent operation and maintenance staff to focus on successfully identifying the following T&E bird species for which occupied habitat has been defined within the Facility area: short-eared owl (*Asio flammeus*), northern harrier (*Circus hudsonius*), Certificate Holder will keep a record of occurrences of these species with the Facility Site and report all observations to DEC within one week of the identification of the T&E species. This provision shall not apply to seasonally contracted workers performing routine snow removal or mowing activities outside of designated grassland habitat preserve areas.

(iv) *Reporting Requirements.* All reports of NYS and/or federally threatened or endangered species shall include the following information: species; number of individuals; age and sex of individuals (if known); observation date(s) and time(s); Global Positioning System (GPS) coordinates of each individual observed (if operation and maintenance staff do not have GPS available, the report shall specify the nearest solar panel array and road or cross roads location); behavior(s) observed; identification and contact information of the observer(s); and the nature of and distance to any Facility construction, maintenance or restoration activity.

d. *Discovery of Nests or Dead or Injured NYS Threatened or Endangered Bird Species*

(i) If at any time during construction or operational life of the Facility, an active nest or roost of a federal or NYS threatened or endangered bird species is discovered (by the Certificate Holder's environmental monitor or other designated agents) within the facility site, the following actions shall be taken:

A. The NYSDPS and NYSDEC shall be notified within twenty-four (24) hours of discovery (or as soon as possible, in the event that more than 24 hours are needed to compile the required details for such reports/notifications) and prior to any further disturbance around the nest, roost, or area where the species were seen exhibiting any breeding or roosting behavior;

B. Excluding bald eagles an area at least five hundred (500) feet in radius around the active nest or roost shall be posted and avoided until notice to continue construction, ground clearing, grading, maintenance or restoration activities are granted by NYSDPS and NYSDEC.

C. For bald eagles, an area at least six hundred sixty (660) feet in radius with a visual buffer, or one quarter (1/4) mile with no visual buffer, around the active nest or roost shall be posted and avoided until notice to continue construction, ground clearing, grading, maintenance or restoration activities are granted by NYSDPS and NYSDEC; and

D. The active nest(s) or nest tree(s) or roost(s) shall not be approached under any circumstances unless authorized by NYSDPS or NYSDEC.

(ii) If any dead or injured federal or NYS threatened or endangered bird species, or eggs or nests thereof, are discovered by the Certificate Holder's on-site environmental monitor or other designated agent at any time during the life of the facility, the Certificate Holder shall as soon as possible contact the NYSDEC and the United States Fish and Wildlife Service (USFWS) for federally-listed species, to arrange for recovery and transfer of the specimen(s). The NYSDPS and NYSDEC shall also be notified. The following information pertaining to the find shall be recorded:

- A. Species;
- B. Age and sex of the individual(s), if known;
- C. Date of discovery of the animal or nest;
- D. Condition of the carcass, or state of the nest or live animal;
- E. GPS coordinates of the location(s) of discovery;
- F. Name(s) and contact information of the person(s) involved with the incident(s) and find(s);
- G. Weather conditions at the facility site for the previous forty-eight (48) hours;
- H. Photographs, including scale and of sufficient quality to allow for later identification of the animal or nest; and
- I. An explanation of how the mortality/injury/damage occurred, if known.

Electronic copies of each record, including photographs, will be provided to NYSDEC and USFWS (for federally-listed species only) within twenty-four (24) hours of discovery. Hard copies of the same shall be kept and given to the NYSDEC and the USFWS at the time of specimen transfer. If the discovery is followed by a non-business day, the Certificate Holder shall ensure all the information listed above is properly documented and stored with the specimen(s). Unless otherwise directed by the NYSDEC or the USFWS, after all information has been collected in the field, the fatality specimen(s) shall be placed in a freezer, or in a cooler on ice until transported to a freezer, until it can be retrieved by the proper authorities.

- e. The provisions of this subdivision (d) of this section shall remain in effect for as long as the relevant species is listed as endangered or threatened in New York State.

74. *Wetlands, Waterbodies, and Streams.* The Certificate Holder shall implement the following procedures for construction within wetlands and adjacent areas subject to ECL Article 24, waterbodies and streams regulated pursuant to ECL Article 15 and other federal jurisdictional wetlands/waters outside of State jurisdiction, where specified:

- a. The Certificate Holder shall perform all construction, operation and maintenance in a manner that avoids and minimizes adverse impacts to State-regulated waterbodies, wetlands, and one hundred (100)-foot adjacent areas to the maximum extent practicable. The Certificate Holder shall ensure the provisions to protect wetlands, waterbodies, and adjacent areas are in accordance with the details contained in Appendix A of SEEP Guide.

- b. *Environmentally Sensitive Area (ESA) Flagging.* Prior to performing construction in an ESA, defined herein as any State-regulated wetlands, waterbodies or streams and associated 100-foot adjacent areas identified in the delineations approved by the NYSDEC, the Certificate Holder shall mark the boundaries of the ESA with colored flagging, "protected area" signs, or erosion and sediment control measures specified by the SWPPP. The Certificate Holder shall install additional markers or signs stating, "No Equipment Access," as necessary to prevent access by motorized vehicles into ESAs where no construction is planned.
- c. *Equipment Maintenance and Refueling.* Equipment storage, refueling, maintenance, and repair shall be conducted and safely contained more than one hundred (100) feet from all wetlands, waterbodies, and streams and stored at the end of each workday unless moving the equipment will cause additional environmental impact. Dewatering pumps operating within one hundred (100) feet of wetlands, waterbodies, or streams may be refueled in place and shall be within a secondary containment large enough to hold the pump and accommodate refueling. All mobile equipment, excluding dewatering pumps, shall be fueled in a location at least one hundred (100) feet from wetlands, waterbodies and streams unless moving the equipment will cause additional environmental impact.
- d. *Fuel Storage.* Fuel or other chemical storage containers shall be appropriately contained and located at least three hundred (300) feet from wetlands, waterbodies, and streams.
- e. *Clean Fill.* All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, fly ash, demolition debris, broken concrete, garbage, household refuse, tires, woody materials, and metal objects. Reasonable efforts shall be made to use fill materials that are visually free of invasive species based on onsite and source inspections. The introduction of materials toxic to aquatic life is expressly prohibited.
- f. *Turbid Water.* Turbid water resulting from dewatering operations shall not be allowed to enter any wetland, waterbody, or stream. Water resulting from dewatering operations shall be discharged directly to settling basins, filter bags, or other approved devices. Said devices shall be placed at least 50 feet from all State-regulated wetlands, streams, or other surface waters. All necessary measures shall be implemented to prevent any substantial visible contrast due to turbidity or sedimentation downstream of the work site.
- g. *Truck Washing.* Washing of trucks and equipment shall occur one hundred (100) feet or more from State-regulated wetlands, streams, or other wetlands/surface waters and located outside of 100-foot adjacent areas. Waste concrete and water from such activities shall be controlled to avoid it flowing into any wetland or 100-foot adjacent area, waterbody or stream.
- h. *Concrete Washouts.* Concrete washouts and batch plants, or concrete from truck cleanout activity, any wash water from trucks, equipment, or tools, if done on site, shall be located and installed to minimize impacts to water resources. Locations shall be at least three hundred (300) feet from any wetland, waterbody or stream, and located outside wetland adjacent areas to the maximum extent practicable. If the minimum setback cannot be achieved, the SEEP shall provide justification and demonstrate that impacts to wetlands and

waterbodies from concrete batch plants and concrete washout areas shall be avoided or minimized to the maximum extent practicable.

i. *Use of Trenchless Methods.* Installation of underground collection lines across wetlands, waterbodies and streams shall be performed via trenchless methods, such as HDD, to the maximum extent practicable.

j. *Trenching.* Open cut trenching in wetlands, waterbodies and streams shall be conducted in one continuous operation and shall not exceed the length that can be completed in one (1) day.

k. The Certificate Holder shall notify the NYSDEC and the NYSDPS within two (2) hours if there is a discharge to a wetland, waterbody or stream resulting in a violation of New York Water Quality Standards at 6 NYCRR Section 703.

75. *Wetlands.* The Certificate Holder shall implement the following requirements for freshwater wetlands and regulated 100-foot adjacent areas:

a. *Construction in Wetlands and Adjacent Areas.* All construction activities completed within wetlands and/or adjacent areas shall adhere to the following requirements:

(i) Work should be conducted during dry conditions without standing water or when the ground is frozen, where practicable.

(ii) Excavation, installation, and backfilling in wetlands shall be performed in one continuous operation, to the maximum extent practicable.

(iii) Temporary construction matting shall be used as necessary to minimize disturbance to the wetland soil profile during all construction and maintenance activities. All temporary construction matting shall be removed as soon as practicable but no later than two months following installation from the wetland and cleaned of any invasive species (seed, plant materials, insects, etc.) after construction/maintenance activities are completed and removal shall be verified with the on-site environmental monitor after construction. Matting shall be removed by equipment stationed on a mat or areas outside the wetland or 100-foot adjacent area.

(iv) In the event that construction results in an unanticipated alteration to the hydrology of a wetland (i.e., lowering), the breach shall be immediately sealed, and no further activity shall take place until the NYSDPS is notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved. The Sleepy Hollow Lake Association of Property Owners will also be notified.

(v) Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of possible turbid trench water from entering the wetland.

- (vi) Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent wetland draining during construction.
- (vii) In wetland areas, the topsoil shall be removed and stored separate from subsoil. The top twelve (12) inches of wetland topsoil shall be removed first and temporarily placed onto a geo-textile blanket. Generally, topsoil will not be stockpiled greater than 3 feet in height in order to maintain the biological activity in the topsoil.
- (viii) Only the excavated wetland topsoil and subsoil shall be utilized as backfill, with the exception of clean bedding material for electrical collection lines and/or conduits, provided there is no change to the pre-construction contours upon restoration; and trench-breakers are used to prevent draining the wetland.
- (ix) Subsoil dug from the trench shall be sidecast on the opposite side of the trench on another geo-textile blanket running parallel to the trench, if necessary.
- (x) Trenches shall be backfilled with the wetland subsoil and the wetland topsoil shall be placed back on top. All excess materials shall be completely removed to upland areas more than one hundred (100) feet from the wetland and suitably stabilized.
- (xi) When backfilling occurs, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth as prior to disturbance.
- (xii) All disturbed soils within wetlands and adjacent areas shall be seeded with an appropriate native wetland seed mix, shrubs, live stakes, or tree planting as site conditions and design allow, as appropriate for existing land uses. Straw mulch shall be maintained until the disturbed area is permanently stabilized. Hay shall not be used for mulching of wetlands or adjacent areas.
- (xiii) In agricultural or farmed wetlands, crop covers consistent with existing agricultural uses shall be utilized in all areas of soil disturbance if the area is returning to active agricultural or farm use.
- (xiv) Installation of underground collection lines in wetlands shall be performed using the following methods:
- A. The Certificate Holder shall implement best management practices to minimize soil compaction;
 - B. During excavation, all topsoil shall be stripped and segregated from subsoils. The Certificate Holder shall consolidate trenching areas to the maximum extent practicable to minimize impacts to agricultural soils;
 - C. All reasonable efforts shall be made to backfill open trenches within the same

workday if rain is predicted and as soon as practicable otherwise; and

D. All excess materials shall be completely removed from wetlands to upland areas. Excess topsoil from agricultural areas shall be spread within the immediate agricultural areas within the approved LOD, or within other nearby areas that will still be used for agricultural production.

b. *Wetland Restoration.* The following provisions apply to State-regulated wetlands and regulated 100-foot adjacent areas. The Certificate Holder will restore and mitigate federally regulated wetlands in accordance with USACOE guidelines and its Clean Water Act Section 404 permit.

(i) Wetland restoration for State-regulated wetlands shall be completed according to the approved Wetland Restoration and Mitigation Plan.

(ii) The Certificate Holder shall restore disturbed areas, ruts, and rills within State-regulated wetlands and 100-foot adjacent areas to original grades and conditions with permanent native vegetation and erosion controls appropriate for those locations.

(iii) Restoration of temporary impacts to State-regulated wetlands and adjacent areas shall be completed within forty-eight (48) hours of final backfilling of the trench/excavated areas and restored to pre-construction contours as soon as practicable.

(iv) Immediately upon completion of grading, and as consistent with existing land use/land cover, the area shall be seeded with an appropriate native species seed mix for wetlands and upland areas adjacent to wetlands.

(v) The Certificate Holder shall implement all practicable measures to attain eighty (80) percent vegetative cover across all disturbed soil areas by the end of the first full growing season following construction. Vegetative cover in restored areas shall be monitored for a minimum of five (5) years. Post-construction monitoring shall continue until an eighty (80) percent survivorship of native woody species or eighty-five (85) percent absolute cover of native herbaceous species appropriate wetland indicator status has been reestablished over all portions of the replanted area.

c. *Cut Vegetation.* Cut vegetation in wetlands, with the exception of invasive species, may be left in place (i.e., drop and lop or piled in upland areas outside of state regulated 100 ft. adjacent areas). Brush piles shall not alter hydrology or prevent revegetation in areas.

d. *Access Roads Through Wetlands.* Installation of access roads through wetlands shall be performed using the following methods:

(i) Temporary access roads shall use timber/construction matting that is completely removed after construction/maintenance activities are completed and removal shall be verified with the NYS DPS by the on-site environmental monitor

after construction activity has ceased, or by the facility operator after maintenance work is completed.

(ii) Permanent access roads shall use a layer of geotextile fabric and a minimum of six (6) inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed. Access roads shall be designed and constructed to adequately support the type and frequency of the anticipated vehicular traffic and include suitable culverting or other drainage infrastructure as needed to minimize the impact to wetland hydrology.

e. *Solar Panel Support Installation.* Installation and construction techniques shall minimize the disturbance of the wetland soil profiles (e.g., the use of helical screws and driven H-pile with no backfilling for solar arrays sites in wetlands).

f. *Tree Clearing.* Tree clearing shall be minimized to the maximum extent practicable in State-regulated wetlands and adjacent areas and be only that necessary for construction and operation of the facility. Any tree clearing in wetlands and adjacent area shall be noted on project plans.

g. *Fill Placement.* The placement of fill in wetlands shall be designed to maintain pre-construction surface water flows/conditions between remaining on- or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Construction activity and final design shall not restrict or impede the passage of normal or expected high flows.

h. *Concrete Use.* For activities involving the placement of concrete into regulated wetlands, watertight forms shall be used. The forms shall be dewatered prior to the placement of the concrete. The use of tremie-supplied concrete is allowed if it complies with NYS water quality standards.

i. *Stormwater Setback.* Stormwater management infrastructure shall be located outside of State-regulated wetland and adjacent areas, to the maximum extent practicable.

j. *Mitigation.* The Certificate Holder shall implement the approved Wetland Restoration and Mitigation Plan for mitigation of impacts to State-regulated wetlands and adjacent areas. The Certificate Holder shall develop a final Wetland Mitigation Plan, that meets all NYS regulatory and permit requirements and general conditions. The Certificate Holder shall work with DEC to develop the final Wetland Mitigation Plan and shall submit the Wetland Mitigation Plan for DPS, and DEC review and acceptance within six months of the commencement of construction. If, after five years, monitoring demonstrates that the wetland mitigation is still not meeting the established performance standards, the Certificate Holder must submit a Wetland Mitigation Remedial Plan (WMRP). Further requirements for the Wetland mitigation plan and WMRP are set forth in the SEEP guide. The Certificate Holder will implement mitigation for federally regulated wetlands in accordance with USACOE guidelines and its Clean Water Act Section 404 permit.

76. *Work in NYS-protected waters.* The Certificate Holder shall implement the following:

- a. *Dry Conditions.* In-stream work shall only occur in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area. Any waters accumulated in isolated work areas shall be discharged to an upland settling basin, field, or wooded area to provide for settling and filtering of solids and sediment before water is return to the stream. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.
- b. *In-Water Work Windows.* In-stream work shall be prohibited from September 15 through May 31 in cold water fisheries and March 15 through July 15 in warm water fisheries unless the Certificate Holder receives site-specific approval from the appropriate State permitting agency.
- c. *Stream Channels.* The restored stream channel shall be equal in width, depth, gradient, length and character to the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. The planform of any permanent stream shall not be changed, unless dictated by restoration or mitigation objectives. All disturbed stream banks shall be stabilized within two (2) days of final grading, stabilized with one hundred (100) percent natural or biodegradable fiber matting to the maximum extent practicable (except for example, on steep slopes), and seeded with an appropriate riparian seed mix.
- d. *Felled Trees.* Trees shall not be felled into a stream or its stream bank. Snags in streams shall not be disturbed unless they cause serious obstructions, scouring or erosion.
- e. *Culvert Repairs.* If a culvert is blocked or crushed, or otherwise damaged by construction or maintenance activities, the Certificate Holder shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage, embedment and aquatic connectivity.
- f. *Access Road Crossings of Streams.* The creation, modification or improvement of any permanent road crossing of a NYS-protected waterbody shall meet the following requirements:
- (i) New culvert pipes that the Certificate Holder is required to install shall be designed to safely pass the two (2) percent annual chance storm event;
 - (ii) Culvert pipes shall be embedded into the stream bed at least 20% of the culvert height at the downstream invert;
 - (iii) Width of the structure shall be a minimum of one and a quarter (1.25) times the width of the mean high-water channel; and
 - (iv) The culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than three (3) percent, an open bottom culvert shall be used.

g. *Overhead Lines Across NYSDEC-Protected Streams.* If construction of overhead power line crossings requires cutting of trees or shrubs within fifty (50) feet of a NYS-protected waterbody:

- (i) Cut materials shall be left on the ground; and
- (ii) To facilitate stump sprouting stumps and root systems shall not be damaged .

h. *Stream Flows.* During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.

i. *No Aquatic Impediments.* In-stream work, including the installation of structures and bed material, but excluding dewatering associated with dry trench crossings, shall not result in an impediment to aquatic organisms. All fish trapped within cofferdams shall be netted and returned, alive and unharmed, to the water outside the confines of the cofferdam, in the same stream.

j. *Drop Height.* Any in-stream structures placed in a stream shall not create a drop height greater than six (6) inches.

k. *Restoration and Mitigation.* The Certificate Holder shall implement the approved Stream Restoration and Mitigation Plan.

77. In all instances in which the applicant proposes to permanently or temporarily impact active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) , the Certificate Holder shall:

- a. Construct the facility consistent with the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, dated 10/18/2019, to the maximum extent practicable. The Certificate Holder will consult with the AGM for any guidelines which are not practicable, where the parties will negotiate alternatives.
- b. Hire an independent, third-party agriculture-specific Environmental Monitor qualified to oversee compliance with agricultural conditions and requirements (in active agricultural areas).

78. *Stormwater Impact.* Prior to Facility construction, the Applicant will provide a final Stormwater Pollution Prevention Plan (SWPPP) and obtain a State Pollutant Discharge Elimination System (SPDES) permit which will show, among other things, that the Facility will result in no net increase in stormwater runoff to Sleepy Hollow Lake and its associated dam. During preparation of the final SWPPP and SPDES, the Applicant will consult with NYSDEC and the Sleepy Hollow Lake Association of Property Owners (SHLAPO), as appropriate, and including such topics as appropriate seed mixes to be used in restoration of those limited areas where grading is proposed. Copies of the Final SWPPP and SPDES Permit will be provided to the Towns of Athens and Cocksackie.

VIII. Facility Operation

79. The Certificate Holder shall operate the Facility in accordance with the Interconnection Agreement, approved tariffs and applicable rules and protocols of National Grid, NYISO, NYSRC, NPCC, NERC and successor organizations.

80. The Certificate Holder shall operate the Facility in full compliance with the applicable reliability criteria of National Grid, NYISO, NPCC, NYSRC, NERC and successors. If the Certificate Holder fails to meet the reliability criteria at any time, the Certificate Holder shall notify the NYISO immediately if required by the NYISO requirements, and shall simultaneously provide the Board, or the Commission after the Board's jurisdiction has ceased, by filing with the Secretary and National Grid a copy of the NYISO notice.

81. The Certificate Holder shall obey unit commitment and dispatch instructions issued by NYISO, or its successor, in order to maintain the reliability of the transmission system. In the event that the NYISO encounters communication difficulties, the Certificate Holder shall obey dispatch instructions issued by the National Grid Control Center, or its successor, in order to maintain the reliability of the transmission system.

82. Good Utility Practices:

a. The Certificate Holder shall abide by Good Utility Practice, which shall include, but not be limited to, NERC, NPCC, NYSRC, and NYISO criteria, rules, guidelines and standards, including the rules, guidelines and criteria of any successor organization to the foregoing entities.

b. When applied to the Certificate Holder, the term Good Utility Practice means the standards applicable to an independent power producer connecting to the distribution or transmission facilities or system of a utility.

c. Except for periods during which the authorized facilities are unable to safely and reliably convey electrical energy to the New York transmission system (e.g., because of problems with the authorized facilities themselves or upstream electrical equipment), the Facility shall be exclusively connected to the New York transmission system via the facilities identified and authorized in these conditions.

83. The Certificate Holder shall work with National Grid engineers and safety personnel on testing and energizing equipment in the authorized interconnection and collection substations. If National Grid's testing protocol is not used, a testing protocol shall be developed and provided to National Grid for review and acceptance. The Certificate Holder shall file with the Secretary a copy of the final testing design protocol within 30 days of National Grid's acceptance.

84. The Certificate Holder shall notify DPS Staff of meetings related to the electrical interconnection of the project to the National Grid transmission system and provide the opportunity for DPS Staff to attend those meetings.

85. Transmission Related Incidents:

- a. The Certificate Holder shall call the DPS Electric Safety and Reliability Section within a reasonable time to report any transmission related incident that affects the operation of the Facility.
- b. The Certificate Holder shall file with the Secretary a report on any such incident within seven days and provide a copy of the report to National Grid. The report shall contain, when available, copies of applicable drawings, descriptions of the equipment involved, a description of the incident and a discussion of how future occurrences will be prevented.
- c. The Certificate Holder shall work cooperatively with National Grid, NYISO, NYSRC, NERC and the NPCC to prevent any future occurrences.

