

July 31, 2019

VIA EMAIL & U.S. MAIL

Town of Farmington Planning Board
c/o Mr. John Robortella, Clerk
1000 County Road 8
Farmington, New York 14425

**RE: Application of Delaware River Solar to construct a 7 MW solar facility at 466
Yellow Mills Road
SEQRA Determination of Significance
PB # 1003-18 Preliminary Four-Lot Subdivision Plat
PB # 1004-18 Preliminary Site Plan
PB # 1006-18 Special Use Permit**

Dear Planning Board Members:

We are counsel for Delaware River Solar (“DRS”) and submit this letter in response to the letter submitted to the Town of Farmington Planning Board (the “Board”) by Frances Kabat, Esq. on July 17, 2019 (the “Kabat Letter”). The Kabat Letter requests that the Board issue a Positive Declaration of Environmental Significance (“Pos Dec”). As demonstrated below, and in the prior submissions made by DRS, the relevant information submitted to the Board demonstrates that a Negative Declaration of Environmental Significance (“Neg Dec”) is the proper determination for this project.

Impacts on Traffic

The Kabat Letter continues to argue without support that the project may have a significant adverse impact on the environment because it will allegedly increase traffic on Fox Road and Yellow Mills Road. As previously stated, the facts presented to the Board regarding impacts on traffic all support a Neg Dec for this project. The Technical Letter submitted by SRF Associates succinctly concludes that “the proposed project will not have any potentially significant adverse impact on traffic operations.” For that reason, it is respectfully submitted that the Board should conclude that there are no traffic issues warranting a Pos Dec.

The Kabat Letter incorrectly argues that the traffic analysis done by SRF Associates should be discounted and ignored because it is not a full Traffic Impact Study (“TIS”). As set forth in the SRF Associates Technical Letter, the NYSDOT has issued guidelines stating that a TIS is not warranted if the proposed project will generate fewer than 100 peak hour vehicle trips per hour (vph) on any one intersection approach. SRF Associates has calculated that the proposed project will generate only 1 vph, a mere one percent of the level needed for a TIS. As a result, a TIS is not warranted for this project and it would be a waste of the Town’s resources to complete one.

The Kabat Letter also attempts to divert the focus of the Board by arguing that the Board’s SEQRA review should not focus on the potential traffic impacts of the *proposed project*, but rather the potential traffic impacts of vehicles involved in the *construction of the project*. DRS estimates that the proposed community solar farm will be constructed within 3 to 4 months. Construction vehicles will not exceed 100 vph during peak hours as set forth in the Full EAF Workbook published by the NYSDEC. The NYSDEC “assumes that a project generating fewer than 100 peak [vph] will not result in any significant increases in traffic.”

The diversionary tactics of the Kabat Letter continue with arguments that the Board should also determine a Pos Dec for the project because Ontario County has decided to install a traffic circle at the intersection of County Road 28 and Shortsville Road. Decisions made by Ontario County regarding traffic improvements on County Road 28 have no bearing on whether the proposed project on Yellow Mills Road may have a significant adverse impact on the environment. The Board’s SEQRA review is limited to this project. It does not extend to other unrelated road improvements being made by Ontario County.

Geotechnical Report

In a similar fashion to its attack of the SRF Associates’ Technical Letter, the Kabat Letter argues that the Geotechnical Report produced by Foundation Design, P.C. supports a Pos Dec while ignoring the conclusions of that report. The reality is that the recommendations and findings of the Geotechnical Report support a Neg Dec.

The Kabat Letter incorrectly argues that the presence of “shallow, ‘perched’ ground water conditions,” which were confirmed in the Geotechnical Report, warrant a Pos Dec. The Geotechnical Report makes no such conclusion. Rather, the Geotechnical Report concludes that the proposed foundation system (i.e., light-weight steel I-beams or C-channel) “is viable for the soil conditions expected.”



