

## Solar Update January, 2025

They're back! On December 23<sup>rd</sup>, Hecate Energy filed its application with the New York State Office of Renewable Energy Siting and Electric Transmission ("ORES") for a siting permit to "Develop, Design, Construct, Operate, Maintain, and Decommission a 42-Megawatt Solar Energy Facility Known as the Shepherd's Run Solar Farm located in the Town of Copake, Columbia County."

For anyone unfamiliar with the Shepherd's Run saga, or in need of a refresher, here is a summary.

New York State laws allow a developer to bypass local town laws and zoning codes and apply directly to the State for authorization to build a solar factory on town land, whether a town wants it or not.

In 2017, Hecate first approached the Town Board with a plan to build and operate a solar factory on the Rasweilers' farm in Craryville. The Town adopted a Solar Energy Law, setting the maximum acreage allowed for a solar energy facility at 10 acres. The plan did not move forward at that time.

The Town Board tried to balance two goals set out in the Copake's 2011 Comprehensive Plan seemingly in conflict. One goal is to "encourage the use of 'green energy' including solar energy; a second goal was to "preserve our rural character". To quote that Plan: "Copake contains some of the most beautiful countryside in Columbia County. Gently rolling hills provide scenic vistas of productive agricultural fields. We cherish these attributes; they make us want to stay here..."

In 2014, Copake adopted its Agriculture and Farmland Protection Act.

Copake's actions demonstrate that it has been, and continues to be, a responsible steward of its lands.

In January, 2020, Hecate representatives returned and presented to us its plan for a massive solar project it called “Shepherd’s Run”. Within an 800-acre “Project Area”, Hecate said they intended to construct a 60-megawatt solar factory on 267 acres of mostly prime farmland in Craryville. The Town Board was unanimous in its opposition to the proposed project as presented, stressing that it was too large for our small rural town and poorly sited, because it would site 200,000 solar panels and other components mostly along County Route 7, running south from Route 23 to Cambridge Road. Back then, developers could seek a siting permit from a State Siting Board, which would have included two representatives of the Town. But New York State was dissatisfied with the slow pace of the approval process for large solar facilities, and passed a new law, known as Section 94-c of the Executive Law. This created the Office of Renewable Energy Siting (“ORES”), with no representation from the municipality targeted for a solar factory. The Hecate application was transferred from the Siting Board to ORES.

In 2021, the Columbia County Board of Supervisors unanimously passed a Resolution opposing the Shepherd’s Run proposal, citing as reasons both its size and location. Also in 2021, Copake strengthened its solar law, and by opting out of an exemption provided for in the Real Property Law, intended to require the developer to pay tax on the full assessed value of the lands it would lease for the project.

As the application was being reviewed by ORES, an *ad hoc* “Working Group” formed and began to meet. Members included Sensible Solar for Rural New York, a group opposed to Shepherd’s Run, Friends of Columbia Solar, a group supporting Hecate, the Columbia Land Conservancy, Cornell, and volunteer landscape architects. To address some of the Town’s objections to the proposed project, the Working Group made several recommendations, including: creation of

an extensive greenway, with nature, hiking and bicycle trails along the eastern side of County Route 7 to shield most of the solar panels from view; compensation to adjacent homeowners; and, a prohibition against cutting down some 40 acres of trees. Hecate rejected these recommendations.

In August, 2023, ORES issued a “Notice of Complete Application”, indicating that Hecate had submitted enough information to enable ORES to decide whether to issue a draft permit. In September, two Hecate representatives came to Copake for a meeting with us. This was the first time we had heard from them since January! We had a cordial but unproductive meeting.

In October, ORES issued a draft permit for Shepherd’s Run.

Then things got very interesting. Over Hecate’s strenuous objections, ORES announced that in early January, it would conduct two days of public hearings in Copake Town Hall to determine whether to issue a final permit to Hecate.

But days before the hearings were scheduled to begin, we learned that an almost 60-acre parcel, located at the southernmost end of the proposed site, had been sold and no longer was available to Hecate. The Shepherd’s Run application indicated that the sold parcel was supposed to be the site of many solar panels, inverters, collection lines, a lay down area, and the only access road to some of the other parcels inside the proposed project’s footprint. Hecate knew that the parcel could not be part of its Shepherd’s Run site, but it failed to tell ORES and, of course, it didn’t tell us.

Things had certainly changed! We moved to dismiss Hecate’s application, arguing that it presented a project that no longer existed as described. We asked – at a minimum -- that the scheduled public hearings be postponed until everyone could learn what the proposed project would now look like and where the displaced components would go. Nonetheless, an Administrative Law Judge (“ALJ”) denied our motion. The fact that Hecate hid the loss of the land from

ORES apparently didn't faze the judge. So, we filed an expedited appeal of her decision with ORES's Executive Director.

Just hours before the first public hearing was to be convened, the Executive Director dismissed Hecate's application, noting that the developer could not be issued a final siting permit because it did not have control of the lands needed for Shepherd's Run to be able to generate 60 MWs of energy called for in the application. He criticized Hecate for failing to inform ORES before it issued the draft permit in October. However, Hecate's application was dismissed "without prejudice", meaning it could reapply.

On March 28, 2024<sup>1</sup> Hecate issued a "60-Day Notice of Intention to File an Application", indicating that it would file "on or about June 3<sup>rd</sup>."

But June 3<sup>rd</sup> came and went, and was followed by nine months of Hecate silence, interrupted only by a letter on July 30<sup>th</sup> stating that it remained interested in developing Shepherd's Run, and had applied for a Renewable Energy Credits incentive contract from NYSERDA.

On December 19<sup>th</sup>, Hecate served a "3-Day Notice of Intention to File", indicating that it would file with ORES on or about December 23<sup>rd</sup>. And it did, applying to construct a 42 MW solar factory on 217 acres in Craryville.

We made a motion objecting that Hecate's 60-day Notice of Intent had been misleading because the developer had represented it would file on or about June 3<sup>rd</sup>, and the more-than seven month delay was prejudicial. As we explained, days after the March Notice, Hecate held a required "community information" meeting to present its new proposal – not in Copake, but at the Hillsdale Fire House. Attendees were astonished to see the same project display poster boards they had seen two years earlier at a meeting for the original 60 MW proposal. Some boards were still dated "2022"; one map of the project footprint still included the sold and unavailable 60-acre parcel!

The same ALJ whose earlier adverse decision was reversed by the ORES Executive Director is again assigned to the new Shepherd's Run application. We just got her decision. She again ruled against Copake, in effect saying that the required, expected application filing date in the 60-day Notice *means nothing*. This raises the obvious question: why is it there?

We will have to see whether Hecate intends to have any more community meetings, with updated, accurate information. The developer has not yet presented to the community plans for their slimmed-down, but still very large, 42 MW project.

We will keep you posted.

Richard Wolf  
Town Supervisor