86. If National Grid or the NYISO bring concerns to the Commission, the Certificate Holder shall be obligated to address those concerns and shall make any necessary modifications to its Interconnection Facility if the NYISO or National Grid find such facilities are causing, or have caused, reliability problems to the New York State Transmission System.

87. If, subsequent to construction of the Facility, no electric power is generated and transferred out of such plant for a period of more than a year, the Commission may consider advising the Siting Board that the amendment, revocation or suspension of the Certificate may be appropriate.

88. Facility Malfunction:

- a. In the event that a malfunction of the Facility causes a significant reduction in the capability of such Facility to deliver power, the Certificate Holder shall promptly file with the Secretary and provide to National Grid copies of all notices, filings, and other substantive written communications with the NYISO as to such reduction, any plans for making repairs to remedy the reduction, and the schedule for any such repairs.
- b. The Certificate Holder shall provide monthly reports to the Secretary and National Grid on the progress of any repairs.
- c. If such equipment failure is not completely repaired within nine months of its occurrence, the Certificate Holder shall provide a detailed report to the Secretary, setting forth the progress on the repairs and indicating whether the repairs will be completed within one year of the date of failure. PV modules shall be decommissioned if they are non-operational for a period of one year and a day. However, if the Certificate Holder is expecting delays due to a part manufacturer or complications regarding the repair of non-operational PV modules(s), it shall petition the Secretary for an extended amount of time if it is expected that certain PV modules(s) will not be in operation for more than one year and a day. The petition shall include an explanation of the circumstance and an estimation of the amount of time it will take to repair the PV modules(s).

89. In the event of a fire or other catastrophic event involving a PV panel and its associated equipment, the DPS Chief of Electric Safety and Reliability shall be notified no later than 12 hours following such an event and the Certificate Holder shall implement any requirements under the

E&FRP as appropriate.

90. The Certificate Holder shall have an inspection program for PV modules and associated equipment. Logs shall be maintained on site identifying any major damage, defects or any other problems with the PV modules, or indicating that no such damage, defect or problem was found. The Logs shall summarize maintenance and inspection activities performed and the repairs undertaken.

**ATTACHMENT 7
SITING BOARD SECRETARY'S LETTER DATED FEBRUARY 16, 2023**



Department of Public Service

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

Public Service Commission

Rory M. Christian
Chair and
Chief Executive Officer

Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore
Commissioners

Michelle L. Phillips
Secretary

February 16, 2023

Via Electronic Mail

James A. Muscato II
Laura Bomyea Darling
Young/Sommer LLC
Executive Woods
Five Palisades Drive
Albany, New York 12205
muscato@youngsommer.com
ldarling@youngsommer.com

RE: Case 18-F-0087 - Application of Flint Mine Solar, LLC, for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Towns of Coxsackie and Athens, Greene County.

Dear James Muscato and Laura Bomyea Darling,

On August 29, 2022, Flint Mine Solar, LLC (Flint Mine Solar) filed a Petition for Amendment (Amendment Petition) of the Certificate of Environmental Compatibility and Public Need, with Conditions (Certificate), issued to it by the New York State Board on Electric Generation Siting and the Environment (Siting Board) on August 4, 2021.¹ This letter is to advise you that the Amendment Petition does not constitute a "revision" under 16 NYCRR §1000.16(b) and no hearing will be required.

The Certificate authorizes Flint Mine Solar to construct and operate a solar energy project of up to a 100 megawatts (MW), including the installation of up to 454 acres of photovoltaic (PV) solar panels, together with associated collection lines, access roads, inverters, transformers, substations, fencing and gates, temporary laydown areas, transmission line, and operations and maintenance building (the Facility or Project). The Project is located in the Towns of Coxsackie

¹ Case 18-F-0087, Order Granting Certificate of Environmental Compatibility and Public Need with Conditions (issued August 4, 2021) (the Certificate Order).

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and Athens in Greene County, with interconnection to the State's electric grid through the National Grid LaFarge to Pleasant Valley 115 kilovolt (kV) line and the Feura Bush to North Catskill 115 kV line.

The Amendment Petition seeks, among other things, approval of a proposed modified layout with a reduction in the number of PV modules; modifications to collection lines from messenger supported wiring/racking integrated collection methods to the use of primarily overhead collection lines, with limited installation of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts; changes in proposed grading; and the use of single-axis trackers instead of fixed tile PV arrays for certain locations. According to the Amendment Petition, the proposed changes are intended to "optimize Facility design," and to ensure the Facility remains financially viable.² Flint Mine Solar provided a memorandum prepared by its consultant, Environmental Design & Research, Landscape Architecture, & Environmental Services, D.P.C. (EDR), addressing the proposed modifications and their expected impacts, attached as Exhibit A to its Amendment Petition (Exhibit A or the Proposed Modifications Memo). Exhibit A states that the proposed modifications will not result in a significant increase to environmental impacts as compared to those described in the Article 10 Application.

On September 12, 2022, I notified you that additional information was needed in order to determine whether the Amendment Petition would constitute a "revision" or a "modification" pursuant to 16 NYCRR §1000.16(b)(1) and (2). On November 4, 2022, and January 6 and February 1, 2023, Flint Mine Solar submitted supplements to the Amendment Petition (Supplements).

The regulations at 16 NYCRR §1000.16(b)(1) and (2) require that a petition "describe the amendments proposed and the relevant engineering design, performance or operational changes proposed, with supporting documentation to describe the nature of the changes caused by or related to the amendment," and include "the data and information required by this Subchapter that would otherwise be necessary to support an application for a certificate." The Department of Public Service Staff (DPS Staff), in consultation with the Department of Environmental Conservation (DEC) and Department of Health (DOH), reviewed the Amendment Petition and concluded that the proposed modifications would not result in any significant adverse increase to environmental impacts as compared to the Certificated Facility, as explained below. 16 NYCRR §1000.16(a). This determination is based on the analysis below, the Amendment Petition and attached exhibits, Supplements, and the record of this case.

Visual

EDR performed a supplemental viewshed analysis to assess the impacts of the proposed modified overhead collection line and concluded that the lines would be potentially visible from 3.2 percent or 4.1 square miles of the (5-mile radius) visual study area.³ The analysis found that the overhead collection lines would primarily be potentially visible within 1-mile of the Facility

² Amendment Petition, p. 4.

³ Exhibit A, p. 10.

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and that visibility beyond that would be limited to locations lacking vegetative screening. In addition, EDR noted that because the majority of proposed overhead collection lines will be located adjacent to PV arrays, the potential for additional vegetative clearing will be limited and will “minimize newly visible area.”⁴

DPS Staff has reviewed the Amendment Petition and advises that the Modified Layout and additional proposed overhead collection lines are not expected to result in any significant adverse increase in visual impacts as compared to the Certificated Facility. In addition, visual mitigation measures and a Visual Mitigation Planting Plan required by the Certificate Order will remain applicable to the amended Project.

Archeological, Cultural and Historic Resources

The Proposed Modifications Memo notes that the Project requires limited ground disturbance for the construction of access roads and that the modified layout will result in an approximately 2.4 mile reduction of proposed access roads from a total of 8.2 miles to approximately 5.8 miles. EDR concludes the reduction in ground disturbance will minimize the risk of potential impacts to archaeological resources.⁵

Flint Mine Solar provided an Archeological Phase IB Addendum Survey dated August 29, 2022, with its Amendment Petition and conducted a Supplemental Archeological Assessment for the proposed modified layout and proposed grading and determined that because there were no archeological sites within the proposed new grading areas, no additional impacts to cultural resources were expected from the proposed grading.⁶ Further, the Certificate Order requires Flint Mine Solar to submit a Cultural Resource Avoidance, Minimization and Mitigation Plan as a compliance filing. By letter dated October 6, 2022, the New York State Historic Preservation Office (SHPO) indicated its concurrence with the Phase IB Addendum Survey findings and recommendations, indicating that no additional archaeological work is necessary.

Flint Mine Solar also provided the results of a SHPO consultation regarding the modified layout’s potential visual impacts to National Register of Historic Places-listed and/or eligible sites and other visually sensitive resources.⁷ SHPO reviewed the Amendment Petition in accordance with Section 106 of the National Historic Preservation Act of 1966 and concurred that the Modified Layout will result in substantially similar visual effects to the Flint Mine Hill Archaeological District as the Certificated Layout and no further mitigation is warranted. As noted above, visual mitigation measures required by the Certificate will remain applicable to the amended Project, including offset mitigation for potential visibility effects on historic resources.

Wetlands and Streams

The Amendment Petition and Proposed Modifications Memo state that the modified layout will result in a reduction in wetlands impacts due to the reduction in the number of PV

⁴ Id.

⁵ Exhibit A, p. 14.

⁶ Amendment Petition, p. 8.

⁷ January 20, 2023 Letter to Jeremy Flaum from Jessica Schreyer (filed on February 1, 2023).

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panel arrays. The Certificated Layout included 53.7 acres of panel arrays within federal wetlands, which would be reduced to 49.6 acres of panel arrays in the modified layout. No PV panel arrays were proposed to be sited in state-jurisdictional wetlands and none are proposed in the modified layout.

In addition, while the modified layout would necessitate 13 areas of additional grading, totaling 9.3 acres, the PV array footprint will be reduced from 454 acres to 347 acres.⁸ According to Exhibit A, the grading is not expected to increase impacts to “any wetland or 100-foot regulated adjacent area and no grading will occur within 625 feet of Cocksackie Creek or 400 feet of Murderer’s Creek, one of the areas of primary concern for the Sleepy Hollow Lake Association of Homeowners.”⁹

DPS and DEC Staff reviewed the Amendment Petition and agree that the Modified Layout and additional grading are not expected to result in any significant adverse increase to environmental impacts as compared to the Certificated Facility. The permanent and temporary impacts to regulated state and federal wetlands are covered based on the mitigation plan contained in the Joint Application for Permit to the U.S. Army Corps of Engineers and the Siting Board previously submitted by EDR on June 23, 2021. In addition, DOH indicated that its Water Supply Protection Staff reviewed the proposed changes, specifically whether the modified grading plan raised any concerns for the Cocksackie Creek watershed, and also determined the proposed changes would not result in any significant adverse increase to environmental impacts as compared to the Certificated Facility. Flint Mine Solar must comply with the Certificate Order regarding wetlands and streams, including the requirement that it perform all construction, operation and maintenance in a manner that avoids and minimizes adverse impacts to waterbodies, wetlands, and the one hundred foot adjacent areas associated with all federal and state-regulated wetlands.

Threatened and Endangered Species

The Proposed Modifications Memo states that while the proposed grading “will result in slight changes to the amount of estimated impact to state-listed grassland bird species occupied habitat,” the overall impacts should remain the same or be reduced as compared to the Certificated Project due to the reductions in PV array area. DEC Staff reviewed the Amendment Petition and indicated that although the proposed grading will cause a minor increase in impacts to threatened and endangered grassland birds, the amount of mitigation proposed by Flint Mine Solar to be provided in its final “Net Conservation Benefit Plan” is sufficient to cover this additional impact.

⁸ The Amendment Petition states that 398 acres of PV panels were approved, while the Certificate Order approved the Facility consisting of up to 454 acres of PV panels. See Certificate Order, p. 3.

⁹ Exhibit A, p. 12.

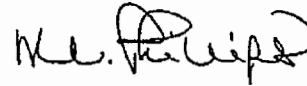
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Local Laws

The Amendment Petition and Supplement indicate that no additional waivers of local law are needed for the modified layout and that Flint Mine Solar will comply with the applicable substantive provisions of local law aside from the local laws previously waived by the Siting Board in the Certificate Order.

In conclusion, as discussed in the Amendment Petition and above, the proposed modifications for the Project are not expected to result in an increase in the environmental impacts as compared to the Certificated Facility and, therefore, do not constitute a "revision" under 16 NYCRR §1000.16(b). Consequently, a hearing will not be required.

Sincerely,



Michelle L. Phillips
Secretary

cc: Service List

ATTACHMENT 8

PUBLIC SERVICE COMMISSION ORDER APPROVING AMENDMENT DATED MARCH 28, 2023

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

At a session of the New York State
Board on Electric Generation Siting
and the Environment held in the City
of Albany on March 28, 2023

BOARD MEMBERS PRESENT:

Tammy Mitchell, Alternate for
Rory M. Christian, Chair of the
New York State Public Service Commission

Sara Fitzsimons, Alternate for
Basil Seggos, Commissioner of the
New York State Department of Environmental Conservation

Kevin Malone, Alternate for
James V. McDonald, M.D., M.P.H., Acting Commissioner of the
New York State Department of Health

Vincent Ravaschiere, Alternate for
Hope Knight, Commissioner of the
New York State Department of Economic Development

John Williams, Alternate for
Richard L. Kauffman, Chair
New York State Energy Research and Development Authority

Case 18-F-0087 - Application of Flint Mine Solar LLC for a
Certificate of Environmental Compatibility and
Public Need Pursuant to Article 10 for
Construction of a Solar Electric Generating
Facility Located in the Towns of Coxsackie and
Athens, Greene County.

ORDER APPROVING AMENDMENT

(Issued and Effective March 28, 2023)

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BY THE BOARD:

INTRODUCTION

On August 4, 2021, the New York State Board on Electric Generation Siting and the Environment (Siting Board) granted a Certificate of Environmental Compatibility and Public Need, With Conditions (Certificate) to Flint Mine Solar, LLC, (Flint Mine Solar or Certificate Holder) pursuant to Public Service Law (PSL) §168.¹ The Certificate Order authorizes Flint Mine Solar to construct and operate a utility-scale solar electric generating facility (the Project) in the Towns of Cossackie and Athens in Greene County (or, collectively, the Towns), New York. On August 29, 2022, Flint Mine Solar filed a Petition for Amendment (Amendment Petition) requesting that the Siting Board amend the Certificate Order to approve a proposed modified layout with a reduction in the number of photovoltaic (PV) modules; modifications to collection lines from messenger-supported wiring/racking integrated collection methods to the use of primarily overhead collection lines, with limited installation of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts; changes in proposed grading; and the use of single-axis trackers instead of fixed tile PV arrays for certain locations.

By letter dated September 12, 2022, the Secretary to the Siting Board (Secretary) notified Flint Mine Solar that additional information was needed before a determination could be made regarding whether the Amendment Petition would constitute a "revision" pursuant to 16 NYCRR §1000.16(a) and (b). Flint Mine Solar filed supplements to the Amendment

¹ Case 18-F-0087, Order Granting Certificate of Environmental Compatibility and Public Need with Conditions (issued August 4, 2021) (the Certificate Order).

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Petition (Supplements) on November 4, 2022, and January 6, and February 1, 2023. On February 16, 2023, the Secretary notified Flint Mine Solar that the Project modifications proposed in the Amendment Petition are not expected to result in an increase in the environmental impacts as compared to the Certified Facility, and do not constitute a "revision" under 16 NYCRR §1000.16(a) and (b), and, consequently, no hearing would be required. Through this Order, the requested amendment is approved subject to the discussion below.

BACKGROUND

In granting Flint Mine Solar's Certificate, the Siting Board made specific findings, in accordance with PSL §168. The Board based these findings on an extensive review of the pre-Certificate record, including the probable environmental impacts of the construction and operation of the Project, including potential impacts on: ecology, air, ground and surface water, wildlife, and habitat (PSL §168[2][a]); public health and safety (PSL §168[2][b]); cultural, historic, and recreational resources, including aesthetics and scenic values (PSL §168[2][c]); and transportation, communication, utilities and other infrastructure (PSL §168[2][d]). The Siting Board's findings also included an examination of the potential cumulative impacts of emissions on the local community to determine whether the construction and operation of the Project would result in a significant and adverse disproportionate environmental impact.

In accordance with PSL §168(3), the Siting Board issued a Certificate based on a determination that: the Project would be a beneficial addition to, or substitution for, the electric generation capacity of the State (PSL §168[3][a]); the

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construction and operation of the Project would serve the public interest (PSL §168[3][b]); the adverse environmental impacts of the Project's construction and operation have been adequately minimized or avoided to the maximum extent practicable (PSL §168[3][c]); the Project would not result in or contribute to a significant and adverse disproportionate environmental impact in the community in which it will be located (PSL §168[3][d]); and the Project is designed to operate in compliance with applicable State and local laws and regulations (PSL §168[3][e]).

The Certificate authorized Flint Mine Solar to construct and operate a solar electric generating facility having a nameplate capacity of up to 100 megawatts (MW), consisting of up to 454 acres of PV solar panels, together with associated collection lines, temporary or permanent access roads, inverters, transformers, substations, fencing and gates, temporary laydown areas, transmission line, an operations and maintenance building (if necessary), underground communication/fiber cables, and a collection substation and point of interconnection (POI) switchyard (Certificated Facility or Certificated Project). The Certificated Facility will interconnect to the State's electric grid through the National Grid LaFarge to Pleasant Valley 115 kilovolt (kV) line and the Feura Bush to North Catskill 115 kV line.

In its Amendment Petition, Flint Mine Solar seeks approval of proposed modification of the Certificated Facility (the Modified Project or Modified Layout) including: the removal of PV arrays from certain areas and changes in the location of certain PV module areas; modifications to Alternating Current (AC) electrical collection lines from messenger supported wiring/racking integrated collection methods to the use of primarily overhead collection lines, with limited installation

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of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts; changes in proposed grading; and the use of single-axis trackers instead of fixed tile PV arrays for certain locations in order to maximize energy production. The Amendment Petition does not request waivers of any local laws or changes to any Certificate Conditions.

According to the Certificate Holder, the requested modifications are precipitated by changes in the economy and state of solar technology since it filed its Application on May 22, 2020 (Application). Flint Mine Solar states that during development of compliance and construction-phase drawings, it identified several modifications needed to “enable the Certificate Holder to construct a carefully sited, cost-competitive solar facility in the current economic climate, and given currently available solar generation technology, consistent with the goals of the Climate Leadership and Community Protection Act (CLCPA) and essentially maintain the resolution of the issues achieved in the Settlement Layout.”²

The Certificate Holder further claims the proposed changes are designed to avoid or minimize certain environmental and resource impacts. For example, Flint Mine Solar claims the Modified Layout will result in a decrease in impacts to wetlands and a decrease in proposed tree clearing, and will eliminate approximately 2.4 miles of access roads from the Certificated Layout.³ Flint Mine Solar provided a memorandum prepared by its consultant, Environmental Design & Research, Landscape Architecture, & Environmental Services, D.P.C. (EDR), addressing

² Amendment Petition, p. 5.

³ Id., p. 9.

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the proposed modifications and their expected impacts, attached as Exhibit A to its Amendment Petition (Exhibit A or the Proposed Modifications Memo). The Proposed Modifications Memo concludes that the proposed modifications will not result in a significant increase to environmental impacts as compared to those described in the Article 10 Application.

LEGAL AUTHORITY

Under PSL Article 10, the Chair of the Siting Board has the authority to grant amendments to a certificate of environmental compatibility and public need after consultation with the permanent members of the Siting Board provided no party opposes such request within 30 days.⁴ If an amendment is deemed "likely to result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility," the Siting Board is required to conduct "a hearing in the same manner" as on the initial Application.⁵ Under the regulations implementing this provision, if an amendment is deemed a "revision" it is subject to such a hearing.⁶

Under PSL §168(7), "[f]ollowing any rehearing and any judicial review of the board's decision, the board's jurisdiction over an application shall cease, provided, however, that the permanent board shall retain jurisdiction with respect to the amendment, suspension or revocation of a certificate." Therefore, for purposes of this amendment request, the permanent

⁴ PSL §161(1).

⁵ PSL §165(5).

⁶ 16 NYCRR §1000.16(c).

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Siting Board's jurisdiction has not ceased, and it will consider the instant request.

Pursuant to the regulations,⁷ the Secretary consulted with the Department of Public Service staff (DPS Staff), the Department of Environmental Conservation (DEC), and the Department of Health (DOH) before concluding that the proposed modification would not result in a significant adverse increase to environmental impacts as compared to the Certificated Project and, thus, does not constitute a "revision" that would require a hearing under the regulations.⁸

COMMENTS

The comment period on the Amendment Petition ended on September 28, 2022. Late-filed comments on the Amendment Petition were received from Sleepy Hollow Lake, Inc. (SHL) on October 6 and November 30, 2022, and on January 31 and March 24, 2023.

SHL's comments on the Amendment Petition included arguments that the proposed multiple changes were significant and constituted a "revision" under 16 NYCRR §1000.16(a) and noted concerns about, and the difficulty in evaluating, the impacts of the proposed changes upon stormwater because no Final Stormwater Pollution Prevention Plan (SWPPP) had been submitted. SHL commented that the proposed changes include significant additional soil disturbance and grading which could potentially impact stormwater runoff and water quality, which is a major concern to SHL and its water system. In addition, SHL noted concerns about Flint Mine Solar's proposal to hire an

⁷ 16 NYCRR §1000.16(a).

⁸ February 16, 2023 Letter, p. 5.

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independent third-party Environmental Monitor during construction that SHL claimed would not be independent. SHL proposed that Flint Mine Solar be required to contribute to funding an independent monitor during the pre-construction and construction period and at least three years of post-construction/operation.

DISCUSSION

The Certificate, which authorizes Flint Mine Solar to construct and operate a solar energy project up to 100 MW, was issued only after the Siting Board reviewed the extensive evidentiary record developed during the proceeding, the Settlement Proposal, and post-hearing briefs, and determined the Project will meet all the statutory requirements for a certification under PSL Article 10.⁹ The Settlement Proposal developed in this proceeding consisted of proposed consensus Certificate Conditions and a Site Engineering and Environmental Plan (SEEP) Guide.¹⁰

Aside from the newly proposed, approximately 9.3 acres of grading within the PV array areas and the change from messenger-supported collection wiring to overhead collection lines, the potential impacts of the Project have been thoroughly addressed by the Siting Board in the Certificate Order and appropriate mitigation has been provided for in the numerous Certificate Conditions therein, all of which, as discussed below, remain applicable to the Project, as amended.

