

Solar Update May 2021

Last month, as I was recounting the various pieces of legislation that NY State government was enacting to favor the interests of large, often out-of-state energy developers, like Hecate, at the expense of small, rural towns, like Copake — and flouting Home Rule as it did so — I reported that there actually was one developer-friendly action the State did not take: a budget provision that would have completely eliminated objective environmental reviews from the 94-c siting process. I said that this apparently was a bridge too far...

Well, guess what? The budget information we were given was wrong. It turns out that at the very last minute...somehow...and we still don't know how it happened... this developer-friendly provision was put back into the budget. Now, in New York State, large-scale, industrial-size renewable energy power plants are specifically exempted from a requirement that they undergo a comprehensive, *objective* SEQRA review. That's right: as things now stand, Shepherd's Run's 255-acre power plant proposal will not be required to undergo an objective State Environmental Quality Review Act analysis to determine its potential impacts on wetlands, waterways (including Taghkanic Creek, which supplies Hudson's drinking water), the Copake Lake watershed, farmland, wildlife habitats, including those of threatened and endangered species, view sheds and property values.

Section 94-c procedures require that when it applies for a siting permit to the State's new Office of Renewable Energy Siting (ORES), Hecate must provide the results of studies that are supposed to measure Shepherd's Run's likely impacts on the environment. But ORES is not required to assess and make findings regarding those likely impacts. All

the regulations require is that ORES determine that Hecate's application is "complete" — that Hecate has submitted the studies, and that Hecate says there will be no negative environmental impacts, or, that if there will be, ORES needn't worry because its regs require only that negative impacts of, for example, facility-generated noise, traffic and visual impacts will be "minimized (by Hecate) to the extent practicable." Practicable? Does that mean "convenient" or "inexpensive"? Or both?

Contrast Hecate's easy 94-c approval path with what ordinary New York property owners face. If one of us wants to, say, attach a garage to the side of our house, we need to get a building permit. In Copake, we need to submit drawings and other paperwork to the Building Inspector who determines whether we meet Copake's Code requirements, such as setbacks from roads and property lines, distance from wetlands and streams, etc. If **she** concludes that we do do, we get a permit. If she determines that we don't comply, we can go to the Zoning Board of Appeals and seek a variance.

The point is: the Town doesn't take our self-interested word for anything. The rule is that there is a serious review of the potential impacts on the environment of what we want to do with our property.

Under ORES' new regulations, this rule does not seem to apply to Hecate, or other large, corporate energy project developers.

So there is this ongoing mischaracterization our dealings with Hecate. Shepherd's Run supporters say Copake is opposed to any renewable energy project. This is both insulting and patently false. Hecate says it "has been working with the community and local officials every step along the way". This statement also is insulting and false.

Here's an example of what Hecate calls "working" with us. At my insistence, Hecate's Project Developer met with me on County Route 7 so I

could show him that thousands of solar panels directly across the road from a dozen homes would change the views, and the lives, of the people who live there. Bucolic views of grazing animals, deer, soaring hawks and other wildlife would be replaced by glaring panels. I explained how, as the land to the east slopes upward, it would be impossible to shield the installation. I urged him to have this one piece of the project redesigned: eliminate the most visible, highest arrays, or at least move them. In response, the Project Developer told me two things:

First, he said perhaps some panels could be moved down the hills and west, towards Route 7, but for this to happen the Town would have to ask the Department of Environmental Conservation for its approval to move panels into the wetlands setback area. He said other towns had been given such permission from DEC. Not knowing what impact, if any, this might have on the wetlands, I asked him to send me a map showing what he had in mind and that I would present it to Copake's environmental engineer. That meeting was more than a month ago, and I've received nothing.

The second thing he told me was unrelated to that meeting. He announced that Hecate was moving its project proposal out of Article 10 and into the speedier, even more developer-friendly Section 94-c. This is the one thing that he told us repeatedly Hecate would not do. (Supervisor Mettler has already explained how this move advantages Hecate and hurts Copake.) The Project Developer said the reason for the move was that the State would be shifting all of its staffing resources away from the Article 10 Siting Board process over to ORES. Thus far, this hasn't happened, but it could well become a self-fulfilling prophecy as more and more Article 10 project developers transfer into 94-c and what they expect to be the friendly embrace of ORES.

So Hecate hasn't been "working with us all the way." What they have done is tell us what they are doing, how their plans have changed, and why they won't reduce the size of the project or at least move it to less intrusive locations. And we are supposed to be grateful that the 60 MW industrial-size power plant will take up *only* 255 acres of Copake's farmland, rather than the 500 acre "inside the fence" blight that Hecate originally threatened us with.

Copake wants a renewable energy project that is commensurate with our town's size and character. Let me repeat what I've been saying for many months: Copake wishes to collaborate with Hecate to develop a project that helps meet New York's ambitious and laudable renewable energy goals without sacrificing the local environment. To claim, as some Hecate supporters do, that this project won't do serious damage to Copake, is preposterous.

So Hecate, we are not grateful. And we have not given up. Supervisor Mettler and I attended a meeting, facilitated by Sensible Solar, with four members of Governor Cuomo's energy team. Our message was simple: come to Copake and see where Hecate wants to put thousands and thousands of solar panels; help us get Hecate to the table for serious discussions. Let's together develop a template for sensibly-sized and sensibly-sited facilities that can be win-wins for both renewable energy and small, rural towns.