



**Testimony of RENEW Northeast before the
Environment Committee in support of**

Raised Bill 102

An Act Concerning Minor Revisions to Environmental Protection and Agriculture-Related Statutes.

February 23, 2018

Senator Kennedy, Senator Miner, Representative Demicco, Representative Harding and members of the Environment Committee, my name is Francis Pullaro and I am here in my capacity as the executive director of RENEW Northeast (“RENEW”),¹ an association of environmental advocates and scientists and the renewable energy industry, to testify in support of Section 7 in Raised Bill 102. I appreciate the committee’s introduction of this bill to refine Public Act 17-218’s treatment of the siting of utility-scale solar energy projects proposed for prime farmland and core forests. RENEW supports the changes and is including for your consideration recommendations for further revisions.

I. *Changing Materially Affect to Permanently Affect Gives Developers Certainty on the Standard for Preserving Prime Farmland Hosting Solar Development.*

Public Act 17-218 provides for the Department of Agriculture (DOA) to evaluate if a utility-scale solar project will *materially affect* prime farmland. Of concern to RENEW, if DOA finds the project will *materially affect* prime farmland or takes no action at all, the law forces the project into the more expensive and lengthy Siting Council certificate process designed for the evaluation of large fossil-fueled plants. To achieve Connecticut’s environmental, renewable and economic development goals, a solar energy project should not face a riskier and costlier permitting process compared to smaller projects to be fueled by natural gas or oil, or a permanent housing or commercial development.

As seen in a host of Siting Council dockets involving utility-scale solar since the law took effect, DOA is committed to opposing all large-scale development on farmland. Ambiguity around the definition of *materially affect* has had a chilling effect on developers seeking new sites for large-scale solar in Connecticut. The vagueness of the words *materially affect* means that DOA can broadly define it to deem any solar activity on farmland as material even if the developer’s proposal will allow for agricultural activities to resume after the project’s decommissioning or continue concurrently. By this bill’s changing the terms from *materially affect* to *permanently affect*, developers will have a clearer

¹ The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW. **About RENEW:** Based in Madison, Connecticut, RENEW is a non-profit association uniting the renewable energy industry and environmental advocates whose mission involves coordinating the ideas and resources of its members with the goal of increasing environmentally sustainable energy generation in the Northeast from the region’s abundant, indigenous renewable resources. RENEW has focused on highlighting the value of grid-scale resources- specifically offshore and onshore wind and small hydropower- and the benefits of transmission investment to deliver renewable energy to load centers in the Northeast. RENEW members own and/or are developing large-scale wind and hydropower facilities in Connecticut and across the Northeast. Others are independent transmission developers with proposals for transmission facilities to connect clean energy resources from around the region to Southern New England.

standard for designing projects to ensure future use of the site for agricultural activities. That will bring appropriate balance between Connecticut’s renewable energy and agriculture policies.

II. The Bill’s Changes Still Allow DOA to Veto a Project’s Use of the Petition Process Simply by Staying Silent.

Two other shortcomings exist with Public Act 17-218 that Raised Bill 102 does not remedy. If DOA does not make any determination (remains silent) as to whether a project will *permanently or materially affect* prime farmland, then the project is ineligible to file a petition to receive the expedited declaratory ruling process. As the law now stands, DOA effectively can “veto” any solar project- even non-farmland- and require it face the certificate process designed for large fossil-fuel power plants.

RENEW’s recommended changes to Public Act 17-218 require that DOA submit any determination against the project within the Siting Council process so that the Siting Council may set an appropriate deadline for DOA to comment like any other party. If DOA offers no comment by the deadline, the Siting Council proceeds with the petition.

III. The Bill Does Not Resolve the Problem That Expensive and Time Consuming Judicial Appeals Are the Only Method for a Developer to Contest a DOA Determination.

Under RENEW’s proposed language, if DOA determines the project will permanently affect the status of prime farmland, the Siting Council can hear from the petitioner rebuttable evidence and decide whether it agrees with DOA’s determination.

This change provides the developer with an opportunity for an impartial hearing on DOA’s determination. Otherwise, a developer seeking to challenge a DOA determination under the law today must first request a declaratory ruling from DOA that the project is not on prime farmland or will not permanently affect its use as prime farmland. DOA would obviously deny such a petition leaving the developer to face years of costly appeals to the Superior Court and possibly the Supreme Court.

The Siting Council, Connecticut’s impartial and technically expert panel responsible for balancing the need for adequate and reliable public utility services with the need to protect the environment and ecology of the state, is in the best position to evaluate fairly and the most efficiently whether a *petition* for a large-scale solar project on farmland can be developed and preserve the land for use as prime farmland after decommissioning. Public Act 17-218 has already provided that, if a solar developer is forced into the *certificate* process, it is the Siting Council and not DOA that is to evaluate the adverse effects of the project on agricultural activities. It should be the same for a *petition*.

IV. Large-Scale Solar Development Offers Numerous Benefits for Connecticut

In 2016, DEEP selected multiple utility-scale solar energy projects across the state as part of competitive solicitations to provide clean, affordable and reliable energy to local utilities. RENEW respectfully urges the Committee to adopt RENEW’s language to amend Public Act 17-218 so that the state resumes encouraging the development of additional utility-scale solar projects within Connecticut to meet its rising need for renewable energy.