The Certificate Holder's Amendment Petition complied with the applicable regulations for filing an amendment by

⁹ Certificate Order, p. 2.

¹⁰ Id., p. 5.

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including the “relevant engineering design, performance or operational changes proposed, with supporting documentation to describe the nature of the changes caused by or related to the amendment.”¹¹

As noted in the February 16, 2023 Letter, the Secretary consulted with DPS Staff, DEC, and DOH after they reviewed the proposed changes and concurred with the agencies that the changes would not result in any significant new or increase in adverse environmental impacts as compared to the Certificated Project. The Secretary’s letter included a thorough review and addressed the potential impacts of the proposed change for the Project related to visual impacts, archeological, cultural and historic resources, wetlands and streams, threatened and endangered species, and local laws, which are briefly summarized below.

Visual

The Certificate Holder states that the proposed modified PV array layout will result in a 14% reduction in total acreage occupied by PV arrays (down from approximately 398 acres to 347 acres). One entire PV array is proposed to be removed in the northern portion of the Facility Area and some areas will be expanded between U.S. Route 9W and the CSX railroad. The expanded areas will be set back from public rights-of-way. In addition, the Certificate Holders indicate that changes in the PV array locations will result in minor shifts and relocation of certain visual impact mitigation plantings as shown in Attachment 1, Figure 3.¹² The visual impact associated with the

¹¹ 16 NYCRR §1000.16(b)(1).

¹² Amendment Petition, p. 10.

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changes in PV array locations and associated changes in visual impact mitigation plantings are expected to be similar to the visual impact anticipated for the Certificated Facility.

In areas where a change from fixed tilt PV panels to single axis tracker PV panels is proposed, the height of the panels will be reduced by two feet (from approximately 12-feet to 10-feet), which is anticipated to result in a small decrease in the size of previously visible areas but will not remove entire geographic areas from view. Any new area of potential visibility is expected to be a small increase to previously visible areas rather than entirely new geographic areas.

The Certificate Holder stated that after conducting a constructability analysis, it determined the messenger-supported collection wiring (which is not a typical design for solar projects) presented construction and operational challenges and that the modified overhead collection line is the preferred design. Underground cables also presented challenges due to the archaeological sensitivity of the Project Area.

The Proposed Modifications Memo noted that EDR performed a supplemental viewshed analysis to assess the impacts of the modified overhead collection line. EDR concluded that the 60-foot tall lines would be potentially visible from 3.2 percent or 4.1 square miles of the (5-mile radius) visual study area.¹³ EDR also concluded that the overhead collection lines would primarily be potentially visible within 1 mile of the Facility (which is generally consistent with the Certificated Facility) and that visibility beyond that would be limited to locations lacking vegetative screening such as open fields and

¹³ Exhibit A, p. 10.

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roadway corridors that are aligned toward the Facility.¹⁴ Because the majority of proposed overhead collection lines will be located adjacent to PV arrays, the potential need for additional vegetative clearing will be limited, which in combination are expected to "minimize newly visible area."¹⁵ The design and material of the modified overhead collection line, including shielded, non-specular conductors and wood poles, will be the same as those designed to minimize potential visual impacts that were approved for the Certificate Facility.

In an effort to minimize vegetation disturbance and associated visual impacts required to accommodate overhead collection wires, the Certificate Holder proposed limited areas of underground collection lines (2.3 miles of which are proposed to be installed in trenches and 1.9 miles of which are proposed to be installed using horizontal directional drilling).¹⁶

We are advised that the visual impacts associated with the changes in the Modified Layout and additional proposed overhead collection lines are not expected to result in any significant adverse increase in visual impacts as compared to the Certificated Facility. Furthermore, visual mitigation measures and a Visual Mitigation Planting Plan required by the Certificate Order will remain applicable to the amended Project.

Archeological, Cultural and Historic Resources

Flint Mine Solar asserts that neither the Modified Layout nor the additional overhead collection lines are expected to result in any substantial visibility or adverse visual

¹⁴ Id.

¹⁵ Id.

¹⁶ Id., p. 9.

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impacts on cultural resources or historic properties as compared to what was previously included in the Application, as supplemented. The New York State Historic Preservation Office (SHPO) reviewed the Modified Layout's potential visual impacts to National Register of Historic Places-listed and/or eligible sites and other visually sensitive resources in accordance with Section 106 of the National Historic Preservation Act of 1966. By letter dated January 20, 2023, SHPO concurred with Flint Mine Solar that the Modified Layout will result in substantially similar visual effects to the Flint Mine Hill Archaeological District as the Certificated Layout and, therefore, no additional mitigation is warranted.

According to Flint Mine Solar, the Modified Layout will require some access roads to be moved to different locations than previously approved. However, the changes are expected to result in an approximately 2.4-mile reduction in access roads, from 8.2 miles to approximately 5.8 miles in total.¹⁷ This reduction is expected to minimize the need for soil disturbance associated with access road construction and, thereby, minimize the risk of potential impacts to archaeological resources as compared to the Certificated Facility. This was confirmed in the Archaeological Phase IB Addendum Survey dated August 29, 2022, submitted with the Amendment Petition, and the Supplemental Archeological Assessment, which found that because there were no archeological sites within the proposed new grading areas, no additional impacts to cultural resources were expected from the proposed grading.¹⁸ By letter dated October 6, 2022, SHPO indicated its

¹⁷ Amendment Petition, p. 3.

¹⁸ Amendment Petition, p. 8.

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concurrence with the Phase 1B Addendum Survey findings and recommendations and indicated that no additional archaeological work is necessary.

We are advised that there are no adverse impacts to archeological, cultural and historic resources that were not previously included in the Application, as supplemented, and the Modified Project will not result in significant adverse impacts as compared to the Certificated Facility. Flint Mine Solar remains obligated to comply with the Certificate Conditions related to archeological, cultural and historic resources and to submit a Visual Mitigation Planting Plan for the Modified Project. In addition, Flint Mine Solar must submit a Cultural Resource Avoidance, Minimization and Mitigation Plan as a compliance filing. With these existing conditions and mitigation measures in place, the proposed changes should not result in increased impacts on archeological, cultural and historic resources.

Wetlands and Streams

No PV panel arrays were proposed to be located in State-regulated wetlands for the Certificated Layout and none are proposed for the Modified Layout. Flint Mine Solar estimates that impacts to federal wetlands will be slightly reduced as a result of the reduction in acreage of PV panel arrays in the Modified Layout. According to the Proposed Modifications Memo, no protected streams will be impacted by the changes in layout.

Although the Modified Layout will result in a smaller PV panel array footprint, it will require approximately 9.3 acres of additional grading. According to EDR, the additional grading is not expected to increase impacts to "any wetland or

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100-foot regulated adjacent area and no grading will occur within 625 ft of Cocksackie Creek or 400 ft of Murderer's Creek, one of the areas of primary concern for the Sleepy Hollow Lake Association of Homeowners."¹⁹ Furthermore, the Certificate Order requires that all grading must be performed in accordance with the final approved SWPPP developed in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

As noted above, SHL expressed concerns about the proposed additional soil disturbance and grading which could potentially impact stormwater runoff and water quality, which is a major concern to SHL and its water system. The Certificate Holder reaffirmed its commitment to comply with Certificate Conditions 61(f) and 78, which require it to take additional measures to ensure the Facility will not adversely impact Sleepy Hollow Lake or its associated dam, including surface water sampling during and after construction, and engagement with the community during development of the final SWPPP.²⁰ With respect to SHL's comments about the need for an independent third-party Environmental Monitor to be hired by someone other than the Certificate Holder, we find the provisions governing Environmental Monitor(s) in the Certificate Order and the SEEP, together with DPS, DEC, and Department of Agriculture and Markets oversight, are consistent with the conditions and protocols for other Article 10 projects and will provide sufficient oversight for compliance with Certificate Conditions and protection of environmental and agricultural resources during construction.

¹⁹ Exhibit A, p. 12.

²⁰ Amendment Petition, p. 8.

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As noted in the Secretary's February 16, 2023 Letter, DPS and DEC Staff advised that the Modified Layout and additional grading are not expected to result in any significant adverse increase to environmental impacts as compared to the Certificated Facility.²¹ Furthermore, DOH's Water Supply Protection Staff reviewed the proposed changes in the Amendment Petition, specifically considering whether the modified grading plan raised any concerns for the Cocksackie Creek watershed, and determined the proposed changes would not result in any significant adverse increase to environmental impacts as compared to the Certificated Facility.

The Certificate Holder must adhere to all relevant Certificate Conditions, including the requirement that it perform all construction, operation and maintenance in a manner that avoids and minimizes adverse impacts to waterbodies, wetlands, and the one-hundred-foot adjacent areas associated with all State-regulated wetlands. Moreover, the Certificate Holder must mitigate all wetland impacts pursuant to the wetland mitigation plan contained in the Joint Application for Permit to the U.S. Army Corps of Engineers and the Siting Board previously submitted by EDR on June 23, 2021. With the above conditions and mitigation measures in place, the Modified Layout does not represent a significant increase in adverse effects as compared to the Certificated Facility.

Threatened and Endangered Species

In its Amendment Petition, Flint Mine Solar states that the Modified Layout will not result in a significant change

²¹ February 16, 2023 Letter, p. 4.

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in impacts to protected grassland bird species.²² EDR analyzed the potential for adverse modification of occupied habitat areas for State-listed wintering northern harriers and/or short-eared owls that could result from the aboveground disturbance footprint of the Modified Layout.²³ Although the Modified Layout will result in changes to the amount of estimated impact to these species' occupied habitat, EDR concluded that the overall impacts should remain the same or be reduced as compared to the Certificated Project due to the reductions in the total PV panel array area and changes in Facility component locations.²⁴

As noted in the Secretary's February 16, 2023 Letter, DEC Staff concluded that although the proposed grading will cause a minor increase in impacts to threatened and endangered grassland birds, the amount of mitigation proposed by Flint Mine Solar to be provided in its final "Net Conservation Benefit Plan" (NCBP) is sufficient to cover this additional impact.

In addition to State-listed protected grassland species, portions of the Facility are considered by DEC to be located within northern long-eared bat (NLEB) occupied habitat. However, because the amount of tree clearing proposed for the Modified Layout has decreased due to the reduction in PV panel array areas, no additional impacts to NLEB are anticipated.

Flint Mine Solar has not requested amendments of any conditions and is still required to comply with all Certificate Conditions pertaining to threatened and endangered species. In addition, Flint Mine Solar is required to submit a revised NCBP to account for the changes in the Modified Layout as a

²² Amendment Petition, P. 9.

²³ Exhibit A, p. 4.

²⁴ Id., p. 5.

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compliance filing. With the above conditions and mitigation measures in place, the Modified Layout does not represent a significant increase in adverse effects as compared to the Certificated Facility.

Local Laws

Flint Mine Solar is not requesting any waivers of local laws with respect to the Amendment Petition. Flint Mine Solar is required to comply with all applicable substantive local laws, to the extent not previously waived by the Siting Board in the Certificate Order.²⁵

CONCLUSION

As discussed above, the proposed changes to the Project, as set forth in the Amendment Petition and Supplements, will not result in a significant adverse increase to environmental impacts as compared to the Certificated Project.

The approval of this Amendment Petition does not relieve Flint Mine Solar of the need to comply with the terms, conditions, limitations, or modifications of the construction and operation of the Facility authorized in the Certificate and Flint Mine Solar will be required to comply with the procedures for compliance filings, including filing and notice requirements prior to any related construction.

The Board on Electric Generation Siting and the Environment orders:

1. The determination of the Secretary that the Amendment Petition of Flint Mine Solar LLC does not constitute a "revision" is adopted and, together with this Order, constitutes

²⁵ Certificate Order, pp. 70 – 71.

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the decision of the Board on Electric Generation Siting and the Environment in this proceeding.

2. The Certificate of Environmental Compatibility and Need, With Conditions, granted to Flint Mine Solar LLC by Order issued August 4, 2021, is modified to grant the requests made by Flint Mine Solar LLC in its August 29, 2022 Petition for Amendment to construct the Project as amended herein, as consistent with the discussion contained in this Order and as consistent with the Secretary's determination.

3. Any provision of the Certificate not otherwise modified herein or otherwise heretofore modified remains in full force and effect.

4. This proceeding is continued.

By the New York State Board
on Electric Generation Siting
and the Environment,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

FILED: GREENE COUNTY CLERK 08/11/2023 03:44 PM

NYSCEF DOC. NO. 9

INDEX NO. EF2023-573

RECEIVED NYSCEF: 08/11/2023

EXHIBIT F



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Flint Mine Solar Project

The Flint Mine Solar project is a 100MW-AC solar photovoltaic (PV) facility being developed at the southern end of the Town of Coxsackie and the northern section of the Town of Athens, New York

Facility Description

The Flint Mine Project will provide approximately 175,000 megawatt hours (MWh) of renewable energy produced from the sun, an amount roughly equivalent to the average annual electricity needs of the 21,000 homes in Greene County. The facility will include PV modules, inverters to convert direct current electricity generated by the PV panels to alternating current electricity that can be delivered to the New York State electric grid, as well as electrical collection lines, access roads, temporary construction staging and storage areas, and possibly electrical battery storage devices. The facility will connect to the electric grid via a switchyard to be constructed by Flint Mine Solar in the Town of Coxsackie in accordance with National Grid's specifications and other regulations and standards.

Submission of Article 10 Application

On May 27, 2020 Flint Mine Solar LLC filed an application for a Certificate of Environmental Compatibility and Public Need(CECPN) under Article 10 of the New York Public Service Law. This application can be found [here](#) or [here](#).

Proposed Facility Location Map

[View the Proposed Facility Location Map](#)

Article 10 Approval

The New York State Board on Electric Generation Siting and the Environment approved the Project and issued the on August 4, 2021. The Article 10 certificate can be found [here](#).

It's not uncommon for energy facility projects to refine and finalize project elements before breaking ground. In this instance, DESRI has worked to refine Flint Mine Solar's engineering and design as we move toward the start of construction. That's why DESRI is now proposing several refinements, through an amendment to the project's approved Article 10 application, to improve and modernize the project's original design plan in a number of ways.

It's important to note that the proposed refinements in the Article 10 amendment do not materially change the project footprint in any way. Thanks to technology improvements, we can refine the design in a several ways that maintain – and in some cases, **reduce** – potential impacts to the community, wildlife and cultural resources, as compared with earlier designs. For example, the changes would **reduce** land usage. The changes to the project will not cause increased issues with stormwater runoff in the neighborhood.

DESRI

The Flint Mine Solar Project was developed by affiliates of Hudson Energy Development and Amber Infrastructure from 2016 until June 30, 2022 when it was sold to D. E. Shaw Renewable Investments (DESRI). DESRI is now the long term owner of the project and responsible for bringing the project through construction. DESRI and its affiliates develop, acquire, own, and operate long-term contracted renewable energy assets in the U.S. DESRI's portfolio of contracted, operating and in-construction renewable energy projects currently includes more than 65 solar and wind projects representing more than 6 GW of aggregate capacity.

For additional question please send us a note at Info@flintminesolarproject.com

EXHIBIT G

ATTACHMENT 8

PUBLIC SERVICE COMMISSION ORDER APPROVING AMENDMENT DATED MARCH 28, 2023

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

At a session of the New York State
Board on Electric Generation Siting
and the Environment held in the City
of Albany on March 28, 2023

BOARD MEMBERS PRESENT:

Tammy Mitchell, Alternate for
Rory M. Christian, Chair of the
New York State Public Service Commission

Sara Fitzsimons, Alternate for
Basil Seggos, Commissioner of the
New York State Department of Environmental Conservation

Kevin Malone, Alternate for
James V. McDonald, M.D., M.P.H., Acting Commissioner of the
New York State Department of Health

Vincent Ravaschiere, Alternate for
Hope Knight, Commissioner of the
New York State Department of Economic Development

John Williams, Alternate for
Richard L. Kauffman, Chair
New York State Energy Research and Development Authority

Case 18-F-0087 - Application of Flint Mine Solar LLC for a
Certificate of Environmental Compatibility and
Public Need Pursuant to Article 10 for
Construction of a Solar Electric Generating
Facility Located in the Towns of Cossackie and
Athens, Greene County.

ORDER APPROVING AMENDMENT

(Issued and Effective March 28, 2023)

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BY THE BOARD:

INTRODUCTION

On August 4, 2021, the New York State Board on Electric Generation Siting and the Environment (Siting Board) granted a Certificate of Environmental Compatibility and Public Need, With Conditions (Certificate) to Flint Mine Solar, LLC, (Flint Mine Solar or Certificate Holder) pursuant to Public Service Law (PSL) §168.¹ The Certificate Order authorizes Flint Mine Solar to construct and operate a utility-scale solar electric generating facility (the Project) in the Towns of Coxsackie and Athens in Greene County (or, collectively, the Towns), New York. On August 29, 2022, Flint Mine Solar filed a Petition for Amendment (Amendment Petition) requesting that the Siting Board amend the Certificate Order to approve a proposed modified layout with a reduction in the number of photovoltaic (PV) modules; modifications to collection lines from messenger-supported wiring/racking integrated collection methods to the use of primarily overhead collection lines, with limited installation of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts; changes in proposed grading; and the use of single-axis trackers instead of fixed tilt PV arrays for certain locations.

By letter dated September 12, 2022, the Secretary to the Siting Board (Secretary) notified Flint Mine Solar that additional information was needed before a determination could be made regarding whether the Amendment Petition would constitute a "revision" pursuant to 16 NYCRR §1000.16(a) and (b). Flint Mine Solar filed supplements to the Amendment

¹ Case 18-F-0087, Order Granting Certificate of Environmental Compatibility and Public Need with Conditions (issued August 4, 2021) (the Certificate Order).

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Petition (Supplements) on November 4, 2022, and January 6, and February 1, 2023. On February 16, 2023, the Secretary notified Flint Mine Solar that the Project modifications proposed in the Amendment Petition are not expected to result in an increase in the environmental impacts as compared to the Certified Facility, and do not constitute a "revision" under 16 NYCRR §1000.16(a) and (b), and, consequently, no hearing would be required. Through this Order, the requested amendment is approved subject to the discussion below.

BACKGROUND

In granting Flint Mine Solar's Certificate, the Siting Board made specific findings, in accordance with PSL §168. The Board based these findings on an extensive review of the pre-Certificate record, including the probable environmental impacts of the construction and operation of the Project, including potential impacts on: ecology, air, ground and surface water, wildlife, and habitat (PSL §168[2][a]); public health and safety (PSL §168[2][b]); cultural, historic, and recreational resources, including aesthetics and scenic values (PSL §168[2][c]); and transportation, communication, utilities and other infrastructure (PSL §168[2][d]). The Siting Board's findings also included an examination of the potential cumulative impacts of emissions on the local community to determine whether the construction and operation of the Project would result in a significant and adverse disproportionate environmental impact.

In accordance with PSL §168(3), the Siting Board issued a Certificate based on a determination that: the Project would be a beneficial addition to, or substitution for, the electric generation capacity of the State (PSL §168[3][a]); the

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construction and operation of the Project would serve the public interest (PSL §168[3][b]); the adverse environmental impacts of the Project's construction and operation have been adequately minimized or avoided to the maximum extent practicable (PSL §168[3][c]); the Project would not result in or contribute to a significant and adverse disproportionate environmental impact in the community in which it will be located (PSL §168[3][d]); and the Project is designed to operate in compliance with applicable State and local laws and regulations (PSL §168[3][e]).

The Certificate authorized Flint Mine Solar to construct and operate a solar electric generating facility having a nameplate capacity of up to 100 megawatts (MW), consisting of up to 454 acres of PV solar panels, together with associated collection lines, temporary or permanent access roads, inverters, transformers, substations, fencing and gates, temporary laydown areas, transmission line, an operations and maintenance building (if necessary), underground communication/fiber cables, and a collection substation and point of interconnection (POI) switchyard (Certificated Facility or Certificated Project). The Certificated Facility will interconnect to the State's electric grid through the National Grid LaFarge to Pleasant Valley 115 kilovolt (kV) line and the Feura Bush to North Catskill 115 kV line.

In its Amendment Petition, Flint Mine Solar seeks approval of proposed modification of the Certificated Facility (the Modified Project or Modified Layout) including: the removal of PV arrays from certain areas and changes in the location of certain PV module areas; modifications to Alternating Current (AC) electrical collection lines from messenger supported wiring/racking integrated collection methods to the use of primarily overhead collection lines, with limited installation

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of buried collection lines at certain locations to minimize vegetation disturbance and associated visual impacts; changes in proposed grading; and the use of single-axis trackers instead of fixed tile PV arrays for certain locations in order to maximize energy production. The Amendment Petition does not request waivers of any local laws or changes to any Certificate Conditions.

According to the Certificate Holder, the requested modifications are precipitated by changes in the economy and state of solar technology since it filed its Application on May 22, 2020 (Application). Flint Mine Solar states that during development of compliance and construction-phase drawings, it identified several modifications needed to “enable the Certificate Holder to construct a carefully sited, cost-competitive solar facility in the current economic climate, and given currently available solar generation technology, consistent with the goals of the Climate Leadership and Community Protection Act (CLCPA) and essentially maintain the resolution of the issues achieved in the Settlement Layout.”²

The Certificate Holder further claims the proposed changes are designed to avoid or minimize certain environmental and resource impacts. For example, Flint Mine Solar claims the Modified Layout will result in a decrease in impacts to wetlands and a decrease in proposed tree clearing, and will eliminate approximately 2.4 miles of access roads from the Certificated Layout.³ Flint Mine Solar provided a memorandum prepared by its consultant, Environmental Design & Research, Landscape Architecture, & Environmental Services, D.P.C. (EDR), addressing

² Amendment Petition, p. 5.

