

Solar Update September 2023

The long saga of Hecate Energy's efforts to obtain a permit from New York State's Office of Renewable Energy Siting ("ORES") is approaching a critical point. On August 25th, ORES issued a "Notice of Complete Application", thereby indicating it was satisfied that Hecate had provided ORES with enough information for it to decide whether to grant a siting permit to the developer. ORES now has 60 days to either issue a draft permit or deny Hecate's request to construct its 60 megawatt solar factory on 267-acres of mostly prime agricultural farmland in Craryville. So, by late October, we'll know where things stand.

On September 7th, Supervisor Mettler and I met at Town Hall with two representatives from Hecate. Matt Levine, who is Director of Development and Cole Corbett, Development Analyst, who has joined us this evening. Welcome back to Copake.

This was the first in-person meeting with Hecate since January 11th. It happened only because I told two supporters of the proposed Shepherd's Run facility that Hecate, far from being the "community partner" it promised to be, had not been in touch with Town officials in months. They reached out to Hecate, and Mr. Levine subsequently contacted me.

Mr. Levine told us this was his first visit to Copake. He said he has replaced Alex Campbell. He apologized for Hecate's failure to communicate directly with the Town, and promised improved communications going forward, noting that Mr. Corbett will be attending future Town Board meetings. Curiously, Mr. Levine said that most Copakeans support the proposed project, noting that in his experience with other projects, opponents are typically "more vocal" than supporters. Supervisor Mettler promptly disabused him of that notion, indicating that the

Board's position that the Shepherd's Run proposal is too big and is poorly sited, mirrors the view of the vast majority of Copakeans. She added that the Town Board remains united on this.

Mr. Levine's misimpression is likely fueled by the few Hecate supporters with whom he spoke, before he and Mr. Corbett met with us.

Mr. Levine told us that he hopes it will be "feasible" for sheep grazing and agrivoltaics to be part of Shepherd's Run, but that no decision has yet been reached. This is a departure from Hecate's filing in response to ORES' 3rd Notice of Incomplete Application that "no active agricultural practices will occur within the fenced area containing the solar arrays during the operation of the Project." So it remains unclear whether Shepherd's Run has been aptly named — will there be sheep?

Even as ORES approaches a siting permit decision, we await a decision on our motion to reargue the appeal of an adverse decision in the ORES regulations lawsuit. That case, brought by Copake, five other small, upstate towns, and seven non-profits, seeks to overturn the regulations under which ORES operates — regulations that were written by Hecate's own energy consultant! Under these regulations, ORES has been able to deny towns — "host communities" — a seat at the table when siting decisions *for their towns* are made. That is, Copake could be precluded from directly participating in the siting decision-making process, decisions that would have profound impacts on Copake's local environment, character, and economy. As you know, no taxpayer dollars are being spent on this litigation.

And finally, some very important, breaking news: Two days ago, Copake's attorney for solar matters, Ben Wisniewski, attended a Procedural Conference call convened by the Administrative Law Judge (ALJ) assigned to Hecate's Shepherd's Run siting application and the Chief ALJ for ORES. Mr. Wisniewski told us that

at the conference, the ALJ announced a tentative schedule for the ongoing application process, including two days of public hearings after the holidays in early January, to be held right here, in this room, at Copake Town Hall! Mr. Wisniewski said that in his experience with 94-c siting application cases, this is unprecedented. He also noted that accompanying ORES on the Procedural Conference call were representatives of the NYS Department of Agriculture & Markets and Office of Historic Preservation. Their attendance suggests that ORES is seriously assessing Copake's concerns about the project's proposed siting on prime soils, and on what formerly was the Niver Farm (now Rasweiler Farm), which has historic significance due to the Mohican occupation of 1859.

It is unclear at this point how ORES' pending decision — to issue Hecate a draft permit or to issue a Notice of Denial — will affect the procedural schedule. In the meantime, we await ORES' decision with fingers crossed. I will continue to report as developments warrant.

Stay tuned...and thank you.