These 2016 projects- now in various stages of development- are the least-cost form of renewable electricity located in Connecticut and will bring clean energy, economic development and lower energy

prices. Solar projects of this size also provide other economic benefits to host communities, including much needed new tax revenue streams, that often exceed hundreds of thousands of dollars annually. Utility-scale solar does not need services or other forms of investment from the municipality. Larger solar projects create many short-term construction jobs and several full-time positions once the projects are operational.

Land payments for utility-scale solar help farmers diversify their revenue stream and alleviate the pressure to sell off the land, which may be slated for more permanent forms of development. Connecticut has many competing land uses, and residential and commercial development take up a large proportion of the state's developable land. Even under these pressures, the most recent (2012) U.S. Census of Agriculture reveals **agricultural land in Connecticut has actually increased by nearly 80,000 acres since 2002** - from 357,154 acres in 2002 to 436,539 acres ten years later. Unlike other types of development, solar is a temporary use of land. Site reclamation can occur as solar projects come offline and removed from the land. New solar developments and university research are also offering proof that solar arrays and agriculture can exist concurrently.

Connecticut and the New England region need new clean energy generation facilities. According to ISO New England- the operator of the New England power system and wholesale electricity markets- over 5,000 MW of additional oil and coal capacity are at risk for retirement in coming years due to economic and environmental pressures. As these power sources come offline, Connecticut's current utility-scale solar portfolio will play a major role in achieving the hybrid grid necessary to ensure reliable and cost-effective power for our state in the years to come.

New renewable resources are also essential to meet the Global Warming Solutions Act requirement to reduce greenhouse gas emissions. The Governor's Council on Climate Change (GC3) last month recommended emissions be reduced 45 percent over 2001 levels by 2030. The GC3 determined that significant decarbonization of the grid, coupled with electrification of transportation and building heating, is required to meet Connecticut's required emissions reductions. The Department of Energy and Environmental Protection in its 2018 Comprehensive Energy Strategy has recommend continued growth in the Renewable Portfolio Standard (RPS) and increasing the pace of growth to 2 percent per year, establishing a 40 percent Class I RPS by 2030. More large-scale solar development in Connecticut will be needed if this important and ambitious target is to be met and met cost-effectively.

Thank you for the opportunity to provide these comments. We must ensure that state laws and policies do not hold solar projects to a higher standard than other forms of lawful development and diminish the opportunity for cost-effective, clean energy deployment and economic development.

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Sec. 3. Subsection (a) of section 16-50k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) Except as provided in subsection (b) of section 16-50z, no person shall exercise any right of eminent domain in contemplation of, commence the preparation of the site for, commence the construction or supplying of a facility, or commence any modification of a facility, that may, as determined by the council, have a substantial adverse environmental effect in the state without having first obtained a certificate of environmental compatibility and public need, hereinafter referred to as a "certificate", issued with respect to such facility or modification by the council. Certificates shall not be required for (1) fuel cells built within the state with a generating capacity of two hundred fifty kilowatts or less, or (2) fuel cells built out of state with a generating capacity of ten kilowatts or less. Any facility with respect to which a certificate is required shall thereafter be built, maintained and operated in conformity with such certificate and any terms, limitations or conditions contained therein. Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling (A) the construction of a facility solely for the purpose of generating electricity, other than an electric generating facility that uses nuclear materials or coal as fuel, at a site where an electric generating facility operated prior to July 1, 2004, and (B) the construction or location of any fuel cell, unless the council finds a substantial adverse environmental effect, or of any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as: [such] (i) Such project meets air and water quality standards of the Department of Energy and Environmental Protection, (ii) the council does not find a substantial adverse environmental effect, and (iii) for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by the Department of Energy and Environmental Protection in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, ~~the Department of Agriculture represents, in writing, to the council does not find that such project will not materially permanently affect the status of such land as prime farmland or the Department of Energy and Environmental Protection represents, in writing, to the council that such project will not materially affect the status of such land as core forest. In making such determinations, the council may also consider a mitigation plan offered by a project developer. In conducting an evaluation of a project for purposes of subparagraph (B)(iii) of this subsection, the Departments of Agriculture and Energy and Environmental Protection may consult with the United States Department of Agriculture and soil and water conservation districts.~~

Sec. 4. Subsection (a) of section 16-50p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) (1) In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate.

(2) The council's decision shall be rendered in accordance with the following:

(A) Not later than twelve months after the filing of an application for a facility described in subdivision (1) or (2) of subsection (a) of section 16-50i or subdivision (4) of said subsection (a) if the application was incorporated in an application concerning a facility described in subdivision (1) of said subsection (a); and

(B) Not later than one hundred eighty days after the filing of an application for a facility described in subdivisions (3) to (6), inclusive, of subsection (a) of section 16-50i, provided the council may extend such period by not more than one hundred eighty days with the consent of the applicant.

(3) The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine:

(A) Except as provided in subsection (b) or (c) of this section, a public need for the facility and the basis of the need;

(B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture prime farmland resource, (vi) forests and parks, (vii) air and water purity, and (viii) fish, aquaculture and wildlife;