³ Id., p. 9.

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the proposed modifications and their expected impacts, attached as Exhibit A to its Amendment Petition (Exhibit A or the Proposed Modifications Memo). The Proposed Modifications Memo concludes that the proposed modifications will not result in a significant increase to environmental impacts as compared to those described in the Article 10 Application.

LEGAL AUTHORITY

Under PSL Article 10, the Chair of the Siting Board has the authority to grant amendments to a certificate of environmental compatibility and public need after consultation with the permanent members of the Siting Board provided no party opposes such request within 30 days.⁴ If an amendment is deemed "likely to result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility," the Siting Board is required to conduct "a hearing in the same manner" as on the initial Application.⁵ Under the regulations implementing this provision, if an amendment is deemed a "revision" it is subject to such a hearing.⁶

Under PSL §168(7), "[f]ollowing any rehearing and any judicial review of the board's decision, the board's jurisdiction over an application shall cease, provided, however, that the permanent board shall retain jurisdiction with respect to the amendment, suspension or revocation of a certificate." Therefore, for purposes of this amendment request, the permanent

⁴ PSL §161(1).

⁵ PSL §165(5).

⁶ 16 NYCRR §1000.16(c).

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Siting Board's jurisdiction has not ceased, and it will consider the instant request.

Pursuant to the regulations,⁷ the Secretary consulted with the Department of Public Service staff (DPS Staff), the Department of Environmental Conservation (DEC), and the Department of Health (DOH) before concluding that the proposed modification would not result in a significant adverse increase to environmental impacts as compared to the Certificated Project and, thus, does not constitute a "revision" that would require a hearing under the regulations.⁸

COMMENTS

The comment period on the Amendment Petition ended on September 28, 2022. Late-filed comments on the Amendment Petition were received from Sleepy Hollow Lake, Inc. (SHL) on October 6 and November 30, 2022, and on January 31 and March 24, 2023.

SHL's comments on the Amendment Petition included arguments that the proposed multiple changes were significant and constituted a "revision" under 16 NYCRR §1000.16(a) and noted concerns about, and the difficulty in evaluating, the impacts of the proposed changes upon stormwater because no Final Stormwater Pollution Prevention Plan (SWPPP) had been submitted. SHL commented that the proposed changes include significant additional soil disturbance and grading which could potentially impact stormwater runoff and water quality, which is a major concern to SHL and its water system. In addition, SHL noted concerns about Flint Mine Solar's proposal to hire an

⁷ 16 NYCRR §1000.16(a).

⁸ February 16, 2023 Letter, p. 5.

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independent third-party Environmental Monitor during construction that SHL claimed would not be independent. SHL proposed that Flint Mine Solar be required to contribute to funding an independent monitor during the pre-construction and construction period and at least three years of post-construction/operation.

DISCUSSION

The Certificate, which authorizes Flint Mine Solar to construct and operate a solar energy project up to 100 MW, was issued only after the Siting Board reviewed the extensive evidentiary record developed during the proceeding, the Settlement Proposal, and post-hearing briefs, and determined the Project will meet all the statutory requirements for a certification under PSL Article 10.⁹ The Settlement Proposal developed in this proceeding consisted of proposed consensus Certificate Conditions and a Site Engineering and Environmental Plan (SEEP) Guide.¹⁰

Aside from the newly proposed, approximately 9.3 acres of grading within the PV array areas and the change from messenger-supported collection wiring to overhead collection lines, the potential impacts of the Project have been thoroughly addressed by the Siting Board in the Certificate Order and appropriate mitigation has been provided for in the numerous Certificate Conditions therein, all of which, as discussed below, remain applicable to the Project, as amended.

The Certificate Holder's Amendment Petition complied with the applicable regulations for filing an amendment by

⁹ Certificate Order, p. 2.

¹⁰ Id., p. 5.

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including the "relevant engineering design, performance or operational changes proposed, with supporting documentation to describe the nature of the changes caused by or related to the amendment."¹¹

As noted in the February 16, 2023 Letter, the Secretary consulted with DPS Staff, DEC, and DOH after they reviewed the proposed changes and concurred with the agencies that the changes would not result in any significant new or increase in adverse environmental impacts as compared to the Certificated Project. The Secretary's letter included a thorough review and addressed the potential impacts of the proposed change for the Project related to visual impacts, archeological, cultural and historic resources, wetlands and streams, threatened and endangered species, and local laws, which are briefly summarized below.

Visual

The Certificate Holder states that the proposed modified PV array layout will result in a 14% reduction in total acreage occupied by PV arrays (down from approximately 398 acres to 347 acres). One entire PV array is proposed to be removed in the northern portion of the Facility Area and some areas will be expanded between U.S. Route 9W and the CSX railroad. The expanded areas will be set back from public rights-of-way. In addition, the Certificate Holders indicate that changes in the PV array locations will result in minor shifts and relocation of certain visual impact mitigation plantings as shown in Attachment 1, Figure 3.¹² The visual impact associated with the

¹¹ 16 NYCRR §1000.16(b)(1).

¹² Amendment Petition, p. 10.

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changes in PV array locations and associated changes in visual impact mitigation plantings are expected to be similar to the visual impact anticipated for the Certificated Facility.

In areas where a change from fixed tilt PV panels to single axis tracker PV panels is proposed, the height of the panels will be reduced by two feet (from approximately 12-feet to 10-feet), which is anticipated to result in a small decrease in the size of previously visible areas but will not remove entire geographic areas from view. Any new area of potential visibility is expected to be a small increase to previously visible areas rather than entirely new geographic areas.

The Certificate Holder stated that after conducting a constructability analysis, it determined the messenger-supported collection wiring (which is not a typical design for solar projects) presented construction and operational challenges and that the modified overhead collection line is the preferred design. Underground cables also presented challenges due to the archaeological sensitivity of the Project Area.

The Proposed Modifications Memo noted that EDR performed a supplemental viewshed analysis to assess the impacts of the modified overhead collection line. EDR concluded that the 60-foot tall lines would be potentially visible from 3.2 percent or 4.1 square miles of the (5-mile radius) visual study area.¹³ EDR also concluded that the overhead collection lines would primarily be potentially visible within 1 mile of the Facility (which is generally consistent with the Certificated Facility) and that visibility beyond that would be limited to locations lacking vegetative screening such as open fields and

¹³ Exhibit A, p. 10.

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roadway corridors that are aligned toward the Facility.¹⁴ Because the majority of proposed overhead collection lines will be located adjacent to PV arrays, the potential need for additional vegetative clearing will be limited, which in combination are expected to "minimize newly visible area."¹⁵ The design and material of the modified overhead collection line, including shielded, non-specular conductors and wood poles, will be the same as those designed to minimize potential visual impacts that were approved for the Certificate Facility.

In an effort to minimize vegetation disturbance and associated visual impacts required to accommodate overhead collection wires, the Certificate Holder proposed limited areas of underground collection lines (2.3 miles of which are proposed to be installed in trenches and 1.9 miles of which are proposed to be installed using horizontal directional drilling).¹⁶

We are advised that the visual impacts associated with the changes in the Modified Layout and additional proposed overhead collection lines are not expected to result in any significant adverse increase in visual impacts as compared to the Certificated Facility. Furthermore, visual mitigation measures and a Visual Mitigation Planting Plan required by the Certificate Order will remain applicable to the amended Project.

Archeological, Cultural and Historic Resources

Flint Mine Solar asserts that neither the Modified Layout nor the additional overhead collection lines are expected to result in any substantial visibility or adverse visual

¹⁴ Id.

¹⁵ Id.

¹⁶ Id., p. 9.

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impacts on cultural resources or historic properties as compared to what was previously included in the Application, as supplemented. The New York State Historic Preservation Office (SHPO) reviewed the Modified Layout's potential visual impacts to National Register of Historic Places-listed and/or eligible sites and other visually sensitive resources in accordance with Section 106 of the National Historic Preservation Act of 1966. By letter dated January 20, 2023, SHPO concurred with Flint Mine Solar that the Modified Layout will result in substantially similar visual effects to the Flint Mine Hill Archaeological District as the Certificated Layout and, therefore, no additional mitigation is warranted.

According to Flint Mine Solar, the Modified Layout will require some access roads to be moved to different locations than previously approved. However, the changes are expected to result in an approximately 2.4-mile reduction in access roads, from 8.2 miles to approximately 5.8 miles in total.¹⁷ This reduction is expected to minimize the need for soil disturbance associated with access road construction and, thereby, minimize the risk of potential impacts to archaeological resources as compared to the Certificated Facility. This was confirmed in the Archaeological Phase IB Addendum Survey dated August 29, 2022, submitted with the Amendment Petition, and the Supplemental Archeological Assessment, which found that because there were no archeological sites within the proposed new grading areas, no additional impacts to cultural resources were expected from the proposed grading.¹⁸ By letter dated October 6, 2022, SHPO indicated its

¹⁷ Amendment Petition, p. 3.

¹⁸ Amendment Petition, p. 8.

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concurrence with the Phase 1B Addendum Survey findings and recommendations and indicated that no additional archaeological work is necessary.

We are advised that there are no adverse impacts to archeological, cultural and historic resources that were not previously included in the Application, as supplemented, and the Modified Project will not result in significant adverse impacts as compared to the Certificated Facility. Flint Mine Solar remains obligated to comply with the Certificate Conditions related to archeological, cultural and historic resources and to submit a Visual Mitigation Planting Plan for the Modified Project. In addition, Flint Mine Solar must submit a Cultural Resource Avoidance, Minimization and Mitigation Plan as a compliance filing. With these existing conditions and mitigation measures in place, the proposed changes should not result in increased impacts on archeological, cultural and historic resources.

Wetlands and Streams

No PV panel arrays were proposed to be located in State-regulated wetlands for the Certificated Layout and none are proposed for the Modified Layout. Flint Mine Solar estimates that impacts to federal wetlands will be slightly reduced as a result of the reduction in acreage of PV panel arrays in the Modified Layout. According to the Proposed Modifications Memo, no protected streams will be impacted by the changes in layout.

Although the Modified Layout will result in a smaller PV panel array footprint, it will require approximately 9.3 acres of additional grading. According to EDR, the additional grading is not expected to increase impacts to "any wetland or

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100-foot regulated adjacent area and no grading will occur within 625 ft of Cocksackie Creek or 400 ft of Murderer's Creek, one of the areas of primary concern for the Sleepy Hollow Lake Association of Homeowners."¹⁹ Furthermore, the Certificate Order requires that all grading must be performed in accordance with the final approved SWPPP developed in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

As noted above, SHL expressed concerns about the proposed additional soil disturbance and grading which could potentially impact stormwater runoff and water quality, which is a major concern to SHL and its water system. The Certificate Holder reaffirmed its commitment to comply with Certificate Conditions 61(f) and 78, which require it to take additional measures to ensure the Facility will not adversely impact Sleepy Hollow Lake or its associated dam, including surface water sampling during and after construction, and engagement with the community during development of the final SWPPP.²⁰ With respect to SHL's comments about the need for an independent third-party Environmental Monitor to be hired by someone other than the Certificate Holder, we find the provisions governing Environmental Monitor(s) in the Certificate Order and the SEEP, together with DPS, DEC, and Department of Agriculture and Markets oversight, are consistent with the conditions and protocols for other Article 10 projects and will provide sufficient oversight for compliance with Certificate Conditions and protection of environmental and agricultural resources during construction.

¹⁹ Exhibit A, p. 12.

²⁰ Amendment Petition, p. 8.

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As noted in the Secretary's February 16, 2023 Letter, DPS and DEC Staff advised that the Modified Layout and additional grading are not expected to result in any significant adverse increase to environmental impacts as compared to the Certificated Facility.²¹ Furthermore, DOH's Water Supply Protection Staff reviewed the proposed changes in the Amendment Petition, specifically considering whether the modified grading plan raised any concerns for the Coxsackie Creek watershed, and determined the proposed changes would not result in any significant adverse increase to environmental impacts as compared to the Certificated Facility.

The Certificate Holder must adhere to all relevant Certificate Conditions, including the requirement that it perform all construction, operation and maintenance in a manner that avoids and minimizes adverse impacts to waterbodies, wetlands, and the one-hundred-foot adjacent areas associated with all State-regulated wetlands. Moreover, the Certificate Holder must mitigate all wetland impacts pursuant to the wetland mitigation plan contained in the Joint Application for Permit to the U.S. Army Corps of Engineers and the Siting Board previously submitted by EDR on June 23, 2021. With the above conditions and mitigation measures in place, the Modified Layout does not represent a significant increase in adverse effects as compared to the Certificated Facility.

Threatened and Endangered Species

In its Amendment Petition, Flint Mine Solar states that the Modified Layout will not result in a significant change

²¹ February 16, 2023 Letter, p. 4.

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in impacts to protected grassland bird species.²² EDR analyzed the potential for adverse modification of occupied habitat areas for State-listed wintering northern harriers and/or short-eared owls that could result from the aboveground disturbance footprint of the Modified Layout.²³ Although the Modified Layout will result in changes to the amount of estimated impact to these species' occupied habitat, EDR concluded that the overall impacts should remain the same or be reduced as compared to the Certificated Project due to the reductions in the total PV panel array area and changes in Facility component locations.²⁴

As noted in the Secretary's February 16, 2023 Letter, DEC Staff concluded that although the proposed grading will cause a minor increase in impacts to threatened and endangered grassland birds, the amount of mitigation proposed by Flint Mine Solar to be provided in its final "Net Conservation Benefit Plan" (NCBP) is sufficient to cover this additional impact.

In addition to State-listed protected grassland species, portions of the Facility are considered by DEC to be located within northern long-eared bat (NLEB) occupied habitat. However, because the amount of tree clearing proposed for the Modified Layout has decreased due to the reduction in PV panel array areas, no additional impacts to NLEB are anticipated.

Flint Mine Solar has not requested amendments of any conditions and is still required to comply with all Certificate Conditions pertaining to threatened and endangered species. In addition, Flint Mine Solar is required to submit a revised NCBP to account for the changes in the Modified Layout as a

²² Amendment Petition, P. 9.

²³ Exhibit A, p. 4.

²⁴ Id., p. 5.

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compliance filing. With the above conditions and mitigation measures in place, the Modified Layout does not represent a significant increase in adverse effects as compared to the Certificated Facility.

Local Laws

Flint Mine Solar is not requesting any waivers of local laws with respect to the Amendment Petition. Flint Mine Solar is required to comply with all applicable substantive local laws, to the extent not previously waived by the Siting Board in the Certificate Order.²⁵

CONCLUSION

As discussed above, the proposed changes to the Project, as set forth in the Amendment Petition and Supplements, will not result in a significant adverse increase to environmental impacts as compared to the Certificated Project.

The approval of this Amendment Petition does not relieve Flint Mine Solar of the need to comply with the terms, conditions, limitations, or modifications of the construction and operation of the Facility authorized in the Certificate and Flint Mine Solar will be required to comply with the procedures for compliance filings, including filing and notice requirements prior to any related construction.

The Board on Electric Generation Siting and the Environment orders:

1. The determination of the Secretary that the Amendment Petition of Flint Mine Solar LLC does not constitute a "revision" is adopted and, together with this Order, constitutes

²⁵ Certificate Order, pp. 70 – 71.

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the decision of the Board on Electric Generation Siting and the Environment in this proceeding.

2. The Certificate of Environmental Compatibility and Need, With Conditions, granted to Flint Mine Solar LLC by Order issued August 4, 2021, is modified to grant the requests made by Flint Mine Solar LLC in its August 29, 2022 Petition for Amendment to construct the Project as amended herein, as consistent with the discussion contained in this Order and as consistent with the Secretary's determination.

3. Any provision of the Certificate not otherwise modified herein or otherwise heretofore modified remains in full force and effect.

4. This proceeding is continued.

By the New York State Board
on Electric Generation Siting
and the Environment,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

EXHIBIT H

APPLICATION FOR FINANCIAL ASSISTANCE

**Greene County Industrial Development Agency
45 Sunset Blvd. Suite 3, Coxsackie, NY 12051**

**518-731-5500
www.greeneida.com**





Greene County Industrial Development Agency

**APPLICATION FOR FINANCIAL ASSISTANCE
INSTRUCTIONS**

IMPORTANT NOTICE: The answers to the questions contained in this Application are necessary to determine your company's eligibility for financing and other assistance from the Greene County Industrial Development Agency. These answers will also be used in the preparation of papers in this transaction. Accordingly, all questions should be answered accurately and completely by an officer or other employee of your company who is thoroughly familiar with the business and affairs of your company and who is also thoroughly familiar with the proposed Project.

1. The Greene County Industrial Development Agency (the "Agency") will not approve any Application unless, in the judgment of the Agency, said Application contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Please be advised that the Agency charges a fee based on the total project investment. Please see the FEE SCHEDULE.
3. Fill in all blanks, using "none" or "not applicable" or "N/A" where the question is not appropriate to the Project which is the subject of this Application (the "Project").
4. If an estimate is given as the answer to a question, put "(est.)" after the figure or answer which is estimated.
5. If more space is needed to answer any specific question, attach a separate sheet.
6. When completed, return this Application to the Agency at Greene County IDA, 270 Mansion Street, Coxsackie, NY 12051.
7. The Agency will not give final approval for this Application until the Agency receives a completed environmental assessment form concerning the Project which is the subject to this Application.
8. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Applicant feels that there are elements of the Project which are in the nature of trade secrets which, if disclosed to the public or otherwise widely disseminated, would cause substantial injury to the Applicant's competitive position, the Applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law.
9. As set forth herein, the Applicant will be required to pay to the Agency and employees or agents of the Agency, all actual costs incurred in connection with this Application and the Project contemplated herein, including all legal fees of the Agency and the administrative fee of the Agency. The costs incurred by the Agency, including the Agency's Bond Counsel, may be considered as a part of the Project and included as a part of the resultant bond issue.
10. The Agency has established an application fee to cover the anticipated costs of the Agency in processing this Application. Please refer to the FEE SCHEDULE. A check or money order made payable to the Agency must accompany each Application. **THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.**



Greene County Industrial Development Agency
APPLICATION FOR FINANCIAL ASSISTANCE

The information provided in this application is required to determine eligibility for GCIDA assistance. This information will be considered preliminary. The information in this application along with further information or analysis obtained during the review of the project by the GCIDA will form the basis of determining the terms of any potential incentives to be provided. The information in this application shall not be considered the definitive source in the preparation of future project documents. Upon the review of the application the GCIDA may request additional information.

FOR ANSWERS THAT REQUIRE ADDITIONAL SPACE PROVIDE ON SUPPLEMENTAL SHEETS

PART 1: APPLICANT INFORMATION

Applicant's Name (Company): FLINT MINE SOLAR, LLC		Federal ID #: 82-2338508	Date of Submission:
Name/Title and of Person Completing Application: WILLIAM MOORE, PRINCIPAL			
Company Address: 2021 WESTERN AVENUE, ALBANY, NY 12203			
Phone: 518-452-2544	Mobile: 301-802-7356	E-mail: wmoore@hudsonenergydev.com	
Name/Title/Phone/E-mail of Additional Authorized Representatives:			
1. Patrick Doyle / Principal / 518-423-9363 / pdoyle@hudsonenergydev.com			
2. Abraham Weiner / / 202-816-1548 / abraham.weiner@amberinfrastructure			
3.			
Legal Counsel (Firm): YOUNG/SOMMER LLC			
Attorney Name: ROBERT A. PANASCI, ESQ.			
Attorney Address: 5 Palisades Drive, Suite 300, Albany, NY 12205			
Attorney Phone: 518-438-9907	Attorney Mobile: 518-207-5448	Attorney E-mail: rpanasci@youngsommer.com	
Company Type/Organization:			
Corporation: <input type="checkbox"/> Corporation Type: <u>LLC</u> Partnership: <input checked="" type="checkbox"/> Sole Proprietorship: <input type="checkbox"/>			
Corporation Information:			
State Incorporated <u>DE</u> Date Incorporated <u>5/10/17</u> Authorized to do business in NYS <input checked="" type="checkbox"/>			
Partnership Information:			
Type of Partnership _____ No. General Partners _____ No. Limited Partners _____			

Is the Company a subsidiary or direct/indirect affiliate of any other organization(s)? Yes No

If yes, indicate name of related organization(s) and relationship:

Is the Company publicly held? Yes No Stock Symbol _____ Exchange _____

Company Management (list all owners, officers, directors and partners (add additional page if required))

Name	Office Held/Title	Years Title Held
1. Thomas O'Shaughnessy	Manager	4
2. Matthew Mann	Manager	4
3. William Moore	Manager	4
4. Patrick Doyle	Manager	4
5.		
6.		

If the answer is "YES" to any of the following legal questions, please provide a detailed confidential explanation under a separate cover addressed to the GCIDA Counsel at the address provided later in this application

Has the company or any of its affiliates ever been involved in bankruptcy, a creditors rights or receivership proceeding, or sought protection from creditors? Yes No

Has the company ever settled a debt with a lending institution for less than the full amount outstanding? Yes No

Has any executive staff, senior managers, or principals/owners of the company ever been convicted of any felony or misdemeanor other than a minor traffic violation or are such charges pending? Yes No

Has the company or any of its affiliates been cited for a violation of federal, state, or local regulations with respect to labor practices, hazardous wastes, environmental pollution, or operating practices? Yes No

Are there any outstanding judgements or liens pending against the company other than liens in the normal course of business? Yes No

Is, or has the company been delinquent on any New York State, Federal, or local tax obligations? Yes No

Business Description: Summarize company background, products, goods, and services:

See Appendix 1 - Section 1.

