

Solar Update February 2021

As you may have heard, Hecate announced that battery storage facilities would not be included in the proposed Shepherd's Run solar power plant project. These facilities were to consist of stacks of lithium-ion batteries on racks inside 53-foot-long shipping containers, which were to be mounted on concrete pads and placed along the north side of Route 23, just east of the NYSEG substation in Craryville.

In the same announcement, Hecate said it was reducing the size of the project's footprint from 500 to 360 acres, of which 280 would site approximately 200,000 solar panels.

Hecate claimed that it was taking these two actions because "we are listening to (local residents') views and opinions, and...we value working with the community to site and develop the best possible project." Thus far, however, Hecate's actions suggest that this statement is accurate only insofar as "best possible project" is understood to mean "project that makes the largest profit for Hecate." We know that the Chicago-based developer would receive approximately \$43 million in Renewable Energy Credits if Shepherd's Run is built to its envisioned 60 Megawatt capacity. In addition, Hecate (or the operating company to which Hecate is certain to sell Shepherd's Run — very possibly before construction on the facility is completed — stands to reap huge profits from Power Purchase Agreements with utilities, such as NYSEG.

If Hecate really were listening to — and respecting — the views of the overwhelming majority of the community, it would abide by Copake's solar law provisions, and limit its facilities to 10 acres on each parcel for which it has entered into option-to-lease agreements with at least four non-resident landowners. And, if it could demonstrate that it could effectively shield a larger facility from

view of nearby homes, Hecate could apply for a variance from the Town's Zoning Board.

As I've noted before, complying with Copake's laws — respecting Home Rule — is the only way Hecate can demonstrate that it really is listening to, and respecting, our views. Furthermore, seeking site approval from Copake could enable Hecate to begin construction, and then operations, substantially sooner than will be possible if it sticks with the State Siting Board (Article 10) site approval process.

Copake is officially on record — repeatedly — as supporting renewable energy. We are doing the things that a “Climate Smart” community should do to address the existential threat of climate change including, most recently, supporting Dan Haas' successful application for a Local Champions grant. We continue to urge Hecate to work collaboratively with us. Copake will continue to embrace the opportunity to do its fair share to reduce fossil fuel emissions and help New York State achieve its laudable clean energy goals. Our quarrel is only with the extraordinarily disproportionate share of the load Hecate and, likely New York State, is demanding that Copake shoulder.

Here are some other developments:

Several residents near the proposed site have reported receiving letters from TRC, a company working for Hecate. The letter, which TRC writes is being sent at the request of the State Department of Public Service, asks the recipients to complete a “private water well survey questionnaire”. Copake's solar attorney advises that everyone should complete and submit the survey on time, because the information can be used to help determine the potential impact of the proposed Shepherd's Run power plant on local water supplies.

I've been told that not all nearby residents have received the letter and survey. It may be that more people should have received it,

because Hecate says the survey will be distributed to all landowners within a 500-foot radius of the Project Area and within a 1,000-foot radius of proposed pier/post installation or a 2,000-foot radius of proposed blasting locations (if applicable).

If Hecate ultimately files an Article 10 application, it is required to study the impact of Shepard's Run on groundwater, surface water, and associated aquatic ecologies, including identification and mapping of existing conditions, an in-depth impact analysis of the Project, and proposed impact avoidance and minimization measures. Hence the survey.

The Article 10 Stipulations process is drawing to a close, with formal comments by Friday. Copake's solar attorney and environmental engineering firm have reviewed Hecate's proposals regarding studies it intends to undertake to satisfy the law's requirements that Hecate provide sufficient information so the Siting Board can determine the likely environmental impacts of Shepherd's Run. The Town Board authorized Copake's representatives to submit written comments to the Siting Board. We will soon be meeting with our solar attorney to receive his advice as to whether Copake should agree to any of the proposed Stipulations.

Another Stipulations-related development: on Tuesday, February 9 — and prematurely in our view — the State Department of Environmental Conservation ("DEC") signed off on Hecate's Stipulations. This means that before approving the Stipulations, DEC isn't bothering to review, much less consider, public commentary that is submitted before the end-date for comments, including Copake's. This is particularly troubling inasmuch as the DEC Commissioner is one of the five permanent gubernatorial appointees to the State Siting Board — the

Board that will determine whether to grant Hecate a permit to site Shepherd's Run in Craryville.

There is another potentially very problematic development involving the State. As you know, Hecate is currently seeking site approval for Shepherd's Run from the State Siting Board, under the procedures in Article 10 of the Public Service Law. The Article 10 process is exempted from SEQRA, the State Environmental Quality Review Act, so Article 10 instead requires the Siting Board to make express findings and determinations regarding the environmental impacts of a proposed solar power plant. However, as I've been reporting, Hecate may, at some point, choose to abandon Article 10, and instead move to a more streamlined process, that of Section 94-c of the State Executive Law, by which it would seek siting approval from the newly-created Office of Renewable Energy Siting ("ORES"). Now, as currently written, 94-c does not require ORES to make express findings and determinations regarding the environmental impacts. That's because the 94-c procedures are not exempted from a SEQRA environmental review.

Well, the proposed 2022 State budget seeks to "fix" that. It would exempt 94-c from a SEQRA review. Should this proposal become law, ORES could issue permits to industrial-size solar power plants without making any findings and determinations about a particular project's impacts on the environment.

For this reason, the Town Board passed a Resolution insisting that ORES continue to be required to conduct a full SEQRA review of any renewable energy project seeking site approval or, failing that, that Section 94-c be modified to require ORES to make specific findings and determinations regarding the environmental impacts of any project seeking ORES site approval.