The Kabat Letter also misapplies the conclusions of the NYSDEC Stormwater Design Manual regarding the impact of stormwater runoff at the proposed project. The Stormwater Design Manual states that “a one-acre *parking lot* can produce 16 times more stormwater runoff than a one-acre meadow each year.” Kabat Letter Ex. F at 2-1. The proposed project, however, is not a parking lot. It is a community solar farm in which the solar arrays will sit above the ground on steel poles, and is considered a permeable development by the NYSDEC, unlike parking lots which are impermeable. Rainwater that falls on a solar panel will then flow onto the ground, which will be a natural and permeable surface like the pasture that is currently on the project site.

Similarly, the argument that the solar panels will accumulate pollutants and rapidly deliver them to nearby water bodies is also misplaced and unsupported. The NYSDEC Stormwater Design Manual states that during storm events the pollutants on impervious surfaces “quickly wash off, and are rapidly delivered to downstream waters” because of improved drainage systems that “collect runoff and quickly convey it away (using curb and gutter, enclosed storm sewers, and lined channels).” Kabat Letter Ex. F at 2-2. However, as stated above, rainwater that falls on the solar panels is not going to be “rapidly delivered to downstream waters” via artificial drainage systems, but rather will run onto and be absorbed by the permeable ground, which will have natural vegetative ground cover.

Finally, the Kabat letter incorrectly concludes that soil corrosivity may cause zinc to be stripped from galvanized steel pilings and leach into the soil and groundwater. There is no evidence for that conclusion. The Geotechnical Report states that corrosion testing of the soils on the site of the proposed project indicated that “a corrosive environment is not present on this parcel.” As a result, there is no legitimate risk of corrosion and zinc contamination as argued in the Kabat Letter.

Potential Leaching from Solar Panels

At various times during the public hearings, opponents of the proposed project have claimed that the panels are susceptible to breaking and that if they break harmful chemicals will fall on the ground and contaminate the soil and groundwater. The Kabat Letter restates this wild fear without support. DRS has submitted a Solar Panel Toxicity Characteristics Leachate Procedure (TCLP) Report in which an independent laboratory performed the TCLP according to EPA standards, and determined that the proposed solar panels meet EPA standards even when they are broken, and water is run over them. Solar panels that pass the TCLP test do not leach harmful chemicals, and DRS commits to using only panels that pass the TCLP test. The opponents fear of contamination from broken panels is unfounded and unsupported.



In like manner, the Kabat Letter argues that the Board should issue a Pos Dec because the decommissioning plan does not address the potential for chemicals leaching out of the panels when they are recycled or landfilled. Once again, this claim has no support, but more importantly, it is irrelevant. The Board's SEQRA review is limited to the proposed project, not whether a third-party solar panel recycler will properly dispose of the panels in 30 years at a site not in the Town of Farmington.

Conclusion

As previously stated, the Board has conducted a thorough and exhaustive collection of relevant information over the course of one full year. This year of review included 18 review meetings and public hearings held by the Town Planning and Zoning Boards, in coordination with 8 review meetings held by other Town, County and State agencies involved in the review. With the submission by DRS of the geotechnical report and the enhanced screening plan, the Board now has sufficient information to make a SEQRA determination. Despite vocal public concern over the proposed project – including the numerous submissions made by Ms. Kabat, generally within hours of a public hearing to deny DRS the opportunity to timely respond – the Board is tasked with reviewing the factual information it has received when making its SEQRA determination.

Nothing in the most recent Kabat Letter supports a Pos Dec. Rather, the information submitted to date, including numerous professional studies commissioned by DRS, the Town, and the findings of the NYSDAM, demonstrate that a Neg Dec is appropriate because the proposed project will not have a significant adverse environmental impact. For that reason, DRS requests that the Board issue a Neg Dec at the public hearing on August 8, 2019, and proceed to the consideration of the pending applications for site plan approval, subdivision, and a special use permit.

Sincerely,



Terence L. Robinson Jr.

TLR/sms