Business Activity by Location Estimate the percentage of the company's sales/activities based on location:

Within Greene County 100 % Within NYS outside Greene County 0 % Outside NYS but within the USA %
Outside the USA 0 % List primary foreign countries _____

Business supply sources by location, estimate the percentage of the company's raw material purchases based on location:

Within Greene County 0-5 % Within NYS outside Greene County 95-100 % Outside NYS but within the USA 0 %
Outside the USA 0 % List primary foreign suppliers _____

Will a real estate holding company be utilized to own the project property/facility?

Yes No Name of company: _____ Federal ID #: _____

The GCIDA is legally required to submit reporting on the project to NYS that requires information from and the cooperation of the applicant. Applicant participation is not optional. All information must be submitted in a complete and timely manner. Failure to comply with this requirement will result in a loss/recapture/termination of all or some of the company's benefits.

I, William Moore, being the Prinicipal of Flint Mine Solar, LLC do hereby certify that I understand and consent to cooperate fully with the GCIDA in any local, state, or federal reporting that is required of the GCIDA as it relates to this project:

Signed: William Moore Date: 9/9/21

For the purpose of conducting a thorough review of the project and the structuring potential financial incentives to be provided by the GCIDA, the GCIDA reserves the right to request detailed financial information from the company. Such information may include, but is not limited to accountant prepared financial statements, certificate of good standing from NYS DOS, proformas, tax returns, and other information. The GCIDA will work with the applicant on determination of the need for confidentiality of these records. Further, failure to produce requested information in a timely manner may result in a delay in GCIDA actions or no further action by the GCIDA.

I, William Moore, being the Prinicipal of Flint Mine Solar, LLC do hereby certify that I understand and consent to cooperate fully with the GCIDA in any local, state, or federal reporting that is required of the GCIDA as it relates to this project:

Signed: William Moore Date: 9/9/21

Company Audit Representative:

Name N/A Title N/A

Address: N/A

Phone N/A Mobile N/A E-mail N/A

PART 2: PROJECT INFORMATION	
Project Street Address: See attached Appendix 3	Tax Parcel #: See attached Appendix 3
Current Legal Owner of Project Site: Multiple parcels. See attached Appendix A	Does Applicant have formal option if not owner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
How will the site be acquired (if applicable)?	When is the site planned to be acquired? Quarter 1 2022
Municipality: Coxsackie & Athens	Current Zoning: Various
	Will variance be needed? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
List any required zoning variance(s) if known: The Article 10 Order (August 4th, 2021) has granted the necessary waivers of Local Laws.	
Current primary use of the property: Vacant Land <input checked="" type="checkbox"/> Vacant Building <input type="checkbox"/> In use/Occupied <input type="checkbox"/>	If occupied, current use: Agriculture on some parcels
Is the site a known or suspected Brownfield? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Unknown <input type="checkbox"/>	Proposed Size of Project: Site 650 (acres) Building(s) 4,000 (sq. ft.)
Has or will a Phase I ESA Been Prepared? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (if yes, provide a copy)	Have any other environmental studies been completed? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (if yes, provide a copy)
Are current environmental conditions at the site complicating development/use of the property? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, explain <u>The applicant has agreed to mitigation of habitat, wetland, wildlife and cultural resource</u>	
Has, or is the site subject to environmental fines, order on consent, or other regulatory action(s)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, explain _____	
Project Type (check all that apply): <input type="checkbox"/> Commercial <input type="checkbox"/> Professional <input type="checkbox"/> Manufacturing <input type="checkbox"/> Distribution <input type="checkbox"/> Housing** <input type="checkbox"/> Retail* <input checked="" type="checkbox"/> Energy** <input type="checkbox"/> Adaptive Reuse <input type="checkbox"/> Tourism <input type="checkbox"/> Other _____	
* Complete specific use type questionnaire in Attachment A ** Complete project specific questions in following sections	
HOUSING PROJECTS – The Agency does not provide incentives to single family home or market rate apartment Projects	
Housing Type: <input type="checkbox"/> Senior (55+) <input type="checkbox"/> Work Force <input type="checkbox"/> Special Needs <input type="checkbox"/> Other (describe) _____	
Will the project have rental rates based on income or other metrics? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe _____	
Will the project include tax incentives that directly influence rental rates? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe/list _____	
Will the project include restrictions on rentals? Yes <input type="checkbox"/> No <input type="checkbox"/> Number of Rental Units _____ If restricted housing, indicate restrictions: <input type="checkbox"/> Income <input type="checkbox"/> Age <input type="checkbox"/> Special Needs <input type="checkbox"/> Other _____	

ENERGY PROJECTS – Complete this section for any energy related projects

Project Type: Energy Production Energy Storage Energy Transmission
 Other (describe) _____

Energy Production Type: Solar Wind Biomass Hydro
 Other (describe) _____

Project Size: 100 MW Project Offtake: Specific consumer (PPA) Community Wholesale

Does the Project have a confirmed buyer for the power? Yes No

If yes, describe/list Applicant will sell energy and capacity to NYISO market, subject to NYSERDA contract

Will the Project receive NYSERDA Incentives? Yes No

If yes, describe/list Applicant has a 20-year contract to sell RECs to NYSERDA at a fixed price.

COMPLETE FOR ALL PROJECTS:

Provide narrative describing the Project such as new build, renovation, and/or equipment purchase. Identify specific uses proposed for the Project as well as any tenants and/or any end users. (Additional information may be requested by the GCIDA, use additional pages, as necessary.)
 NAICS Classification:

See Appendix 1 - Section 2.

Projected Start Date: 1/1/22	Projected Time to Completion:	Est. date of need for GCIDA benefits: 1/1/22
Does the site have public infrastructure? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>	Is additional public infrastructure needed to support the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, describe: Certain improvements to the local utility grid are necessary to accommodate	

Has the project been presented to the local planning board for approval? Yes No
 If yes, summarize current status of review: _____

Has the project been subject to review under the state SEQRA regulations? Yes No
 If yes, who was/is the Lead Agency for the Review: Project is a Type II action under SEQRA

If yes, has a final determination been made by the Lead Agency: Yes No PosDec NegDec

If a PosDec, has an Environmental Impact Statement been prepared and submitted to the Lead Agency:
 Yes No In progress Estimated EIS Completion Date: _____

If SEQRA has been completed, submit copies of the SEQRA forms and Lead Agency Findings Resolution. If SEQRA review has not commenced, notify the Lead Agency that the GCIDA should be included as an Involved Agency during the review.

Will the Project result in the relocation of an existing facility from one part of NYS to another: Yes No
If yes complete Attachment B: Intermunicipal Move Determination

Will the project result in the relocation from another state or country: Yes No
If yes, list state, municipality and/or country: _____

Describe the reasons why the GCIDA's financial assistance is necessary and the effect the Project will have on the applicant's business or operations. Address competitiveness, project shortfalls, and any factors that make financial assistance necessary. Eligibility will be based in part by the response. Use additional pages, as necessary.

See Appendix 1 - Section 3.

Please confirm by initializing the appropriate response relating to the likelihood that the project would not be undertaken BUT FOR the financial assistance provided by the GCIDA: Likely Not Likely

PART 3: ESTIMATED PROJECT COSTS AND FINANCING

Provide current estimates for all construction and related costs for the Project. Any future amendments to the budget should be provided as an addendum to the application. Credible estimates are necessary and an important component of the GCIDA's review and consideration of a Project. **SEE ATTACHED APPENDIX 2**

PROJECT BUDGET		PROJECT FINANCING	
Land Acquisition	\$	Owner Equity	
Land Lease		Other Private Equity	
Buildings (as is at closing)		Bank Financing	
Utilities, roads, appurtenant costs		State/Federal Tax Credits	
Architects, Engineers, Consultants		Local/State/Federal Grants	
Bond Issue Costs (legal, printing, etc.)		Public Agency Financing	
Construction Loan Fees & Interest		Industrial Revenue or Other Bonds	
Franchise Fees and other Soft Costs		Total Estimated Financing	
Construction Costs, New Construction		Have any of the project expenses listed already been made by the applicant? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, total expenditure to date: \$ _____	
Construction Costs, Renovation		Has bank financing been secured? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Construction Management/Oversight		Bank Name:	
FF&E		Bank Contact:	
TOTAL PROJECT COST		Bank Phone:	

NOTE: GCIDA benefits are not retroactive and no benefit can be taken until such time that the GCIDA has formally approved the Project and executed all Project agreements with the applicant. Any expenditures prior to formal approval will be subject to the applicable taxes.

PART 4: GCIDA FINANCIAL ASSISTANCE REQUESTED

Financial incentives provided by the GCIDA are subject to a rigorous review and analysis by the GCIDA Staff and Board. Any requested benefits are contingent on GCIDA evaluation and will be finalized after an appropriate review as set forth in GCIDA policies and procedures. Applicants may be required to submit additional information tailored to each specific project to allow for the GCIDA to develop a formal incentive package for the Project.

A. Mortgage Recording Tax Exemption

Is the applicant seeking an exemption from the Mortgage Recording Tax? Yes No TBD

If yes, estimated amount of financing expected to be subject to Mortgage Recording Tax: \$ 207,070,000

If yes, estimated amount of Mortgage Recording Tax requested to be exempted: \$ 207,070,000

B. Sales and Use Tax Exemption

Is the applicant seeking an exemption from project sales and use tax? Yes No TBD

If yes, estimated value of construction and FFE costs subject to sales tax: \$ 154,530,000

If yes, estimated amount of Sales and Use Tax to be Exempted: \$ 154,530,000

If yes, projected timeframe needed for Sales and Use Tax exemption (years): 3 years

C. Payment in Lieu of Taxes (PILOT)

Is the applicant seeking to negotiate a PILOT for the project? Yes No

If yes, what is the duration of the PILOT requested (years): 30

D. Industrial Development Bonds

Is the applicant seeking GCIDA issuance of tax exempt Industrial Development Bonds for the project? Yes No

If yes, what is the estimated value of the bonding being requested: \$ _____

If yes, does the applicant have purchasers in place for the bonds: Yes No

PART 5: PROJECT BENEFITS

5.1 Employment Plan

The creation and/or retention of employment opportunities in the community is a primary mission of the GCIDA. In the following section use best available information to project the employment impact in the community. Prior to the approval of any incentive package, the GCIDA and applicant will establish formal and measurable milestones for employment if GCIDA financial assistance is provided. Questions on class of employment should be directed to GCIDA staff during completion of the application. Employment projections in this application will not serve as the sole source for any employment based material factors that may be part of an GCIDA financial package.

Job Types	Full Time (FT)	Part Time (PT)	FT Seasonal	PT Seasonal
# of current jobs to be retained ⁽¹⁾	n/a	n/a	n/a	n/a
# of current jobs to be relocated to project ⁽¹⁾	n/a	n/a	n/a	n/a
# of new jobs to be created ⁽¹⁾	0	3	0	0
# of jobs associated with contracted services ^{(1) (2)}	0	0	0	0
# of jobs associated with temporary workers ^{(1) (3)}	0	0	0	0

(1) Provide # of jobs based on three (3) years after the project reaches full time operation.

(2) Provide # of jobs projected to be created by contracted services. Only include jobs that will be working 100% dedicated to the project. Do not include contracted services when employees work at multiple locations and not dedicated to the project work force.

(3) Provide # of jobs projected to be created that will be filled by temporary workers.

The mission of the GCIDA is to create permanent, sustainable employment opportunities. If the project will utilize contracted or temporary employment services to fill employee requirements, please describe in detail how these positions will be used in the company's employment plans.

As is typical for the construction of facilities such as this Project, prior to the facility being "shovel ready" Applicant will enter into an EPC contract with a reputable contractor or contractors to construct the facility. As such almost all of the employees needed to build the Project will be hired by the general contractor(s) and by the various sub-contractors that will have responsibility for the different construction activities. An Owner's representative hired by the Applicant will oversee the main contractor(s), and the contractors will be encouraged by the Applicant to hire locally to the extent practicable.

5.2 Salary & Fringe Benefits Summary

Job Category	# Jobs Retained	# Jobs Created	Salary Average or Range	Fringe Benefits Average or Range
Management	n/a	0	0	0
Professional	n/a	.30	120,000	54,000
Administrative	n/a	.15	65,000	29,250
Production (skilled)	n/a	0	0	0
Production (unskilled)	n/a	0	0	0
Contractual Services	n/a	.55	100,000	45,000
Temporary Services	n/a	0	0	0
Other (non-construction)	n/a	0	0	0

Please provide an estimate of the total annual payroll at the project site: \$ 100,750

Please provide an estimate of the total cost of fringe benefits at the project site: \$ 45,388

5.3 Other Project Benefits

Does the company provide comprehensive medical insurance coverage for employees? Yes No

Does the company provide a retirement plan for employees? Yes No

Does the company have a bonus or other financial incentive program? Yes No

If the applicant answered Yes to any of the above questions, provided separately a description of the benefits package proposed to be provided to employees.

What is the estimated value of the annual operating costs associated with the facility that can be expected to be obtained in the local community, or broader region?

\$ 0

What is the estimated value of any charitable donations the Project may make to the local community?

\$ N/A

Will the project result in the generation of Sales and Use Tax for Greene County?

Yes No

If yes, please provide estimate of annual sales/transitions that will generate sales tax:

\$ 0

Describe/List any other benefits the project will provide to employees or the community:

See Appendix 1 - Section 4.

PART 6: CONSTRUCTION

The GCIDA does not use temporary construction jobs to meet employment requirements that may be a Material Factor in a formal incentive package. However, the GCIDA does consider construction activities, especially prioritization of the local workforce in its final determination in the providing of incentives and amounts.

Estimated length of construction (months):	18-24 Months	Estimated Start Date:	1/1/22
Estimate of Construction jobs to be created:	250	Estimated Completion Date:	12/31/23
Will the project commit to using construction firms that prioritize workers from within a 100-mile radius of the project site when available?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Will the Project utilize union trades for some or all of the construction?			Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>If yes, estimate the percentage of the total construction that may be expected to use union trades:</i>			_____ %
Has the Project selected a General Contractor for the Project's Construction?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<i>If yes, please identify GC: _____</i>			

PART 7: AGREEMENTS BY APPLICANTS

7.1 Except as otherwise provided by collective bargaining agreement, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor. Job listings will be provided to the Workforce Development Program residing at Columbia-Greene Community College.

7.2 In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance ("Dept"), the annual form prescribed by the Dept, describing the value of all Sales and Use Tax exemptions claimed by the Project, including all contractors and subcontractors.

7.3 The Applicant acknowledges the Agency has annual reporting deadlines to the NYS Authorities Budget Office ("ABO") which require the collection of accurate and timely data from the Project. The Agency will issue a request for information in the 4th quarter of each year of active benefit. The Applicant agrees that they will submit all requested data no later than January 31st of each calendar year during the term of the Agency's assistance. A check list of items for annual reporting will be provided at the closing for the Agency benefits.

7.4 No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this application. In the event of a conflict with this provision, the Applicant will provide under separate cover information about any interest in the Project by the Agency's officers, members, or employees.

7.5 The applicant certifies that they are aware of, and understand, the Agency's Fee Schedule as set forth in Attachment C to this application. The Agency reserves the right to amend or revise the Fee Schedule.

7.6 The applicant will be responsible for all legal costs incurred by the Agency related to preparation and execution of all documents necessary to receive final Agency benefits. Reimbursement may include legal notices. The applicant will be billed separately by the Agency's counsel at the closing. The Applicant will be responsible to enter into a separate agreement for payment with the Agency's counsel as set forth in the Fee Schedule (Attachment C). Nonpayment of legal expenses will result in termination of the benefits by the Agency.

7.7 The applicant acknowledges that the Applicant is solely responsible for obtaining the financing for the Project.

7.8 The Applicant will provide a liability and contract liability policy naming the Agency as an insured party. The policy will be in the amount of one million dollars (\$1,000,000) and will be maintained for a period of one (1) year after the completion of the Project's construction.

7.9 The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with applicable local, state, and federal laws applicable to the Applicant and the Project.

7.10 The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to immediate termination of Financial Assistance to the Project and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of the Agency's involvement in the project.

7.11 The Applicant confirms and acknowledges that failure to meet the Material Terms related to employment, investment etc., or failure to meet mandated local, State, Federal, or Agency reporting may be viewed by the Agency as failing to meet the established standards of economic performance which may result in the Agency requiring recapture of some or all of the benefits provided to the Project.

7.12 The Applicant understands and agrees that in the event that (a) the Applicant does not proceed to final Agency approval within six (6) months of the Agency's acceptance of this application and/or (b) close with the Agency on the requested financial assistance within twelve (12) months of the date of this Application, the Agency reserves the right

to rescind and cancel all prior approvals. In the event the Agency rescinds its approvals and the Applicant reapplies to the Agency, the Applicant will be subject to the Application fee as well as any changes to in law, Agency policies or fees imposed by the Agency that are in effect as of the date of reapplication.

7.13 The Applicant acknowledges that the Agency is subject to NYS Freedom of Information Law (FOIL). Applicants understand that all project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.

7.14 The Applicant has received from the Agency a list of the members, officers, and employees of the Agency. If, any member, officer, or employee of the Agency has any interest, whether direct or indirect, in any transaction contemplated by this application, the Applicant will notify the Agency in a separate memo that identified the person with the conflict and the basis of the conflict.

7.15 **Hold Harmless Agreement:** Applicant hereby releases the Greene County Industrial Development Agency and the members, officers, agents, and employees thereof (hereinafter collectively referred to as the "Agency") from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by the Agency with respect to (1) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the issue of bonds requested therein are favorably acted upon by the Agency, and (2) the issue of bonds requested therein or the Project described therein, including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expense incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to find buyers willing to purchase the total bond issue requested, then, and in that event, upon presentation of an invoice itemizing the same, Applicant shall pay to the Agency, its agents and assigns, all actual costs incurred by the Agency in the processing of the Application, including attorney's fees, if any.

Name: WILLIAM MOORE Title: PRINCIPAL Date: 9/9/21
Signature: William Moore

PART 8: CERTIFICATION

The Applicant and the individual executing this application acknowledge that the Agency will rely on the representations made herein when acting upon the application and hereby represent that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

STATE OF NEW YORK)

COUNTY OF GREENE) ss.:

WILLIAM MOORE being first duly sworn, disposes and says:

1. That I am the MANAGER of FLWT MINS SOLAR LLC and that I am duly
(Corporate Officer) (Applicant)

Authorized on behalf of the Applicant to bind the applicant.

2. That I have read the attached application. I know the contents thereof, and that to the best of my knowledge and belief this application and its contents are true, accurate, and complete.

William Moore Date 9/9/21
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
This 9 day of September, 2021

April Ernst
(NOTARY PUBLIC SIGNATURE)

NOTARY STAMP

APRIL ERNST
Notary Public - State of New York
Qualified in Greene County
Commission Expires 02-28-2024
01ER6105893



Greene County Industrial Development Agency

APPLICATION FOR FINANCIAL ASSISTANCE

ATTACHMENT A: RETAIL QUESTIONNAIRE

To be completed by applicants that checked retail as the project type on Section 2 of the application

Section 862 of NYS General Municipal Law sets limits on the type of retail projects that are eligible for Agency Financial Assistance. To ensure compliance with the State restrictions on IDAs, the following additional information is required to help the Agency determine if the Project qualifies for Agency assistance. Responses to the following questions will assist the Agency in making a determination of eligibility. For the purpose of these questions, the term "retail sales" means (a) sales by a registered vendor under Article 8 of NYS Tax Law primarily engaged in the retail sales of tangible personal property (as defined in Section 1101(b)(4)(i) of tax law) or (b) sales of a service to customers who personally visit the site.

1. Will any portion of the Project consist of facilities that will be primarily used in the sale of goods and services to customers who personally visit the site? Yes No
2. What percentage of the cost of the project will be expended on facilities primarily used in making sales of goods and services to customers who personally visit the Project? 0 %

• *If the answer to question 2 above is more than 33.33% please answer the questions below.*

3. Is the facility likely to draw a significant number of customers from outside Greene County or the Capital Region Economic Development Region (Albany, Columbia, Greene, Schenectady, Rensselaer, Warren, and Washington Counties)? Yes No *(Note: The Agency may require submission of third-party market analysis or other documentation supporting your response.)*
4. Will the Project make available goods or services which are not currently reasonably accessible to the residents of the municipality in which the proposed Project will be located? Yes No *(note: if yes, please describe in the section below the goods and services provided that can not be obtained locally at this time)*

N/A

3. Will the Project be operated by a not-for-profit Corporation? Yes No
4. Is the project located in a Highly Distressed Area? Yes No
5. Is the project located in one of the following:
 - a. An Environmental Justice Area: Yes No
 - b. A census tract or a contiguous census tract which according to the most recent census data, has (i) a poverty rate of at least 20% and/or at least 20% of households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate. Yes No



Greene County Industrial Development Agency

APPLICATION FOR FINANCIAL ASSISTANCE

ATTACHMENT B: INTERMUNICIPAL MOVE DETERMINATION

The Agency is required by State law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the relocation of a company from one area of the State to another area of the State or in abandonment of one or more facilities of the Project occupant located within the State, Agency Financial Assistance is required to prevent the Project occupant from relocating out of state, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry.

1. If you answer yes to any of the questions below and fail to provide a detailed justification for the relocation/abandonment, then the Agency will be barred from providing any financial assistance.
2. The Agency is required to notify the Chief Executive Officer of the municipality from which your facility is being relocated/abandoned. This notification will be sent upon receipt of your application and prior to the Agency's processing of the application.

Certification: Based on the answers provided below, the Applicant hereby certifies to the Agency that the undertaking of the proposed Project and the provision of financial assistance to the Applicant will not violate GML Section 862(1).

Will the Project result in the removal of an industrial, manufacturing, or other type company from one part of the state to another area of the state?

Yes No

Will the Project result in the abandonment of one or more plants or facilities within the state?

Yes No

If Yes to either question, explain why Agency Financial Assistance is necessary to prevent the relocation of the Project out of state and/or to preserve the Applicant's competitive position.

N/A

Flint Mine Solar, LLC GCIDA Application

Appendix 1

Section 1 - Business Description

Flint Mine Solar, LLC (“Applicant”) is a special purpose company formed to develop the 100 MWAC Flint Mine Solar project (“Project”) in Greene County, NY. The Applicant is jointly owned by Amber US Investments Holdings Limited, a subsidiary of Amber Infrastructure Group Holdings Limited (Amber) and Hudson Energy Enterprises, LLC (Hudson). Amber is a development and investment company that has extensive experience in developing, financing, building, owning and operating various kinds of energy infrastructure projects. Hudson’s principals have a total of 40+ years of experience developing utility scale renewable energy projects in New York State (“NYS”).

The Project will produce approximately 175,000 MWh of electric energy and capacity that will supply the lower Hudson Valley sector (Zone G of the NYS wholesale electric market operated by NYISO), an amount of energy equivalent to the annual average usage of all the residential electric customers in Greene County (approximately 17,500 homes). As detailed in the Project’s Article 10 application to the NYS Energy Siting Board, the construction and operation of the Project will have minimal local environmental impacts, but will displace a significant amount of electric energy that would otherwise have been generated by conventional, fossil-fuel fired power plants, which displacement will produce both (i) measurable air quality improvements, and (ii) a significant reduction in carbon emissions from the electric utility sector in NYS. Along with the construction of the largest new renewable energy facility in New York’s Hudson Valley, the Applicant will also be responsible for the acquisition and preservation of the nearby Flint Mine Hill, a national historic landmark, along with the preservation and management of almost three hundred acres of one of the region’s largest grassland bird winter habitat habitats. It is anticipated that the construction of the Project will employ a total of 250 workers over an 18-24-month period while the operation of the Project will permanently create work for one FTE employee.

Section 2 - Provide narrative describing the Project such as new build, and/or equipment purchase, page 5

As noted above, the Applicant is proposing to construct the Project in the Towns of Athens and Coxsackie. It will be interconnected to two separate 115 kV transmission lines owned by National Grid that cross the Project site. One of these 115kV lines originates at the LaFarge substation in Albany County and currently terminates at the Pleasant Valley substation east of the Hudson River in Dutchess County; the second line of these two 115kV lines originates at the Feura Bush substation in Albany County



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to the north and terminates at the North Catskill substation in Leeds. The Project will fund the design and construction of a new interconnection switchyard at the Project site, along with accompanying system upgrades on each of the two National Grid 115kV circuits, at a total cost of approximately \$14 million. A new Project substation will use a 34.5kV/115kV transformer that will allow the simultaneously interconnection of the Project to both 115kV circuits via the five-breaker ring configuration switchyard, enabling the Project to deliver both energy and capacity into the Zone G electrical grid.

The construction of the Project will require a steel racking system that will hold the photovoltaic (PV) panels with the racking system resting on steel piles that will be driven (or screwed) into the ground. The electricity generated by the PV panels will be direct current (DC) which will be transformed to higher voltage alternating current (AC) via inverters and transformers stationed throughout the Project. The collection system will comprise multiple 34.5kV medium voltage cables to transmit the AC electricity from each inverter to the substation. While some new access driveways will be constructed to build the Project and provide O&M access to the PV panels, inverters and transformers during operation, to the extent possible the Applicant will utilize existing farm roads. Each parcel of land hosting photovoltaic modules or other equipment will be surrounded by conventional chain-link perimeter fencing for security.

All of the equipment installed by the Project will be new. As detailed below, material used to construct the access roads will be acquired locally to the extent available.

Given the transformation of the NYS electricity system that is currently underway, it is anticipated that energy storage devices will be installed at some point at the Project, although the precise timing is dependent on how and when the necessary tariffs and rules are developed by the state and the system operator.



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Section 3 - Describe the reasons why the GCIDA's financial assistance is necessary—competitiveness, shortfalls, other factors that make financial assistance necessary, page 6

Prior to the deregulation of the electric power sector in NYS the local property taxes levied on utility-owned generating plants were passed along in their entirety to the utility's ratepayers, without any impacts on competitiveness, as there was no competition in the utility sector at that time. That cost-plus approach to power plant taxation ended with the introduction of competition into the electric generating business, with all new power plants - renewable and conventional alike -- in the NYISO market now developed, built and operated by non-utility entities that must compete with one another to sell into the wholesale energy and capacity markets. New power plants disadvantaged by open-ended real property tax liabilities are not financially viable and will not get built. Renewable energy facilities are especially disadvantaged by New York's high property tax regime, because up to 80% or more of their cost of production can come from equipment that could be described as real property, whereas only approximately 20% to 40% of the lifetime costs of a fossil plant come from power generating equipment, with most of the remaining costs being for fuel.

And new renewable energy projects that participate in the NYSERDA RPS program must operate in a fixed-price environment, in which the revenue earned by these projects is usually fixed over their operating lives, without any annual cost-adders or inflation adjustments, which means that all the costs of building and operating clean energy projects must be known as well, including in particular local property taxation. To the Applicant's knowledge, no new wind or solar energy plants have been built in NYS without a contract to sell Renewable Energy Credits under contract to NYSERDA. At the time when the Applicant made its proposal to NYSERDA, no escalation was allowed in any bidders' price. Project developers can win a NYSERDA REC purchase contract only by participating in a competitive solicitation with other projects in which the lowest price bidders win. Without a local Payment-in-lieu-of Taxes (PILOT) tax agreement that sets the level of annual payments to the municipalities and school districts by the Project, at least for the duration of the debt to be incurred by the Project, generally 20 to 30 years, new wind and solar energy projects in NYS would not be financially viable. To the Applicant's knowledge, no new utility scale wind or solar energy projects have been built in NYS without an IDA Pilot or similar local tax agreement that specifies the Project's property tax liability over the term of the agreement.

Separately, the Project's capital cost budget, and its pro forma financials, assume that the Project will be eligible for an exemption from the 8% sales tax that would otherwise be applied to the approximately \$ 207 million of capital goods and equipment needed to build the facility.



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Section 4 - Describe list any other benefits the project will provide to employees or the community

To the owners knowledge Flint Mine Solar will be the largest new renewable energy project in the Hudson Valley, and thus will be an important part of the State's Climate Leadership and Community Protection Act (CLCPA) statutory targets, which are 70% renewable by 2030 and 100% zero emissions by 2040 by displacing energy from fossil-fired power plants that currently comprise the bulk of the generating sector with electric energy from renewable wind and solar projects.

The Flint Mine Solar project will achieve multiple important environmental benefits:

1. Climate benefits tied to the reduction in CO2 from the electric generating sector.
2. Grassland bird habitat preservation provided by the preservation of a ~300-acre winter raptor habitat, important to the winter foraging of both Northern Harriers and Short-eared Owls, along with other grassland birds.
3. Open space preservation for the approximately 1,500 acres of land to be acquired by the Project, only 650 acres of which will be used to host PV panels, with much the rest to be protected from other kinds of development
4. A post-construction survey will examine the extent to which grassland birds may habituate in and around the solar project once it is installed and operating.

In addition to the employment created during construction and operation, the approximately \$270 million Flint Mine project will be a significant new increase in the revenue base of Greene County, and its two host Towns of Coxsackie and Athens. The annual revenue payable to local jurisdictions by the PILOT and Host Community Agreements of \$900,000 per annum, represents a 1000% increase over the approximately \$80,000 of local tax payments currently being made by the owners of the land to be acquired by Applicant. In addition, the Applicant will make annual Special District tax payments between approximately \$124,000 and \$244,000 per annum, pending changes to the New York State Department of Taxation and Finance's assessment methodology for renewables.

The acquisition of the land needed to build the Project will inject up to \$15 million into the local economy, including a substantial amount of ongoing stimulus in the form of annual lease payments to the owners of an additional 140 acres of land that will be leased by the Applicant.



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Flint Mine Solar, LLC GCIDA Application

Appendix 1

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EXHIBIT I



November 30, 2022

Via Electronic Filing

Hon. Michelle Phillips

Secretary to the Siting Board

NYS Board on Electronic Generation Siting and the Environment Agency Building 3

Albany, NY 12223

Re: Case No. 18-F-0087: Application of Flint Mine Solar, LLC, for a Certificate of Environmental Compatibility and Public Need to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Towns of Coxsackie and Athens, Greene County

Dear Secretary Phillips:

As President of the Board of the Association of Property Owners of Sleepy Hollow Lake (SHL), I write to you regarding Flint Mine Solar Project's Supplement to the Application for a Certificate of Environmental Compatibility and Public Need. We have reviewed the information presented and are very concerned about the potential stormwater impact upon SHL and the fact that the information being provided is inadequate.

In the original application, the conditions document noted that the "Applicant prepared a robust preliminary Stormwater Pollution Prevention Plan, committed to best management practices, and Certificate Conditions designed to minimize and mitigate potential impacts to Sleepy Hollow Lake". Upon review of that draft plan, it is clear that the plan was not as robust as one might think. First, the application part of the draft was never filled out and all the answers were left blank; and second, since it is only a draft, it cannot be relied upon. Finally, since the project layout has been altered significantly with this amendment and there is no final SWPPP, the draft has little or no relevance and is of questionable value.

Accordingly, the conclusion "that any adverse environmental effects on Sleepy Hollow Lake from the construction and operation of the facility will be minimized or avoided to the maximum extent practicable" is no longer a valid conclusion. Without a final plan and a final SWPPP the conclusion about the adverse environmental effects upon SHL is merely speculation and has no basis.

As the stewards of the reservoir, early in the process, SHL introduced the need for monitoring the stormwater running from the project into the reservoir. The concerns involve particles containing harmful chemicals and/or nutrients (such as phosphorus) and bank erosion from the flow of stormwater entering the lake. Our lake is already on the 303d list for impaired waterbodies with NYS for turbidity and we are working hard to remedy this within our own financial means, but this project will increase our costs tremendously. Flint Mine has vehemently and repeatedly rejected our request that they share in the cost of monitoring the water flowing into the reservoir. The Supplement does state, however, that they will employ an independent third-party Environmental Monitor during construction. A third-party employed by Flint Mine is hardly independent.



Since they stated in the amendment that they will be lowering expenses and appear to be willing to pay for a third-party monitor, having a truly independent monitor would make sense during construction and operation. This especially makes sense considering the disturbance in soil that will be taking place with the placement of 200,000 solar panels, 4.2 miles of buried collection lines and 5.1 miles of overhead collection lines. SHL's goal is to ensure that our drinking water is safe and that the environmental impact upon the lake is minimized. While our preference would be for SHL to employ the third-party monitor, we would be willing to explore the possibility of a truly independent monitor.

We do not oppose the concept of solar power as an alternative energy source. We do feel it needs to be done responsibly without impairing our drinking water, the environment, and our local economy.

If you have any questions or comments, please contact me (janetkaplan2011@gmail.com) or Laurel Wolfe, our Association Manager (lwolfe@sleepyhollowlake.org).

Respectfully submitted,

A handwritten signature in black ink that reads 'Janet S. Kaplan'. The signature is fluid and cursive.

Janet S. Kaplan
APO SHL Board President

cc. Laura Bomyea Darling, Young/Sommer LLC
Laurel Wolfe, APO SHL

EXHIBIT J



January 31, 2023

Via Electronic Filing

Hon. Michelle Phillips
Secretary to the Siting Board
NYS Board on Electronic Generation Siting and the Environment Agency
Building 3
Albany, NY 12223

Re: Case No. 18-F-0087: Application of Flint Mine Solar, LLC, for Certificate of Environmental Compatibility and Public Need to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Towns of Coxsackie and Athens, Greene County

Dear Secretary Phillips:

We are writing in relation to Flint Mine's January 6, 2023, response to the judge's observations regarding Flint Mine Solar's revised solar farm proposal, particularly as it relates to stormwater runoff and its impact upon our reservoir. Flint Mine's original proposal relied heavily upon the use of above ground messenger supported wiring systems, thereby minimizing soil stripping and excavation, which lead to particles and nutrients flowing into the stormwater runoff. Unfortunately, the revised proposal, which includes more than 4 miles of underground trenching and drilling plus another 5 miles of wooden poles up to 60 feet high will generate a significant level of soil disturbance, including an additional 9.6 acres of grading. Considering the significance of these differences it is troubling that Flint Mine's two sets of responses to the Article 10 judge's questions about the revised proposal do not address these major new environmental elements that have been incorporated into the new proposal.

On top of this, we continue to await the submission of a final SWPPP. This delay suggests that the alterations from the original submission must be significant, particularly since the original proposal did include the preparation of a draft SWPPP.

The impact on the soil disturbance and the stormwater runoff are of major concern to Sleepy Hollow Lake (SHL) since, as a Class A water source we will be required to monitor the water flow volume, turbidity and composition of the nutrients. In the original proposal, the combination of minor soil disturbances, on-site runoff monitoring and a draft SWPPP led to the statement in the Article 10 conditions document: "Based on this record, we conclude that any adverse environmental effects on Sleepy Hollow Lake from the construction and operation of the Facility will be minimized or avoided to the maximum extent practicable". Since the revised proposal calls for significant soil disturbance and excavation, there is still no final SWPPP available for this new plan, and the draft SWPPP cannot be relied upon, this new proposal cannot be viewed as merely an amendment to the original plan.

Because the new proposal calls for significant additional soil disturbance, the SWPPP and flow and turbidity measurements are only part of the water quality monitoring process. Water flow sampling and analysis must also include measuring the levels of various solids and nutrients composing the flow.

This includes various compounds, such as metals, semi-volatile organics and pesticides that may be used currently in the agricultural watershed, may have been used historically and released during construction, may be introduced during construction, or may be used during site operation. It is clear that Flint Mine's new proposal requires this level of monitoring in order to protect the water quality of the reservoir.

In its review of this revised plan, we request that the Article 10 review take into consideration that the SHL water system not only serves the residents of SHL, but it also serves as the backup water system to the Village of Athens water system which serves the Village and parts of the Town of Athens. Finally, should SHL's water system fail, the Village's water system would serve as the backup to SHL's water system.

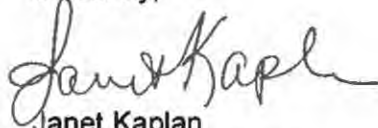
Accordingly and in recognition of the proposed level of soil disturbance and the potential impact upon stormwater runoff and water quality, the conditions document for the new proposal must include a provision that Flint Mine Solar contribute to the funding of an independent monitor. This monitor would be responsible for reviewing and analyzing the stormwater flow and residue that will, or potentially, be entering the SHL reservoir during pre-construction, construction and at least the first 3 years post-construction/operation.

We request that Flint Mine be required to contribute no less than 50 percent of the costs per year for the monitor during the pre-construction period, construction period and at least 3 years of post-construction/operation. We propose that the Village of Athens be the lead agency for selecting and overseeing the independent monitor. Working with Flint Mine and SHL, the Village, as lead agency, would oversee the RFP process, award the bid and manage the contract and contractor. Flint Mine would be responsible for covering all of the Village's expenses in its role as lead agency, in addition to its part of the annual cost of the monitoring contract for the full period of the contract. If and when other solar farms with with impacts upon the SHL watershed are approved to move forward, the financial arrangements would be revisited with those projects also contributing to the monitoring costs.

SHL has been working with Princeton Hydro for a number of years and the company is familiar with our reservoir and its surroundings. Attached is their analysis of the need for monitoring the stormwater from the solar farms in the Sleepy Hollow Lake watershed. It includes a draft plan for monitoring and analyzing the flow, including measuring the stormwater flow, turbidity and components. It also includes cost estimates for the initial year of the monitoring workload and can be used as a guide in preparing the RFP.

SHL is a vital resource environmentally, economically and socially for Athens, Coxsackie and Greene County. While SHL recognizes and supports the need for alternative energy sources, including solar, we cannot allow one environmental solution to impair another environmental treasure. The conditions document for the revised DESRI/Flint Mine proposal needs to address SHL's concerns.

Sincerely,



Janet Kaplan
APO SHL President

Attachment: Princeton Hydro Document

EXHIBIT K

UNIFORM TAX EXEMPTION POLICY RESOLUTION

A regular meeting of the Greene County Industrial Development Agency, Greene County, State of New York, was convened in public session on October 21, 1998 at 4:30 o'clock p.m. at Catskill, New York.

The meeting was called to order by the Chairman and, upon roll being called, the following members were:

PRESENT:

Willis Vermilyea	Chairman
Cy DeLucia	Member
Daniel Frank	Member
Bruce Whittaker	Secretary

ABSENT:

Hugh Quigley	Member
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THE FOLLOWING PERSONS WERE ALSO PRESENT:

Paul J. Goldman, Esq.	Segel, Goldman & Mazzotta, P.C., Agency Counsel
Peter J. Markou	Greene County Industrial Development Agency, Executive Director

On motion duly made and seconded, the following resolution was placed before the members of the Greene County Industrial Development Agency, to wit:

RESOLUTION READOPTING THE UNIFORM TAX EXEMPTION POLICY OF THE GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY PURSUANT TO GENERAL MUNICIPAL LAW SECTION 874.

WHEREAS, the Greene County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 312 of the Laws of 1972, constituting Section 895-j of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the

acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, civic facilities, research and recreation facilities, among others, for the purpose of promoting, attracting, encouraging and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install certain projects, and to convey said projects or to lease said projects (with or without an obligation to purchase), and to offer financial and tax incentive programs; and

WHEREAS, the Agency confers a financial advantage upon a company that participates in a project described above in the form of a Sales and Use Tax Exemption and a Mortgage Recording Tax Exemption; and

WHEREAS, pursuant to General Municipal Law Section 874, the Agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance by the Agency in connection with a project and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions by a participating company.

WHEREAS, pursuant to General Municipal Law Section 874 notice of a public hearing to be held on the review and readoption of the Agency's Uniform Tax Exemption Policy (the "Public Hearing") was sent to the Chief Executive Officer of each affected tax jurisdiction. The notice allows for an opportunity for the affected tax jurisdictions to write to the Agency with questions or comments concerning the Uniform Tax Exemption Policy and informs the affected tax jurisdictions of their opportunity for input on at the Public Hearing.

WHEREAS, there was no correspondence received from any affected tax jurisdiction before the Public Hearing for the Agency.

WHEREAS, on October 14, 1998, at 12:00 o'clock p.m. at Catskill, New York, the Public Hearing was held. The minutes of the Public Hearing are annexed hereto as Exhibit "A." An individual from the Catskill Chamber of Commerce spoke in support of the Uniform Tax Exemption Policy. No members from the affected tax jurisdictions were in attendance.

NOW, THEREFORE, BE IT RESOLVED by the members of the Greene County Industrial Development Agency, as follows:

1. The Agency's Uniform Tax Exemption Policy is hereby readopted in the form and substance annexed hereto as Exhibit "B" pursuant to General Municipal Law Section 874.

2. The Chairman of the Agency is hereby authorized to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

3. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Willis Vermilyea	Chairman	voting <u>yes</u>
Bruce Whittaker	Secretary	voting <u>yes</u>
Cy DeLucia	Member	voting <u>yes</u>
Daniel Frank	Member	voting <u>yes</u>
Hugh Quigley	Member	voting <u>absent</u>

The resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
)
 COUNTY OF GREENE) SS.:

I, the undersigned Secretary of the Greene County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Greene County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held the 21st day of October, 1998, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters referred to therein.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that due notice of said meeting was given to the public and news media as required by Article 7 of the Public Officers Law and that the meeting was open to the public and that public notice of the time and place of said meeting was duly given in accordance with Article 7 of the Public Officers Law.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, modified or repealed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 28 day of October, 1998.



 Bruce Whittaker, Secretary

(SEAL)

**GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY AND GUIDELINES**

The general policy of the Greene County Industrial Development Agency (the "Agency") is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant enhanced benefits on a case by case basis for a project expected to have a significant economic impact on Greene County, as determined by the Agency, which enhanced benefits shall be determined and granted in the sole and absolute discretion of Agency.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value added by construction or renovation and the existing parcel involved; provided, however, in no event will the involvement by the Agency result in revenue to the affected tax jurisdictions in any tax year less than the revenues received in the tax year preceding involvement by the Agency, except as set forth on Exhibit "A" hereto for IDA owned commercial park property or IDA owned development property, which shall be determined in the sole discretion of the Agency. The period of the exemption varies in length, but will not exceed twenty (20) years, as set forth on Exhibit "A", unless a deviation in the maximum length is approved by the Agency, in the sole and absolute discretion of the Agency. The Agency's policy results in a graduated schedule of abatement applicable to County, Municipal and School taxes for the type of project set forth on Exhibit "A" attached hereto. Special district charges or special assessments will not be entitled to an exemption under the Pilot Agreement. The schedule attached hereto as Exhibit "A" is the Uniform Tax Policy of the Agency. Each schedule will result in increasing percentages of taxes due as set forth on Exhibit "A" attached hereto. Eligible projects include industrial projects (i.e. manufacturing, remanufacturing, assembly, process, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, etc.).

Any deviations from the standard policy will be made only with the specific approval of the Agency based on the factors listed in Paragraph E and those described in the New York State General Municipal Law Section 874(4)(a). Additionally, the Agency shall notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefore.

The Agency will use existing tax data to negotiate the payment in lieu of tax agreement and, therefore, Appraisals will not normally be required.

B. Payment in Lieu of Taxes.

Upon approval of the Agency, each project may receive an abatement in the form of a Payment in Lieu of Tax Agreement ("PILOT Agreement") in a form acceptable to the Agency for the type of project listed on Exhibit "A". The Agency will consider project factors, similar to those described in paragraph E herein, when determining the amounts to be paid under the PILOT

Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected tax jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, such payments shall be allocated among the tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payments will be secured by a first priority PILOT mortgage on the subject facility so as to secure the PILOT Payments with the equivalent priority to regular tax payments.

C. Sales and Use Tax Exemptions.

1) Purchases of construction materials and equipment rentals and purchases of project related equipment, furnishings and services are made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e. certificate of occupancy) or until the date certain established by the Agency on a project-by-project basis. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

2) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 875(8) of the General Municipal Law, and any other statutory or regulatory requirements.

D. Mortgage Recording Tax Exemptions.

1) The Agency's policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the Project.

2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings, (i.e. second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including, but not limited to, the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

E. Deviations.

In addition to or in lieu of the foregoing the Agency may determine, on a case by case basis, to deviate from the guidelines described above or provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive

officer of each affected tax jurisdictions. The Agency may consider any or all of the following factors in making such determination, no single one of which is determinative:

- 1) The nature of the proposed project (i.e. manufacturing, commercial, civic, etc.).
- 2) The nature of the property before the project begins (i.e. vacant land, vacant building, etc.).
- 3) The economic condition of the area at the time of the application and at the economic multiplying effect the project will have on the area.
- 4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained, and/or the salary ranges of such jobs.
- 5) The estimated value of tax exemptions to be provided.
- 6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- 7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- 8) The amount of private sector investment generated or likely to be generated by the proposed project.
- 9) The likelihood of accomplishing the proposed project in a timely fashion.
- 10) The effect of the proposed project upon the environment and surrounding property.
- 11) The extent to which the proposed project will require the provision of additional services including, but not limited to, educational, transportation, emergency medical or police and fire services.
- 12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- 13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.
- 14) The length and duration of the Project.

F. Recapture of Benefits.

The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but not be limited to:

- 1) Sale or closure of the facility;
- 2) Significant employment reduction;
- 3) Significant change in use in facility;
- 4) Significant change in business activities or project applicant or operator; or

- 5) **Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal, state or local environmental laws or regulations.**

If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

Dated: _____, 1998.

EXHIBIT "A"

TYPES OF UNIFORM TAX EXEMPTION POLICY

<u>TYPE</u>	<u>LENGTH OF EXEMPTION</u>	<u>PORTRION OF PROPERTY SUBJECT TO TAXATION</u>	
1. Industrial/Manufacturing	20 years	5% increase per year	
2. Warehouse and Distribution	15 years	Year	Amount
		1	10%
		2	20%
		3	30%
		4	40%
		5	50%
		6	55%
		7	60%
		8	65%
		9	70%
		10	75%
		11	80%
		12	85%
		13	90%
		14	95%
		15	100%
3. Hotel Facility	15 years	Year	Amount
		1	10%
		2	20%
		3	30%
		4	40%
		5	50%
		6	55%
		7	60%
		8	65%
		9	70%
		10	75%
		11	80%
		12	85%
		13	90%
		14	95%
		15	100%

4.	Office Buildings	15 years	Year	Amount
			1	20%
			2	20%
			3	40%
			4	40%
			5	50%
			6	55%
			7	60%
			8	65%
			9	70%
			10	75%
			11	80%
			12	85%
			13	90%
			14	95%
			15	100%

5. Technology 20 years 5% increase per year

6. Ski Facility 20 years 5% increase per year

7.	Health Care Facilities	15 years	Year	Amount
			1	10%
			2	20%
			3	30%
			4	40%
			5	50%
			7	60%
			8	65%
			9	70%
			10	75%
			11	80%
			12	85%
			13	90%
			14	95%
			15	100%

8. Agriculture and Food Processing 20 years 5% increase per year

9. IDA Owned Commercial Park
or Development Property

Exempt - No
PILOT
Payments
at all

EXHIBIT L

Greene County Industrial Development Agency

INCENTIVE POLICY FOR SOLAR PROJECTS

1. Background – With NYS adopting an aggressive goal for renewable energy generation there is increasing interest by energy developers to construct new solar projects. The GCIDA acknowledges that these projects generally cannot be built without tax exemptions and other state or federal incentives. These projects require negotiations on property taxes early in the development of their financial proforma and as such the IDA is required to conduct its analysis on projects that have significant hurdles beyond taxes and in many cases do not proceed due to some other factor outside the GCIDA's control. Given the increase in interest and the extensive time required for the IDA to conduct project evaluations, the agency has adopted the following policy to guide assistance to these projects.

2. Project Size

The GCIDA will only consider projects with a rated capacity of 5MW or larger. Projects smaller than 5MW may be considered on a case by case basis at the sole discretion of the GCIDA under the following conditions;

- Project must be related to providing electrical service to an existing or proposed business that is located in Greene County.
- The project must demonstrate that it was unable to negotiate a PILOT with the local taxing jurisdictions as provided for in NYS Real property Tax Law Section 487.
- The project must demonstrate that it will provide the existing/proposed business with a significant saving in their electric costs.

3. Term of Incentives – The GCIDA will cap any proposed PILOT on solar projects at 20 years. The GCIDA may, at its sole discretion, approve a longer term PILOT but only when such PILOT will provide additional or enhanced benefits to the local community which may include, but is not limited to providing funding and/or power to a community solar project.

4. Application Fee – To address the time requirements of the GCIDA in the development of an incentive package and the uncertainty of projects moving to implementation, the GCIDA will require the payment of a supplemental application fee. Solar developers seeking GCIDA assistance will be required to pay the standard application fee as well as a supplemental processing fee. The supplemental processing fee shall cover the GCIDA's expenses to undertake an analysis, to include a cost benefit analysis of the project as necessary to develop a formal incentive offering to the project. The supplemental fee shall be set at 5% of the estimated standard GCIDA Transaction Fee. The GCIDA standard Transaction Fee is based on the current fee schedule as posted on the GCIDA website of the total cost of the proposed project. If the project moves forward, the GCIDA will provide a credit against the final Transaction Fee in an amount of 50% of the supplemental fee paid.

EXHIBIT M

LOCAL LAW NUMBER 1 OF 2022

A LOCAL LAW establishing the Greene County Solar Energy System PILOT Law.

BE IT ENACTED, by the Legislature of the County of Greene, as follows:

§1. Title

This Local Law may be cited as the “Solar Energy System PILOT Law of the County of Greene, New York.”

§2. Purpose

This Local Law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

§3. Authority

This Local Law is adopted under the authority granted by

1. Article IX of the New York State Constitution, §2(c)(8),
2. New York Statute of Local Governments, § 10 (5),
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(8), and
4. New York Real Property Tax Law § 487(9).

§4. Definitions

1. “Annual Payment” means the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).
2. “Annual Payment Date” means January 1st of each year.
3. “Capacity” means the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.
4. “Owner” means the owner of the property on which a Solar Energy System is located or installed, their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.
5. “Residential Solar Energy Systems” means a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve that dwelling.
6. “Solar Energy Equipment” means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.
7. “Solar Energy System” means an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

§5. PILOT Required

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the County of Greene consistent with the terms of this Local Law, excepting

a) Residential Solar Energy Systems

b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).

2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. Upon receipt of any notification from an owner or other person of intent to install a Solar Energy System, the Greene County Administrator or his/her designee shall immediately, but in no case more than sixty days after receipt of the notification, notify the owner or other person or party of the requirement to enter into a PILOT Agreement pursuant to the terms of this Local Law.

4. Nothing in this Local Law shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.

§6. Contents of PILOT Agreements

1. Each PILOT Agreement entered into shall include

a) Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.

b) The Tax ID for each parcel or portion of a parcel on which the Solar Energy System will be located.

c) A requirement for fifteen successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487.

d) The Capacity of the Solar Energy System, and that if after the Commencement Date, the Capacity is increased as a result of the replacement or upgrade of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments shall be increased on a pro rata basis for the remaining years of the Agreement.

- e) That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement.
- f) That the PILOT Agreement may not be assigned without the prior written consent of the County of Greene, which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the County of Greene but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.
- g) That a Notice of this Agreement may be recorded by the Owner at its expense, and that the County of Greene shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.
- h) That the Annual Payment shall be
- i) For Solar Energy Systems with a Capacity greater than 50 KW, \$8,750.00 per MW of Capacity.
 - ii) Notwithstanding anything to the contrary the annual payment referenced herein shall constitute the entire Annual PILOT Payment due to all taxing authorities in the jurisdiction and shall be apportioned pursuant to the applicable tax rates in place at the time of execution of said PILOT Agreement.
 - iii) Notwithstanding anything to the contrary within this provision, the Annual PILOT Payment shall not include any special ad valorem levies and special assessments.
- i) That the Annual Payment shall escalate two percent (2%) per year, starting with the second Annual Payment.
- j. That if the Annual Payment is not paid when due, that upon failure to cure within thirty days, the County of Greene may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

§7. Severability

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§8. Effective Date

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law and shall apply to all solar energy systems constructed.

EXHIBIT N

Greene County Industrial Development Agency

PROJECT EVALUATION POLICY**I. Purpose:**

This policy sets forth the process and procedures by which the IDA evaluates Projects seeking IDA financial assistance in compliance with Section 859-a of NYS General Municipal Law.

II. Project Types

The IDA typically considers and as appropriate provides IDA financial assistance to Projects of various types. The IDA may consider assistance to other types of projects not set forth below on a case by case basis. For proposed Projects that do not clearly meet one of the project types listed below, project sponsors may be required to submit additional information or justification for review by the IDA Board of Directors. IDA staff will identify what information will be necessary for consideration by the Board when the proposed Project type is not listed.

- a. Manufacturing/Industrial
- b. Warehouse/Distribution
- c. Professional Offices
- d. Medical Offices
- e. Agricultural/Food processing
- f. Tourism – Hotels, attractions, ski facilities, theaters, cultural facilities etc.
- g. Back office office/Data/Call centers
- h. Energy Production

II. Evaluation Process

It is the policy of the Greene IDA that all Projects requesting IDA financial assistance will be evaluated to determine the benefits of the Project to the host community, local taxing jurisdictions and Greene County at large. The IDA's evaluation of each project will examine the costs of the IDA benefits sought and the benefits and/or costs to the taxing jurisdictions. To accomplish the evaluation of projects the IDA has established the following process;

Step 1: Pre-application Meeting

Prior to completion of an IDA standard Application for Benefits, Projects will schedule a pre-application meeting with IDA staff. The purpose of the pre-application meeting is to inform the IDA staff as to the type of project proposed and the anticipated request for IDA assistance. IDA staff will provide interested Projects with copies of IDA policies as applicable and seek additional information from the Project as necessary for IDA staff to make a determination as to the appropriateness of IDA assistance.

At the pre-application meeting IDA staff will work with the Project sponsor to identify any required information, assessments, projections or any data necessary to complete an evaluation by the IDA. After the pre-application meeting IDA staff will prepare a summary of the proposed Project for review by the Board of Directors including staff recommendations on the appropriateness of advancing the project to the application stage. The IDA board will consider the preliminary project information and staff recommendations and take formal action to (1) determine the project is not appropriate for IDA assistance, (2) direct staff to work with the Project sponsor to complete the IDA's Application for Benefits advancing the Project to the next level of evaluation or (3) request staff to obtain any necessary additional information as may be determined necessary for the Board to make a determine to invite application for assistance.

Step 2: Application

Upon action by the IDA Board to invite a Project to submit an application, the Sponsor will work with IDA staff to complete the IDA's standard Application for Benefits. The application must be completed by the Sponsor with assistance of IDA staff limited to helping with interpretation of application questions and as necessary provision of any necessary data or other information that the Sponsor may need to complete the application. The Sponsor must complete the application as completely as possible and properly execute the acknowledgement statement.

Step 3: IDA Board Application Review and Inducement

The IDA staff will present the application, any associated materials, and a staff recommendation to the IDA Board for review. Upon review of the application information and consideration of all known facts the IDA Board will (1) accept the application and adopt an inducement resolution (2) Table consideration of the application until supplemental information or additional clarification on any application item is presented to the board or (3) decline to induce the project and notify the Project Applicant that the IDA will not provide financial assistance. The IDA Board will use the Material Terms and other evaluative criteria as set forth in this policy to guide their review and actions on the application.

III. Evaluation Criteria

During review of the Project application and subsequent negotiations of any IDA incentives offered to the Project the IDA Board will consider the following list of evaluative criteria. This list of criteria is not all inclusive and the IDA board may consider additional criteria as determined on a case by case basis. Any criteria used in the Board's consideration to induce a Project will be summarized in writing and included in the Projects Findings Statement. Evaluative Criteria may include, but are not limited to;

- a. Employment – The extent to which the project will create or retain jobs.
- b. IDA Benefit Costs – The estimated value of the benefits sought by the Project.

- c. Investment – The amount of private sector investment.
- d. Project Feasibility – The likelihood that the project will be completed in a timely manner.
- e. Tax Revenue – The extent to which a Project will result in net new tax revenues to local taxing jurisdictions.
- f. Community Impacts - the extent to which the Project will have broader impacts in the host community including negative impacts and positive impacts.
- g. Direct Economic Impacts – The extent to which a Project will result in direct, non-tax economic impacts in the host community, Greene County at large or the broader region as related to direct spending by the Project on local products or services.
- h. Misc. Benefits – Other benefits to the host community or Greene County at large that can be expected to be realized by the project. Misc. benefits will be identified on a case by case basis.
- i. Proposed wage rates for new positions
- j. Hard to Place Employees – extent to which the Project will hire hard to place employees such as handicapped or formally incarcerated persons.
- k. Research and Development Activities/Investments
- l. Energy Efficiencies – extent to which project will integrate energy efficiencies, renewable energy or LEED certifications.
- m. Adaptive Reuse – extent to which a project will result in an adaptive reuse of an existing vacant or underutilized property resulting in the elimination of blight.
- n. Brownfields – Projects positive impact on existing brownfield associated with remediation and reuse.
- o. Project Stability – evaluation of risk of Project having a sustained presence in the community.
- p. Environmental Factors – extent to which Project will result in a negative or positive environmental impact.

- q. Consistency with Existing Plans & Studies – extent to which a project is consistent with local land use planning documents, comprehensive plans, feasibility/market studies, energy strategies, housing needs studies etc.
- r. Zoning – extent to which Project is consistent with local land use regulations
- s. Local Support – extent to which a Project will receive support from local officials, citizens and other interested parties.

IV. Project Cost Benefit Analysis

Following the evaluation of the criteria above or additional criteria applicable to a proposed IDA Project application, the IDA staff will complete a written Cost-Benefit analysis of the project based on the identified material factors. As a minimum the Cost-Benefit analysis will include consideration of the following criteria;

- Extent the project will create or retain permanent jobs
- Estimated value of tax exemptions to be provided
- Amount of private sector investment
- Likelihood of project being accomplished in a timely manner
- Extent of new revenues to local taxing jurisdictions
- Impacts to taxing jurisdiction budgets related to provision of services to the Project

To the extent possible, the Cost-Benefit analysis will also include a comparison of the cost-benefits relationship of the proposed Project to reasonable alternatives. As a minimum the Cost-benefit analysis will compare the proposed Project and IDA incentives to a “do-nothing” alternative.

The Board will evaluate the staff’s Cost Benefit Analysis and make a final Project evaluation for the prior to granting of financial assistance to the proposed Project.

V. Documentation

Upon completion of the IDA’s review of a Project, IDA staff will prepare a detailed Statement of Findings (Findings Statement). The Findings Statement will include a detailed summary of the project and address all considerations undertaken by the IDA in the evaluation of the Project. The Findings statement will serve to provide a detailed record of the project and will be reviewed and adopted but the IDA Board. All Findings Statements will be posted for public access on the IDA’s website and distributed to all involved taxing jurisdictions.

Adopted: June 16, 2016

EXHIBIT O



Flint Mine Solar LLC
575 Fifth Avenue, Level 35
New York, NY 10017

February 3, 2023

April Ernst and Rene VanSchaack
Greene County Industrial Development Authority
Sent by email: rene@greeneida.com; ernst@greeneida.com

RE: Commitments of Flint Mine Solar, LLC to measure, minimize and mitigate potential impacts to Sleepy Hollow Lake

Dear Rene and April,

This letter is provided as a follow-up to our recent discussion regarding the Association of Property Owners of Sleepy Hollow Lake, Inc. (“**Sleepy Hollow**”) and the communications it has initiated with the Greene County IDA in relation to the Flint Mine Solar Project, and previous email correspondence from us on this matter, including our most recent communications (on December 9, December 14 and December 15, 2022).

Background of extensive consultation with Sleepy Hollow

In developing the Flint Mine Solar Project, Flint Mine Solar, LLC (“**FMS**”) has been proactive in its approach to public outreach and has prioritized consultations with community stakeholders to ensure potential project impacts are fully considered and effectively managed. Sleepy Hollow is a community stakeholder whose concerns have been made known to and have been heard by FMS and whose feedback has been incorporated during the development of the Flint Mine Solar Project:

- (a) FMS has engaged with Sleepy Hollow since April 2018, shortly after FMS began its public outreach program as part of its application for a Certificate of Environmental Compatibility and Public Need for Construction of a Solar Electric Generating Facility pursuant to Article 10 of the New York Public Service Law (the “**Article 10 Certificate**”).
- (b) During this public outreach process, FMS engaged in extensive consultation with Sleepy Hollow on the potential impacts of the Flint Mine Solar Project to Sleepy Hollow Lake, including from stormwater runoff. Specifically:
 - (i) FMS arranged multiple meetings with Sleepy Hollow and its engineering advisor, Princeton Hydro, who provided significant feedback during the Article 10 Certificate application process;
 - (ii) FMS engaged an independent engineering firm (Crawford Engineering) to carry out investigations and analyse how potential impacts of the Flint Mine Solar Project can be avoided, minimized or mitigated including, at the request and recommendation of Sleepy Hollow, water sampling and seed mix testing, a summary of the preliminary results of which were shared with Sleepy Hollow in December 2021.
- (c) Sleepy Hollow applied for and received pre-application intervenor funds as an “Eligible Group Local Party” (a party residing in a community that may be collectively affected by the Flint Mine Solar Project) from the New York State Board on Electric Generation Siting in connection with the Flint Mine Solar Project to engage Princeton Hydro to carry out analysis on the potential impacts of the project on Sleepy Hollow Lake.

- (d) Sleepy Hollow actively participated as an interested party during settlement negotiations with FMS and signed a settlement agreement with FMS (the “**Settlement Agreement**”) which evidenced agreement on key project issues among the signatory parties and was a necessary condition of FMS obtaining its Article 10 Certificate.
- (e) To address the concerns raised by Sleepy Hollow, FMS:
 - (i) prepared a robust preliminary Stormwater Pollution Prevention Plan (“**SWPPP**”) ahead of the final SWPPP. As described on page 5 of the Site Engineering and Environmental Plan included as part of the Article 10 Order, the SWPPP will be consistent with New York State Department of Environmental Conservation requirements, commits FMS to best practices in relation to storm water management and shall include contingency during construction during extreme weather events; and
 - (ii) agreed to multiple conditions designed to minimize and mitigate potential impacts to Sleepy Hollow Lake caused by the Flint Mine Solar Project which were included in the Settlement Agreement.
- (f) Sleepy Hollow provided written confirmation to the New York State Department of Public Service and the New York State Department of Environmental Conservation that Sleepy Hollow was satisfied with the provisions of the Settlement Agreement and that their concerns had been met.

In the Order Granting Certificate of Environmental Compatibility and Public Need with Conditions issued in favor of FMS dated August 4, 2021 (the “**Article 10 Order**”), it was determined by the New York State Board on Electric Generation Siting that, in relation to the issues specifically raised by Sleepy Hollow, and as evidenced in the conditions agreed in the Settlement Agreement, FMS had established an approach to the construction and operation of the Flint Mine Solar Project that avoided and minimized impacts to Sleepy Hollow Lake to the maximum extent practicable¹.

Existing commitments of FMS to minimize and mitigate potential impacts to Sleepy Hollow Lake

The Article 10 Order requires that FMS comply with a suite of conditions, including those conditions FMS agreed upon with Sleepy Hollow in the Settlement Agreement. These conditions were not required but are measures FMS agreed to take to address Sleepy Hollow’s concerns and establish a strict monitoring and compliance regime to be implemented at the sole cost and responsibility of FMS.

Specifically in relation to Sleepy Hollow, the Article 10 Order requires that FMS (among other things):

- (a) implement a construction impact monitoring plan that generally includes the following provisions²:
 - (i) surface water sampling be conducted at up to 3 discharge or design point/outfalls from the project site which are within the Sleepy Hollow Lake Watershed;
 - (ii) test results be recorded on site and include, at a minimum, turbidity (NTU) and total suspended solids (TSS); and
 - (iii) sampling following rain events be conducted at least 4 times prior to construction, twice quarterly during construction, and at least 4 times after construction;
- (b) notify Sleepy Hollow of all reported spillage of fuels, waste oils, other petroleum products or hazardous materials in a timely manner³;
- (c) notify Sleepy Hollow in the event that construction results in an unanticipated alteration to the hydrology of a wetland⁴;
- (d) prepare a final SWPPP and State Pollutant Discharge Elimination System (“**SPDES**”) permit which will show, among other things, that the Flint Mine Solar Project will result in no net increase in stormwater runoff to Sleepy Hollow Lake and its associated dam⁵; and

¹ See Section III(D)(1)(c)(ii) (Sleepy Hollow) of the Article 10 Order. A copy of the Article 10 Order can also be accessed online at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=18-F-0087&submit=Search>.

² Condition 61(f) of the Article 10 Order.

³ Condition 71(d) of the Article 10 Order.

⁴ Condition 75(a)(iv) of the Article 10 Order.

⁵ Condition 78 of the Article 10 Order.

- (e) consult with Sleepy Hollow during preparation of the final SWPPP and SPDES, including in relation to appropriate seed mixes to be used in restoration of those limited areas where grading is proposed.

Next steps

FMS is currently progressing the design and engineering of the Flint Mine Solar Project, including finalizing all relevant pre-construction and compliance filings as required by the Article 10 Order.

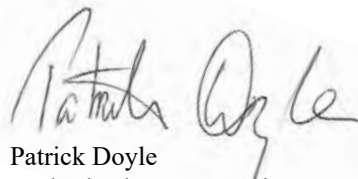
In relation to the existing commitments of FMS to Sleepy Hollow:

- (a) FMS is working with design, engineering and stormwater specialists to develop the final SWPPP, which delivers on the commitments of FMS in the preliminary SWPPP and complies with the Article 10 Order. Prior to submission of the final SWPPP, FMS will consult with Sleepy Hollow as agreed by the parties and required by the Article 10 Order.
- (b) FMS continued to carry out water investigations in 2022 and has completed the seed mix testing. FMS shared baseline measurements undertaken in 2021 by Crawford Engineering with Sleepy Hollow at that time and will continue to share results of investigations with Sleepy Hollow where relevant.
- (c) FMS intends to continue the engagement of Crawford Engineering as its independent engineer to carry out ongoing investigations, including to measure for contaminants after storm events within the Flint Mine Solar Project area 4 times prior to construction (to establish a baseline), twice quarterly during construction and 4 times after construction, as agreed between FMS and Sleepy Hollow and required by the Article 10 Order.
- (d) FMS intends to engage with Sleepy Hollow to discuss and agree how FMS might provide future support to Sleepy Hollow’s ongoing monitoring activities. FMS is open to contributing to the costs Sleepy Hollow will incur when engaging its own third-party engineers to review the reports and summaries of sampling to be carried out by Crawford Engineering. The amount and period over which FMS will make such contribution has yet to be discussed or agreed with Sleepy Hollow. This is a good faith intention by FMS to assist Sleepy Hollow with their ongoing costs of reviewing water testing completed by FMS and reflects FMS’s commitment to partnering with community stakeholders.

For completeness, we have attached a copy of the Settlement Agreement signed by (among others) FMS and Sleepy Hollow, a copy of Sleepy Hollow’s written confirmation that the conditions proposed in the Settlement Agreement addressed its concerns and a copy of the Article 10 Order with highlighting added to identify provisions relevant to Sleepy Hollow which were described above.

We appreciate the ongoing support of the Greene County IDA for the Flint Mine Solar Project and look forward to continuing to work together.

Yours sincerely,



Patrick Doyle
Authorized Representative

Attachments:

1. Executed Settlement Agreement
2. Letter from Sleepy Hollow to New York State Department of Public Service and the New York State Department of Environmental Conservation dated March 26, 2021
3. Article 10 Order (highlighting added)

EXHIBIT P

From: [Patrick Doyle](#)
To: [Rene VanSchaack](#); [April Ernst](#)
Cc: [William Moore](#)
Subject: Watershed Maps
Date: Wednesday, December 14, 2022 9:48:25 PM
Attachments: [2019-03-27 Updated Watershed Mapping \(excl parcels\).pdf](#)
[FMS Sleepy Hollow Lake Watershed \(Upr\).pdf](#)
[FMS Proposed Amendment 121422.pdf](#)
[2021-12-08 PRES SHL Testing Update.pdf](#)

Hello April and Rene,

I hope you are keeping well in this cold weather.

Attached are two maps of the SHL watershed, one original (which I believe was provided to Flint Mine by the APO SHL) and the same map showing parcels planned for the solar project at the time by Flint Mine Solar. Regarding the latter map, because a number of parcels either weren't intended to have modules installed or have had acres subsequently been subdivided out from the project, those parcels have a red "X" marked on them.

As you are probably aware, the western part of the project is in the Cocksackie Creek watershed (about 30%) and about 70% is in the Murderers Creek watershed. In terms of acreage, that would mean that of the total 350 acres that will encompass modules, only about 240 of those acres will be in the Murderers Creek watershed (i.e. the SHL watershed). And of course, as each row of modules is separated from the next such that the distance between modules is roughly equal to the coverage of the land by the modules themselves, technically only about half of this 240 acres within the Murders Creek watershed will be "covered" by PV modules. To be conservative, however, if we use the 240 acre figure as being used for panels and then conservatively add another 100 acres for driveways, electrical infrastructure etc., approximately 350 acres of improvements for the project might conservatively be considered to be within the SHL watershed, or less than 4% of the ~9600 acres of the total SHL watershed by my rough calculations.

Also attached are the figures submitted to the Siting Board in late August 2022 with details of the Amendment for which approval from the Siting Board was being sought. Figure 6 shows the proposed grading areas in green, with about half of the proposed grading being in the Murderer's Creek watershed and the other half of the proposed 9 acres of grading being in the Cocksackie Creek watershed. One of the reasons for this proposed grading would be that trackers, which harvest the sun more effectively, are now proposed to comprise about half of the (reduced footprint) project. Using trackers is one way that the project engineers are seeking to squeeze as much production out of the project while keeping costs as low as possible to deal with recent inflation, interest rates increases and other macroeconomic effects.

Finally a clarification. The project has agreed to utilize an environmental monitor during construction , as outlined in the Article 10 Order and Conditions. But the project has also agreed with the APO SHL to measure the water for contaminants after storm events within the project area four times prior to construction, twice quarterly during construction and four times after construction. A summary of the first three baseline measurements undertaken in 2021 were presented to SHL personnel a year ago (along with the preliminary results of the seed mix testing, something else that the APO SHL requested of Flint Mine that Flint Mine has been undertaking).

I trust this is useful to you as you finalize your review of the project's requested financial incentives but if there are questions please don't hesitate to get in touch.

Sincerely,

Patrick Doyle



Outer boundary of Flint Mine Solar Facility Site
 (Includes land under control and land not under control that will host PV panels)

Sleepy Hollow Lake Watershed Boundary

Flint Mine Solar
 Towns of Coxsackie and Athens, Greene County, New York

Preliminary Scoping Statement
 Watershed Mapping

Notes: 1. Basemap: USDA NAIP "2017 New York" orthorectified map service. 2. This map was generated in ArcMap on March 27, 2019. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.

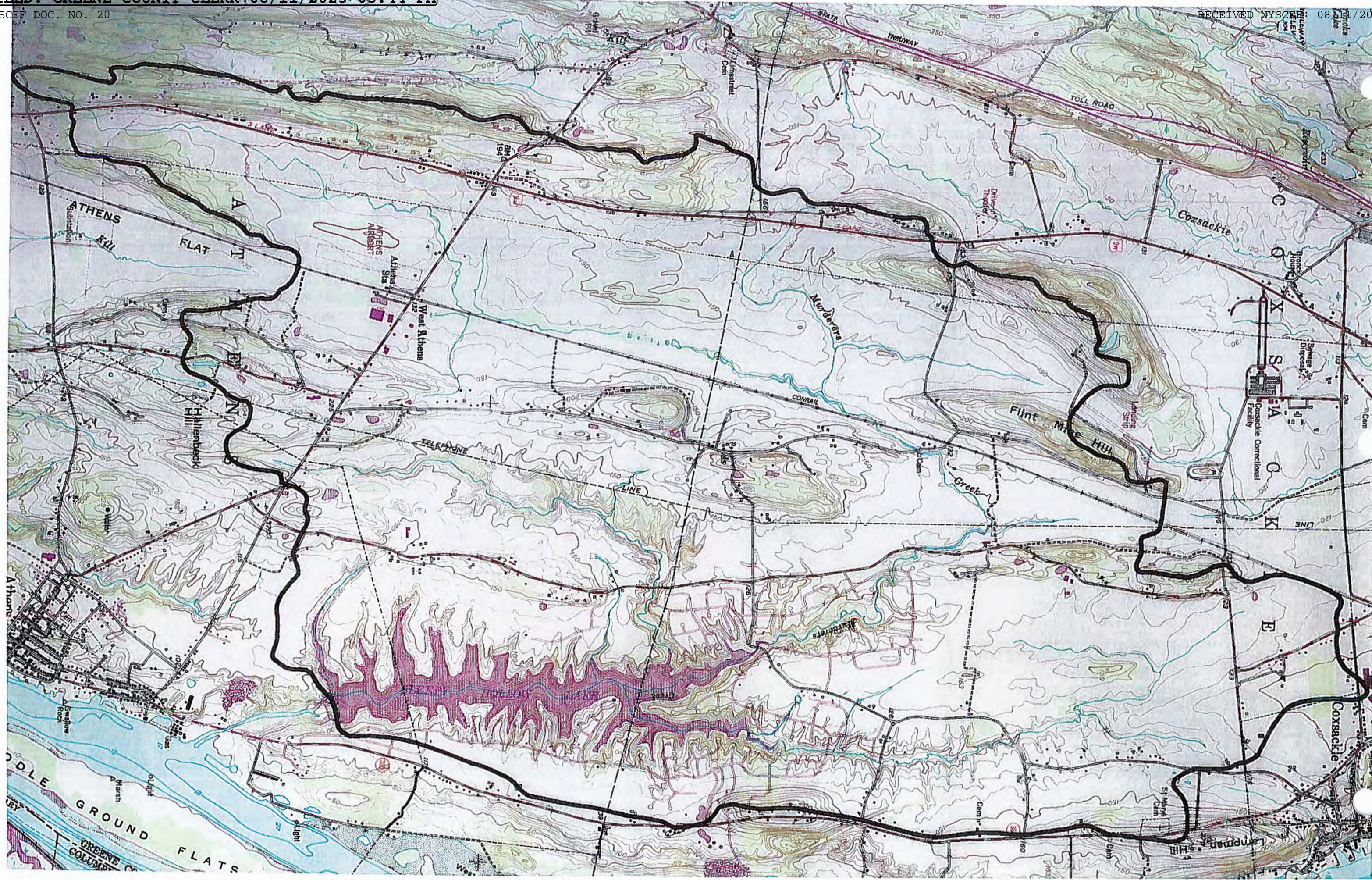


Figure 1. Facility Layout Comparison



Flint Mine Solar
 Towns of Cocksackie and Athens,
 Greene County, New York

Certificate Amendment Petition

- | | | | |
|-----------------------------|----------------------|-----------------------------|---------------------------|
| Amendment Layout | Equipment Pad | Certified Layout | No Material Change |
| Underground Collection Line | Equipment Pad | Underground Collection Line | Facility Area |
| Overhead Collection Line | Laydown Area | Overhead Collection Line | Facility Substation |
| Access Driveway | Fence Area | Access Driveway | POI Switchyard |
| PV Panel Array | | PV Module Area | |
| | | Equipment Pad | |
| | | Laydown Area | |
| | | Fence Area | |



Figure 2. PV Panel Array Layout Comparison



Flint Mine Solar
 Towns of Coxsackie and Athens,
 Greene County, New York
Certificate Amendment Petition

- | | |
|---------------------------|----------------------------|
| Amendment Layout | Certificated Layout |
| Fixed Tilt PV Module Area | Fixed Tilt PV Module Area |
| Tracker PV Module Area | Tracker PV Module Area |
| Fence Area | Fence Area |
| Facility Area | Facility Area |

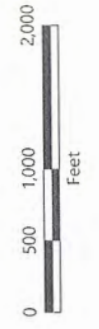


Figure 3. Planting Module Locations



Flint Mine Solar

Towns of Cossackie and Athens,
Greene County, New York

Certificate Amendment Petition

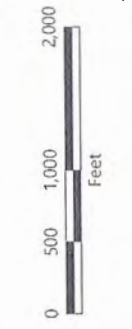
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| Amendment Planting Module Areas | Amendment Layout | Certificated Layout | No Material Change |
| Module 1 | Underground Collection Line | Underground Collection Line | Facility Area |
| Module 2 | Overhead Collection Line | Overhead Collection Line | Facility Substation |
| Module 3 | Access Driveway | Access Driveway | POI Switchyard |
| Certificate Planting Module Location | PV Panel Array | PV Module Area | |
| Module 1 | Fence Area | Fence Area | |
| Module 2 | | | |
| Module 3 | | | |

Figure 4. Collection Line Layout Comparison



Flint Mine Solar
 Towns of Coxsackie and Athens,
 Greene County, New York
Certificate Amendment Petition

- | | | |
|-----------------------------------|-----------------------------------|---------------------------|
| Amendment Layout | Certificated Layout | No Material Change |
| - - - Underground Collection Line | - - - Underground Collection Line | □ Facility Area |
| - - - Overhead Collection Line | - - - Overhead Collection Line | □ Facility Substation |
| ■ Equipment Pad | □ Equipment Pad | □ POI Switchyard |
| □ Fence Area | □ Fence Area | |



Prepared August 25, 2023
 Basemap: Esri "World Topographic" map service

Figure 5. Overhead Collection Line Viewshed Analysis

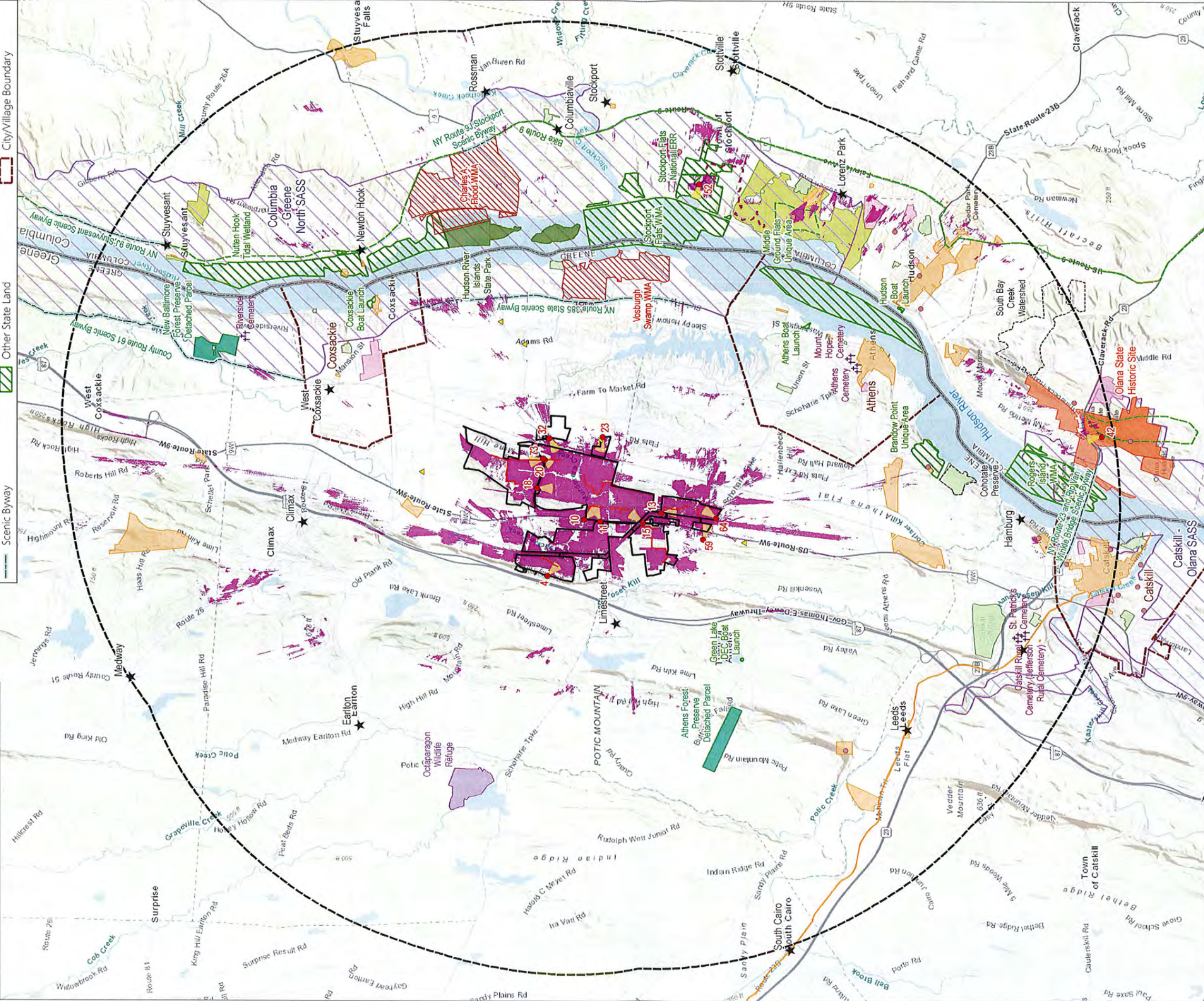
Potential Facility visibility is based on the screening effects of topography, vegetation, and structures as represented in the New York State GIS Program Office LIDAR data for Greene County (2010) and Columbia County (2015). The overhead collection line viewshed is based on a maximum overhead collection line structure height of 60 feet above grade. For the PV panel viewshed, sample points representing PV panels were placed throughout the potential PV areas in a grid pattern with a spacing of 200 feet and assigned a height of 15 feet above grade.

Visually Sensitive Resources

★ Hamlet	State Historic Site
▲ NRHP-Eligible Resource	State Forest Preserve
⚡ Cemetary	NRHP-Listed Resource
● Stakeholder-Identified Resource	Scenic Area of Statewide Significance
— Designated Greenway Trail	State Park
— Scenic Byway	Other State Land
— City/Village Boundary	

Hannacroix

— School
— Local Park or Recreation Area
— Conservation Land or Easement
— Wildlife Management Area
— Wildlife Refuge



Flint Mine Solar
Towns of Coxsack and Athens,
Greene County, New York

Certificate Amendment Petition

Simulation Viewpoint

Overhead Collection Line

Overhead Collection Line Potentially Visible

Facility Area

5-Mile Visual Study Area

Town Boundary

County Boundary

0 0.5 1 2 Miles

Figure 6. Proposed Grading Areas



Flint Mine Solar
 Towns of Coxsackie and Athens,
 Greene County, New York
Certificate Amendment Petition

- Limit of Grading
- Watershed Boundary
- Amendment Layout
- Fixed Tilt PV Module Area
- Fence Area
- Facility Area

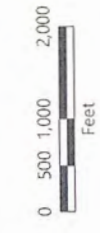
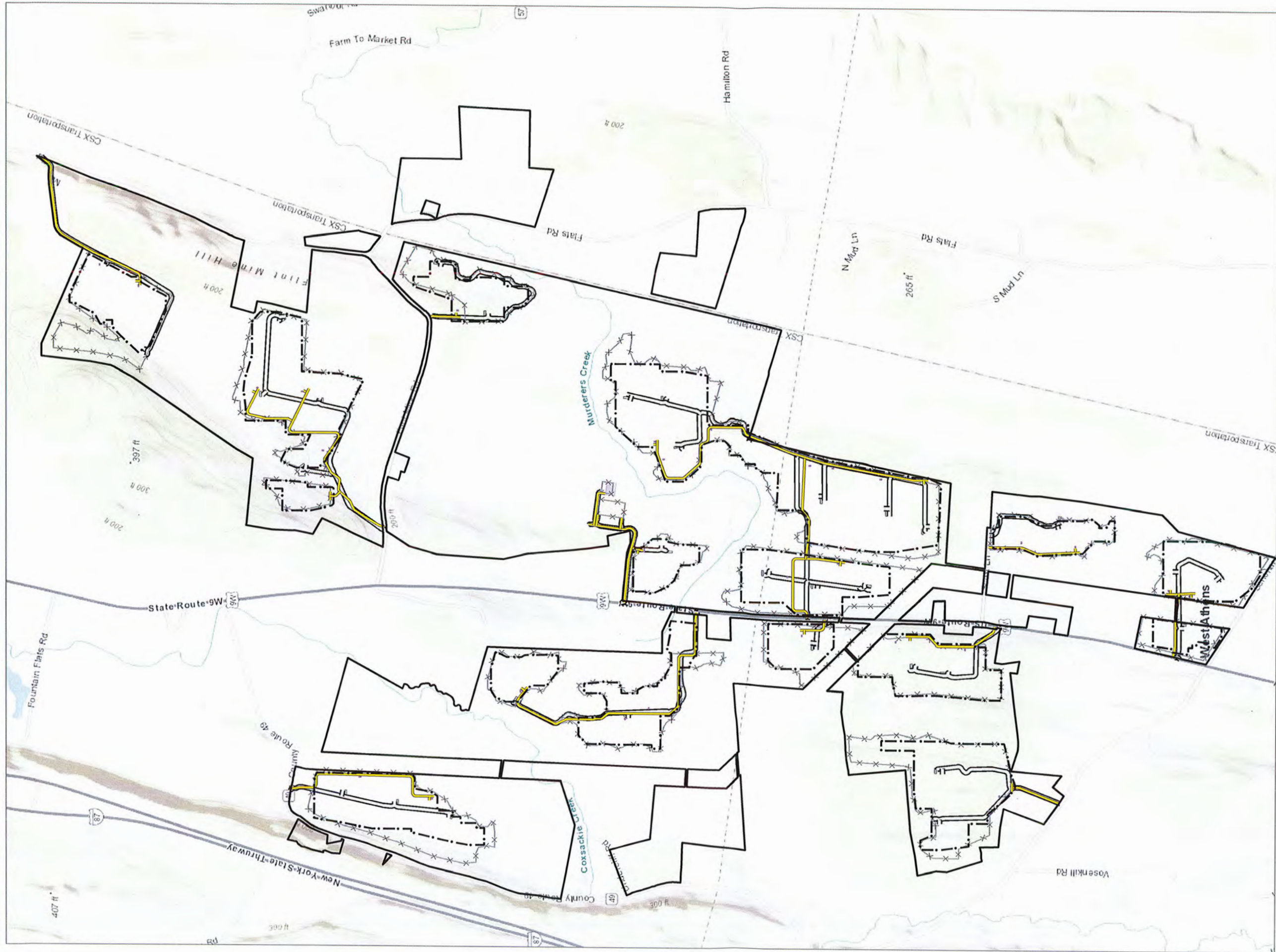


Figure 7. Access Road Layout Comparison



Flint Mine Solar

Towns of Cossackie and Athens,
Greene County, New York

Certificate Amendment Petition

- | | | |
|------------------|------------------|---------------------|
| Amendment Layout | Certified Layout | No Material Change |
| Access Driveway | Access Driveway | Facility Area |
| Equipment Pad | Equipment Pad | Facility Substation |
| Fence Area | Fence Area | POI Switchyard |

